

REPUBLIC OF SOUTH AFRICA

NATIONAL GAMBLING AMENDMENT BILL

*(As presented by the Portfolio Committee on Trade and Industry (National Assembly))
(The English text is the official text of the Bill.)*

(MINISTER OF TRADE AND INDUSTRY)

[B 27B—2018]

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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 National Gambling Act, 2004, so as to amend and delete certain definitions; to provide for the procedure for the forfeiture of unlawful winnings to the National Gambling Regulator; to provide for the quorum to make a final decision in the second meeting with the majority of the members present in that meeting; to provide for the dissolution of the National Gambling Board; to provide for the establishment of the National Gambling Regulator; to provide for the appointment of the Chief Executive Officer and Deputy Chief Executive Officer in the National Gambling Regulator; to provide for the powers of the national inspectorate to curb payments emanating from illegal gambling activities; to enhance the powers and duties of the gambling inspector; to provide for transitional arrangements; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 7 of 2004, as amended by section 1 of Act 10 of 2008

1. Section 1 of the National Gambling Act, 2004 (hereinafter referred to as the “principal Act”) is hereby amended— 5

(a) by the deletion of the definition of “**board**”;

(b) by the substitution for the definition of “**Chief Executive Officer**” of the following definition:

“**‘Chief Executive Officer’** means the person appointed by the [**board**] Minister in terms of section [73(1)(a)] 65A(1).”; 10

(c) by the insertion after the definition of “**money laundering**” of the following definition:

“**‘National Gambling Regulator’** means the National Gambling Regulator established in terms of section 64;”;

(d) by the substitution for the definition of “**regulatory authority**” of the following definition: 15

“**‘regulatory authority’** means the [**board**] National Gambling Regulator or a provincial licensing authority;” and

- (e) by the insertion after the definition of “**route operator**” of the following definition:

“**significant event**’ means a condition which makes a game unplayable or affects the outcome of a gambling activity and is recorded in a gambling machine or gambling device;”.

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Amendment of section 10 of Act 7 of 2004

2. Section 10 of the principal Act is hereby amended by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:

“A person must notify a provincial licensing authority and the **[board]** National Gambling Regulator, if the person—”.

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Insertion of section 10A in Act 7 of 2004

3. The following section is hereby inserted in the principal Act after section 10:

“Register of unlawful gambling operators

10A. (1) The National Gambling Regulator must keep a register of unlawful gambling operators.

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(2) Any gambling operator listed in the register of unlawful gambling operators will be disqualified from obtaining a licence for a period of five years, from the day of being listed in the register.

(3) Any gambling operator listed in the register may motivate to the National Gambling Regulator for removal from the register.

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(4) Any decision listing a gambling operator in the register by the National Gambling Regulator is subject to review by the courts.”.

Amendment of section 14 of Act 7 of 2004, as amended by section 14 of Act 10 of 2008

4. Section 14 of the principal Act is hereby amended— 25

- (a) by the substitution in subsection (7) for the words preceding paragraph (a) of the following words:

“The **[board]** National Gambling Regulator must—”;

- (b) by the substitution for subsection (8) of the following subsection:

“(8) The **[board]** National Gambling Regulator may not charge a fee for registering a person as an excluded person.”; and 30

- (c) by the addition of the following subsection:

“(13) All operators must remove excluded persons from their marketing mail list after being informed of the exclusion.”.

Amendment of section 16 of Act 7 of 2004

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5. Section 16 of the principal Act is hereby amended by the substitution for subsections (3) and (4) of the following subsections, respectively:

“(3) Any person who is prevented from paying winnings referred to in subsection (2) must remit those winnings to the **[board]** National Gambling Regulator in the prescribed manner and form, to be held by the **[board]** National Gambling Regulator in trust, pending a decision in terms of subsection (4). 40

(4) Upon receiving any winnings under subsection (3), the **[board]** National Gambling Regulator must investigate the circumstances of the relevant gambling activity, and either—

- (a) deliver the winnings to the person who won **[them]**, if the **[board]** National Gambling Regulator is satisfied that— 45

(i) the gambling activity was lawful **[, and]**;

(ii) the winner **[was]** is not a minor at the time of the relevant gambling activity **[or]**; and

(iii) the winner is not an excluded person at the time of the activity; or 50

- (b) **[apply to the High Court for an order declaring the winnings forfeit to the State]** subject to the Promotion of Administrative Justice Act, 2000 (Act

No. 3 of 2000), declare the winnings to be forfeited to the National Gambling Regulator.”.

Amendment of section 18 of Act 7 of 2004

6. Section 18 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection: 5

“(2) The operation of limited pay-out machines must be incidental to and not be the primary business conducted in any premises licensed as a site, if that site falls within an incidental use category determined by the Minister in terms of section **[26(1)(b)]** 26(2).”.

