

REPUBLIC OF SOUTH AFRICA

**SELECT COMMITTEE AMENDMENTS
TO
NATIONAL GAMBLING BILL**

[B 48B—2003 (Reprint)]

*(As agreed to by the Select Committee on Economic and Foreign Affairs
(National Council of Provinces))*

[B 48C—2003]

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AMENDMENTS AGREED TO

NATIONAL GAMBLING BILL [B 48B—2003 (Reprint)]

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1. On page 5, in line 33, to omit ‘and transitional arrangements’.

CLAUSE 1

1. One page 7, from line 20, to omit the definition of “family member” and to substitute:

“family member” means a person’s—

- (a) spouse; or
- (b) child, parent, brother or sister, whether such a relationship results from birth, marriage or adoption;

1. On page 7, in line 59, after ‘Internet’ to insert:

other than a game that can be accessed for play only in licensed premises, and only if the licensee of any such premises is authorised to make such a game available for play

2. On page 9, after line 10, to insert:

“spouse” means a person’s—

- (a) partner in a marriage;
- (b) partner in a customary union according to indigenous law; or
- (c) partner in a relationship in which the parties live together in a manner resembling a marital partnership or customary union;

2. On page 9, in line 13, to omit “schedules” and to substitute “schedule”.

CLAUSE 5

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

5. (1) An activity is a gambling game if—
 - (a) it meets the following criteria:
 - (i) it is played upon payment of any consideration, with the chance that the person playing the game might become entitled to, or receive a pay-out; and
 - (ii) the result might be determined by the skill of the player, the element of chance, or both; or
 - (b) it is a bet or wager in terms of section 4(1), that is placed in a casino in relation to an activity that meets the criteria in paragraph (a).
- (2) Despite subsection (1), for all purposes of this Act, none of the following activities is a gambling game:

- (a) A bet or wager in terms of section 4(1), other than a bet or wager contemplated in subsection (1)(b).
- (b) a totalisator bet in terms of section 4(2); or
- (c) an amusement game.

CLAUSE 9

1. On page 11, from line 13, to omit paragraph (a) and to substitute:
 - (a) import, manufacture, supply, sell, lease, make available, possess, store or alter a gambling machine or gambling device, or transport or maintain such a machine or device except to the extent contemplated in section 23(4), unless that person is authorised to do so in terms of this Act or applicable provincial law;
2. On page 11, after line 19, to add:
 - (2) The Minister, by regulation made in accordance with section 87, may prescribe categories of gambling machines or gambling devices that are exempt from the application of subsection (1).

CLAUSE 13

1. On page 12, in line 22, after “credit” to insert “contrary to this Act”.
2. On page 12, in line 23, to omit ‘contrary to this Act’.

CLAUSE 14

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:

Excluded persons

14. (1) A person who wishes to be prevented from engaging in any gambling activity may register as an excluded person by submitting a notice to that effect in the prescribed manner and form at any time.

(2) A person who registered as an excluded person in terms of subsection (1) may submit a notice in the prescribed manner and form to cancel that registration at any time.

(3) A notice filed in terms of subsection (1) or (2) takes effect on a date determined in accordance with the regulations.

(4) A person may apply to a court of competent jurisdiction for an order requiring the registration as an excluded person of—

- (a) a family member of the applicant;
- (b) a person on whom the applicant is economically dependent in whole or in part;
- (c) a person for whom the applicant is economically responsible in whole or in part;
- (d) a person who is subject to an order of a competent court holding that person to be mentally deranged; or
- (e) any other person—
 - (i) to whom the applicant has a duty of care; and
 - (ii) whose behaviour manifests symptoms of addictive or compulsive gambling.

(5) If, in the circumstances of an application in terms of subsection (4), the court considers it reasonable and just to prevent the person concerned from engaging in any gambling activity, the court may order the registration of that person as an excluded person.

