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## **NORTH-WEST NOORDWES**

# **PROVINCIAL GAZETTE PROVINSIALE KOERANT**

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### **NOTICE NO. 24**

It is hereby notified that the Premier has assented to the following Act which is hereby published for general information:

**Act No. 9 of 1997: North West Casino, Gaming and Betting Amendment Act, 1997**

Hierby word bekend gemaak dat die Premier sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:

**Wet No. 9 van 1997: Noord-Wes wet op Kasino, Dobbelary en Weddery, 1997**

To amend the North West Casino, Gaming and Betting Act, 1994 in order to provide for a more representative Gaming and Betting Board; to provide for appropriate funding and accountability of that Board; to provide for the various types of gaming licences that may be issued under that Act; to provide for the regulation of unlicensed gaming operators; to allow the responsible Member to, under certain circumstances, perform the functions of that Board; and to provide for matters incidental thereto. (English text signed by the Premier on 26 November 1997).

**BE IT ENACTED** by the Premier and the Legislature of the Province of the North West as follows:

**Amendment of section 2 of Act 13 of 1994.**

1. Section 2 of the North West Casino, Gaming and Betting Act, 1994 (Act No 13 of 1994 - hereafter called the "Principal Act") is amended by the substitution for subsection (1) of the following subsection:

"(1) There is hereby established a board to be known as the North West Gaming and Betting Board, consisting of eight members who shall be fit and proper persons appointed by the responsible Member, and of whom-

- (a) one shall be from the legal profession and has, for a cumulative period of at least five years after having qualified to practice as a legal practitioner, practised as a legal practitioner or performed services related to the application or administration of the law;
- (b) one shall be an accountant and auditor registered in terms of section 15 of the Public Accountants and Auditors' Act, 1991 (Act No.80 of 1991), with experience in public practice as defined in section 1 of that Act of not less than five years;
- (c) one shall be appointed by virtue of his or her knowledge and experience in the field of welfare or of community or socio-

economic development;

- (d) one shall be appointed by virtue of his or her knowledge and active involvement in the tourism industry;
- (e) one shall be appointed for his or her knowledge and experience in the field of labour relations; and
- (f) three shall be appointed on the basis of having either proven business acumen, a knowledge of the gambling or horse-racing industry or of technology relevant to gambling, or who are otherwise suitable for appointment as members of the Board:

Provided that the appointments as contemplated by this subsection shall be made in accordance with, and having due regard of the principles of transparency and consultation.”.

#### **Amendment of section 4 of Act 13 of 1994.**

2. Section 4 of the Principal Act is amended by the substitution for that section of the following section:

#### **“Meetings and decisions of Board.**

4. (1) The first meeting of the board shall be held at a time and place determined by the chairperson, and thereafter the board shall meet at such times and places as the board may from time to time determine for the expeditious conduct of its business.

- (2) (a) The chairperson may at any time on reasonable notice convene an extraordinary meeting of the board to be held at a time and place determined by him or her.

- (b) No decision in terms of this Act relating to the granting, amendment, renewal, transfer, suspension or revocation of a licence or registration, or the transfer of a licensed business to a new premises, shall be taken at an extraordinary meeting.

- (3) The quorum for a meeting of the board shall be a majority of its members.



(4) If both the chairperson and deputy chairperson are absent from any meeting of the board, the members present shall from among themselves elect a person to preside at such meeting.

(5) The decision of a majority of the members present at a meeting of the board shall constitute a decision of the board and, in the event of an equality of votes in relation to-

- (a) the proposed granting, amendment, renewal, transfer, suspension or revocation of a licence or registration, or the transfer of a licensed business to new premises, it shall be deemed that the board had decided against the proposal; and
- (b) any other matter, the person presiding at the meeting in question shall have a casting vote in addition to his or her deliberative vote.

(6) No decision taken by or act performed under the authority of the board shall be invalid by reason only of a vacancy on the board or, of the fact that any person not entitled to sit as a member of the board sat as such a member at the time when the decision was taken or the act was authorised, if the decision was taken or the act was authorised by the majority of the members of the board who were present at the time and entitled to sit as members: Provided that this shall not apply in respect of a decision taken by or an act performed under the authority of the Board, where such decision was taken or authority was given whilst a member of the Board failed to disclose his or her interest in the matter to which the authorised decision or authority relates and he or she attended or participated in the proceedings at the meeting concerned.

(7) The clerk of the Board may attend and participate in any meeting of the board but shall not have the right to vote.

