

- (f) place, increase or decrease a bet or determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or any event that affects the outcome of the game or which is the subject of the bet, or aid anyone in acquiring such knowledge, for the purpose of placing, increasing or decreasing a bet or determining the course of play contingent upon that event or outcome;
- (g) cheat at any gambling game;
- (h) claim, collect or take, or attempt to claim, collect or take, money or anything of value in or from any gambling activity, with intent to defraud, without having made a wager contingent thereon, or to claim, collect or take an amount greater than the amount won;
- (i) place or increase a bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet;
- (j) reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome of the game or other event which is the subject of the bet; or
- (k) manipulate, with the intent to cheat, any component of a gambling device in a manner contrary to the designed and normal operational purpose for the component, with knowledge that the manipulation affects the outcome of the game or with knowledge of any event that affects the outcome of the game or the amounts won or lost.

(2) For the purposes of subsection (1), "cheating" also means-

- (a) the alteration of the selection of criteria which determine the result of a gambling game or the amount or frequency of payment in a gambling game; and
- (b) the use of any scheme, arrangement, system or plan which the MEC may from time to time by notice in the *Gazette* declare to be cheating, and "cheat" has a corresponding meaning.

## **75 Protection of minors**

(1) No person, under the age of 18 years, may-

- (a) enter a designated area within a licensed site;
- (b) operate a gambling machine or gambling device;
- (c) conduct or make available a gambling activity;
- (d) engage in gambling or a gambling activity other than an amusement game; or
- (e) falsely claim to be 18 years or older, in order to-
  - (i) gain access to a designated area within licensed premises;
  - (ii) gain access to a gambling machine or gambling device; or

(iii) engage in, conduct or make available a gambling activity.

(2) A licence holder or a person in control of the licensed site or a gambling machine or gambling device may not permit a person under 18 years of age to-

- (a) enter or remain in a designated area within licensed site;
- (b) operate a gambling machine or gambling device;
- (c) conduct or make available a gambling activity within such licensed site; or
- (d) engage in a gambling activity, other than an amusement game, within such licensed site.

(3) A person referred to in subsection (2) must take reasonable measures to determine whether a person is under the age of 18 years.

## **76 Excluded persons**

(1) A person who wishes to be prevented from engaging in any gambling activity may register as an excluded person by submitting a notice to that effect to the Board in the prescribed manner and format at any time.

(2) A person who registered as an excluded person in terms of subsection (1) may submit a notice in the prescribed manner and form to cancel that registration at any time.

(3) A person may apply to a court with competent jurisdiction for an order requiring the registration as an excluded person of-

- (a) a family member of the applicant;
- (b) a person on whom the applicant is economically dependent in whole or in part;
- (c) a person for whom the applicant is economically responsible in whole or in part;
- (d) a person who is subject to an order of a competent court holding that person to be mentally unfit; or
- (e) any other person-
  - (i) to whom the applicant has a duty of care; and
  - (ii) whose behaviour manifests symptoms of addictive or compulsive gambling.

(4) If, in the circumstances of an application in terms of subsection (3), the court considers it reasonable and just to prevent the person concerned from engaging in any gambling activity, the court may order the registration of that person as an excluded person.

(5) An excluded person affected by an order in terms of subsection (4) may, at any time, apply to the court that made the order to set aside the order and the court may do so after considering the grounds for making the original order and any new evidence before the court.



(6) The court may set aside an order made in terms of subsection (3) if the court is satisfied that it is no longer reasonable and just to prevent that person from engaging in any gambling activity.

## **77 Restriction on credit**

A licence holder may not extend credit in any form in the name of the licence holder or a third party to any person for the purposes of gambling.

## **78 Restriction on advertising**

(1) No person may advertise or promote a gambling activity-

- (a) in a false or misleading manner; or
- (b) other than an amusement game, in a manner intended to target or attract minors.

(2) An advertisement for a gambling activity, gambling machine or gambling device or licensed site at which gambling activities are available, must-

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

(3) An advertisement may not promote any gambling activity as being available to the public free of charge or at a discounted rate contrary to this Act, for the purpose of inducing gambling.

(4) The MEC may prescribe requirements for a gambling advertisement.

