

PROVINCE OF WESTERN CAPE

**WESTERN CAPE FIFTEENTH
GAMBLING AND RACING
AMENDMENT BILL**

(As introduced)

(MINISTER OF FINANCE AND TOURISM)

[B 2—2006]

PROVINSIE WES-KAAP

**WES-KAAPSE VYFTIENDE
WYSIGINGSWETSONTWERP OP
DOBBELARY EN WEDRENNE**

(Soos ingedien)

(MINISTER VAN FINANSIES EN TOERISME)

[W 2—2006]

IPHONDO LENTSHONA KOLONI

**UMTHETHO OSAYILWAYO
WOLUNGISO WESHUMI
ELINESIHLANU WONGCAKAZO
NOMDYARHO WENTSHONA
KOLONI**

(Njengoko wazisiwe)

(UMPHATHISWA WEZEMALI NEZOKHENKETHO)

[B 2—2006]

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.

AMENDMENT BILL

To amend the Western Cape Gambling and Racing Law, 1996; to replace “Law” with “Act”; to remove provisions conflicting with the National Gambling Act, 2004; to amend certain definitions; to provide for the issue of national licences; to amend qualification criteria in respect of licensing; to amend certain licence categories; to delete certain transitional provisions which have expired; to insert certain transitional provisions, and to provide for matters connected therewith.

BE IT ENACTED by the Provincial Parliament of the Province of the Western Cape, as follows:—

Amendment of the Western Cape Gambling and Racing Law, 1996 (Law 4 of 1996)

1. The Western Cape Gambling and Racing Law, 1996 (“the principal Law”) is amended by the substitution for the word “Law” of the word “Act” wherever it occurs. 5

Amendment of arrangement of sections of Law 4 of 1996

2. The arrangement of sections in the Western Cape Gambling and Racing Law, 1996 (the principal Law) is amended—

- (a) by the insertion after item 27 “Kinds of licences”, of the following item: 10
 “27A. National licences”;
- (b) by the substitution for item 29 of the following item:
 “29. Disqualification in respect of employment licences”;
- (c) by the substitution for item 30 of the following item:
 “30. **[Persons having certain direct or indirect interests disqualified]** Disqualifications and restrictions in respect of other licences”; 15
- (d) by the substitution for item 41 of the following item:
 “41. **[Non-transferability]** Restrictions on transferability of licences”;
- (e) by the substitution for item 41A of the following item:
 “41A. Death or disability of person having an interest in a licence holder”; 20
- (f) by the substitution for item 46 of the following item:
 “46. **[Limited gambling machine]** Route operator licence”;
- (g) by the substitution for item 47 of the following item:
 “47. **[Limited gambling machine premises]** Site licence”;
- (h) by the substitution for item 72 of the following item: 25
 “72. **[Prohibition of activities]** Liability in relation to gambling [games and betting] activities”;

- (i) by the deletion of items 84, 84A, 84B and 84C; and
- (j) by the insertion after item 83, of the following sections:
“84D Prohibition of certain gambling activities
84E Transitional provisions”.

Amendment of section 1 of Law 4 of 1996, as amended by Act 4 of 1997, Act 10 of 1997, Act 4 of 1999 and Act 11 of 2000 5

3. Section 1 of the principal Law is amended-

- (a) by the insertion of the expression “(1)” immediately after the section number;
- (b) by the deletion of the numbering in brackets before and after each definition;
- (c) by the substitution for the full stop at the end of each definition, other than the definition of “winning bet” of a semi-colon; 10
- (d) by the insertion before the definition of “Applicant” of the following definitions:
 - “ ‘Amusement game’ means any game, other than bingo or a game similar to or derived from a game normally played in a casino or on a slot machine, played with or by means of an amusement machine which, upon payment of money, a token or a similar object, is available to be played and which enables the player to win a prize; provided that such prize shall not be in the form of cash, tokens, credit or any negotiable instrument, but shall be limited to non-cash prizes with a retail value not exceeding the amount prescribed by regulation in terms of the National Act;”;
 - “ ‘Amusement machine’ means any machine or device, other than a gambling device, on or by means of which an amusement game may be played;” 15 20 25
- (e) by the insertion before the definition of “Authorised officer” of the following definition:
 - “ ‘Associate’ means
 - (a) an employer;
 - (b) a partner in terms of a partnership agreement;
 - (c) a co-shareholder of a private company contemplated in section 20 of the Companies Act, 1973 (Act No. 61 of 1973);
 - (d) a co-member of a Close Corporation contemplated in section 2 of the Close Corporations Act, 1984 (Act No. 69 of 1984); and
 - (e) a person to whom another person has granted or from whom another person has received a general power of attorney;”;
- (f) by the substitution for the definition of “Bet or betting” of the following definition:
 - “ ‘Bet’ or ‘betting’ means an activity as described in section 1 (3) below;”;
- (g) by the substitution for the definition of “Bingo” of the following definition:
 - “ ‘Bingo’ means a game, including a game played in whole or in part by electronic means—
 - (a) that is played for consideration, using cards or other devices—
 - (i) that are divided into spaces each of which bears a different number, picture or symbol; and
 - (ii) with numbers, pictures or symbols arranged randomly such that each card or similar device contains a unique set of numbers, pictures or symbols;
 - (b) in which an operator or announcer calls or displays a series of numbers, pictures or symbols in random order and the players match each such number, picture or symbol on the card or device as it is called or displayed; and
 - (c) in which the player who is first to match all the spaces on the card or device, or who matches a specified set of numbers, pictures or symbols on the card or device, wins a prize, or any other substantially similar game declared to be bingo in terms of section 6(4) of the National Act;”;
- (h) by the substitution for the definition of “Bookmaker” of the following definition: 60

- “ ‘Bookmaker’ means a person who directly or indirectly lays fixed-odds bets or open bets with members of the public or other bookmakers, or takes such bets with other bookmakers;”;
- (i) by the substitution for the definition of “Casino” of the following definition: 5
 “ ‘Casino’ means premises where gambling games are played, or are available to be played, but does not include premises in which—
 (a) only bingo and no other gambling game is played or available to be played;
 (b) only limited payout machines are available to be played;
 (c) limited payout machines and bingo, but no other gambling game, are played or available to be played; or
 (d) only social gambling is conducted in terms of this Act;”;
- (j) by the insertion after the definition of “Casino operator licence” of the following definition: 10
 “ ‘Central securities depository’ means a central securities depository as defined in the Custody and Administration of Securities Act, 1992 (Act No. 85 of 1992);”;
- (k) by the substitution for the definition of “Chairperson” of the following definition: 15
 “ ‘Chairperson’ means [a] the person appointed chairperson of the Board in terms of section 3(3);”;
- (l) by the substitution for the definition of “Consideration” of the following definition: 20
 “ ‘Consideration’ means:
 (a) money, merchandise, property, a cheque, a token, a ticket, electronic credit, credit, debit or an electronic chip, or similar object; or
 (b) any other thing, undertaking, promise, agreement or assurance, regardless of its apparent or intrinsic value, or whether it is transferred directly or indirectly;”;
- (m) by the insertion after the definition of “Consideration” of the following definitions: 25
 “ ‘Contingency’ means an event or occurrence of which the outcome is uncertain or unknown to a person until it happens;”;
- “ ‘Depository institution’ means a depository institution as defined in the Custody and Administration of Securities Act, 1992 (Act No. 85 of 1992);”;
- (n) by the insertion after the definition of “Distributor licence” of the following definition: 30
 “ ‘Employment licence’ means a licence referred to in section 27 (l) and (m);”;
- (o) by the deletion of the definition of “Event or contingency”;
- (p) by the insertion after the definition of “Executive Council” of the following definition: 35
 “ ‘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;”;
- (q) by the substitution for the definition of “financial interest” of the following definition: 40
 “ ‘Financial interest’ means—
 (a) a right or entitlement to share in profits or revenue;
 (b) a real right in respect of property of a company, corporation or business;
 (c) a real or personal right in property used by a company, corporation or business; or
 (d) a direct or indirect interest in the voting shares, or voting rights attached to shares of a company or an interest in a close corporation;”;
- (r) by the substitution for the definition of “Fixed odds bet” of the following definition: 50
 “ ‘Fixed odds bet’ means a bet on one or more contingencies in respect of which the odds are agreed at the time the bet is placed;”;

- (s) by the substitution for the definition of “Gambling” of the following definition:
“ ‘Gambling’ or ‘gambling activity’ means any activity described in section 1 (2) below, but excludes social gambling;”;
- (t) by the substitution for the definition of “Gambling device” of the following definition: 5
“ ‘Gambling device’ means equipment or any other thing, excluding currency, that is used directly in the conduct of a gambling activity, or which, at the time of its manufacture, was designed to be used, in determining the result of a gambling activity, and without derogating from the generality of the foregoing, shall include —
 (a) a slot machine, and
 (b) such computerised or similar software used by a licence holder in the conduct of any gambling activity as the Board may determine to be a gambling device;”;
- (u) by the substitution for the definition of “Gambling game” of the following definition:
“ ‘Gambling game’ means any activity described in section 1 (5) below;”;
- (v) by the insertion after the definition of “Gambling game” of the following definitions: 20
“ ‘Gambling machine’ means any mechanical, electrical, video, electronic, electro-mechanical or other device, contrivance, machine or software, other than an amusement machine, that
 (a) is available to be played or operated upon payment of a consideration; and
 (b) may, as a result of playing or operating it, entitle the player or operator to a pay-out, or deliver a pay-out to the player or operator;”;
- “ ‘Institutional investor’ means a publicly traded investor in shares on a recognised stock exchange which are held for investment purposes only;”; and
“ ‘Internet’ has the meaning set out in section 1 of the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002);”;
- (w) by the deletion of the definition of “Licensed race course”; 35
- (x) by the substitution for the definition of “Limited gambling machine” of the following definition:
“ ‘Limited payout machine’ means a gambling machine outside of a casino in respect of the playing of which the stakes and prizes are limited as prescribed by regulations made in terms of the National Act;”;
- (y) by the deletion of the definition of “Limited gambling machine operator licence”;
- (z) by the deletion of the definition of “Limited gambling machine premises licence”;
- (aa) by the insertion after the definition of “Manufacturer licence” of the following definition: 45
“ ‘National Act’ means the National Gambling Act, 2004 (Act No. 7 of 2004);”;
- (bb) by the substitution for the definition of “Open bet” of the following definition:
“ ‘Open bet’ means—
 (a) a bet, other than a totalisator bet, taken by a bookmaker on one or more contingencies, in which no fixed-odds are agreed at the time the bet is placed; or
 (b) a bet in respect of which the payout is determined after the outcome of the contingency on which such a bet is struck became known, with reference to dividends generated by a totalisator;”;
- (cc) by the insertion after the definition of “Operator licence” of the following definitions: 55
“ ‘Organ of state’ has the meaning set out in section 239 of the Constitution of the Republic of South Africa, 1996;”;
“ ‘Partner’ means any party to a partnership agreement, entered into with the intention of making a profit;”; and 60

- “ ‘Person’ includes a partnership, association, trust, or a juristic person established by or in terms of any law;”;
- (dd) by the substitution for the definition of “Player” of the following definition:
 “ ‘Player’ or ‘patron’ means any participant, other than a holder of a licence issued in terms of this Act, in a gambling [game and includes a punter in any betting transaction.] activity;”;
- (ee) by the substitution for the definition of “Political office bearer” of the following definition:
 “ ‘Political office bearer’ means—
 (a) a member of the National Assembly, the National Council of Provinces or the National Cabinet;
 (b) a member of a provincial legislature;
 (c) a member of a municipal council or local authority;
 (d) a diplomatic representative of the Republic who is not a member of the public service;
 (e) a member of a house, or council of traditional leaders, or
 (f) a national or provincial office bearer of a political party;”;
- (ff) by the substitution for the definition of “Premises” of the following definition:
 “ ‘Premises’ means any site, place or location, **[regardless of whether it is or forms part of any temporary or permanent structure, building, vessel, vehicle or aircraft.]** and includes land and any building, structure, vehicle, ship, boat, vessel, aircraft or container;”;
- (gg) by the insertion after the definition of “Province” of the following definitions:
 “ ‘Public servant’ means a person employed within an organ of state or within a court, or a judicial officer;”;
- “ ‘Publicly traded investor’ means an investor which is listed on a recognised stock exchange and which is an investor in shares listed on a recognised stock exchange;”;
- (hh) by the substitution for the definition of “Race” for the following definition:
 “ ‘Race’ means any horse race over a defined or agreed course, held for the entertainment of the public and members of any association or club, but does not include—
 (a) any race in the nature of a public trial gallop at which no betting takes place, held under the management and control of the holder of [a] an [race course] operator licence, and
 (b) any race or contest of a private nature at which no betting takes place;”;
- (ii) by deletion of the definition of “Race course licence”;
- (jj) by the insertion after the definition of “Responsible member” of the following definitions:
 “ ‘Route operator’ means a person to whom a route operator licence has been issued, in terms of section 46;”;
- “ ‘Route operator licence’ means any licence issued in terms of section 46;”;
- (kk) by insertion after the definition of “Rules” of the following definitions:
 “ ‘Site’ means any premises licensed for the placement of one or more limited pay-out gambling machines contemplated in section 47;”;
- “ ‘Site licence’ means any licence issued in terms of section 47;”;
- (ll) by the substitution for paragraph (c) of the definition of “social gambling” of the following paragraph:
 “(c) the playing of an amusement game “[, which, for the purposes of this Law, means a game as prescribed.]”;
- (mm) by the substitution for the definition of “Spouse” of the following definition:
 “ ‘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;”;
- (nn) by deletion of the definition of “Totalisator”;
- (oo) by the insertion of the word “and” after the semi-colon at the end of the definition of “Unredeemable free game” ;

(pp) by the substitution for the definition of “Winning bet” of the following definition:

“ ‘Winning bet’ means any bet where the person who placed or took the bet correctly predicted the result of the [event or] contingency or [combination thereof] contingencies in respect of which the bet was placed.”, and

(qq) by the insertion after the definition of “Winning bet” of the following subsections:

“(2) An activity is a gambling activity if it involves—

(a) placing or accepting a bet or wager in terms of subsection (3); 10
 (b) placing or accepting a totalisator bet, in terms of subsection (4); or
 (c) making available for play, or playing bingo or another gambling game as contemplated in subsection (5).

(3) A person places or accepts a bet or wager when that person—

(a) being a player, stakes money or anything of value on a fixed-odds bet, or an open bet, with a bookmaker on any contingency; or 15

(b) being a bookmaker—
 (i) accepts a stake of money or anything of value on a fixed-odds bet, or an open bet, from a player on any contingency; or 20

(ii) stakes money or anything of value on a fixed-odds bet, or an open bet, with another bookmaker on any contingency;

(c) stakes or accepts a stake of money or anything of value with one or more other persons on any contingency; or

(d) expressly or implicitly undertakes, promises or agrees to do anything contemplated in paragraph (a), (b) or (c). 25

(4) A person places or accepts a totalisator bet when that person stakes money or anything of value on the outcome of an event or combination of events by means of—

(a) a system in which the total amount staked, after deductions provided for by law or by agreement, is divided among the persons who made winning bets in proportion to the amount staked by each of them in respect of a winning bet; or 30

(b) any scheme, form or system of betting, whether mechanically operated or not, that is operated on similar principles. 35

(5) 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 40

(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 subsection (3), that is placed in a casino in relation to an activity that meets the criteria in paragraph (a). 45

(6) Despite subsection (5), for all purposes of this Act, none of the following activities is a gambling game:

(a) a bet or wager in terms of subsection (3), other than a bet or wager contemplated in subsection (5)(b);

(b) a totalisator bet in terms of subsection (4); or 50

(c) an amusement game.

(7) Subject to paragraph (b), a pay-out is:

(a) any money, merchandise, property, a cheque, credit, electronic credit, a debit, a token, a ticket or anything else of value won by a player— 55

(i) whether as a result of the skill of the player or operator, the application of the element of chance, or both; and

(ii) regardless of how the pay-out is made.

(b) Neither of the following is a pay-out:

(i) An opportunity to play a further game; or 60

(ii) a prize given to a participant or team of participants in a sporting event in respect of the participant’s or team’s performance in that event.

- (c) The result of a gambling game—
- (i) is an opportunity to play a further game if the player is afforded the opportunity to continue without interruption playing the type of game—
 - (aa) in respect of which the opportunity was won; and
 - (bb) on the machine on which the opportunity was won; but
 - (ii) is not an opportunity to play a further game if the opportunity can in any manner, whether directly or indirectly, be—
 - (aa) distributed or transferred to the person who has won such an opportunity or to any other person, or
 - (bb) converted into money, property, a cheque, credit or any other thing of value; or
 - (cc) converted in terms of any scheme, arrangement, system, plan or device prescribed in terms of the National Act.”.

Amendment of section 3 of Law 4 of 1996, as amended by section 2 of Act 11 of 1997 and section 6 of Act 4 of 1997

4. Section 3 of the principal Law is amended—
- (a) by the substitution for subsection (1) of the following subsection:

“(1) The Board shall consist of seven members, appointed on a part-time basis, by the Executive Council in accordance with the prescribed procedure, which shall provide for public participation in the nomination of candidates for appointment; provided that the standing committee of the Provincial Legislature responsible for this Law shall evaluate all candidates as to their suitability for appointment.”, and
 - (b) by the deletion of the subsection (2A).

Amendment of section 5 of Law 4 of 1996, as amended by section 7 of Act 4 of 1997 and section 2 of Act 10 of 1997

5. Section 5 of the Law is amended—
- (a) by the insertion, after the section number, of the expression “(1)”;
 - (b) by the substitution for paragraph (f), in subsection (1), of the following paragraph:

“(f) anyone who, whether personally or through his or her spouse, [an immediate] family member [within the first degree of affinity or the second degree of consanguinity, a], partner or [an] associate[, or any person connected to such person by marriage]—

 - (i) has or acquires a direct or an indirect financial interest in any gambling business or establishment, or
 - (ii) has any interest in any business or enterprise that may conflict or interfere with the proper performance of his or her duties as a member or an employee of the Board or in any licence issued under this Law.”, and
 - (c) by the insertion after subsection (1) of the following subsection:

“(2) For the purposes of this section, an indirect financial interest does not include an indirect interest held through any fund or investment if the person holding such interest has no control over the investment decisions made in respect of that fund or investment.”

Amendment of section 12 of Law 4 of 1996, as amended by section 4 of Act 10 of 1997, section 10 of Act 4 of 1997 and section 1 of Act 1 of 2003

6. Section 12 of the principal Law is amended—
- (a) by the substitution for subsection (3) of the following subsection:

“(3) to grant, renew, amend, refuse, transfer, suspend or revoke licences under this Law;”;
 - (b) by the insertion after subsection (4), of the following subsection:

“(4A) to grant, renew, refuse, suspend or revoke national licences in terms of the National Act;”;

(c) by the deletion of subsection (5), and

(d) by the substitution for subsection (14) of the following subsection:

“(14) to make rules governing the licensing, conduct and operation of any gambling **[or racing or activities incidental thereto]** activity;”.

