

**KWAZULU-NATAL
GAMING AND BETTING AMENDMENT BILL, 2015**

CERTIFIED: 25 March 2015

A handwritten signature in black ink, appearing to read 'MV Serfontein', is centered within a white rectangular box.

Mr MV Serfontein
SENIOR STATE LAW ADVISOR

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments

_____ Words underlined with a solid line indicate insertions in existing enactments

BILL

To amend the KwaZulu-Natal Gaming and Betting Act, 2010, so as to effect textual amendments; to insert new definitions and new provisions; and to provide for matters connected therewith.

BE IT ENACTED by the Provincial Legislature of the Province of KwaZulu-Natal, as follows:-

Amendment of section 1 of Act 8 of 2010

1. Section 1 of the KwaZulu-Natal Gaming and Betting Act, 2010 (Act No. 8 of 2010), hereinafter referred to as the principal Act, is hereby amended –

(a) by the substitution for the definition of “bingo” of the following definition:

““bingo” means a game, **[organised as a group activity, in which multiple players compete against each other, including a game]** whether played in whole or in part by electronic means, traditional means, or otherwise –

(a) **[that is played]** for consideration, using cards or other devices, including devices that depict cards –

(i) that are divided into spaces, each of which bears a different number, picture or symbol; and

(ii) **[with]** such numbers, pictures or symbols being arranged randomly **[such]** so that each card or **[similar]** device contains a unique set of numbers, pictures or symbols;

(b) in which **[an operator or announcer calls or displays]** a series of numbers, pictures or symbols are called or displayed in random order and **[the players match each such number, picture or symbol]** such numbers, pictures or symbols are matched on the card or device as **[it is]** they are called or displayed; and

(c) in which the player **[who]** whose card or device is the first to **[match]**

have all the spaces **[on the card or device]** matched thereon, or **[who matches]** on whose card or device a specified set of numbers, pictures or symbols **[on the card or device]** are matched, wins a prize or prizes, or any other substantially similar game declared to be bingo in accordance with section 6(4)(b) of the National Gambling Act, 2004 (Act No. 7 of 2004);”;

(b) by the insertion after the definition of “bingo licence” of the following definition:

“**bingo seat**” means a gaming position in a bingo hall that is not a gaming position linked to an electronic bingo terminal;”;

(c) the substitution for the definition of “bookmaker” of the following definition:

“**bookmaker**” means a person **[who is]** licensed in terms of section 94, to accept offers or stakes in the process of transacting bets on horse races, sports, sporting events or any other events or contingencies, or on a combination of such horse races, sports, sporting events, other events or contingencies;”;

(d) by the insertion after the definition of “committee” of the following definitions:

“**compulsory specification**” means a compulsory specification as defined in section 1 of the National Regulator for Compulsory Specifications Act, 2008 (Act No. 5 of 2008);

“**conformity assessment**” means a conformity assessment as defined in section 1 of the National Regulator for Compulsory Specifications Act, 2008 (Act No. 5 of 2008);

“**conformity assessment services provider**” means a person that undertakes conformity assessments on behalf of the National Regulator for Compulsory Specifications, in terms of an agreement entered into by such person and the National Regulator for Compulsory Specifications;”;

(e) by the substitution for the definition of “corporate body” of the following definition:

“**corporate body**” means a company registered in terms of the Companies Act **[1973] 2008** (Act No. **[61] 71** of **[1973] 2008**), a partnership, **[or which was formed in pursuance of the Regulation of Racing and Betting Ordinance, 1957 (Ordinance No. 28 of 1957),]** or a close corporation registered in terms of the Close Corporations Act, 1984 (Act No. 69 of 1984);”;

(f) by the substitution for the definition of “financial interest” of the following definition:

“**financial interest**” means –

- (a) a right or entitlement to share in profits or revenue;
- (b) a real right in respect of property of a company, corporation or business;
- (c) a real or personal right in property used by a company, corporation or business; 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; and

(e) does not include –

(i) an indirect interest held in any fund or investment, if the person holding that interest has no control over the investment decisions made in respect of that fund or investment; or

(ii) any entitlement to revenue accruing to a person pursuant to a contract for the supply of goods or services to a licensee or registrant;”;

(g) by the insertion after the definition of “gaming machine” of the following definition:

“**gaming position**” means –

(a) a gaming machine designed for use by a single natural person;

(b) a component of a gaming machine which is designed for use by more than one natural person, and which facilitates participation in gaming by a single natural person;

(c) a component of gaming equipment which facilitates participation in gaming by a single natural person; or

(d) a seat or standing space in licensed premises, which facilitates participation in gaming by a single natural person;”;

(h) by the insertion after the definition of “gaming position” of the following definition:

“**harness racing horse race**” means a horse race in which only standardbred horses may compete, at a trot or pace, either ridden under saddle by a natural person, or driven by a driver aboard a sulky which is pulled by the horse: Provided that a horse race in which any other breed of horse competes at a gallop, a trot or a pace, at a racecourse operated by a licenced harness racing racecourse operator, is deemed to be a harness racing horse race, for the purposes of this Act;”;

(i) by the deletion of the definition of “Horse Racing and Betting Transformation

Fund”;

(j) by the substitution for the definition of “independent site operator” of the following definition:

“**independent site operator**” means a site operator **[who]** that is not linked to a route operator and that is licensed to **[own and]** operate limited payout machines on a **[single]** site **[and is responsible for maintaining the machines, effecting the collection of money and paying the applicable taxes and levies];**”;

(k) by the insertion after the definition of “inspector” of the following definition:

“**letter of authority certificate**” means a certificate issued by the National Regulator for Compulsory Specifications, as contemplated in section 5(2)(f) of the National Regulator for Compulsory Specifications Act, 2008 (Act No. 5 of 2008), which permits commodities or products to be sold or services to be supplied;”;

(l) by the deletion of the definition of “National Horseracing Authority”;

(m) by the insertion after the definition of “National Gambling Act” of the following definition:

