

NORTH-WEST CASINO, GAMING AND BETTING ACT**NO. 13 OF 1994**

[ASSENTED TO 19 OCTOBER, 1994] [DATE OF COMMENCEMENT: 4 NOVEMBER, 1994]

(English text signed by the Premier)

ACT

WHEREAS the right to levy taxes on casinos, gaming and betting in the North West vests exclusively in the Provincial Government of the North West in terms of section 156 (1B) of the South African Constitution, 1993;

AND WHEREAS the levying of such taxes has to be dealt with in terms of legislation of the Provincial Legislature;

AND WHEREAS the Provincial Legislature has recognized the need for legislation whereby casinos, gaming and betting are to be governed in the Province;

AND, HAVING NOTED with concern the need for such legislation in order to prevent the conducting of illegal betting activities in the Province;

NOW THEREFORE, the Premier and the Legislature of the North West Province enact as follows:—

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CHAPTER I

INTRODUCTORY PROVISIONS

1. Definitions.—In this Act, unless inconsistent with the context —

"bet" means to stake any money or valuable thing by or on behalf of any person, or, expressly or impliedly, to undertake, promise, or agree to stake by or on behalf of any person, any money or valuable thing on the event or

contingency of or relating to any horse race, cycle race, motor race, boat race, whippet race or any shooting, hunting, running or boxing contest or prize fight, or any cricket match, football match, or any other sport or game usually attended by members of the public;

"betting premises" means a racecourse when a race-meeting is being held thereon under authority of a race-meeting licence or a licence in terms of section 63 or premises kept open by TAB North West in terms of section 66, or a betting room;

"betting room" means premises in respect of which an authority granted in terms of section 69 is in force;

"Board" means the North West Gaming and Betting Board established in terms of section 2;

"Casino" means the business premises upon which gambling is conducted under a casino licence, and, in the event of more than one area on a business premises being utilised for gaming, "casino" shall mean such an area;

"casino licence" means a casino licence referred to in section 27;

"dividend" means the declared amount paid on a winning ticket calculated in accordance with totalizator principles and shall include the possibility of being the same amount as paid by the totalizator board at the race course or other venue hosting the sporting event;

"Executive Council" means the Executive Council of the North West Provincial Legislature;

"fixed odds bet" means a bet laid by a licensed bookmaker on one or more contingencies in respect of one or more sporting events where fixed odds are agreed upon when such bet is laid;

"floating branch" means a mobile unit utilised as an extension or a totalizator branch or a teletrack branch or as an independent totalizator or teletrack branch;

"game" means any game, irrespective of whether or not the result thereof is determined by chance, played with playing cards, dice, gaming machines or any other device or machine for money, property, cheques, credit or anything of value (other than opportunity to play a further game), including, without derogating from the generality of the foregoing, roulette, bingo, twenty-one, black jack, chemin de fer and baccarat;

"gaming" means the playing of any game;

"game of chance", includes a lottery, lotto, numbers game, scratch game, sweepstake, sports pool, gambling or wagering, or any similar game of chance or activity mentioned in this Act or elsewhere, but does not include any game conducted in a casino;

"gaming machine" means any equipment or mechanical, electro-mechanical or electronic device, component or machine, used remotely or directly in connection with a game and which brings about the result of a wager by determining win or loss;

"gaming room" means any room in the casino area;

"horse race" means a race in which an animal belonging to the equine species participates;

"licenced bookmaker" means a bookmaker who is the holder of a valid licence referred to in section 72 (1);

"opportunity to play a further game" means an opportunity which cannot be distributed or transferred to the person who has won such opportunity or to any other person, for any purpose other than to use such opportunity without any interruption to continue playing the type of game in respect of which the opportunity was won, and includes an opportunity which cannot in any manner, whether directly or indirectly, be converted into money, property, cheques, credit or anything of value.

"place" means any place, whether or not it is a public place, and includes any premises, building, dwelling, flat, room, office, shop, structure, vessel, aircraft, or vehicle and any part of a place;

"prize" includes any movable or immovable property or any right thereto;

"race meeting" means a gathering of persons attending a horse race or a trotting race (irrespective of whether such race was run or not) if the date and place of such race has been made known by public advertisement or private invitation, but shall not include any such gathering at which less than four of the events are horse or trotting races;

"race meeting licence" means a licence referred to in section 57;

"racing club" means an association of persons, statutory or corporate body which is the holder of a race meeting licence referred to in section 57;

"receiver of revenue" means the officer acting as the collector of revenues for the Provincial Revenue Fund;

"regulation" means a regulation made in terms of this Act;

"resort" means a complex consisting of at least one five star hotel used for the purposes of entertainment, gambling, recreation sport and conference and which has the adequate infrastructure to accommodate such activities, and the facilities providing for these activities shall include at least one restaurant, one under roof entertainment area, casino area, one swimming pool dam for watersport, spas, one gymnasium, waterworks, gardens, landscaping, one eighteen hole golf-course, tennis courts, squash courts, playrooms for children, tar roads, parking areas, staff-quarters and facilities for the transport of guests, visitors and conference centres and shall be out of town and at least 200 kilometres from an existing resort unless the Board decided that an existing resort would not be detrimentally affected by a new resort closer than 200 kilometres;

"responsible Member" means the Member of the Executive Council, responsible for Economic Affairs;

"sporting event" means any race or football, cricket, hockey, tennis or baseball match or any boxing, wrestling, shooting or swimming contest, any foot, cycle, motor, boat, dog or horse or trotting race, tournament or game generally attended by public in the Republic of South Africa or elsewhere and includes a beauty or similar competition held in the Republic or elsewhere, in respect of which only a totalizator or licensed accept bets;

"TAB North West" means the Totalizator Agency Board for the North West;

"tattersalls club" means an association of persons established for the purpose of betting on sporting events at a place other than a race course;

"teletrack" means a television screen set up at any teletrack facility for which a licence has been obtained or at any outlet for the purpose of screening a sporting event to the public and shall include a simulcast;

"this Act" shall include any regulations made thereunder;

"ticket" means any symbol, sign, token, coupon, card, receipt, warrant or list or any other means or device of whatsoever nature purporting or intended to confer upon or to recognise in any person the right to compete for in or receive a prize or participate in any game of chance or receive a winning bet;

"totalizator" means any instrument, machine, contrivance or apparatus for registering or indicating or registering and indicating the number, amount or number and amount of bets on horses in any race or combination of races, and which is operated in accordance with a system of betting in which the aggregate amount staked on all horses in such race or combination races, after deduction from such aggregate amount of any amounts which may lawfully be deducted therefrom, whether under the Act or by agreement, is divided amongst those persons that have made winning bets on any horse or horses in such race or combination of races in proportion to the amounts staked by

such person respect of such winning bets, and includes any scheme, form or system of betting, whether mechanically operated or not, which is operated on similar principles; and

"totalizator licence" means a licence contemplated by section 65.

CHAPTER II

NORTH WEST GAMING AND BETTING BOARD

2. Establishment of the North West Gaming and Betting Board.—(1) There is hereby established a board, to be known as the North West Gaming and Betting Board, consisting of five members who shall be appointed by the responsible Member for a period of three years and of whom—

- (a) one shall be from the gaming industry but not the holder of any direct or indirect interest in the gaming industry;
- (b) one shall be from the legal profession;
- (c) one shall be from the accountancy profession;
- (d) one shall be from the office of the receiver of revenue; and
- (e) one shall be a person who in the opinion of the responsible Member is fit and proper to be a member of the Board.

(2) The responsible Member shall designate the chairperson of the Board.

(3) No person shall be eligible for appointment as a member of the Board unless he or she is a citizen of the Republic of South Africa and ordinarily resident therein.

(4) A retiring member shall be eligible for reappointment.

(5) The responsible Member may at any time terminate the term of office of a member if there are in his or her opinion, good reasons therefor.

(6) When the office of a member of the Board becomes vacant due to death or termination of his or her appointment, before the expiration of the period for which he or she was appointed, the responsible Member may appoint any other person to fill the vacancy until the expiration of the period for which the retired member was appointed.

(7) When a member of the Board is absent or unable to carry out his or her duties, the responsible Member may appoint any other person to act as member in his or her place during his or her absence or inability.

(8) A member shall, in respect of any services rendered by him or her as a member of the Board, be paid such remuneration or allowance as may be determined from time to time by the responsible Member after consultation with the responsible Member for Finance.

(9) The decision of the majority of the members of the Board shall constitute the decision of the Board.

3. Clerk of the Board.—(1) The head of the Department: Economic Affairs, shall appoint an officer of the department to be the Clerk of the Board.

(2) The Clerk of the Board shall—

- (a) keep a record of all the proceedings of the Board in terms of this Act;

(b) perform the duties to be performed by him or her in terms of the provisions of this Act; and

(c) perform such other administrative duties as the responsible Member or the chairperson may from time to time assign to him or her in regard to any matter to which this Act relates.