Amendment of section 15 of Law 4 of 1996, as amended by section 13 of Act 4 of 1997, section 5 of Act 11 of 1997 and section 5 of Act 10 of 1997

7. Section 15 of the principal Law is amended—

(a) by the substitution for subsection (1) of the following subsection: 10

“(1) A member or an employee of the Board, a member of the Executive Council or a member of the standing committee of the Provincial Legislature responsible for this Law **[his or her]** or their spouse or an immediate family member **[as defined in section 5(f)]** shall not directly or indirectly receive from any person anything of value that may conflict or interfere with the proper performance of such member’s or such employee’s duties.”; and 15

(b) by the substitution for subsection (2) of the following subsection:

“(2) A member of the Board, the Executive Council or the standing committee of the Provincial Legislature responsible for this Law and their spouse shall not solicit or accept employment from— 20

(a) any person who has applied for or been issued with a licence in terms of this Law, or

(b) any person or entity offering or paying remuneration which is, wholly or in part, financed or subsidised by or derived from any person contemplated in (a) within four years after the termination of their term of office; 25

provided that in the case of any member of the Board who resigns, the unexpired portion of his or her term of office shall be added to the number of years referred to in the foregoing provision.” 30

Amendment of section 15A of Law 4 of 1996, as amended by section 6 of Act 10 of 1997

8. Section 15A of the principal Law is amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) A member or an employee of the Board shall immediately make a disclosure to the Board if— 35

(a) he or she, or his or her **[spouse or an immediate]** family member as defined in section **[5(f)]** 30(2)(d), holds or acquires any direct or indirect financial interest in any gambling business or establishment; 40

(b) he or she, or his or her **[spouse or an immediate]** family member **[as defined in section 5(f)]** has or acquires any interest in any business or enterprise that may conflict or interfere with the proper performance of his or her duties as a member or an employee of the Board, or in any licence issued under this Law; 45

(c) he or she, or his or her **[spouse or an immediate]** family member **[as defined in section 5(f)]** receives anything contemplated in section 15(1);

(d) he or she, or his or her **[spouse or an immediate]** family member **[as defined in section 5(f)]** solicits or accepts employment from a licence holder or an applicant for a licence in terms of this Law, and 50

(e) he or she has participated in gambling, or it has come to his or her attention that his or her spouse has participated in gambling, in this Province or at any gambling business contemplated in section 15(3).”, and 55

(b) by the insertion after subsection (2) of the following subsection:

“(3) For the purposes of this section, an indirect financial interest does not include an indirect interest held through any fund or investment if the

person holding such interest has no control over the investment decisions made in respect of that fund or investment.”.

Amendment of section 20 of Law 4 of 1996, as amended by section 19 of Act 4 of 1997 and section 2 of Act 1 of 2003

9. Section 20 of the principal Law is amended by the substitution for subsection (3) of the following subsection: 5

“(3) The Board may in any financial year make requests for additional funds to the responsible Member for inclusion in the adjustments estimates [as contemplated in the definition thereof in section 1 of the Western Cape Exchequer Law, 1994 (Law 4 of 1994)] in accordance with the applicable legislation.”. 10

Amendment of section 23 of Law 4 of 1996, as amended by section 20 of Act 4 of 1997, section 8 of Act 10 of 1997, section 2 of Act 4 of 1999 and section 4 of Act 1 of 2003

10. Section 23 of the principal Law is amended by the substitution for sub-paragraph (iii) to paragraph (1)(a) of the following sub-paragraph: 15

“(iii) any contravention or alleged contravention of, or any failure or alleged failure to comply with, any provision of this Law on any licensed premises or by the holder of any licence issued in terms of this Law.”.

Amendment of section 27 of Law 4 of 1996, as amended by section 3 of Act 4 of 1999 and section 2 of Act 11 of 2000 20

11. Section 27 of the principal Law is amended by the insertion after paragraph (g) of the following paragraph:

“(hB) national licences, as contemplated in the National Act;”.

Insertion of section 27A in Law 4 of 1996

12. The following section is inserted after section 27 of the principal Law: 25

“National licences

27A. (1) The Board may issue national licences as contemplated in the National Act.

(2) Except as otherwise provided in the National Act, the provisions of this Act shall apply in respect of any national licence issued in terms of the National Act. 30

(3) Notwithstanding the provisions of this Act, the holder of a national licence shall be entitled to conduct the activities authorised thereby in the Province, as if such licence had been issued in terms of this Act.”.

Amendment of section 28 of Law 4 of 1996, as amended by section 23 of Act 4 of 1997 and section 2 of Act 8 of 1998 35

13. The following section is substituted for section 28 of the principal Law:

“28. In order to qualify for a licence—

(a) a person, other than a company or other body corporate, shall— 40

(i) be a fit and proper person whose character, integrity, honesty, prior conduct, regard for the law, reputation, habits and associations do not pose a threat to the health, safety, morals, good order and general welfare of the inhabitants of the Province and to the provisions and policy of this Law, and

(ii) not be disqualified under this Law, and 45

(b) a company or body corporate shall—

(i) be registered under the relevant laws of the Republic;

(ii) be of good financial standing and have adequate means to undertake and sustain the activity for which the licence is required, and 50

(iii) with the necessary changes, comply with paragraph (a).”.

Amendment of section 29 of Law 4 of 1996, as amended by section 24 of Act 4 of 1997, section 9 of Act 10 of 1997 and section 4 of Act 4 of 1999

14. The following section is substituted for section 29 of the principal Law:

“Disqualifications in respect of employment licences

- 29.** A person may not hold an employment licence issued in terms of this Act, if that person— 5
- (a) does not comply with the requirements of section 28(a)(i);
 - (b) is an unrehabilitated insolvent or is subject to any legal disability;
 - (c) is a member of the Board, a member of the Executive Council or a member of the standing committee of the Provincial Legislature responsible for this Act, or is a family member of such person; 10
 - (d) is an employee of the Board, or a family member of such person; provided that the Board may condone such disqualification, where it exists in respect of a family member, if it is satisfied that no material conflict of interest will arise by reason of such employment; 15
 - (e) is under the age of 18 years;
 - (f) is a public servant or political office bearer;
 - (g) is revealed, as a result of investigations or enquiries conducted pursuant to section 30(2), to be disqualified from holding an interest in a licence holder, licensed premises, or the business to which a licence relates; 20
 - (h) is listed on the register of excluded persons contemplated in the National Act;
 - (i) is subject to an order of a competent court holding that person to be mentally unfit or deranged; 25
 - (j) has ever been removed from an office of trust on account of misconduct relating to fraud or the misappropriation of money, or
 - (k) has been convicted during the previous ten years, in the Republic or elsewhere, of corruption, theft, fraud, forgery or uttering a forged document, perjury, or an offence in terms of this Act or the National Act, and has been sentenced to imprisonment without the option of a fine, or to a fine exceeding the amount prescribed in terms of the National Act, unless the person has received a grant of amnesty or free pardon for the offence.” 30

Amendment of section 30 of Law 4 of 1996, as amended by section 25 of Act 4 of 1997 35

15. The following section is substituted for section 30 of the principal Law:

“[Persons having certain direct or indirect interests disqualified]

Disqualifications and restrictions in respect of other licences

- 30.** (1) This section does not apply to an employment licence. 40
- (2) A person may not hold a licence referred to in this section, or a financial interest in the holder of such a licence, if that person—
- (a) is a person contemplated in section 29(a), (e), (f), (i), (j) or (k);
 - (b) is a legal entity in respect of which the State or any organ of the State or any organisation with which the State is concerned has any financial interest, except as far as taxes are concerned, in any gambling activity; provided that the provisions of this paragraph shall not include an interest held by the State or any organ of the State or any organisation with which the State is concerned, arising out of an arms-length commercial transaction in respect of— 45
 - (i) a lease, in respect of which the rental payable is not determined by reference to the turnover of, or profit from, any gambling activity;
 - (ii) a sale of property, or
 - (iii) the granting of an option to purchase; 50
 - (c) is an unrehabilitated insolvent, or 55

(d) is a family member, other than a brother or sister, of a person who is a member or employee, of a regulatory authority exercising oversight over that licensee;

provided that, in dealing with applications for the grant or renewal of licences or evaluating the suitability of licence holders or persons having a financial interest therein, the Board may, but shall not be obliged to, conduct investigations or enquiries in respect of persons holding a financial interest of less than five percent in the applicant.

(3) The Board must refuse to issue a licence to an applicant if, after conducting the investigations or enquiries contemplated in subsection (2), it has reason to believe that—

(a) the applicant, any person who holds a financial interest in the applicant, or any manager of the business concerned is a family member, other than a brother or sister, of a person who is a member or employee of that licensing authority; or

(b) the applicant or any person who holds a financial interest of five percent or more in the applicant is disqualified from holding an interest in a licence holder or the business to which a licence relates, in terms of subsection (2).

(4) For the purposes of this section, a financial interest does not include an indirect interest held in any fund or investment if the person holding that interest has no control over the investment decisions made in respect of that fund or investment.”.

Amendment of section 35 of Law 4 of 1996, as amended by section 29 of Act 4 of 1997, section 11 of Act 10 of 1997 and section 5 of Act 4 of 1999

16. Section 35 of the principal Law is amended by the substitution for subparagraph (vi) of subsection (3) of the following subparagraph:

“(vi)the applicant qualifies in terms of section [28]29 and is not disqualified in terms of section [29]30, and”.

Amendment of section 37 of Law 4 of 1996, as amended by section 31 of Act 4 of 1997

17. Section 37 of the principal Law is amended:

(a) by the substitution for paragraph (f) of subsection (1) of the following paragraph:

“(f) relating to the premises in or on which gambling[, **racing or**] activities [incidental thereto is to] take place, including the development and utilisation thereof;”;

(b) by the substitution for paragraph (g) of subsection (1) of the following paragraph:

“(g) requiring submission to the Board of reports and returns relating to gambling [**or racing or activities incidental thereto**] activities;”;

(c) by the substitution for paragraph (i) of subsection (1) of the following paragraph:

“(i) relating to the days on which and hours during which gambling activities or racing may be carried on;”, and

(d) by the substitution for paragraph (k) of subsection (1) of the following paragraph:

“(k) relating to any equipment or device used or to be used in connection with any gambling activity or racing;”.

Amendment of section 39 of Law 4 of 1996, as amended by section 33 of Act 4 of 1997

18. Section 39 of the principal Law is amended—

(a) by the substitution for subsection (2) of the following subsection:

“(2) The Board may from time to time order that the amount or value of the security referred to in subsection (1) be increased or decreased, whereupon the licence holder concerned shall, within seven days of the

- receipt by it of a notification that the Board has so ordered, ensure that the security is increased or decreased in accordance with such order.”;
- (b) by the substitution for subsection (3) of the following subsection:
 “(3) If any security given in terms of subsection (1) lapses, becomes invalid or is not increased within the period contemplated in subsection (2), the licence concerned shall, notwithstanding the provisions of section 42(3)(a), be deemed to have been suspended in terms of section 42(1) and the licence holder shall not continue to carry on the business authorised under that licence until such security has been reinstated or validated or has been replaced or increased.”;
- (c) by the substitution for subsection (5) of the following subsection:
 (5) If any licence holder fails to pay any taxes, fees or gambling obligations due and payable by [him or her] it under this Law, the Chief Executive Officer shall realise the security referred to in subsection (1) and apply any money derived from the realisation thereof for the payment of such taxes, fees or gambling obligations as may be due and payable, whereupon—
 (a) the provisions of subsection (2) shall apply, if the amount of the security so realised is less than half of the security determined by the Board in respect of that licence holder, or
 (b) the provisions of subsection (3) shall apply, if the amount of the security so realised is half or more than half of the total security determined by the Board in respect of that licence holder.”, and
- (d) by the substitution for subsection (6) of the following subsection:
 (6) Whenever a licence issued in terms of this Law expires or is revoked as provided for in this Law, the Chief Executive Officer shall, after a period of not less than ninety days after the date of such expiration or revocation and after compliance with the provisions of subsection (5), if such provisions are applicable, release the security or the balance of the security.”.

Amendment of section 41 of Law 4 of 1996, as amended by section 35 of Act 4 of 1997 and section 7 of Act 4 of 1999

19. Section 41 of the principal Law is amended—
- (a) by the substitution for the section heading of the following section heading:
 “[**Non-transferability**] **Restrictions on transferability of licences**”;
- (b) by the substitution for subsection (1) of the following subsection:
 “(1) [No]Subject to the provisions of subsection (1A), no licence granted under this Law shall be transferable by the holder thereof to another person, and no premises licence issued in terms of this Law shall be transferable from any premises to which it may relate, to any other premises.”, and
- (c) by the insertion after subsection (1) of the following subsection:
 “(1A) A licence shall be transferred from an existing licence holder to another person only if —
 (a) the transfer of that licence from the existing licence holder to another person is necessary to ensure compliance with the provisions of the National Act;
 (b) the existing licence holder has made written application to the Board for the transfer of its licence, on the grounds set forth in paragraph (a), and
 (c) the Board has approved the application contemplated in paragraph (b).”.

Amendment of section 41A of Law 4 of 1996, as amended by section 36 of Act 4 of 1997

20. Section 41A of the principal Law is amended—
- (a) by the substitution for the section heading of the following section heading:
 “**Death or disability of person having an interest in a licence holder**”;
- (b) by the deletion of subsection (1);

- (c) by the substitution for subsection (2) of the following subsection:
 “(2) Where **[the]** an interest held in a licensed gambling business by a **[deceased or]** person who dies or becomes disabled **[person]** passes by operation of law or otherwise to his or her estate or to any person other than the executor, curator or another person having an interest in the same [co-licence] licence holder, the executor of the estate or such other person [or the executor of the estate] shall, within 30 days after the date of death or disability, apply to the Board for the appropriate licence.”;

Amendment of section 46 of Law 4 of 1996, as amended by section 40 of Act 4 of 1997

21. Section 46 of the principal Law is amended—
- (a) by the substitution for the section heading of the following section heading:
 “**[Limited gambling machine] Route operator licence**”;
- (b) by the substitution for subsection (1) of the following subsection:
 “(1) A **[limited gambling machine] route** operator licence shall only be issued to a company registered in terms of the Companies Act, 1973.”;
- (c) by the substitution for subsection (2) of the following subsection:
 “(2) A **[limited gambling machine] route** operator licence is required by every company which permits or engages in the business of operating limited **[gambling] payout** machines in or on one or more premises licensed in terms of section 47.”;
- (d) by the substitution for subsection (2A) of the following subsection:
 “(2A) A **[limited gambling machine] route** operator licence shall attach to the **[premises] operator** specified in the licence.”; and
- (e) by the substitution for subsection (3) of the following subsection:
 “(3) A **[limited gambling machine] route** operator licence shall authorise, subject to any conditions which the Board may impose, the operation of approved limited **[gambling] payout** machines in or on premises or such parts of such premises as are licensed in terms of section 47.”.

Amendment of section 47 of Law 4 of 1996, as amended by section 41 of Act 4 of 1997

22. Section 47 of the principal Law is amended—
- (a) by the substitution for the section heading of the following section heading:
 “**[Limited gambling machine premises] Site licence**”, and
- (b) by the substitution for subsection (1) of the following subsection:
 “(1) A **[limited gambling machine premises] site** licence is required for any premises in the Province in or on which limited **[gambling] payout** machines are placed by the holder of a **[limited gambling machine] route** operator licence.”;
- (c) by the substitution for subsection (2) of the following subsection:
 “(2) A **[limited gambling machine premises] site** licence shall authorise, subject to any conditions which the Board may impose, the keeping and exposing for play in or on the licensed premises or such part of such premises as is specified in the licence of any limited **[gambling] payout** machines operated in terms of section 46.”;
- (d) by the insertion, after subsection (2), of the following subsections:
 “(3) A site licence shall attach to the premises specified in the licence.
 (4) The Board shall not grant an application for a site licence unless it is satisfied that—
 (a) the person who or which will be responsible for the operation of the gambling business on the site, and
 (b) subject to the proviso to section 30(2), all persons holding a financial interest of five percent or more in the person contemplated in paragraph (a),
 comply with the provisions of sections 28 or 29, as the case may be, and 30.”.

Amendment of section 48 of Law 4 of 1996, as amended by section 8 of Act 4 of 1999

23. Section 48 of the principal Law is amended, by the substitution for subsection (2) of the following subsection:

“(2) A bingo licence is required by every person who, in the Province, permits or conducts the playing of bingo, other than for the purpose of social gambling authorised in terms of section 67(1)(c), in or on one or more premises, specified in such licence, which premises shall be licensed in terms of section 48A.” 5

Amendment of section 53 of Law 4 of 1996, as amended by section 44 of Act 4 of 1997 and section 13 of Act 4 of 1999

24. Section 53 of the principal Law is amended by the substitution for subsection (3) of the following subsection:

“(3) A totalisator operator licence shall authorise, subject to any conditions which the Board may impose, the operation of a totalisator in respect of **[any event or] such [contingency] contingencies** as are consistent with the provisions of the Lotteries Act 1997 (Act 57 of 1997), and the acceptance of stakes in respect of such totalisator in or on premises licensed in terms of section 54.” 15

Amendment of section 54 of Law 4 of 1996, as amended by section 45 of Act 4 of 1997 and section 14 of Act 4 of 1999

25. Section 54 of the principal Law is amended by the substitution for subsection (2) of the following subsection: 20

“(2) A totalisator premises licence shall authorise, subject to any conditions which the Board may impose, the acceptance of stakes in respect of a totalisator in or on the premises specified in such licence by the holder of a licence contemplated [licensed] in [terms of] section 53.”

Amendment of section 55 of Law 4 of 1996, as amended by section 46 of Act 4 of 1997 and section 15 of Act 4 of 1999 25

26. Section 55 of the principal Law is amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) A bookmaker licence is required by every person who, in the Province, engages in the business of directly or indirectly laying or taking bets[, other than totalisator-type bets,] as defined in section 1, with members of the public or other bookmakers in one or more premises, specified in such licence, which premises shall be licensed in terms of section 55A.”, and 30

(b) by the substitution for subsection (3) of the following subsection: 35

“(3) A bookmaker licence shall authorise, subject to any conditions which the Board may impose, the **[conducting] conduct** of the business of a bookmaker in or on the premises by laying and placing fixed odds and open bets, but not **[totalisator-type] totalisator** bets.”

Amendment of section 55A of Law 4 of 1996, as amended by section 16 of Act 4 of 1999 40

27. Section 55A of the principal Law is amended by the deletion of subsection (3).

Amendment of section 58 of Law 4 of 1996, as amended by section 2 of Act 5 of 1999

28. The following section is substituted for section 58 of the principal Law:

“**58.** (1) Any person, other than an institutional investor, a publicly traded investor, a depository institution or a central securities depository, who or which, directly or indirectly, procures a financial interest of five percent or more in the business to which a licence relates shall, within the period and in the manner prescribed or determined by the Board, apply to the Board for approval to hold such interest. 45

(2) Any publicly traded investor, other than an institutional investor, who, directly or indirectly, procures a financial interest of ten percent or 50

more in the business to which a licence relates shall, within the period and in a manner prescribed or determined by the Board, apply to the Board for approval to hold such interest.

(3) Any institutional investor who, directly or indirectly, procures a financial interest of fifteen percent or more in the business to which a licence relates shall, within the period and in a manner prescribed or determined by the Board, apply to the Board for approval to hold such interest.

(4) The provisions of sections 28, 30 and 32 shall, with necessary changes, apply in relation to any application contemplated in subsections (1), (2) and (3).

(5) The Board shall not grant approval under sub-sections (1), (2) or (3) where the person or publicly traded investor or institutional investor making the application is disqualified to hold a licence in terms of this Act.

(6) Where approval is not granted in terms of this section, the person, publicly traded investor or institutional investor shall, within the prescribed period and in the manner prescribed by the Board, dispose of the interest in question.

(7) No person, publicly traded investor or institutional investor shall procure an interest contemplated in sub-sections (1), (2) or (3) as nominee or agent of or otherwise on behalf of any principal or beneficiary if that person has not in writing informed the holder of the licence concerned and the Board of the identity of such principal or beneficiary.

(8) The provisions of this section—

(a) shall not apply to a depository institution or central securities depository in respect of a financial interest held by it on behalf of persons other than itself in securities listed on a stock exchange in South Africa registered as such in terms of the Stock Exchange Control Act, 1985 (Act No. 1 of 1985), but

(b) shall apply to the beneficial holders of the securities contemplated in paragraph (a).

