

Namibia

Gaming and Entertainment Control Act, 2018

Act 13 of 2018

Legislation as at 13 December 2018

FRBR URI: /akn/na/act/2018/13/eng@2018-12-13

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PDF created on 18 June 2024 at 13:34.

Collection last checked for updates: 14 June 2024.

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Gaming and Entertainment Control Act, 2018

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Republic of Namibia
Annotated Statutes

Gaming and Entertainment Control Act, 2018
Act 13 of 2018

Published in Government Gazette 6793 on 13 December 2018

Assented to on 16 November 2018

Commenced on 1 December 2021 by Commencement of Gaming and Entertainment Control Act, 2018 and Gaming and Entertainment Control Amendment Act, 2020

[This is the version of this document as it was from 13 December 2018 to 30 November 2021.]

ACT

To regulate the gambling and gambling activities in Namibia; to set out the principles for gambling and gambling activities; to establish the Gambling Board; to establish the Gambling Trust Fund; and to provide for incidental matters.

BE IT ENACTED as passed by the Parliament, and assented to by the President, of the Republic of Namibia as follows:

Chapter 1
INTRODUCTORY PROVISIONS

1. Definitions

In this Act, unless the context otherwise indicates -

“accommodation establishment” means premises registered as an accommodation establishment under section 20 of the Namibia Tourism Board Act, but excludes premises of a safari undertaking, rest camp or lodge situated in a game reserve or outside a local authority area;

“amusement machine” means a mechanical, electrical or electronic machine or device operated by the insertion of a coin, amusement machine token or by the use of credit which is intended exclusively for amusement purposes and not for gambling purposes and from which a player may obtain nothing representing money, goods or any other benefit, other than the opportunity to continue to use the machine;

“Anti-Corruption Act” means the Anti-Corruption Act, 2003 (Act [No. 8 of 2003](#));

“associate” means -

- (a) an employer;

- (b) a co-shareholder of a private company referred to in section 22 of the Companies Act, 2004 (Act [No. 28 of 2004](#));
- (c) a co-member of a corporation as defined in section 1 of the Close Corporations Act, 1988 (Act [No. 26 of 1988](#)); or
- (d) a person to whom one has granted or from whom one has received a general power of attorney;

“Board” means the Gambling Board established by section 5;

“bookmaker” means a person who directly or indirectly earns or endeavours to earn his or her livelihood wholly or partly by receiving or negotiating bets or wagers on the result of an event or contingency, but does not include a person who operates a totalizator;

“bookmaking business” means a business carried on by a bookmaker for the purpose of directly or indirectly receiving or negotiating bets or wagers on the result of any event or contingency;

“bookmaker licence” means a bookmaker licence issued under section 36;

“casino”, in relation to licensed premises, means a room in or a part of the premises in which games are played or gambling machines are kept and played;

“casino licence” means a casino licence issued under section 34;

“chief executive officer” means a person appointed as the chief executive officer in terms of section 16;

“committee” means a committee of the Board established under section 13;

“Competition Act” means the Competition Act, 2003 (Act [No. 2 of 2003](#));

“consideration” means money, token, ticket, electronic credit, debit or an electronic chip or similar objects regardless of its apparent or intrinsic value or whether it is transferred directly or indirectly;

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

“controlling interest” means an interest of whatever nature in a licensed gambling business that enables the holder of such interest to exercise, directly or indirectly, control of any kind of, or in any way, the activities or assets of the licensed business;

“designated area” means an area within a licensed premises where a gambling game is available to be played;

“family member” means a -

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

“Financial Intelligence Act” means the Financial Intelligence Act, 2012 (Act [No. 13 of 2012](#));

“financial interest” means -

- (a) a right or entitlement to share in profits or revenue of gambling;
- (b) a real right in respect of property of a company, corporation or business that conducts gambling;
- (c) a real or personal right in property used by a company, corporation or business referred to in paragraph (b); or
- (d) a direct or indirect interest in the voting shares or voting rights attached to shares of a company or an interest in a close corporation that conducts gambling;

“gambling” means a form of gambling, including a game or the casting of a lot in which luck is an element and by which a prize may be won, whether or not an element of knowledge or skill is included in the process of determining the winner;

“gambling activity” means an activity that meets the requirements of section 29;

“gambling game” means an activity that meets the requirements of section 31;

“gambling house”, in relation to a licensed premise, means a room in, or a part of, the premise in which a gambling machine is kept and played;

“gambling house licence” means a gambling house licence issued under section 35;

“gambling machine”, includes a totalizator and mechanical device, electrical device, video, electronic device, electro-mechanical device or other devices, contrivance, machine, device, equipment or software, other than an amusement machine, that is available to be played or operated on payment of a consideration and -

(a) may entitle the player or operator to a pay-out or deliver a pay-out to the player or operator as a result of playing or operating the gambling machine; or

(b) is used, or is designed to be used, in determining the result of a gambling activity;

“judicial officer” means the Chief Justice, the Judge President, the Deputy Chief Justice, a judge of the Supreme Court or High Court appointed in terms of the Namibian Constitution, a magistrate appointed in terms of the Magistrates Act, 2003 (Act [No. 3 of 2003](#)), and includes the Ombudsman, the Attorney-General and the Prosecutor-General;

“key employee licence” means a key employee licence issued under section 40;

“inspector” means a person appointed under section 18 as an inspector;

“licence” means a licence referred to under section 33;

“licence holder” means a person to whom a licence has been issued under this Act;

“licensed premises” means premises named or described in a licence issued under this Act;

“local authority area” means a local authority area as defined in section 1 of the Local Authorities Act, 1992 (Act [No. 23 of 1992](#));

“manufacturer or supplier” means a person who imports, manufactures, sells, leases, makes available, distributes, maintains or repairs gambling machines;

“manufacturer or supplier licence” means a manufacturer or supplier licence referred to under section 38 of this Act;

“Minister” means the Minister responsible for gambling;

“Ministry” means the Ministry administering matters relating to gambling;

“minor” means a person who has not attained the age of 18;

“Namibia Tourism Board Act” means the Namibia Tourism Board Act, 2000 (Act [No. 21 of 2000](#));

“online game” means a gambling game prescribed as an online game under section 73 of this Act which is played or made available to be played through the use of communication technology that allows a person utilising money, electronic checks, electronic transfers of money, credit cards, debit cards or any other instruments, to transmit to a computer information to assist in the placing of a bet or wager and other corresponding information related to the display of the game, game outcomes or other similar information, but excludes a bet or wager placed through communication technology with a bookmaker or an operator of a totalizator;

“online provider” means a person to whom an online game licence has been issued;

“political office bearer” means -

- (a) a member of the National Assembly contemplated in Article 46 of the Namibian Constitution;
- (b) a member of the National Council contemplated in 69 of the Namibian Constitution;
- (c) a member of the Regional Council elected in terms of the Regional Councils Act, 1992 (Act [No. 22 of 1992](#));
- (d) a member of the Local Authority Council elected in terms of the Local Authorities Act, 1992 (Act [No. 23 of 1992](#));
- (e) a diplomatic representative of Namibia who is not a staff member;
- (f) a person holding a public office by virtue of an appointment in terms of the Namibian Constitution or any law but who is not a judicial officer or a staff member; or
- (g) a leader, or a national office bearer, of a registered political party;

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

“prescribed” means prescribed by regulation;

“Prevention of Organised Crime Act” means the Prevention of Organised Crime Act, 2004 (Act [No. 29 of 2004](#));

“prize” means a pay-out, benefit or anything of value which is offered to be won in respect of a gambling activity and includes a movable or immovable property or a cash prize;

“Public Enterprises Governance Act” means the Public Enterprises Governance Act, 2006 (Act [No. 2 of 2006](#));

“regulations” means regulations made under section 108;

“removal certificate” means a removal certificate issued under section 53(2)(b);

“retail liquor business” means a business carried on for the sale and supply of intoxicating liquor for on-consumption under a licence or other authority granted under the Liquor Act, 1998 (Act [No. 6 of 1998](#));

“restricted person” means a person registered as a restricted person under section 77;

“spouse” means a -

- (a) partner in marriage;
- (b) partner in a customary union according to customary law; or
- (c) partner in a relationship in which the parties live together in a manner resembling a marital partnership or customary union;

“staff member” means a staff member as defined in section 1 of the Public Service Act, 1995 (Act [13 of 1995](#)), and includes a member of the services as defined in that Act;

“Standards Act” means the Standards Act, 2005 (Act [No. 18 of 2005](#));

“testing agent” means a person licensed in terms of this Act to test and calibrate gambling machines;

“testing agent licence” means a testing agent licence issued under section 39;

“this Act” includes a regulation or notice made or issued in terms of this Act;

“totalizator” means an instrument, machine or device, known as a totalizator or any other similar scheme which is employed for registering or indicating bets whether mechanically operated or not;

“totalizator bet” means the placing or accepting of a bet by staking money or anything of value on the outcome of an event or combination of events by means of -

- (a) a system in which the total amount staked, after deductions provided for by law or agreement, is divided among the persons who made the winning bets in proportion to the amount staked by each of them in respect of a winning bet; or
- (b) a scheme, form or system of betting, whether mechanically operated or not, that is operated on similar principles;

“totalizator licence” means a totalizator licence issued under section 37; and

“Trust Fund” means the Gambling Trust Fund established in terms of section 25.

2. Application of Act

This Act does not apply to an activity that is regulated in terms of the Lotteries Act, 2017 (Act [No. 13 of 2017](#)).

3. Principles of gambling and gambling activities

The following are the principles of gambling and gambling activities -

- (a) gambling and gambling activities must be effectively regulated, controlled, policed and licensed;
- (b) members of the public who participate in gambling and gambling activities must be protected;
- (c) the society and the economy must be protected against the over-stimulation of the latent demand for gambling and gambling activities;
- (d) standardisation and quality in respect of equipment used in gambling and gambling activities must be promoted and maintained; and
- (e) the issuing of licences in respect of gambling and gambling activities must be transparent, fair and equitable.

Chapter 2 ADMINISTRATION OF ACT

Part 1 – General functions and powers of Minister

4. Functions and powers of Minister

- (1) The Minister must initiate and develop policies on all matters relating to gambling, gambling activities and the gambling industry.
- (2) The Minister may, for the purposes of subsection (1), give general or specific policy directives to the Board and the Board must comply with the policy directives.

Part 2 – Gambling Board

5. Establishment of Gambling Board

There is established a juristic person to be known as the Gambling Board.

6. Functions and powers of Board

- (1) The functions of the Board are to -
 - (a) administer, monitor and oversee compliance with this Act;
 - (b) receive, investigate, process and determine applications for licences made under this Act;
 - (c) supervise and oversee the activities of the chief executive officer, inspectors and staff members of the Board;
 - (d) recommend to the Minister the maximum number of licences that may be issued under this Act;
 - (e) advise the Minister on policy matters relating to gambling and gambling activities;
 - (f) keep and maintain -
 - (i) the register of restricted persons in accordance with section 77;
 - (ii) the central electronic monitoring system contemplated under section 90;
 - (iii) the register of gambling machines as contemplated in section 85; and
 - (iv) a register of licence holders as contemplated in section 55;
 - (g) register information, documents and data required to be registered under this Act;
 - (h) monitor socio-economic patterns of gambling and gambling activities in Namibia and in particular to research and identify factors relating to patterns, causes and consequences of -
 - (i) the socio-economic impact of gambling and gambling activities; and
 - (ii) addictive or compulsive gambling and gambling activities;
 - (i) promote education and awareness programmes about the risk and socio-economic impact of gambling and gambling activities;
 - (j) monitor and ensure compliance with the Competition Act by the gambling industry and refer, to the Competition Commission established in terms of that Act, any concerns regarding possible existence of restrictive practices or abuse of dominant position as contemplated in that Act;
 - (k) monitor and ensure compliance with the Financial Intelligence Act by the gambling industry and report any suspicious money laundering activities to the Bank of Namibia as contemplated in that Act;
 - (l) implement and enforce the provisions of this Act; and
 - (m) exercise powers or perform functions imposed on or assigned to the Board in terms of this Act.
- (2) To perform its functions and exercise its powers under this Act, the Board may -
 - (a) purchase, hire or otherwise acquire moveable and immoveable property, and sell, let or otherwise dispose of such property;
 - (b) open banking accounts;
 - (c) accept grants and donations with the approval of the Minister;
 - (d) invest moneys not immediately required by the Board;
 - (e) gather, evaluate, process and publish information relating to gambling and gambling activities;

- (f) organise outreach and awareness programmes to inform, educate and sensitise the public on matters relating to gambling and gambling activities;
- (g) recommend to the Minister proposals for amendment to this Act or regulations made or in force under this Act;
- (h) liaise with regional or international authorities having objects similar to the objects of the Board;
- (i) consult with a person, organisation or institution with regard to a matter relating to gambling and gambling activities; and
- (j) have regard to international developments in the field of gambling and gambling activities and related gambling activities.