“**NRCS**” means the National Regulator for Compulsory Specifications of South Africa established by section 3(1) of the National Regulator for Compulsory Specifications Act, 2008 (Act No. 5 of 2008);”;

(n) by the substitution for the definition of “person” of the following definition:

“**person**” means a natural **[or juristic]** person **[, a group of such persons]** or a corporate body, unless the context indicates a contrary intention;”;

(o) by the substitution for the definition of “publish” of the following definition:

“**publish**” includes, unless the context indicates a contrary intention, to exhibit, circulate, announce or cause to be exhibited or circulated or announced in any manner whatsoever;”;

(p) by the substitution for the definition of “racecourse operator” of the following definition:

“**racecourse operator**” means a corporate body licensed in terms of section 89 **[to hold race meetings at one or more racecourses]** and is a term which refers to the three types of racecourse operator contemplated in section 89(1) of this Act, being –

- (a) the exclusive right racecourse operator as contemplated in section 89(1)(a);
- (b) the standardbred racecourse operator as contemplated in section 89(1)(b); and
- (c) the harness racing racecourse operator as contemplated in section 89(1)(c);”;
- (q) by the substitution for the definition of “registrant” of the following definition:
- “**“registrant”** means a person **[who] that** holds a valid registration certificate or temporary registration certificate issued in terms of this Act;”;
- (r) by the substitution for the definition of “route operator” of the following definition:
- “**“route operator”** means a person **[who] that** is licensed in terms of this Act to provide limited payout machines to site operators and to conduct any other prescribed activities;”;
- (s) by the insertion after the definition of “SABS” of the following definition:
- “**“SANS”** means a South African National Standard approved by the South African Bureau of Standards in accordance with the Standards Act, 2008 (Act No. 8 of 2008);”;
- (t) by the substitution for the definition of “site operator” of the following definition:
- “**“site operator”** means a person **[who] that** is authorised to keep and operate limited payout machines **[on his or her premises]** in terms of a licence issued in accordance with this Act;”;
- (u) by the insertion after the definition of “sports bet” of the following definitions:
- “**“standardbred horse”** means a horse descended from the horse known as Rysdyk's Hambletonian, which was foaled in 1849 in the United States of America and which is considered to be the foundation sire of the breed;”;
- “**“standardbred horse race”** means a harness racing horse race, other than a harness racing horse race, in which only standardbred horses may compete, ridden by a natural person, at a gallop, a trot or a pace: Provided that a horse race in which any other breed of horse competes at a gallop, a trot or a pace, at a racecourse operated by a licenced standardbred racecourse operator, is deemed to be a standardbred horse race, for the purposes of this Act;”;

“**sulky**” means, when used as a noun, a two-wheeled cart, with a single seat for the driver, which is pulled by a standardbred horse in a harness racing horse race.”;

(v) by the insertion after the definition of “this Act” of the following definitions:

“**thoroughbred horse**” means a horse descended from one of three horses known as the Byerley Turk, the Darley Arabian and the Godolphin Arabian.”;

“**thoroughbred horse race**” means a horse race in which only a thoroughbred horse, ridden by a natural person, may compete.”;

(w) by the insertion after the definition of “totalisator” of the following definition:

“**totalisator agency**” means totalisator premises from which a totalisator agent operates an agency of a totalisator, in terms of an agreement between a totalisator licensee and such totalisator agent.”;

(x) by the substitution for the definition of “totalisator agent” of the following definition:

“**totalisator agent**” means a person [who] that is appointed, under contractual terms which do not constitute a contract of employment and in terms of section 111(1)(b)(ii), by a totalisator licensee, to operate an agency of [the relevant] that totalisator licensee.”; and

(y) by the insertion after the definition of “totalisator premises” of the following definition:

“**Transformation Fund**” means the fund established in terms of section 137 of this Act.”

Amendment of section 6 of Act 8 of 2010

2. Section 6 of the principal Act is hereby amended –

(a) by the substitution for paragraph (c) of subsection (1) of the following paragraph:

“(c) promote opportunities for [historically disadvantaged] persons contemplated in the definition of “broad-based black economic empowerment”, as contained in the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003), to participate in the [horse racing and betting industries] gambling industry of the Province in the capacity of [any of the persons required to be licensed or registered in

terms of section 89, 94, 103, 110 or 111] licensees or registrants under this Act;

(b) by the substitution for paragraph (d) of subsection (1) of the following paragraph:

“(d) increase the ownership stakes of [historically disadvantaged] persons contemplated in the definition of “broad-based black economic empowerment”, as contained in the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003) in the [horse racing and betting industries] gambling industry of the Province;”;

(c) by the deletion of subsection (2); and

(d) by the insertion after subsection (3) of the following subsection”

“(4) The responsible Member of the Executive Council may issue directives to the Board in respect of –

(a) Any actual or intended gambling-related policy change emanating from the national level of government;

(b) Any actual or intended gambling-related policy change emanating from the Executive Council or the Department;

in order to modify, suspend or stop any project or court action.”

Amendment of section 7 of Act 8 of 2010

3. Section 7 of the principal Act is hereby amended –

(a) by the substitution for paragraph (q) of subsection (2) of the following paragraph:

“(q) authorise, with or without conditions, or refuse an application made as prescribed, by a person licensed in terms of section [89,] 94 or 110, [in accordance with section 121,] to temporarily undertake betting transactions, for a fixed period, at [the] any venue in the Province [of a sporting or other event];”; and

(b) by the substitution for subparagraph (iii) of paragraph (g) of subsection (3) of the following subparagraph:

“(iii) all gaming equipment or each gaming machine or limited payout machine being used, or made available for use, by a licensee, [is registered and certified in terms of the National Gambling Act] conforms with an applicable compulsory specification and has been registered by the Board

against the issue of a valid letter of authority certificate.”.