(9) Any person who contravenes sub-sections (1), (2), (3), (6) or (7) shall be guilty of an offence.”.

Amendment of section 66 of Law 4 of 1996

29. Section 66 of the principal Law is amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) No person shall—

(a) hold, organise, arrange, attend or in any manner take part in or assist at a race meeting, or

(b) print, publish, possess, sell or offer for sale or in any manner circulate or distribute a race card in respect of a race meeting,

unless the relevant race meeting takes place **[at a licensed race course]** on premises licensed in terms of this Act.”;

(b) by the substitution for subsection (2) of the following subsection:

“(2) Any person who contravenes subsection (1) **[or any of the conditions of a race course licence]** shall be guilty of an offence.”, and

(c) by the deletion of subsection (3).

Amendment of section 67 of Law 4 of 1996, as amended by section 56 of Act 4 of 1997, section 14 of Act 10 of 1997, section 20 of Act 4 of 1999 and section 10 of Act 11 of 2000

30. Section 67 of the principal Law is amended by the substitution for paragraph (a) of subsection (1) of the following paragraph:

“(a) conduct or permit **[the playing of]** any gambling **[game or conduct or permit any gambling]** activity in or on any premises under his or her control or in his or her charge[,] or”.

Amendment of section 72 of Law 4 of 1996

31. The following section is substituted for section 72 of the principal Law:

“**[Prohibition of activities] Liability in relation to gambling [games and betting] activities**

72. No person shall be exempt from liability under any provision of this Law in respect of any act or thing done by him or her or authorised or permitted by him or her to be done in the Province in connection with any gambling **[game or betting] activity** merely by reason of the fact that any aspect of the management or **[conducting]**conduct thereof is in whole or in part carried on at some place outside the Province.”

Amendment of section 74 of Law 4 of 1996, as amended by section 60 of Act 4 of 1997

32. Section 74 of the principal Law is amended—

(a) by the substitution for subsection (1) of the following subsection:

“(1) No **[person]** holder of a licence issued in terms of this Act shall **[display] cause or permit** any advertisement **[with regard to] in respect of any gambling activity to be published [save as is] otherwise than in the manner prescribed in terms of this Act and the National Act.**”

(b) by the insertion, after subsection (1), of the following subsection:

“(1A) No person shall cause or permit any advertisement relating to any gambling activity to be published in this Province, unless a licence in respect of such activity has been issued—

(a) in terms of this Act;

(b) in terms of the law of another province of the Republic, or

(c) in terms of the law of a jurisdiction outside the Republic; provided that—

(i) the advertisement is published or transmitted from outside the Republic and persons resident in the Republic are not the sole or primary audience at which the advertisement is directed, or

(ii) the advertisement complies with all requirements prescribed in terms of this Act or the National Act and persons responding to the advertisement will have to travel outside of the Province to participate in the gambling contemplated in the advertisement.”

Amendment of section 75 of Law 4 of 1996, as amended by section 61 of Act 4 of 1997, section 15 of Act 11 of 1997, section 2 of Act 10 of 2000 and section 6 of Act 1 of 2003

33. Section 75 of the principal Law is amended by the insertion after paragraph (c) of subsection (1), of the following paragraphs:

“(cA) otherwise than in accordance with this Act, uses a computer or permits a computer to be used—

(i) to enable participation in a gambling activity, or

(ii) by making such computer, whether wholly or partially, available to any member of the public for the purpose of participating in any gambling activity, whether such gambling activity takes place on the premises where it is offered or by way of internet or other electronic transmission;

(cB) in the Province, distributes or makes available computer software which is designed, or the primary function of which is to enable persons in the Province to link to gambling businesses outside the Province which offer gambling activities by means of the internet;”

Amendment of section 75A of Law 4 of 1996, as amended by section 7 of Act 1 of 2003

34. Section 75A of the principal Law is amended by the substitution for subsection (1) of the following subsection:

“(1) If the Board is satisfied, on a balance of probabilities, from evidence adduced at [a] any hearing conducted in terms of this Act or produced as a result of [an] any investigation or enquiry conducted pursuant to [section 23(1)(a)(iii)] this Act, that a provision of this Law has been contravened or has not been complied with by—

- (a) the holder of an operator licence;
- (b) the holder of a licence contemplated in section 27(f) or (g);
- (c) the holder of a licence contemplated in section 27(l) or (m), or
- (d) any person acting or purporting to act in the course and scope of his or her employment by the holder of an operator licence or a licence contemplated in section 27(f) or (g)

the Board may hold [either or both] any or all of such licence holders liable for such contravention, as the case may be, and impose a penalty contemplated in subsection (2).”.

Deletion of section 84 of Law 4 of 1996

35. Section 84 of the principal Law is deleted.

Deletion of 84A of Law 4 of 1996

36. Section 84A of the principal Law is deleted.

Deletion of 84B of Law 4 of 1996

37. Section 84B of the principal Law is deleted.

Deletion of 84C of Law 4 of 1996

38. Section 84C of the principal Law is deleted.

Insertion of section 84D into Law 4 of 1996

39. The following section is inserted into the principal Law after section 83:

“Prohibition of certain gambling activities

84D. (1) Subject to subsection (3), no person physically present in the Province shall participate in a gambling activity by way of telephone, telefax, interactive television, electronic mail, internet transmission or any related communications medium, except as provided for by the National Act.

(2) Subject to subsection (3), no person shall invite, assist or permit another person—

- (a) who, to the knowledge of the first-mentioned person, is physically present in the Province, or
- (b) whom the first-mentioned person should reasonably suspect to be physically present in the Province,

to participate in a gambling activity which is conducted wholly or partially by way of telephone, telefax, interactive television, electronic mail, internet transmission or any related communications medium, except as provided for by the National Act.

(3) The provisions of this section shall not apply—

- (a) to a bet taken by or with a bookmaker or totalisator licensed in any province in the Republic which is authorised by such licence to accept such a bet, or

- (b) where a player participates in a gambling activity contemplated in this section on the licensed premises of a person licensed in terms of this Act to offer such gambling activity.
- (4) Any person who contravenes a provision of this section shall be guilty of an offence.”

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Insertion of section 84E of Law 4 of 1996

40. The following section is inserted into the principal Law after section 84D:

“**Transitional Provisions**

84E. (1) Any valid licence certificate issued by the Board in terms of section 46, prior to the date of coming into operation of the Western Cape Fifteenth Gambling and Racing Amendment Act, 2005 (in this section “the Amendment Act”), shall, notwithstanding the wording thereof and until the date of expiry thereof, be regarded as a route operator licence.

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(2) Any valid licence certificate issued by the Board in terms of section 47, prior to the date of coming into operation of the Amendment Act, shall, notwithstanding the wording thereof and until the date of expiry thereof, be deemed to be a site licence.

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(3) Any person who, at the time of coming into operation of the Amendment Act, holds a licence, a financial interest in a licence or a certificate of suitability issued in terms of this Act who, as a result of the provisions of the Amendment Act or the National Act, is no longer qualified to hold such licence, financial interest or certificate of suitability, must, within 30 days of the coming into operation of the Amendment Act, report such fact—

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(a) to his or her employer, where such person is the holder of an employee licence and in the employ of the holder of an operator licence;

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(b) to the licence holder in which he or she holds a financial interest; or

(c) to the licence holder in respect of which such person has been issued with a certificate of suitability, whereafter such employer or licence holder must, within 30 days of such report, notify the Board of the disqualification.

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(4) The provisions of section 31 of this Act shall not apply to anyone who was disqualified for licensing in terms of this Act prior to the coming into operation of the Amendment Act and, who after the coming into operation of the Amendment Act, is not so disqualified.”

35

Short title

41. This Act shall be called the Western Cape Fifteenth Gambling and Racing Amendment Act, 2005.

WESTERN CAPE FIFTEENTH GAMBLING AND RACING AMENDMENT BILL, 2005

EXPLANATORY MEMORANDUM ON THE PROPOSED AMENDMENTS TO THE WESTERN CAPE GAMBLING AND RACING LAW, 1996 (LAW 4 OF 1996), AS AMENDED (“THE LAW”)

1. INTRODUCTORY COMMENTS

1.1. The National Gambling Act, 2004 (Act 7 of 2004) (“the National Act”) came into operation on 1 November 2004 by proclamation in the *Government Gazette*. This Act repeals the National Gambling Act, 1996 (Act 33 of 1996), in terms of which the National Gambling Board was originally established.

1.2. The primary motivation for the introduction of a comprehensive new National Act governing the gambling industry was that it was found that certain processes and approaches followed by the various provincial licensing authorities in the execution of their regulatory function differed, so that licence holders operating in more than one province had to comply with different criteria for materially the same licence types. Where licence holders wished to operate in more than one province they would also have to submit to probity investigations in each such province, which involved a duplication of effort (by the various gambling boards) and expense (on the part of the licence holders).

1.3. There was therefore a need for greater uniformity between provinces and the creation of legislative mechanisms to achieve such uniformity. In order to address the above concerns and to achieve the desired uniformity, a mechanism was also required to drive and control the process on a national level. As a result, it was also considered necessary to specify in greater detail the relationship between the National Gambling Board and the provincial licensing authorities, particularly regarding licensing processes, investigations, information-sharing and regulatory practices.

1.4. As indicated above, the purpose of the National Act is to co-ordinate the exercise of the concurrent national and provincial legislative competence in respect of casinos, gambling, racing and wagering (as provided for in Schedule 4 to the Constitution) as between the National Parliament of South Africa on the one hand and its various provincial legislatures on the other. In accordance with this purpose, the National Act seeks to delineate clear norms and standards applicable to the regulation and licensing of gambling activities (which apply to all forms of gambling, with the exception of the National Lottery).

1.5. Against the above constitutional backdrop, and bearing in mind the need to guard against conflicts between national and provincial legislation concerning the same subject matter, a number of amendments are required to be made to the Law in order to align it with the provisions of the National Act. Unless otherwise indicated herein, all the amendments provided for in the Bill have been formulated on consensus emanating from a consultative process involving the National Gambling Board and all provincial Gambling Boards. This ensures that the uniformity which the National Act seeks to promote is achieved *ab initio*.

2. Proposed substitution of the word “Law” with the word “Act”

Whereas the expression “Law” was used to refer to legislation in the interim Constitution, this was subsequently replaced by the word “Act” in the final Constitution. The purpose of the amendment is therefore to align the terminology of the subject legislation with that of the final Constitution.

3. Proposed amendment of Arrangement of Sections

3.1. The amendments contemplated in Clause 1 of the Bill are formal in character, and consist of proposed deletions from and insertions into the Law of section headings, as well as certain amendments to be made thereto.

4. Proposed amendment of section 1 of Law 4 of 1996

4.1. The proposed amendments contained in this section deal primarily with those of the definitions which must be altered to ensure uniformity between the National Act and the Law.

4.2. It is also proposed to delete the individual paragraph numbers currently assigned to the various concepts defined, as they do not fulfill any meaningful function and are a complicating factor when deletions or insertions proposed in later amendments are required. According to the scheme now proposed, the concepts to be defined will be listed in alphabetical order under the proposed subsection (1). The insertion of the proposed subsection (1) is designed to cater for the fact that additional subsections, defining various concepts with a greater level of detail and precision, are proposed to be inserted after the list of individual concepts. This follows the format of the National Act.

4.3. Unless otherwise indicated herein, the various definitions inserted, amended or deleted, are proposed amendments geared towards aligning the provisions of the Law with those of the National Act.

4.4. In respect of the proposed amendment to the definition of the concept “gambling device”, while the first component of the definition follows the format of that contained in the National Act, additional qualifications have been added by way of paragraphs (a) and (b) thereto. These make it clear that slot machines (as currently defined) and such computerised or similar software as may be used by a licence holder in the conduct of a gambling activity will also be included in the concept as defined. The reason for this is that the definition of “gambling device” is currently restricted to equipment or a thing used directly in a gambling activity or which was designed to be used “*in determining the result of a gambling activity*”.

The above definition is inadequate because certain software used in the casino, limited payout machine (“LPM”) and bookmaking and totalisator industries, while it does not determine the outcome of a gambling activity, is of the utmost importance in that it must comply with particular standards and its ongoing integrity and maintenance is essential to ensure that the relevant gambling activities are conducted fairly. For this reason, it is desirable that the persons supplying and/or maintaining such software should be licensed. Similarly, the relevant software should be subject to the registration processes contemplated in the National Act. In order to achieve this, it is necessary to incorporate this equipment within the definition of “gambling device”.

The definition also makes provision for the inclusion of slot machines into the concept of “gambling device” to ensure that those machines, the manufacturers of which are not represented in this country (for the purposes of proving that such machines were “designed to be used in determining the result of a gambling activity”) and which otherwise conform with the existing definition of “slot machine” are regarded as gambling devices and may therefore not be possessed without the authority of a licence. The inclusion in the definition of this proposed additional component will significantly enhance the effective execution of the Board’s law enforcement function.

4.5. While the insertion of the proposed definition of “Internet” is designed to align the Law with the National Act, it may also be noted that the introduction of this definition assists in the formulation of additional measures, proposed to be introduced into the Law, which establish criminal liability in respect of the participation in this Province, in gambling activities conducted or made available by electronic or related means.

4.6. The insertion of the proposed subsections (2), (3), (4), (5), (6) and (7) into section 1 of the Law follows the format of the National Act, which deals with the concepts of “gambling activity”, “bet or wager”, “totalisator bet”, “gambling game”, “payout” and “opportunity to play a further game” at a high level of detail.

5. Proposed amendment of section 3 of Law 4 of 1996

5.1. The proposed amendment to subsection (1) of Section 3 and the deletion of subsection (2A) are designed to remove the provision previously made, for certain members of the Board to be appointed on a full-time basis.

6. Proposed amendment of section 5 of Law 4 of 1996

6.1. The proposed amendment to the existing section 5(*f*) (now to become section 5(1)(*f*) to accommodate the insertion of subsection (1)) is designed to align the existing provision with the amended definitions proposed to achieve uniformity between the National Act and the Law.

6.2. The proposed insertion of subsection (2) eliminates the unworkable disqualification in terms of which persons holding a nominal interest in a licence holder merely by virtue of investments in other institutional investment entities (over which such person could exercise no control) would not be eligible for appointment as a member or employee of the Board.

7. Proposed amendment of section 12 of Law 4 of 1996

7.1. The proposed insertion of the word “transfer” into section 12(3) is necessary in view of the fact that, by virtue of the requirement in the National Act that the holder of a totalisator operator licence should be a juristic person (and also provides for the transfer of licences if authorised by provincial law), the existing licence issued in respect of the totalisator will have to be transferred from the current holder (which is not a juristic person) to the company currently managing the totalisator on behalf of the licence holder.

7.2. The insertion of the proposed subsection (4A) is required to authorise the Board, in general terms, to issue, renew, refuse, suspend or revoke national licences, as provided for by the National Act.

7.3. The existing subsection (5) is proposed to be deleted, since it deals with a matter for which provision is (historically) no longer required.

7.4. The proposed amendment to subsection (14) aligns the wording used therein with the amended definitional concepts.

8. Proposed amendment of section 15 of Law 4 of 1996

8.1. The proposed amendment to subsection (1) aligns the wording of the relevant provision with the requirements of the National Act.

8.2. The proposed amendments to subsection (2), dealing with employment disqualifications pertaining to Board members, members of the Executive Council or Standing Committee members—

7.2.1. refine the wording used in paragraph (*a*), and

7.2.2. by the insertion of the proposed paragraph (*b*), prohibit such a person from soliciting or securing employment from a person who has applied for or been issued with a licence by the Board, in circumstances where a conflict of interest may be perceived to arise by virtue of such employment, namely where any part of the remuneration to be paid in respect of such employment is financed or subsidised by, or derived from such Applicant or licence holder.

9. Proposed amendment of section 15A of Law 4 of 1996

9.1. The proposed amendments to subsection (1) are intended to align the wording of the relevant provisions with those of the proposed amended definitions which are aimed at aligning the Law with the National Act.

9.2. The proposed insertion of the new subsection (3) similarly eliminates the unworkable requirement of disclosure to the Board of a conflict of interest in cases where the affected persons hold or may hold a nominal interest in a licence holder merely by virtue of investments in other institutional investment entities (over which such person could exercise no control and of which he or she might not be aware).

10. Proposed amendment of section 20 of Law 4 of 1996

10.1. The proposed amendment to subsection (3) is required as a result of the fact that the Western Cape Exchequer Law, 1994, is in the process of being repealed.

11. Proposed amendment of section 23 of Law 4 of 1996

11.1. The proposed amendment to section 23(1)(a)(iii) is designed to make it clear that the Board may hold hearings regarding contraventions of the Law committed on licensed *premises*, although these may not necessarily have been committed by a licensee (as is currently stipulated in the legislation), in view of the fact that licensees should nonetheless be accountable for events taking place on licensed premises over which they exercise control.

12. Proposed amendment of section 27 of Law 4 of 1996

12.1. The insertion of the new paragraph (hB) is designed to provide for the inclusion of national licences, as provided for by the National Act, into the list of licences which may be issued by the Board.

13. Proposed insertion of section 27A into Law 4 of 1996

13.1. The proposed new section 27A deals with national licences, which, in terms of the National Act, may be issued by any provincial Board, but which allow the holder thereof to conduct the activities authorised thereby in any province. The purpose of the proposed section is to make the provisions of the Law applicable to national licences issued by the Board and to deem any such licence as having been issued in terms of the Law, in order both to legitimize the operation of the activity authorised by the licence in the Province and to render the relevant licence subject to all procedural and related requirements to which licences issued in terms of the Law (as opposed to the National Act) would otherwise be subject.

14. Proposed amendment of section 28 of Law 4 of 1996

14.1. The proposed amendments to section 28 align the general qualification criteria in respect of licences with those of the National Act.

15. Proposed amendment of section 29 of Law 4 of 1996

15.1. The proposed amendments to the heading and content of section 29 make provision for the adoption of the scheme followed by the National Act, inasmuch as it differentiates between the eligibility criteria in respect of employee licences and those of application to other licences (to be dealt with in the proposed amendments to section 30). As such, the proposed amendments all mirror, or are consistent with, those in the National Act, other than the proposed proviso to paragraph (d), which creates an exception to the general rule that a person may not hold an employment licence if he or she is a family member of an employee of the Board. The proposed exception is designed to ensure fairness in the application of this provision, so that family members of persons who are employed by the Board in positions in respect of which the family relationship cannot reasonably be said to occasion a conflict of interest, will be permitted to procure such a licence.

15.2. It is to be noted that the provisions of the National Act preclude the Board from condoning certain disqualifications, as was previously the case.

16. Proposed amendment of section 30 of Law 4 of 1996

16.1. The proposed amended section 30 deals with qualification criteria in respect of all licences other than employment licences, in accordance with the scheme followed in the National Act and the particular eligibility criteria set forth therein. In accordance with the provisions of the National Act, the proposed section also deals with the eligibility criteria in respect of persons holding any financial interest in a licence holder, which was previously dealt with exclusively by the relevant section.

16.2. The proposed proviso to subsection (2), however, makes it clear that, when performing probity investigations, the Board, while it has the power to investigate any holder of a financial interest in an Applicant or licensee, shall not be compelled to conduct investigations into the probity of persons holding less than five percent of the total financial interest in the relevant Applicant or licence holder. The proviso is based upon the impracticability of conducting investigations in such cases, as well as the fact

that any holder of such a nominal interest in a licence holder cannot reasonably be expected to exercise any influence over the conduct or management of the relevant licensed activities.

16.3. Once again it will be noted that, in terms of the amended section, it will no longer be open to the Board to condone certain categories of disqualification.