(6) An excluded person affected by an order in terms of subsection (5) may apply to the court that made the order at any time to set aside the order, and the court may do so if, after considering the grounds for making the original order and any new evidence before it, the court is satisfied that it is no longer reasonable and just to prevent that person from engaging in any gambling activity.

(7) The board must—

- (a) establish and maintain a national register of excluded persons in the prescribed manner and form; and
- (b) make the information in the register continuously available to—
 - (i) each provincial licensing authority; and
 - (ii) every person who is licensed to make a gambling activity available to the public.

(8) The board may not charge a fee for registering a person as an excluded person.

(9) The Minister, by regulation made in accordance with section 87, may prescribe—

- (a) forms, standards and procedures for the registration of persons on, and cancellation of registrants from, the register of excluded persons,
- (b) fees for services in connection with the maintenance and access to the register of excluded persons, other than the registration of excluded persons; and
- (c) standards to be employed by licencees in giving effect to subsections (10) and (11).

(10) A licensee, licensed employee, or person in control of licensed premises or a gambling machine or gambling device, must not knowingly permit an excluded person to—

- (a) enter or remain in a designated area within those premises;
- (b) operate that gambling machine or gambling device;
- (c) conduct or make available a restricted gambling activity, or an activity licensed as social gambling, within those premises; or
- (d) engage in social gambling or a restricted gambling activity within those premises.

(11) A person referred to in subsection (10)—

- (a) must take the prescribed measures to determine accurately whether or not a person is an excluded person, before permitting that person to do anything contemplated in subsection (10)(a) to (d); and
- (b) is not liable under this Act or any other civil or criminal law for admitting an excluded person provided the licensee has taken the prescribed measures.

(12) Every licensee authorised to make a gambling activity available to the public must—

- (a) make available at all of its licensed premises—
 - (i) the prescribed form to be used by a person wishing to register as an excluded person in terms of subsection (1); and
 - (ii) a directory of local recognised counselling, treatment or education services addressing the problems of compulsive and addictive gambling; and
- (b) prominently post a notice advertising the availability of those materials, in the prescribed manner and form, at every entry to those premises.

CLAUSE 15

1. On page 13, from line 38, to omit paragraphs (c) and (d).
2. On page 13, from line 42, to omit subsection (2) and to substitute:
 - (2) Any advertisement of a gambling machine or device, a gambling activity, or licensed premises at which gambling activities are available—
 - (a) must include a statement, in the prescribed manner and form, warning against the dangers of addictive and compulsive gambling; and
 - (b) must not include any element that directly or indirectly promotes or encourages the removal of a person from the register of excluded persons.
3. On page 13, after line 45, to insert:
 - (3) A person must not advertise or promote any gambling or related activity as being available to the public free of charge or at a discounted rate contrary to this Act, as an inducement for gambling.

CLAUSE 17

1. On page 14, from line 27, to omit subsection (1) and to substitute:
 - (1) No person may place or operate a cash dispensing machine contrary to this Act—
 - (a) within a designated area; or
 - (b) within a prescribed distance from such a designated area.

CLAUSE 19

1. On page 15, in line 11, after “Act” to insert “unless it is a category exempted in terms of subsection (3)”.
2. On page 15, after line 15, to add:
 - (3) The Minister, by regulation made in accordance with section 87, may exempt categories of gambling machines or gambling devices from the application of any or all of the provisions of this Part.

CLAUSE 20

1. On page 15, in line 21, after “that” to insert “machine or”.
2. On page 15, in line 24, after “the” to insert “machine or”.
3. On page 15, in line 25, after “the” to insert “machine or”.

CLAUSE 21

1. On page 15, in line 33, after “such” to insert “machine or”.
2. On page 15, in line 35, after “that” to insert “machine or”.
3. On page 15, in line 36, after “that” to insert “machine or”.

4. On page 15, in line 37, after ‘that’ to insert ‘machine or’.
5. On page 15, in line 38, after “such” to insert “machine or”.
6. On page 15, in line 41, after “that” to insert “machine or”.
7. On page 15, in line 42, after “the” to insert “machine or”.