4. Place of meetings of Board.—The Board shall hold its meetings at such place as the Chairperson may determine.

5. Quorum.—(1) Four members of the Board shall form a quorum: Provided that if the Chairperson is absent from any meeting of the Board, a member of the Board designated by the responsible Member shall act as Chairperson.

(2) If a quorum is not present at the commencement of the Board, such meeting shall stand adjourned until a quorum is present.

6. Procedure at meetings of Board.—(1) The annual meeting and all interim meetings shall be open to the public.

(2) Subject to any regulation, the order of business and the procedure at any meeting of the Board, including the examination and cross-examination of persons testifying before the Board, shall be as determined by the Board and it may at any time adjourn any meeting.

(3) All evidence before the Board shall be given on oath or affirmation to be administered by the Chairperson.

(4) The decision or opinion of the majority of the members present at any meeting of the Board shall be the decision or opinion of the Board: Provided that, in the event of an equality of votes, the Chairperson shall also have a casting vote.

(5) The record of the proceedings in public of the Board shall be filed in the office of the head of the Department of Economic Affairs where it may be inspected and copies thereof obtained as if it were the record of civil proceedings in a magistrates' court.

(6) Except when the Board refuses to renew a licence, cancels a licence or decides any question of law, it shall not be required to give any reasons for its decision.

7. Annual meeting of Board.—(1) On the second Wednesday in the month of November of each year or, if that day is a public holiday, then on the first day thereafter which is not a public holiday, the Board shall hold a meeting to be known as the annual meeting.

(2) Not earlier than sixty days and not later than thirty days before the annual meeting the Chairperson of the Board shall give notice in the *Provincial Gazette* of the date, place and time thereof.

8. Interim meetings of Board.—(1) An interim meeting of the Board may be convened by the Chairperson at any time but not more than once in any month.

(2) Not less than seven days before the day appointed for an interim meeting the Chairperson shall give notice in the *Provincial Gazette* of the date, place and time of, and of the matters to be considered by the Board at, such meeting.

9. Powers and functions of Board.—(1) Subject to the provisions of this Act, the Board shall consider—

(a) at the annual meeting any application under section 11, 52, 57, 65, 68 or 74 for the grant of a new licence;

(b) at an interim meeting held not later than during the month of May in any year any application for the grant of a licence upon which the Board was unable to come to a decision by the thirty-first day of December of the preceding year;

(c) at any interim meeting any application under section 14 for the transfer or removal of a licence;

(d) at any meeting any application under section 63 for grant of licence;

(e) at any meeting any matter which the responsible Member may refer to that meeting.

(2) The Board shall make a report and recommendation to the responsible Member for submission to the Executive Council on each application for a new licence or the transfer or removal of a licence.

10. Legal proceedings against Board.—(1) In any legal proceedings instituted against the Board, service of any process on the Chairperson shall be deemed to be sufficient service on the Board.

(2) Save where the court concerned shall have specially authorised to the contrary, the time to be allowed for the entering of appearance to a summons issued in any legal summons and in applications by way of motion or petition the time to be allowed for the hearing of the application or for the return of a rule *nisi* shall not be less than fourteen days after service of the notice of motion or the rule *nisi*, as the case may be.

CHAPTER III

CASINOS

11. Application for a casino licence.—(1) Any person desiring to operate a casino shall apply to the Executive Council through the responsible Member and the Board for a casino licence.

(2) Such application shall be lodged with the clerk of the Board on or before the fifteenth day of September in any year.

(3) Every applicant for a new licence shall, not less than fourteen days before the date upon which he or she lodges his or her application, make known his or her intention so to apply by notice substantially in the prescribed form—

(a) in the *Provincial Gazette*, in any of the official languages; and

(b) in a newspaper circulating in the district, in the official languages in which such newspaper is published.

12. Duration of licence.—The licence which may be granted or renewed under this Act shall be of force and effect from the first day of January until the thirty-first day of December of the same year, both days inclusive: Provided that if a new licence is granted after the first day of January, such licence shall be of force and effect from the date of issue of such licence until the thirty-first day of December of the same year, both day inclusive.

13. Renewal of licence.—Any casino licence granted in terms of this Chapter, shall, subject to the provision of this Act, and the conditions under which it was granted, remain in force and shall be renewed annually on production of the licence for the preceeding year and on payment of the licence fees provided for in section 28 unless such licence has been revoked in terms of the provisions of section 31 or has been declared forfeited by a competent court.

14. Application for transfer or removal of licence.—(1) Any licensee who desires at any time—

(a) to transfer his or her licence to any other person; or

(b) to remove his or her licence from the licenced premises to any other premises in the same province, whether temporarily or permanently,

shall make application therefor to the responsible Member through the Board.

(2) Any application under subsection (1) shall be lodged with the clerk of the Board and the provisions of section 11 (2) and (3) shall *mutatis mutandis* apply in respect of such application.

15. Form of application.—Every application under section 11 or 34 shall—

(a) be substantially in the prescribed form; and

(b) be accompanied by the prescribed document and information and in respect of an application under section 13 a fee of fifty rand.

16. Inspection of, and objections to applications.—(1) The clerk of the Board with whom any application has been lodged under section 11 or 14 shall without delay—

(a) post in a conspicuous place at his or her office a notice substantially in the prescribed form calling upon any interested person to lodge with him or her in writing in the prescribed manner, within thirty days after the date of such notice, any objection to such application; and

(b) transmit a copy of the application—

(i) to the Police Authority; and

(ii) to the administrative body within whose area are or will be situate the premises in respect of which the application has been made, and shall at the same time notify such body that it may within thirty days submit to him or her any written objection to, or report on, the application.

(2) During a period of fourteen days after the date upon which any application under section 11 or 14 is lodged with the Clerk of the Board, any person shall have the right upon request and free of charge to inspect such application.

(3) The Clerk of the Board shall, in writing, inform the applicant of every objection lodge with him or her in terms of subsection (1), and shall allow the applicant to make a copy thereof and afford him or her an opportunity of replying thereto within seven days after the date upon which he or she was so informed.

17. Report on application for new licence, transfer or removal of licence.—In respect of every application for a new licence, transfer or removal of a licence, the Police Authority shall, at least twenty-one days before the date upon which such application is to be considered by the Board, report to the Clerk of the Board—

(a) if the premises to which the application relates are already in existence, whether such premises are in good repair and, in accordance with the provisions of this Act, suitable in all respects for the proper carrying on of the proposed business or other activity; or

(b) if the premises to which the application relates have not yet been erected or completed, whether such premises will, upon completion in accordance with the plans, be suitable in all respects for the proper carrying on of the proposed business or other activity; and

(c) if the application relates to a casino previously licensed, whether such casino has been carried on in a proper and orderly manner and in accordance with the law, whether any records required to be kept have been properly and adequately kept and whether the licensee has complied with every restriction, direction or condition imposed upon him or her,

and shall call attention to any other matter which in terms of this Act shall be, or in the opinion of the Police Authority ought to be, taken into account by the licensing authority.

18. Transmission of applications to the Board.—(1) Any person who has made an application in terms of section 11, 13 or 14, who desires at any time to transfer his or her application to any other person shall make application therefor to the responsible Member through the Board.

(2) Any application under subsection (1) shall be lodged with the Clerk of the Board and he or she shall not more than sixty

days and not less than fourteen days before the date upon which he or she lodges his or her application, make known his or her intention so to apply by notice substantially in the prescribed form—

(a) in the *Provincial Gazette*, in any of the official languages; and

(b) in a newspaper circulating in the district, in the official language or languages in which such newspaper is published.

(3) Every application under subsection (1) shall—

(a) be substantially in the prescribed form;

(b) be accompanied by the prescribed documents and information, hearing and representation of applicants, objectors or other interested bodies or persons.

19. Appearance before the Board.—(1) At the appropriate meeting of the Board—

(a) any applicant whose application is before the Board or his or her duly authorised representative;

(b) any objector to any application who has lodged an objection in the prescribed manner or his or her duly authorised representative; and

(c) the Police Authority or its duly authorised representative (in respect of any objection, report or application made by the Police Authority in terms of this Act),

shall have the right to appear before and to be heard by the Board and to call evidence in support of his or her or its application, objection or report as the case may be.

(2) Subject to the provisions of any other law, if any person whose application is to be considered by the Board dies, becomes insolvent or is declared incapable of managing his or her own affairs on or before the day appointed for the consideration of his or her application, the lawful representative of the estate of the applicant, or, in the absence of any such representative, any member of the family of the applicant authorised thereto by the Board, shall have and may exercise all such rights as the applicant would have had and been entitled.