7. Constitution of Board

- (1) Subject to section 14 and 15 of the Public Enterprises Governance Act, the Board consists of the following members appointed by the Minister -
 - (a) a person whom in the opinion of the Minister has knowledge or experience in matters relating to the functions of the Board;
 - (b) a person with a law qualification which entitles such a person to be admitted as a legal practitioner under the Legal Practitioners Act, 1995 (Act [No. 15 of 1995](#));
 - (c) five persons of whom -
 - (i) one must have knowledge and experience in the tourism sector;
 - (ii) one must have knowledge and experience in finance;
 - (iii) one must have knowledge and experience in safety and security matters;
 - (iv) one must have knowledge and experience in health or social services; and
 - (v) one must have knowledge and experience in commercial and industrial matters; and
 - (d) the chief executive officer who is an ex officio member of the Board but does not have voting rights at meetings of the Board.
- (2) The Minister must for the purposes of appointing persons referred to in subsection (1)(b) and (c), in writing, invite interested persons to apply to the Minister to be considered for appointment as members of the Board and to submit such application within a period specified in the invitation.
- (3) If the required application is not submitted within the period specified in the invitation referred to in subsection (2), the Minister, subject to this section, may appoint a suitable person as a member of the Board.
- (4) A person appointed as a member of the Board under subsection (3) is regarded as having been properly appointed as a member of the Board for purposes of subsection (1).
- (5) To be eligible for appointment as a member of the Board under subsection (1), a person -
 - (a) must be a fit and proper person;
 - (b) may not be subject to any disqualification referred to in section 8; and
 - (c) may not have an interests referred to in section 8(g).
- (6) The Minister must, as soon as possible after appointing the members of the Board in terms of subsection (1), notify in the Gazette -
 - (a) the name of every person appointed as a member;

- (b) the period for which the appointment is made; and
- (c) the date from which the appointment takes effect.

8. Disqualification for appointment as members of Board

A person may not be appointed as a member of the Board, if that person -

- (a) is not a Namibian citizen or lawfully admitted to Namibia for permanent residence;
- (b) has not attained the age of 21 years;
- (c) is a political office bearer;
- (d) is listed in the register of restricted persons contemplated in section 77;
- (e) has at any time during the preceding 10 years served a sentence of imprisonment for a period of more than 12 months without an option of a fine;
- (f) has at any time been found guilty of -
 - (i) an offence of which dishonesty is an element;
 - (ii) an offence under the Prevention of Organised Crime Act;
 - (iii) an offence under the Anti-Corruption Act;
 - (iv) an offence under the Financial Intelligence Act;
 - (v) any offence under this Act; or
 - (vi) any computer or computer software related offence or an offence under any other law relating to gambling;
- (g) personally or through a spouse, partner or associate has a direct or indirect financial interest or has acquired such interest in a business carried on in Namibia or elsewhere that may conflict or interfere with the proper performance of his or her function as a member of the Board;
- (h) is an unrehabilitated insolvent;
- (i) has been or is removed from an office of trust on account of misconduct; or
- (j) has under any law been declared by a competent court to be mentally ill.

9. Term of office

- (1) Unless a different determination has been made in terms of section 14(1)(d) of the Public Enterprises Governance Act and subject to section 10, a member of the Board holds office for a period of three years.
- (2) A member of the Board referred to in subsection (1) is eligible for re-appointment after the expiry of his or her term as a member of the Board.

10. Vacation of office and filling of vacancies

- (1) A member of the Board vacates his or her office, if he or she -
 - (a) is absent from three consecutive meetings of the Board without leave of the Board;
 - (b) resigns from his or her office by giving 30 days written notice to the Minister;
 - (c) becomes subject to any of the disqualifications referred to in section 8; or
 - (d) is removed from office under subsection (2).

- (2) The Minister may remove a member of the Board from the office before the expiry of his or her term, if the Minister is satisfied, after having given the member an opportunity to be heard, that the member -
 - (a) is physically or mentally unfit or unable to effectively perform his or her functions as a member of the Board;
 - (b) neglects his or her functions as a member of the Board;
 - (c) acts in a manner that prejudices or is in conflict with the interests of the Board; or
 - (d) has contrary to section 103 divulged a matter which has been entrusted to that member.
- (3) If a member of the Board dies or vacates his or her office before the expiry of the period for which he or she was appointed the Minister must, subject to section 7, appoint a person to fill the vacancy for the remainder of the period for which the member was appointed.

11. Conduct of members and disclosure of interest

- (1) A member of the Board may not -
 - (a) engage in an activity that may undermine the integrity of the Board;
 - (b) participate in any proceedings in which the member has an interest contemplated in section 8(g); or
 - (c) use confidential information obtained in the performance of his or her functions as a member of the Board to obtain financial benefits or other advantage either directly or indirectly for himself or herself or for any other person.
- (2) A member of the Board must in writing disclose to the Minister any direct or indirect financial interest which the member personally or through a spouse, partner or associate acquires in a business carried on in Namibia or elsewhere as soon as he or she acquires such interests.
- (3) A member who acquires an interest contemplated in subsection (2), in any matter which is before the Board for discussion or determination must -
 - (a) immediately and fully disclose his or her interest to the Board before any discussion or determination; and
 - (b) withdraw from any discussion or determination by the Board in respect of the matter.
- (4) A person who contravenes or fails to comply with a provision of this section commits an offence and is liable on conviction to a fine not exceeding N\$200 000 or to imprisonment for a period not exceeding 20 years or to both such fine and such imprisonment.

12. Meetings and decisions of Board

- (1) The first meeting of the Board must be held at such time and place as the Minister may determine and subsequent meetings of the Board must be held at such times and places as the chairperson of the Board may determine.
- (2) The chairperson of the Board or in his or her absence the deputy chairperson must preside at meetings of the Board but if both are absent or for any reason unable to preside at any meeting of the Board, the members present at such meeting must elect from among their number a member to preside at the meeting.
- (3) The Board must hold one meeting every three months and may hold such other additional meetings as may be determined by the Board.

- (4) Despite subsection (3), the chairperson must convene a special meeting of the Board within 14 days after the date of receipt of a written request by -
 - (a) the Minister; or
 - (b) the majority of the Board members, which request must clearly state the purpose for which the special meeting is to be convened.
- (5) The majority of all the members of the Board constitute a quorum at any meeting of the Board.
- (6) The chairperson of the Board must cause a notice of every meeting of the Board to be given to the members of the Board so as to reach the members at least 72 hours before the meeting.
- (7) A decision made by the majority of the members of the Board present and voting at a meeting of the Board constitutes a decision of the Board and in the event of an equality of votes the member of the Board presiding at the meeting has a casting vote in addition to his or her deliberative vote.
- (8) A meeting of the Board convened for the purposes of hearing representations or objections in relation to an application made in terms of this Act is open to the public but the member presiding at the meeting may direct a person whose presence is, in his or her opinion, not desirable at that meeting to leave the meeting.
- (9) A decision of the Board or an act performed under the authority of the Board is not invalid merely by reason of -
 - (a) a vacancy on the membership of the Board; or
 - (b) the fact that a person who is not entitled to sit as a member of the Board was in attendance when the decision was taken or act was authorised if the decision was taken or act was authorised by a majority of the members who were present and entitled to vote at the meeting.
- (10) Despite subsection (6) or (7), a written resolution not passed at a meeting of the Board but signed by such number of members sufficient to constitute a quorum is as valid and effectual as if it had been passed at a meeting of the Board duly convened and constituted, and such resolution must be recorded in the minutes of the first ensuing meeting of the Board.
- (11) The chief executive officer must keep or cause to be kept accurate minutes of the proceedings of all the meetings of the Board.
- (12) The Board may make rules regulating the procedures that must be followed at the meetings of the Board.

13. Committees of Board

- (1) The Board may establish one or more committees to exercise such powers or perform such functions as the Board may delegate or assign to such committee.
- (2) A committee consists of at least two members of the Board and such other persons as the Board may determine.
- (3) A committee may, with the approval of the Board, co-opt persons of special expertise to advise the committee in the performance of its functions but such co-opted persons are not entitled to vote at any meeting of the Committee.
- (4) The Board must designate a member of the Board as chairperson of a committee.
- (5) A committee must exercise its powers and perform its functions in accordance with such directions as the Board may determine.
- (6) A function performed or a power exercised by a committee is considered to have been performed or exercised by the Board.

- (7) Except for paragraph (a) of section 8, that section and section 11 apply with the necessary changes to a person co-opted as member of a committee under subsection (3).

14. External experts

- (1) The Board may contract an external expert to assist the Board in performing its functions under this Act.
- (2) An external expert contracted under subsection (1) must have a maximum degree of independence from persons involved in the gambling industry or in the functions to be performed by the external expert.
- (3) An external expert may be appointed as an inspector.

15. Allowances and remuneration of members of Board and committees

- (1) The Minister must pay such allowances and remuneration to the members of the Board and members of a committee who are not in the full-time employment of the State, as the Minister determines with the concurrence of the Minister responsible for finance.
- (2) Allowances and remuneration determined under subsection (1) may differ according to the different offices held or functions performed by members contemplated in that subsection.
- (3) All expenditure related to the exercise, performance or carrying out of the powers and functions of the Board, including expenditure relating to the payment of allowances and remuneration must be defrayed from funds of the Board.

Part 3 – Staff members of Board

16. Chief executive officer

- (1) The Board, with the approval of the Minister, must appoint a suitably qualified and experienced person as the chief executive officer of the Board.
- (2) The chief executive officer -
 - (a) is appointed on such terms and conditions as the Board, with the approval of the Minister, may determine and his or her remuneration and other service benefits is determined in accordance with section 22(3) of the Public Enterprises Governance Act;
 - (b) is appointed for a term of five years and is eligible for re-appointment at the expiration of his or her term of office; and
 - (c) may be removed from office before the expiry of his or her term of office in accordance with the terms and conditions of his or her contract of employment or applicable law.
- (3) Subject to the direction and supervision of the Board, the chief executive officer is responsible for the day-to-day management and administration of the Board.
- (4) If the office of the chief executive officer becomes vacant or the chief executive officer is for any reason unable to perform his or her functions, the Board may -
 - (a) designate any suitable staff member of the Board; or
 - (b) if circumstances so require, appoint a suitable person, after consultation with the Minister, to act as the chief executive officer until the vacancy is filled or the chief executive officer is able to perform his or her functions.
- (5) A person designated or appointed under subsection (4) has the powers and performs the functions of the chief executive officer.

- (6) Subject to the direction and supervision of the Board, the chief executive officer -
 - (a) supervises the staff members of the Board and exercises disciplinary powers over such staff members as may be set out in the applicable personnel rules; and
 - (b) is the accounting officer of the Board and is responsible for -
 - (i) the proper control and management of the assets of the Board;
 - (ii) the effectiveness and efficiency of the Board;
 - (iii) all income and expenditure of the Board, including the keeping of complete and accurate accounts of moneys received or expended by the Board in accordance with the financial reporting standards so as to give a true reflection of the transactions and financial situation of the Board and to represent accurately the state of affairs and business of the Board;
 - (iv) receiving fees payable to the Board and other revenue collected by the Board under this Act or applicable law and the discharging of liabilities of the Board; and
 - (v) the proper and diligent implementation of, and compliance with, the Public Enterprises Governance Act and this Act.