Amendment of section 8 of Act 8 of 2010

4. Section 8 of the principal Act is hereby amended by the substitution for subsection (4) of the following subsection:

“(4) The responsible Member of the Executive Council **[may] must** appoint **[an official]** one or more officials within the Department responsible for gaming and betting matters generally, and for matters specifically relating to the Board, as his or her **[representative]** representatives on the Board and who –

(a) must facilitate liaison between the responsible Member of the Executive Council and the Board;

(b) must report to the responsible Member of the Executive Council from time to time regarding matters which are considered relevant;**[and]**

(c) may attend meetings of the Board and participate in discussions, but **[does]** who do not have the right to vote when a decision of the Board is being taken; and

(d) must monitor the Board’s performance.”

Amendment of section 9 of Act 8 of 2010

5. Section 9 of the principal Act is hereby amended by the substitution for paragraph (c) of subsection (1) of the following paragraph:

“(c) he or she is, at the time of the appointment **[, or during the preceding 12 months was]** –

(i) a person **[contemplated in section 8(1) of the Public Service Act, 1994 (Proclamation No. 103 of 1994); or]** who is employed by –

(aa) an “organ of state”, as defined in section 239 of the Constitution of the Republic of South Africa, 1996;

(bb) a “public entity” as defined in the Public Finance Management Act, 1999 (Act No. 1 of 1999);

(cc) a political party;

(dd) any provincial Legislature; or

- (ee) the National Legislature; or
(ii) a person who is a political office bearer.”.

Amendment of section 10 of Act 8 of 2010

6. Section 10 of the principal Act is hereby amended by the substitution for paragraph (b) of subsection (3) of the following paragraph:

“(b) an affidavit by the nominee wherein the nominee affirms that he or she is not disqualified in terms of section 9 [**Provided that if the nominee has been convicted of an offence contemplated in section 9(1)(j), such nominee must furnish an affidavit wherein he or she discloses full details of any conviction and affirms that he or she is not disqualified in terms of any of the other provisions of section 9];**”.

Amendment of section 13 of Act 8 of 2010

7. Section 13 of the principal Act is hereby amended by the following substitution:

“Term of office and reappointment

13. (1) The persons appointed to the Board hold office for a term of three years and are, subject to section 9, eligible for reappointment at the expiration of such term: Provided that no person may be reappointed after having served on the Board for two terms[**Provided further that**].

(2) When a person is appointed to fill a vacancy on the Board for the remainder of a three year term, such period of service on the Board is not regarded as a term for the purposes of determining eligibility for re-appointment.

(3) Notwithstanding subsection (1), upon the expiry of a term of office and in the event that a new Board has not been appointed, the existing members must continue to hold office until a new Board is appointed: Provided that this extension must not exceed 90 days.”

Amendment of section 24 of Act 8 of 2010

8. Section 24 of the principal Act is hereby amended by the insertion after subsection (2) of the following subsection:

“(3) In any circumstances in which the Board is unable to renew licences and certificates of registration, or to deal with contraventions of the Act or the rules, the Chief Executive Officer must, upon receipt of written confirmation from the responsible member of the Executive Council, and for a maximum period of 90 days

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(a) assume and exercise the full powers, functions and duties of the Board, as contemplated in the Act, in relation to the renewal of licences and certificates of registration; and

(b) assume and exercise the powers of the Board contemplated in sections 7(1)(k), 7(1)(l), 7(2)(f) and 7(2)(g)): Provided that the Chief Executive Officer must first appoint an independent legal practitioner to preside, together with the Chief Executive Officer, over any enquiries conducted in terms of paragraphs (a) and (b).”

Insertion of section 30A in Act 8 of 2010

9. The following section is hereby inserted in the principal Act after section 30 –

“Conditions of licence

30A. (1) The Board may, after first affording the licence holder or registrant an opportunity to make representations, impose conditions which are –

- (a) clear and unambiguous;
- (b) objectively measurable; and
- (c) reasonably achievable,

upon the issue of any licence or certificate of registration, or upon the renewal of any licence or certificate of registration: Provided that a condition of licence, or a condition of a certificate of registration, which is imposed when renewal is due, may not have the effect of being a pre-condition for the renewal of such licence or certificate of registration.

(2) A licensee or registrant may, at any time, apply to the Board for any condition to be amended, substituted or rescinded, whereupon the Board may grant or refuse the application: Provided that in all cases in which the amendment, substitution or rescinding

of any condition attached to a licence has the potential to affect the attainment or promotion of the Board's objects in terms of section 6 of this Act, the Board may amend, substitute or rescind such condition, only in consultation with the responsible Member of the Executive Council.

(3) Where the application has been granted, the Chief Executive Officer must ensure that the amendment, substitution or rescission is endorsed on the licence or registration certificate.

(4) In addition to –

(a) the specific powers of the Board to impose conditions of licence or registration, as provided for elsewhere in this Act; and

(b) specific compulsory conditions of licence or registration, as provided for elsewhere in this Act,

the Board may impose the types of conditions of licence listed in subsection (5).

(5) Subject to subsection (4) and notwithstanding the Board's general powers to impose non-specific conditions of licence or registration, the Board may only impose conditions of licence or registration which do not conflict with any provision of this Act, or with any national legislation and which relate to –

(a) the objects of the Board in terms of section 6;

(b) any terms, conditions, directive or determination issued or made by the responsible Member of the Executive Council in terms of sections 6, 47, 89 and 137; or

(c) sanctions imposed by the Board on a licensee or registrant, in circumstances in which the Board has found such licensee or registrant to have contravened this Act.

(6) The Board must impose a condition upon every licence, which condition states that the licence must lapse and may not be renewed, should the licensee fail to begin operating a gambling business in terms of such licence, within 24 months of such licence having first been issued to the licensee.

(7) Notwithstanding subsection (2), the compulsory condition contemplated in subsection (6) may not be amended by the Board.”.

Amendment of section 32 of Act 8 of 2010

10. Section 32 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) is a person who is –

(i) **[a person contemplated in section 8(1) of the Public Service Act, 1994 (Proclamation No. 103 of 1994) or charged with any decision-making or criminal enforcement function pertaining to gambling or the regulation thereof; or]** employed by –

(aa) an “organ of state”, as defined in section 239 of the Constitution of the Republic of South Africa, 1996;

(bb) a “public entity” as defined in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

(cc) a political party;

(dd) any provincial Legislature; or

(ee) the National Legislature;

(ii) a political office bearer; or

(iii) a member of an accounting authority of a public entity as defined in section 1 and contemplated in section 49 of the Public Finance Management Act, 1999 (Act No. 1 of 1999).”.

