

**DEPARTMENT OF TRADE AND INDUSTRY
DEPARTEMENT VAN HANDEL EN NYWERHEID**

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DEPARTMENT OF TRADE AND INDUSTRY

NATIONAL GAMBLING NORMS AND STANDARDS

**INVITATION FOR THE PUBLIC TO COMMENT ON THE NATIONAL GAMBLING NORMS
AND STANDARDS**

I, Dr. Rob Davies, MP, Minister of Trade and Industry having obtained National Gambling Policy Council approval, hereby publish the National Gambling Norms and Standards for broader public comment.

Interested persons may submit written comments on the proposed National Gambling Norms and Standards within 30 calendar days from the date of publication to:

Director-General, Department of Trade and Industry

Private Bag X84

Pretoria

0001

Or. Hand deliver to:

77 Meintjies Street

Block B, 1st Floor

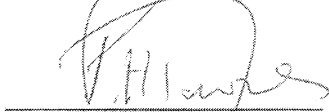
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For Attention: Mr. Nkoatse Ernest Mashamaite



DR ROB DAVIES (MP)

MINISTER OF TRADE AND INDUSTRY

DATE: 6/5/14

**the dti**Department:
Trade and Industry
REPUBLIC OF SOUTH AFRICA**DRAFT NATIONAL GAMBLING NORMS AND STANDARDS****1. Executive Summary**

- 1.1 The National Gambling Policy Council (NGPC) has decided in its meeting that National Norms and Standards should be developed and the Director General of the Department of Trade and Industry (**the dti**) should take a lead in this regard. The Director General was instructed to produce a document and consult on it with his colleagues at provincial level.
- 1.2 The National Gambling Act provides for the norms and standards and creates a framework for future norms and standards; norms and standards should not repeat what has been stated in the Act or try to provide for issues that should be introduced in terms of legislative amendments. The purpose of the Norms and Standards, amongst others, is to have a uniform approach on the application of gambling policy, acts and regulation.
- 1.3 The need to develop the Norms and Standards came in the main since the application of policies, acts and their regulations throughout the country are implemented in a fragmented manner. This fragmented approach by the regulators at national and provincial levels is causing, amongst others, uncertainties, increasing cost of doing business in South Africa and lack of uniform application of service delivery standards in relation to issuance of trading licences.
- 1.4 By their nature, National Norms and Standards (NNS) should be part and parcel of the policy, acts and regulation, i.e. there should be no contradiction between NNS and policies, acts and regulation.
- 1.5 In this regard it should be pointed out that the NNS should be empowered or enabled by the policies, acts and regulations. This is so in order for the NNS to complement the policies, acts and regulation.
- 1.6 It is important to note that NNS are being made under circumstances that the National Government do have concurrent jurisdiction on gambling matters. In view of this, it would be wise for both two spheres of Government to agree

that the way how the sector should be regulated, it should be good to provide certainty and uniformity in the regulation.

- 1.7 Coordination where concurrent jurisdiction is involved is of utmost important as a fragment approach does stifle the way how competitive business should be conducted. Investors in the sector also need a predictable environment.
- 1.8 It should be pointed out that the Gambling Act on itself does provide NNS and therefore the Council intends to have NNS over and above what the Act provides. This Document will not repeat what is in the Act, or Provincial Acts, but would identify current problems that disturb coordination and uniformity of the application of the gambling legislation and their regulations. A clear approach will be mapped whether the purported NNS are enabled by the current legislation or such NNS intends the policies, acts regulations to be amended.
- 1.9 Finally it should be mentioned at a port of entry that the proposed NNS will heavily be based on the findings of the Gambling Review Commission (GRC) and the Report of the Portfolio Committee (PC) for Trade and Industry on the GRC Report.
- 1.10 The discussion follows below.

2. PURPOSE

- 2.1 The purpose of the NNS is:
 - 2.1.1 to ensure that gambling policies, acts and regulation are applied in a harmonised manner throughout the Republic, however, the harmonization of legislations should not usurp the autonomous powers and functions of Provinces to address their legislative challenges.
 - 2.1.2 to facilitate a more uniform level, frequency and effectiveness of enforcement actions undertaken, throughout the Republic, by the gambling boards, in co-operation with other enforcement agencies, against criminal breaches of national and provincial gambling laws.
 - 2.1.3 to facilitate, through ensuring that gambling is regulated in a harmonised manner throughout the Republic affording greater certainty for enforcement agencies regarding the law applicable to gambling, throughout the Republic.;
 - 2.1.4 to ensure that resolutions taken at the National Gambling Policy Council

(Council) are implemented by both National and Provincial Government in a uniform manner. The National Gambling Board will ensure, in terms of the National Gambling Act, that Provincial Gambling Authorities comply with the resolutions of Council failing which the non-compliance should be forwarded back to Council;

2.1.5 to ensure that national and provincial Government operate within the same regulatory parameters without undermining concurrent jurisdiction of the two spheres of Government;

2.1.6 to ensure that national and provincial Government implement NNS by changing their regulations in accordance with decisions of Council and a failure to implement Council resolution could result with a political or administrative head being called to account before Council; and

3. BACKGROUND

3.1 Council has decided in its meeting that National Norms and Standards should be developed and the Director General of the Department of Trade and Industry (**the dti**) should take a lead in this regard. The Director General was instructed to produce a document and consult on it with his colleagues at provincial level. The purpose of the Norms and Standards, amongst others, is to have a uniform approach on the application of gambling policy, acts and regulation.

