

REPUBLIC OF SOUTH AFRICA

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# REMOTE GAMBLING BILL

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*(As introduced in the National Assembly (proposed section 76);  
explanatory summary of Bill and prior notice of its introduction published in Government  
Gazette No. 46847 of 2 September 2022)  
(The English text is the official text of the Bill)*

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(MR DEAN MACPHERSON, MP)

[B 11—2024]

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# 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 and protect minors and vulnerable persons from being exposed to the negative effects of gambling; to ensure compliance with the Financial Intelligence Centre Act; to provide for the protection of players; 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.

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

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### 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; 25

“**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 risks money or other valuable consideration on— 30

(a) the outcome of an unpredictable event occurring or not occurring, be it a sporting event, game or any contingency; or

(b) the cumulative outcome or likelihood of a combination of sporting events or other events or contingencies occurring or not occurring, 35

and that outcome or cumulative outcome determines the financial benefit, if any, which accrues to either that person, 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— 40

(a) played for consideration, using cards or a device containing images—

(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 image contains a unique set of numbers, pictures or symbols; 45

(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)(b) of the National Gambling Act; 50

“**board**” means the National Gambling Board referred to in Part B of Chapter 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 gambling games are played, or are available to be played, but does not include premises in which—

- (a) only bingo and no other gambling game is played or available to be played; 5
- (b) only limited pay-out machines, as defined in the National Gambling Act, are available to be played; 5
- (c) limited pay-out machines, as defined in the National Gambling Act, are available to be played and bingo, but no other gambling game is played or available to be played; or 10
- (d) only social gambling, as defined in the National Gambling Act, is conducted in terms of a temporary licence or provincial law; 10

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

**“contingency”** means an event or occurrence of which the outcome is uncertain or unknown to any person until it happens; 15

**“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; 20

**“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; 25

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

**“Financial Intelligence Centre Act”** means the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001); 30

**“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; 35
- (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;

**“foreign national”** means an individual who is neither a citizen nor a resident of the Republic; 40

**“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— 45

- (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;

**“gambling 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; 50

**“inspector”** means a person referred to in section 54, either appointed in terms of section 76 of the National Gambling Act or by any provincial licensing authority; 55

**“key employee”** means—

- (a) a natural person who forms part of the senior management of the remote gambling operator; 60
- (b) if the remote gambling operator is a trust, every trustee of that trust;
- (c) if the remote gambling operator is a corporate body or a juristic person, every director, member, prescribed officer or equivalent of such position; and

- (d) 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; 5
- 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; 10
- “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;
- “licensee”** means a person who holds a valid licence issued in terms of this Act;
- “Minister”** means the Cabinet member responsible for the administration of this Act;
- “minor”** means a person under the age of 18 years; 15
- “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); 20
- “National Gambling Act”** means the National Gambling Act, 2004 (Act No. 7 of 2004);
- “organ of state”** means an organ of state as defined in section 239 of the Constitution; 25
- “person”** means a natural person, a trust, 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; 30
- “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; 35
- (b) a member of a provincial legislature;
- (c) a member of a municipal council or local authority;
- (d) a diplomatic representative of the Republic who is not a member of the public service;
- (e) a member of a house, or council of traditional leaders; or 40
- (f) a national or provincial office bearer of a political party;
- “premises”** includes land and any building, structure, vehicle, ship, boat, vessel, aircraft or container;
- “prescribed”** means prescribed by regulation in terms of this Act, and “prescribe” has a corresponding meaning; 45
- “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 a provincial law to regulate casinos, racing, gambling or wagering; 50
- “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 board in terms of section 14 of the National Gambling Act; 55
- “regulations”** means the regulations made under 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; 60
- “remote communication”** means communication using—
- (a) the internet;

- (b) the telephone or mobile phone;
- (c) television;
- (d) radio;
- (e) digital application; or
- (f) 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 gambling 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 the effect of a result; or
- (d) to store information relating to a result of a gambling activity;

**“remote gambling licence”** means any of the licences referred to in section 10;

**“remote gambling 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;

**“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, totalizator, 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 or web-based platform 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 when 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 betting”** 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;

**“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, national norms and standards and any rules made by the board or provincial licensing authority in respect of remote gambling; 5

**“valuable consideration”** means—

- (a) merchandise, property, a cheque, a token, a ticket, electronic credit, debit, credit or an electronic chip, digital asset or currency or similar object; or
- (b) any other undertaking, promise, agreement or assurance, whether it is transferred directly or indirectly, unless the context indicates a contrary intention; 10

**“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— 15

- (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 or might not 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; 20

**“web-based platform”** means any website or location on the internet containing a home page or web page, web-based application, or any electronic or online platform.

## Purpose of Act

2. The purpose of this Act is to— 25

- (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; 30
- (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; 35
- (f) prevent and protect 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 40

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 gambling activity offered, played or available to be played in any licensed casino, bookmaking or totalizator’s premises, in instances where the holder of such licence is authorised to make such gambling activity available for play in the Republic in terms of any other law. 45

(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, which may only be conducted via a remote gambling operator licensed in terms of this Act. 50

(4) This Act applies to any provider of a remote gambling activity which is offered in or made available for play to persons in the Republic, even where the remote gambling equipment used in the provision of such remote gambling activity is located outside the Republic.