(8) The board shall cause minutes of its meetings to be kept, and such minutes shall be open to public inspection in the prescribed manner.”.

#### **Amendment of section 5 of Act 13 of 1994.**

3. Section 5 of the Principal Act is amended by the substitution for that section of the following section:

**“Involvement in gambling by member of board.**

5. (1) No member of the board shall -
- (a) participate in any gambling in the Province except in the performance of his or her duties in terms of this Act; or
  - (b) solicit or accept employment from the holder of, or applicant for, a licence under this Act within one year after the termination of his or her term of office or service, as the case may be: Provided that a member of the staff of the board may solicit and accept such employment with the prior written approval of the board granted in exceptional circumstances only and with the concurrence of the responsible Member.
- (2) A member of the board or of the staff of the board, or any family member of such member, shall not accept any donation, reward or other benefit from or on behalf of an applicant for or the holder of a licence, and no person shall give or offer such donation, reward or benefit to such member or family member.
- (3) Any person who contravenes a provision of subsection (1) or (2) shall be guilty of an offence.”.

**Amendment of section 6 of Act 13 of 1994.**

4. Section 6 of the Principal Act is amended by the substitution for that section of the following section:

**“ Expert and other assistance.**

6. (1) The board may appoint or call to its assistance such experts or other persons as it may deem necessary with a view to assisting it in the exercise and performance of its powers, functions and duties and for the performance of any work arising therefrom.
- (2) The terms, conditions, remuneration and allowances applicable to any expert or person appointed or called upon under subsection (1), and the work to be performed or service to be rendered by him or her shall be determined by the board with the concurrence of the responsible Member, and be contained in a written agreement entered into for that purpose between the

board and the expert or person concerned.

(3) Upon having performed the work or completed the service pursuant to an agreement contemplated in subsection (2), the expert or other person concerned shall submit a report in regard thereto to the board for its consideration.

(4) The board, on receipt of a report contemplated in subsection (3), may refer the matter back to the expert or person concerned for such further attention as may be determined by the board, or to perform such further functions, as the Board may deem necessary or desirable.”.

### **Amendment of section 7 of Act 13 of 1994**

7. Section 7 of the Principal Act is amended by the substitution for that section of the following section:

#### **“Transparency and confidentiality**

7. (1) The board shall, subject to subsection (2), function in a transparent and open manner.

(2) No member of the board or of the staff of the board, no person or expert contemplated in sections 5 and 6 and no inspector shall, except on the order of a court of law, disclose -

- (a) any document or information, or the identity of any person, which the board has determined not to be open to public inspection or to be divulged as contemplated by this Act;
- (b) particulars of the proceedings at any hearing from which the public or any member or category thereof have been excluded as contemplated by this Act, except to the extent authorised by the board; or
- (c) any document or information which has been furnished by any regulatory or law enforcement authority on condition of confidentiality.

(3) Any person who contravenes a provision of subsection (2) shall be guilty of an offence.”.



### **Amendment of section 8 of Act 13 of 1994.**

8. Section 8 of the Principal Act is amended by the substitution for that section of the following section:

#### **“Funds of board.**

8. (1) The funds of the board shall consist of -
- (a) money appropriated by the Provincial Legislature in order to enable the board to perform its functions under this Act; and
  - (b) money accruing to the board from any other source.
- (2) The board shall, for the purpose of appropriations contemplated in subsection (1)(a), submit to the responsible Member such estimates of expenditure and other inputs in respect of budget matters as the responsible Member or the Provincial Treasury may require.”.

### **Amendment of section 9 of Act of 1994.**

9. Section 9 of the Principal Act is amended by the substitution for that section of the following section:

#### **“Accounting responsibility.**

9. (1) The clerk of the Board shall be the accounting officer of the board charged with accounting for all money received and payments made by the Board.
- (2) The financial year of the board shall end on 31 March in each year
- (3) The accounting officer shall -
- (a) keep full and proper records of all money received or expended by, and of all assets, liabilities and financial transactions of, the board;
  - (b) follow the bookkeeping and accounting systems, instructions and requirements of the Provincial Treasury; and

- (c) as soon as is practicable, but not later than three months after the end of each financial year referred to in subsection (2), prepare annual financial statements reflecting, with suitable particulars, money received and expenses incurred by the board during, and its assets and liabilities at the end of, the financial year in question.

(4) The records and annual financial statements referred to in subsection (3) shall be audited by the Auditor-General.”.