CLAUSE 22

1. On page 15, in line 50, after “a” to insert “machine or”.
2. On page 15, in line 50, after “that” to insert “machine or”.
3. On page 16, in line 3, after “a” to insert “machine or”.
4. On page 16, in line 5, after “a” to insert “machine or”.
5. On page 16, in line 6, after “that” to insert “machine or”.
6. On page 16, in line 9, after “that” to insert “machine or”.

CLAUSE 23

1. On page 16, in line 15, after “that” to insert “machine or”.
2. On page 16, in line 19, after “that” to insert “machine or”.
3. On page 16, in line 21, after “that” to insert “machine or”.
4. On page 16, in line 24, after “the” to insert “machine or”.
5. On page 16, in line 26, to omit “possession of”.
6. On page 16, in line 29, after “gambling” to insert “machine or”.
7. On page 16, in line 36, after “gambling” to insert “machine or”.
8. On page 16, in line 39, after “that” to insert “machine or”.
9. On page 16, in line 40, after “the” to insert “machine or”.
10. On page 16, in line 51, after “gambling” to insert “machine or”.
11. On page 17, in line 4, after “gambling” to insert “machine or”.

CLAUSE 25

1. On page 17, in line 26, after “gambling” to insert “machine or”.
2. On page 17, in line 35, after “the”, wherever it occurs, to insert “machine or”.
3. On page 17, in line 36, after “the” to insert “machine or”.

CLAUSE 26

1. On page 17, from line 43, to omit subsection (1) and to substitute:

(1) Cognisant of the potentially detrimental socio-economic impact of a proliferation of limited pay-out machines, the Minister must regulate the limited pay-out machine industry in accordance with this section.

2. On page 18, after line 29, to insert:

(2) The Minister, by regulation made in accordance with section 87, must—

- (a) establish a program for the gradual introduction of limited pay-out machines in the Republic, in clearly defined and delineated phases;
- (b) establish a mechanism for ongoing socio-economic impact assessment of the use of limited pay-out machines in the Republic;
- (c) establish criteria which, on the basis of the assessments contemplated in paragraph (b), must be satisfied before the commencement of each successive phase of the program to introduce limited pay-out machines in the Republic;
- (d) prescribe a limit on the maximum number of licensed limited pay-out machines that may be introduced in each phase—
 - (i) within the Republic;
 - (ii) within any particular province; and
 - (iii) at any one site, and may prescribe different site maximums applicable in different circumstances;
- (e) after consulting the Board, 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
- (f) prescribe a limit on the maximum—
 - (i) aggregate stake permitted to commence and complete a limited pay-out gambling game;
 - (ii) single pay-outs allowed from a limited pay-out machine; and
 - (iii) aggregate pay-out in respect of each game played.

(3) In addition to the requirements of subsection (2), the Minister, by regulation made in accordance with section 87, may prescribe minimum standards concerning applications for licences with regard to limited pay-out gambling machines, including—

- (a) standard information to be required from applicants;
- (b) minimum evaluation criteria to be applied by licensing authorities;
- (c) evaluation procedures to be followed by licensing authorities;
- (d) compliance standards for limited pay-out machines, including the maximum number of single game cycles over a particular period of time;
- (e) the methods by which a prize won on a limited pay-out machine may be paid;
- (f) any essential or defining elements of a limited pay-out gambling game;
- (g) the procedures that constitute the start and end of a single game on a limited pay-out machine;
- (h) the accounting standards that must be met, and accounting records that must be kept, by route operators, site operators and independent site operators;
- (i) minimum information to be provided by licensees concerning the sourcing, distribution, movements, conversions and disposal of limited pay-out machines; or
- (j) measures to limit the potentially negative socio-economic consequences of access to gambling opportunities, including public notices at licensed premises.