17. Staff members of Board, transfer and secondment of staff members

- (1) The Board may, on the recommendation of the chief executive officer and on such remuneration and conditions of service as the Board may determine, appoint as staff member of the Board, such persons as it considers necessary in order to assist the Board in the exercise and performance of its powers and functions in terms of this Act.
- (2) Despite subsection (1), the Board, in the performance of its functions in terms of this Act, at its request and after consultation with the Minister and the Public Service Commission, may be assisted by staff members seconded to the service of the Board in terms of the Public Service Act, 1995 (Act [No. 13 of 1995](#)).

Part 4 – Inspectorate

18. Inspectors

- (1) The Board -
 - (a) may appoint a suitably qualified person as an inspector to monitor, investigate or evaluate any matter on behalf of the Board, subject to the control and direction of the Board; and
 - (b) must provide each inspector with a certificate of appointment, with his or her picture and identity number, stating -
 - (i) that the inspector has been appointed under this Act; and
 - (ii) any limitation on the authority of the inspector, if any.
- (2) An inspector must produce his or her certificate of appointment to a person in relation to whom he or she seek to exercise a power or perform a function under this Act.
- (3) For the purpose of this Act, the Board must take the necessary steps to facilitate the declaration of one or more inspectors as peace officers in terms of section 334 of the Criminal Procedure Act, 1977 (Act [No. 51 of 1977](#)).

19. Powers and functions of inspectors

- (1) Subject to subsection (2) and (3), an inspector may, without prior notice to a person -
- (a) enter premises in which gambling activities are engaged in, conducted or made available or in which records of any of such gambling activities are prepared or maintained;
 - (b) enter premises in, on or from which it is suspected -
 - (i) that a gambling or gambling activity is being engaged in, conducted or made available; or
 - (ii) that a gambling machine, equipment, device, object, book, record, note, recording or other document used or capable of being used in connection with the conducting of a gambling activity may be found;
 - (c) in any premises referred to in paragraph (a) or (b) -
 - (i) conduct an enquiry that the inspector believes to be necessary after having informed the person who appears to be in charge or control of the premises of the purpose of his or her visit;
 - (ii) require the person referred to in subparagraph (i) to produce a licence, transfer licence or removal licence required under this Act;
 - (iii) question a person who is on or in the premises;
 - (iv) examine a gambling machine, equipment, object, book, record, note, recording or other document in, on or around the premises referred to in paragraph (a) or (b);
 - (v) examine or make extracts from documents referred to in subparagraph (iv); and
 - (vi) seize and remove from the premises and impound -
 - (aa) a gambling machine or equipment for the purposes of examination and inspection;
 - (bb) a book, record, ledger, game, device, cash box and its contents, counting room or its equipment or gambling operations;
 - (d) require a person in charge of premises referred to in paragraph (a) or (b) -
 - (i) to point out a gambling machine, equipment, device or object that the person has custody or control over;
 - (ii) for the purpose of examination or making copies or extracts, to produce a book, record, note, recording or other document that the person has possession or custody or control over; and
 - (iii) to provide information in connection with anything that has been pointed out or produced in terms of subparagraph (i) or (ii) ; or
 - (e) enter a licenced premises to determine whether any prescribed requirements have been complied with.
- (2) In exercising the powers conferred by subsection (1), an inspector may not enter and search premises which is the private home of a person, unless the owner of such home consents to such entry and search or such entry and search has been authorised by a warrant issued by a judge of the High Court of Namibia or a magistrate with competent jurisdiction on application by the inspector who has satisfied such judge or magistrate under oath that -
- (a) there are reasonable grounds for believing that a provision of this Act is being contravened in that home or that a book, record or any other document or other article required for inspection is in that home; and

- (b) such entry and search is necessary for a purpose referred to in Article 13 of the Namibian Constitution.
- (3) The search of the home or premises under this section -
 - (a) may not be excessively intrusive, having regard to the contravention suspected; and
 - (b) must comply with the provisions of subsections (3)(a) and (4) of section 21 and section 29 of the Criminal Procedure Act, 1977 (Act [No. 51 of 1977](#)).
- (4) An inspector may -
 - (a) serve search warrants, notices, summons or other processes relating to the enforcement of laws regulating gambling or gambling activities;
 - (b) conduct investigations into the character, record or reputation of a person applying for a licence, licence holders and other persons as the Board may determine;
 - (c) liaise with law enforcement agency for the purposes of paragraph (b) or for the conducting of investigation or identification of applicants for the purposes of licences;
 - (d) investigate contraventions of this Act or any law relating to gambling and gambling activities and refer violations constituting an offence to a police officer, Financial Intelligence Centre of Namibia established under the Financial Intelligent Act or the Prosecutor-General; and
 - (e) exercise any other power or perform any other function assigned or imposed on an inspector by or under this Act.
- (5) When performing a function in terms of subsection (1) or (2), an inspector may be accompanied and assisted by an interpreter, a police officer or by an authorised officer as defined in section 1 of the Financial Intelligence Act.
- (6) Nothing in this section may be construed as prohibiting other law enforcement agencies from enforcing the provisions of this Act or from performing other duties to the extent permitted by the law.
- (7) In so far as this section provides for a limitation on the fundamental rights contemplated in Article 13 of the Namibian Constitution, in that it authorises interference with the privacy of a person, that limitation is enacted on the authority of that Article.

Chapter 3

FINANCIAL PROVISIONS

Part 1 – Funds of Board

20. Funds of Board

- (1) The funds of the Board consist of -
 - (a) money appropriated by Parliament for the purposes of the operations of the Board;
 - (b) interest or dividends earned on an investment made in terms of subsection (5);
 - (c) money borrowed with the approval of the Minister with the concurrence of the Minister responsible for finance;
 - (d) money received by way of donations or grants subject to the approval of the Minister and after consultation with the Minister responsible for finance; and
 - (e) other money vesting or accruing to the Board from any other source in Namibia.

- (2) The Board must manage its funds in accordance with sound principles of financial management and by observing the measures implemented to protect the liquidity of the Board.
- (3) The funds of the Board are used -
 - (a) to pay the administrative expenses of the Board;
 - (b) to pay remuneration and allowances payable by the Board and such other expenses incurred by the Board in the performance of its functions; and
 - (c) for any other expenditure provided for in the budget of the Board.
- (4) Money received by way of a donation for the benefit of the Board may be administered on such conditions as may be agreed on between the donor and the Board.
- (5) Any money of the Board that is not immediately required for expenditure by the Board may be invested in a manner and in an institution determined by the Board with the approval of the Minister with the concurrence of Minister responsible for finance.
- (6) An unexpended balance at the end of a financial year of the Board is carried forward as a credit to the ensuing financial year.

21. Accountability and audit

- (1) The chief executive officer is the accounting officer for the Board and is responsible for -
 - (a) all income and expenditure of the Board; and
 - (b) all assets and discharge all liabilities of the Board.
- (2) In furtherance of subsection (1), the Board must, whether by means of internal procedures or by its rules, determine prudent financial procedures, including internal control measures and mechanisms for the administration of its funds.
- (3) The chief executive officer must keep or cause to be kept such records of account in accordance with the general accepted accounting practices, principles and procedures as are necessary to fairly represent the affairs of funds of the Board and to explain the transactions and financial position of the Board.
- (4) Not later than three months after the end of each financial year, the chief executive officer must prepare and submit to the Board for approval, the financial statements, comprising of -
 - (a) a statement reflecting, with suitable and sufficient particulars, the income and expenditure of the Board during that financial year; and
 - (b) a balance sheet showing the state of the assets, liabilities and financial position of the Board as at the end of the financial year.
- (5) The accounting records and financial statements of the Board are audited by the Auditor-General or by a person registered as an auditor in terms of the Public Accountants' and Auditors' Act, 1951 ([Act No. 51 of 1951](#)), appointed by the Board with the approval of the Auditor-General.
- (6) The auditor referred to in subsection (5) audits the accounting records and financial statements of the Board subject to such directives as the Auditor-General may issue to such auditor.

22. Bank accounts of Board

The Board must open and maintain such bank accounts at one or more banking institutions in Namibia registered in terms of the Banking Institutions Act, (Act [2 of 1998](#)) [No. 2 of 1998](#)) as are necessary for the performance of the functions of the Board.

23. Financial year and budget

- (1) The financial year of the Board ends on 31 March each year.
- (2) The Board must submit to the Minister for approval in each year, at a time determined by the Minister, a statement of the estimated income and expenditure of the Board relating to the next financial year.

24. Annual report

- (1) The Board must submit to the Minister an annual report of the activities of the Board, within six months after end of financial year or such longer period as the Minister may determine, which report must be accompanied by the -
 - (a) audited financial statements of the Board for that financial year; and
 - (b) auditor's report relating to the financial statements.
- (2) The Minister must table in the National Assembly the annual report and financial statements within 30 days after the date of the receipt of the report and financial statement, or if National Assembly is not in ordinary session, within 14 days after the commencement of its next ordinary session.
- (3) The Board must, if the Minister at any time so requires, furnish to the Minister a report and particulars relating to the performance of the functions of the Board in relation to any matter as the Minister may require.

Part 2 – Gambling Trust Fund and allocation of moneys from Gambling Trust Fund**25. Gambling Trust Fund**

There is established a fund to be known as the Gambling Trust Fund which is held in trust by the Board and administered by the Board.

26. Funds of Trust Fund

- (1) The funds of Trust Fund consist of -
 - (a) application fees, licence fees and annual licence fees, levies and penalties payable under Part 3 of Chapter 5 of this Act;
 - (b) interest and dividends derived from the investment of money under subsection (4);
 - (c) money received by way of donation or grants with the approval of the Minister after consultation with the Minister responsible for finance; and
 - (d) money accruing to the Trust Fund from any other source.
- (2) The Board must open and maintain a banking account in the name of the Trust Fund with any institution referred to in section 22 -
 - (a) into which all monies received or accruing for the benefit of the Trust Fund are deposited; and
 - (b) from which all monies payable from the Trust Fund are withdrawn.
- (3) The Board may retain in the Trust Fund such amount of monies as are approved by the Minister, with the concurrence of the Minister responsible for finance, as being reasonably required for the purposes of the Trust Fund.

- (4) Money standing to the credit of the Trust Fund and not required for immediate use may be invested in such a manner as the Minister, with the concurrence of the Minister responsible for finance, may in writing approve.
- (5) Money received by way of a donation for the benefit of the Trust Fund may be administered on such conditions as may be agreed on between the donor and the Board.
- (6) An unexpended balance of the Trust Fund at the end of a financial year is carried forward as a credit to the Trust Fund for the next ensuing financial year.
- (7) The Board must ensure that money received for or accruing to the Trust Fund is paid into the banking account of the Trust Fund as soon as is practicable after the receipt.

27. Accounting, audit and reports

- (1) The chief executive officer must cause proper accounts to be kept of all transactions of the Trust Fund and cause to be prepared in respect of every financial year of the Board, financial statements reflecting -
 - (a) all monies received by and payments made from the Trust Fund; and
 - (b) the assets and liabilities of the Trust Fund as at the end of the financial year.
- (2) The accounts and financial statements referred to in subsection (1) are audited by the Auditor-General or by a person registered as an auditor in terms of the Public Accountants' and Auditors' Act, 1951 (Act [No. 51 of 1951](#)), appointed by the Board with the approval of the Auditor-General, and subject to such directives as the Auditor-General may issue to such auditor.

28. Allocation of moneys from Trust Fund

- (1) The Minister, with the concurrence of the Minister responsible for finance, must prescribe the percentage of the moneys received or accrued to the Trust Fund that must be allocated -
 - (a) for the purposes of -
 - (i) socio-economic impact of gambling and gambling activities;
 - (ii) addiction or compulsion of gambling;
 - (iii) providing broad-based public educational programmes about the risk and socio-economic impact of gambling and gambling activities; or
 - (iv) rehabilitation of persons addicted to gambling and gambling activities;
 - (v) any other prescribed objective; and
 - (b) to the State Revenue Fund referred to in Article 125(1) of the Namibian Constitution for the purposes of the State Revenue Fund.
- (2) The Minister, with the concurrence of the Minister responsible for finance, must prescribe the manner in which the money allocated for the purposes of subsection (1)(a) may be utilised for the purposes of that subsection.
- (3) The chief executive officer must keep proper accounts of all transactions made in respect of money allocated for the purposes of subsection (1).