16.4. The proposed subsection (4) is intended to make it clear that a person who holds an indirect financial interest in a licensee by virtue merely of investment in a fund (over the investment decisions in respect of which that person has no control) will not be regarded as holding a financial interest for the purposes of the section and will accordingly not be required to comply with the qualification criteria stipulated therein.

17. Proposed amendment of section 35 of Law 4 of 1996

17.1. The proposed amendments to section 35(3)(vi) are required to align the provisions of the relevant paragraph with the appropriate section numbers.

18. Proposed amendment of section 37 of Law 4 of 1996

18.1. All the proposed amendments to this section are required to align the provisions of the Law with the amended definitions already proposed to be effected to it, in accordance with the National Act.

19. Proposed amendment of section 39 of Law 4 of 1996

19.1. The purpose of the proposed amendment to subsections (2) and (3) is to replace the provisions of subsection (3) with the provisions of subsection (2), in order better to reflect, chronologically, the procedural steps authorised to be taken by the Board in connection with securities furnished by licence holders.

19.2. The manner in which the legislation is currently drafted has given rise to varying interpretations as to the relationship between the steps contemplated in subsection (2) and those provided for in subsection (3). Uncertainty has arisen as to whether the measures contemplated in these subsections are mutually exclusive, particularly in view of the different time periods stipulated in each in respect of the obligations placed on licence holders to replenish or increase securities and the consequences following upon a failure to take the various steps stipulated therein. In addition, in its current form, the section does not make clear whether the provisions of subsection (2) or (3), or both, apply when a security, or a portion thereof, is realised by the Chief Executive Officer in terms of subsection (5). Accordingly, in order to resolve these difficulties and to provide for an administratively logical approach, it is proposed to provide—

- 19.2.1. by way of subsection (2), for the power of the Board, in the first instance, to order that the amount or value of a security be increased within a certain time;
- 19.2.2. by way of subsection (3), that if a security given lapses, becomes invalid, or is not increased as contemplated in subsection (2), that the relevant licence is deemed to have been suspended, and
- 19.2.3. by way of the proposed paragraphs (a) and (b) to subsection (5) that, where the Chief Executive Officer realises a security—
 - (a) the licence holder will be ordered to replenish the security, as contemplated in subsection (2), if the amount realised is less than half of the security originally furnished, or
 - (b) the licence will be deemed to have been suspended, as contemplated in subsection (3), if the amount of the security realised is half or more than half of the security originally furnished.

The motivation behind the above distinction is that, from the point of view of risk to the public, the Board and the provincial fiscus, where the amount of security realised by the Chief Executive Officer is fifty percent or more of the amount originally furnished, the risks inherent in allowing the licence holder to continue operations before the security has been fully replenished or reinstated, is too great. Where the amount realised is, however, less than fifty percent of the amount originally furnished, the risks inherent in allowing the relevant licence holder to continue operations for a period of one week (within which the security will have to be replenished) are too insignificant to justify the suspension of the relevant licence.

19.3. The proposed amendment to subsection (6) removes the requirement that, upon the revocation or suspension of a licence, the Chief Executive Officer must, after ninety days, release the security or balance thereof, and substitutes this with a provision providing that the Chief Executive Officer must perform this function after a period of “not less than” ninety days after the date of revocation or suspension. The reason for the amendment is that, in certain cases, because of the need to perform complex close-down audits, it may not be possible to establish, within the ninety day period, exactly what amount of security should be realised by the Chief Executive Officer. This renders formal compliance with this subsection problematic.

20. Proposed amendment of section 41 of Law 4 of 1996

20.1. The proposed amendments to section 41 of the Law are predicated on the fact that, by virtue of the requirement in the National Act that the holder of a totalisator operator licence should be a juristic person (and also provides for the transfer of licences if authorised by provincial law), the existing licence issued in respect of the totalisator will have to be transferred from the current holder (which is not a juristic person) to the company currently managing the totalisator on behalf of the licence holder. The necessary amendments are proposed to be effected—

20.1.1. by the insertion of the new subsection (1A), and

20.1.2. by stipulating, in subsection (1), that that subsection is subject to the provisions of subsection (1A).

20.2. It will be noted that the totalisator operator licence is the only licence affected by the above requirements of the National Act.

21. Proposed amendment of section 41A of Law 4 of 1996

21.1. The proposed amendments to section 41A arise from the fact that, although this section purports to deal with licence holders other than the holders of key or gambling employee licences, it refers to the procedures to be followed where natural persons, who are the holders of licences, die or become disabled. Since the only categories of licence which may, in terms of the Law, be issued to natural persons are key and gambling employee licences, the section is meaningless.

21.2. The purpose of the amendments is to make the section applicable where natural persons having a financial interest in a licence holder die or become disabled. The relevant amendments are proposed to be effected—

21.2.1. by the amendment of the wording of the section heading;

21.1.2. by the deletion of subsection (1), which is meaningless, as indicated above, and

21.2.3. by the insertion of appropriate amendments to the wording of subsection (2).

22. Proposed amendment of section 46 of Law 4 of 1996

22.1. The proposed amendments to section 46 are based on the need to achieve uniformity between the Law and the National Act in respect of the licence types which may be issued. Accordingly, the licence type “limited gambling machine operator” is replaced, in the section heading and throughout the section itself, with the licence type “route operator”, while the expression “limited gambling machine” is replaced with the expression “limited payout machine”.

23. Proposed amendment of section 47 of Law 4 of 1996

23.1. Similarly, the proposed amendments to section 47 align the provisions of the Law with those of the National Act, by substituting, in the section heading, and throughout the section itself, the licence type “limited gambling machine premises” with the wording “site” and the expression “limited gambling machine” with the expression “limited payout machine”.

23.2. The proposed insertion of subsection (3) makes it clear that a site licence attaches to the premises in respect of which it is issued.

23.3. The proposed insertion of subsection (4) makes it clear that, despite the fact that a site licence is issued in respect of the premises concerned, the Board may not issue such a licence if the persons to be responsible for the operation of the gambling business on the site (although they are not strictly speaking licence holders), or any person

holding a financial interest of five percent or more in such persons, would not have qualified for licensing in terms of the Law, thus creating the safeguards required to ensure the absolute integrity of the limited payout machine industry at the individual site level.

24. Proposed amendment of section 48 of Law 4 of 1996

24.1. The proposed amendment to subsection (2) is intended to make it clear that a bingo licence is not required in respect of bingo, when this is authorised in terms of section 67(1)(c) of the Law. As it currently reads, the subsection creates the impression that, in every instance where bingo is played, a licence is a prerequisite, and therefore creates a conflict with section 1 and section 67(1)(c), which the proposed amendment is designed to remove.

25. Proposed amendment of section 53 of Law 4 of 1996

25.1. The proposed amendment to subsection (3) stipulates, because of the current relative uncertainty as to whether pool betting on events other than horseracing is legally permissible, that a totalisator may be operated in respect of such contingencies as are consistent with the provisions of the Lotteries Act, 1997 (Act 57 of 1997).

26. Proposed amendment of section 54 of Law 4 of 1996

26.1. The proposed amendment to subsection (2) refines the wording of that subsection.

27. Proposed amendment of section 55 of Law 4 of 1996

27.1. The proposed amendments to subsection (1) are designed to accord with the detailed definition of betting (as conducted by licensed bookmakers) set forth in section 1(3)(b).

27.2. The proposed amendments to subsection (3) make it clear that bookmakers not only lay, but also place (take-back) bets, and eliminate the legal uncertainty previously caused by the use of the expression “totalisator-type bets” by replacing this with the expression “totalisator bets”. This makes it clear that open bets, in respect of which the odds are determined with reference to the dividend generated by the totalisator, may legally be entered into by the holder of a bookmaker licence.

28. Proposed amendment of section 55A of Law 4 of 1996

28.1. The proposed deletion of subsection (3) is based upon the fact that the relevant provision (which was transitional in nature) no longer applies.

29. Proposed amendment of section 58 of Law 4 of 1996

29.1. The proposed amendments to section 58 are modeled on amendments which, by agreement, are to be effected to the National Act to regulate the acquisition of financial interests in licence holders. The advantage of the proposed amendments is that they acknowledge that licence holders will not always be in a position to comply with the requirement contained in the existing subsection (1) that they should prevent any person from acquiring a financial interest of five percent or more in the licence holder unless the prior approval of the Board is procured. Trading in the shares of licence holders may take place without its direct knowledge, particularly if the licence holder becomes a listed company or where trading takes place in listed companies which themselves hold interests in a licence holder. Therefore, the proposed subsection (1) requires any person who has acquired such an interest to apply to the Board for approval of the relevant acquisition within a fixed period. A further advantage of the proposed reworded subsection is that institutional investors, publicly traded investors and institutions which hold shares nominally on behalf of the beneficial owners thereof, are excluded from the ambit of the subsection.

29.2. The proposed subsection (2), however, requires a publicly traded investor (being an investor, itself listed on the Stock Exchange, which, *for its own account*, invests in listed companies) which acquires ten percent or more of the financial interest in a

licence, to apply to the Board for approval to hold such interest. The rationale behind the stipulated threshold on ten percent is that publicly traded investors are usually large companies which have a correspondingly large profile of shareholders. Therefore, the acquisition by such an investor of an interest of less than ten percent in a licence holder will not result in any of the individual shareholders therein acquiring a significant portion of the equity in the licence holder.

29.3. Similarly, the proposed subsection (3) requires an institutional investor (being an investor, itself listed, which invests in listed shares *on behalf of other investors*, to be held for investment purposes only) which acquires fifteen percent or more of the financial interest in a licence to apply to the Board for its approval of the acquisition. The rationale behind the threshold of fifteen percent is that institutional investors are exponentially larger companies, having an even broader body of individual shareholders sharing in their investments. Accordingly, it would be neither feasible nor necessary for the Board to enquire into any transaction in respect of which such an investor acquired a financial interest in a licence holder unless that interest were as large as fifteen percent of the total economic interest in the licence holder.

29.4. The proposed subsection (4) makes the qualification criteria established by sections 28 and 30 and the requirement in respect of advertising of the application contained in section 32, applicable to an application made in terms of the section. This enhances the transparency of the process from a public participation point of view.

29.5. The proposed subsection (5) precludes the Board from granting an application in terms of the section where the Applicant is found to be disqualified in terms of the eligibility criteria contained in the Law.

29.6. The proposed subsection (6) requires any Applicant whose application in terms of the section has been refused to dispose of the relevant interest within a stipulated period.

29.7. The proposed subsection (7) prevents any person or category of investor contemplated in the section from acquiring an interest on behalf of an undisclosed principal.

29.8. The proposed subsection (8) creates exceptions to the applicability of the section. These are central securities depositories and depository institutions, as defined in section 1. Since these bodies themselves have no interest in the securities, which they hold nominally on behalf of others, the exception contemplated in paragraph (a) is warranted. However, paragraph (b) makes it clear that the beneficial owners of securities thus held will not be exempt from the application of the section.

29.9. The proposed subsection (9) reinforces the provisions of the various subsections by establishing criminal liability in respect of instances of non-compliance.

30. Proposed amendment of section 66 of Law 4 of 1996

30.1. The proposed amendments to subsection (1) remove the reference to “a licensed race course” since race course licences have been previously deleted from the Law, and requires instead that all race meetings should be held on “premises licensed in terms of the Law”. The rationale for this provision is that all race courses in the Province are, by their nature, licensed totalisator premises.

30.2. The purpose of the proposed amendment to subsection (2) is likewise to remove the reference to the race course licence from the subsection.

30.3. The proposed deletion of subsection (3) is based on the limited extent to which the presumption created by the subsection will assist in any prosecution, seen in conjunction with the constitutional difficulties encountered in the enforcement of presumptions in a criminal law context.

31. Proposed amendment of section 67 of Law 4 of 1996

31.1. The proposed amendments to subsection (1)(a) are designed to align the intention behind the prohibition contained in the subsection with the proposed definition of “gambling activity” contained in section 1.

32. Proposed amendment of section 72 of Law 4 of 1996

32.1. The proposed amendment to the section heading is intended more appropriately to describe the content thereof, as pertaining to liability which may be incurred as a result of the conduct contemplated therein.

32.2. The purpose of the proposed amendments to subsection (2) is to align the wording thereof with the definition of “gambling activity”, in view of the intention behind the subsection and to specify that liability will attach even only when “any aspect” of the management or conduct of the activity takes place outside this Province.

33. Proposed amendment of section 74 of Law 4 of 1996

33.1. The proposed amendment to subsection (1) is intended to distinguish between the obligations attaching to the holder of a licence, in respect of advertising pertaining to gambling, as opposed to the general prohibitions, relating to all persons, which appear in the new proposed subsection (1A). The proposed subsection (1) is also required to incorporate a reference to the regulations in respect of advertising which the national Minister of Trade and Industry is empowered to make in terms of the National Act.

33.2. The proposed subsection (1A) effectively prohibits any person from causing or permitting any advertising to be published in the Province in respect of any gambling activity which is not licensed in terms of the Law or the legislation of another jurisdiction located in South Africa. In addition, an exception is created for advertisements of gambling activities licensed in terms of the law of other jurisdictions, provided that the advertisement is not aimed solely or exclusively at residents of this country or complies with all the prescribed requirements and residents of this Province will be required to travel outside of the province to participate in the activity advertised.

34. Proposed amendment of section 75 of Law 4 of 1996

34.1. The proposed insertion into section 75 of paragraphs (cA) and (cB) is intended to criminalise the conduct of any person who, otherwise than in accordance with the Law, uses a computer as a means of participating in or making available a gambling activity, irrespective of where such gambling activity takes place, and to prohibit the distribution of computer software which performs the function, or is primarily designed to perform the function, of enabling persons in the Province to access gambling businesses located outside of the Province which offer gambling over the internet.

35. Proposed amendment of section 75A of Law 4 of 1996

35.1. The proposed amendments to subsection (1) are intended to make it clear that administrative sanctions, as provided for by the section, may be imposed as a consequence of evidence produced or presented at any hearing, investigation or enquiry conducted in terms of the Law and, by the insertion of the expression “any or all”, to highlight the fact that a number of different licence holders (whether acting alone or in conjunction with other persons) may potentially be liable to the penalty referred to in subsection (2).

36. Proposed deletion of sections 84, 84A, 84B & 84C of Law 4 of 1996

36.1. The transitional provisions previously contained in sections 84 through 84C of the Law are no longer applicable and it is accordingly proposed to delete them.

37. Proposed insertion of section 84D into Law 4 of 1996

37.1. The proposed section makes provision for the issue of interactive gambling. The relevant provisions are based on the fact that section 11 of the National Act prohibits interactive gambling (which is to be regulated in terms of national legislation) in general terms. The purpose of the provisions contained in the proposed section 84D is to delineate the types of activity which are the subject of the prohibition, namely transactions which take place by way of telephone, telefax, interactive television, electronic mail, internet transmission or any related communications medium, otherwise than as permitted in terms of the National Act.

37.2. The proposed subsection (2) extends liability to persons making gambling opportunities of the above nature available to persons in the Province.

37.3. The proposed subsection (3) creates exceptions in respect of betting conducted under the authority of a bookmaker or totalisator operator licence, and in cases where the gambling activity in question takes place on appropriately licensed premises (in respect

of which a portion of the activity may be transmitted from a central server to the premises in question).

37.4. The proposed subsection (4) renders it a criminal offence to contravene any of the provisions of the section.

38. Proposed transitional provisions (Clause 40)

38.1. The proposed subsections (1) and (2) of the proposed section 38 are designed to ensure that licences issued by the Board in respect of licence types which have been renamed are deemed to be the licences types as defined in the Bill.

38.2. The proposed subsection (3) deals with the situation arising where a person issued with a licence by the Board is now disqualified to hold a licence, in consequence of the amended eligibility criteria. The proposed subsection obliges such person to inform his or her employer (normally the holder of the relevant operator licence) within a fixed period of time, whereafter such employer or licence holder must notify the Board so that the appropriate steps may be taken.

38.3. The proposed subsection (4) provides that a person who was previously disqualified to hold a licence, but, in consequence of the amended eligibility criteria, is no longer so disqualified, will not be precluded from re-applying for a licence within the periods stipulated in section 31 of the Law. The rationale behind the provision is that a person who was previously disqualified to hold a licence should not be penalised in circumstances where the disqualification has fallen away owing to the amendment of the Law.

ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vet druk tussen vierkantige hake dui skrappings uit
bestaande verordenings aan.
- _____ Woorde met 'n volstreep daaronder, dui invoegings in
bestaande verordenings aan.

WYSIGINGSWETSONTWERP

Tot wysiging van die Wes-Kaapse Wet op Dobbeldary en Wedrenne, 1996; om in die Engelse teks die woord “Law” deur die woord “Act” te vervang; om bepalings wat strydig is met die Nasionale Dobbelwet, 2004, te verwyder; om sekere omskrywings te wysig; om voorsiening te maak vir die uitreiking van nasionale lisensies; om kwalifikasiemaatstawwe ten opsigte van lisensiering te wysig; om sekere kategorieë van lisensies te wysig; om sekere oorgangsbepalings wat verstryk het, te skrap; om sekere oorgangsbepalings in te voeg, en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Provinsiale Parlement van die Provinsie Wes-Kaap, soos volg:—

Wysiging van die Wes-Kaapse Wet op Dobbeldary en Weddery, 1996 (Wet 4 van 1996)

1. Die Wes-Kaapse Wet op Dobbeldary en Wedrenne, 1996 (“die Hoofwet”) word in die Engelse teks gewysig deur die woord “Law”, oral waar dit voorkom, deur die woord “Act” te vervang. 5

Wysiging van rangskikking van artikels van Wet 4 van 1996

2. Die rangskikking van artikels in die Wes-Kaapse Wet op Dobbeldary en Wedrenne, 1996 (die Hoofwet) word gewysig— 10
- (a) deur die volgende item na item 27 “Soorte lisensies” in te voeg:
“27A. Nasionale lisensies”;
- (b) deur item 29 deur die volgende item te vervang:
“29. Diskwalifikasie ten opsigte van [lisensies] werklisensies”;
- (c) deur item 30 deur die volgende item te vervang: 15
“30. [Persone met sekere regstreekse of onregstreekse belange gediskwalifiseer] Diskwalifikasies en beperkings ten opsigte van ander lisensies”;
- (d) deur item 41 deur die volgende item te vervang: 20
[Nie-oordraagbaarheid] Beperkings op oordraagbaarheid van lisensies”;
- (e) deur item 41A deur die volgende item te vervang:
“41A. Dood of ongeskiktheid van persoon met ’n belang in ’n lisensiehouer”;
- (f) deur item 46 deur die volgende item te vervang: 25
“46. [Beperktedobbeldarymasjien-operateurlisensie] Roete-operateurlisensie”;

- (g) deur item 47 deur die volgende item te vervang:
 “47. [**Beperktedobbelmasjien-perseellisensie**] Terreinlisensie”;
- (h) deur item 72 deur die volgende item te vervang:
 “72. [**Verbod op aktiwiteite**] Aanspreeklikheid met betrekking tot
 [dobbelspelle en weddery] dobbelaktiwiteite”; 5
- (i) deur items 84, 84A, 84B en 84C te skrap, en
- (j) deur die volgende artikels na item 83 in te voeg:
 “**84D Verbod op sekere dobbelaktiwiteite**
84E Oorgangsbepalings”.