Insertion of section 32A in Act 8 of 2010

11. The following section is hereby inserted in the principal Act after section 32 –

“Duration of registration of employees

32A. (1) This section applies to all natural persons who are employees of licensees or registrants and who are required to be registered by the Board in terms of any provision of this Act or the Regulations.

(2) An employee registration certificate, unless cancelled by the Board, is valid for a

period of at least 36 months following the date of issue.

(3) Following the 36 month period contemplated in subsection (2), a registration certificate is valid for a further period, ending on the last day of the registered employee's birth month, following the next anniversary of the registered employee's birthday, unless it is renewed in terms of subsection (4).

(4) Application for the renewal of a registration certificate issued to an employee in terms of this Act must be made in the manner prescribed by the Board and must be accompanied by the relevant fee specified in Schedule 2."

Amendment of section 40 of Act 8 of 2010

12. Section 40 of the principal Act is hereby amended by the substitution for subparagraph (ii) of paragraph (g) of subsection (1) of the following subparagraph:

"(ii) does not comply in all material respects with **[a national norm or standard]** an applicable compulsory specification or with a norm or standard determined by the Board; or".

Amendment of section 43 of Act 8 of 2010

13. Section 43 of the principal Act is hereby amended –

(a) by the substitution for subsection (1) of the following subsection:

"(1) A licensee or a registrant that is not an employee of a licensee or registrant may, at any time, make application to the Board for **[his or her]** such licence or certificate of registration to be transferred to another person and, in such event, the provisions of sections 30, 31, 32, 33, 34, 35, 36, 37 and 38 apply, with the necessary changes."; and

(b) by the substitution for subsection (3) of the following subsection:

"(3) When an application is granted, the Chief Executive Officer must **[cause the name of the licensee to be altered appropriately on the licence]** issue a licence or certificate of registration, as the case may be, to the new holder of such licence or certificate of registration.".

Insertion of section 43A in Act 8 of 2010

14. The following section is hereby inserted in the principal Act after section 43 –

“Financial interests

43A. (1) The Board must, periodically and systematically, ensure that persons acquiring a financial interest in a licensee or registrant are not disqualified from holding such interest, by virtue of section 32 of this Act.

(2) It is an offence for a licensee or a registrant to fail to disclose to the Board the details of any acquisition by any person of a financial interest of five per cent or more in such licensee or registrant, once 30 days have passed since the licensee or registrant has established the occurrence of such an acquisition, or would reasonably have been expected to have established the occurrence of such an acquisition: Provided that a public company, having listed securities that are traded on any exchange, is only required to establish the occurrence of, and report on, such acquisitions every six months following the issue of the licence or certificate of registration to such public company.

(3) Where a licensee or registrant is a public company having listed securities that are traded on any exchange, in addition to the notification contemplated in subsection (2), such licensee or registrant must simultaneously submit an updated securities register to the Board.

(4) The acquirer of any financial interest in a licensee or registrant, or in a holding company of such licensee or registrant, is required to disclose to the Board the details of such acquisition, within 60 days of the occurrence of such acquisition, in the manner prescribed by the Board.

(5) The acquirer of a financial interest in a licensee or registrant of five per cent or more of the business to which the licence or registration relates, must make application for authority to retain such financial interest, by following the procedures and requirements contemplated in sections 32, 33, 34, 35, 36, 37 and 38, which will

apply to the application, with the necessary changes.

(6) When the Board suspects, on reasonable and objective grounds, that an acquirer of a financial interest in a licensee or registrant of less than five per cent of the business to which the licence or registration relates may be disqualified, in terms of section 32, from retaining such financial interest, such acquirer may be required by the Board to make application for authority to retain such financial interest, by following the procedures and requirements contemplated in sections 32, 33, 34, 35, 36, 37 and 38, which will apply to the application, with the necessary changes.

(7) The holding company of any subsidiary licenced or registered under this Act is bound by the requirements of subsections (2) and (3), as if such holding company was itself licenced or registered under this Act and any such holding company that fails to comply with these provisions commits an offence: Provided that the Board must not issue a licence or certificate of registration to a wholly-owned subsidiary of another juristic person.

(8) A wholly-owned subsidiary of another juristic person, which on the date that this section is promulgated, is still licenced or registered under this Act, must make an application to the Board, no later than 120 days after promulgation of this section, in terms of section 43 of this Act, for authority to transfer such licence or certificate of registration to its holding company, failing which such licence or certificate of registration will lapse.

(9) For the purposes of this section –

“exchange”, when used as a noun, means exchange as defined in section 1 of the Financial Markets Act (Act No. 19 of 2012);

“holding company” means holding company as defined in section 1 of the Companies Act, 2008 (Act No. 71 of 2008);

“listed securities” means listed securities as defined in section 1 of the Financial Markets Act (Act No. 19 of 2012);

“public company” means a public company as contemplated in section 8 of the Companies Act, 2008 (Act No. 71 of 2008);

“securities” means securities as defined in section 1 of the Financial Markets Act (Act No. 19 of 2012);

“securities register” means a securities register as defined in section 1 of the Companies Act, 2008 (Act No. 71 of 2008);

“subsidiary” means subsidiary as defined in section 1 of the Companies Act, 2008 (Act No. 71 of 2008); and

“wholly-owned subsidiary of another juristic person” has the meaning contemplated in section 3(1)(b) of the Companies Act, 2008 (Act No. 71 of 2008).”

Amendment of section 44 of Act 8 of 2010

15. Section 44 of the principal Act is hereby amended –

(a) by the substitution for subsection (1) of the following subsection:

“(1) A licensee, or a registrant that is not an employee of a licensee or a registrant, may, at any time, make application for the approval of the relocation [removal], whether permanently or temporarily, of [his or her] the business operations of such licensee or registrant, from the premises specified in the licence or certificate of registration, to other premises.”; and

(b) by the insertion after subsection (3) of the following new subsections:

“(4) The Board must prescribe the procedures to be followed in making application for an approval contemplated in subsection (1).