#### **Amendment of section 11 of Act 13 of 1994.**

10. Section 11 of the Principal Act is amended by -

- (a) the substitution for subsection (2) of that section of the following subsection:

“(2) Such application shall be lodged with the clerk of the Board in the prescribed manner and on payment of the prescribed application fee.”; and

- (b) the insertion of the following subsection, immediately after subsection (3):

“(4) An application contemplated by this section, shall be accompanied by such plans, documents, approvals and information as may be prescribed or determined by the Board.”.

#### **Amendment of section 14 of Act 13 of 1994.**

11. Section 14 of the Principal Act is amended by the substitution in subsection (2), for the phrase “subsection 11(2) and (3)” of the phrase “section 11(2), (3) and (4)”.

#### **Amendment of section 15 of Act 13 of 1994.**

12. Section 15 of the Principal Act is amended by the substitution therefor of the following section:



“Every application under section 11 or 14 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 of a fee of fifty rand or such other fee as may from time to time be prescribed.”.

#### **Amendment of section 26 of Act 13 of 1994**

13. Section 26 of the Principal Act is amended by the substitution for subsection (1) thereof, of the following subsection.

“(1) The Executive Council may in its discretion subject to the provisions of the Act and after having considered the application for a new licence or for 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 National Gambling Board established under the National Gambling Act, 1996, regarding the criteria to be complied with before a licence is granted;
- (b) the number of licences, if any, 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: Provided further that the Executive Council may refer the matter back to the Board for further consideration if it is of the opinion that there are sound reasons for doing so.”.

#### **Amendment of section 28 of Act 13 of 1994.**

14. Section 28 of the Principal Act is amended by the addition, in subsection (1), immediately after the words “the amount of one hundred and fifty rand” of the words “(or such other amount as the responsible Member may from time to time by notice in the Provincial Gazette determine)”.

## **Amendment of section 33 of Act 13 of 1994.**

15 Section 33 of the Principal Act is amended by the substitution therefor of the following section:

### **“Issue of licence or temporary licence:**

33. (1) Any licence issued in terms of this Act shall, subject to the provisions of subsection(2) be issued by the Department of Finance and Economic Affairs on the written authority of the responsible Member, one month after such granting to the applicant in the form prescribed or determined by the board setting out the conditions subject to which the application was granted.

(2) (a) Where an application for a casino licence, additional gaming machine licence or bingo licence is granted, the board may determine that a temporary licence shall be issued -

- (i) where the premises concerned are not yet erected or require alternation, addition or reconstruction as contemplated by this Act ; or
- (ii) in any other circumstance where the issuing of a temporary licence is regarded to be appropriate.

(b) A temporary licence shall be issued subject to compliance by the applicant within the period specified in the temporary licence with such conditions or requirements so specified as may be determined by the board.

(c) The board may on application by the holder of a temporary licence at any time after the issue thereof, extend the period specified under paragraph (b).

(d) The period specified under paragraph (b), or so specified and extended under paragraph (c), shall not be longer than three months.

(e) When the board is satisfied on application by the holder of a temporary licence that the conditions and requirements of the temporary licence have been complied with, the clerk of the Board shall issue a licence in substitution for the temporary licence concerned.

(f) If a licence is not issued as contemplated in paragraph (e) before the expiration of the period specified under paragraph (b), or so specified and extended under (c), the temporary licence concerned shall lapse and the application for the licence shall be deemed to have been refused.”.

### **Repeal of section 47 of Act 13 of 1994.**

16. Section 47 of the Principal Act is repealed.

### **Insertion of sections 48A and 48B into Act 13 of 1994.**

17 The Principal Act is amended by the insertion of the following new sections immediately after section 48:

#### **“48A. Financial and Controlling Interests.**

(1) Any person who, directly or indirectly, procures a controlling interest or a financial interest of five percent or more, or any lesser percentage as may be prescribed, in the business to which a licence relates shall, within the prescribed period and in the manner prescribed or determined by the board, apply for the consent of the board for the holding of such interest.

(2) The board shall not grant consent under subsection (1) where such person is subject to any disqualification which would have rendered him or her unsuitable to be the holder of a licence under this chapter.

(3) Where consent is not granted, the person concerned shall, within the prescribed period and in the manner prescribed or determined by the board, dispose of the interest in question.

(4) No person shall procure an interest contemplated in subsection (1) as nominee or agent of or otherwise on behalf of any principal or beneficiary if that person has not informed the holder of the licence concerned and the board in writing of the identity of such principal or beneficiary.