**Wysiging van artikel 1 van Wet 4 van 1996, soos gewysig by Wet 4 van 1997, Wet 10
 10 van 1997. Wet 4 van 1999 en Wet 11 van 2000**

3. Artikel 1 van die Hoofwet word gewysig—

- (a) deur die uitdrukking “(1)” direk na die artikelnommer in te voeg;
- (b) deur die nommers tussen hakies voor en na elke omskrywing te skrap;
- (c) deur die punt aan die einde van elke omskrywing, uitgesonderd die 15
 omskrywing van “Werklisensie”, deur ’n kommapunt te vervang;
- (d) deur die omskrywing van “Beperkte dobbelmasjien” deur die volgende
 omskrywing te vervang:
 “‘Beperkte uitbetaalmasjien’ beteken ’n dobbelmasjien buite ’n casino
 ten opsigte waarvan die inleggelde en pryse vir die spel daarvan beperk
 is soos voorgeskryf by regulasies ingevolge die Nasionale Wet
 gemaak;”; 20
- (e) deur die omskrywing van “Beperktedobbelmasjien-operateurlisensie” te
 skrap;
- (f) deur die omskrywing van “Beperktedobbelmasjien-perseellisensie” te skrap; 25
- (g) deur die volgende omskrywing na die omskrywing van “Beperkte
 uitbetaalmasjien” in te voeg:
 “Bewaringsinstelling’ beteken ’n bewaringsinstelling soos omskryf in
 die Wet op Veilige Bewaring en Administrasie van Effekte, 1992 (Wet
 No. 85 van 1992);”; 30
- (h) deur die omskrywing van “Bingo” deur die volgende omskrywing te vervang:
 “‘Bingo’ beteken ’n dobbelspel, insluitende ’n dobbelspel, in die
 geheel of gedeeltelik elektronies gespeel—
 (a) wat teen betaling gespeel word deur gebruik te maak van kaarte of
 ander toestelle— 35
 (i) wat verdeel is in spasies, elkeen met ’n ander nommer, prent of
 simbool daarop, en
 (ii) met nommers, prente of simbole wat lukraak gerangskik is
 sodat elke kaart of dergelyke toestel ’n unieke stel getalle,
 prente of simbole vertoon; 40
 (b) waar ’n operateur of aankondiger ’n reeks getalle, prente of simbole
 in lukraak volgorde uitroep of vertoon en die spelers elke nommer,
 prent of simbool moet laat pas by die nommer, prent of simbool op
 die kaart of toestel wanneer dit uitgeroep of vertoon word, en
 (c) waar die speler wat die eerste is om al die spasies op die kaart of 45
 toestel kan laat pas, of wat ’n bepaalde stel nommers, prente of
 simbole op die kaart of toestel kan laat pas, ’n prys wen,
 of enige ander wesenlik soortgelyke spel wat ingevolge artikel 6(4) van die
 Nasionale Wet tot bingo verklaar word;”;
- (i) deur die omskrywing van “Boekmaker” deur die volgende omskrywing te 50
 vervang:
 “‘Boekmaker’ beteken ’n persoon wat regstreeks of onregstreeks
 vasgestelde of ope weddenskappe met lede van die publiek of ander
 boekmakers plaas, of sulke weddenskappe met ander boekmakers
 aangaan;”; 55
- (j) deur die omskrywing van “Casino” deur die volgende omskrywing te
 vervang:
 “‘Casino’ beteken ’n perseel waar dobbelspelle gespeel word of
 beskikbaar is om gespeel te word, maar omvat nie ’n perseel nie waar—
 (a) slegs bingo en geen ander dobbelspel gespeel word of beskikbaar is 60
 om gespeel te word;

- (b) slegs beperkte uitbetaalmasjiene beskikbaar is om gespeel te word;
- (c) beperkte uitbetaalmasjiene en bingo, maar geen ander dobbelspel nie, gespeel word of beskikbaar is om gespeel te word, of
- (d) slegs sosiale dobbelary ingevolge hierdie Wet beoefen; word;”;
- (k) deur die volgende omskrywing na die omskrywing van “casino” in te voeg: 5
 “ ‘Deelgenoot’ beteken—
- (a) ’n werknemer;
- (b) ’n vennoot ingevolge ’n vennootskapsooreenkoms;
- (c) ’n medeaandeelhouer van ’n privaat maatskappy beoog in artikel 20 van die Maatskappywet, 1973 (Wet No. 61 van 1973); 10
- (d) ’n medelid van ’n beslote korporasie beoog in artikel 2 van die Wet op Beslote Korporasies, 1984 (Wet No. 69 van 1984), en
- (e) ’n persoon aan wie ’n ander persoon volmag gegee het of van wie ’n ander persoon volmag gekry het;”;
- (l) deur die omskrywing van “Dobbelary” deur die volgende omskrywing te 15
 vervang:
 “ ‘Dobbelary’ of ‘dobbelaktiwiteit’ beteken enige aktiwiteit in artikel 1(2) hieronder beskryf maar sluit sosiale dobbel uit;”;
- (m) deur die volgende omskrywing van “Dobbelmasjien” na die omskrywing van 20
 “Dobbelary” in te voeg:
 “ ‘Dobbelmasjien’ beteken enige meganiese, elektriese, video-, elektroniese, elektromeganiese of ander toestel, middel, masjien of sagteware, uitgesonderd ’n vermaakmasjien wat—
- (a) beskikbaar is om gespeel of bedien te word teen betaling van ’n teenprestasie; en 25
- (b) as gevolg van die speel of bediening daarvan, die speler of bediener geregtig kan maak op ’n uitbetaling, of ’n uitbetaling of aan die speler of bediener kan besorg;”
- (n) deur die omskrywing van “Dobbelspel” deur die volgende omskrywing te 30
 vervang:
 “ ‘Dobbelspel’ beteken enige aktiwiteit in artikel 1(5) hieronder beskryf;”;
- (o) deur die omskrywing van “Dobbeltoestel” deur die volgende omskrywing te 35
 vervang:
 “ ‘Dobbeltoestel’ beteken toerusting of enige ander ding, uitgesonderd ’n geldeenheid, wat regstreeks by die uitvoering van ’n dobbelaktiwiteit gebruik word, of wat, ten tyde van die vervaardiging daarvan, bedoel was vir gebruik om die uitslag van ’n dobbelaktiwiteit te bepaal, en sonder inkorting van die algemeenheid van die voorafgaande omvat dit—
- (a) ’n muntoutomaat, en 40
- (b) dié gerekenariseerde of dergelike sagteware deur ’n lisensiehouer gebruik by die uitvoering van enige dobbelaktiwiteit ten opsigte waarvan die Raad bepaal dat dit ’n dobbeltoestel is;”;
- (p) deur die volgende omskrywing na die omskrywing van “Eiendom” in te voeg: 45
 “ ‘Familielid’ beteken ’n persoon se—
- (a) gade, of
- (b) kind, ouer, broer of suster, ongeag of so ’n verwantskap toe te skryf is aan afkoms, ’n huwelik of aanneming;”;
- (q) deur die omskrywing van “Gade” deur die volgende omskrywing te vervang: 50
 “ ‘Gade’ beteken ’n persoon se—
- (a) huweliksmaat;
- (b) maat in ’n gewoonteverbintenis in ooenstemming met inheemse reg, of
- (c) maat in ’n verhouding waar die partye saamwoon op ’n wyse wat die voorkoms het van ’n huweliksverhouding of gewoonteverbintenis;”;
- (r) deur die volgende omskrywing na die omskrywing van “Gade” in te voeg: 60
 “ ‘Gebeurlikheid’ beteken ’n gebeurtenis of geleentheid ten opsigte waarvan ’n persoon onseker is oor die uitkoms, of waarvan die uitkoms onbekend is aan ’n persoon, voordat dit gebeur;”;
- (s) deur die omskrywing van “Gebeurtenis” of “gebeurlikheid” te skrap;
- (t) deur die omskrywing van “Geldelike belang” deur die volgende omskrywing te vervang:

- “Geldelike belang’ beteken—
- (a) ’n reg of aanspraak om in wins of inkomste te deel;
- (b) ’n saaklike reg ten opsigte van eiendom van ’n maatskappy, korporasie of sakeonderneming;
- (c) ’n saaklike of persoonlike reg op eiendom wat deur ’n maatskappy, korporasie of sakeonderneming gebruik word, of
- (d) ’n regstreekse of onregstreekse belang in die stemdraende aandeel of stemreg verbonde aan aandeel, van ’n maatskappy, of ’n belang in ’n beslote korporasie;”;
- (u) deur die omskrywing van “Geliseniseerde renbaan” te skrap; 10
- (v) deur die volgende omskrywings na die omskrywing van “Hoof Uitvoerende Beampte” in te voeg:
 “Institusionele belegger’ beteken ’n openbaar verhandelde belegger in aandeel op ’n erkende effektebeurs wat slegs vir beleggingsdoeleindes gehou word;”, en
 “Internet’ het die betekenis uiteengesit in artikel 1 van die Wet op Elektroniese Kommunikasie en Transaksies, 2002 (Wet 25 van 2002);”;
- (w) deur die volgende omskrywings na die omskrywing van “Muntoutomaat” in te voeg:
 “Nasionale Wet’ beteken die Nasionale Dobbeltwet, 2004 (Wet 7 van 2004);”, en
 “Openbaar verhandelde belegger’ beteken ’n belegger wat op ’n erkende effektebeurs genoteer is en wat ’n belegger is in aandeel wat op ’n erkende effektebeurs genoteer is;”;
- (x) deur die omskrywing van “Ope weddenskap” deur die volgende omskrywing te vervang:
 “Ope weddenskap’ beteken—
 (a) ’n weddenskap, uitgesonderd ’n totalisatorweddenskap, wat deur ’n boekmaker aanvaar word ten opsigte van een of meer gebeurlikhede, waar daar oor geen vasgestelde wenprys ooreengekom word wanneer die weddenskap geplaas word nie, of
 (b) ’n weddenskap ten opsigte waarvan die uitbetaling bepaal word ná bekendwording van die uitslag van die gebeurlikheid waarop daardie weddenskap aangegaan word, met verwysing na dividende deur ’n totalisator gegeneer;”;
- (y) deur die omskrywing van “Perseel” deur die volgende omskrywing te vervang:
 “Perseel’ beteken enige terrein, plek of standplaas, [ongegag of dit ’n tydelike of permanente struktuur, gebou, vaartuig, voertuig of vliegtuig is of deel daarvan uitmaak] en sluit grond en enige gebou, struktuur, voertuig, skip, boot, vaartuig, vliegtuig of houer in;”;
- (z) deur die volgende omskrywing na die omskrywing van “Perseel” in te voeg:
 “Persoon’ omvat ’n vennootskap, assosiasie, trust, of ’n regs persoon by of ingevolge enige wet ingestel;”;
- (aa) deur die omskrywing van “Politieke ampsdraer” deur die volgende omskrywing te vervang:
 “Politieke ampsdraer’ beteken—
 (a) ’n lid van die Nasionale Vergadering, die Nasionale Raad van Provinsies of die Nasionale Kabinet;
 (b) ’n lid van ’n provinsiale wetgewer;
 (c) ’n lid van ’n munisipale raad of plaaslike owerheid;
 (d) ’n diplomatieke verteenwoordiger van die Republiek wat nie ’n lid van die staatsdiens is nie;
 (e) ’n lid van ’n huis, of raad, van tradisionele leiers, of
 (f) ’n nasionale of provinsiale ampsdraer van ’n politieke party;”;
- (bb) deur die omskrywing van “Renbaanlisensie” te skrap;
- (cc) deur die volgende omskrywings na die omskrywing van “Renbaanlisensie” in te voeg:
 “Roete-operateur’ beteken ’n persoon aan wie ’n roete-operateurlisensie ingevolge artikel 46 uitgereik is;”,
 “Roete-operateurlisensie’ beteken enige lisensie ingevolge artikel 46 uitgereik;”, en

- “‘Sentrale effektebewaarplek’ beteken ’n sentrale effektebewaarplek soos omskryf in die Wet op Veilige Bewaring en Administrasie van Effekte, 1992 (Wet No. 85 van 1992);”;
- (dd) deur paragraaf (c) van die omskrywing van “Sosiale dobbelary” soos volg te wysig: 5
 “(c) die speel van ’n vermaakspel [, **wat vir die toepassing van hierdie Wet ’n spel, soos voorgeskryf, beteken.**];”;
- (ee) deur die omskrywing van “Speler” deur die volgende omskrywing te vervang: 10
 “‘Speler’ of ‘kliënt’, beteken enige deelnemer, uitgesonderd ’n houër van ’n lisensie uitgereik ingevolge hierdie Wet, aan ’n [dobbelspel en omvat ’n wedder in enige wedderytransaksie.] dobbelaktiwiteit;”;
- (ff) deur die volgende omskrywings na die omskrywing van “Speler” in te voeg: 15
 “‘Staatsamptenaar’ beteken ’n persoon wat by ’n staatsorgaan of in ’n hof in diens is, of ’n regsprekende beampte;”, en
 “‘Staatsorgaan’ het die betekenis uiteengesit in artikel 239 van die Grondwet van die Republiek van Suid-Afrika, 1996;”;
- (gg) deur die omskrywing van “Teenprestasie” deur die volgende omskrywing te vervang: 20
 “‘Teenprestasie’ beteken—
 (a) geld, handelsware, eiendom, ’n tjek, ’n tekenmunt, ’n kaartjie, elektroniese krediet, krediet, debiet of ’n elektroniese skyfie, of ’n dergelike voorwerp, of
 (b) enige ander ding, onderneming, belofte, ooreenkoms of versekering, ongeag die skynwaarde of intrinsieke waarde daarvan, en of dit regstreeks of onregstreeks oorgedra word;”;
- (hh) deur die volgende omskrywings word na die omskrywing van “teenprestasie” in te voeg: 25
 “‘Terrein’ beteken enige perseel gelisensieer vir die plasing van een of meer beperkte uitbetaalmasjien in artikel 47 beoog;”, en
 “‘Terreinlisensie’ beteken enige lisensie uitgereik ingevolge artikel 47;”;
- (ii) deur die omskrywing van “Totalisator” te skrap;
- (jj) deur die omskrywing van “Vasgestelde weddenskappe” deur die volgende omskrywing te vervang: 35
 “‘Vasgestelde weddenskap’ beteken ’n weddenskap op een of meer gebeurlikhede ten opsigte waarvan op ’n vasgestelde wedprys besluit word ten tyde van die plasing van die weddenskap;”;
- (ll) deur die volgende omskrywings na die omskrywing van “Vasgestelde weddenskap” in te voeg: 40
 “‘Vennoot’ beteken ’n party by ’n vennootskapsooreenkoms wat aangegaan word met die doel om wins te maak;”;
 “‘Vermaakmasjien’ beteken enige masjien of toestel, uitgesonderd ’n dobbeltoestel, waarop of waarmee ’n vermaakspel gespeel kan word;”, en
 “‘Vermaakspel’ beteken enige spel, uitgesonderd bingo of ’n spel wat soortgelyk is aan of ontwikkel het uit ’n spel wat normaalweg in ’n casino of op ’n muntoutomaat gespeel word met of deur middel van ’n vermaakmasjien wat teen betaling van geld, ’n tekenmunt of ’n dergelike voorwerp beskikbaar is vir speeldoeleindes, en wat die speler in staat stel om ’n prys te wen; met dien verstande dat so ’n prys nie in die vorm van kontant, tekenmunte, krediet of enige onderhandelbare instrument mag wees nie, maar beperk moet wees tot nie-kontantpryse met ’n kleinhandelwaarde van hoogstens die bedrag wat by regulasie ingevolge die Nasionale Wet voorgeskryf word;”;
- (mm) deur die omskrywing van “Voorsitter” deur die volgende omskrywing te vervang: 55
 “‘Voorsitter’ beteken [**n**] die persoon ingevolge artikel 3(3) as voorsitter van die Raad aangestel;”;
- (nn) deur die omskrywing van “Wed” of “weddery” deur die volgende omskrywing te vervang: 60
 “‘Wed’ of ‘weddery’ beteken ’n aktiwiteit soos in artikel 1(3) hieronder beskryf;”;

- (oo) deur die omskrywing van “Wedren” deur die volgende omskrywing te vervang:
- “‘Wedren’ beteken enige perdewedren oor ’n omskrewede of ooreengekome baan, wat gehou word vir die vermaak van die publiek en lede van enige assosiasie of klub, maar omvat nie — 5
- (a) enige wedren in die aard van ’n openbare proefgalop nie, waar geen weddery plaasvind nie en wat gehou word onder die bestuur en beheer van die houer van ’n **[renbaanlisensie]** operateurlisensie, en
- (b) enige wedren of kompetisie van ’n privaat aard waar geen weddery plaasvind nie;”;
- (pp) deur die omskrywing van “Wenweddenskap” deur die volgende omskrywing te vervang:
- “‘Wenweddenskap’ beteken enige weddenskap waar die persoon wat die weddenskap geplaas of aangegaan het, die uitslag van die **[gebeurtenis of]** gebeurlikheid of **[kombinasie daarvan]** gebeurlikhede ten opsigte waarvan die weddenskap aangegaan is, korrek **[voordobbelspel]** voorspel het, en”;
- (qq) deur die volgende omskrywing na die omskrywing van “Wenweddenskap” in te voeg:
- “‘Werklisensie’ beteken ’n lisensie in artikel 27(l) en (m) bedoel.”, en 20
- (rr) deur die volgende subartikels na die omskrywing van “Werklisensie” in te voeg:
- “(2) ’n Aktiwiteit is ’n dobbelaktiwiteit indien dit die volgende insluit:
- (a) plasing of aanvaarding van ’n weddenskap ingevolge subartikel (3);
- (b) plasing of aanvaarding van ’n totalisatorweddenskap ingevolge subartikel (4), of
- (c) beskikbaarstelling van bingo of ’n ander dobbelstel vir speeldoeleindes, of die speel daarvan, soos in subartikel (5) beoog.
- (3) ’n Persoon plaas of aanvaar ’n weddenskap wanneer daardie persoon— 30
- (a) as speler, geld of enigiets wat waarde het, op ’n vasgestelde weddenskap of ’n ope weddenskap by ’n boekmaker inlê ten opsigte van enige gebeurlikheid, of
- (b) as boekmaker— 35
- (i) inleggeld of enigiets wat waarde het op ’n vasgestelde weddenskap of ’n ope weddenskap ten opsigte van enige gebeurlikheid van ’n speler aanvaar, of
- (ii) geld of enigiets wat waarde het, op ’n vasgestelde weddenskap of ’n ope weddenskap ten opsigte van enige gebeurlikheid by ’n ander boekmaker inlê; 40
- (c) geld of enigiets wat waarde het inlê by, of inleggeld of enigiets van waarde aanvaar van, een of meer ander persone ten opsigte van enige gebeurlikheid, of
- (d) uitdruklik of implisiet onderneem, belof of ooreenkom om enigiets in paragraaf (a), (b) of (c) beoog, te doen. 45
- (4) ’n Persoon plaas of aanvaar ’n totalisatorweddenskap wanneer daardie persoon geld of enigiets wat waarde het, inlê ten opsigte van die uitslag van ’n gebeurtenis of kombinasie van gebeurtenisse volgens—
- (a) ’n stelsel wat die totale bedrag ingelê, na aftrekkings waarvoor by wet of by ooreenkoms voorsiening gemaak word, verdeel onder die persone wat wenweddenskappe aangegaan het in verhouding tot die bedrag wat elkeen ten opsigte van ’n wenweddenskap ingelê het, of
- (b) enige wedskema, vorm van wed of wedstelsel, ongeag of dit meganies werk of nie, wat volgens dergelike beginsels funksioneer.
- (5) ’n Aktiwiteit is ’n dobbelstel indien— 55
- (a) dit aan die volgende maatstawwe voldoen:
- (i) dit word gespeel teen betaling van enige teenprestasie, met die moontlikheid dat die persoon wat die spel speel, aanspraak sal kan maak op ’n uitbetaling of ’n uitbetaling sal kan ontvang, en
- (ii) die uitslag bepaal kan word deur die vaardigheid van die speler, die gelukfaktor, of albei, of 60