## **79 Restriction on gambling through agent**

(1) No person may, whether or not for gain-

- (a) act as an agent for a bookmaker operator licence holder for the purpose of betting on a sporting event or contingency; or
- (b) act as an intermediary between the bookmaker operator licence holder and any other person for the purpose of betting on a sporting event or contingency.

[Subsec (1) substituted by sec 34 of Act 4 of 2016 wef 1 May 2017.]

(2) No person may, directly or indirectly, give or undertake to give to a person, money or other valuable consideration other than the amount of a wager won by such other person, to induce that person to bet on a sporting event or contingency.

## **80 Enforceability of gambling debt and forfeiture of unlawful winnings**

(1) Despite any provision of the common law or any other law-

- (a) and subject to paragraph (c), a debt incurred by a person in the course of a gambling activity that is licensed in terms of this Act or the National Gambling Act,

2004, is enforceable in law;

- (b) a debt incurred by a person in the course of any gambling activity that is unlawful in terms of this Act or National Gambling Act, 2004 is not enforceable in law;
- (c) a debt incurred in the course of a gambling activity-
  - (i) by a minor;
  - (ii) by an excluded person; or
  - (iii) as an informal bet,is not enforceable in law.

(2) No person may knowingly pay any winnings from a gambling activity to-

- (a) a minor;
- (b) an excluded person; or
- (c) any other person who won those winnings in a gambling activity that is unlawful in terms of this Act.

(3) A person that is prevented from paying winnings referred to in subsection (2), must remit those winnings in terms of subsections 16(3) and 16(4) of the National Gambling Act, 2004.

## **CHAPTER 13**

### **LAW ENFORCEMENT INSPECTORS AND COMPLIANCE INSPECTORS**

#### **81 Appointment of inspector**

(1) The Chief Executive Officer must appoint a suitably qualified person as an inspector, to perform, subject to the control and directions of the Board, the functions assigned to a law enforcement inspector or compliance inspector in terms of section 82 or 83.

(2)(a) The Chief Executive Officer must furnish an inspector appointed in terms of subsection (1) with a prescribed certificate of appointment.

(b) The certificate of appointment must indicate if the inspector is a law enforcement inspector or a compliance inspector.

(3) When an inspector performs a function in terms of this Act, the inspector must, on demand of a person affected by that inspector's functions, produce the certificate of appointment issued in terms of subsection (2).

(4) An inspector may not accept any donation, reward or other benefit from any person when performing a function and no person may give or offer such donation, reward or benefit to an inspector.

(5) The Minister of Justice may in terms of section 334 of the Criminal Procedure Act, 1977, by notice in the *Gazette* declare inspectors to be peace officers and define their



powers in such notice.

## **82 Functions and powers of compliance inspector**

(1) For the purposes of this Act, a compliance inspector may at any time and without prior notice, enter upon a licensed site, and may-

- (a) inspect or search any licensed site;
- (b) view any gambling activity or operation and other activities associated with a casino, or other gambling activities, including the counting of money, chips, securities or any other item of value;
- (c) view any recording of operations or activities referred to in paragraph (b);
- (d) ascertain whether the operation of a casino or any gambling activity in other licensed sites are properly supervised and managed and whether the provisions of this Act and the conditions attached to the licences are being complied with;
- (e) request from the person in charge of the site to immediately produce-
  - (i) a licence or certificate required in terms of this Act;
  - (ii) a gambling device, chips, monies, books, accounts, records, documents; or
  - (iii) other objects capable of being used in connection with gambling;
- (f) examine, inspect and test any gambling equipment or chips found in or upon such site which are used or suspected of being used in connection with gambling;
- (g) examine and inspect any monies, book, account, record, financial statement, document and any other object found in or upon such site which is used or is suspected of being used in connection with gambling and make a copy of or take an extract from such item;
- (h) question the licence holder or a person reasonably considered by the compliance inspector to be in charge of the site at the time, in connection with entries into books, accounts, records and documents or request information regarding any gambling device, chips or monies; and
- (i) seize and remove, against the issue of a prescribed receipt, any gambling device, chips, monies, book, accounts record, document, computer or any other objects found in or upon the site which are used or are suspected of being used in connection with gambling and which in the opinion of the compliance inspector may afford evidence of the commission of an offence in terms of this Act, or may be of assistance in the investigation of an alleged or suspected offence.