(5) An application contemplated in subsection (1) must be accompanied by the fee prescribed in Schedule 2.”.

Amendment of section 47 of Act 8 of 2010

16. Section 47 of the principal Act is hereby amended –

(a) by the substitution for subsection (2) of the following subsection:

“(2) The responsible Member of the Executive Council must, when issuing a directive in terms of subsection (1), do so in consultation with the Executive Council and after consultation with the Board [**, the Portfolio Committee and any portfolio committee appointed by the Provincial Legislature which is responsible for the oversight of departments administering matters involving tourism and economic affairs]**.”; and

(b) by the substitution for subsection (3) of the following subsection:

“(3) The responsible Member of the Executive Council may, in consultation with the Executive Council and after consultation with the Board [**, the portfolio committees referred to in subsection (2)]** and any holder of a casino licence issued in terms of section 51 [**who**] that will be affected by the responsible Member of the Executive Council’s decision in terms of this subsection, vary or withdraw any directive issued in terms of this section.”.

Amendment of section 53 of Act 8 of 2010

17. Section 53 of the principal Act is hereby amended by the deletion of subsections (4) and (5).

Repeal of section 54 of Act 8 of 2010

18. Section 54 of the principal Act is hereby deleted.

Amendment of section 55 of Act 8 of 2010

19. Section 55 of the principal Act is hereby amended –

(a) by the substitution for subsection (1) of the following subsection:

“(1) No person may keep premises where gaming machines, electronic bingo terminals or limited payout machines are played unless [**he or she**] such

person is in possession of **[a]** an appropriate valid **[casino]** licence **[, independent site operator licence or site operator licence]** issued in terms of this Act.”; and

(b) by the substitution for subsection (2) of the following subsection:

“(2) No person may [–

(a) make gaming machines or limited payout machines available for use in any licensed premises;

(b) undertake the regular maintenance or repair, replacement or upgrading of gaming machines or limited payout machines in such premises;] exercise the rights of or

[(c)] conduct any **[other]** prescribed activities of a **[route operator, unless he or she is in possession of a casino licence, route operator licence, site operator licence or independent site operator]** licensee, unless such person holds an appropriate licence issued in terms of this Act.”.

Amendment of section 57 of Act 8 of 2010

20. Section 57 of the principal Act is hereby amended by the deletion of subsections (4) and (5).

Amendment of section 59 of Act 8 of 2010

21. Section 59 of the principal Act is hereby amended by the substitution for paragraph

(a) of the following paragraph:

“(a) is of a type and model that does not conform with **[a national norm or standard]** an applicable compulsory specification or where there is no **[national norm or standard]** applicable compulsory specification, **[does not conform with]** a norm **[and]** or standard determined by the Board in its rules;”.

Amendment of section 62 of Act 8 of 2010

22. Section 62 of the principal Act is hereby amended –

- (a) by the substitution for paragraph (d) of subsection (1) of the following paragraph:
 - “(d) **[standards and]** requirements in relation to the gaming equipment placed, used and operated in a bingo hall;”; and
- (b) by the deletion of subsections (4) and (5).

Amendment of section 69 of Act 8 of 2010

23. Section 69 of the principal Act is hereby amended –

- (a) by the deletion of the word “or” after paragraph (c);
- (b) by the insertion of the word “or” after paragraph (d); and
- (c) by the insertion after paragraph (d) of the following new paragraph:
 - “(e) the registration becomes due for renewal in terms of section 32A.”.

Amendment of section 73 of Act 8 of 2010

24. Section 73 of the principal Act is hereby amended by the substitution for paragraph (b) of the following paragraph:

“(b) all direct expenses incurred by the Board in respect of any investigations undertaken by it in terms of sections 35 and 37, including the costs incurred in respect of the time spent by employees of the Board while conducting the investigation where these appear as a tariff in Schedule 2: Provided that the Board may require an applicant to lodge with it such security, as it may determine, before conducting any investigation contemplated in the said sections.”.

Amendment of section 77 of Act 8 of 2010

25. Section 77 of the principal Act is hereby amended –

- (a) by the substitution for subsection (1) of the following subsection:
 - “(1) All persons licensed in terms of this Act must **[, subject to section 129,]** pay the taxes imposed in terms of the KwaZulu-Natal Gaming and Betting Tax Act, 2010 (Act No. 9 of 2010), into the Provincial Revenue Fund, in the manner prescribed and at the same time, must lodge a tax return with both the Board and the Provincial Treasury, in the manner prescribed.”; and

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

“(3) The Provincial Treasury must effect any required distribution of a portion of the taxes received, as prescribed by the KwaZulu-Natal Gaming and Betting Tax Act, 2010 (Act No. 9 of 2010), no later than 20 days after the end of every tax period.

(4) The Board must provide the responsible Member of the Executive Council with a detailed report regarding the taxes received and distributed by the Provincial Treasury, in the manner prescribed, no later than 25 days after the end of every tax period.

(5) Taxes become due at the end of every tax period and every licensee must pay the taxes due no later than 10 days after the end of every tax period.

(6) For the purposes of this section, "tax period" means a calendar month.”.

Amendment of section 78 of Act 8 of 2010

26. Section 78 of the principal Act is hereby amended by the substitution for section 78 of the following section:

“Penalty for late payment

78.(1) On failure to pay any fee or tax or part thereof by the due date, the licence of the person concerned is deemed to be immediately suspended until such time as the fee, tax or levy is paid, together with the prescribed penalty interest.

(2) When a licence is suspended in terms of this section, the activity authorised by the licence must **[also be suspended]** cease: Provided that cessation of the said activity may only be enforced by the Board 24 hours after a licensee or registrant has been notified by the Board, in writing, of the failure to pay and such licensee or registrant has, thereafter, failed to pay the fee, tax or levy, together with the prescribed penalty interest, prior to the expiry of the 24 hour period.