- (b) dit 'n weddenskap ingevolge subartikel (3) is wat in 'n casino geplaas word ten opsigte van 'n aktiwiteit wat aan die maatstawwe in paragraaf (a) voldoen.
- (6) Ondanks subartikel (5), vir die toepassing van hierdie Wet, is die volgende aktiwiteite geeneen 'n dobbelspel nie: 5
- (a) 'n weddenskap ingevolge subartikel (3), uitgesonderd 'n weddenskap in subartikel (5)(b) beoog;
- (b) 'n totalisatorweddenskap ingevolge subartikel (4), of
- (c) 'n vermaakspel.
- (7) Behoudens paragraaf (b) is 'n uitbetaling— 10
- (a) enige geld, handelsware, eiendom, 'n tjek, krediet, elektroniese krediet, 'n debiet, 'n tekenmunt, 'n kaartjie of enigiets anders wat waarde het, deur 'n speler gewen—
- (i) ongeag of dit omrede van die speler of bediener se vaardigheid, die werking van die gelukfaktor, of albei is, en 15
- (ii) ongeag hoe die uitbetaling gedoen word.
- (b) Die volgende is geeneen 'n uitbetaling nie:
- (i) 'n geleentheid om 'n verdere spel te speel, of:
- (ii) 'n prys wat gaan aan 'n deelnemer of span deelnemers aan 'n sportgebeurtenis vir die deelnemer of span se prestasie in daardie gebeurtenis. 20
- (c) Die uitslag van 'n dobbelspel—
- (i) is 'n geleentheid om 'n verdere spel te speel indien die speler die geleentheid gebied word om sonder onderbreking voort te gaan om die tipe spel te speel— 25
- (aa) ten opsigte waarvan die geleentheid gewen is, en
- (bb) op die masjien waarop die geleentheid gewen is, maar
- (ii) is nie 'n geleentheid om 'n verdere spel te speel nie indien die geleentheid op enige wyse, hetsy regstreeks of onregstreeks—
- (aa) uitgedeel of oorgedra kan word aan die persoon wat so 'n geleentheid gewen het, of aan enige ander persoon, of 30
- (bb) in geld, eiendom, 'n tjek, krediet of enigiets anders wat waarde het, omskep kan word, of
- (cc) omskep kan word ooreenkomstig enige skema, reëling, stelsel, plan of toestel ingevolge die Nasionale Wet voorgeskryf.”. 35

Wysiging van artikel 3 van Wet 4 van 1996, soos gewysig by artikel 2 van Wet 11 van 1997 en artikel 6 van Wet 4 van 1997

4. Artikel 3 van die Hoofwet word gewysig—
- (a) deur subartikel (1) deur die volgende subartikel te vervang: 40
- “(1) Die Raad bestaan uit sewe lede wat op 'n deelydse grondslag deur die Uitvoerende Raad aangestel word in ooreenstemming met die voorgeskrewe prosedure, wat voorsiening maak vir openbare deelname [in] aan die benoeming van kandidate vir aanstelling; met dien verstande dat die staande komitee van die Provinsiale Wetgewer wat vir hierdie Wet verantwoordelik is, al die kandidate se geskiktheid vir aanstelling [op] in die Raad moet evalueer.”, en 45
- (b) deur subartikel (2A) te skrap.

Wysiging van artikel 5 van Wet 4 van 1996, soos gewysig by artikel 7 van Wet 4 van 1997 en artikel 2 van Wet 10 van 1997 50

5. Artikel 5 van die Wet word gewysig—
- (a) deur die uitdrukking “(1)” na die artikelnommer in te voeg;
- (b) in subartikel (1), deur paragraaf (f) deur die volgende paragraaf te vervang: 55
- “(f) enigeen wat, hetsy persoonlik of deur sy of haar gade, [’n onmiddellike] familielid, [binne die eerste graad van aanverwantskap of die tweede graad van bloedverwantskap, ’n] vennoot of deelgenoot[, of enige persoon wat aangetroude familie van sodanige persoon is]—
- (i) 'n regstreekse of onregstreekse geldelike belang in enige dobbelarybesigheid of -instelling het of verkry, of

- (ii) enige belang het **[by]** in enige besigheid of onderneming wat strydig is met of inbreuk maak op die behoorlike verrigting van sy of haar pligte as 'n lid of werknemer van die Raad, of **[by]** in enige lisensie kragtens hierdie Wet uitgereik.”, en
- (c) deur die volgende subartikel na subartikel (1) in te voeg: 5
“(2) Vir die toepassing van hierdie artikel omvat 'n onregstreekse geldelike belang nie 'n onregstreekse belang wat deur enige fonds of belegging gehou word nie indien die persoon wat dié belang hou geen beheer het oor die beleggingsbesluite wat ten opsigte van daardie fonds of belegging gemaak word nie.” 10

Wysiging van artikel 12 van Wet 4 van 1996, soos gewysig by artikel 4 van Wet 10 van 1997, artikel 10 van Wet 4 van 1997 en artikel 1 van Wet 1 van 2003

6. Artikel 12 van die Hoofwet word gewysig—
- (a) deur subartikel (3) deur die volgende subartikel te vervang: 15
 (3) om lisensies kragtens hierdie Wet toe te staan, te hernieu, te wysig, te weier, oor te dra, op te skort of in te trek;”;
- (b) deur die volgende subartikel na subartikel (4) in te voeg:
“(4A) om nasionale lisensies ingevolge die Nasionale Wet toe te staan, te hernieu, te weier, of op te skort of in te trek;”;
- (c) deur subartikel (5) te skrap, en 20
- (d) deur subartikel (14) deur die volgende subartikel te vervang:
“(14) om reëls te maak wat die lisensiëring, beoefening en bedryf van enige **[dobbelry of wedrenne of verwante aktiwiteit]** dobbelry-aktiwiteit beheer;”.

Wysiging van artikel 15 van Wet 4 van 1996, soos gewysig by artikel 13 van Wet 4 van 1997, artikel 5 van Wet 11 van 1997 en artikel 5 van Wet 10 van 1997 25

7. Artikel 15 van die Hoofwet word gewysig—
- (a) deur subartikel (1) deur die volgende subartikel te vervang: 30
“(1) 'n Lid of werknemer van die Raad, 'n lid van die Uitvoerende Raad of 'n lid van die staande komitee van die Provinsiale Wetgewer verantwoordelik vir hierdie Wet **[sy of haar]** of hul **[gade of 'n onmiddellike]** familielid **[soos omskryf in artikel 5(f)]** mag nie regstreeks of onregstreeks enigiets **[van waarde]** wat waarde het, wat strydig is met of inbreuk maak op die behoorlike verrigting van sodanige lid of sodanige werknemer se pligte, van enige persoon ontvang nie.”, en 35
- (b) deur subartikel (2) deur die volgende subartikel te vervang:
“(2) 'n Lid van die Raad, die Uitvoerende Raad of die staande komitee van die Provinsiale Wetgewer verantwoordelik vir hierdie Wet en hul gade mag nie binne vier jaar na afloop van hul ampstermyn werk bekom of aanvaar nie van— 40
- (a) enige persoon wat aansoek gedoen het om, of aan wie 'n uitreiking gedoen is van, 'n lisensie ingevolge hierdie Wet, of
- (b) enige persoon of instelling wat vergoeding aanbied of betaal wat geheel en al of gedeeltelik gefinansier of gesubsidieer word deur of afkomstig is van enige persoon in paragraaf (a) beoog; 45
- met dien verstande dat in die geval van 'n lid van die Raad wat bedank, die onverstreke gedeelte van sy of haar ampstermyn by die aantal jare in die voorafgaande bepaling genoem, bygevoeg word.”,

Wysiging van artikel 15A van Wet 4 van 1996, soos gewysig by artikel 6 van Wet 10 van 1997 50

8. Artikel 15A van die Hoofwet word gewysig—
- (a) deur subartikel (1) deur die volgende subartikel te vervang:
“(1) 'n Lid of werknemer van die Raad moet onmiddellik aan die Raad 'n openbaarmaking doen indien— 55
- (a) hy of sy, of sy of haar **[gade of 'n onmiddellike]** familielid soos omskryf in artikel **[5(f)]** 30(2)(d), enige regstreekse of onregstreekse geldelike belang in enige dobbelrybesigheid het of verkry;

- (b) hy of sy, of sy of haar [**gade of 'n onmiddellike**] familielid [**soos omskryf in artikel 5(f)**] enige regstreekse of onregstreekse geldelike by enige besigheid of onderneming het of verkry wat strydig is met of inbreuk maak op die behoorlike verrigting van sy of haar pligte as 'n lid of werknemer van die Raad, of in enige lisensie kragtens hierdie Wet uitgereik; 5
- (c) hy of sy, of sy of haar [**gade of 'n onmiddellike**] familielid [**soos omskryf in artikel 5(f)**] enigiets beoog in artikel 15(1) ontvang;
- (d) hy of sy, of sy of haar [**gade of 'n onmiddellike**] familielid [**soos omskryf in artikel 5(f)**] om 'n betrekking aansoek doen by of werk aanvaar van 'n lisensiehouer of 'n aansoeker om 'n lisensie ingevolge hierdie Wet, en 10
- (e) hy of sy aan dobbelary deelgeneem het, of indien dit onder sy of haar aandag kom dat sy of haar gade aan dobbelary deelgeneem het, in hierdie Provinsie of by enige dobbelarybesigheid in artikel 15(3) beoog.”, en 15

(b) deur die volgende subartikel na subartikel (2) in te voeg:

“(3) Vir die toepassing van hierdie artikel omvat 'n onregstreekse geldelike belang nie 'n onregstreekse belang wat deur enige fonds of belegging gehou word nie indien die persoon wat dié belang hou geen beheer het oor die beleggingsbesluite wat ten opsigte van daardie fonds of belegging gemaak word nie.” 20

Wysiging van artikel 20 van Wet 4 van 1996, soos gewysig by artikel 19 van Wet 4 van 1997 en artikel 2 van Wet 1 van 2003

9. Artikel 20 van die Hoofwet word gewysig deur subartikel (3) deur die volgende subartikel te vervang: 25

“(3) Die Raad kan in enige boekjaar versoeke om bykomende fondse tot die verantwoordelike Lid rig vir insluiting by die aansuiweringsbegroting [**soos beoog in die omskrywing daarvan in artikel 1 van die Wes-Kaapse Skatkweswet, 1994 (Wet 4 van 1994)**] in ooreenstemming met die toepaslike wetgewing.” 30

Wysiging van artikel 23 van Wet 4 van 1996, soos gewysig by artikel 20 van Wet 4 van 1997, artikel 8 van Wet 10 van 1997, artikel 2 van Wet 4 van 1999 en artikel 4 van Wet 1 van 2003

10. Artikel 23 van die Hoofwet word gewysig deur subparagraaf (iii) van paragraaf (1)(a) deur die volgende subparagraaf te vervang: 35

(iii) enige oortreding of beweerde oortreding, of nienakoming of beweerde nienakoming, van 'n bepaling van hierdie Wet op enige gelisensieerde perseel of deur die houer van 'n lisensie kragtens hierdie Wet uitgereik.”

Wysiging van artikel 27 van Wet 4 van 1996, soos gewysig by artikel 3 van Wet 4 van 1999 en artikel 2 van Wet 11 van 2000 40

11. Artikel 27 van die Hoofwet word gewysig deur die volgende paragraaf na paragraaf (g) in te voeg:

“(hB) nasionale lisensies, soos beoog in die Nasionale Wet;”.

Invoeging van artikel 27A in Wet 4 van 1996 45

12. Die volgende artikel word na artikel 27 van die Hoofwet ingevoeg:

“Nasionale lisensies

27A. (1) Die Raad kan nasionale lisensies uitreik, soos beoog in die Nasionale Wet.

(2) Uitgesonderd soos anders in die Nasionale Wet bepaal, is die bepalings van hierdie Wet van toepassing ten opsigte van enige nasionale lisensie ingevolge die Nasionale Wet uitgereik. 50

(3) Ondanks die bepalings van hierdie Wet, is die houer van 'n nasionale lisensie geregtig om die aktiwiteite daarby gemagtig in die Provinsie uit te voer asof dié lisensie ingevolge hierdie Wet uitgereik is.”

Wysiging van artikel 28 van Wet 4 van 1996, soos gewysig by artikel 23 van Wet 4 van 1997 en artikel 2 van Wet 8 van 1998

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13. Artikel 28 van die Hoofwet word deur die volgende artikel vervang:

“28. Ten einde te kwalifiseer vir 'n lisensie—

- | | |
|---|----|
| (a) moet 'n persoon, uitgesonderd 'n maatskappy of ander regspersoon— | |
| (i) 'n geskikte en gepaste persoon wees wie se karakter, integriteit, eerlikheid, vorige gedrag, ontsag vir die reg, reputasie, gewoontes en verbintnisse nie gevaar inhou vir die gesondheid, veiligheid, sedes, goeie orde en algemene welsyn van die inwoners van die Provinsie en vir die bepalings en beleid van hierdie Wet nie, en | 10 |
| (ii) nie gediskwalifiseer wees kragtens hierdie Wet nie, en | 15 |
| (b) moet 'n maatskappy of regspersoon— | |
| (i) kragtens die wette van die Republiek geregistreer wees, en | |
| (ii) goeie kredietwaardigheid en voldoende middele hê om die aktiwiteit waarvoor die lisensie vereis word, te onderneem en te onderhou, en | 20 |
| (iii) met die nodige veranderinge voldoen aan paragraaf (a).” | |

Wysiging van artikel 29 van Wet 4 van 1996, soos gewysig by artikel 24 van Wet 4 van 1997, artikel 9 van Wet 10 van 1997 en artikel 4 van Wet 4 van 1999

14. Artikel 29 van die Hoofwet word deur die volgende artikel vervang:

Diskwalifisering ten opsigte van lisensie

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“29. 'n Persoon mag nie 'n werklisensie ingevolge hierdie Wet uitgereik, hou nie, indien daardie persoon—

- | | |
|--|----------|
| (a) nie voldoen aan die vereistes van artikel 28(a)(i) nie; | |
| (b) 'n insolvente persoon is wat nie gerehabiliteer is nie of onderworpe is aan enige handelingsonbevoegdheid; | 30 |
| (c) 'n lid van die Raad, 'n lid van die Uitvoerende Raad of 'n lid van die staande komitee van die Provinsiale Wetgewer verantwoordelik vir hierdie Wet, of 'n familielid van daardie persoon is; | |
| (d) 'n werknemer van die Raad of 'n familielid van daardie persoon is; met dien verstande dat die Raad so 'n diskwalifikasie kan kondoneer waar dit ten opsigte van 'n familielid bestaan, as hy tevrede is dat geen wesenlike belangebotsing omrede van dié werk sal ontstaan nie; | 35 |
| (e) onder die ouderdom van 18 jaar is; | |
| (f) 'n staatsamptenaar of politieke ampsdraer is; | |
| (g) as gevolg van ondersoek of navrae ingevolge artikel 30(2) uitgevoer, blyk gediskwalifiseer te wees om 'n belang in 'n lisensiehouer, 'n gelisensieerde perseel, of die besigheid waarop 'n lisensie betrekking het, te hou; | 40 |
| (h) gelys is in die register van uitgesluite persone in die Nasionale Wet beoog; | 45 |
| (i) onderworpe is aan 'n bevel van 'n bevoegde hof wat beslis het dat die persoon geestelik ongeskik of versteur is; | |
| (j) voorheen al uit 'n vertrouensamp verwyder is op grond van wangedrag ten opsigte van bedrog of die wederregtelike toeëiening van geld, of | |
| (k) gedurende die voorafgaande tien jaar, in die Republiek of elders, skuldig bevind is aan korrupsie, diefstal, bedrog, vervalsing of die in omloop bring van vervalste stukke, myneed, of 'n misdryf ingevolge hierdie Wet of die Nasionale Wet, en gevonnissen is tot gevangenisstraf sonder die keuse van 'n boete, of tot 'n boete wat die bedrag ingevolge die Nasionale Wet voorgeskryf, oorskry, tensy amnestie of algehele kwytskelding vir die misdryf aan die persoon toegestaan is.” | 50
55 |

Wysiging van artikel 30 van Wet 4 van 1996, soos gewysig by artikel 25 van Wet 4 van 1997

15. Artikel 30 van die Hoofwet word deur die volgende artikel vervang:

“[Persone met sekere regstreekse of onregstreekse belange gediskwalifiseer]

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Diskwalifikasies en beperkings ten opsigte van ander lisensies

30. (1) Hierdie artikel is nie van toepassing op ’n werklisensie nie.

(2) ’n Persoon mag nie ’n lisensie in hierdie artikel bedoel of ’n geldelike belang in die houer van daardie lisensie, hou nie, indien daardie persoon—

(a) ’n persoon beoog in artikel 29(a), (e), (f), (i), (j) of (k) is;

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(b) ’n regspersoon is ten opsigte waarvan die Staat of enige staatsorgaan of enige organisasie waarby die Staat betrokke is, enige geldelike belang, uitgesonderd vir sover dit belastings betref, in enige dobbelaktiwiteit het; met dien verstande dat die bepaling van hierdie paragraaf nie ’n belang insluit wat gehou word deur die Staat of enige staatsorgaan of enige organisasie waarby die Staat betrokke is, voortspruitend uit ’n armlengte-handelstransaksie ten opsigte van—

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(i) ’n huurooreenkoms ten opsigte waarvan die huurgeld betaalbaar nie bepaal word met betrekking tot die omset van of wins uit enige dobbelaktiwiteit nie;

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(ii) die verkoop van eiendom, of

(iii) die toestaan van ’n keuse om te koop;

(c) ’n insolvente persoon is wat nie gerehabiliteer is nie, of

(d) ’n familielid is, uitgesonderd ’n broer of suster, van ’n persoon wat ’n lid of werknemer is van ’n beherende gesag wat toesig oor daardie lisensiehouer hou;

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met dien verstande dat, by die oorweging van aansoeke om die toestaan of hernuwing van lisensies of die evaluering van die geskiktheid van lisensiehouers of persone wat ’n geldelike belang daarin het, die Raad die reg het, maar nie verplig is nie, om ondersoeke of navrae uit te voer ten opsigte van persone wat ’n geldelike belang van minder as vyf persent in die aansoeker hou.

30

(3) Die Raad moet weier om ’n lisensie aan ’n aansoeker uit te reik indien hy, na afloop van die ondersoeke of navrae in subartikel (2) beoog, rede het om te glo dat—

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(a) die aansoeker, enige persoon wat ’n geldelike belang in die aansoeker hou, of enige bestuurder van die betrokke besigheid, ’n familielid, uitgesonderd ’n broer of suster, is, of ’n persoon is wat ’n lid of werknemer van daardie lisensiëringsowerheid is; of

(b) die aansoeker of enige persoon wat ’n geldelike belang van vyf persent of meer in die aansoeker hou, ingevolge subartikel (2) gediskwalifiseer is om ’n belang in ’n lisensiehouer of die besigheid waarop ’n lisensie betrekking het, te hou.

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(4) Vir die toepassing van hierdie artikel omvat ’n geldelike belang nie ’n onregstreekse belang wat gehou word in enige fonds of belegging nie indien die persoon wat daardie belang hou, geen beheer het oor die beleggingsbesluite wat ten opsigte van daardie fonds of belegging gemaak word nie.”.

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Wysiging van artikel 35 van Wet 4 van 1996, soos gewysig by artikel 29 van Wet 4 van 1997, artikel 11 van Wet 10 van 1997 en artikel 5 van Wet 4 van 1999

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16. Artikel 35 van die Hoofwet word gewysig deur subparagraaf (vi) van subartikel (3) deur die volgende subparagraaf te vervang:

“(vi) die aansoeker kwalifiseer ingevolge artikel [28]29 en is nie ingevolge artikel [29]30 gediskwalifiseer nie, en”.