3.2 The need to develop the Norms and Standards came in the main since the application of policies, acts and their regulations throughout the country are implemented in a fragmented manner. This fragmented approach by the regulators at national and provincial levels is causing, amongst others, uncertainties, increasing cost of doing business in South Africa and lack of uniform application of service delivery standards in relation to issuance of trading licences.

3.3 It is against this background that the NNS will in the main put more emphasis on a futuristic mode since some of the issues may need amendments of the

policies, acts and regulation of both national and provincial Government. This will ensure that there is a solid ground of regulation free of conflict between national and provincial authorities.

4. DISCUSSION

4.1 Gambling Regulatory Framework

- 4.1.1 Gambling is a subject of concurrent jurisdiction between the national **the dti** and provincial Government. Notwithstanding concurrence of jurisdiction, there are certain bare minimum issues that can be applied by the national and provincial Government and this does not contradict the Constitution Act, 1996
- 4.1.2 At national level, the Act allows the formation of the Council and this consists of the Minister for **the dti** and provincial MECs responsible for economic issues
- 4.1.3 The Council is empowered to formulate policies and NNS on Gambling matters without tempering with the legislative powers enjoyed by provinces.
- 4.1.4 The Act also establishes the National Gambling Board (NLB), whose functions are prescribed in the Act
- 4.1.5 Provincial Gambling Regulatory Authorities (PGRAs) are formed by respective provincial legislation
- 4.1.6 Bearing in mind that the norms and standards are already provided for in the National Gambling Act, 2004 and respective provincial legislations, only areas that needs further pronouncement through norms and standards needs to be identified.
- 4.1.7 *In order to provide a solution, the Council should be revamped in its policy making powers and the way how it is reconfigured for the purposes of taking decisions in order to promote co-operation and respect between all regulatory structures. There is a need to amend the legislation in order to make Council decisions binding to all participants. Rules of procedure should be developed as envisaged in section 63(7) of the National Gambling Act to address the process of meetings; both the substantive and the procedural issues. The Rules will address*

issues like the lack of quorum and the corporate governance issues in meetings of Council.

4.1.8 *The NGB and the PGRAs relationship should be ruled by Memoranda of Understanding (MOU) in the event the legislative amendments could not bring about co-operation and harmony.*

4.2 Relationship between NGB and PGRAs

4.2.1 The effectiveness of the NGB should be investigated through a comprehensive study to determine what is hindering their inability to perform as mandated by the National Gambling Act.

4.3 Testing of New Machines

4.3.1 There is no need for norms and standards in this regard except that should there be areas that require legislative amendments that should be identified and processed as such.

4.3.2 Further, Government should consider to have state-owned laboratories instead of having multiple testing processes by independent companies

4.4 National Responsible Gambling Programme

4.4.1 Contribution towards the NRGP should be made mandatory for all gambling operators and the contribution should be made through payment of 0,01% of the Gross Gambling Revenue.

4.4.2 In this regard, a legislative regime should be developed to govern all aspects of problem gambling and the NRGP as a national issue should be harmonized to apply uniformly across all provinces.

4.4.2.1 The NRGP should be reconfigured so as to expand its operations and reach by including other organizations that offer treatment, research and awareness services that are aligned to national priorities

4.4.2.2 All additional activities should focus particularly on vulnerable and rural communities

4.5 Legal Gambling Activities

4.5.1 Gambling activities are governed in South Africa in terms of the National Gambling Act of 2004. Regulated gambling Activities in terms of the Act include:

4.5.1.1 Casinos

4.5.1.2 Limited Payout Machines

4.5.1.3 Bingo

4.5.1.4 Horse Racing and Betting, including bookmakers. A discussion follows below:

4.5.2 Casinos

4.5.2.1 All in all there are 40 casino licences nationally and legislation should be developed to create an enabling environment for national government and provinces to continuously conduct review studies on the numbers of casino licence in order to determine the desired thresholds per province.

4.5.3 Limited Payout Machines

4.5.3.1 All relevant law enforcement agencies should form part of the task team to combat illegal slots casinos. PGRs should be empowered to appoint Peace Officers to complement enforcement capacity of SAPS.