(3) The provisions of subsection (2) shall apply *mutatis mutandis*—

(a) in the case of any company which is placed under liquidation on or before the day appointed for the consideration by the Board of any application by the nominee of such company and in respect of the person lawfully appointed as liquidator of such company; and

(b) in respect of any other person who with the approval of the Board has been nominated by any association of persons or the development corporation as its nominee in the place of a nominee who has died or otherwise ceased to hold his or her position.

20. Calling for evidence by Board.—(1) The Board may by notice in writing under the hand of its clerk—

(a) require the attendance before a meeting of the Board of any applicant whose application is to be considered at such meeting, of any licence-holder or if he or she is absent any person charged with the conduct of the business carried on under his licence, or of any other person who, in the opinion of the Board, is able to testify as to any matter which the Board has to consider or determine;

(b) require such applicant, licence-holder or person to produce any book or document, relevant to any matter before the Board, which is in his or her possession or under his or her control.

(2) If any person, whose application is before the Board, so requests, the Board shall by notice in writing under the hand of its clerk call as a witness, subject to the provisions of section 19 (1), any member of the police who, on behalf of the

Police Authority, has prepared a report on such application under section 17.

21. Offences by witnesses or persons called as witnesses.—Any person who—

(a) refuses or fails without sufficient cause to attend and give evidence before the Board at the time and place specified in a notice given under section 20 or to produce any book or document which he has been required by such notice to produce; or

(b) under oath or affirmation gives false evidence before the Board knowing such evidence to be false or not believing it to be true,

shall be guilty of an offence.

22. Powers of Board to hear or take objections.—The Board may at any time—

(a) in its discretion hear any objection made by an administrative body or any person to any application before the Board notwithstanding that such objection has not been lodged in the prescribed manner or within the prescribed time but in that event the Board shall afford the applicant the opportunity of answering the objection;

(b) of its own motion take notice of any matter or thing whatsoever which in its opinion would be an objection to any application before the Board although no such objection has been lodged by any person: Provided that the Board shall inform the applicant of such matter or thing and afford him a reasonable opportunity of answering it.

23. Review of Board's proceedings.—(1) Subject to the provisions of subsection (2), any proceedings the Board may on the petition of any applicant or objector be reviewed by the Supreme Court.

(2) If it appears to such court that in the proceedings in question the Board exceeded its powers or failed or refused to exercise any power or discretion which, in terms of this Act, it was obliged to exercise, or exercised its powers in an arbitrary, *mala fide* or grossly unreasonable manner, the court may set aside the proceedings and make such order as to it seems just including an order that a meeting of the Board be held for the re-hearing or reconsideration of the matter: Provided that no proceedings of the Board shall be set aside by reason merely of a formal or technical defect which, in the opinion of court, has not resulted in substantial injustice to the petitioner.

24. Appeal from decision of Board.—(1) An appeal shall lie to the Supreme Court at the instance of any applicant or objector in respect of any question of law decided by the Board in connection with or in relation to his or her application or objection, as the case may be.

(2) The law relating to appeals in civil matters in a magistrate's court shall apply *mutatis mutandis* to any appeal under subsection (1).

(3) Save as provided in this section there shall be no appeal from any decision of the Board.

25. Submission of application to the responsible Member.—The Chairperson of the Board shall, as soon as possible after the conclusion of any meeting of the Board, submit to the responsible Member every application considered at such meeting together with the relevant annexures, the report and recommendation of the Board and a copy of the record of the Board's proceedings relating to such application for submission to the Executive Council.

26. Powers of Executive Council to grant new licence or to authorise the renewal, transfer or removal of a licence.—

(1) The Executive Council may in its discretion, subject to the provisions of this Act and after having considered the application for a new licence or the renewal, transfer or removal of a licence, together with all the information referred to in section 22 and with due regard, in the case of an application for a new licence or the removal of a licence, to—

(a) any recommendations made by the Lotteries and Gambling Board established under the Lotteries and Gambling Board Act, 1993, regarding the criteria to be complied with before a licence is granted;

(b) the number of licences, if any, existing in the district or area concerned; and

(c) the situation of any existing casinos and of the proposed new premises,

grant or refuse such application: Provided that the Executive Council shall not grant any application if the Board has not so recommended.

(2) The decision of the Executive Council on any application referred to in subsection (1) shall be final.

27. Licence.—(1) Notwithstanding anything to the contrary contained in any other law, a casino licence shall—

(a) authorize the playing in the casino area, which shall be specified in such licence, of games;

(b) authorize the sale, supply and consumption of liquor or other refreshments in the casino area at any time while the casino area is open for gaming;

(c) authorize the sale of any goods in such part of the casino as is specified in the licence;

(d) entitle the licensee to place and operate gaming machines in the casino.

(2) A casino licence shall be valid for such period as it is indicated on the licence and shall be renewed annually in terms of the provisions of section 13.

28. Licence Fees.—(1) There shall be charged and payable in respect of a casino licence, in addition to the casino levy payable under section 29, the amount of one hundred and fifty rand per annum (irrespective of actual date of installation of the machine) in respect of each gaming machine placed in the casino.

(2) The licence fee payable in terms of subsection (1) shall be payable on or before the first day of January each year.

29. Casino Levy.—(1) There shall be charged and payable in respect of a casino licence a levy to the amount of fifteen per cent of the nett receipts from gaming for the preceding quarter: Provided that such nett receipts shall not include the nett receipts of the business upon which the annual hotel liquor licence fee is calculated in terms of the provisions of the laws governing the sale of liquor: Provided further that "nett receipts" for the purposes of this section shall mean the difference between gross receipts and payments made to gaming patrons with no provision for the deduction of any costs or provisions.

(2) The casino levy payable in terms of subsection (1), shall be payable on or before the fifteenth day of the month following the quarter in respect of which the levy is payable and such payment shall be accompanied by an audited statement attesting to the audited nett receipts of the casino for the preceding quarter.

(3) The casino levy payable in terms of this section shall be payable to the office of the receiver of Provincial Tax Authorities.

(4) Notwithstanding anything to the contrary contained in any other law, there shall be no period of grace for the payment of casino levy referred to in this section.

30. Conditions of licence.—The Executive Council may attach conditions to a licence—

(a) relating to the games that may be played in any gaming room;

(b) relating to the method of operation of any game;

(c) for the purpose of ensuring that the operation of the casino does not detract from the natural beauty and amenities of any place near such casino;

- (d) for the purpose of ensuring that the operation of the casino accords with decency, dignity, good taste and honesty;
- (e) requiring the keeping of books, accounts, records and other information relating to the operation of casino;
- (f) requiring the submission to the Executive Council of such reports and returns relating to the operation of the casino as the Executive Council may from time to time require;
- (g) relating to the days on which and hours during which gaming may be carried on in the casino;
- (h) relating to any other matter which, in the opinion of the Executive Council, requires regulation.

31. Revocation of licence.—(1) The Executive Council may, on the recommendation of the responsible Member acting in consultation with the Board, at any time revoke a licence if—

- (a) any information contained in any application made by the licensee in terms of section 11, 13 or 14 or given to the Board by the licensee for the purpose of obtaining the granting, renewal, transfer or removal of the licence was at the time when the information was given, false in any material way or was subject to any material omission;
- (b) the licensee has failed to comply with any term or condition of the licence or any provision of this Act and has not complied with such term, condition or provision within thirty days, or such further period as the Board may, in writing, allow after delivery of written notice by the Board to the licensee requiring such failure to be remedied;
- (c) the licensee or any employee of the licensee has been convicted of an offence under this Act or of an offence relating to the conduct of any game or the sale of liquor in the casino or to betting or lotteries;
- (d) the licensee, or if the licensee is a company, the managing director thereof, has been convicted of an offence involving dishonesty and has been sentenced to imprisonment without the option of a fine; or
- (e) the licensee, without the consent of the Board, ceases for more than three months to carry on gaming in any gaming room.

(2) The Executive Council shall inform the licensee in writing of such revocation.

32. Surrender of licence.—A licensee may surrender his or her licence upon such conditions as the responsible Member on the advice of the Board may determine.

33. Issue of licences.—Any licence issued in terms of this Chapter shall be issued by the Department of Economic Affairs on the written authority of the responsible Member.

34. Penalty for failure to take out a licence.—Any person who operates a casino or gaming machine without being in possession of a licence fails to pay the licence fees contemplated in section 28 as required by those sections shall be guilty of an offence and liable on conviction to a fine not exceeding two hundred and fifty thousand rand or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

35. Penalty for delay in paying licence fee.—Any person who fails to pay any licence fees contemplated in section 28 on or before the date on which he or she becomes liable to pay such licence fees, shall in addition to such licence fees, pay for each day or part of a day during which he or she is liable for the payment of the licence fees a penalty calculated at the rate of ten per centum of the unpaid licence fee: Provided that the amount of such penalty shall not exceed the amount of the licence fee: Provided further that if such licence fees are not paid within forty five days after the date on which they

become payable, the Clerk of the Board shall give the licensee fourteen days written notice to effect payment of the licence fees and if the licence fees are not paid prior to the expiration of the said fourteen days, the licence shall be regarded as being revoked.