Chapter 4 GAMBLING ACTIVITIES

29. Gambling activities

An activity is a gambling activity if it involves -

- (a) the placing or accepting a bet or wager under section 30(1);
- (b) the placing or accepting a totalizator bet under section 30(2); or
- (c) the playing or making available for playing -
 - (i) a gambling game; or
 - (ii) an amusement game, if the amusement game is required to be licensed under section 32(2).

30. Bets and wagers

- (1) A person places or accepts a bet or wager if the person -
 - (a) being a player, stakes money or anything of value on a bet with a bookmaker on a contingency; or
 - (b) being a bookmaker -
 - (i) accepts a stake of money or anything of value on a bet from a player on a contingency; or
 - (ii) stakes money or anything of value on a bet with another bookmaker on a contingency;
 - (c) stakes or accepts a stake of money or anything of value with one or more other persons on a contingency; or
 - (d) expressly or by implication undertakes, promises or agrees to do anything contemplated in paragraph (a), (b) or (c).
- (2) A person places or accepts a totalizator bet when the person stakes money or anything of value on the outcome of an event or combination of events by means of -
 - (a) a system in which the total amount staked, after deductions provided for by law or by agreement, is divided among the persons who made winning bets in proportion to the amount staked by each of the persons in respect of a winning bet; or
 - (b) a scheme, form or system of betting, whether mechanically operated or not that is operated on similar principles referred to under paragraph (a) .

31. Gambling games

- (1) An activity is a gambling game if -
 - (a) it is played on payment of a consideration with the chance that the person who is playing the game might be entitled to or receive a prize or pay-out and the result might be determined by the skill of the player, an element of chance or both; or
 - (b) it is a bet or wager in terms of section 30(1), that is placed in a casino or gambling house in relation to an activity that meets the criteria referred to in paragraph (a).
- (2) Despite subsection (1) and for the purposes of this Act, the following activities do not constitute a gambling game -
 - (a) a totalizator bet in terms of section 30(2); or

- (b) an amusement game.

32. Amusement games

- (1) The Minister may, for the purposes of this Act, prescribe the games or categories of games which qualify as amusement games and which can be played with or without the use of an amusement machine.
- (2) Regulations made under subsection (1) may require a person to possess a prescribed licence before such a person may make an amusement game available to be played.
- (3) The Minister must prescribe the manner in which a person must obtain a licence referred to in subsection (2).

Chapter 5 LICENSING OF GAMBLING ACTIVITIES

Part 1 – Licences

33. Types of licences

Subject to the provisions of this Act, the Board may, on application made by a person, issue the following licences -

- (a) casino licence;
- (b) gambling house licence;
- (c) bookmaker licence;
- (d) totalizator licence;
- (e) manufacturer or supplier licence;
- (f) testing agent licence;
- (g) key employee licence; or
- (h) any other licence as may be prescribed in terms of this Act.

34. Casino licence

- (1) Subject to section 42, the Board may, on an application by a person who conducts an accommodation establishment, issue a casino licence to a person who -
 - (a) in the case of an accommodation establishment situated in the local authority area of Windhoek, has been allocated a grading of at least four stars in accordance with the provisions of the Namibia Tourism Board Act and has at least 100 rooms available for the accommodation of guests; or
 - (b) in the case of an accommodation establishment situated in a local authority area other than the local authority area of Windhoek, has been allocated a grading of at least three stars in accordance with the provisions of the Namibia Tourism Board Act and has at least 50 rooms available for the accommodation of guests.
- (2) A casino licence authorises the -
 - (a) playing of prescribed games; and

- (b) keeping and operating of prescribed gambling machines and tables not exceeding the maximum number specified in the licence,

in or on the premises of the accommodation establishment in respect of which the licence has been granted or such part of the premises as specified in the licence.

35. Gambling house licence

- (1) Subject to section 42, the Board may, on an application by a person who -
 - (a) conducts an accommodation establishment; or
 - (b) conducts a retail liquor business,issue a gambling house licence to the person.
- (2) A gambling house licence authorises the keeping or playing in or on the premises or the part of the premises of the accommodation establishment or the retail liquor business, as specified in the licence, of the prescribed gambling machines or prescribed gambling games, excluding tables, but not exceeding the number of gambling machines or gambling games specified in the licence.

36. Bookmaker licence

- (1) Subject to section 42, the Board may, on application by a person who intends to conduct a bookmaking business, issue a bookmaker licence to the person.
- (2) A bookmaker licence authorises the holder of a bookmaker licence to accept, receive or negotiate bets placed on prescribed events.
- (3) The Minister must prescribe the events on which bets may be made or accepted in relation to a bookmaker licence.

37. Totalizator licence

- (1) Subject to section 42, the Board may, on an application by a person who intends to operate a totalizator, issue a totalizator licence to the person.
- (2) A totalizator licence authorises the holder of the totalizator licence to use a totalizator to register or accept a totalizator bet placed on any horse racing, sporting event or any other similar event or contingency or prescribed events.

38. Manufacturer or supplier licence

- (1) Subject to section 42, the Board may, on an application by a person who intends to manufacture or supply gambling machines, issue a manufacturer or supplier licence to the person.
- (2) A manufacturer or supplier licence authorises the holder of the manufacturer or supplier licence to import, manufacture, sell, lease, make available, distribute, maintain or repair gambling machines.

39. Testing agent licence

- (1) Subject to subsection (2) and section 42, the Board may, on an application by a person who intends to test and calibrate gambling machines, issue a testing agent licence to the person.
- (2) The Board may only issue a testing agent licence to a person if the person -
 - (a) complies with the prescribed applicable standards for testing and calibration of gambling machines;

- (b) is accredited for technical competency by the Accreditation Board of Namibia in accordance with the Accreditation Board of Namibia Act, 2005 (Act [No. 8 of 2005](#)) or any applicable international standards determined by the Board;
 - (c) is able to conduct tests and perform calibration on gambling machines to ensure compliance with standards established by the Namibia Standards Institution in terms of the Standards Act or any other international standards determined by the Board;
 - (d) is able to conduct test and perform calibration in an objective and impartial manner; and
 - (e) is not -
 - (i) a holder of any other licence in the gambling industry;
 - (ii) a member of the Board or a committee of the Board; or
 - (iii) an employee of Namibia Standards Institution established in terms of the Standards Act.
- (3) A testing agent licence authorises the holder of the licence to test and calibrate gambling machines registered or required to be registered in terms of this Act.

40. Key employee licence

- (1) Subject to section 43, the Board may, on application by a person who intends to engage in any prescribed work or a category of prescribed work in the gambling industry, issue a key employee licence or a provisional key employee licence to the person.
- (2) An employer of a person who is licensed in terms of this section must, within the prescribed time, disclose to the Board any prescribed information concerning a holder of a key employee licence or a provisional key employee licence.
- (3) A key employee licence or a provisional key employee licence authorises the holder of the key employee licence or a provisional key employee licence to engage in any prescribed work or category of prescribed work in the gambling industry.
- (4) The Minister may prescribe work or categories of work in the gambling industry in which employees engaged in that work are required to hold a key employee licence or a provisional key employee licence.
- (5) The Minister may prescribe the conditions and qualifications under which a provisional key employee licence may be issued to a person.

41. Maximum number of licences

- (1) The Minister may, on the recommendation of the Board and after considering the criteria set out in this section, prescribe the maximum number of licences, other than key employee licences, that may be granted by the Board in Namibia or in any region or part of Namibia.
- (2) Before the Minister prescribes the maximum number of licences under subsection (1), the Minister -
 - (a) may consult the Competition Commission established by the Competition Act in order to enhance the promotion and safeguarding of competition in the gambling industry;
 - (b) must consider the number and geographic distribution of -
 - (i) existing licence holders operating within Namibia as a whole or in any region or a part of Namibia and the duration of the licences under which they operate; and
 - (ii) any additional licences to be made available in terms of the maximum number of licences to be prescribed under subsection (1) ; and

- (c) must consider -
 - (i) the impact of incidence and social consequences of compulsive and addictive gambling or gambling activity;
 - (ii) the promotion of economic empowerment of previously economically and socially disadvantaged persons in Namibia; or
 - (iii) the promotion of -
 - (aa) new entrants to the gambling industry;
 - (bb) job creation within the gambling industry;
 - (cc) diversity of ownership within the gambling industry;
 - (dd) efficiency of operation of the gambling industry; or
 - (ee) competition within the gambling industry.
- (3) If the Minister under subsection (1) prescribes the maximum number of licences in Namibia as a whole or in a region or part of Namibia which is lower than the number of licences existing in Namibia or that region or part of Namibia, at the commencement of this Act, the existing licence holders may continue to operate under their licences, but additional licences may not be issued in Namibia or the particular region or part of Namibia unless the number of licences are below the prescribed maximum number of licences.

42. Disqualification for licences other than key employee licence

A person may not be issued with a licence, other than the key employee licence, if the person -

- (a) is a minor;
- (b) is listed in the register of restricted persons in accordance with section 77(8);
- (c) has been convicted of an offence under this Act and within a period of five years after that conviction is convicted of an offence under this Act;
- (d) has at any time during the period of 10 years preceding his or her application been convicted, in Namibia or elsewhere, of -
 - (i) an offence of which dishonesty is an element;
 - (i) an offence under the Prevention of Organised Crime Act;
 - (ii) an offence under the Anti-Corruption Act;
 - (iii) an offence under the Financial Intelligence Act; or
 - (iv) any computer or computer software related offence in terms of this Act or any other law;
- (e) has been removed from an office of trust on account of misconduct relating to fraud or the misappropriation of money;
- (f) is not a fit and proper person to be involved in the gambling business;
- (g) is an unrehabilitated insolvent;
- (h) is declared mentally ill by a competent court; or
- (i) is a body corporate, partnership, trust or an association of persons of which a director, member or partner is disqualified in terms of paragraphs (a) to (h).

43. Disqualification for key employee licence

A person may not be issued with a key employee licence if the person -

- (a) is a minor;
- (b) is a staff member, judicial officer or political office-bearer;
- (c) is listed in the register of restricted persons in accordance with section 77(8);
- (d) has at any time during the period of 10 years preceding his or her application been convicted, in Namibia or elsewhere, of -
 - (i) an offence of which dishonesty is an element;
 - (ii) an offence under the Prevention of Organised Crime Act;
 - (iii) an offence under the Anti-Corruption Act;
 - (iv) an offence under the Financial Intelligence Act; or
 - (v) any computer or computer software related offence in terms of this Act or any other law;
- (e) has been convicted of an offence under this Act and within a period of five years after that conviction is convicted of an offence under this Act;
- (f) has been removed from an office of trust on account of misconduct relating to fraud or the misappropriation of money; or
- (g) is declared mentally ill by a competent court.

Part 2 – Application for licences

44. Application for granting or removal of licence

- (1) A person who intends to obtain a licence and who is not disqualified in terms of section 42 or 43 may apply to the Board for the granting of the licence.
- (2) The holder of a casino licence, gambling house licence, bookmaker licence or a totalizator licence who intends to remove the licence from the licensed premises to any other premises, whether permanently or temporarily, must apply to the Board for the removal of the licence.

45. Application for licences

- (1) An application under section 44 must be -
 - (a) made in the prescribed form;
 - (b) accompanied by proof of the payment of the prescribed application fee;
 - (c) accompanied by the prescribed documents and information; and
 - (d) submitted to the chief executive officer.
- (2) On receipt of an application under subsection (1), other than an application for a key employee licence, the chief executive officer -
 - (a) must immediately -
 - (i) cause a notice of the intended application to be published in the *Gazette* and in a newspaper circulating in the area in which the premises in question is situated or in the case of a manufacturer or supplier licence, the area where the business is to be conducted;

- (ii) deliver to an inspector a copy of the application for the purposes of section 46; and
 - (iii) cause an investigation, as may be prescribed, to be conducted with respect to probity, technical competence, industry competitiveness or any other prescribed matters; and
- (b) may request the applicant to provide additional information or documents as the Board may require.
- (3) If an applicant for an application contemplated in subsection (1) fails or refuses to provide any information which may be required during an investigation conducted in terms of subsection (2)(a)(iii) or after a request is made in terms of subsection (2)(b), the Board may refuse to process the application in which case the application is considered to have lapsed.
- (4) On receipt of an application for a key employee licence, the Board may -
 - (a) cause an investigation to be conducted on matters that may be prescribed to determine the suitability of the applicant to be granted a licence; or
 - (b) request the applicant to provide such additional information or documents as the Board may require.
- (5) If an applicant for a key employee licence fails or refuses to provide any information which may be required during an investigation conducted in terms of subsection (4)(a) or after a request is made in terms of subsection (4)(b), the Board may refuse to process the application in which case the application is considered to have lapsed.
- (6) The applicant for an application contemplated in subsection (1), other than an applicant for a key employee licence, must, in the prescribed manner, pay to the Board expenses incurred in connection with the publication of the notice in terms of subsection (2)(a).