(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. 55

## CHAPTER 2

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

#### Unlicensed remote gambling activity unlawful

4. A person must 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. 5

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

5. A person must 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; 10
  - (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); 15
  - (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). 20

#### Unlicensed use of premises unlawful

6. Despite any other law, a person must 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. 25

#### 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 a minor or an excluded person subject to paragraph (c)(ii), in the course of a remote gambling activity that is licensed in terms of this Act, is enforceable in law; 30
  - (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; and
  - (c) a debt incurred in the course of a remote gambling activity—
    - (i) by a minor is not enforceable in law; or 35
    - (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.
- (2) A person must not knowingly pay any winnings from a remote gambling activity to— 40
- (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 board in the prescribed manner and form, to be held by the board in trust, pending a decision in terms of subsection (4). 45
- (4) Upon receiving any winnings under subsection (3), the 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 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 50
  - (b) apply to the High Court for an order declaring the winnings to be forfeited to the State.

### CHAPTER 3

#### PRIZES AND REMITTANCE

##### 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 immediately credit the amount to the player account. 5
- (2) If there is no current player account for any reason, the remote gambling operator must, following a forfeiture application to the High Court brought by the board and subject to an order of the High Court for the forfeiture of such funds, pay the funds over to the State. 10
- (3) 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. 15
- (4) 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 any other way approved by the board and must—
- (a) pay for the disposal of the prize from the proceeds of the sale and pay the remainder of the proceeds into the player account; or 20
  - (b) if there is no current player account, following a forfeiture application to the High Court brought by the board and subject to an order of the High Court for the forfeiture of such funds, pay the funds over to the State.
- (5) If a claim for either a monetary or non-monetary 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— 25
- (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— 30
    - (i) of the remote gambling operator's inability to settle the claim; and
    - (ii) that the claimant may, within 10 days of receiving the notice, request the board, in the prescribed manner and form, to resolve the dispute.
- (6) The claim against the remote gambling operator lapses if— 35
- (a) subject to subsection (5), 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.
- (7) 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 board for resolution. 40

##### 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 45
  - (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

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#### CATEGORIES OF LICENCES AND JURISDICTION

##### Categories of licences

10. Any person may, in accordance with this Act, apply to a provincial licensing authority for—
- (a) a remote gambling operator licence; 55

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

#### **Authority to issue licences**

- 11.** (1) The provincial licensing authority may, in accordance with this Act, issue to a person who complies with this Act— 5
- (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 authorises the licensee, subject to any conditions contemplated in section 13(c), to conduct the licensed remote gambling activities from within the relevant province where the licence was issued: 10  
 Provided that the licensee may make the licensed remote gambling activities available to be accessed outside of that province.
- (3) Subsection (2) does not preclude persons located outside of that province, or external to the Republic, from registering as a player of the remote gambling operator 15  
 and entering into a remote gambling transaction with that licensee.

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

- 12.** A person who wishes to apply for any of the licences referred to in section 10 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 20
  - (b) where the applicant's place of business within the Republic is or will be located.

### **CHAPTER 5**

#### **PROVINCIAL LICENSING AUTHORITIES AND BOARD** 25

#### **Powers and functions of provincial licensing authorities**

- 13.** Each provincial licensing authority has jurisdiction within its province to—
- (a) accept, review and approve any of the applications for remote gambling licences referred to in section 10;
  - (b) notify the board of the applications received as contemplated in section 19(1)(a); 30
  - (c) consider whether any conditions should be imposed on an applicant for a remote gambling licence, and if so, impose such conditions;
  - (d) undertake or instruct any person, law enforcement agency, or gambling regulatory agency, where applicable in accordance with the law regulating that person or agency, to undertake any investigation or inspection necessary to determine the suitability of an applicant for a remote gambling licence; 35
  - (e) in its discretion, grant or refuse any request made by a remote gambling operator or a remote gambling manufacturer, supplier or maintenance provider to relocate their business premises to other premises within the province; 40
  - (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;
    - (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; or 45
    - (iii) cancelling or suspending a remote gambling licence or amending the conditions of that remote gambling licence;
  - (g) conduct hearings, call for the attendance of witnesses at such hearings and subpoena 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; 50
  - (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; 55

- (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 in respect of remote gambling activities or licences.

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

**14.** 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 or detected, investigated and prosecuted; 10
  - (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 key employees within the remote gambling industry are licensed to the extent required by this Act; 15
  - (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; 20
- (b) inspect web-based platforms 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 25
- (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. 30

### **Information to board**

**15.** Each provincial licensing authority must—

- (a) inform the board of all the applications received by it for a remote gambling licence; 35
- (b) after reviewing the applications received for a remote gambling licence, submit the applications and any supporting documents to the board;
- (c) indicate to the board, together with any findings made following a review, investigation or inspection contemplated in section 21(1), whether or not the applicant complies with— 40
  - (i) the provisions of this Act; and
  - (ii) the norms and standards issued by the board; and
- (d) inform the board of all the remote gambling licences issued by it, and submit to the board all the relevant information required by the board, for purposes of including such information into the register of remote gambling licences contemplated in section 17. 45

### **Responsibilities and functions of board**

**16.** (1) The board is responsible to—

- (a) conduct oversight evaluations of the performance of the provincial licensing authorities related to remote gambling, so as to ensure that the national norms and standards in respect of remote gambling, developed by the board in terms of this Act, are applied uniformly and consistently throughout the Republic; 50
- (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; 55
- (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 receive and consider applications for remote gambling licences.
- (2) In addition to any other powers, functions and obligations that the board has in terms of this Act, the board is empowered to—
  - (a) receive applications for remote gambling licences put forward to it by the provincial licensing authorities;
  - (b) evaluate the issuing of remote gambling licences by provincial licensing authorities and raise any objections or concerns to the issuing of a remote gambling licence or make any recommendations;
  - (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 the issuing of such licence by the provincial licensing authority;
  - (d) monitor remote gambling activities in the Republic; and
  - (e) conduct an enquiry into any alleged contravention of this Act by a provincial licensing authority and take appropriate legal action against that provincial licensing authority, any licensee or any other person, where the board is of the opinion that such licensee or person is partly or jointly responsible with the provincial licensing authority for the contravention.