36. Penalty for delay in paying casino levy.—Any person who fails to pay any casino levy contemplated in section 29 on or before the date on which he or she becomes liable to pay such casino levy, shall in addition to such casino levy, pay for each day or part of a day during which he or she is liable for the payment of the casino levy a penalty calculated at the rate of ten per centum of the unpaid casino levy: Provided that if such casino levy is not paid within forty five days after the date on which it became payable, the clerk of the Board shall give the licensee fourteen days written notice to effect payment of the casino levy and if the casino levy is not paid prior to the expiration of the said fourteen days, the licence shall be regarded as being revoked.

37. Licensee to make rules relating to method of playing games.—The licensee shall make rules relating to the method of playing games, which rules shall be subject to the approval of the Board who shall not withhold such approval unreasonably and such rules shall be displayed prominently in the casino area.

38. Prohibition of gaming by certain persons.—(1) The Clerk of the Board, a member of the Board or any person who is in any way concerned with the management, supervision, control or administration of a casino shall not participate in any game in any gaming room of any casino, save in so far as he or she may be required to do so by the nature of his or her employment in the operation of such game so as to enable other persons to participate in the game: Provided that this subsection shall not be construed so as to preclude a gaming employee of a casino to participate in any game in any gaming room at a casino other than the one where he or she is employed.

(2) No person under the apparent age of eighteen years shall enter any casino, casino area or gaming room and shall not partake in any game, gaming or handle or operate a gaming machine.

(3) No licensee or employee of a licensee shall permit any person who is under the apparent age of eighteen years, and the parent or guardian of a person under the apparent age of eighteen years shall not permit such person to enter or remain in any casino, casino area or gaming room and shall not permit such person to partake in any game, gaming or handle or operate a gaming machine.

(4) Any person who contravenes any provision of this section shall be guilty of an offence.

39. Prohibition of certain persons from entering casino.—(1) Where the court that has convicted a person of any offence is of the opinion that by reason of the nature of the offence or the circumstances under which it was committed it is desirable in the interests of public order, public morals or fair play, that such person should not be permitted to enter any or a specific casino or any part thereof, the court may issue a written order prohibiting him or her from entering any casino or the part or parts thereof specified in the order for a period to be stated in the order.

(2) Where a court makes an order under subsection (1) the Clerk of the Court shall forthwith cause a copy of the order to be delivered to the licensees of all casinos or any casino named in the order.

(3) A person who fails to comply with an order made under subsection (1) or knowingly permits such person to enter the casino or part thereof, shall be guilty of an offence and liable upon conviction to a fine not exceeding five thousand rand or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

40. Powers of police to enter casino.—(1) Notwithstanding anything to the contrary contained in any other law, a police official of or above the rank of lieutenant may at any time without a warrant enter a casino for the purpose of—

(a) carrying out such investigations and of taking such steps as such police official may consider necessary for the prevention of an offence;

(b) the investigation of an offence;

(c) the investigation of the conduct of any person therein;

(d) determining whether the conditions referred to in section 30 are being complied with,

and may be accompanied and assisted in such investigations by a police official below the rank of lieutenant.

(2) Any police official entering a casino under subsection (1) shall within fourteen days of such entry submit a written report thereof to the Commissioner of Police who shall within fourteen days of receiving such report give written notification of such entry to the Board.

(3) Any person who and a licensee who by himself or herself or by any person in his or her employ or acting with his or her consent refuses to admit to or resists or prevents the entry into the casino of a police official who seeks to enter the premises of a casino under subsection (1) shall be guilty of an offence.

(4) Any person who, and any licensee who by himself or herself or by any person in his or her employ or acting with his or her consent, hinders or obstructs any police official—

(a) whilst carrying out an investigation contemplated in subsection (1); or

(b) whilst taking steps for the prevention of an offence,

or prevents or attempts to prevent such police official from carrying out such investigation or taking such steps, shall be guilty of an offence.

41. Power to inspect.—(1) Any person authorized thereto in writing by the responsible Member may—

(a) at any time enter and inspect any casino;

(b) examine any equipment, gaming machine and pin-table in the casino;

(c) inspect, examine and audit any books, accounts and records contemplated in section 21;

(d) seize and remove from the casino any equipment, gaming machine and pin-table for the purpose of examination.

(2) Any person contemplated in subsection (1) may, in writing, order the licensee to repair, replace or discontinue using such equipment, gaming machine or pin-table as may be found to be defective.

(3) Any person who—

(a) hinders or obstructs any person contemplated in subsection (1) in the exercise of the powers conferred on him or her by the responsible Member under that subsection;

(b) having been ordered under subsection (2) to repair, replace or discontinue using such equipment, gaming machine or pin-table and makes use thereof in the casino;

(c) having been ordered under subsection (2) to replace any equipment, gaming machine or pin-table fails to replace it within thirty days after receiving such written order or such longer period as the responsible Member may allow,

shall be guilty of an offence.

42. Resistance against entry.—(1) A police official who may enter any casino under section 40 may use such force as may be reasonably necessary to overcome any resistance against such entry of the casino, including the breaking of any door or window: Provided that such police official shall first audibly demand admission to the casino and notify the purpose for which he or she seeks to enter the casino.

(2) The proviso to subsection (1) shall not apply where the police official concerned is on reasonable grounds of the

opinion that any article which is the subject of the investigation may be destroyed or disposed of if the provisions of the said proviso are first complied with.

43. Licence fees to be deductible expenses.—Notwithstanding anything to the contrary contained in any other law, all licence fees paid in terms of section 28 shall be deductible expenses for the purpose of computing taxable income.

44. Improper use of the word "casino".—Any person trading or carrying on business under a name or title of which the word "casino" forms a part shall, unless he or she is the holder of a casino licence, be guilty of an offence.

45. Certain laws not applicable in respect of casinos.—Save as may otherwise be provided in this Act, nothing contained in any law relating specifically to lotteries or games of chance shall apply in respect of any casino in operation in the Province.

46. Advertising.—Subject to the provisions of any regulations made under this Act, it shall be lawful to advertise a casino and the games played therein.

47. Resort to be operated.—Subject to the provisions of this Act, a licensee shall, throughout the currency of his licence, carry out and maintain on the licenced premises, to the satisfaction of the Executive Council a report of such size and standard as is specified in the licence.

48. Regulations.—(1) The responsible Member may by notice in the *Provincial Gazette* make regulations in regard to any matter which, in terms of this Chapter, is required to be prescribed by regulation or which the responsible Member may deem necessary or expedient to prescribe for the achievement of the objects of this Chapter.

(2) Any regulation made under the provisions of subsection (1) may, for a contravention thereof or failure to comply therewith, prescribe penalties of a fine not exceeding five thousand rand or three years imprisonment.

49. General offence.—Any person, excluding the Board, who contravenes or fails to comply with any provision of section 37 or any condition of a licence issued under this Chapter shall be guilty of an offence.

50. General penalty.—Any person who is convicted to an offence in terms of this Chapter for which no penalty is expressly provided shall be liable to a fine not exceeding twenty thousand rand or to imprisonment for a period not exceeding two years.

51. Transitional provisions.—Any licence for the operation of a casino issued in terms of the Bophuthatswana Casino Act, 1977 as amended shall be deemed to have been issued in terms of this Act, and the renewal of any such licence shall be dealt with in accordance with the provisions of this Act: Provided that in the case of the renewal of a licence issued in terms of the Bophuthatswana Casino Act, "resort" as contemplated by section 47 shall for the purpose of this section, include a hotel.

CHAPTER IV

GAMING AND BETTING

52. Restriction of participation in unauthorised game of chance, and presumptions thereof.—(1) Any person desiring to—

(a) establish or commence a lottery or lotto or any numbers or scratch game or sweepstake or sports pool or gambling or wagering or any other game of chance or activity (hereinafter referred to as game of chance);

(b) manage, conduct or in any way assist in managing or conducting any game of chance;

(c) allow any place under his control, or in his charge to be used in any way for the management or conducting of any game or for any business purpose connected therewith;

(d) sell or dispose of or purchase or have in his possession or under his custody or have any interest in any ticket in any game of chance;

(e) perform any act with the object of acquiring or assisting any other person to acquire from any source in the North West or elsewhere any ticket in any game of chance or any interest in any such ticket,

shall apply to the Executive Council through the responsible Member and the Board for a licence.

(2) Any application lodged under subsection (1) shall be lodged with the clerk of the Board and the provisions of section 11 (2) and (3), 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 26 shall *mutatis mutandis* apply in respect of such application.

(3) (a) Any ticket which by any word, code, figure or any sign whatsoever indicates that such ticket is a ticket in any game of chance referred to in subsection (1) shall, until the contrary is proved, be presumed to be a ticket contemplated by this Act.