3. On page 18, in line 50, to omit “(1)(a)(ii)” and to substitute “(2)(d)(ii)”.

4. On page 18, in line 52, to omit “(1)(a)(iii)” and to substitute “(2)(d)(iii)”.

CLAUSE 29

1. One page 19, from line 43, to omit “this section” and to substitute “section 28”.

CLAUSE 35

1. On page 22, in line 30, after “the” to insert “prescribed”.
2. On page 22, in line 32, after “any” to insert “prescribed”.

CLAUSE 45

1. One page 25, after line 13, to insert:
 - (1) The Minister, by regulation made in accordance with section 87, and after considering the criteria set out in this section, may prescribe a maximum number of casino licences that may be granted in the Republic, and in each province.
2. On page 25, in line 14, to omit “section 87” and to substitute “subsection (1)”.

CLAUSE 50

1. On page 27, in line 16, to omit “5% or more” and to substitute “any”.
2. On page 27, in line 21, after the first “member” to insert “other than a brother or sister”.
3. On page 27, in line 43, to omit “5% or more” and to substitute “any”.
4. On page 27, in line 45, after the first “member” to insert “other than a brother or sister”.

CLAUSE 51

1. On page 27, in line 51, to omit all the words from “in” up to and including “disqualified” in line 54.

CLAUSE 52

1. On page 28, from line 10, to omit subsection (2) and to substitute:
 - (2) If a person who is disqualified in terms of section 50(2) acquires a licence, or any of the total financial interest in a licensee, that person must, within a period of not more than three years, as determined by the licensing authority after considering the circumstances and the nature of the disqualification, dispose of that licence or all their financial interest in that licensee, as the case may be.

CLAUSE 53

1. On page 28, in line 30, to omit “paragraph (a)” and to substitute “paragraphs (a) and (b)”.
2. On page 28, in line 39, after “(1)(a)” to insert “and (b)”.

CLAUSE 59

1. On page 30, in line 37, after “licence” to insert “or approval of that acquisition, as the case may be”.
2. On page 30, in line 38, after “licence” to insert “or approval of that acquisition, as the case may be”.
3. On page 30, in line 40, after “transfer” to insert “or acquisition”.
4. On page 30, in line 41, to omit “5% or more” and to substitute “any”.

CLAUSE 65

1. On page 32, in line 35, to omit “habitual and obsessive” and to substitute “addictive or compulsive”.
2. On page 32, from line 49, to omit paragraph (d).

CLAUSE 67

1. On page 33, in line 57, after “persons” to insert “by order of a court”.

CLAUSE 84

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause:
 - 84.** Despite anything to the contrary contained in any other law, a magistrates court has jurisdiction to—
 - (c) impose any penalty for an offence or breach of licence condition in terms of this Act; or
 - (d) make an order contemplated in section 14.

CLAUSE 87

1. On page 40, in line 6, after “(g)” to insert:
 - matters contemplated in section 13, 15 or 17, any other matters to be prescribed in terms of this Act, and
2. On page 40, in line 50, to omit “90” and to substitute “45”.

CLAUSE 88

1. On page 40, in line 53, to omit ‘and transitional arrangements’.

SCHEDULE

1. One page 41, after line 24, to insert:
 - (3) In respect of a licence contemplated in sub-item (2)—
 - (a) regulations made in terms of section 87(1)(f) do not apply until the first anniversary of the date on which such regulations are promulgated; and
 - (b) section 46 does not apply until the third anniversary of the effective date.
2. On page 41, from line 40, to omit item 3.
3. On page 43, in line 8, to omit “(4)” and to substitute “(6)”.
4. On page 43, in line 10, to omit “14(5)” and to substitute “14(7)”.
5. On page 43, in line 11, to omit “(8) to (11)” and to substitute “(10) to (12)”.
6. On page 43, after line 17, to add:

Regulations

8. On the effective date, and for a period of 90 days after the effective date, the Minister may make any regulation contemplated in this Act without meeting the procedural requirements set out in section 87 or elsewhere in this Act, provided the Minister has published such proposed regulations in the Gazette for comment for at least 45 days.