Wysiging van artikel 37 van Wet 4 van 1996, soos gewysig by artikel 31 van Wet 4 van 1997

17. Artikel 37 van die Hoofwet word gewysig —
- (a) deur paragraaf (f) van subartikel (1) deur die volgende paragraaf te vervang: 5
“(f) met betrekking tot die persele waarin of waarop [**dobbelary, wedrenne of aktiwiteite wat daarmee in verband staan**] dobbelaktiwiteite [gaan] plaasvind, insluitend die ontwikkeling en gebruik daarvan;”;
 - (b) deur paragraaf (g) van subartikel (1) deur die volgende paragraaf te vervang: 10
“(g) wat die voorlegging van verslae en opgawes met betrekking tot [**dobbelary of wedrenne of daarmee gepaardgaande aktiwiteite**] dobbelaktiwiteite aan die Raad vereis;”;
 - (c) deur paragraaf (i) van subartikel (1) deur die volgende paragraaf te vervang: 15
“(i) met betrekking tot die dae waarop en ure waartydens [**dobbelary**] dobbelaktiwiteite beoefen kan word of wedrenne kan plaasvind;”, en
 - (d) deur paragraaf (k) van subartikel (1) deur die volgende paragraaf te vervang: 15
“(k) met betrekking tot enige toerusting of toestel wat in verband met enige [**dobbelary**] dobbelaktiwiteite of wedrenne gebruik word of gebruik moet word;”.

Wysiging van artikel 39 van Wet 4 van 1996, soos gewysig deur artikel 33 van Wet 4 van 1997 20

18. Artikel 39 van die Hoofwet word gewysig—
- (a) deur subartikel (2) deur die volgende subartikel te vervang: 25
“(2) Die Raad kan van tyd tot tyd gelas dat die bedrag of waarde van die sekuriteit bedoel in subartikel (1) vermeerder of verminder word en daarna moet die betrokke lisensiehouer binne sewe dae vandat hy ’n kennisgewing ontvang het dat die Raad aldus gelas het, toesien dat die sekuriteit in ooreenstemming met sodanige lasgewing vermeerder of verminder word.”;
 - (b) deur subartikel (3) deur die volgende subartikel te vervang: 30
“(3) Indien enige sekuriteit verskaf ingevolge subartikel (1) verstryk, ongeldig word of nie vermeerder word binne die tydperk in subartikel (2) beoog nie, word die betrokke lisensie, ondanks die bepalings van artikel 42(3)(a), geag ingevolge artikel 42(1) opgeskort te gewees het, en mag die lisensiehouer nie voortgaan om die besigheid gemagtig kragtens dié lisensie te dryf nie totdat sodanige sekuriteit herstel is of geldig gemaak is of vervang of vermeerder is.”;
 - (c) deur subartikel (5) deur die volgende subartikel te vervang: 35
“(5) As ’n lisensiehouer versuim om enige belastings, gelde of dobbelaryverpligtinge te betaal wat kragtens hierdie Wet deur hom [**of haar**] verskuldig en betaalbaar is, moet die Hoof Uitvoerende Beampte die sekuriteit in subartikel (1) realiseer en enige geld verkry uit die realisasie daarvan, 40
aanwend ter betaling van die belastings, gelde of dobbelaryverpligtinge wat verskuldig en betaalbaar is, en daarna—
 - (a) is die bepalings van subartikel (2) van toepassing indien die bedrag van die sekuriteit aldus gerealiseer minder as die helfte van die sekuriteit is wat deur die Raad ten opsigte van daardie lisensiehouer bepaal is, of 45
 - (b) is die bepalings van subartikel (3) van toepassing indien die bedrag van die sekuriteit aldus gerealiseer die helfte of meer van die totale sekuriteit is wat deur die Raad ten opsigte van daardie lisensiehouer bepaal is.” en 50
 - (d) deur subartikel (6) deur die volgende subartikel te vervang: 55
“(6) Wanneer ook al ’n lisensie, uitgereik ingevolge hierdie Wet, verstryk of [**opgeskort**] ingetrek word soos in hierdie Wet bepaal, moet die Hoof Uitvoerende Beampte na ’n tydperk van nie minder nie as negentig dae na die datum van sodanige verstryking of intrekking en nadat daar aan die bepalings van subartikel (5) voldoen is, indien sodanige bepalings van toepassing is, die sekuriteit of die saldo van die sekuriteit vrystel.”.

Wysiging van artikel 41 van Wet 4 van 1996, soos gewysig by artikel 35 van Wet 4 van 1997 en artikel 7 van Wet 4 van 1999

19. Artikel 41 van die Hoofwet word gewysig—
- (a) deur die artikelopskrif deur die volgende artikelopskrif te vervang: 5
 “[**Nie-oordraagbaarheid**] **Beperkings op oordraagbaarheid van lisensies**”;
- (b) deur subartikel (1) deur die volgende subartikel te vervang: 10
 “(1) [**Geen**] Behoudens die bepalings van subartikel (1A), mag geen lisensie wat kragtens hierdie Wet toegestaan is, [mag] deur die houër daarvan aan ’n ander persoon oorgedra word nie, en mag geen perseellisensie kragtens hierdie Wet uitgereik [mag] oorgedra word van ’n perseel waarop dit betrekking het, na enige ander perseel nie.”, en
- (c) deur die volgende subartikel na subartikel (1) in te voeg: 15
 “(1A) ’n Lisensie mag slegs van ’n bestaande lisensiehouer na ’n ander persoon oorgedra word indien—
- (a) die oordrag van daardie lisensie van die bestaande lisensiehouer na ’n ander persoon nodig is om nakoming van die bepalings van die Nasionale Wet te verseker;
- (b) die bestaande lisensiehouer skriftelike aansoek by die Raad gedoen het om die oordrag van sy lisensie op die gronde in paragraaf (a) uiteengesit, en 20
- (c) die Raad die aansoek beoog in paragraaf (b) goedgekeur het.”. 15

Wysiging van artikel 41A van Wet 4 van 1996, soos gewysig by artikel 36 van Wet 4 van 1997

20. Artikel 41A van die Hoofwet word gewysig— 25
- (a) deur die artikelopskrif deur die volgende artikelopskrif te vervang:
 “**Dood of ongeskiktheid van persoon wat belang in ’n lisensiehouer hou**”;
- (b) deur subartikel (1) te skrap;
- (c) deur subartikel (2) deur die volgende subartikel te vervang: 30
 “(2) Wanneer [**die**] ’n belang in ’n gelisensieerde dobbelarybesigheid wat gehou is deur ’n [ontslape of ongeskikte] persoon wat sterf of ongeskik word [gehou is], deur regswerking of andersins oorgaan in sy of haar boedel of op enige ander persoon as die eksekuteur of kurator of ’n [mede-lisensiehouer oorgaan, moet sodanige] ander persoon wat ’n belang in dieselfde [mede-lisensiehouer] lisensiehouer hou, moet die eksekuteur van die boedel of sodanige ander persoon [of die eksekuteur van die boedel] binne 30 dae na die datum van afsterwe of ongeskiktheid by die Raad aansoek doen om die toepaslike lisensie [aansoek doen].”.

Wysiging van artikel 46 van Wet 4 van 1996, soos gewysig by artikel 40 van Wet 4 van 1997

21. Artikel 46 van die Hoofwet word gewysig—
- (a) deur die artikelopskrif deur die volgende artikelopskrif te vervang: 45
 “[**Beperktedobbelmasjien-operateurlisensie**] **Roete-operateurlisensie**”;
- (b) deur subartikel (1) deur die volgende subartikel te vervang: 45
 “(1) ’n [**Beperktedobbelmasjien-operateurlisensie**] Roete-operateurlisensie word slegs uitgereik aan ’n maatskappy wat ingevolge die [Wet op Maatskappye] Maatskappywet, 1973, geregistreer is.”;
- (c) deur subartikel (2) deur die volgende subartikel te vervang: 50
 “(2) ’n [**Beperktedobbelmasjien-operateurlisensie**] Roete-operateurlisensie is ’n vereiste vir elke maatskappy wat die besigheid van die bedryf van beperkte [dobbelmasjiene] uitbetaalmasjiene in of op een of meer persele, gelisensieer ingevolge artikel 47, toelaat of daarby betrokke is.”;

- (d) deur subartikel (2A) deur die volgende subartikel te vervang:
 “(2A) ’n [**Beperktedobbelmasjien-operateurlisensie**] Roete-operateurlisensie is gekoppel aan die [**perseel**] operateur in die lisensie gespesifiseer.”, en
- (e) deur subartikel (3) deur die volgende subartikel te vervang: 5
 (3) ’n [**Beperktedobbelmasjien-operateurlisensie**] Roete-operateurlisensie magtig, onderworpe aan enige voorwaardes wat die Raad oplê, die gebruik van goedgekeurde beperkte [**dobbelmasjiene**] uitbetaalmasjiene in of op persele of die dele van sodanige persele wat ingevolge artikel 47 gelisensieer is.”. 10

Wysiging van artikel 47 van Wet 4 van 1996, soos gewysig by artikel 41 van Wet 4 van 1997

22. Artikel 47 van die Hoofwet word gewysig—
- (a) deur die artikelopskrif deur die volgende artikelopskrif te vervang: 15
 “[**Beperktedobbelmasjien-perseellisensie**] Terreinlisensie”, en
- (b) deur subartikel (1) deur die volgende subartikel te vervang:
 (1) ’n [**Beperktedobbelmasjien-perseellisensie**] Terreinlisensie is ’n vereiste vir enige perseel in die Provinsie waarin of waarop beperkte [**dobbelmasjiene**] uitbetaalmasjiene aangebring word deur die houer van ’n [**beperktedobbelmasjien-operateurlisensie**] roete-operateurlisensie.”; 20
- (c) deur subartikel (2) deur die volgende subartikel te vervang:
 “(2) ’n [**Beperktedobbelmasjien-perseellisensie**] Terreinlisensie magtig, onderworpe aan enige voorwaardes wat die Raad oplê, die aanhou en vertoon, vir [**speel**] speeldoeleindes, van enige beperkte [**dobbelmasjiene**] uitbetaalmasjiene [**in die lisensie gespesifiseer**], in of op die gelisensieerde perseel of die deel van sodanige perseel in die lisensie gespesifiseer, wat ingevolge artikel 46 [**gebruik**] bedryf word.”; 25
- (d) deur die volgende subartikels na subartikel (2) in te voeg:
 “(3) ’n Terreinlisensie is gekoppel aan die perseel in die lisensie gespesifiseer. 30
 (4) Die Raad staan nie ’n aansoek om ’n terreinlisensie toe nie, tensy hy tevrede is dat—
 (a) die persoon wat verantwoordelik sal wees vir die bedryf van die dobbelarybesigheid op die terrein, en 35
 (b) behoudens die voorbehoudsbepaling by artikel 30(2), alle persone wat ’n geldelike belang van vyf persent of meer hou in die persoon in paragraaf (a) beoog, 40
 voldoen aan die bepalings van artikels 28 of 29, na gelang van die geval, en 30.”.

Wysiging van artikel 48 van Wet 4 van 1996, soos gewysig by artikel 8 van Wet 4 van 1999

23. Artikel 48 van die Hoofwet word gewysig deur subartikel (2) deur die volgende subartikel te vervang:
 “(2) ’n Bingolisensie is ’n vereiste vir elke persoon wat in die Provinsie die speel van bingo [**toelaat of beoefen**], uitgesonderd vir die doel van sosiale dobbelary ingevolge artikel 67(1)(c) gemagtig, in of op ’n perseel of persele in sodanige lisensie gespesifiseer, toelaat of beoefen, welke perseel of persele ingevolge artikel 48A gelisensieer word.”. 45

Wysiging van artikel 53 van Wet 4 van 1996, soos gewysig by artikel 44 van Wet 4 van 1997 en artikel 13 van Wet 4 van 1999 50

24. Artikel 53 van die Hoofwet word gewysig deur subartikel (3) deur die volgende subartikel te vervang:
 “(3) ’n Totalisator-operateurlisensie magtig, onderworpe aan enige voorwaardes wat die Raad oplê, die gebruik van ’n totalisator ten opsigte van [**enige gebeurtenis of**] dié [gebeurlikheid] gebeurlikhede wat bestaanbaar is met die bepalings van die Wet op Loterye, 1997 (Wet 57 van 1997), en die aanvaarding van inleggeld ten 55

opsigte van sodanige totalisator in of op 'n perseel ingevolge artikel 54 gelisenseer.”.

Wysiging van artikel 54 van Wet 4 van 1996, soos gewysig by artikel 45 van Wet 4 van 1997 en artikel 14 van Wet 4 van 1999

25. Artikel 54 van die Hoofwet word gewysig deur subartikel (2) deur die volgende subartikel te vervang: 5

“(2) 'n Totalisator-perseellisensie magtig, onderworpe aan enige voorwaardes wat die Raad oplê, die aanvaarding van inleggeld ten opsigte van 'n totalisator in of op die perseel in sodanige lisensie gespesifiseer, deur die houer van 'n lisensie in [gelisenseer ingevolge] artikel 53 beoog.”.

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Wysiging van artikel 55 van Wet 4 van 1996, soos gewysig by artikel 46 van Wet 4 van 1997 en artikel 15 van Wet 4 van 1999

26. Artikel 55 van die Hoofwet word gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang:

“(1) 'n Boekmakerlisensie is 'n vereiste vir elke persoon wat in die Provinsie betrokke is by die besigheid van regstreekse of onregstreekse plasing of [aanvaarding] aangaan van weddenskappe[, uitgesonderd totalisator-tipe weddenskappe,] soos in artikel 1 omskryf, met lede van die publiek of ander boekmakers op 'n perseel of persele in daardie lisensie gespesifiseer, wat kragtens artikel 55A gelisenseer is.”.

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(b) deur subartikel (3) deur die volgende subartikel te vervang:

“(3) 'n Boekmakerlisensie magtig, onderworpe aan enige voorwaardes wat die Raad oplê, die bedryf van die besigheid van 'n boekmaker in of op die perseel deur vasgestelde en ope weddenskappe, maar nie [totalisator-tipe weddenskappe] totalisatorweddenskappe nie, te plaas en aan te gaan[aanvaar].”.

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Wysiging van artikel 55A van Wet 4 van 1996, soos gewysig by artikel 16 van Wet 4 van 1999

27. Artikel 55A van die Hoofwet word gewysig deur subartikel (3) te skrap.

Wysiging van artikel 58 van Wet 4 van 1996, soos gewysig by artikel 2 van Wet 5 van 1999 30

28. Artikel 58 van die Hoofwet word deur die volgende artikel vervang:

“58.(1) Enige persoon, uitgesonderd 'n institusionele belegger, 'n openbaar verhandelde belegger, 'n bewaringsinstelling of 'n sentrale effektebewaarplek, wat regstreeks of onregstreeks 'n geldelike belang van vyf persent of meer verkry in die dobbelarybesigheid waarop 'n lisensie betrekking het, moet binne die tydperk en op die wyse deur die Raad voorgeskryf of bepaal, by die Raad aansoek doen om goedkeuring om dié belang te hou.

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(2) Enige openbaar verhandelde belegger, uitgesonderd 'n institusionele belegger wat regstreeks of onregstreeks 'n geldelike belang van tien persent of meer verkry in die dobbelarybesigheid waarop 'n lisensie betrekking het, moet binne die tydperk en op 'n wyse deur die Raad voorgeskryf of bepaal, by die Raad aansoek doen om goedkeuring om dié belang te hou.

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(3) Enige institusionele belegger wat regstreeks of onregstreeks 'n geldelike belang van vyftien persent of meer verkry in die dobbelarybesigheid waarop 'n lisensie betrekking het, moet binne die tydperk en op 'n wyse deur die Raad voorgeskryf of bepaal, by die Raad aansoek doen om dié belang te hou.

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(4) Die bepalinge van artikels 28, 30 en 32 is met die nodige veranderings toepaslik ten opsigte van enige toepassing beoog in subartikels (1), (2) en (3).

(5) Die Raad staan nie goedkeuring kragtens subartikels (1), (2) of (3) toe nie waar die persoon of openbaar verhandelde belegger of 55

institusionele belegger wat aansoek doen, gediskwalifiseer is om 'n lisensie ingevolge hierdie Wet te hou.

(6) Waar goedkeuring nie ingevolge hierdie artikel toegestaan word nie, moet die persoon, openbaar verhandelde belegger of institusionele belegger binne die voorgeskrewe tydperk en op die wyse deur die Raad voorgeskryf, die betrokke belang van die hand sit. 5

(7) Geen persoon, openbaar verhandelde belegger of institusionele belegger mag as benoemde of agent of andersins namens enige prinsipaal of bevoordeelde 'n belang beoog in subartikel (1), (2) of (3), verkry nie indien dié persoon nie die houer van die betrokke lisensie en die Raad skriftelik ingelig het omtrent die identiteit van daardie prinsipaal of bevoordeelde nie. 10

(8) Die bepalings van hierdie artikel—

(a) is nie op 'n bewaringsinstelling of sentrale effektebewaarpark van toepassing nie vir sover dit 'n geldelike belang betref wat die instelling of bewaarpark namens persone, uitgesonderd homself, hou in effekte genoteer op 'n effektebeurs in Suid-Afrika wat as sodanig ingevolge die Wet op Beheer van Effektebeurse, 1985 (Wet No. 1 van 1985) geregistreer is, maar 15

(b) is van toepassing op die bevoordeelde houers van die effekte beoog in paragraaf (a). 20

(9) Enige persoon wat subartikels (1), (2), (3), (6) of (7) oortree is skuldig aan 'n misdryf.''. 25

Wysiging van artikel 66 van Wet 4 van 1996

29. Artikel 66 van die Hoofwet word gewysig— 25

(a) deur subartikel (1) deur die volgende subartikel te vervang:

“(1) Geen persoon mag—

(a) 'n wedrenbyeenkoms hou, organiseer, reël of bywoon of op enige wyse daaraan deelneem of daarmee behulpsaam wees nie, of

(b) 'n wedrenkaart ten opsigte van 'n wedrenbyeenkoms druk, publiseer, besit, verkoop of te koop aanbied of op enige wyse 'n wedrenkaart in omloop bring of versprei nie, 30

tensy die betrokke wedrenooreenkoms [by 'n gelisensieerde renbaan] op 'n perseel ingevolge hierdie Wet gelisensieer plaasvind.'';

(b) deur subartikel (2) deur die volgende subartikel te vervang: 35

“(2) Enige persoon wat subartikel (1) [of enige van die voorwaardes van 'n renbaanlisensie] oortree is skuldig aan 'n misdryf.'', en

(c) deur subartikel (3) te skrap.

Wysiging van artikel 67 van Wet 4 van 1996, soos gewysig by artikel 56 van Wet 4 van 1997, artikel 14 van Wet 10 van 1997, artikel 20 van Wet 4 van 1999 en artikel 10 van Wet 11 van 2000 40

30. Artikel 67 van die Hoofwet word gewysig deur paragraaf (a) van subartikel (1) deur die volgende paragraaf te vervang:

“(a) [die speel van] enige [dobbelspel] doppelaktiwiteit beoefen of toelaat [of enige dobbelry beoefen of toelaat] in of op enige perseel onder sy of haar beheer of in sy of haar sorg nie[,]; of” 45

Wysiging van artikel 72 van Wet 4 van 1996

31. Artikel 72 van die Hoofwet word deur die volgende artikel vervang:

“[Verbod op aktiwiteite] Aanspreeklikheid met betrekking tot [dobbelspelle en weddery] doppelaktiwiteite 50

72. Geen persoon is onthef van aanspreeklikheid kragtens enige bepaling van hierdie Wet ten opsigte van enige handeling of ding in verband met enige [dobbelspel of weddery] doppelaktiwiteit in die Provinsie deur hom of haar verrig of gedoen of deur hom of haar gemagtig of toegelaat om verrig of gedoen te word nie bloot omrede enige aspek van die bestuur of 55

beoefening daarvan geheel en al of gedeeltelik op 'n plek buite die Provinsie uitgevoer word.”.