46. Report of inspector

- (1) An inspector must, in respect of every application referred to him or her in terms of section 45(2)(a)(ii), report in writing to the Board whether the premises to which the application relates -
 - (a) complies with standards for gambling premises as contemplated in section 83 and with any other prescribed standards; or
 - (b) if the premises are not yet constructed, equipped or completed, that on the completion of such premises the premises will be suitable for the conducting of the proposed gambling activity.
- (2) An inspector carrying out an inspection in terms of this section must bring to the attention of the Board any matter which in his or her opinion may assist the Board when considering an application under this Act.

47. Objections

- (1) A person who intends to object to an application made under section 44 may, within 21 days after the publication of the notice of the application in the Gazette in accordance with section 45(2)(a)(i), lodge with the chief executive officer in writing an objection in the prescribed manner.
- (2) The chief executive officer must immediately notify the person who made an application under section 44 of an objection lodged under subsection (1) and invite the person to reply to the objection, if he or she so chooses, within a period of 14 days from the date of the notification.

48. Consideration of application by Board

- (1) The Board must consider an application contemplated in section 44(1) or (2) at a meeting of the Board.

- (2) The applicant contemplated in section 44(1) or (2) and a person who has lodged an objection under section 47 may appear before the Board and be heard either personally, through his or her legal practitioner or any other person of his or her choice.
- (3) In considering an application under this section, the Board must take into account an objection and a reply made under section 47 as well as the matters set out in sections 49, 50 and 51.

49. Economic and social development issues to be considered

When considering an application for a licence, other than a key employee licence, or an application for the removal of a licence contemplated in section 44(2), the Board -

- (a) must consider any commitment made by the applicant in relation to -
 - (i) the promotion of economic empowerment of previously economically and socially disadvantaged persons in Namibia; or
 - (ii) combating the incidence of addictive and compulsive gambling and gambling activity;
- (b) must consider the potential socio-economic impact of the proposed gambling activity in particular whether there is a need or demand for the gambling activity to be conducted in terms of the proposed licence; and
- (c) may impose reasonable and justifiable conditions on the licence to the extent necessary to address the matters referred to in paragraphs (a) and (b) .

50. Competition issues to be considered

When considering an application for a licence, other than an a key employee licence, or an application for the removal of a licence as contemplated in section 44(2), the Board must consider whether the approval of the application is likely to affect competition in the gambling industry generally or in respect of the proposed activity -

- (a) within a region or a part of Namibia where the licence is to be used; or
- (b) within Namibia as a whole.

51. Anti-money laundering issues to be considered

When considering an application for a licence, other than a key employee licence, or an application for the removal of a licence as contemplated in section 44(2), the Board must consider whether the applicant has or will put measures in place to combat money laundering as required by Part IV of the Financial Intelligence Act -

- (a) within the region or part of Namibia where the licence is to be used; or
- (b) within Namibia as a whole.

52. Board to decide on applications

- (1) After considering an application contemplated in section 44(1) or (2), the Board may -
 - (a) grant the licence with or without conditions; or
 - (b) refuse the application and give written reasons for its decision.
- (2) The Board may, after consultation with the Namibian Competition Commission established by section 4 of the Competition Act or the Financial Intelligence Centre established by section 7 of the Financial Intelligence Act, refuse an application if it appears that the granting of the application would be contrary to the objects of -
 - (a) safeguarding and promoting competition as set out in the Competition Act; or

- (b) the Financial Intelligence Act.
- (3) The chief executive officer must immediately, in the prescribed form and manner, inform the applicant of the decision of the Board.
- (4) The Board must make the decision contemplated in subsection (1) within 90 days from the date of receipt of an application for a licence.

53. Issuing of licence

- (1) An applicant for a licence contemplated in section 44(1) or
- (2) must, within 30 days from the date on which the application has been granted or such longer period as the Board may in a particular case approve, pay to the Board the prescribed fees in respect of the licence, failing which the granting of the application lapses.
- (2) The chief executive officer must on receipt of the prescribed fees payable under (1) -
 - (a) in the case the licence granted, issue to the applicant the licence in question; or
 - (b) in the case of removal of a licence under section 44(2), issue to the licence holder a removal certificate.

54. Contents of licence

A licence issued in terms of this Act must -

- (a) specify the name of a licence holder;
- (b) specify the activities that the licence holder may engage in, conduct or make available to the public;
- (c) except for a key employee licence, specify the premises at, in or from which the licence holder is permitted to operate; and
- (d) contain such other matters or information as may be prescribed.

55. Register of licence holders

- (1) The Board must, in the prescribed form and manner, keep a register of every person to whom a licence or a removal certificate has been issued in terms of this Act and the Board must record in the register -
 - (a) the name of the licence holder or removal certificate holder;
 - (b) the type of the licence or removal certificate issued;
 - (c) the date of issue and date of expiry of the licence or removal certificate, if any;
 - (d) activities permitted under a licence or removal certificate;
 - (e) the address of the premises in, on or from which licensed activities may be engaged in, conducted or made available to the public;
 - (f) the particulars of every person who holds at least five percent of the financial interest in a licensed business; and
 - (g) any other information or matter as may be prescribed.
- (2) The Board must, at the request of an authority referred to in section 6(2)(h), provide a copy of the prescribed information in its possession concerning a licence holder, a restricted person or an applicant for a licence.

56. Duration of licence

- (1) Subject to sections 57 and 59 -
 - (a) a casino licence is valid for 50 years from the date of issue, subject to payment of annual fees;
 - (b) a gambling house licence, bookmaker licence and totalizator licence is valid for 25 years from the date of issue, subject to payment of annual fees; and
 - (c) any other licences issued under this Act is valid for a period of one year, unless the Board, when granting the application specifies on the licence the duration of the licence.
- (2) A licence is valid until the -
 - (a) date on which the licence holder surrenders the licence as contemplated under section 60;
 - (b) date on which the licence is withdrawn under section 59;
 - (c) licence holder becomes subject to any of the disqualifications referred to in -
 - (i) section 42(b) to (i), in the case of licences other than a key employee licence; or
 - (ii) section 43(b) to (g), in the case of a key employee licence.

57. Provisions in respect of existing licences

Despite section 56 -

- (a) a casino licence issued under the Casinos and Gambling Houses Act, 1994 (Act [No. 32 of 1994](#)) is regarded to have been issued under the corresponding provisions of this Act and the 50 years period referred to in section 56(1)(a) is counted as from the commencement date of this Act; and
- (b) a gambling house licence, bookmaker licence or totalizator licence issued under the Casinos and Gambling Houses Act, 1994 (Act [No. 32 of 1994](#)) is regarded to have been issued under the corresponding provisions of this Act and the 25 years period referred to in section 56(1)(b) is counted as from the commencement date of this Act.

58. Renewal of licences

- (1) On expiry of a licence, the Board may renew a licence for such further period not exceeding the duration period of such licence set out in section 56 and the renewal may be granted with or without conditions.
- (2) An application for the renewal of a licence must be submitted to the Board in the prescribed form and manner within the prescribed period before the date of expiration of the licence.
- (3) The prescribed period within which an application for renewal of a licence may be made may differ according to the type of licence.

59. Suspension or withdrawal of licences

- (1) The Board may -
 - (a) suspend a licence for a period of time and subject to conditions as the Board may impose; or
 - (b) withdraw a licence from a date as the Board may determine,if the licence holder -
 - (i) contravenes any provision of this Act or fails to comply with any condition imposed on his or her licence;

- (ii) is convicted of an offence in terms of this Act;
 - (iii) or a person acting on his or her behalf -
 - (aa) provides information when making an application under this Act knowing such information to be false or misleading; or
 - (bb) fails to comply with a provision of this Act or a prescribed condition within a reasonable period after he or she had been ordered by the Board to comply with the provision of the Act or with the prescribed conditions;
 - (iv) without prior written consent of the Board, fails to carry out the gambling activity to which the licence relates for a period of three consecutive months;
 - (v) fails to pay any fees, levies or penalties payable in terms of this Act within the prescribed time;
 - (vi) fails to pay out a consideration arising from a gambling activity, bet or wager lawfully made under this Act;
 - (vii) refuses to comply with a condition of a licence or any prescribed condition;
 - (viii) or any person acting on behalf of the licence holder fails to comply with the provisions of the Prevention of Organised Crime Act in as far as that Act applies to the gambling industry; or
 - (ix) contravenes or fails to comply with an obligation of accountable institution in terms of the Financial Intelligence Act in so far as it applies to the gambling industry.
- (2) The Board may not suspend or withdraw a licence under subsection (1) without giving a licence holder concerned an opportunity to be heard either personally or through his or her legal practitioner or a person of his or her choice.
- (3) If a licence is suspended under subsection (1), the licence holder may not exercise any right or privilege conferred by the licence during the period of suspension.
- (4) The Board may at any time revoke a suspension under subsection (1) if the reason for such suspension has been remedied to the satisfaction of the Board.
- (5) If a licence is suspended or withdrawn under subsection (1), the fees or any other amount paid in terms of this Act by the licence holder are not refundable.

60. Surrender of licence

- (1) A licence holder may surrender a licence by giving a written notice to the Board.
- (2) A surrender of the licence referred to in subsection (1) takes effect after the notice is given under that subsection or on a date stated by the licence holder in the notice.

Part 3 – Annual licence fees, levies and penalties

61. Annual licence fees and removal fees

A licence holder must, in the prescribed manner and within a prescribed period, pay to the Board -

- (a) the prescribed annual licence fee;
- (b) the prescribed removal fee in respect of a removal certificate; and
- (c) any other prescribed fees regarding a licence or a removal certificate.

62. Payment of levies on income of casinos and gambling houses

- (1) A holder of a casino licence or a gambling house licence must pay to the Board a levy on the income derived from the conducting of the casino or gambling house business.
- (2) The levy referred to in subsection (1) is calculated on the basis and at the rate as may be prescribed and is payable in the manner and before the prescribed date.

63. Payment of certain moneys by holders of totalizator licence

- (1) A holder of a totalizator licence must, in the prescribed manner, pay to the Board -
 - (a) any takings which are undistributed, for any reason, after the expiry of two months but not later than four months from the date on which the prescribed event to which the takings relate took place; and
 - (b) all dividends which have not been claimed within a period of two months after the dividends were declared, less any levy payable in terms of section 64(1) on undistributed takings and unclaimed dividends.
- (2) The undistributed takings and unclaimed dividends referred to in subsection (1) must be paid to the Board in the prescribed manner.

64. Payment of levies by holders of totalizator licences

- (1) The holder of a totalizator licence must, in respect of the totalizator operated by him or her, pay to the Board a levy calculated at the prescribed percentage of the gross takings of the totalizator or a prescribed portion of such takings during the prescribed period.
- (2) The holder of a totalizator licence must within the period contemplated in subsection (3), submit to the Board a sworn statement, in the form and manner determined by the Board, in respect of the totalizator which is operated by the holder in which -
 - (a) the gross takings contemplated in subsection (1); and
 - (b) any takings and dividends which have remained undistributed and unclaimed, for any prescribed period,are shown or if there are no such gross takings, undistributed takings or unclaimed dividends, such fact must be stated in that statement in respect of betting transactions during that prescribed period or part of that prescribed period.
- (3) The sworn statement referred to in subsection (2) must be submitted within the prescribed period and -
 - (a) any takings and dividends which have remained undistributed and unclaimed for a period of not less than the prescribed period; and
 - (b) the levy payable in terms of subsection (1),must be paid simultaneously with the submission of the sworn statement.