(3) The prescribed penalty interest must be paid to the Provincial Revenue Fund.”.

Amendment of section 89 of Act 8 of 2010

27. Section 89 of the principal Act is hereby deleted and replaced with the following section

–

“Racecourse operator’s licence

89.(1) A corporate body may make application to the Board, in the manner prescribed by the Board, to be issued with one or more of the following types of racecourse operator licences –

(a) An exclusive right racecourse operator licence, which authorises the holder of such licence to hold race meetings of thoroughbred horse races on one or more courses specified in the licence and to acquire a totalisator licence, which would in turn authorise the totalisator licensee to conduct a totalisator on a thoroughbred horse race, on a sporting event, or on an approved other event or contingency; or

(b) A standardbred racecourse operator licence, which authorises the holder of such licence to hold race meetings of standardbred horse races on one or more courses specified in the licence and to acquire a totalisator licence, which would in turn authorise the totalisator licensee to conduct a totalisator on a standardbred horse race, only; or

(c) A harness racing racecourse operator licence, which authorises the holder of such licence to hold race meetings of harness racing horse races on one or more courses specified in the licence and to acquire a totalisator licence, which would in turn authorise the totalisator licensee to conduct a totalisator on a harness racing horse race, only.

(2) The responsible Member of the Executive Council must issue directives to the Board relating to –

(a) a single exclusive right racecourse operator licence to be issued in the Province;

(b) the period for which such licence will be valid, which must be of at least 15 years’ duration;

(c) the protection of the existing horseracing infrastructure in the province; and

(d) the conditions under which such licence will be issued, including, amongst others, the fee in respect of an exclusive right racecourse operator licence, requirements for horseracing infrastructure development or maintenance, or corporate social investment projects.

(3) The responsible Member of the Executive Council must, when issuing a directive in terms of subsection (2), do so in consultation with the Executive Council and after consultation with the Board.

(4) The responsible Member of the Executive Council may, in consultation with the Executive Council and after consultation with the Board and the exclusive right racecourse operator licensee, vary or withdraw any directive issued in terms of subsection (2).

(5) Subsections (1), (2), (3) and (4) of this section come into effect on a day determined by the responsible Member of the Executive Council and published by way of a Notice in the *Gazette*.

(6) All holders of a racecourse operator licence issued before the coming into operation of this section, must make application for a licence contemplated in subsection (1), no later than 6 months following the effective date contemplated in subsection (5).

(7) The licences of all holders of a racecourse operator licence issued before the coming into operation of this section remain valid until either the day upon which the Board makes its final decision on an application made in terms of subsection (1), or the period contemplated in subsection (6) has elapsed prior to the relevant licensee having made an application contemplated in subsection (1), whichever date falls earliest.

(8) An application contemplated in subsection (1) must be accompanied by the applicant's memorandum of incorporation or association agreement, as well as the fees prescribed in Schedule 2, which fees are payable to the Board.

(9) A racecourse operator licence must not be issued –

(a) unless the Board is satisfied that due provision will be made for the conduct and control of horse racing and betting on the said racecourse or racecourses in a manner which will facilitate the realisation of the objects of the Board contemplated in section 6 (1) (a), (c), (d), (e) and (f); and

(b) if, subject to section 133, any director, member or shareholder with an interest, including a financial interest, of five percent or more in the corporate body, is or becomes subject to a disqualification contemplated in section 32.

(10) A licence issued in terms of subsection (1) must, as a minimum requirement, specify:

(a) the identity of the licensee;

(b) the horseracing activities that the licence permits the licensee to engage in, conduct or make available to the public;

(c) the racecourses at or from which the licensee is permitted to operate; and

(d) the duration of the licence.

(11) A racecourse operator must, within 3 months of having been issued with a racecourse operator licence, submit the rules according to which such racecourse operator intends to conduct horse races, to the Board, for approval, and must furthermore submit any proposed amendments to existing approved rules, to the Board, for approval, prior to the implementation of such proposed amendments.

(12) The Board may cancel or suspend, for a specified period, a racecourse operator's licence if any of the operator's office-holders or employees have contravened, or are on reasonable grounds suspected of, having contravened this Act, the KwaZulu-Natal Gaming and Betting Tax Act, 2010 (Act No. 9 of 2010), the regulations, or the conditions of such licence.

(13) The Board may grant a non-transferable right to a bookmaker to operate a bookmaking business from any single racecourse specified in a racecourse

operator's licence, subject to the consent of the relevant racecourse operator, which consent may not be unreasonably withheld.

(14) A racecourse operator must annually, not later than six months after the end of its financial year, provide the Board with a copy of the audited financial statement of such racecourse operator, in respect of the activities of such racecourse operator for the financial year in question: Provided that the Board may, on application to it by a racecourse operator, extend the period by no more than six months.”.

Repeal of section 90 of Act 8 of 2010

28. Section 90 of the principal Act is hereby deleted.

Amendment of section 91 of Act 8 of 2010

29. Section 91 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Unless renewed in terms of subsection (2), the licence issued in terms of section 89(1) expires on the thirty-first day of **[December]** March of the financial year of the Board in respect of which **[it]** such licence was issued or renewed: Provided that, for the purposes of this section, the financial year of the Board is the period 1 April to 31 March.”.

Amendment of section 94 of Act 8 of 2010

30. Section 94 of the principal Act is hereby amended –

(a) by the substitution for subsection (4) of the following subsection:

“(4) A bookmaker’s licence may be issued to a single natural person, to two or more natural persons who operate the business in terms of a partnership agreement, or to a single corporate body.”; and

(b) by the substitution for subsection (7) of the following subsection:

“(7) Unless cancelled earlier in terms of section 99, a bookmaker’s licence expires on the thirty-first day of **[December]** March of the financial year of the

Board [for] in respect of which [it] such licence was issued [but may be] or renewed, [in the manner prescribed by the Board, from year to year in the discretion of the Board and] on payment of the licence renewal fee prescribed in Schedule 2: Provided that, for the purposes of this section, the financial year of the Board is the period 1 April to 31 March.”.