(2)(a) The compliance inspector may receive and investigate complaints from persons participating in gambling or patrons of licensed sites.

(b) The compliance inspector must furnish the Board with a report regarding complaints indicating any findings of the investigation and propose remedies to the Board.

(3) A compliance inspector may require a licence holder or his or her manager or any

person associated with operating or managing a casino or licensed site, to appear before the compliance inspector at a time and place designated by the compliance inspector for the purpose of answering questions or supplying information which the compliance inspector considers necessary for the investigation.

(4) When anything is seized and removed in the manner contemplated in subsection (1)-

- (a) the person from whose possession or charge such item is taken, must at any reasonable time and at that person's own expense, be permitted to make copies thereof or take extracts there from, under the supervision of the compliance inspector; and
- (b) the items seized and removed may be retained for such period as the compliance inspector may require and where the items are required in any proceedings of the Board they may be retained until such proceedings have been finalised, whereafter the Board must determine whether such items should be returned, forfeited or disposed and the manner of disposal.

(5) When a compliance inspector has reason to believe that-

- (a) a provision of this Act;
- (b) the rules of the Board; or
- (c) a condition of a licence,

has been contravened, the compliance inspector must investigate the matter and must furnish the Board with a report of the findings of such investigation.

(6) No person may-

- (a) obstruct or hinder a compliance inspector in the performance of his or her functions or powers;
- (b) when asked by a compliance inspector for an explanation or information relating to a matter within that person's knowledge, provide an explanation or information which is false or misleading, knowing it to be false or misleading; or
- (c) falsely represent himself or herself to be a compliance inspector.

### **83 Functions and powers of law enforcement inspector**

(1) A law enforcement inspector is a peace officer in terms of the Criminal Procedure Act, 1977 and has the-

- (a) powers conferred upon a police official or a peace officer in terms of Chapter 2;
- (b) power to arrest a person without a warrant in terms of section 40(1);
- (c) powers conferred upon a peace officer under section 41(1);
- (d) power to execute warrants of arrest in terms of section 44;



- (e) power to issue a written notice in terms of section 56; and
- (f) power to issue a written notice in terms of section 341,

of the Criminal Procedure Act, 1977.

(2) In terms of the powers conferred in subsection (1), a law enforcement inspector may enter and search any premises on which it is suspected that-

- (a) a casino or any other gambling activity is being conducted without a licence; and
- (b) unlawful gambling, as contemplated in section 70, is being conducted.

(3) No person may-

- (a) obstruct or hinder a law enforcement inspector in the performance of his or her functions or powers;
- (b) when asked by a law enforcement inspector for an explanation or information relating to a matter within that person's knowledge, provide an explanation or information which is false or misleading, knowing it to be false or misleading; or
- (c) falsely represent himself or herself to be a law enforcement inspector.

#### **84 Resistance against entry**

(1) An inspector who may lawfully search any person or any premises or who may enter any premises, may use such force as may be reasonably necessary to overcome any resistance against such search or against entry of the premises, including the breaking of any door or window of such premises: Provided that such inspector must first audibly demand admission to the premises and notify the purpose for which that inspector seeks to enter such premises.

(2) The proviso to subsection (1) does not apply where the inspector concerned is on reasonable grounds of the opinion that any article which is the subject of the search may be destroyed or disposed of if the provisions of the said proviso are first complied with.

### **CHAPTER 14 MISCELLANEOUS PROVISIONS**

#### **85 Regulations**

- (1) The MEC may by notice in the *Gazette* make regulations regarding-
  - (a) any matter pertaining to the Board;
  - (b) any matter pertaining to an application for a licence or registration;
  - (c) the management and control of licensed sites;
  - (d) the take-out, commissions or other charges which the licence holder may charge;
  - (e) the stakes for which any gambling game may be played;

- (f) the management and control of horse racing;
- (g) key employee licensing;
- (h) gambling areas;
- (i) fees and levies payable by applicants and licence holders;
- (j) requirements for gambling advertisements;
- (k) the specifications relating to gambling devices including chips and tokens;
- (l) monitoring and surveillance systems and the operation thereof;
- (m) the keeping of records;
- (n) the number, distribution and location of limited payout machines;
- (o) factors the Board must take into account in considering applications for licences;
- (p) patron dispute resolution;
- (q) collection and refunding of investigation costs; and
- (r) any matter necessary to achieve the objects of this Act.

