

BRIEFING TO THE SELECT COMMITTEE ON TRADE AND INTERNATIONAL RELATIONS

NATIONAL GAMBLING AMENDMENT BILL, 2018

30 JANUARY 2019



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Trade and Industry
REPUBLIC OF SOUTH AFRICA



CONTENT OF PRESENTATION

1. Slide 3 and 4 provides for the background information for the development of the National Gambling Amendment Bill.
2. Slide 5 to 7 provides for the timelines towards the development of the National Gambling Amendment Bill.
3. Slide 8 provides for the rationale of the Bill in the Preamble.
4. Slide 9 and 10 provides for minor amendments in the Bill and the National Central Electronic System (NCEMS) respectively.
5. Slide 11 provides for amendments pertaining to the National Gambling Policy Council.
6. Slide 12 provides for amendments pertaining to the National Gambling Board becoming the National Gambling Regulator.
7. Slide 13 provides for amendments regarding the Intergovernmental Relations for the NGR.
8. Slide 14 provides for the powers of the National Inspectorate.
9. Slide 15 provides for the consequential amendments.
10. Slide 16 provides for the additional powers of Minister to develop regulations.
- 11 Slide 17 provides for the Transitional arrangements to transform from NGB to NGR.
12. Slide 18 is Conclusion.



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Trade and Industry
REPUBLIC OF SOUTH AFRICA

BACKGROUND 1

Wiehahn Commission recommended strict regulation of gambling, 1995

Gambling Review Commission Report, 2010 recommending policy reforms.

The National Gambling Amendment Bill, 2018 is now introduced in Parliament after extensive consultation with the public and immediate stakeholders.

National Gambling Act, 1996 is passed introducing the National Gambling Board

National Gambling Amendment Act, 2008 passed to regulate interactive gambling. Act is not promulgated

2004 National Gambling Act amends 1996 Act introducing the National Gambling Policy Council to ensure policy alignment at national and provincial government.



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BACKGROUND 2

The Wiehahn Commission set principles, which became the yardstick for the national gambling policy as enshrined in the Act. The principles, as set out below, remain relevant in guiding gambling policy development.

- Protection of society from over-stimulation of latent gambling through the ***limitation of gambling opportunities***.
- Protection of players and integrity and fairness of the industry through ***strict control and supervision*** of the industry.
- ***Uniformity and harmonisation*** of policy and legislation at all levels of government across provinces through minimum norms and standards, cooperation and coordination.
- Generation ***of revenue and taxes*** for provincial governments and for good causes.
- Economic empowerment of the ***historically disadvantaged***.
- Promotion of ***economic growth, development and employment***.

LEGISLATIVE DEVELOPMENT TIMELINES 1

- 15 May 2015 **the dti** published the National Gambling Policy for broader public consultation.
- Written submissions were received, direct engagement with immediate stakeholders and consultative workshops were conducted until September 2015.
- The National Gambling Policy was approved by Cabinet on 17 February 2016 and the National Gambling Amendment Bill was drafted pursuant to the approved National Gambling Policy, 2016.
- 30 September 2016 the National Gambling Amendment Bill was published for broader public consultation for 45 days and direct engagements with stakeholders and the public were conducted until early 2017.
- The final Bill was submitted to the Office of the Chief State Law Advisor and certified as per their letter dated 18 May 2018 and later to Cabinet which approved on 4 July 2018.



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LEGISLATIVE DEVELOPMENT TIMELINES 2

- **the dti** published the Notice of Intention to Introduce the National Gambling Amendment Bill in the Government Gazette on 20 July 2018.
- The Bill was introduced to Parliament and referred to the Committee on 21 August 2018.
- On 12 September 2018, the Committee was briefed by the Department of Trade and Industry (**the dti**) on the Bill.
- On 19 September 2018, the Committee called for written submissions, with the closing date for submission, namely 12 October 2018.
- In terms of the Rules of Parliament, the Committee has the right to approve, reject, amend or redraft any legislation before it. Certain amendments were prioritised.
- On 16 October 2018, the Committee resolved, with the Democratic Alliance dissenting, to only consider provisions relating to the restructuring of the National Gambling Board, challenges of the National Gambling Policy Council and the National Central Electronic Monitoring System (NCEMS) in the Bill and other aspects will be considered by the next Parliament.

LEGISLATIVE DEVELOPMENT TIMELINES 3

- On 24 and 26 October 2018, the Committee held public hearings on the Bill.
- Between 30 October and 15 November 2018, the Committee deliberated on the Bill and formally considered and adopted it on Wednesday, 21 November 2018.
- The National Assembly considered the Portfolio Committee Report and the Second Reading of the National Gambling Amendment Bill on the 5th of December 2018.
- The National Assembly adopted the Bill on the 5th of December 2018.