### Register

- 17.** (1) The board must, in the prescribed manner and form, establish and maintain a register containing the information relating to every person to whom a remote gambling licence is issued.
- (2) The register must include the following information:
- (a) The full name and contact details of the licensee;
  - (b) the type of remote gambling licence issued and the activities permitted under such licence;
  - (c) the address of the licensee's business premises and the address at which the remote gambling equipment is located, where applicable;
  - (d) the names of each person who has a shareholding of five per cent or more of the total financial interest in a remote gambling licensee, where applicable;
  - (e) the date of expiry of the licence; and
  - (f) any other information as prescribed by the Minister from time to time.

## CHAPTER 6

### REMOTE GAMBLING LICENCES

#### Application for 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 to that or any other provincial licensing authority for a period of 12 months from the date of such cancellation, and any person who has a shareholding interest or a share in ownership of five per cent 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 found by the relevant provincial licensing authority to have been the direct or effective cause of such cancellation; or
  - (b) any person whose application for a remote gambling licence has been refused as contemplated in subsection (2), more than once, or whose remote gambling licence has been cancelled more than once, may not reapply to that or any other provincial licensing authority 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 or a share in ownership of five per cent or more in the business or premises 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 found by the relevant provincial licensing authority to have been 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 should not be granted a remote gambling licence under this Act. 5

(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 as contemplated in subsection (1). 10

(4) When submitting an application as contemplated in 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: Provided that the Minister may prescribe the particulars, documents and information that must be made available for public inspection. 15

(5) The provincial licensing authority may only make such particulars, documents and information identified as confidential as contemplated in subsection (4), and which do not form part of the prescribed particulars, documents and information that must be made available for public inspection, available to a person who assists it with an investigation. 20

(6) Any particulars, documents and information contemplated in subsection (4), which the applicant has submitted as confidential, and which do not form part of the prescribed particulars, documents and information that must be made available for public inspection, must not be open to public inspection and must not be made available for public inspection. 25

(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 within the prescribed periods. 30

(8) Existing holders of a bookmaker totalizer, 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 totalizer, casino or bingo licence or of a limited pay-out machine site licensed in the Republic are operating entirely via remote communication, such licences may be converted by the relevant provincial licensing authority to a remote gambling operator licence provided that all the provisions of this Act have been complied with. 40

(10) When reviewing an application for a remote gambling licence made in terms of subsection (1) or (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. 45

(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 application for remote gambling licence** 50

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

- (a) notify the 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 55
- (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 contemplated in subsection (1), immediately notify the board in the prescribed manner— 60

- (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 it proposes to issue the licence to the applicant as applied for, and specify any conditions of the proposed licence; or
  - (b) that it proposes to refuse to grant the licence applied for, together with the reasons for such refusal. 5
- (3) The provincial licensing authority must, only after receiving the board's advice as contemplated in section 20, make a determination and notify the applicant in the prescribed manner that—
- (a) it refuses to grant the remote gambling licence applied for, together with reasons for its refusal; or 10
  - (b) it proposes to issue the remote gambling licence as applied for and specify any conditions of the proposed licence.
- (4) (a) The provincial licensing authority must make a determination of any application for a remote gambling licence received by it within the prescribed period. 15
- (b) The provincial licensing authority may extend the period contemplated in paragraph (a) only once, as prescribed, provided that the reasons for the delay are furnished to the board and the applicant in writing together with a notice of the extension.
- (c) The notice of the extension must set out the date by when the provincial licensing authority will make its determination. 20

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

- 20.** (1) The board, after receiving a notice referred to in section 19(2) and the application together with any supporting documents from the provincial licensing authority— 25
- (a) must review the application and the recommendations of the provincial licensing authority and may rely on the information provided by the provincial licensing authority; and
  - (b) may conduct an oversight evaluation or investigation if there are reasonable grounds to believe that the requirements of this Act have not been met. 30
- (2) The board, after reviewing 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 proposed; 35
  - (b) that there are no objections to issuing the remote gambling licence as proposed; or
  - (c) whether the board agrees or disagrees with a proposal to refuse to grant the licence applied for and the reasons for its decision.
- (3) If the board advises the provincial licensing authority that it does have objections 40 to the provincial licensing authority issuing the remote gambling licence, the board must furnish a report to the provincial licensing authority—
- (a) setting out the objections and reasons for not supporting the recommendation to grant the licence; and
  - (b) allow the provincial licensing authority to respond, within the prescribed 45 period, to the objections and reasons provided by the board.
- (4)(a) The board must advise the provincial licensing authority of its decision as contemplated in subsection (2) within the prescribed period.
- (b) The board may extend the period contemplated in paragraph (a) only once, as prescribed, provided that the reasons for the delay are furnished to the provincial 50 licensing authority in writing together with a notice of the extension.
- (c) The notice of the extension must set out the date by which the board will make its decision.

