

Please note that most Acts are published in English and another South African official language. Currently we only have capacity to publish the English versions. This means that this document will only contain odd numbered pages as the other language is printed on even numbered pages.



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THE PRESIDENCY

No. 3065

6 November 1992

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 144 of 1992: Gambling Amendment Act, 1992.



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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.

ACT

To amend the Gambling Act, 1965, by the substitution for the expression “game of chance” of the expression “gambling game” so as to expressly prohibit certain games irrespective of whether or not the result thereof is determined by chance; to increase certain penalties; to exclude the territory of South West Africa from the application of the Act; to emend certain obsolete references; and to provide for certain transitional measures; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 27 October 1992.)

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

Amendment of section 1 of Act 51 of 1965

1. Section 1 of the Gambling Act, 1965 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the insertion before the definition of “game of chance” of the following definition:

“‘gambling device’ means any equipment or mechanical, electro-mechanical or electronic device, component or machine, used remotely or directly in connection with a gambling game and which brings about the result of a wager by determining win or loss; ‘gambling game’ means any game, irrespective of whether or not the result thereof is determined by chance, played with playing-cards, dice or gambling devices for money, property, cheques, credit or anything of value (other than an opportunity to play a further game), including, without derogating from the generality of the foregoing, roulette, bingo, twenty-one, black-jack, chemin de fer and baccarat;”;

(b) by the deletion of the definition of “game of chance”; and

(c) by the deletion of the definition of “Republic”.

Substitution of section 6 of Act 51 of 1965

2. The following section is hereby substituted for section 6 of the principal Act:

“Prohibition in respect of gambling games and presumptions relating thereto

6. (1) Subject to the provisions of subsection (2), no person shall permit the playing of any gambling game **[of chance for stakes]** at any

place under his control or in his charge and no person shall play any such game at any place or visit any place with the object of playing any such game.

5 (2) In any prosecution for a contravention of subsection (1), it shall be a defence that the place to which the charge relates—

(a) is not available for the use of persons other than subscribers or members or a group of members of a club or association of persons or for use by the public in general; or

10 (b) is not used except by personal friends of the person in control or in charge of such place and such person, if it is proved that such place is not habitually used for playing any gambling game **[of chance for stakes]**.

15 (3) When any **[cards]** playing-cards, dice, balls, counters, tables, equipment, gambling devices or other instruments or requisites used or capable of being used for playing any gambling game **[of chance]** are found at any place or on the person of anyone found at any place, it shall be *prima facie* evidence in any prosecution for a contravention of subsection (1) that the person in control or in charge of such place permitted the playing of such game **[for stakes]** at such place and that
20 any person found at such place was playing such game **[for stakes]** at such place and was visiting such place with the object of playing such game **[for stakes]**.

25 (4) If any policeman authorized to enter any place is wilfully prevented from or obstructed or delayed in entering such place, the person in control or in charge of such place shall on being charged with permitting the playing of any gambling game **[of chance for stakes]**, be presumed, until the contrary is proved, to have permitted the playing of such gambling game **[of chance for stakes]** at such place.

30 (5) Upon proof at the trial of any person charged with contravention of subsection (1), that any gambling game **[of chance]** was played or intended to be played, it shall be presumed, until the contrary is proved, that such game was played or intended to be played for stakes.

35 (6) Any person supervising or directing or assisting at or acting as banker, dealer, croupier or in any like capacity at the playing of any gambling game **[of chance]** at any place and any person acting as porter, doorkeeper or servant or holding any other office at any place where any gambling game **[of chance]** is played, shall be deemed to be in control or in charge of such place.
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(7) Any person found at any place where any such gambling game **[of chance]** is played, shall be deemed, until the contrary is proved, to be playing such game **[for stakes]** at such place and to be visiting such place with the object of playing such game **[for stakes]**."

45 Repeal of section 7 of Act 51 of 1965

3. Section 7 of the principal Act is hereby repealed.

Substitution of section 8 of Act 51 of 1965, as amended by section 1 of Act 39 of 1988

4. The following section is hereby substituted for section 8 of the principal
50 Act:

"Offences

8. Any person who—

- (a) contravenes any provision of section 2(1)(a), (b) or (c);
- (b) contravenes any provision of section 2(1)(d) or (e);

- (c) contravenes any provision of section 3 or 4;
- (d) permits the playing of any gambling game **[of chance]** in contravention of section 6(1);
- 5 (e) plays any gambling game **[of chance]** or visits any place with the object of playing any such game in contravention of section 6(1), shall be guilty of an offence and liable on conviction—
- (i) in the case of an offence referred to in paragraph (a) or (c) [or (d)], to a fine **[not exceeding two thousand rand]**, or to imprisonment for a period not exceeding one year **[or to both**
- 10 **such fine and such imprisonment]**;
- (ii) in the case of an offence referred to in paragraph (b) **[or (e)]**, to a fine **[not exceeding one thousand rand]**, or to imprisonment for a period not exceeding six months **[or to both such**
- 15 **fine and such imprisonment]**;
- (iii) in the case of an offence referred to in paragraph (d), to a fine, or to imprisonment for a period not exceeding 10 years;
- (iv) in the case of an offence referred to in paragraph (e), to a fine, or to imprisonment for a period not exceeding five years.”.

Amendment of section 10 of Act 51 of 1965

- 20 5. Section 10 of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph:
- “(a) shall be construed as restricting the powers conferred under paragraph ~~[7]~~ 8 of the First Schedule or paragraph 12 of the Second Schedule to the Financial Relations [Consolidation and
- 25 Amendment Act, 1945 (Act No. 38 of 1945)] Act, 1976 (Act No. 65 of 1976)].”.

Repeal of section 12 of Act 51 of 1965

6. Section 12 of the principal Act is hereby repealed.

Transitional provision

- 30 7. Notwithstanding the commencement of this Act no person shall be convicted of a contravention of section 6 of the Gambling Act, 1965 (Act No. 51 of 1965), in that he permitted the playing of any gambling game at any place under his control or in his charge, if the offence was committed after the commencement of this Act but before 1 February 1993 or such later date as the
- 35 Minister may determine by notice in the *Gazette* and the accused can prove on a preponderance of probabilities that the place where he permitted the playing of the gambling game was already in full operation before 1 October 1992 and that the nature and extent of the activities at such place have not been extended since that date.

40 Short title

8. This Act shall be called the Gambling Amendment Act, 1992.