[Subsec (1) substituted by sec 35 of Act 4 of 2016 wef 1 May 2017.]

(2) Regulations made in terms of subsection (1) may prescribe penalties for the contravention of or non-compliance with any specific provisions of the regulations, which may include an appropriate fine and imprisonment.

(3) Different regulations may be made under this section in respect of different kinds of licences, licences of the same kind having different characteristics, different categories of persons or different areas.

## **86 Rules of Board**

(1) The Board may, in consultation with the MEC, and by notice in the *Gazette* make rules not inconsistent with the provisions of this Act relating to the exercise of its powers and the performance of its functions, including-

- (a) any matter pertaining to an application for a licence or registration;
- (b) the management and control of licensed sites and gambling operations;
- (c) rules for playing any gambling game, bingo or betting;
- (d) internal control measures for licence holders;
- (e) the books, accounts and records to be kept and furnished;
- (f) any other matter pertaining to the functions of the Board; and
- (g) any matter which, in terms of this Act is required or permitted to be determined.



(2) Rules in terms of subsection (1) may determine penalties for the contravention of or non-compliance with any specific provision of the rules, which may include an appropriate fine.

## **87 Accountability, audit and reports**

(1) The Board is the accounting authority and must ensure that its financial management, accounting and reporting are done in terms of the Public Finance Management Act, 1999.

(2) The Board may publish general information or statistics on gambling activities in the province.

## **88 Patron dispute resolution**

A dispute regarding the payment of alleged winnings or any other patron dispute must be resolved in accordance with the prescribed procedure.

## **89 Reward for informers**

Notwithstanding anything to the contrary in any other law, the Board may, from its funds, pay a reward in such amount as the Board may determine to any person who has furnished information leading to the conviction of a person for contravening a provision of this Act.

## **90 Vicarious responsibility**

When the manager of the business to which the licence relates, or the agent or employee of the licence holder, performs or omits to perform any act which would be an offence in terms of this Act for the licence holder concerned to perform or omit to perform, that licence holder is deemed himself or herself to have performed or omitted to perform that act, unless he or she satisfies the court that-

- (a) he or she neither connived at nor permitted the act or omission by the manager, agent or employee concerned;
- (b) he or she took all reasonable steps to prevent the act or omission; and
- (c) an act or omission, whether lawful or unlawful, of the nature charged on no condition and under no circumstances fell within the scope of the authority or employment of the manager, agent or employee concerned.

## **91 Offences and penalties**

(1) Any person who-

- (a) carries on any activity for which a licence is required in terms of this Act, without such licence;
- (b) makes a false statement in an application or process under this Act;
- (c) on a licensed site, conducts a gambling activity or betting or keeps a gambling machine or gambling device which is not approved under this Act;

- (d) hinders or obstructs a Member of the Board, inspector, authorised official or police officer whilst preventing or investigating an offence under this Act;
- (e) falsely represents himself or herself to be an inspector or gives an explanation or information to a police officer or inspector which is false or misleading;
- (f) permits an excluded person to enter the licensed site;
- (g) having been summoned to give evidence at a hearing or an enquiry, without sufficient cause, fails to-
  - (i) attend such hearing, enquiry or investigation at the time and place specified in the summons;
  - (ii) remain in attendance until the conclusion of the hearing, enquiry or investigation at the time and place specified in the summons;
  - (iii) remain in attendance until the conclusion of the hearing, enquiry or investigation or until excused by the Board from further attendance;
  - (iv) produce any book, document or thing in his or her possession or custody or under his or her control, which he or she has been summoned to produce;
- (h) having been summoned by the Board in terms of this Act, without sufficient cause, refuses to-
  - (i) take the oath or to make an affirmation as a witness after he or she has been directed by the Member of the Board presiding at the hearing, enquiry or investigation to do so;
  - (ii) testify or, subject to the law relating to privilege applicable to a person giving evidence or producing any book, document or thing before a court of law;
  - (iii) or fails to answer fully and satisfactorily to the best of his or her knowledge and belief any question lawfully put to him or her; or
- (i) after having taken the oath or having made an affirmation, gives false evidence before the Board at a hearing, enquiry or investigation on any matter, knowing such evidence to be false,

commits an offence and is liable on conviction to a fine or imprisonment or to both such fine and imprisonment.