### **Investigation of application**

- 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. 55

(2) An investigation contemplated 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; 5
- (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 purposes of reviewing the application;
- (d) is an unrehabilitated insolvent; or 10
- (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. 15

(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. 20

(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, save as is required for the purposes of the investigation.

#### **Additional information** 25

**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. 30

#### **Representations and response**

**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 the prescribed manner, in response to an application made for a remote gambling licence. 35

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

#### **Application open to public inspection**

**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. 40

(2) The provincial licensing authority may determine that any document or information relating to— 45

- (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. 50

(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 remote gambling licence

**25.** The provincial licensing authority 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.

## Disqualification for remote gambling employment licence

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**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; 10
- (b) is a public servant or political office bearer; 10
- (c) is listed on the register of excluded persons; 10
- (d) is subject to an order of a competent court declaring that person to be mentally unfit or mentally unsound; 15
- (e) has at any time been removed from an office of trust on account of misconduct relating to fraud or the misappropriation of money; 15
- (f) 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, the National Gambling Act or applicable provincial law, and has been sentenced to imprisonment without the option of a fine, or to a fine exceeding the prescribed amount, unless the person has received a grant of amnesty or free pardon for the offence; 20 25
- (g) has been convicted during the previous 10 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. 30

## Disqualification and restriction for other remote gambling licences

**27.** (1) A person is disqualified from being issued a remote gambling operator licence or a remote gambling manufacturer, supplier or maintenance provider licence in terms of this Act, and from retaining or holding any such licence already issued, if he or she— 35

- (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; 40
- (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; 45
- (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, the National Gambling 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; 50 55
- (h) is a relative or family member, other than a brother or sister, of a person who is a member of the board of the relevant provincial licensing authority or the board overseeing that licensee;

- (i) is or was, during the preceding 12 months, a member or employee of the board or the relevant provincial licensing authority;
- (j) is listed on the register of excluded persons;
- (k) is not a fit and proper person; or
- (l) has been convicted during the previous 10 years of any computer or computer software related crime. 5

(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— 10

- (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 15
  - (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 per cent or more in such company, close corporation, partnership, trust or other corporate body; 20
  - (ii) is a beneficiary under such trust and receives or is entitled to more than five per cent 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 25 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 board, adequate to ensure the financial viability of the proposed business, or does not have access to the services of persons who have sufficient experience in the management and operation of the remote gambling business. 30

(4) A remote gambling operator licence or a remote gambling manufacturer, supplier or maintenance provider licence issued in terms of this Act is automatically cancelled if the licensee becomes disqualified in terms of subsection (1) or (2) at any time after the licence was issued. 35

(5) The State and any organ of state 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.

(6) For the purposes of this section, “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, or material part thereof, 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. 45

### Communication of decision

**28.** (1) The provincial licensing authority 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; 50
- (b) the board; and
- (c) any person who made representations, where the application has been granted.

(2) Where the provincial licensing authority has granted an application and the applicant has paid the prescribed licence fee, the provincial licensing authority must, within 10 days after it has granted the application, issue the relevant remote gambling licence in the prescribed form— 55

- (a) with or without conditions imposed on the licensee and provide all the relevant prescribed information; and
- (b) setting out—
  - (i) the duration of the licence; 60
  - (ii) the specific activities permitted in terms of the licence; and

- (iii) the name or description of the specific premises in, on or from which, the licensed activity may take place, where applicable.

### **Renewal and amendment of conditions**

**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 expiry contemplated in section 28(2)(b). 5

(2) The licensee must, in the prescribed manner and form, and in accordance with section 18, apply to the relevant 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 expires, and must pay the licence fee prescribed by the responsible Member of the Executive Council. 10

(3) If a licensee fails to timeously renew his or her remote gambling licence before the date of expiry, 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 relevant provincial licensing authority for a new licence in accordance with the provisions of section 18 and comply with all the prescribed requirements. 15

(4) The relevant provincial licensing authority must consider an application contemplated in subsections (2) and (3) in accordance with the processes set out in sections 19, 20, 21, 22, 23, 24 and 25. 20

(5) A licensee may apply to the provincial licensing authority, upon the payment of the fee prescribed by the responsible Member of the Executive Council, 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** 25

**30.** (1) The provincial licensing authority may at any time, or upon receiving a recommendation from the board, 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— 30
  - (i) given to the provincial licensing authority and relied on by the provincial licensing authority when granting the licence; or
  - (ii) contained in any application made by the licensee for the purposes of obtaining a remote gambling licence, requesting a variation to any specification or condition attached to a licence, or for the renewal or transfer of a licence, 35
 

was false in any material respect or was subject to any material omission with the intention to mislead the provincial licensing authority at the time of being furnished;
- (b) the licensee, an employee of such licensee or any other person acting on his or her behalf has— 40
  - (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 provincial licensing authority may have allowed, after delivery of a written notice by the provincial licensing authority to the licensee requiring such failure or non-compliance to be remedied; 45
- (c) the licensee fails to pay any amount prescribed in terms of this Act or relevant provincial law within the prescribed period; 50
- (d) 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, as required in terms of this Act; or
- (e) the licensee fails to comply with any other provision of this Act or its licensing conditions which the provincial licensing authority considers to be of such a nature as to warrant the suspension of the licence concerned. 55

(2) The 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 and must immediately inform the relevant provincial licensing authority of such suspension.