(5) Any person who contravenes a provision of subsection (1), (3) or (4) shall be guilty of an offence.”; and



## **“48 B. Suitability of persons contracting with licence holders**

The board may prohibit the holder of a licence from contracting with any person for the acquisition by such holder of any goods or services or for the borrowing or lending of money or the letting or hiring of any movable or immovable property until the board has issued to such person, on application in the manner prescribed or determined by the board, a certificate of suitability.”.

### **Amendment of section 51 of Act 13 of 1994.**

18. Section 51 of the Principal Act is amended by the deletion of the proviso thereto.

### **Amendment of section 52 of Act 13 of 1994.**

19. Section 52 of the Principal Act is amended by -

(a) the insertion in subsection (1) of the following new subparagraphs immediately after subparagraph (e):

“(f) operate gaming machines on a premises other than a casino;  
or

(g) operate gaming machines on the basis of a route operation;”  
and

(b) the insertion of the following new subsections immediately after subsection (2):

“(2A) In the event of a gaming machine licence issued in respect of an application made under this section, the licence may authorize, subject to such conditions as may be imposed by the board or the Executive Council, the keeping of such number of machines, not exceeding 100, on the licensed premises concerned as the board may with the concurrence of the Executive Council determine in any particular case.

(2B) In considering applications for the licences contemplated in subsection (1), the board shall take into consideration whether the granting of a licence will:

- (a) enhance the immediate vicinity;
- (b) promote employment;
- (c) result in the enhancement of the skills of employees;
- (d) result in the procurement of labour goods and services from within the Province; and
- (e) contribute to the attainment of the broad objectives of the Reconstruction and Development Programme as referred to in section 3(a) of the Reconstruction and Development Fund Act, 1994 (Act no 7 of 1994), especially in relation to persons or groups or categories of persons, disadvantaged historically by unfair discrimination.

(2C) The maximum amount -

- (a) that may be charged to enable a person to play on a gaming machine shall not exceed the prescribed amount; and
- (b) of any money, or the value of any other price, which may be paid out in respect of a game played on, or the operation of a gaming machine -
  - (i) shall not exceed the prescribed amount or value; and
  - (ii) shall be displayed on each gaming machine concerned in the manner prescribed or determined by the board.

(2C) In the event of a route operator licence issued in respect of an application made under this section, the licence shall authorise the operation of the number of gaming machines specified in the licence, on the licensed premises of holders of gaming machine licences and additional gaming machine licenses with the agreement of such holders.”.

#### **Amendment of section 54 of Act 13 of 1994.**

20. Section 54 of the Principal Act is amended by the deletion of subsection (2) thereof.

#### **Repeal of section 91 of Act 13 of 1994.**

21. Section 91 of the Principal Act is repealed.

## **Phasing out of unlicensed operations.**

22. (1) Any person who, on the date of commencement of this Act, runs a gambling operation which in terms of the Principal Act requires licensing under that Act, but which on the said date was not so licensed, shall, subject to the conditions as laid down in subsection (2), be allowed a period of four months from the date of commencement of this Act, to cease the said operation.
- (2) No person shall be allowed the period of four months as contemplated by subsection (1), unless that person within seven days after the coming into operation of this Act, -
- (a) submit to the Department of Finance and Economic Affairs documentary proof of his or her registration of Value Added Tax in terms of the Value Added Tax Act, in respect of the operation for which he or she wishes subsection (1) to apply;
  - (b) submit to the said Department the serial numbers of gaming machines and/or such other equipment or devices as are utilized by him or her in respect of the said operation;
  - (c) pay at the said Department a registration fee of R1 000 in respect of every machine of which the serial number was submitted.
- (3) In the event of a person contemplated by subsection (1) failing to within the period of seven days, comply with the conditions of subsection (2), such person shall not operate any gaming machine or device other than in accordance with the provisions of this Act and any other operation as well as the possession of any gaming machine or device other than provided for by this Act shall be an offence in terms of this Act, for which offence the provisions of subsections (1) and (2) shall not be a defence.
- (4) Upon submission of the information required in subsection (2) the said Department shall submit to an operator a written notice confirming the phasing out period.



**Responsible Member may perform functions of board until board members are appointed.**

23. Notwithstanding the provisions of this Act, the responsible Member may, until such time as the board has been appointed in terms of the provisions of the Principal Act, perform the functions duties and responsibilities ascribed to that Board by the Principal Act .

**Short title.**

24. This Act shall be called the North West Casino Gaming and Betting Amendment Act, 1997.