RATIONALE OF THE BILL

PREAMBLE

- To provide for the reconfiguration of the National Gambling Board which will become the National Gambling Regulator led by CEO without a board structure;
- To provide for the automatic forfeiture of unlawful winnings to the National Gambling Regulator;
- To provide for the quorum of the National Gambling Policy Council to make a final decision in the second meeting with the majority of the members present in that meeting;
- To extend the National Central Electronic Monitoring System to other modes of gambling;
- To enhance the powers of the national inspectorate to curb illegal gambling activities;
- To amend and delete certain definitions; and
- To provide for the transitional arrangements.



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MINOR AMENDMENTS IN THE BILL

- Clause 3 inserts section 10A which empowers the National Gambling Regulator (NGR) to keep a register of unlawful gambling operators and also that the said operators will be disqualified for five years from applying for a licence to operate.
- Clause 4 inserts amendment of section 14 by inserting subsection 13 which require operators to remove excluded persons from their mailing list.
- Clause 5 amends section 16(4) to provide that unlawful winnings be forfeited to the NGR subject to compliance with the PAJA – the winnings will no longer be forfeited to the State after a High Court order as the provision requires in the current Act. It further strengthens the conditions to verify the unlawful winnings.



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NATIONAL CENTRAL ELECTRONIC MONITORING SYSTEM (NCEMS)

- Clause 12 amends section 27 to provide that the National Central Electronic Monitoring System (NCEMS) will be extended to apply to casino, bingo and betting activities under the auspices of the NGR. This will be a move away from the current system that is self operated by operators who in turn share the data with the provincial licensing authorities.
 - The clause provides for the national license, the implementation date for the NCEMS and gives powers to the Minister to determine the extent of the operation of the NCEMS.
- Clause 15 amends section 33 to emphasise the role of the NGR to consider applications and motivations from provincial licensing authorities for additional limited pay-out machines in line with the criteria.

NATIONAL GAMBLING POLICY COUNCIL

- Clause 26 inserts section 63A which provides that in cases where there is the National Gambling Policy Council meeting and there is no quorum, the decision on issues tabled will be made in the next meeting provided it is supported by the majority of the voting members present at that meeting.
- This is intended to address the delays caused by lack of quorum which affects the policy decisions to be made and other coordination efforts of the National Gambling Policy Council.
- Clause 24 inserts powers of the National Gambling Policy Council to address policy and legislative amendments to ensure alignment.

NATIONAL GAMBLING BOARD OR NATIONAL GAMBLING REGULATOR

- Clause 28 amends section 64 to provide for the establishment of the National Gambling Regulator as a public entity which is a juristic person led by the CEO.
- Clause 29 amends section 65(1) by inserting subparagraph 65(1)(eB) to empower the NGR to collect and retain monitoring fee from all modes of gambling for the National Central Electronic Monitoring System.
- Clause 30 inserts section 65A and 65B which provides that the CEO is eligible for appointment for a period of 5 years which can be renewed for another 5 years.
- The provision further provides that the CEO must be a fit and proper person who must not be disqualified and all other requirements for appointment.
- Section 65B provides for the functions of the CEO to perform and outlines responsibilities that include responsibilities pertaining to the functions of the NGR, the appointment of staff, management of the NGR financial resources, delegation of certain functions and to be accountable to the Minister.



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INTERGOVERNMENTAL RELATIONS

- Clause 32 inserts section 66A to empower the NGR to work collaboratively with other government departments or institutions responsible for gambling related matters, and
- May enter into working agreements with such institutions which includes establishing forums for such purposes.



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POWERS OF THE NATIONAL INSPECTORATE

- Clause 40 inserts section 76A to provide for additional powers of the national gambling inspectors that they may act with or without provincial inspectors to investigate illegal gambling activities.
- This will include powers to serve the illegal operator with the notice to stop operating pending investigation, litigation and prosecution.
- Once illegal gambling operations are proven, the inspectors will also advise landlords to lawfully evict the illegal operators from the premises.
- Banks will be required to stop business with any proven illegal gambling operator.
- Financial institutions will be required to comply with the Financial Intelligence Centre Act (FICA) by not processing payments in relations to illegal gambling activities.



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CONSEQUENTIAL AMENDMENTS

Most of the provisions are merely technical or editorial to clarify provisions in the Act and at the most is to replace either the words “board” or “CEO” with the words “National Gambling Regulator”, this is also the case with the amended definitions (e.g. Clause 8, 9, 10, 11, 14, 17, 18).



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REGULATIONS

- Clause 42 amends section 87(1) by inserting subparagraph (fA) which will empower Minister to make regulations to set out the criteria the NGR will use to observe when considering the applications for additional LPMs from provinces.

TRANSITIONAL ARRANGEMENTS

- Clause 44 provides for the transitional arrangements which provides that the employees of the NGB will be deemed to be employees of the NGR.
- The immovable and movable assets, financial, administrative and other records, contractual rights and obligations and liabilities of the board will be those of the NGR.

CONCLUSION

The Select Committee on Trade and International Relations is hereby requested to note and consider the National Gambling Amendment Bill for further consultation.



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THANK YOU



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