(3) (a) The provincial licensing authority 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 provincial licensing authority. 5

(b) The board may at any time lift any order of suspension issued in terms of subsection (2) if the investigation contemplated in subsection (2) shows that no provision of the Act or condition of a remote gambling licence has been contravened to the satisfaction of the board, and must immediately inform the provincial licensing authority of its decision to lift the order of suspension contemplated in subsection (2). 10

(4) When a remote gambling licence is suspended in terms of subsection (1) or (2), the provincial licensing authority, must, in writing, inform the licensee of such suspension and of the reasons for the suspension.

(5) When a remote gambling licence is suspended in terms of subsection (1) or (2), the licensee has no claim to a refund of any licence fees paid or any portion thereof. 15

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

**31.** (1) Where the board or provincial licensing authority finds that sufficient grounds exist for the cancellation of a remote gambling licence, the provincial licensing authority must, on its own accord or upon the recommendation of the board, notify the licensee in writing that it intends to cancel the licence concerned. 20

(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 provincial licensing authority; and
  - (ii) notify the provincial licensing authority in writing whether he or she also intends making oral representations to the provincial licensing authority; 25
- (c) inform the licensee that the licence will be suspended in terms of section 30; and
- (d) state clearly that, should the licensee fail to respond to the written notice in the manner contemplated in paragraph (b), the provincial licensing authority will take a decision as to whether or not the licence concerned should be cancelled. 30

(3) The provincial licensing authority must provide copies of the written representations received by it in terms of subsection (2)(b)(i) to the board for the board's consideration and recommendations.

(4) Where the licensee notifies the provincial licensing authority that he or she intends to make oral representations, in addition to his or her written representations, the provincial licensing authority must inform the licensee and the board 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. 35

### **Surrender of remote gambling licence** 40

**32.** (1) A licensee may surrender a licence by giving written notice to the relevant provincial licensing authority that issued the licence.

(2) The surrender takes effect—

- (a) no later than three months after the date on which the notice is received; or
  - (b) on a date stated in the notice, 45
- whichever date is first.

(3) The provincial licensing authority may impose any conditions on the surrender of a licence.

(4) The provincial licensing authority must inform the board of any notice received by it in terms of subsection (1) within 10 days of receiving such notice. 50

### **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. 55

(2) When an application referred to in subsection (1) is granted by the provincial licensing authority, the provincial licensing authority must cause the name of the

licensee to be altered appropriately on the licence and must inform the board of such alteration and transfer of licence for the purposes of amending the register of remote gambling licences.

### **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. 5

(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— 10

(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. 15

### **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— 20

(a) the licensee or the person that holds an interest in the licensee, as the case may be, must advise the relevant provincial licensing authority and the 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 three years, as determined by the provincial licensing authority after considering the circumstances and the nature of the disqualification; or

(ii) is a manager of the business concerned, the provincial licensing authority may impose reasonable conditions on the continuation of the licence with the object of ensuring continuing compliance with the principles of this Act. 30

### **Cost of investigation**

**36.** (1) Where either the provincial licensing authority or the 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 board conducting the investigation, the amount calculated by them to be the actual cost to the provincial licensing authority or board for undertaking such investigation, as being all reasonable and direct expenses incurred by the relevant provincial licensing authority or board in respect of the investigation. 35 40

(2) The provincial licensing authority or 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.

### **Appeal and review**

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

## CHAPTER 7

### CONDITIONS RELATING TO KEY PERSONS EMPLOYED IN REMOTE GAMBLING INDUSTRY

#### Licensing of key person

**38.** (1) A remote gambling operator may not employ a person or offer employment to a person, classified as a key employee, to engage in any work within the remote gambling industry unless that person has satisfied the requirements of subsection (2). 5

(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. 10

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

#### Employment licensing

**39.** A remote gambling employment licence issued to a key employee in terms of this Act is not transferable to another person. 15

## CHAPTER 8

### RESTRICTIONS AND RESTRICTED ACTIVITIES

#### Minors

**40.** (1) A minor may not— 20

(a) operate remote gambling equipment for the purpose of 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— 25

(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— 30

(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, a licensee's employee or any person authorised by the licensee, may not knowingly permit a minor to, and must take every reasonable effort to prevent a minor from, being able to— 35

(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, 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— 40

(a) take all reasonable measures to ensure that minors do not gamble via the remote gambling operator concerned;

(b) request any person suspected of being a minor to produce identification and proof of age; and 45

(c) 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.

(5) Any licensee, a licensee's employee or any person authorised by the licensee to take charge of the remote gambling activities authorised in or by the licensee's licence, 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. 50

### Restriction on granting credit

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

### Excluded person

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. 5

### Advertising, promotion and discount

43. (1) A person may not advertise or promote any remote gambling activity— 10
- (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 web-based platform on 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 15
  - (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. 20
- (4) A person may not advertise or cause to be advertised, on any radio frequency or television channel, any remote gambling related advertisement relating to licensed or unlicensed remote gambling activities in the Republic in terms of this Act or provincial legislation, unless such remote gambling activities are advertised between 20h00 on any particular day and 06h00 on the following day, and such advertisements should not be broadcast between programmes where the audience is expected to be below the age of 18 years. 25
- (5) No person is permitted to—
- (a) advertise or cause to be advertised any remote gambling activities unless such person is a holder of a licence issued in terms of this Act or any provincial legislation; 30
  - (b) advertise any remote gambling activity if such gambling operator is licensed only in terms of foreign legislation and not in terms of this Act or applicable provincial legislation in the Republic;
  - (c) provide, display or distribute any promotional material related to remote gambling activities or games unless such a person holds a licence issued in terms of the laws of the Republic; or 35
  - (d) provide sponsorships, gifts, prizes or scholarships related to illegal activities and remote gambling in exchange for the promotion of a gambling activity, product, trademark, brand or name of a remote gambling operator, manufacturer or supplier. 40
- (6) 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. 45