65. Payment of levies by holders of bookmaker licences

- (1) Subject to subsection (2) and (3), the bookmaker must deduct a prescribed levy from an amount won by a player.
- (2) If a bet is placed by a bookmaker with any other bookmaker or on a totalizator, whether inside or outside Namibia, on a prescribed event by using moneys staked with the first mentioned bookmaker in respect of that event, the levy referred to in subsection (1) must, subject to subsection (3), be

deducted by the first mentioned bookmaker from the amount payable by the other bookmaker or totalizator to the first mentioned bookmaker.

- (3) The amounts payable by a bookmaker in terms of subsection (1) or (2), do not include an amount of money placed or staked with that bookmaker by players or participants in the game.
- (4) A bookmaker who is liable to deduct the prescribed levy referred to in subsection (1) or (2) from an amount won and payable to a person must deduct that levy from the amount before paying the amount to the person.
- (5) A bookmaker must, within the prescribed period, pay to the Board the levy contemplated in subsection (1) and (2) in respect of all betting transactions entered into during a prescribed period.
- (6) The payment referred to in subsection (5) must be accompanied by a sworn statement in the form and manner determined by the Board and must contain such information in respect of betting transactions as may be prescribed.

66. Penalties for late payment

The Minister may prescribe the penalties payable to the Board by a licence holder who fails to pay, within the specified period, any amount due in terms of this Act.

67. Keeping of books, accounts and records

A licence holder, other than a holder of a testing agent licence or a key employee licence, must keep -

- (a) such books, accounts and records as may be prescribed; and
- (b) in so far as such books, accounts and records are not prescribed under paragraph (a), the licence holder must keep such books, accounts and records as may be determined by the Board.

68. Furnishing of particulars of bank accounts

- (1) A licence holder must, when requested by the Board, in writing notify the Board of the banking institution and the office or branch office where the licence holder has opened or holds a banking account pertaining to the gambling business in respect of which the licence has been issued and must provide the Board with a bank statement or other sufficient evidence of the state of the account of the business and any other particulars required by the Board.
- (2) If a licence holder, when requested in terms of subsection (1), refuses or fails to provide bank statement or provides insufficient bank statement the Board may in writing direct the manager of any office or branch where the account has been opened or is held, to provide the Board with a bank statement or other sufficient evidence of the state of the account and any other particulars required by the Board.

Chapter 6

PROVISIONS RELATING TO CONDUCTING OF GAMBLING ACTIVITIES

Part 1 – Prohibited gambling

69. Gambling in relation to illegal activities prohibited

- (1) Despite any other law, a person may not -
 - (a) engage in, conduct or make available a gambling activity if the outcome of that activity depends directly, indirectly, partly or entirely on a contingency related to an event or activity that is itself unlawful in terms of any law;

- (b) permit a gambling machine or device under the control of the person to be used for the purposes of a gambling activity contemplated in paragraph (a);
 - (c) maintain or operate premises, whether or not such premises is a licensed premises, for the purposes of gambling activity contemplated in paragraph (a); or
 - (d) permit premises under the control of the person, whether or not the premises is licensed premises, to be used for the purposes of gambling activity contemplated in paragraph (a).
- (2) A person who contravenes or fails to comply with subsection (1) commits an offence and on conviction is liable to a fine not exceeding N\$50 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.

70. Unlicensed gambling activities prohibited

- (1) Despite any other law, a person may not engage in, conduct or make available a gambling activity other than -
- (a) a gambling activity in respect of which a licence is or has been issued under this Act; or
 - (b) an amusement game prescribed under section 32 of this Act.
- (2) A person who contravenes or fails to comply with subsection (1) commits an offence and on conviction is liable to a fine not exceeding N\$50 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.

71. Unlicensed dealing in gambling machines prohibited

- (1) Despite any other law, a person may not -
- (a) except to the extent contemplated in section 87(4), import, manufacture, supply, sell, lease, make available or alter a gambling machine or maintain a gambling machine unless the person is authorised to do so in terms of this Act;
 - (b) possess or make available for play a gambling machine for use in a gambling activity unless such a person is the owner of the gambling machine or possession of the machine has been given to the person under section 87.
- (2) The Minister may prescribe categories of gambling machines that are exempted from the application of subsection (1).
- (3) A person who contravenes or fails to comply with subsection (1) commits an offence and on conviction is liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.

72. Unlicensed use of premises prohibited

- (1) Despite any other law, a person may not -
- (a) maintain or operate premises for purposes of a gambling activity on the premises, unless the gambling activity in, on or from the premises is licenced in terms of this Act; or
 - (b) permit premises under the control of the person to be used for the purposes of a gambling activity, unless the gambling activity in, on or from the premises is licenced in terms of this Act.
- (2) A person must in the prescribed form and manner notify the Board, if the person -
- (a) owns, maintains, operates or has control over premises used for gambling activity or a gambling machine; and

- (b) believes or has reason to believe that the premises or a gambling machine referred to in paragraph (a), is being or has been used without the permission of the person for any purpose that is unlawful in terms of this section or section 69, 70 or 71.
- (3) A person who contravenes or fails to comply with subsection (1) or (2) commits an offence and on conviction is liable to a fine not exceeding N\$50 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.

73. Unauthorised online gaming prohibited

- (1) A person may not engage in or make available an online game, except as authorised in terms of this Act.
- (2) For the purposes of subsection (1), the Minister may prescribe -
 - (a) the online games that may not be made available for play under this Act without an online game licence;
 - (b) the form and manner in which the licence referred to in paragraph (a) may be obtained;
 - (c) the duration of the licence referred to in paragraph (a); and
 - (d) the manner in which the licence referred to in paragraph (a) may be withdrawn or suspended.

74. Protection of minors

- (1) A minor may not -
 - (a) enter a designated area;
 - (b) maintain or operate a gambling machine;
 - (c) conduct or make available a gambling activity;
 - (d) engage in a gambling activity, other than an amusement game;
 - (e) falsely claim to have attained the of age of 18 year in order to -
 - (i) gain access to a designated area;
 - (ii) gain access to a gambling machine; or
 - (iii) engage in, conduct or make available a gambling activity.
- (2) A licence holder or a person in control of licensed premises or a gambling machine may not permit a minor to -
 - (a) enter a designated area;
 - (b) maintain or operate the gambling machine;
 - (c) conduct or make available a gambling activity within a licensed premises; or
 - (d) engage in a gambling activity, other than an amusement game, within a licensed premises.
- (3) A person referred to in subsection (2) must take reasonable measures to determine whether or not a person is a minor before permitting the person to do anything contemplated in that subsection.
- (4) A person who contravenes or fails to comply with any provision of this section commits an offence and on conviction is liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

Part 2 – Provisions relating to gambling

75. Regional offices

The Board must establish regional offices for purposes of -

- (a) receiving applications made in terms of this Act;
- (b) receiving any money payable to the Board in terms of this Act; and
- (c) ensuring that the objects of this Act are achieved.

76. Granting of credit for gambling prohibited

- (1) A licence holder may not, either direct or indirect, give credit to a person for the purposes of gambling.
- (2) A person who contravenes or fails to comply with subsection (1) commits an offence and on conviction is liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

77. Restricted persons

- (1) A person may apply to the Board, in the prescribed form and manner, to be registered as a restricted person and for his or her name to be entered in the register of persons restricted from engaging in a gambling activity.
- (2) A person who is registered as a restricted person under subsection (1) may apply to the Board, in the prescribed form and manner, for the Board to cancel his or her registration as a restricted person and for his or her name to be removed from the register referred to in that subsection.
- (3) An application made under subsection (1) or (2) take effect on the prescribed date.
- (4) A person may apply to a court to register any of the following persons as restricted persons -
 - (a) a family member;
 - (b) a person on whom the applicant is economically dependent in whole or in part;
 - (c) a person who is declared mentally ill by a competent court; or
 - (d) any other person to whom the applicant has a duty of care and whose behaviour manifests symptoms of addictive or compulsive gambling.
- (5) If the court contemplated in subsection (4) considers it reasonable and just for a person to be registered as a restricted person, the court may order the Board to register the person as a restricted person and his or her name to be entered in the register referred to in subsection (1).
- (6) A restricted person, to whom an order referred to in subsection (5) has been made, may at any time apply to the court contemplated in that subsection for the court to set aside the order and the court may grant or refuse the application -
 - (a) after considering the grounds for making the original order;
 - (b) after considering any new evidence before it; and
 - (c) if the court is satisfied that it is no longer reasonable and just to prevent the person from engaging in a gambling activity.
- (7) Despite subsection (6), the name of a person contemplated in that subsection remains on the register referred to in subsection (8) for a period of 24 months.

- (8) The Board must -
 - (a) in the prescribed form and manner, establish and maintain a register of persons registered as restricted persons; and
 - (b) make the information in the register available to every licence holder on a regular basis.
- (9) The Board may not charge a fee for a person to be registered as a restricted person.
- (10) The Minister may prescribe the -
 - (a) manner, form and procedure for the -
 - (i) registration of persons as restricted persons;
 - (ii) cancellation of registered persons as restricted persons; or
 - (iii) register of restricted persons;
 - (b) fees to access the register of restricted persons by any other person other than a licence holder or a person referred to under subsection (4); or
 - (c) measures to be employed by licence holders in giving effect to subsections (11) and (12).
- (11) A licence holder or person in control of licensed premises or a gambling machine may not knowingly permit a restricted person to -
 - (a) enter a designated area;
 - (b) maintain or operate a gambling machine;
 - (c) conduct or make available a gambling activity; or
 - (d) engage in a gambling activity.
- (12) A person referred to in subsection (11) -
 - (a) must take the prescribed measures to determine whether or not a person is a restricted person before permitting the person to do anything contemplated in that subsection; and
 - (b) is not liable under this Act or under civil or criminal law for admitting a restricted person if he or she has taken the prescribed measures.
- (13) A licence holder must -
 - (a) at his or her licensed premises have -
 - (i) the prescribed form for the registration of a person as a restricted person under subsection (1); and
 - (ii) a directory of local recognised counselling, treatment or education services addressing the problems of compulsive and addictive gambling;
 - (b) in the prescribed form and manner, post in a conspicuous manner a notice at the entrance of the premises, advertising the availability of the forms and directory referred to in paragraph (a).
- (14) A person who contravenes or fails to comply with subsection (11), (12) or (13) commits an offence and on conviction is liable to a fine not exceeding N\$50 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.

78. Rules of games

- (1) A licence holder must -
 - (a) at the request of a customer make available for examination a copy of the rules of gambling in respect of a particular game or gambling machine;
 - (b) display prominently within the licensed premises information concerning gambling rules, mode of payment of winning bets or wagers, the odds of winning for each bet or wager and such other prescribed information to the players; and
 - (c) display, at each gambling table or other location related to the playing of a game, a sign indicating the permissible minimum and maximum bets or wagers pertaining to the game played at the table or location.
- (2) A person who contravenes or fails to comply with subsection (1) commits an offence and on conviction is liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

79. Restrictions on advertising and promotion of gambling activities and granting of discounts

- (1) In this section “discounted price” means a price charged by a licence holder for any goods or services that is significantly below the prevailing fair market price for similar goods or services provided in the ordinary course of business by a person who is not a licence holder in terms of this Act.
- (2) A person may not advertise or promote -
 - (a) a gambling or gambling activity -
 - (i) in a false or misleading manner; or
 - (ii) that is unlawful in terms of this Act; or
 - (b) a gambling activity, other than an amusement game, in a manner intended to attract minors.
- (3) An advertisement of a gambling machine, a gambling activity or licensed premises at which a gambling activity is available -
 - (a) must include a statement, in the prescribed form and manner, warning the public against the dangers of addictive and compulsive gambling; and
 - (b) may not include an element that directly or indirectly promotes or encourages the removal of a person from the register of restricted persons.
- (4) A person may not advertise or promote a gambling or related activity as being available to the public free of charge or at a discounted price as an inducement for gambling.
- (5) A person who contravenes or fails to comply subsection (2), (3) or (4) commits an offence and on conviction is liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.
- (6) The Minister may by regulation exempt a specific type of advertisement or advertising media from the application of this section if the Minister is satisfied that the advertisement does not target the general public.