(b) It shall be an offence to be in possession of any ticket which by any word, code, figure or any sign whatsoever indicates that such ticket is a ticket referred to in paragraph (a) of this subsection.

(4) Whenever in any prosecution for a contravention of paragraph (b) of subsection (2) any person is proved to have been the occupier of any place in which a game of chance was managed or conducted at the time when such person occupied such place, it shall, until the contrary is proved be presumed that such person assisted in managing or conducting such game of chance.

53. Prohibition of activities in relation to game of chance.—A person shall not be exempt from liability under any provision of this Act in respect of any act or thing done or authorised or permitted by him or her to be done in the North West in connection with any game of chance merely by reason that the management, conduct or business of or concerning such game of chance is in whole or in part carried on at some place outside the North West.

54. Prohibition in respect of playing of game of chance, and presumptions thereof.—(1) Subject to the provision of subsection (2), no person other than a permit holder or licensee in terms of this Act or person deemed to be a permit holder or licensee in terms of this Act shall permit the playing of any game of chance for stakes at any place under his control or in his charge and no person shall play any such game at any place or visit any place within the North West with the object of playing any such game.

(2) In any prosecution for a contravention of subsection (1), it shall be a defence that the place to which the charge relates—

(a) is not available for the use of persons other than subscribers or members or a group of members of a club or association of persons or for the use by the public in general; or

(b) is not used except by personal friends of the person in control or in charge of such place and such person,

if it is proved that such place is not generally used for playing any game of chance for stakes.

(3) Any person who wilfully obstructs or hinders any authorised officer in the exercise or performance of any power, function or duty in terms of or by virtue of the provisions of this section, shall be guilty of an offence.

(4) Upon proof at the trial of any person charged with contravention of the provisions of subsection (1), that any unauthorised game of chance was played or intended to be played, it shall be presumed, until the contrary is proved, that such game was played or intended to be played for stakes.

(5) Any person supervising or directing or assisting at or acting as a banker, dealer, croupier or in any like capacity at the playing of any game of chance at any place and any person acting as porter, doorkeeper or servant or holding any other

office at any place where any such game of chance is played, shall be deemed to be in control or in charge of such place.

(6) Any person found at any place where any game of chance is played, shall be deemed, until the contrary is proved, to be playing such game for stakes at such place or to be visiting such place with the object of playing such game of chance for stakes.

55. Prohibitions for keeping or use of pin-tables, machines, instrument, etc.—(1) The responsible Member may on the recommendation of the Board, by notice in the *Provincial Gazette* prohibit the keeping or use at any place or class or kind of place specified in the notice, or at any place or class or kind of place other than a place or class or kind of place so specified, of all pin-tables, whether or not intended for the playing of games of chance, or of all pin-tables other than pin-tables described in such notice, or of all pin-tables, machines, contrivances or instruments of any class or kind described in such notice which in his or her opinion are intended for the playing of games of chance, and of any pin-table, machine, contrivance or instrument resembling or having anything in common with any pin-table, machine, contrivance or instrument contemplated by such notice.

(2) The person in control of or in charge of any place specified in any notice under subsection (1) at which any pin-table, machine, contrivance or instrument contemplated by such notice is found, shall be guilty of an offence.

(3) Any game played at any place specified in any notice referred to in subsection (1) by means of any pin-table, machine, contrivance or instrument contemplated by such notice shall be presumed to be a game of chance contemplated by that subsection.

56. Licence to hold race meeting or trotting meeting.—(1) Save as provided in this Act no person shall hold a race meeting or trotting meeting without the necessary licence.

(2) Any person who contravenes or fails to comply with the provisions of subsection (1) shall be guilty of an offence.

57. Issue of licence authorising race meeting on race course.—(1) Subject to the provisions of this Act the Executive Council may, upon the written application of TAB North West through the responsible Member and addressed to the clerk of the Board, authorise the issue to a racing club controlled by TAB North West or to a non-proprietary concern or club, of a licence to hold so many race meetings or trotting meetings and on a licensed race course in lawful possession or occupation of such racing club as may be specified in the licence.

(2) The provision of sections 11 (2) and (3), 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 26 shall *mutatis mutandis* apply in respect of such application.

(3) No race meeting licence shall be issued to a racing club—

(a) until the rules and regulations in terms of which a race meeting will be held by that club have been approved by the Board;

(b) the club has adequate financial means at its disposal to hold race-meetings;

(c) the racecourse to which it will relate is suitable and complies with the requirements of the Jockey Club South Africa;

(d) proper provision has been made for the control of the race-meetings and the totalisator to be held or conducted and the bookmakers who will operate, and for the supervision of all betting activities, on such racecourse; and

(e) the Executive Council considers it desirable that such a licence be issued.

(4) A race meeting licence issued in terms of this Chapter shall be valid for a period of one year and shall be renewed on production of the licence for the preceding year and on payment of the licence fees prescribed by this Act for any succeeding year.

(5) A race meeting licence shall be subject to the conditions that the holder thereof shall comply with the provisions of the constitution of the club, the rules and regulations of TAB North West: Provided that if the Executive Council does not approve of any such provision, it may—

(a) exempt a racing club from compliance with any such provision; and

(b) by written notice to all racing clubs, substitute for any such provision a new provision which shall be binding on all racing clubs.

(6) Should any race meeting not take place because inclement weather or any unforeseen circumstances have rendered it undesirable to hold or continue such race meeting, it may be held or continued on any other day, determined by the racing club concerned in consultation with TAB North West.

(7) The Executive Council may at any time on the recommendation of the Board, impose any condition on TAB North West or a licensee as it may deem expedient and may amend or withdraw any such condition.

(8) Any person who contravenes or fails to comply with the provisions of subsection (1) shall be guilty of an offence.

58. Suspension or cancellation of race meeting licence.—The Executive Council may at any time on the recommendation of the responsible Member acting in consultation with the Board, suspend a race meeting licence for such period as it may determine or may cancel it if the holder thereof—

(a) has been convicted of an offence which, in the opinion of the Executive Council justifies such suspension or cancellation;

(b) has contravened or failed to comply with any rule or regulation contemplated by this Chapter; or

(c) has contravened or failed to comply with any condition of such licence.

59. Lapse of licence.—(1) A race meeting licence shall lapse if the racing club concerned ceases to operate.

(2) The Executive Council may on the recommendation of the responsible Member acting in consultation with the Board, whenever it deems it expedient and notwithstanding the provisions of section 57 (3) declare that a race meeting licence shall lapse on a date to be determined by it and, in such event, the racing club concerned may apply anew for a race meeting licence.

60. Duty to produce licence.—A person who holds a race meeting and fails on demand by an authorised officer to produce forthwith a race meeting licence authorising the holding of such meeting shall be guilty of an offence.

61. Admission to race course.—(1) Subject to the provisions of this Act, no person shall be admitted to a racecourse on a day on which a race meeting is held thereon and no person shall on that day be on that racecourse unless—

(a) he or she is eighteen years of age or older; and

(b) he or she has paid to TAB North West or the racing club concerned the stipulated admission fee;

Provided that the provisions of this subsection shall not apply to—

(i) the owner or trainer or assistant trainer of a horse engaged in that race meeting;

(ii) a jockey or an apprentice jockey;

(iii) an employee of such racing club or person *bona fide* employed in connection with that race

meeting;

(iv) a member of such racing club who has paid the annual membership fee determined by such club;

(v) a person whose free admission to a licensed race course has been approved by the responsible Member either generally or specifically, or has been specifically authorised by the racing club concerned; or

(vi) an authorised officer; or

(vii) a person under the age of eighteen years accompanied by his or her parent or guardian; or

(viii) a member of TAB North West.

(2) A racing club or a person authorised thereto by it or the responsible Member may, in terms of the provisions of any rule of the club or regulation referred to in section 87 or in terms of a condition of the race meeting licence of such club, exclude any person from or refuse to admit any person to the licensed race course of such club or may exclude from or refuse to admit to the race course any person whose presence thereon will in the opinion of such club or person, be detrimental to the maintenance of good order.

(3) The racing club or a person authorised thereto by such club or an authorised officer may remove or cause to be removed any person who is unlawfully on the licensed race course of such club or any person whose conduct is, in the opinion of TAB North West or such club or person so authorised or authorised officer, detrimental to the maintenance of good order.

(4) Any person who contravenes or fails to comply with the provisions of subsection (1) or any person who hinders or obstructs a racing club, any person or authorised officer in the carrying out of the powers conferred by subsection (3) shall be guilty of an offence.

62. Tax on fees for admission to licensed race course.—(1) A racing club shall pay to the North West Provincial Revenue Fund, a tax calculated at the rate of ten per cent of the gross amount received by that racing club in respect of admission fees to its licensed race course.