Repeal of section 97 of Act 8 of 2010

31. Section 97 of the principal Act is hereby deleted.

Repeal of section 98 of Act 8 of 2010

32. Section 98 of the principal Act is hereby deleted.

Repeal of section 106 of Act 8 of 2010

33. Section 106 of the principal Act is hereby deleted.

Amendment of section 110 of Act 8 of 2010

34. Section 110 of the principal Act is hereby amended –

(a) by the substitution for subsection (1) of the following subsection:

“(1) The Board may, on application in the manner determined by it, issue a licence, with or without conditions, to –

(a) **[a]** an exclusive right racecourse operator, as contemplated in section 89(1)(a) of the Act, to conduct a totalisator on a thoroughbred horse race, sporting event or an other event or contingency; and

(b) a **[person other than a]** standardbred racecourse operator, as contemplated in section 89(1)(b) of the Act, to conduct a totalisator on a **[sporting event or other event or contingency, which licence may be issued conditionally or unconditionally]** standardbred horse race, only.”; and

(c) a harness racing racecourse operator, as contemplated in section

89(1)(c) of the Act, to conduct a totalisator on a harness racing horse race, only.”; and

(b) by the substitution for subsection (4) of the following subsection:

“(4) A totalisator licence, unless cancelled earlier in terms of section 112, expires on the thirty-first day of **[December]** March of the financial year of the Board [for] in respect of which [it] such licence was issued **[but may be]** or renewed, [in the manner prescribed by the Board, from year to year in the discretion of the Board and on] but is renewable upon application made in the manner prescribed and upon payment of the licence renewal fee prescribed in Schedule 2.”.

Amendment of section 111 of Act 8 of 2010

35. Section 111 of the principal Act is hereby amended by the insertion after subsection (5) of the following new subsection:

“(6) A person is required to be registered as a totalisator manager if he or she –
(a) individually, or as part of a group, formulates operational policy;
(b) exercises direct control over the activities authorised by the totalisator licence;
(c) prepares prescribed tax returns or statements;
(d) has the authority to grant credit to a bettor; or
(e) has the authority to deal with bettor disputes or complaints.”.

Amendment of section 119 of Act 8 of 2010

36. Section 119 of the principal Act is hereby amended by the substitution for paragraph (c) of the following subparagraph:

“(c) at such other venue authorised in terms of section 121 **[or as provided in the Board’s rules]**.”.

Amendment of section 120 of Act 8 of 2010

37. Section 120 of the principal Act is hereby amended by the substitution for subsection

(1) of the following subsection:

“(1) A person licensed in terms of section 94 or 110 must obtain the Board’s approval for all licenced premises **[to be used for the operation of a bookmaking business, totalisator, totalisator branch or totalisator agency, as the case may be, which approval may be granted with or without conditions]**.”.

Amendment of section 121 of Act 8 of 2010

38. Section 121 of the principal Act is hereby amended by the substitution for subsection

(1) of the following subsection:

“(1) A person licensed in terms of section 94 or 110 may make application to the Board, in the manner determined by the Board, for authority to **[undertake betting transactions]** temporarily transact bets, for a fixed period, at any venue, in addition to the licenced premises, which application the Board may refuse or grant, with or without conditions.”

Amendment of section 123 of Act 8 of 2010

39. Section 123 of the principal Act is hereby amended –

(a) by the substitution for subsection (1) of the following subsection:

“(1) A person licensed in terms of section 94 or 110 may not utilise for the purpose of recording bets and betting transactions, any computerised record keeping system or any amendment to an approved computerised record keeping system, unless such system or amendment thereto **[has been approved by the Board and certified by the SABS]** conforms with an applicable compulsory specification and the Board has separately approved and registered such computerised record keeping system, or amendment thereto, against a letter of authority certificate, or, where there is no applicable compulsory specification, such computerised record keeping system conforms with a norm or standard for computerised record keeping systems, as determined by the Board.”;

(b) by the substitution for subsection (2) of the following subsection:

“(2) Any person **[who]** that wishes to develop, manufacture or amend a

computerised record keeping system, or supply a computerised record keeping system **[or any amendment to an approved computerised record keeping system]** to a person licensed in terms of **[this]** section 94 or 110, must apply to the Board, in the manner prescribed by the Board, for approval and registration of such system or amendment thereto and such application must be accompanied by the relevant application and investigation fees prescribed in Schedule 2, which fees are payable to the Board.”;

(c) by the substitution for subsection (3) of the following subsection:

“(3) The Board may –

(a) approve, conditionally or unconditionally, or reject a computerised record keeping system or an amendment thereto; or

(b) refer an application back to the manufacturer or supplier thereof for the submission of further information.”;

(d) by the substitution for subsection (4) of the following subsection:

“(4) The Board may require a person licensed in terms of section 94 or 110 to **[connect to]** establish electronic communications between such monitoring system as the Board may determine and the approved computerised record keeping system utilised by such person.”; and

(e) by the insertion after subsection (4) of the following subsections:

“(5) The Board must maintain an up-to-date register, which must be accessible, by electronic means, to every licenced bookmaker.

“(6) The register contemplated in subsection (5) must specify, in respect of each computerised record keeping system approved by the Board –

(a) the identifying number of the currently approved version; and

(b) the date of approval of such version.”.

Amendment of section 124 of Act 8 of 2010

40. Section 124 of the principal Act is hereby amended by the substitution for section 124 of the following section:

“Betting with bookmaker, manager and totalisator

124. Any person, other than a person appointed as an inspector in terms of section

81 or a member or employee of the Board, who is 18 years of age or older may bet with a bookmaker, manager, totalisator licensee, totalisator operator, totalisator manager or totalisator agent on any horse race, sporting event or any other event or contingency: Provided that such bets are transacted in terms of this Act and provided further that regardless of the location of the bettor when the bet is transacted, the bet is deemed to have been transacted at the licensed premises of the relevant bookmaker, manager, totalisator licensee, totalisator operator, totalisator manager or totalisator agent.”.