### Provision of remote gambling activity

44. (1) A remote gambling operator may not—
- (a) permit a person to participate in a remote gambling activity offered by the remote gambling operator unless that person— 50
    - (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 55

- (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) 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 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 activity

45. (1) No person may operate as a remote gambling operator in the Republic, except in accordance with the provisions of this Act. 20
- (2) No person who is—
- (a) a minor;
  - (b) registered as an excluded person;
  - (c) appointed as an inspector by either the board or a provincial licensing authority, except in the performance of his or her duties as an inspector; or
  - (d) a member or employee of the provincial licensing authority or of the board, except in the performance of his or her duties as a member or employee of the provincial licensing authority or board,
- may enter into remote gambling transactions or engage in remote gambling activities. 30
- (3) 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.
- (4) 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. 35
- (5) A remote gambling operator must, where they knew or should reasonably have known, inform the relevant provincial licensing authority of any person who participates in any code of sports as— 40
- (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— 45
- (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. 50
- (6) 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.
- (7) 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. 55
- (8) Any person who contravenes or fails to comply with the provisions of this section is guilty of an offence. 60

## CHAPTER 9

### STANDARDS FOR WEB-BASED PLATFORMS AND REMOTE GAMBLING EQUIPMENT

#### Standards for remote gambling web-based platform

- 46.** (1) Every remote gambling operator licensee must ensure that its web-based platform at or on which remote gambling activities are conducted or accessed contains, in the prescribed manner and form—
- (a) a copy of the remote gambling operator's licence confirming that he or she is licensed in terms of this Act; and
  - (b) 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-based platform—
- (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 the form and the services, referred to in paragraphs (a) and (b) respectively, in the prescribed manner and form.
- (3) The web-based platform at or on which remote gambling activities are conducted or accessed, must comply with prescribed standards relating to their design, use and maintenance.
- (4) The board must, within six months after this Act has come into operation, and in consultation with the provincial licensing authorities, publish the national norms and standards for the security, access and maintenance of a remote gambling operator's web-based platform and the requirements for the disclosure of information that must be met.

#### 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 relevant provincial licensing authority and certified by the SABS; and
  - (b) meets the requirements, standards, criteria and technical specifications as determined by the 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 and cheating devices

- 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

#### Clear and sufficient information

- 49.** A remote gambling operator must ensure that it makes clear and sufficient information available to a player— 5
- (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 the remote gambling activity or event has ended; 10
  - (c) regarding the applicable rules for the remote gambling activity, which must be— 15
    - (i) easily available to the player before he or she commits to gamble; and
    - (ii) sufficient and adequate 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 20
  - (e) regarding the way in which the remote gambling activity works and the way in which winners are determined and prizes allocated.

#### Requirement for measures regarding collusion and cheating

- 50.** (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. 25
- (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. 30

#### Requirement for players to impose their own financial limit

- 51.** (1) A remote gambling operator's gambling system must provide easily accessible facilities that make it possible for players to impose their own financial limit on their gambling. 35
- (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 limit referred to in subsection (1) could be in the form of a—
- (a) deposit limit, where the amount a player deposits into his or her account is limited over a particular period; 40
  - (b) spend limit where the amount a player spends on gambling or specific gambling products is restricted for a given period; or
  - (c) loss limit, where a predetermined amount lost triggers the restriction.
- (4) The duration of a self-imposed financial limit must not be less than 24 hours. 45
- (5) A remote gambling operator must take all reasonable steps to ensure that a player's self-imposed financial limit is 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. 50
- (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, 55
- must be implemented within 24 hours of the instruction being received.

**Requirement regarding enticement to gamble**

**52.** 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. 5

**Requirement regarding operator's policy on cheating**

**53.** A remote gambling operator must make available information about its policy and procedure with regard to—

- (a) cheating; and
- (b) how to complain if a player suspects other participants are cheating 10

**CHAPTER 11****ENFORCEMENT AND OFFENCES****Inspectors**

**54.** (1) The board, in terms of section 76 of the National Gambling Act, or a provincial licensing authority in terms of any applicable provincial law, may— 15

- (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 board or provincial licensing authority, as the case may be. 20

(2) An inspector appointed in terms of subsection (1) has the powers and duties referred to in section 77(2), (4) and (5) of the National Gambling Act.

**Breach of confidence**

**55.** (1) It is an offence to disclose any confidential information concerning the affairs 25 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— 30

- (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**

**56.** It is an offence to oppose, obstruct or unduly influence any person who is 35 exercising a power or performing a duty delegated to, conferred upon or imposed on that person in terms of or by this Act.

**Right to not self-incriminate**

**57.** (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. 40

(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 Act, and then only to the extent that the answer or statement is relevant to prove the 45 offence charged.

### Failure to comply with Act

**58.** 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 board or a provincial licensing authority concerning any matter connected with an investigation; 5
- (b) does anything in connection with an investigation that would have been contempt of court if the proceedings had occurred in a court of law;
- (c) knowingly provides false information to the board or a provincial licensing authority;
- (d) falsely claims to be— 10
  - (i) an inspector; or
  - (ii) a person authorised to act on behalf of a provincial licensing authority or the board; or
- (e) refuses or fails to comply to the best of his or her ability with any request contemplated in section 77(2) of the National Gambling Act by an inspector 15 appointed in terms of section 54.