Amendment of section 21 of Act 7 of 2004 10

7. Section 21 of the principal Act is hereby amended by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:

“The **[board]** National Gambling Regulator must—”.

Amendment of section 22 of Act 7 of 2004

8. Section 22 of the principal Act is hereby amended by the substitution for 15 subsections (1) and (2) of the following subsections, respectively:

“(1) A person who imports a gambling machine or gambling device into the Republic, or who manufactures such a machine or device within the Republic, must register that machine or device by providing the information required in terms of section 20(2) in the prescribed manner and form to the **[board]** National Gambling Regulator. 20

(2) The **[board]** National Gambling Regulator must not register a gambling machine or gambling device unless that type of machine or device has been certified in accordance with the requirements of this Act as complying with the relevant standards for such a machine or device, as determined in terms of the Standards Act, 1993 (Act No. 29 of 1993).”.

Amendment of section 23 of Act 7 of 2004

9. Section 23 of the principal Act is hereby amended by the substitution in subsection (7) (c) for the words preceding subparagraph (i) of the following words:

“must advise the **[board]** National Gambling Regulator in the prescribed manner and form when it has—”.

Amendment of section 25 of Act 7 of 2004

10. Section 25 of the principal Act is hereby amended—

(a) by the substitution in subsection (1)(c) for subparagraphs (iii) and (iv) of the following subparagraphs, respectively: 35

“(iii) the **[board]** National Gambling Regulator; and

(iv) the **[South African Bureau of Standards]** National Regulator for Compulsory Specifications.”; and

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

“(2) Upon receiving a test report in terms of this section, the **[South African Bureau of Standards]** National Regulator for Compulsory Specifications must analyse the test results relative to the standards referred to in section 24(c), and applicable standards for the machine or device concerned, and if the machine or device complies with the applicable standards, issue a letter of certification in respect of the machine or device to— 40

(a) the person requesting the certification;

(b) the applicable provincial licencing authority; and

(c) the **[board]** National Gambling Regulator.”.

Amendment of section 26 of Act 7 of 2004

11. Section 26 of the principal Act is hereby amended by the substitution in subsection (2) for paragraph (e) of the following paragraph:

- “(e) after consulting the **[Board]** National Gambling Regulator, determine the circumstances in which a site may be licensed, and for that purpose, may establish different categories of sites, and different requirements with respect to each such category; and”.

Amendment of section 27 of Act 7 of 2004

12. Section 27 of the principal Act is hereby amended—

- (a) by the substitution for subsection (1) of the following subsection: 10
 “(1) The **[board]** National Gambling Regulator must establish and maintain a national central electronic monitoring system capable of—
 (a) detecting and monitoring significant events associated with any limited pay-out machine, casino, bingo or betting activity that is made available for play in the Republic; and 15
 (b) analysing and reporting **[that]** data in accordance with the prescribed requirements;”;
- (b) by the substitution for subsection (2) of the following subsection:
 “(2) The **[board]** National Gambling Regulator may contract with any person who must acquire a national licence to supply any or all of the products or services required to fulfil its obligations in terms of subsection (1), but any such contractor must not be a person who, or firm that, is disqualified as a licensee in terms of section 50.”; 20
- (c) by the substitution in subsection (3) for paragraphs (a), (b) and (c) of the following paragraphs, respectively: 25
 “(a) standards for—
 (i) the operation of the national central electronic monitoring system; and
 (ii) the collection and analysis of data through that system;
 (b) the frequency and nature of reports to be produced by the **[board]** National Gambling Regulator in respect of the operation of the system; **[and]** 30
 (c) other matters related to the functioning of the national central electronic monitoring system **[.]**; **[and]**”;
- (d) by the addition in subsection (3) of the following paragraph: 35
 “(d) the implementation date for the national central electronic monitoring system for casino, bingo and betting activities.”;
- (e) by the substitution for subsection (4) of the following subsection:
 “(4) (a) Every **[limited pay-out]** gambling machine or gambling device as contemplated in this section that is made available for play must be electronically linked to the national central electronic monitoring system, and the licensee of that machine or device must pay the prescribed monitoring fees in relation to that machine or device. 40
 (b) The Minister may for purposes of subsection (1) and after consultation with the Council, determine any extent of the operation of the national central electronic monitoring system.”; 45
- (f) by the substitution in subsection (5) for paragraphs (a) and (b) of the following paragraphs respectively:
 “(a) the provincial licensing authority of each province access to all data on the system that originated in that province, without charge by the **[board]** National Gambling Regulator; and 50
 (b) the licensee of each **[limited pay-out]** gambling machine or gambling device linked to the system access to prescribed data on the system that originated from that machine or device.”; and
- (g) by the substitution of subsection (6) of the following subsection: 55
 “(6) A contravention of subsection (4)(a) is a breach of licence, subject to administrative sanctions in terms of this Act or the applicable provincial law.”.