

REPUBLIC OF SOUTH AFRICA

GAMBLING MATTERS AMENDMENT BILL

(As amended by the Portfolio Committee on Trade and Industry (National Assembly))

(MINISTER OF TRADE AND INDUSTRY)

[B 33B—99]

REPUBLIEK VAN SUID-AFRIKA

WYSIGINGSWETSONTWERP OP DOBBELARYAANGELEENTHEDE

(Soos gewysig deur die Portefeuljekomitee oor Handel en Nywerheid (Nasionale Vergadering))

(MINISTER VAN HANDEL EN NYWERHEID)

[W 33B—99]

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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.
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BILL

To amend the National Gambling Act, 1996, so as to empower the Minister of Trade and Industry to determine by notice in the *Gazette* the date from which the national sphere of government or any organisation which holds or administers any asset or right in respect of gambling activities for or on behalf of that sphere shall not have any financial interest in any gambling activity; to further regulate the date until when a provincial licensing authority shall disregard certain financial interest when considering an application for a casino licence; and to repeal the Gambling Act, 1965; and to provide for matters connected therewith.

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

Amendment of section 13 of Act 33 of 1996

1. Section 13 of the National Gambling Act, 1996, is hereby amended—
- (a) by the substitution for paragraph (f) of subsection (1) of the following paragraph: 5
- “*(f)* the State or any organ of the State or any organisation with which the State is concerned shall **[from 10 May 1999]**, apart from taxes or levies, not have any financial interest in any gambling activity—
- (i) in the case of the national sphere of government or any 10
- organisation which holds or administers any asset or right in respect of gambling activities for or on behalf of that sphere of government, from a date determined by the Minister by notice in the *Gazette*;
- (ii) in the case of any organisation the founding law of which is 15
- administered by the provincial sphere of government and the shares of which may only be disposed of by the national sphere of government or with the consent or approval of that sphere of government, from a date determined by the Minister by notice in the *Gazette*; or
- (iii) in any other case, from 10 May 1999;” and 20
- (b) by the insertion, after paragraph (f) of subsection (1) of the following paragraph:
- “(fA) a provincial licensing authority shall, notwithstanding paragraph (f), 25
- disregard any financial interest in any gambling activity held by the State, an organ of State or any organisation with which the State is concerned when considering an application for a licence contemplated in paragraph (j) before—

- (i) the date contemplated in paragraph (f)(i), if that financial interest is held by the national sphere of government or any organisation referred to in paragraph (f)(i) or (ii); or
- (ii) 10 May 1999, in any other case;”.

Repeal of Act 51 of 1965

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2. The Gambling Act, 1965 (Act No. 51 of 1965), is hereby repealed.

Short title

3. This Act is called the Gambling Matters Amendment Act, 1999.

MEMORANDUM ON THE OBJECTS OF THE GAMBLING MATTERS AMENDMENT BILL, 1999

Purpose of Bill

The Wiehahn Commission of Enquiry investigating gambling *inter alia* recommended that the legislative framework in respect of all forms of gambling would reserve casino and other similar gambling activities for private sector operations, whereas lotteries would in principle be operated for the benefit of public sector initiatives and private initiatives operated for the public benefit, such as welfare organisations. This recommendation was accepted by the Government in 1995 and policy accordingly provided that the State and all organs of state would divest themselves of any financial interest in any gambling activity.

Some of the governments of the so-called homelands existing prior to 1994 held shares in corporations which held shares in gambling activities which were permitted in those homelands, whilst gambling was prohibited in the rest of the Republic. Upon the unification of South Africa in 1994, the administration of the laws governing the said corporations which held the shares, was assigned to the relevant provinces. In terms of the proclamations governing the assignment, the shares may only be disposed of by the national sphere of government or with its consent or approval.

When the National Gambling Act, 1996 (Act No. 33 of 1996), “the Act” was drafted in 1995, it was accepted that it would be possible for the State to divest itself of all its financial interests in gambling activities, before 10 May 1999, which was five years after the inauguration of the first democratically elected Government, in such a way that would be most beneficial to the fiscus. At the time, it was also impossible to accurately fully determine the extent or nature of such financial interests, and section 13(1)(f) of the Act was therefore drafted so as to cast the net as widely as possible to include any form of financial interest. Due to a number of circumstances, it has been impossible to meet those requirements without harming the State’s interests.

It is accordingly proposed in clause 1(a) of the Bill that section 13(1)(f) of the Act be amended to allow the Minister to determine the cut-off date by notice in the *Government Gazette*. Clause 1(b) proposes that provincial licensing authorities, in given instances, be compelled to disregard any financial interest in any gambling activity held by the State, an organ of the State or any organisation with which the State is concerned when considering an application for a casino licence before the date determined by the Minister by notice in the *Government Gazette*. This amendment is consequential to the amendment proposed in clause 1(a).

With the enactment of the Act and the Lotteries Act, 1997 (Act No. 57 of 1997), certain provisions of the Gambling Act, 1965 (Act No. 51 of 1965), were repealed, leaving sections of that Act providing for certain offences intact. The remaining provisions were to be removed from the statute book after all the provinces of the Republic had enacted gambling legislation which made the policing of gambling activities possible. Such legislation has now been enacted in all of the provinces, and in order to avoid confusion and duplication, it is proposed in clause 2 of the Bill that the remaining provisions of the 1965 Act now be repealed.

Consultation

The Ministry of Finance, the National Gambling Board and the nine provincial gambling boards were consulted on this Bill.

Parliamentary procedure

The Department of Trade and Industry and the State Law Advisers are of the opinion that the Bill should be dealt with by Parliament in accordance with section 76 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996).