### Offence

**59.** (1) A person commits an offence if he or she contravenes or fails to comply with sections 4, 5, 6, 7(2), 8, 38(1), 38(2), 40, 41, 43, 44(1), 45, 46(1), 46(2), 46(3), 47(1), 48(1) or 52 of this Act. 20

(2) The commission of an offence created under this Act by a licensee is a breach of a condition of any licence issued to that licensee.

### Penalties and forfeiture

**60.** (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— 25

- (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 30 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 herein, calculated in accordance with the Adjustment of Fines Act, 1991 (Act No. 101 of 1991). 35

(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 or imprisonment for a period not exceeding 10 years; and
- (b) in the case of a second or subsequent conviction, a fine or imprisonment for a 40 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. 50

(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 per cent of the annual turnover of the licensee.

(6) Any fine imposed by a court under this section accrues to the relevant Provincial Revenue Fund. 55

## CHAPTER 12

### GENERAL PROVISIONS

#### Regulations by Minister

- 61.** (1) The Minister must, after consultation with the board, make regulations regarding— 5
- (a) the manner and form in which winnings must be remitted to the board as contemplated in section 7(3);
  - (b) the manner and form of the notices and periods contemplated in section 8;
  - (c) the maximum fine or penalty that may be imposed on a licensee in terms of section 13(f)(ii); 10
  - (d) the manner in which the remote gambling register contemplated in section 17 must be established and maintained and the type of information that must be included in the register;
  - (e) the list of particulars, documents and information that must be made available for inspection as contemplated in section 18; 15
  - (f) the manner and form of the notices contemplated in section 19(2);
  - (g) the manner in which the board must advise a provincial licensing authority of its objections as contemplated in section 20(2) and all time periods applicable;
  - (h) the manner and form in which a remote gambling licence must be issued, the relevant information that must be included on such licence and the nature of the conditions that may be imposed on a licensee as contemplated in section 28(2); 20
  - (i) the manner and form in which the board and the relevant provincial licensing authority must be advised of any disqualification as contemplated in section 35(2)(a); 25
  - (j) the restrictions for remote gambling advertising and the types of warnings that must be included on an advertisement or a web-based platform as contemplated in section 43; and
  - (k) the matters contemplated in sections 44(1)(a)(ii) and (iii), 44(1)(b), 46(1), 46(2)(c), 46(3) and 50(2). 30
- (2) The Minister may, after consultation with the board, make regulations regarding—
- (a) additional criteria to be taken into account by a provincial licensing authorities when proposing 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; 35
    - (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 40
      - (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; 45
  - (b) the exercise by the 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 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 50
  - (d) any incidental matter that may be considered necessary or expedient to prescribe in order to achieve the objects of this Act. 55

### Regulations by responsible Member of Executive Council

**62.** (1) The responsible Member of the Executive Council must, after consultation with the relevant provincial licensing authority and 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; 5
- (b) prescribing the application fees payable in respect of an application contemplated in section 18(1); 10
- (c) regarding the manner and form of the notices contemplated in section (19) and the applicable time periods contemplated;
- (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; 15
- (f) prescribing the fees payable for any copies or extracts contemplated in section 24(3);
- (g) prescribing the licence fee contemplated in section 28(2);
- (h) prescribing the fee to be paid for the renewal of a licence as contemplated in section 29(2); 20
- (i) prescribing the fees payable in respect of any application made for amending, substituting or rescinding a licence condition as contemplated in section 29(5);
- (j) regarding the manner and form in which applications contemplated in section 29 must be made; and 25
- (k) 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). 30

(2) The responsible Member of the Executive Council may, after consultation with the relevant provincial licensing authority and by notice in the *Provincial Gazette*, make regulations not inconsistent with the provisions of this Act in respect of any matter applicable to the processing of any application for a remote gambling licence required in terms of this Act. 35

### Repeal and amendment of law

**63.** The National Gambling Act is hereby repealed or amended to the extent indicated in column 4 of the Schedule.

### Short title and commencement

**64.** This Act is called the Remote Gambling Act, 2024, and comes into operation on a date fixed by the President by proclamation in the *Gazette*. 40