Amendment of section 125 of Act 8 of 2010

41. Section 125 of the principal Act is hereby amended by the substitution for section 125 of the following section:

“Vicarious responsibility

125. A totalisator licensee or bookmaker, in relation to the activities authorised by the relevant licence, is vicariously responsible for the acts and omissions of the employees of such totalisator licensee or bookmaker.”.

Amendment of section 128 of Act 8 of 2010

42. Section 128 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) A bookmaking business must deduct from the amount won by a bettor, exclusive of the amount staked by the bettor, the taxes and deductions determined in terms of the KwaZulu-Natal Gaming and Betting Tax Act, 2010, and must pay such monies **[to] into the [Board] Provincial Revenue Fund** in accordance with the provisions of section **[129] 77.**”.

Amendment of section 129 of Act 8 of 2010

43. Section 129 of the principal Act is hereby amended –

(a) by the substitution for subsection (1) of the following subsection:

“(1) Every bookmaker must, within 10 days after the end of every month –

- (a) pay **[to]** into the **[Board]** Provincial Revenue Fund, all monies that were deducted from bettors in terms of section 128(1) **[and]** as well as the betting taxes and deductions determined in terms of the KwaZulu-Natal Gaming and Betting Act, 2010; and
- (b) lodge, in accordance with section 77, **[with]** the **[Board]** tax returns in the form determined in terms of section 7(2)(k).”; and
- (b) by the deletion of subsection (3).

Amendment of section 131 of Act 8 of 2010

44. Section 131 of the principal Act is hereby amended by the substitution for section 131 of the following section:

“Totalisator operator’s returns and payment of taxes and deductions

131. Every totalisator licensee must **[, within 10 days after the end of every month,]** lodge, in accordance with section 77, **[with the Board]** a tax return in the form prescribed in terms of section 7(2)(k) and, at the same time, pay **[to]** into the **[Board]** Provincial Revenue Fund **[in the manner prescribed or determined by the Board,]** the relevant taxes, according to the information contained in the relevant tax return.”

Repeal of section 132 of Act 8 of 2010

45. Section 132 of the principal Act is hereby deleted.

Amendment of section 134 of Act 8 of 2010

46. Section 134 of the principal Act is hereby amended by the substitution for section 134 of the following section:

“Costs of investigation

134. Where the Board undertakes an investigation to determine the suitability of an applicant for the granting of any licence, registration or authority required under Chapter 13, 14, 15 or 16, or for approval of a computerised record keeping system, the applicant must pay to the Board the amount calculated by the Board to be the

[actual] cost to the Board of undertaking such investigation including the costs incurred in respect of the time spent by employees of the Board while conducting the investigation where these appear as a tariff in Schedule 2.”.

Amendment of section 137 of Act 8 of 2010

47. Section 137 of the principal Act is hereby amended –

(a) by the substitution for subsection (1) of the following subsection:

“[Horse Racing and Betting] Transformation Fund

137.(1) There is hereby established a fund to be known as the **[Horse Racing and Betting]** Transformation Fund.”;

(b) by the substitution for subsection (2) of the following subsection:

“(2) Any funds intended for the development of sport and held in trust by the committee established in terms of section 21A of the Regulation of Racing and Betting Ordinance, 1957 (Ordinance No. 28 of 1957), must, on the day on which this Act comes into operation, be paid into the **[Horse Racing and Betting]** Transformation Fund established under this section.”;

(c) by the substitution for subsection (3) of the following subsection:

“(3) The responsible Member of the Executive Council may, out of monies appropriated by the Provincial Legislature for that purpose and subject to such terms and conditions as he or she may impose, make grants to the **[Horse Racing and Betting]** Transformation Fund.”;

(d) by the substitution for subsection (4) of the following subsection:

“(4) The assets of the **[Horse Racing and Betting]** Transformation Fund must, subject to the prior approval of the responsible Member of the Executive Council, be utilized for the purposes of realising the objects of the Board contemplated in section 6 (1) (c), (d) and (e).”;

(e) by the substitution for subsection (5) of the following subsection:

“(5) The Board must open and maintain a separate banking or savings account at a banking institution in the Province and must deposit therein all monies accruing to the **[Horse Racing and Betting]** Transformation Fund from any source.”;

(f) by the substitution for subsection (6) of the following subsection:

“(6) The interest on monies deposited in terms of subsections (3) and (4) must accrue to the **[Horse Racing and Betting]** Transformation Fund.”;

(g) by the substitution for subsection (7) of the following subsection:

“(7) The Board must keep separate and proper accounting records in respect of the **[Horse Racing and Betting]** Transformation Fund, containing particulars of any money or interest on money received and any money paid.”;

(h) by the substitution for subsection (8) of the following subsection:

“(8) No amount standing to the credit of the **[Horse Racing and Betting]** Transformation Fund forms part of the assets of the Board or may be attached on behalf of a creditor or creditors of the Board.”; and

(i) by the substitution for subsection (9) of the following subsection:

“(9) The accounting and other related records of the **[Horse Racing and Betting]** Transformation Fund must, at the expense of the Board, be audited by the Auditor-General.”.

Amendment of section 146 of Act 8 of 2010

48. Section 146 of the principal Act is hereby amended –

(a) by the substitution for paragraph (s) of the following paragraph:

“(s) the regulation and control of amusement machines, as contemplated in the National Gambling Act; **[and]**”;

(b) by the substitution for paragraph (t) of the following paragraph:

“(t) any other matter which is necessary in order to give effect to the objects and purposes of this Act and the KwaZulu-Natal Gaming and Betting Tax Act, 2010 (Act No. 9 of 2010)**[.]**”; and

(c) by the insertion after paragraph (t) of the following paragraphs:

“(u) the maximum number of any type of licence that may be issued by the Board; and

“(v) limitations on the proximity of any one type of gaming or betting outlet to any other type of gaming or betting outlet.”.

Short title

CERTIFIED: 25 March 2015

Senior State Law Advisor

49. This Act is called the KwaZulu-Natal Gaming and Betting Amendment Act, 2015.