80. Enforceability of gambling debts and forfeiture of unlawful winnings

- (1) Despite any provision of the common law or any other law, a debt incurred -
 - (a) by a person, other than a restricted person or a minor, in the course of a gambling activity in respect of which a licence is issued under this Act is enforceable in law;
 - (b) by a person, other than a restricted person or a minor, in the course of a gambling activity that is lawful but not required to be licensed under this Act is enforceable in law only to the extent that it is enforceable in terms of the common law or any other law;
 - (c) by a person in the course of a gambling activity that is unlawful in terms of this Act is not enforceable in law; or
 - (d) in the course of a gambling activity by a minor or restricted person is not enforceable in law.
- (2) A person may not pay a winning from a gambling activity to -
 - (a) a person who is a minor;
 - (b) a restricted person; or
 - (c) any other person who has won the winning in an unlawful gambling activity under this Act.
- (3) If a person referred to in paragraph (a) to (c) of subsection (2) has won a winning from a gambling activity, the person who is prevented from paying a winning in terms of that subsection must, in the prescribed form and manner, remit the winning to the Board and the Board must hold the winning in trust pending the decision in terms of subsection (4).
- (4) On receiving a winning under subsection (3), the Board must investigate the circumstances of the gambling activity which lead to such winning and the Board may -
 - (a) deliver the winning to a person who has won the winning, if the Board is satisfied that -
 - (i) the person has attained the age of 18 at the time of winning;
 - (ii) the person was not a restricted person at the time of winning; or
 - (iii) the gambling activity was lawful at the time of winning; or
 - (b) apply to the High Court for an order declaring the winning as forfeited to the State if the person is not entitled to such winning under subsection (2) .
- (5) A person who contravenes or fails to comply with subsection (2) or (3) commits an offence and on conviction is liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

81. Financial control in business of licence holder

- (1) A licence holder may not, without the written authority of the Minister granted on recommendation of the Board, allow any other person to have financial control in the business to which his or her licence relates or to become a partner in the business or to share in the profit of the business.
- (2) An application for the authority of the Minister under subsection (1) must -
 - (a) be in the prescribed form and manner;
 - (b) be accompanied by the prescribed documents and information; and
 - (c) be accompanied by the prescribed application fee.
- (3) If a person has under subsection (1) been granted authority to have a financial control in the business of a licence holder or to become a partner in the business or to share in the profit of the

business of the licence holder, the person and the licence holder are jointly and severally liable for the payment of any money, fee or levy referred to in sections 62, 63, 64 or 65.

- (4) A person who fails to comply with subsection (1) or (3) commits an offence and on conviction is liable to a fine not exceeding N\$50 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.

82. Foreign betting transactions

- (1) The Minister may prescribe the conditions which apply to a transaction between the licence holder and a bookmaker who carries on business outside Namibia or a totalizator operating outside Namibia.
- (2) A person who contravenes or fails to comply with the prescribed conditions under subsection (1) commits an offence and on conviction is liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

Chapter 7

GAMBLING PREMISES AND GAMBLING MACHINES

Part 1 – Gambling premises

83. Standards for gambling premises

- (1) A licence holder must comply with the prescribed standards for the design, use and maintenance of the licensed premises in which gambling activities take place.
- (2) The Minister may prescribe the standards and requirements with which the premises must comply with before the premises may be licensed or continue to be licensed in terms of this Act.
- (3) A person who contravenes or fails to comply with subsection (1) commits an offence and on conviction is liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

Part 2 – Gambling machines

84. Identification of gambling machines

- (1) A manufacturer or supplier of gambling machines must, in the prescribed form, keep a record of every gambling machine that the manufacturer or supplier acquires, manufactures, sells or otherwise distributes.
- (2) A manufacturer or supplier of a gambling machine manufactured in or imported into Namibia must incorporate into the design of the machine an identification mechanism that permanently identifies -
 - (a) the name of the manufacturer or supplier;
 - (b) a unique serial number of the machine; and
 - (c) the date of manufacture of the machine.
- (3) A person may not remove, alter, disfigure, obscure or destroy an identification mechanism referred to in subsection (2).
- (4) A person who contravenes or fails to comply with any provision of this section commits an offence and on conviction is liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

85. Register of gambling machines

- (1) The Board must -
 - (a) establish and maintain, in the prescribed form and manner, a register of every gambling machine manufactured within or imported into Namibia;
 - (b) assign a permanent and unique registration number for each gambling machine, which number is correlated to -
 - (i) the name of the manufacturer or supplier of the machine;
 - (ii) the date of manufacture or importation of the machine; and
 - (iii) the unique serial number assigned to the machine by the manufacturer or supplier;
 - (c) for each gambling machine record the name, licence number and other prescribed particulars of -
 - (i) the registered owner; and
 - (ii) any other person who has leased the machine or to whom registered possession of the machine has been transferred.
- (2) If a gambling machine is networked with other machines or systems, each machine in that network is considered to be a separate gambling machine for the purpose of this Act.

86. Importers or manufacturers to register gambling machines

- (1) A person who manufactures within, or imports into, Namibia a gambling machine must register the gambling machine by providing the information required in terms of section 84(2) in the prescribed form and manner to the Board.
- (2) The Board may not register a gambling machine unless that type of machine has been certified in accordance with section 89 as complying with the relevant standards for the machine as determined under the Standards Act or any other international standard approved by the Board.
- (3) A person who contravenes or fails to comply with subsection (1) commits an offence and on conviction is liable to a fine not exceeding N\$20 000 or to imprisonment for a period not exceeding four years or to both such fine and such imprisonment.

87. Transfer of ownership or possession of gambling machines

- (1) If a manufacturer or an importer of a gambling machine referred to in section 86(1) or any other person transfers ownership of a gambling machine to any other person -
 - (a) the manufacturer, importer or the person must in the prescribed form and manner notify the Board that ownership of the gambling machine is transferred to another person and must furnish the Board with the prescribed particulars and document; and
 - (b) the person to whom ownership is transferred must in the manner determined by the Board register such gambling machine with the Board.
- (2) A person who intends to lease a gambling machine or give possession of a gambling machine to another person while retaining ownership to the machine must, in the prescribed form and manner, notify the Board that he or she intend to lease or give possession of the gambling machine to any other person.
- (3) An owner of a gambling machine who has repossessed a gambling machine leased or possessed under subsection (2) must notify the Board, in the prescribed form and manner, that the machine has been repossessed.

- (4) A person is not required to notify the Board for the purposes of -
 - (a) transporting the gambling machine from one place to another; or
 - (b) performing essential maintenance work on, or repairing, the gambling machine.
- (5) A person may not transfer ownership, lease or give possession of a gambling machine to another person unless -
 - (a) the person who intends to transfer ownership, lease or give possession of the gambling machine is the registered owner of the gambling machine;
 - (b) the gambling machine has been certified in accordance with section 89 and complies with other requirement of this Act;
 - (c) the person who is to take ownership, lease or take possession of the gambling machine -
 - (i) holds a licence to engage in or conduct gambling or to make available gambling activities that include the operation of the category of gambling machine; or
 - (ii) is otherwise authorised to possess that category of prescribed gambling machines in terms of a licence.
- (6) A person who contravenes or fails to comply with subsection (1), (2), (3) or (5) commits an offence and on conviction is liable to a fine not exceeding N\$20 000 or to imprisonment for a period not exceeding four years or to both such fine and such imprisonment.

88. Licences not to be inherited, transferred or leased

- (1) A licence issued under this Act may not be inherited and a person inheriting a gambling business in respect of which a licence under this Act has been issued must apply to the Board for that person to be issued with a licence.
- (2) A holder of a licence may not transfer or lease the licence to any other person, except that the other person may apply to the Board for a licence to be issued under his or her name.

89. Calibration and certification of gambling machines

- (1) A licensed testing agent must -
 - (a) test and calibrate a gambling machine to determine whether the machine complies with the applicable standard;
 - (b) record all test results; and
 - (c) issue a report of the test results to -
 - (i) the person who requested the certification; and
 - (ii) the Board.
- (2) The Board may request the Namibian Standards Institution established in terms of section 2 of the Standards Act to assess and certify a gambling machine to ensure that the gambling machine complies with the applicable standards.

90. Central electronic monitoring system of gambling machines

- (1) The Board must establish and maintain a central electronic monitoring system capable of -
 - (a) detecting and monitoring significant events associated with a gambling machine or any device associated with the gambling machine that is made available for play in Namibia; and
 - (b) analysing and reporting the data in accordance with the prescribed requirements.

- (2) The Board may contract a person to supply any or all of the products or services required to fulfil its obligations in terms of subsection (1), but the contractor may not be a person who is disqualified in terms of section 42 or 43.
- (3) The Minister may prescribe -
 - (a) standards for -
 - (i) the operation of the central electronic monitoring system;
 - (ii) the collection and analysis of data through the system referred to in subparagraph (i); or
 - (iii) the fitment of an electronic monitoring system to gambling machines;
 - (b) the frequency and nature of reports to be produced by the Board in respect of the operation of the system referred to in paragraph (a); or
 - (c) other matters related to the functioning of the central electronic monitoring system.
- (4) The Board must electronically link all the gambling machines to the central electronic monitoring system and the licence holder must pay to the Board or to the person contracted under subsection (2) the installation and related costs in relation to the gambling machine.
- (5) The Board must ensure that the central electronic monitoring system established under subsection (1) allows a licence holder of each gambling machine linked to the system access to prescribed data on the system that originated from that machine.
- (6) The Minister may by regulation exempt a gambling machine or categories of gambling machines from the provisions of this section.

91. Transitional provisions in relation to gambling machines

- (1) Subject to this Act, a person who at the commencement of this Act has in his or her possession a gambling machine which is required to be registered or to be linked to the central electronic monitoring system in terms of this Part must, in the prescribed manner, register the gambling machine and link the gambling machine to the central electronic system within a period of six months after the commencement date of this Act or within such further period not exceeding 12 months as may be determined by the Board.
- (2) A person who refuses or fails to comply with subsection (1) commits an offence and on conviction is liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

Chapter 8 OFFENCES

92. Offence relating to gambling games

A person commits an offence, if the person -

- (a) in a licensed premises -
 - (i) conducts a gambling activity or keeps a gambling machine which is not registered under this Act;
 - (ii) keeps a gambling machine which is not linked to the central electronic monitoring system;
 - (iii) conducts a prescribed activity contrary to the rules of such gambling activity; or
 - (iv) keeps a gambling machine in excess of the number specified in the licence issued; or

- (b) uses a counterfeit chip or contravenes the rules of a game or interferes with a gambling machine or any other device used for gambling with the intention of obtaining a pecuniary advantage, directly or indirectly, whether for himself or herself or for any other person,

and on conviction is liable to a fine not exceeding N\$50 000 or to imprisonment for a period not exceeding 10 years or to both such fine and such imprisonment.

93. Fraudulent acts in relation to gambling activities

A person commits an offence, if the person -

- (a) alters or misrepresents the outcome of a gambling game or other event on which bets or wagers have been made after the outcome is made sure, but before it is revealed to the players;
- (b) places, increases or decreases a bet or wager or determines the course of play after acquiring knowledge, not available to all players, of the outcome of the gambling game or any event that affects the outcome of the game or which is subject of the bet or wager or aids a person in acquiring such knowledge for the purpose of placing, increasing or decreasing a bet or wager or determining the course of play contingent upon that event or outcome;
- (c) claims, collects or takes or attempts to claim, collect or take money or anything of value in or from a gambling activity with the intent to defraud and without having made a bet or a wager contingent thereon or claims, collects or takes an amount greater than the amount that was won;
- (d) places or increases a bet or a wager after acquiring knowledge of the outcome of the game or other event which is subject of the bet or wager;
- (e) reduces the amount betted or wagered or cancels a bet or a wager after acquiring knowledge of the outcome of the game or other event which is the subject of the bet or wager; or
- (f) manipulates, with the intent to cheat, a component of a gambling machine in a manner contrary to the designed and normal operational purpose of the component, including but not limited to, varying the pull of a handle of a slot machine, with knowledge that the manipulation affects the outcome of the game or with knowledge of any event that affects the outcome of the game,

and on conviction is liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

94. Offences relating to possession of unlawful devices

A person commits an offence, if the person in a licensed premises, uses or possess with the intent to use a device to assist -

- (a) in projecting the outcome of a gambling game;
- (b) in keeping track of the cards played; or
- (c) in analysing the strategy for playing or betting to be used in the gambling game,

and on conviction is liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

95. Offences relating to employing unlicensed employees

A person commits an offence, if the person -

- (a) employs a person who is required to be licensed but who is not licensed in terms of this Act; or
- (b) without first obtaining the required licence, is employed or works in the gambling industry,

and on conviction is liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

96. Offence relating to betting on premises not specified in licence

A licence holder who conducts a gambling activity on premises other than the premises specified in the licence commits an offence and on conviction is liable to a fine not exceeding N\$10 000 or imprisonment not exceeding two years or to both such fine and such imprisonment.