(2) A person who is, without an appropriate licence or not in accordance with the provisions of this Act, in possession of any-

- (a) gambling device;
- (b) gambling machine;
- (c) reel tape designed for use in a gambling machine;
- (d) device which would be a gambling machine but for the removal of any of its parts



or the reprogramming thereof;

- (e) device which is capable of electronically representing the reels used in a gambling machine;
- (f) device which was manufactured as a gambling machine and which has been converted at any time so that is unable to pay out cash or tokens, whether such device enables a player to win a prize or not;
- (g) computer software which enables a player to download any credits won on a gambling game to another computer or to an external data storage device;
- (h) computer hardware which is primarily designed or constructed for use in the playing of games contemplated in subparagraph (f) on a computer; or
- (i) document, book, record, contrivance or instrument or thing used for the purpose of or in connection with the commission of an offence under this Act,

commits an offence and is liable on conviction to a fine or imprisonment or to both such fine and imprisonment.

(3) A person who contravenes section 36(5), 40, 42(1), 42(4), 42(5), 43(2), 45(4), 47, 48, 49(2), 49(3), 49(5), 50(5), 50(6), 51(4), 51(5), 52(3), 52(4), 52(5), 53(1), 54(1), 55(1), 56(1), 57(4), 58(1), 58(5), 60(3), 61(1), 61(2), 61(4), 61(5), 61(6), 62(2), 62(3), 66, 69, 70, 71, 72(1), 73, 74, 75, 77, 78(1), 78(2), 78(3), 79, 80(2), 80(3), 81(4), 82(3), 82(6) or 83(3) commits an offence and is liable on conviction to a fine or imprisonment or to both such fine and imprisonment.

(4) All fines imposed in terms of this Act accrue to the Provincial Revenue Fund.

(5) Whenever a person is convicted of an offence in terms of this Act or pays an admission of guilt fine in respect thereof in terms of section 57 of the Criminal Procedure Act, 1977, all costs for the transport or storage of any gambling machine or gambling device, equipment or other thing by means of which the offence was committed or which was used in the commission of the offence or which was found in the possession of the convicted person, and any testing thereof by the relevant authority, must in addition to any fine or penalty imposed, be paid by such person.

## **92 Forfeiture**

A court may, upon convicting of a person for an offence in terms of this Act, declare to be forfeited to the Board-

- (a) all monies, coins, cheques, bills or promissory notes or other documentation securing or evidencing an undertaking for the payment of money found in or on any unlicensed sites or on any person who was in or on such site;
- (b) all books, lists, playing-cards, documents or other papers, or any instrument, machine or thing relating to or used or capable of being used in connection with gambling found in or on such site; and
- (c) any immovable property, vehicle, vessel, aircraft, container or other article used in

connection with the offence.

### **93 Delegation of power**

(1) Subject to subsection (2), the Board may, in writing, delegate to a member, committee, employee of the Board or the CEO, a power, function or duty conferred, entrusted or imposed on the Board in terms of this Act, except the power to make a decision relating to the granting, amending or revoking of a licence.

(2) The Board may delegate to a committee of the Board the power to make a decision relating to the granting, amending, revoking or the imposing of further or different licence conditions of the following licences:

- (a) limited payout machine site operator licence in terms of section 23(2)(b);
- (b) bingo site licence in terms of section 23(2)(f);
- (c) totalisator site licence in terms of section 23(2)(h);
- (d) bookmaker site licence in terms of section 23(2)(j);
- (e) special event licence in terms of section 23(2)(o); and
- (f) key employee licence in terms of section 23(2)(p).