4.5.4 Bingo

4.5.4.1 Bingo halls should have separate dedicated and monitored entrances if they are located in general public places

4.6 New Gambling Activities

4.6.1 Some of the additional gambling activities that may need to be regulated by legislation and norms and standards are discussed below:

4.6.2 Greyhound Racing

4.6.2.1 A uniform policy framework should be developed that is well researched and consulted upon with stakeholders, in particular with animal welfare organisations, before legalization of this regime takes place

4.6.2.2 Transformational issues must be built in the policy

4.6.2.3 Animal welfare organisations should be empowered through regulations and other relevant legislation to enforce animal welfare issues during racing activities

4.6.3 Bush and Harness Racing

4.6.3.1 Bush racing and harness racing should be formalised and be integrated into the mainstream horse racing and betting industry

4.6.4 Fahfee

4.6.4.1 Fahfee should remain illegal throughout the country until such time that the Minister investigates and make findings

4.6.5 Electronic Bingo Terminals

4.6.5.1 EBTs should not be rollout until such time that **the dti** has formulated a policy based on PC and NCOP recommendations on the matter

4.6.5.2 Legislation and NNS should be put in place that promote uniformity and co-operative governance

4.6.6 Online Gambling

- 4.6.6.1 Online gambling may include slot machines, tables and poker, bingo, sports betting and betting against totalisator. Any other form of gambling may be turned into Online gambling regime.
- 4.6.6.2 Online gambling needs a well coordinated policy-approach and as for now all forms of Online gambling should remain banned
- 4.6.6.3 Interactive gambling should be controlled at national level and provinces should receive revenues flowing from Online gambling as per agreed formula. NGB and PRAs must conclude MOUs on how revenue shall be proportionally distributed across the provinces
- 4.6.6.4 Recommended that it should be mandatory that service providers such as banks and payment agencies monitor payments and receipts related to Online gambling.
- 4.6.6.5 Recommended that the Minister should coordinate relevant departments on enforcement of Online gambling such as the Police, Finance and Communication

4.7 Other Matters

4.7.1 Consumer Protection

- 4.7.1.1 Recommended that the Minister through a legislation all slot machines, EBTs, LPMs and virtual racing terminals promptly display the actual odds of winning
- 4.7.1.2 The odds of winnings should be shown at eye level.

4.7.2 Intellectual Property (IP) Rights

- 4.7.2.1 National laws of IP should apply to sporting codes.

5. Conclusion

In order for the country to have successful uniform standards, it will be better to review or reform the gambling legislation at national and provincial level. This is so since the current regime per se is not geared to have norms and

standards that are outside the existing laws. These Norms and Standards may be adopted by Council and then sent to respective members for implementation at their levels. Timelines to effect changes to this effect can be imposed by Council.

Issues in the current policy and legislative framework	Issues that require policy intervention
1. National Gambling Policy Council needs to be empowered to make decisions that bind everyone without usurping the provincial powers to regulate their specific provincial needs. The rules envisaged by section 63(7) of the Act to govern the processes of meetings.	A State owned laboratory to test and certify gambling machines for compliance should be created. The NCRS should participate actively and this matter should be legislated.
2. It was previously proposed that the relationship between the National Gambling Board and the Provincial Regulatory Authorities will require a Memorandum of Understanding, but the dti is of the view that a legislative amendment is a preferred route.	A framework must be developed to ensure that the National Responsible Gambling Programme (NRGP) incorporates all aspects of problem gambling and that the system applies uniformly across all provinces.
3. The numbers of casino licences should be revisited to determine the continued suitability of 40 licences in the country; this should determine the number of casinos each province could afford in line with the socio-economic challenges faced by each province.	The current funding of the NRGP by licensees should be empowered by the Act to ensure enforceable controls and accountability.
4. Bingo regulation requires the amendment of the Act in line with the	Closer ties with other law enforcement agencies like the

Gambling Review Commission as critiqued by Parliament.	police should be improved to work in a form of task teams to eliminate illegal gambling.
5.	Horseracing industry requires thorough research to introduce legislative regulation of the sector.
6.	Policy framework should be developed to introduce Greyhound racing, Bush racing and Harness racing as well as the betting on these activities in order to ensure that all animal welfare concerns are minimised if not eliminated.
7.	There is an urgent need to roll out Electronic Bingo Terminals but in accordance with the policy and legislative interventions in 2013/2014. A National and Provincial team to be constituted in managing the development of the policy and legislation.
8.	Clear distinction must be drawn between interactive gambling (online casinos) and on line betting.
9.	There is a need to be a determination on how provinces could collect revenue or taxes on bets collected from non-licensing province; an agreed formula is required to distribute revenue proportionally across all provinces and the licencing control should be

	located nationally.
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