(2) A racing club shall—

(a) lodge with the receiver of Provincial revenue security for the payment of tax contemplated by subsection (1) in such form and in such amount as he or she may from time to time require;

(b) keep such records and make such arrangements, including the erection of barriers and turnstiles, as may be required by the receiver of revenue in order to ascertain the number of persons admitted to its licensed race course and the amount paid by those persons in respect of admission fees;

(c) within twenty-one days from the holding of a race meeting submit to the receiver of revenue the following information—

(i) the name of the racing club and licensed race course;

(ii) the date on which the race meeting was held;

(iii) the gross amount received in respect of admission fees to that race course on that date; and

(iv) the amount of tax payable, and shall simultaneously pay that tax.

(3) The receiver of Provincial revenue may utilise the security or any portion thereof lodged in terms of subsection (2) (a)

in settlement or part settlement of any tax payable in terms of this section.

(4) An authorised officer or any officer authorised thereto in writing by the head of the Department of Economic Affairs may at any reasonable time—

(a) enter a licensed race course in order to ascertain whether the provision of this section are being or have been complied with; or

(b) inspect any book, document, paper, machine or turnstile used in connection with the admission of persons to a licensed race course.

(5) A racing club that contravenes or fails to comply with the provisions of this section or any person who prevents, hinders or obstruct an officer contemplated by subsection (4) from entering a licensed race course or carrying out an inspection contemplated by that subsection shall be guilty of an offence.

63. Licence to hold race-meeting on particular day.—(1) Notwithstanding anything to the contrary contained in this Chapter, the Executive Council may, subject to such conditions as it may deem necessary authorise the issue of a licence which shall entitle the holder thereof to hold a race-meeting on the race-day and racecourse specified in such licence: Provided that not more than four such licences each specifying one race-day only, may be issued to the same person or in respect of the same race course during any year ending on 31 December.

(2) The provisions of section 11 (2) and (3), 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 26 shall *mutatis mutandis* apply in respect of an application for a licence referred to in subsection (1).

64. Restriction on the holding of race-meetings.—No person shall—

(a) hold, organize or arrange the holding of a race-meeting—

(i) except under authority of a race-meeting licence or a licence issued in terms of section 63;

(ii) except on a race-day on the racecourse specified in such licence; or

(iii) at which any race is run before 09h00 or after 18h30, or such later hour as the responsible Member may approve, on any day;

(b) aid or abet any other person in the holding, organizing or arranging at a race-meeting in contravention of paragraph (a); or

(c) take part in a race-meeting held in contravention of paragraph (a).

CHAPTER V

TOTALIZATORS

65. Authority to operate totalizator.—(1) The holder of a race-meeting licence referred to in section 57 is hereby authorized and deemed to be licensed, to conduct a totalizator on the racecourse to which such race-meeting or other licence relates on any race-day on which a race-meeting is held on such racecourse under authority of such licence.

(2) The North West Totalizator Agency Board (Pty) Ltd (-hereinafter referred to as TAB North West) is hereby authorized, and deemed to be licensed, to conduct a totalizator on any horse-race run in this or any other province or elsewhere, as well as on any sporting event as defined in section 1 on premises which TAB may in terms of section 66 keep open for the acceptance and settlement of totalizator bets.

(3) The Executive Council may at any time cancel an authority referred to in subsections (1) and (2) if, in its opinion, there are good reasons therefor.

(4) No person shall operate and conduct a totalizator unless he or she is the holder of a licence issued to him or her for that purpose in terms of this section.

(5) Any person desiring to conduct a totalizator shall apply to the Executive Council through the responsible Member and the Board for a licence.

(6) Any application under section (5) shall be lodged with the Clerk of the Board and the provisions of sections 11 (2) and (3), 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 26 shall *mutatis mutandis* apply in respect of such application.

66. TAB North West may accept and settle totalizator bets.—TAB North West may subject to the conditions which the Executive Council has imposed or may impose and for so long as it pleases the Executive Council, keep open for the acceptance and settlement of totalizator bets—

(a) the premises which are at the commencement of this Act being kept open by TAB North West in terms of section 17 of the repealed Bophuthatswana Gaming and Betting Act, 1989; and

(b) any other premises approved by the Executive Council.

67. Tax on totalizator transactions.—(1) Every person conducting a totalizator and TAB North West shall pay to the North West Provincial Revenue Fund a monthly duty calculated in accordance with the following formula:

$$T = P X (G - D),$$

in which formula—

(i) "T" represents the duty payable in respect of the totalizator business each month;

(ii) "P" represents nine per cent or such other percentage as the responsible Member in consultation with the Executive Council may from time to time by notice in the *Provincial Gazette* determine;

(iii) "G" represents the total amounts deposited as bets at, with or on the totalizator in each month; and

(iv) "D" represents the total amount of the dividends payable by the totalizator each month.

(2) If any dividend which is payable by the holder of a totalizator licence is not claimed within ninety days from the date on which such dividend became due and payable, such dividend shall, notwithstanding any agreement to the contrary, be paid to the holder of such permit.

(3) Any person who fails to pay a duty in terms of subsection (1) is not paid within twenty-one days after the last day of each and every month the duty became payable, he or she shall in addition to such duty pay for each day or part of a day during which he or she is liable for the payment of the duty a penalty calculated at the rate of ten per centum of the unpaid duty: Provided that if such duty is not paid within forty five days after the date on which it became payable, the licensee shall be given fourteen days written notice to effect payment of the duty and if the duty is not paid prior to the expiration of the said fourteen days, the licence shall be regarded as being revoked.

(4) A penalty payable in terms of this section shall be a debt due to the North West Revenue Fund.

(5) The provisions of this section shall *mutatis mutandis* apply in relation to any person, company, organisation or body who or which at any time operates and conducts the business of a totalizator in contravention of the provisions of this Act.

(6) The tax payable in terms of this section shall be paid to the receiver of revenue and shall be accompanied by a return in a form determined by the receiver.

CHAPTER V

TELETRACK

68. Establishment and conduct of teletrack, and licence.—(1) No person other than the holder of a licence issued under this Chapter shall establish and conduct a teletrack in the North West.

(2) The Executive Council may on the written application of any person made through the responsible Member and the Board, authorise the issue of a licence to establish and conduct a teletrack branch at a place specified in such licence, for the purpose of carrying on its business in accordance with the provisions of this Act: Provided that the Executive Council may, if it deems it expedient include in such licence or grant a separate licence for a floating mobile facility or a floating branch to operate in a specified area.

(3) The Executive Council may at any time amend any condition contained in a teletrack branch licence or add any further condition.

(4) Any application under subsection (2) shall be lodged with the Clerk of the Board and the provisions of sections 11 (2) and (3), 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 26 shall *mutatis mutandis* apply in respect of such application.

(5) Subject to the provisions of this Act a teletrack licence shall be valid for a period of one year and shall be renewed on production of the licence for the preceding year and on payment of the licence fees prescribed by this Act.

(6) The holder of a teletrack licence shall keep such books, accounts and records relating to the teletrack branches as may be prescribed, and the provisions of subsection (1) of section 83 shall apply in respect of the teletrack branches.

(7) Any person who contravenes or fails to comply with the provisions of subsection (1) shall be guilty of all offence and liable on conviction to a fine not exceeding twenty five thousand rand or to imprisonment for a period not exceeding two years or both such fine and such imprisonment.

(8) The provisions of section 67 (1) shall *mutatis mutandis* apply in relation to a teletrack.

CHAPTER VI

BETTING ROOMS

69. Authority to keep open betting room.—(1) The Executive Council may, subject to such conditions as it may deem necessary, grant authority to a tattersalls club to keep open premises for betting purposes.

(2) Any tattersalls club desiring to apply for authority to keep open premises for betting purposes, shall apply to the Executive Council through the responsible Member and the Board for such authorization.

(3) Any application under subsection (2) shall be lodged with the clerk of the Board and the provisions of sections 11 (2) and (3), 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 26 shall *mutatis mutandis* apply in respect of such application.

(4) An association which, immediately prior to this Act, was authorized in terms of a law applicable in any part of the North West, to keep open premises for betting purposes shall be deemed to have been authorized in terms of subsection (1) to keep open such premises for such purposes.

(5) An authority shall not be granted in terms of subsection (1), unless the Executive Council—

(a) is satisfied that—

(i) the requirements prescribed for the establishment of a tattersalls club and betting room have been with;

(ii) the premises to be used as a betting room are suitable for the purpose and not situated in a neighbourhood where it will be a nuisance or source of offence to the public; and

(iii) the tattersalls club will be able to control the betting room properly; and

(b) considers it desirable that such an authority be granted.

(4) The Executive Council may on the recommendation of the responsible Member acting in consultation with the Board, may cancel an authority granted in terms of subsection (1) if—

(a) a tattersalls club—

(i) does not function properly or does not exercise proper supervision over its betting room; or

(ii) has contravened or failed to comply with any provision of this Act or a condition subject to which such authority was granted;

(b) the betting room in respect of which such authority was granted has become unsuitable or a nuisance or a source of offence to the public; or

(c) in its opinion, it is in the public interest that such authority be cancelled.