97. Offences relating to failure to pay winnings

A person who refuses or fails, without a reasonable cause, to pay the prize won by a person from a gambling activity licenced under this Act commits an offence and on conviction is liable to a fine not exceeding N\$10 000 or imprisonment not exceeding two years or to both such fine and such imprisonment.

98. Offence relating to furnishing of false information

A person who intentionally or negligently furnishes false or misleading information required by or under any provision of this Act commits an offence and on conviction is liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

99. Offences relating to inspectors

A person commits an offence, if the person -

- (a) falsely represents himself or herself to be an inspector;
- (b) obstructs, hinders or delays an inspector or a person lawfully accompanying an inspector in the performance of his or her functions under this Act; or
- (c) without the consent in writing of an inspector, removes an item seized by the inspector from the place where the item has been left by the inspector or tampers with, destroys or makes alterations to the item seized by the inspector in the performance of his or her functions,

and on conviction is liable to a fine not exceeding N\$20 000 or to imprisonment for a period not exceeding four years or to both such fine and such imprisonment.

Chapter 9

ENQUIRIES BY BOARD AND APPEALS

100. Enquiries by Board

- (1) The Board may, in accordance with the provisions of this section, conduct an enquiry into a matter falling within the scope of its powers and functions.
- (2) For the purpose of an enquiry referred to in subsection (1) the Board may, by registered letter signed by the chairperson of the Board, summon or subpoena a person to appear before the Board -
 - (a) to give evidence in connection with a matter; or
 - (b) to produce a book, document or thing,which may, in the opinion of the Board, be relevant to the enquiry.
- (3) The Board may call and examine a person present at the enquiry, whether or not he or she has been summoned or subpoenaed under subsection (2), and may inspect and retain for a reasonable period a book, document or thing produced under that subsection.
- (4) The law relating to privilege as applicable to a person subpoenaed to give evidence or to produce a book, document or thing before a court of law applies in relation to the examination of a person or the production of a book, document or thing under subsection (2) or (3).

- (5) The Board may require a person appearing at an enquiry under subsection (1) to give evidence under oath or affirmation and the member of the Board presiding at the enquiry may administer the oath or accept an affirmation from the person.
- (6) A person who has been subpoenaed to appear at an enquiry is entitled to receive witness fees as if the person is subpoenaed to attend a criminal trial in a magistrates court.
- (7) A person who is summoned to appear at enquiry before the Board is entitled to be represented by his or her legal practitioner or any other person of his or her choice.
- (8) A person commits an offence, if the person -
 - (a) after having been subpoenaed to give evidence or summoned to appear at an enquiry fails to attend the enquiry, at the time and place specified in the subpoena or summons or to remain in attendance until he or she is excused by the Board;
 - (b) fails to produce a book, document or thing in his or her possession or custody or under his or her control without sufficient cause;
 - (c) after having been called under subsection (3), refuses to take an oath or to make an affirmation after he or she has been directed by the member of the Board presiding at the enquiry to do so, or refuses or fails to testify or to answer fully and satisfactorily to the best of his or her knowledge and belief a question lawfully put to him or her without sufficient cause; or
 - (d) gives false evidence at the enquiry knowing such evidence to be false,and on conviction is liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.

101. Appeals to Minister

- (1) A person who is aggrieved by a decision made or a refusal or failure to make a decision by the Board in relation to any matter under this Act may appeal to the Minister.
- (2) An appeal referred to in subsection (1) must be made in the prescribed form and manner and within the prescribed period.
- (3) An appeal referred to in subsection (1) must -
 - (a) set out in details grounds for the appeal;
 - (b) set out relief sought by the appellant; and
 - (c) be accompanied by the prescribed fees.

102. Appeals to Court

- (1) A person or the Board who is aggrieved by a decision of the Minister made under section 101 may appeal to the High Court against the decision.
- (2) An appeal against the decision made under subsection (1) must be made, in the prescribed form and manner, within a period of 30 days after the date upon which the decision appealed against was made known the person referred to in that subsection.

Chapter 10

GENERAL PROVISIONS

103. Confidentiality

- (1) A member of the Board, committee or a person co-opted by the Board or the Committee, a staff member, an inspector or any other person who has acquired information in the performance of his or her functions under this Act may not disclose such information to a person, except -
 - (a) for the purpose of performing his or her functions or exercising his or her powers under this Act; or
 - (b) when required to do so by a court of law or under any law.
- (2) A person who contravenes subsection (1) commits an offence and on conviction is liable to a fine not exceeding N\$50 000 or to imprisonment for a period not exceeding eight years or to both such fine and such imprisonment.

104. Forfeiture

A court convicting a person of contravening a provision of this Act may declare a gambling machine, object or thing seized in terms of section 19 and which had been used in connection with such contravention to be forfeited to the State.

105. Jurisdiction of magistrates courts

Despite anything to the contrary contained in any law, a magistrate's court has jurisdiction to try an offence under this Act and to impose a penalty prescribed by this Act.

106. Delegation of powers and assignment of functions

- (1) The Minister may, in writing and on such conditions as the Minister may determine, delegate a power or assign a function conferred or imposed on the Minister by or under this Act to a staff member of the Ministry, other than the power to -
 - (a) appoint members of the Board under section 7;
 - (b) determine an appeal under section 101;
 - (c) issue notices under this Act; or
 - (d) to make regulations under section 108.
- (2) The Board, in writing and on such conditions as it may determine, may delegate a power or assign a function conferred or imposed on the Board by or under this Act to a committee, the chief executive officer or any staff member of the Board, other than the power to -
 - (a) issue licences under this Act;
 - (b) establish a committee under section 13; or
 - (c) appoint the chief executive officer under section 16.
- (3) The chief executive officer, in writing and on such conditions as he or she may determine, may delegate or assign a power or function conferred or imposed on the chief executive officer by or under this Act to any staff member of the Board, except the power to appoint staff members of the Board under section 17.

- (4) The Minister, the Board or the chief executive officer -
 - (a) is not divested of a power delegated or function assigned under this section;
 - (b) may, at any time, without prejudice of a right, amend or withdraw a decision made by virtue of the power so delegated.

107. Limitation of liability

The Board, a member of the Board or committee, a staff member, an inspector or any other person engaged by the Board in connection with a function or power of the Board is not personally liable for damage or loss arising out of an act or omission committed in good faith by such person while exercising or performing the powers or functions in terms of this Act, except if such damage or loss is caused as a result of the gross negligence or dishonesty conduct by such person.

108. Regulations

- (1) The Minister may make regulations, not inconsistent with the provisions of this Act, relating to -
 - (a) the books, accounts, records and notes which must be kept by the licence holders, the particulars to be recorded in the books, records and notes and the inspection of the books, accounts, records and notes;
 - (b) the form and manner in which an application or objection under this Act may be made and the documents, information or particulars which must accompany the application;
 - (c) the fees which are payable in respect of -
 - (i) an application;
 - (ii) the issue of a licence;
 - (iii) the removal of a licence,in terms of this Act and the period within which the fees are to be paid;
 - (d) the annual fees payable in respect of a licence;
 - (e) penalties for late payment of fees, levies or late payment of other moneys payable in terms of this Act;
 - (f) matters and manner on which a spot fine may be issued, the limit for such spot fine and manner of how a spot fine may be recovered;
 - (g) the manner in which licences may be issued or removed;
 - (h) the manner in which registration or transfer of ownership of gambling machines may be effected;
 - (i) the maximum number of gambling machines for which a licence may be granted and issued, which number may differ according to the different types of businesses in respect of which a licence may be granted in terms of this Act;
 - (j) the form of a licence or other documents issued in terms of this Act;
 - (k) the income on which and the basis on and the rate at which the levy imposed by section 64 must be calculated;
 - (l) the percentages on the gross takings or a portion of the gross takings of a totalizator which may be retained as commission and operating expenses by the holder of a totalizator licence;
 - (m) the percentage to be paid as a levy on the gross takings, any portion of such gross taking, of a totalizator licence and the information which must be contained in the sworn statement referred to in section 64(2);

- (n) the percentage to be paid as a levy by the holder of a bookmaker licence in terms of section 65 and the information which must be contained in the sworn statement referred to in subsection (6) of that section;
 - (o) the period within which an amount payable in terms of this Act may be paid;
 - (p) the terms and conditions applicable to a licence;
 - (q) the information and advice pertaining to a game or gambling machine which must be displayed by the licence holder;
 - (r) the online games or amusement games which are permitted or not permitted to be carried on in terms of a licence or which are permitted or not permitted in a licenced premises;
 - (s) the events on which bets or wagers may be made or accepted in terms of this Act;
 - (t) the measures to be taken by licence holders and the conditions which the licence holders must satisfy, for the attainment and maintenance of a satisfactory standard in the conducting of a gambling game;
 - (u) the terms and conditions which apply to foreign betting or wager transactions;
 - (v) the design, standard and specification that premises or a gambling machine must comply with before a licence is issued;
 - (w) the dress code for persons participating in gambling activities;
 - (x) entrance fees to premises where gambling is conducted;
 - (y) limitation and control of advertisements relating to gambling;
 - (z) warnings which must be displayed about the potential dangers of habitual gambling;
 - (aa) maximum prizes which can be won on gambling machines;
 - (ab) prohibition of certain types of entertainment in licensed premises;
 - (ac) the manner of serving documents under this Act; or
 - (ad) generally all other matters which are by this Act required or permitted to be prescribed or which the Minister considers necessary or expedient to be prescribed in order to achieve the objects of this Act.
- (2) A regulations made under this section may provide for the creation of offences and for penalties on contravention of, or a failure to comply with, a regulation not exceeding a fine of N\$20 000 or imprisonment for a period not exceeding four years or to both such fine and such imprisonment.

109. Exemption by Minister

The Minister may by notice in the *Gazette* exempt certain categories of gambling machines, certain persons or certain activities from the application of any or all of the provisions of this Act for a period as may be determined by the Minister.

110. Saving and transitional provisions

- (1) Any regulation or any other thing done under a provision of a repealed law and which could have been made or issued under a corresponding provision of this Act is deemed to have been made or issued under such corresponding provision of this Act.
- (2) Any application for a licence made under a repealed law and not finalised before the commencement date of this Act must be finalised by the Board in accordance with the corresponding provisions of this Act.

- (3) The Minister must as soon as possible after the date on which this Act comes into force, transfer such assets and liabilities to the Board as in his or her opinion are related to the performance of any task that in terms of this Act are performed by the Board.
- (4) A transfer duty, stamp duty or any other duty or tax is not payable in respect of a transfer made under subsection (3).

111. Repeal of laws

The laws set out in the Schedule are repealed.

112. Short title and commencement

- (1) This Act is called the Gaming and Entertainment Control Act, 2018, and comes into operation on a date determined by the Minister by notice in the *Gazette*.
- (2) Different dates may be determined under subsection (1) in respect of different provisions of this Act.

Schedule

REPEAL OF LAWS

Column 1	Column 2	Column 3
No. and year of law	Title	Extent of repeal
51 of 1965	Gambling Act, 1965	Whole
32 of 1994	Casinos and Gambling Houses Act, 1994	Whole
12 of 1995	Casinos and Gambling Houses Amendment Act, 1995	Whole
28 of 1996	Casinos and Gambling Houses Amendment Act, 1996	Whole
5 of 1938	Licensing of Totalizators Ordinance, 1938	Whole
32 of 1952	Licensing of Totalizators Amendment Ordinance, 1952	Whole