[Subsec (2) substituted by sec 36(a) of Act 4 of 2016 wef 1 May 2017.]

(3) The power to impose a fine may not be delegated, except to a committee of at least three members of the Board.

(4) The Chief Executive Officer may delegate any power or duty conferred or imposed upon the Chief Executive Officer by or under this Act to-

- (a) any other employee of the Board with the appropriate knowledge and experience;  
or
- (b) any other person, after consulting the Board.

[Subsec (4) substituted by sec 36(b) of Act 4 of 2016 wef 1 May 2017.]

(5) Any person to whom a power has been delegated or who has been authorised to perform a duty under this section must exercise that power or perform that duty subject to the conditions the person who made the delegation or granted the authorisation considers appropriate.

(6) Any delegation of a power or authorisation to perform a duty in terms of this section-

- (a) must be in writing;
- (b) does not prevent the person who made the delegation or granted the authorisation from exercising that power or performing that duty himself or herself; and
- (c) may at any time be withdrawn by that person.

(7) Anything done in the exercise or performance of a delegated power, duty or function



is regarded to have been done by the Board or the Chief Executive Officer, as the case may be.

#### **94 Involvement of state attorney**

The Board may not institute judicial proceedings or take any steps in any judicial proceedings without involving the state attorney.

#### **95 Repeal of laws**

The Limpopo Province Gambling Act, 1996 (Act 4 of 1996) is hereby repealed.

#### **96 Short title and commencement**

(1) This Act is the Limpopo Gambling Act, 2013 and comes into operation on a date fixed by the Premier by proclamation in the *Gazette*.

(2) Different dates may be so fixed in respect of different sections of this Act.

### **SCHEDULE 1 TRANSITIONAL PROVISIONS**

#### **1 Definitions**

In this Schedule-

**"effective date"** means the date on which this Act, or any relevant provision thereof, comes into operation in terms of section 95; and

**"previous Act"** means the Limpopo Province Gambling Act, 1996 (Act 4 of 1996).

#### **2 General preservation of rights, notices, duties and other instruments**

(1) Any right, entitlement, privilege enjoyed by or obligation imposed on any person in terms of a provision of the previous Act, that had not been spent, fulfilled or run out immediately before the effective date, is considered to be a valid right, entitlement, privilege or obligation imposed on that person in terms of any comparable provision of this Act, as from the date that the right, entitlement, privilege or obligation first arose.

(2) A notice given by any person to another person in terms of any provision of the previous Act is considered to be a notice given in terms of any comparable provision of this Act, as from the date that the notice was given under the previous Act.

(3) A document that, before the effective date, had been served in accordance with the previous Act is regarded as having been satisfactorily served for the purposes of this Act.

(4) An order given by the Board in terms of any provision of the previous Act that was in force immediately before the effective date continues to be in force subject to the provisions of this Act.

(5) A licence issued in terms of the previous Act and which is in force immediately before the effective date, subject to the payment of the fees and levies, is considered to be to be a licence issued in terms of this Act and continues in force, subject to the provisions of this

Act.

(6) An application for a licence lodged in terms of the previous Act, must be dealt with in terms of the provisions of the previous Act, notwithstanding the commencement of this Act.

(7) A Peace Officer appointed in terms of section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977) for the purposes of the previous Act, continues to be a Peace Officer for the purpose of this Act.

(8) Subordinate legislation issued in terms of the previous Act continues to be in force under corresponding provisions of this Act, until repealed.

(9) A certificate issued to an inspector in terms of the previous Act immediately before the effective date, continues to be valid as if the certificate was issued in terms of this Act, until it expires or is cancelled by the Board.

(10) Where an electronic, computer or communication system or device which is designed to send or receive data relating to the functioning of any machine or apparatus and contemplated as a monitoring system is not registered with the Board, the licence holder must, within a period of 12 months of the effective date register such electronic monitoring system.

### **3 Limpopo Gambling Board and staff**

(1) A member of the Board before the effective date continues to be a member of the Board, holding the same position until the expiry of the term to which that person was appointed in terms of the previous Act.

(2) A member of staff appointed under the previous Act before the effective date continues to hold that appointment in terms of this Act.