70. Restriction on betting in betting room.—No person shall bet in a betting room and no bookmaker shall bet with such person in a betting room unless such person is of or over the age of eighteen years and a member of the tattersalls club conducting such betting room: Provided that a person who is licenced as a bookmaker in terms of this Act shall be deemed to be a member of every tattersalls club authorized to conduct a betting room in the North West Province.

71. Betting room levy—(1) Every tattersalls club conducting a betting room under an authority in terms of section 69, shall pay a levy of—

(a) R400, in the case of a betting room in which more than three bookmakers operate; and

(b) R200, in other cases,

for every year or part of a year ending on 31 December during which such betting room is kept open: Provided that if the liability for the payment of such tax arises after 30 June the amounts payable shall be R200,00 and R100,00 respectively.

(2) Such levy shall be paid on or before the day upon which such betting room is first kept open and thereafter on or before 3 January of every year.

CHAPTER VII

BOOKMAKERS

72. Licensing of bookmaker.—(1) The Executive Council may grant a bookmaker's licence subject to such conditions as it may deem necessary.

(2) Any person desiring to conduct the business of a bookmaker, shall apply the Executive Council through the responsible Member and the Board for a bookmaker's licence.

(3) Any application under subsection (2) shall be lodged with the clerk of the Board and the provisions of sections 11 (2) and (3), 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25 and 26 shall *mutatis mutandis* apply in respect of such application.

(4) A bookmaker's licence shall not be granted—

(a) except to a natural person or a company or association who—

(i) is not an unrehabilitated insolvent or in the case of a company, has a director who is not an unrehabilitated insolvent;

(ii) complies with such licence; and

(iii) is suitable and has the financial means for carrying on the business of a bookmaker; and

(b) unless the Executive Council considers it desirable that such licence be granted.

(5) A bookmaker's licence shall not be issued unless the applicant—

(a) has paid the licence fee; and

(b) has deposited a guarantee, in the form and for an amount and in the manner approved by the licensing committee, as security for the payment of any debts which may be incurred by him or her in the course of his or her business of bookmaker.

(6) Unless previously cancelled, a bookmaker's licence shall be valid up to 31 December (inclusive) of the year in respect of which it was issued and shall authorize the holder thereof to carry on the business of a bookmaker on the racecourse and in the betting room specified in such licence and on every racecourse where a race meeting is being held under authority of a licence issued in terms of section 56.

(7) A bookmaker's licence issued in terms of section 27 of the repealed Bophuthatswana Gaming and Betting Act, 1989 as well as the bookmaker licence referred to in section 27 of that Act, shall be deemed to be a bookmaker's licence issued in terms of this section.

73. Cancellation of bookmaker's licence.—The Executive Council may on the recommendation of the responsible Member acting in consultation with the Board, cancel a bookmaker's licence—

(a) when the estate of the holder thereof has been sequestered or in the case of a company, if such a company has been liquidated;

(b) when the holder thereof has been convicted of an offence under this Act, or of the laws relating to insolvency or liquidation or, of an offence involving fraud or dishonesty; or

(c) on any other grounds which, in its opinion, justifies cancellation.

74. Bookmaker's licence fee.—(1) No person shall carry on the business unless he or she has paid to the receiver of provincial revenue licence fee of one hundred rand for every year or part of a year ending on 31 December during which he or she carries on such business: Provided that if the liability for the payment of such licence fee arises after 30 June the amount payable shall be fifty rand.

(2) The responsible Member may by notice in the *Provincial Gazette* impose an additional licence fee which shall be paid by a bookmaker to whom a bookmaker's licence, which is not a renewal of an existing licence held by him or her has been granted, and such fee may differ having regard to the different betting rooms, racecourse or places on a racecourse where the business or a bookmaker may be carried on.

75. Restriction on business of a bookmaker.—(1) No person shall carry on the business of a bookmaker—

(a) except under the authority of a bookmaker's licence;

- (b) at a place other than that authorized by such licence;
- (c) on a racecourse, except during the period a race meeting is being lawfully held on such course;
or
- (d) in a betting room, except between 09h00 and 18h00 on a race day.

(2) Any person who contravenes or fails to comply with the provisions of subsection (1), shall be guilty of an offence.

76. Tax on bookmaker business.—(1) There shall be payable to the North West Provincial Revenue Fund by any person, company, or organisation or body who or which operates and conducts the business of a bookmaker—

- (a) a monthly duty calculated in accordance with the following formula:

$$T = P X (G - D)$$

in which formula—

- (i) "T" represents the duty payable in respect of the bookmaker business each month;
 - (ii) "P" represents ten per cent or such other amount as the responsible Member may in consultation with the Executive Council from time to time determine in the *Provincial Gazette*;
 - (iii) "G" represents the total amount received by the bookmaker as bets laid or struck with him or her each month; and
 - (iv) "D" represents the total amount of the dividends payable by the bookmaker each month;
- (b) such other monthly duty based on such formula as the responsible Member in consultation with the Executive Council may from time to time determine by notice in the *Provincial Gazette* which duty shall relate to the levy payable by the holder of a winning bet struck with a bookmaker.

(2) If any bet which is payable by the holder of a bookmaker licence is not claimed within sixty days from the date on which such bet became due and payable, such bet shall, notwithstanding any agreement to the contrary, be paid to the holder of such licence.

(3) If any duty payable in terms of subsection (1) is not paid within twenty-one days after the last day of each month the duty became payable, such duty shall be increased by way of penalty, by ten per cent, calculated upon each completed one rand of duty during the period in which such duty remains unpaid.

(4) A penalty payable in terms of this section shall be a debt due to the North West Provincial Revenue Fund.

(5) Without prejudice to the prosecution, the provisions of this section shall *mutatis mutandis* apply in relation to any person, company, organisation or body who or which at any time operates and conducts the business of a bookmaker in contravention of the provisions of this Act.

77. Submission of returns and payment of tax by bookmaker.—(1) Every bookmaker shall not later than at the end of every month—

- (a) submit to the receiver of provincial revenue a return in the form approved by the receiver, relating to his or her betting transactions during the previous month; and

(b) pay to such receiver of revenue the tax payable by him or her in respect of such transactions in terms of section 76.

(2) If a bookmaker has had no betting transactions during any month the return referred to in subsection (1) (a) shall, nevertheless be submitted reflecting that no such transactions took place.

(3) The holder of a race-meeting licence shall, within four days after the holding of a race meeting by it, submit a return setting out the names and addresses of the bookmakers who operated at such meeting to the receiver of provincial revenue.

78. Bookmaker to furnish security for payment of tax.—No person shall carry on the business of a bookmaker unless he or she has deposited with the receiver of Provincial Revenue to whom he or she is required to pay the tax payable by him or her in terms of section 76, such sum of money or other security as the responsible Member may, from time to time determine and require to be deposited as security for the payment of such tax.

CHAPTER IX

RESTRICTIONS ON BETTING AND ASSOCIATED ACTIVITIES

79. Restriction on betting.—No person shall—

(a) lay a bet unless such bet is laid on betting premises with a totalisator, TAB North West or a bookmaker who may, in terms of this Act validly enter into such a bet on such premises in the North West: Provided that a licensed bookmaker shall not be prohibited from betting in the course of his business with a person who is not a bookmaker;

(b) in any manner aid or abet any person with a bet in contravention of the provisions of paragraph (a);

(c) bet if he or she is under the age of eighteen years or bet with a person who is under the age of eighteen years;

(d) take into receipt any money, book, list, card or document which is intended for the laying of a bet outside the Republic; or

(e) make use of the services of the Department of posts of Telecommunications for the purpose of transmitting any money, book, list, card or document referred to in paragraph (d)

80. Prohibition of advertisements relating to betting.—(1) No person shall—

(a) publish an advertisement or notice which—

(i) invites persons for the purpose of betting to a place or premises, other than a betting premises;

(ii) invites persons to bet with a person who is not authorized in terms of this Act to accept bets;

(iii) contains an offer to act as agent of or intermediary between other persons in the making of bets; or

(iv) offers for consideration to give advice regarding the taking of a bet or to forecast the result of any event on which betting takes place;

(b) distribute or cause to be distributed any such advertisement or notice, or deliver it or cause it to be delivered to any other person.

(2) Nothing contained in subsection (1) shall be deemed to apply to or to prohibit the circulation within this Province of a newspaper or magazine published outside the Province.

81. Restriction on betting through agents.—(1) No person shall for gain act as an agent or intermediary between other persons in the making of bets.

(2) A bookmaker shall not pay or give or promise to pay or give, whether directly or indirectly, any money or valuable thing to any person in consideration of such person or any other person laying bets with him or her or any other bookmaker.