## SCHEDULE

| Act No. | Year | Name of Act           | Extent of amendment or repeal                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                                                                                                            |
|---------|------|-----------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| 7       | 2004 | National Gambling Act | <p>1. The definitions of “interactive gambling equipment”, “interactive gambling licence”, “interactive gambling software”, “interactive game”, “interactive provider”, “player account” and “registered player” in section 1 are hereby deleted.</p> <p>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.</p> <p>3. Section 14 is hereby amended—</p> <p>(a) by the substitution for subsection (1) of the following subsection:</p> <p>“(1) A person who wishes to be prevented from engaging in any gambling activity or remote gambling activity as defined in section 1 of the Remote Gambling Act, 2024 (Act No. X of 2024), may register as an excluded person by submitting a notice to that effect in the prescribed manner and form at any time.”; and</p> <p>(b) by the substitution for subsections (5) and (6) of the following subsections:</p> <p>“(5) If, in the circumstances of an application in terms of subsection (4), the court considers it reasonable and just to prevent the person concerned from engaging in any gambling activity or remote gambling activity as defined in section 1 of the Remote Gambling Act, 2024 (Act No. X of 2024), the court may order the registration of that person as an excluded person.</p> <p>(6) An excluded person affected by an order in terms of subsection (5) may apply to the court that made the order at any time to set aside the order, and the court may do so if, after considering the grounds for making the original order and any new evidence before it, the court is satisfied that it is no longer reasonable and just to prevent that person from engaging in any gambling activity or remote gambling activity as defined in section 1 of the Remote Gambling Act, 2024 (Act No. X of 2024).”.</p> <p>4. Section 30 is hereby amended—</p> <p>(a) by the deletion of the words “other than a licence contemplated in section 38(2A)(a)” in subparagraph (ii) of paragraph (a) of subsection (1); and</p> <p>(b) by the deletion of the words “other than interactive gambling” in paragraph (b) of subsection (2).</p> <p>5. Section 31 is hereby amended by the deletion of the words “other than interactive gambling” in paragraph (e) of subsection (1).</p> <p>6. Sections 32(a), 32(b)(ii), 33(a), (b), (c) and (d), 37(1A), 37(3), 37(4), 37A and 38(2A) are hereby repealed.</p> <p>7. Section 39 is hereby amended by the deletion of the words “except a licence contemplated in section 38(2A)(a)”.</p> <p>8. Section 39A is hereby repealed.</p> <p>9. Section 40(3) is hereby amended by the deletion of the words “except in respect of a licence contemplated in section 38(2A)(a)”.</p> <p>10. Sections 43(3), 46(1)(eA), 56(c) and 65(2)(g) are hereby repealed.</p> <p>11. Section 82(1) is hereby amended by the deletion of reference to section “6A” in that section.</p> <p>12. Section 87(1)(g) is hereby amended by the deletion of reference to sections “6A” and “11A” in that section.</p> <p>13. Section 88A is hereby repealed.</p> | <p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p> <p>50</p> <p>55</p> <p>60</p> <p>65</p> <p>70</p> |

## **MEMORANDUM ON THE OBJECTS OF THE REMOTE GAMBLING BILL, 2024**

### **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, *inter alia*, provide 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, 2001 (Act No. 38 of 2001).
- 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 13 to 14 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, 2024 (“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 and protect 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. CONTENTS 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 categories of licences that may be issued, namely, a remote gambling operator licence; a remote gambling manufacturer, supplier or maintenance provider licence; and a remote gambling employment licence. It also provides that these licences are issued by the relevant provincial licensing authority 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.
- 3.5 Chapter 5 deals with the responsibilities, powers and functions of the provincial licensing authorities and the National Gambling Board ("the board"). The powers and functions of the provincial licensing authorities are, *inter alia*, largely to accept, review and approve applications for any of the remote gambling licences; notify the board of the applications received; consider 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-based platforms and equipment and enforce compliance by licensees; ensure the complete and timely collection and remittance of provincial taxes, levies and fees relating to remote gambling activities. Each provincial licensing authority is also required to inform the board of all the applications received by it for a remote gambling licence, and after reviewing the applications received, submit the applications and any supporting documents to the board and indicate to the board, together with any findings made following a review, investigation or inspection, whether or not the applicant complies with the provisions of the Act and the norms and standards issued by the board.

The responsibilities of the 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 board must

receive applications for remote gambling licences put forward to it by the provincial licensing authorities; evaluate whether the provincial licensing authority has complied with this Act and whether any further conditions or restrictions must be attached to the remote gambling licence before such licences are issued by the provincial licensing authority; 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 board must establish and maintain a register containing the information relating to every person to whom a remote gambling licence is issued.

- 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 determine whether or not to grant the application. On receiving the application, the provincial licensing authority must notify the board of the applications; conduct an investigation in order to confirm compliance with the Act and conduct any prescribed hearings. Upon completing the investigations, hearings or any other proceedings, the provincial licensing authority must inform the board that the applicant has complied with the requirements of this Act and the national norms and standards and whether they propose to grant, or not to grant, the licence. The provincial licensing authority must, only after receiving the board's advice, make a determination on whether it proposes to issue the licence or refuse to grant the licence and accordingly notify the applicant in the prescribed manner.

The board must, after receiving the applications from the provincial licensing authority together with the provincial licensing authorities' recommendations, evaluate the application and the recommendations made by the provincial licensing authority and may conduct an evaluation or investigation if there are reasonable grounds to believe that the requirements of the Act have not been met. The board must, thereafter, advise the provincial licensing authority whether there are any objections to the granting of the licence and if it does not support the recommendation of the provincial licensing authority, it must notify the provincial licensing authority of its reasons.

- 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. This 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-based platforms and remote gambling equipment. It stipulates that web-based platforms 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 web-based platform, and also that the web-based platform 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 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 describes the penalties that can be imposed if convicted for committing an offence. It also provides for the appointment of inspectors to, *inter alia*, ensure compliance with the provisions of the Bill and to effectively monitor remote gambling activities in the Republic or particular province.
- 3.12 Chapter 12 deals with the general provisions such as the making of regulations, the repeal and amendment 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;

#### **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 of the Republic of South Africa, 1996, since it deals, *inter alia*, with a concurrent national and provincial legislative competence listed in Schedule 4 of the Constitution, namely, gambling.
- 6.2 It is further proposed that it is not necessary to refer this Bill to the National House of Traditional and Khoi-San Leaders in terms of section 39(1)(a) of the Traditional and Khoi-San Leadership Act, 2019 (Act No. 3 of 2019), since it contains no provisions directly affecting traditional or Khoi-San communities nor any provisions pertaining to customary law or customs of traditional or Khoi-San communities.