82. Prohibition of use of place other than betting premises for betting purposes.—(1) No person shall—

(a) whether as principal, agent or employee and whether on one or more occasions—

(i) use, keep or keep open any place, premises or vehicle for the purpose of betting or for any purpose connected with betting;

(ii) permit a place, premises or vehicle to be used, kept or kept open by any other person for any such purpose;

(iii) exercise supervision over or assist with the management of the business carried on by using, keeping or keeping open a place, premises or vehicle for any such purpose; or

(b) without lawful excuse, be at or on such place, premises or vehicle used, kept or kept open for any such purpose.

(2) Nothing in subsection (1) contained shall apply to—

(a) a vehicle used or kept in connection with totalisator bets which may be validly laid in terms of this Act; or

(b) betting premises.

CHAPTER X

GENERAL PROVISIONS

83. Taxes, fees and penalties payable to Provincial Revenue Fund.—All taxes, fees and penalties paid in terms of this Act and all fines imposed and moneys estreated as bail in respect of offences under this Act shall be paid into the Provincial Revenue Fund.

84. Inspection powers.—(1) Any person authorized thereto by the responsible Member or Receiver of Provincial Revenue or any member of the South African Police, may at any time for the purpose of ascertaining whether the provisions of this Act are being complied with—

(a) enter upon and inspect any place, premises or vehicle;

(b) require from any person at such place or on such premises or vehicle who has the possession, custody or control of an article, book, record or other document, the production thereof;

(c) examine by such article, book, record or other document produced or found at or on such place,

premises or vehicle;

(d) make extracts from or copies of any such book, record or other document, and require from the owner or custodian thereon an explanation of any entries therein;

(e) seize any such article, book, record or document which, in his or her opinion, may afford evidence of a contravention or evasion of any provision of this Act.

(f) question, either alone or in the presence of any other person as he or she thinks fit, any person whom he or she finds at or on any place, premises or vehicle entered under this section, with respect to any matter relevant to any such purpose.

(2) The receiver of Provincial revenue or a person authorized thereto by the responsible Member may for the purpose contemplated in subsection (1), require any bookmaker or any person operating a totalizator to produce for examination at a time and place fixed by such receiver or authorized person any book, record or other document which such bookmaker or person operating a totalisator has in his or her possession or under his or her control.

85. Offences and penalties.—(1) Any person who—

(a) contravenes or fails to comply with any provision of—

(i) section 52, 54, 55, 56, 60, 61, 62, 65, 68, 74 (1), 75 or 78;

(ii) section 64, 70, 77, 79, 80, 81 or 82;

(iii) section 57 (8), 67, 71 or 76; or

(iv) a condition referred to in section 57 (5), 63 (1), 66, 68 (3), 69 (1) or 72 (1);

(b) enters or is on a racecourse when he or she is in terms of a provision referred to in section 61 not entitled to enter or be on such racecourse or fails to comply with an order in terms of section 61; or

(c) in or on betting premises—

(i) hinders, or obstructs an official or servant of the racing club, tattersalls club or TAB North West in control of such premises, in the performance of his or her duties; or

(ii) is under the influence of intoxicating liquor, or is noisy, or behaves himself or herself in a disorderly manner or uses obscene or offensive language or language calculated to provoke a breach of the peace; or

(d) makes any false statement in any application or return under this Act; or

(e) resists or hinders any person in the exercise of his or her powers under section 84, or refuses or fails to answer to the best of his or her knowledge any question put to him under the said section; or

(f) refuses or fails to produce at the time and place fixed the book, record or other document which such person is required to produce at such time and place in terms of section 84 (2),

shall be guilty of an offence and liable on conviction,

(i) in the case of an offence referred to in paragraph (a) (i), to a fine not exceeding five thousand rand or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment;

(ii) in the case of an offence referred to in paragraph (a) (ii), (d) or (e), to a fine not exceeding two thousand five hundred rand or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment;

(iii) in the case of an offence referred to in paragraph (a) (iii) or (iv), (b), (c) or (f), to a fine not exceeding two hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(2) When a person is convicted of a contravention of section 79—

(a) any money, coin, note, cheque, bill or promissory note, and any book, list, card or other document relating to betting, and any instrument, machine or thing capable of being used in connection with betting, found—

(i) at or on the place, premises or vehicle in connection with which the contravention was committed; or

(ii) on any person while he or she was at or on such place, premises or vehicle; and

(b) any such vehicle,

shall be forfeited to the Provincial Government.

(3) A court convicting a person of a contravention of section 79 shall declare the money, book, list, card or other document in connection with which such contravention was committed forfeited to the Provincial Government.

86. Presumptions.—In a prosecution in terms of this Act it shall be presumed—

(a) in a case where it is proved that a person had a bet with a person under the age of eighteen years, that he or she knew that such person was under that age unless it is proved that he or she had a good reason (other than the statement of the person with whom he or she made the bet) to believe that the said person was of the age of eighteen years or over;

(b) unless the contrary is proved—

(i) that a place, premises or vehicle was used, kept or kept open for the purpose of betting or for a purpose connected with betting, when it has been proved that a book, account, betting slip, race-card, document, article or other thing relating to betting or capable of being used in connection with betting was found at or on such place, premises or vehicle;

(ii) that a person was without lawful excuse or on a place, premises or vehicle referred to in subparagraph (i) when it has been proved that such person was found at or on such place, premises or vehicle.

87. Regulations.—(1) The responsible Member may make regulations in regard to—

(a) the requirements to be complied with in connection with an application for a licence or authority in terms of this Act and the manner in which such application shall be dealt with and considered;

(b) the constitution, control or management of a racing club, a tattersalls club or TAB North West;

(c) the control and management of a racecourse and the race-meetings held thereon;

(d) the control and management of totalizators and premises kept open in terms of section 66 and

the rules and conditions applicable to bets with a totalizator;

(e) the control and management of betting rooms;

(f) the regulation and control of the business of a bookmaker, the regulation of the rights to operate as a bookmaker on a racecourse or in a betting room and the duties of bookmakers in relation to racing and tattersalls clubs;

(g) the regulation and control of betting;

(h) the establishment and management of a fund for the promotion of horse-racing and the development of racecourses and associated facilities, and the imposition of a levy to be paid to such fund by racing clubs and bookmakers;

(i) the records to be kept and the returns to be rendered by a racing club, tattersalls club, bookmaker and the Board, and the inspection and control of such records;

(j) any matter which may in terms of this Act be prescribed;

(k) generally, without such generality being limited by any of the preceding provisions, any matter which he considers it necessary or expedient to regulate in order that efficient administration and the purposes of this Act may be achieved.

88. Responsible Member may enter into agreements.—The responsible Member may with the approval of the Executive Council enter into an agreement with another Provincial government and with the Totalizator Agency Board resorting under the jurisdiction of such other provincial government in relation to the transfer of totalizator agencies of that Board which, at the time of the coming into effect of this Act, operated within the boundaries of the North West Province, to TAB North West.

89. Transitional Provisions.—Any licence or permit issued in terms of the Bophuthatswana Gaming and Betting Act, 1989, or in terms of any Transvaal or Cape Ordinance which were applicable in any area of the North West, shall subject to the provisions of section 88, be deemed to have been issued in terms of this Act, and the renewal or transfer of any such licence or permit, shall be dealt with in accordance with the provisions of this Act.

90. Gambling debts enforceable.—(1) Any gambling debt lawfully incurred by a person in the course of gambling activities at a casino, or in the course of a bet taken with a totalizator or bookmaker after the date of coming into effect of this Act shall be enforceable in a court of law.

(2) Any gambling debt lawfully owed by a casino, totalizator or bookmaker shall likewise, be enforceable in a court of law.

91. Recommendations, guidelines by Lotteries and Gambling Board.—No authority with the power to grant a licence or permit under or in terms of the provisions of this Act, shall issue or grant such licence or permit without due regard being had to the recommendations and guidelines if any, by the Lotteries and Gambling Board, in terms of the Lotteries and Gambling Board Act, 1993.

92. Repeal of laws.—The Bophuthatswana Casino Act, 1977 (Act 19 of 1977) and the Bophuthatswana Gaming and Betting Act, 1989 (Act 39 of 1989), are hereby repealed.

93. Short title and date of commencement.—(1) This Act shall be called the North West Casino, Gaming and Betting Act, 1994, and shall come into operation on a date fixed by the responsible Member.

(2) Different dates may be so fixed in respect of different provisions of this Act, and dates so fixed may differ in respect of different—

(a) persons or categories of persons; or

(b) areas in the Province.

(3) In the event of the coming into effect of this Act in an area the Province where legislation on casino, gaming or betting applies which have not been repealed in terms of section 92, the notice whereby his Act is put into operation in that area, may also contain a provision whereby such legislation is repealed.