Wysiging van artikel 74 van Wet 4 van 1996, soos gewysig by artikel 60 van Wet 4 van 1997

32. Artikel 74 van die Hoofwet word gewysig— 5

(a) deur subartikel (1) deur die volgende subartikel te vervang:

“(1) [**Behalwe soos voorgeskryf, mag geen persoon**] Geen houer van 'n lisensie ingevolge hierdie Wet uitgereik mag enige advertensie [met betrekking tot dobbelary vertoon] ten opsigte van enige dobbelaktiwiteit laat publiseer of toelaat dat dit gedoen word op 'n ander wyse as ingevolge hierdie Wet en die Nasionale Wet voorgeskryf nie.”, en 10

(b) deur die volgende subartikel na subartikel (1) in te voeg:

“(1A) Geen persoon mag enige advertensie ten opsigte van enige dobbelaktiwiteit in hiedie Provinsie laat adverteer of toelaat dat dit gedoen word nie, tensy 'n lisensie ten opsigte van dié aktiwiteit uitgereik is— 15

(a) ingevolge hierdie Wet;

(b) ingevolge die wet van 'n ander provinsie van die Republiek, of 20

(c) ingevolge die wet van 'n jurisdiksie buite die Republiek; met dien verstande dat—

(i) die advertensie buite die Republiek gepubliseer of van buite die Republiek versend word en persone wat in die Republiek woon, nie die enigste of belangrikste teiken is waarop die advertensie gerig is nie, of 25

(ii) die advertensie voldoen aan alle vereistes ingevolge hierdie Wet of die Nasionale Wet voorgeskryf en persone wat op die advertensie reageer, buite die Provinsie sal moet reis om deel te neem aan die dobbelary in die advertensie geadverteer.”.

Wysiging van artikel 75 van Wet 4 van 1996, soos gewysig by artikel 61 van Wet 4 van 1997, artikel 15 van Wet 11 van 1997, artikel 2 van Wet 10 van 2000 en artikel 6 van Wet 1 van 2003

33. Artikel 75 van die Hoofwet word gewysig deur die volgende paragrawe na paragraaf (c) van subartikel (1) in te voeg:

“(cA) 'n rekenaar, uitgesonderd in ooreenstemming met hierdie Wet, gebruik of toelaat dat dit gebruik word— 35

(i) om deelname aan 'n dobbelaktiwiteit moontlik te maak, of

(ii) deur die rekenaar, hetsy in sy geheel of gedeeltelik, aan enige lid van die publiek beskikbaar te stel vir die doel om aan enige dobbelaktiwiteit deel te neem, ongeag of die dobbelaktiwiteit plaasvind op die perseel waar dit aangebied word of by wyse van die internet of 'n ander elektroniese versending; 40

(cB) in die Provinsie rekenaarsagteware versprei of beskikbaar stel wat bedoel is, of waarvan die hoof funksie is, om persone in die Provinsie in staat te stel om te skakel met dobbelarybesighede buite die Provinsie wat dobbelaktiwiteite deur middel van die internet aanbied;”.

Wysiging van artikel 75A van Wet 4 van 1996, soos gewysig by artikel 7 van Wet 1 van 2003

34. Artikel 75A van die Hoofwet word gewysig deur subartikel (1) deur die volgende subartikel te vervang: 50

“(1) Indien die Raad, volgens oorwig van waarskynlikheid op grond van bewyse wat aangevoer is by [**'n**] enige ondersoekverhoor ingevolge hierdie Wet uitgevoer, of aan die lig gebring is as deur [**'n**] enige ondersoek of navraag [**uitgevoer**] ingevolge [**artikel 23(1)(a)(iii)**] hierdie Wet uitgevoer, tevrede is dat 'n bepaling van hierdie Wet oortree is of nie nagekom is nie, deur— 55

(a) die houer van 'n operateurlisensie;

(b) die houer van 'n lisensie beoog in artikel 27(f) of (g);

- (c) die houer van 'n lisensie beoog in artikel 27(l) of (m), of
 (d) enige persoon wat optree of voorgee dat hy of sy optree in die loop en bestek van sy of haar diens by die houer van 'n operateurlisensie of 'n lisensie beoog in artikel 27(f) of (g),
 kan die Raad [een van of albei] enige van of al daardie lisensiehouers aanspreeklik hou vir daardie oortreding, na gelang van die geval, en 'n straf in subartikel (2) beoog opleë.”.

Skraping van artikel 84 van Wet 4 van 1996

35. Artikel 84 van die Hoofwet word geskrap.

Skraping van artikel 84A van Wet 4 van 1996 10

36. Artikel 84A van die Hoofwet word geskrap.

Skraping van artikel 84B van Wet 4 van 1996

37. Artikel 84B van die Hoofwet word geskrap.

Skraping van artikel 84C van Wet 4 van 1996

38. Artikel 84C van die Hoofwet word geskrap. 15

Invoeging van artikel 84D in Wet 4 van 1996

39. Die volgende artikel word in die Hoofwet na artikel 83 ingevoeg:

“Verbod op sekere dobbelaktiwiteite

- 84D.** (1) Behoudens subartikel (3), mag niemand wat fisiek teenwoordig is in die Provinsie deelneem aan 'n dobbelaktiwiteit by wyse van telefoon, telefaks, interaktiewe televisie, elektroniese pos, internetuitsending of enige verwante kommunikasiemedium nie, uitgesonderd soos voorsiening daarvoor gemaak word deur die Nasionale Wet.”; 20
- (2) Behoudens subartikel (3) mag geen persoon 'n ander persoon— 25
- (a) wat na die wete van eersgenoemde persoon fisiek teenwoordig is in die Provinsie, of
- (b) van wie eersgenoemde persoon redelikerwys behoort te vermoed dat hy of sy fisiek teenwoordig is in die Provinsie, 30
- nooi, help of toelaat om deel te neem aan 'n dobbelaktiwiteit wat in die geheel of gedeeltelik by wyse van telefoon, telefaks, interaktiewe televisie, elektroniese pos, internetuitsending of enige verwante kommunikasiemedium uitgevoer word nie, uitgesonderd soos voorsiening daarvoor gemaak word deur die Nasionale Wet.
- (3) Die bepalinge van hierdie artikel is nie van toepassing nie— 35
- (a) op 'n weddenskap wat aanvaar word deur of by 'n boekmaker of totalisator in enige provinsie in die Republiek gelisensieer, wat gemagtig word deur daardie lisensie om dié weddenskap te aanvaar, of
- (b) waar 'n speler deelneem aan 'n dobbelaktiwiteit in hierdie artikel beoog op die gelisensieerde perseel van 'n persoon gelisensieer ingevolge hierdie Wet om dié dobbelaktiwiteit aan te bied. 40
- (4) Enige persoon wat 'n bepaling van hierdie artikel oortree is skuldig aan 'n misdryf.”.

Invoeging van artikel 84E van Wet 4 van 1996

40. Die volgende artikel word na artikel 84D in die Hoofwet ingevoeg:

“Oorgangsbepalinge 45

- 84E.** (1) Enige geldige lisensiesertifikaat wat die Raad vóór die datum van inwerkingtreding van die Wes-Kaapse Vyftiende Wysigingswet op

Dobbelary en Wedrenne, 2005 (in hierdie artikel “die Wysigingswet” genoem) ingevolge artikel 46 van die Wet uitgereik het, word, ondanks die bewoording daarvan en tot die datum waarop dit verstryk, geag ’n roete-operateurlisensie te wees.

(2) Enige geldige lisensiesertifikaat wat die Raad vóór die datum van inwerkingtreding van die Wysigingswet ingevolge artikel 47 van die Wet uitgereik het, word, ondanks die bewoording daarvan en tot die datum waarop dit verstryk, geag ’n terreinlisensie te wees. 5

(3) Enige persoon wat ten tyde van die inwerkingtreding van die Wysigingswet ’n lisensie, ’n geldelike belang in ’n lisensie of ’n geskikheidsertifikaat ingevolge die Wet uitgereik, hou, wat as gevolg van die bepalings van die Wysigingswet of die Nasionale Wet nie meer kwalifiseer om daardie lisensie, geldelike belang of geskikheidsertifikaat te hou nie, moet binne 30 dae vanaf die inwerkingtreding van die Wysigingswet daardie feit aanmeld— 10 15

(a) by sy of haar werkgewer, as daardie persoon die houer van ’n werknemerlisensie is en in die diens van die houer van ’n operateurlisensie is;

(b) by die lisensiehouer waarin hy of sy ’n geldelike belang hou, of

(c) by die lisensiehouer ten opsigte waarvan ’n geskikheidsertifikaat aan daardie persoon uitgereik is, waarna daardie werkgewer of lisensiehouer die Raad binne 30 dae van aanmelding van die diskwalifikasie in kennis moet stel. 20

(4) Die bepalings van artikel 31 van die Wet is nie van toepassing op enigeen wat ingevolge die Wet vóór die inwerkingtreding van die Wysigingswet gediskwalifiseer is vir lisensiëring, en wat na die inwerkingtreding van die Wysigingswet nie aldus gediskwalifiseer is nie.” 25

Kort titel

41. Hierdie Wet word die Wes-Kaapse Vyftiende Wysigingswet op Dobbelary en Wedrenne, 2005 genoem. 30

WES-KAAPSE VYFTIENDE WYSIGINGSWETSONTWERP OP DOBBELARY EN WEDRENNE, 2005

VERKLARENDE MEMORANDUM OOR DIE VOORGESTELDE WYSIGINGS IN DIE WES-KAAPSE WET OP DOBBELARY EN WEDRENNE, 1996 (WET 4 VAN 1996), SOOS GEWYSIG (“DIE WET”)

1. INLEIDENDE OPMERKINGS

1.1 Die Nasionale Dobbelwet, 2004 (Wet 7 van 2004) (“die Nasionale Wet”) het by proklamasie in die *Staatskoerant* op 1 November 2004 in werking getree. Hierdie Wet herroep die Nasionale Dobbelwet, 1996 (Wet 33 van 1996), ingevolge waarvan die Nasionale Dobbelraad oorspronklik ingestel is.

1.2 Die belangrikste rede vir die indiening van ’n omvattende nuwe Nasionale Wet om die dobbelbedryf te reël was die bevinding dat sekere prosesse en benaderings van die verskillende provinsiale lisensiëringsowerhede by die uitvoering van hul regulerende funksie verskil, sodat lisensiehouers wat in meer as een provinsie bedrywig was, aan verskillende maatstawwe vir wesenlik dieselfde tipes lisensies moes voldoen. Waar lisensiehouers dobbelarybesighede in meer as een provinsie wou bedryf, moes hulle ook die onkreukbaarheidstoetse van die verskillende provinsies ondergaan, wat ’n duplisering van werksaamhede (deur die verskillende dobbelrade) en uitgawe (van die kant van die lisensiehouers) beteken het.

1.3 Daar was dus ’n behoefte aan groter eenvormigheid tussen provinsies en wetsmeganismes om daardie eenvormigheid te bewerkstellig. Ten einde met bogenoemde probleme te handel en die gewenste eenvormigheid te bereik, moes ’n meganisme ook in die lewe geroep word om die proses op nasionale vlak aan te dryf en te beheer. Gevolglik is dit ook noodsaaklik geag om die verhouding tussen die Nasionale Dobbelraad en die provinsiale lisensiëringsowerhede in groter besonderhede uit te spel, veral ten opsigte van lisensiëringsproesse, ondersoeke, die deel van inligting en regulerende praktyke.

1.4 Soos hierbo aangedui, is die doel van die Nasionale Wet om die uitvoering van die gelyklopende nasionale en provinsiale wetgewende bevoegdheid ten opsigte van casino’s, dobbelary, wedrenne en weddenskappe (soos Bylae 4 van die Grondwet voorsiening daarvoor maak) tussen die Nasionale Parlement van Suid-Afrika aan die een kant en die verskillende provinsiale wetgewers aan die ander kant, te koördineer. Met die oog hierop trag die Nasionale Wet om duidelike norme en standarde wat van toepassing is op die regulering en lisensiering van dobbelaktiwiteit (soos op alle vorms van dobbelary, met uitsondering van die Nasionale Lotery), te stel.

1.5 Teen hierdie grondwetlike agtergrond en met inagneming van die noodsaaklikheid om teen botsings tussen nasionale en provinsiale wetgewing betreffende dieselfde onderwerp te waak, moet ’n aantal wysigings aan die Wet aangebring word om dit te laat ooreenstem met die bepalinge van die Nasionale Wet. Tensy hierin aangedui, is al die wysigings waarvoor die Wetsontwerp voorsiening maak, geformuleer by wyse van konsensus wat deur ’n raadplegende proses tussen die Nasionale Dobbelraad en al die provinsiale Dobbelrade bereik is. Dit verseker dat die bevordering van eenvormigheid wat die Nasionale Wet ten doel het, van meet af aan bereik word.

2. Voorgestelde vervanging in die Engelse teks van die woord “Law” deur die woord “Act”

Die woord “Law” wat in die tussentydse Grondwet gebruik is om na wetgewing te verwys, is vervolgens in die finale Grondwet deur die woord “Act” vervang. Die doel van die wysiging is dus om die terminologie wat vir wetgewing gebruik word, met die terminologie van die finale Grondwet te laat ooreenstem.

3. Voorgestelde wysiging van Rangskikking van Artikels

3.1 Die wysigings in Klousule 1 van die Wetsontwerp beoog, is formeel van aard en bestaan uit voorgestelde skrappings uit en invoegings in die Wet van artikelopskrifte, asook sekere wysigings daarin

4. Voorgestelde wysiging van artikel 1 van Wet 4 van 1996

4.1 Die voorgestelde wysigings in hierdie artikel vervat, gaan hoofsaaklik oor wysigings van die omskrywings wat noodsaak word met die oog op eenvormigheid tussen die Nasionale Wet en die Wet.

4.2 Daar word ook voorgestel dat die paragraafnummers wat tans aan die omskrywings van die verskillende begrippe toegewys is, geskrap word, aangesien hulle nie 'n betekenisvolle doel dien nie en voorgestelde skrappings of invoegings in latere wysigings kompliseer. Volgens die skema wat nou voorgestel word, sal die begrippe in alfabetiese orde in die voorgestelde subartikel (1) gelys word. Die invoeging van die voorgestelde subartikel (1) maak voorsiening vir verdere subartikels waarin verskillende begrippe in meer besonderhede en met 'n groter mate van presisie ná die lys van begrippe vir invoeging voorgestel word. Dit stem ooreen met die formaat van die Nasionale Wet.

4.3 Tensy anders aangedui, is die verskillende omskrywings wat ingevoeg, gewysig of geskrap word, voorgestelde wysigings wat bedoel is om die bepalings van die Wet te laat ooreenstem met dié van die Nasionale Wet.

4.4 Wat die voorgestelde wysiging in die omskrywing van die begrip “dobboltoestel” betref, waar die formaat van die eerste komponent van die omskrywing die formaat van dié in die Nasionale Wet volg, is bykomende kwalifikasies by wyse van paragrawe (a) en (b) daaraan toegevoeg. Daardeur word dit duidelik gestel dat nie net muntoutomate nie (soos tans omskryf) maar ook die gerekenariseerde of dergelike sagteware wat 'n lisensiehouer vir die uitvoering van 'n dobbelaktiwiteit gebruik, by die begrip, soos omskryf, ingesluit sal word. Die rede hiervoor is dat die omskrywing van “dobboltoestel” tans beperk is tot toerusting of 'n ding wat regstreeks in 'n dobbelaktiwiteit gebruik word of wat ontwerp is of gebruik word “om die uitslag van 'n dobbelaktiwiteit te bepaal”.

Dié omskrywing is onvoldoende omdat sekere soorte sagteware wat in die casino, in beperkte uitbetaalmasjiene (“BUM”) en in die boekmaker- en totalisatorbedrywe gebruik word, weliswaar nie die uitslag van 'n dobbelaktiwiteit bepaal nie, maar van die uiterste belang is omdat dit aan bepaalde standaarde moet voldoen en die deurlopende integriteit en onderhoud daarvan noodsaaklik is om te verseker dat die betrokke dobbelaktiwiteit billik uitgevoer word. Om hierdie rede is dit wenslik dat diegene wat sulke sagteware verskaf en/of onderhou gelisensieer moet wees. Die betrokke sagteware moet eweneens onderworpe wees aan die registrasieprosesse wat in die Nasionale Wet beoog word. Ten einde dit te bewerkstellig, moet hierdie toerusting by die omskrywing van “dobboltoestel” ingesluit word.

Die omskrywing maak ook voorsiening vir die insluiting van muntoutomate in die begrip “dobboltoestel” om te verseker dat dié masjiene waarvan die vervaardigers nie in die land verteenwoordig word nie (met die doel om te bewys dat sulke masjiene “ontwerp is om gebruik te word om die uitslag van 'n dobbelaktiwiteit te bepaal”) en wat andersins ooreenstem met die bestaande omskrywing van “muntoutomate”, geag word dobboltoestelle te wees wat dus nie in 'n persoon se besit mag wees sonder magtiging van 'n lisensie nie. Die insluiting van hierdie voorgestelde bykomende komponent by die omskrywing sal die effektiewe verrigting van die Raad se wetstoepassingsfunksie aansienlik verbeter.

4.5 Die invoeging van die voorgestelde omskrywing van “Internet” is bedoel om die Wet met die Nasionale Wet te laat ooreenstem. Daar sal egter ook opgelet word dat die insluiting van hierdie omskrywing van nut is by die formulering van bykomende maatreëls, vir opname in die Wet voorgestel, waardeur kriminele aanspreeklikheid vir deelname in hierdie Provinsie aan dobbelaktiwiteite wat by wyse van elektroniese of verwante middele uitgevoer of beskikbaar gestel word, vasgestel word.

4.6 Die invoeging van die voorgestelde subartikels (2), (3), (4), (5), (6) en (7) in artikel 1 van die Wet volg die formaat van die Nasionale Wet, wat op baie gedetailleerde wyse ingaan op die begrippe “dobbelaktiwiteit”, “weddenskap”, “totalisatorweddenskap”, “dobbelspel”, “uitbetaling” en “geleentheid om 'n verdere spel te speel”.

5. Voorgestelde wysiging van artikel 3 van Wet 4 van 1996

5.1 Die voorgestelde wysiging in subartikel (1) van artikel 3 en die skrapping van subartikel (2A) is bedoel om die voorsiening wat voorheen vir die voltydse aanstelling van sekere lede van die Raad gemaak is, weg te doen.

6. Voorgestelde wysiging van artikel 5 van Wet 4 van 1996

6.1 Die voorgestelde wysiging in die bestaande artikel 5(f) (wat nou artikel 5(1)(f) gaan word om die invoeging van subartikel (1) te akkommodeer) is bedoel om die bestaande bepaling te laat ooreenstem met die gewysigde omskrywings wat voorgestel word met die oog op eenvormigheid tussen die Nasionale Wet en die Wet.

6.2 Die voorgestelde invoeging van subartikel (2) skakel die onwerkbare diskwalifikasie uit waarvolgens persone wat 'n nominale belang in 'n lisensiehouer hou bloot op grond van beleggings in ander institusionele beleggingsinstellings (waaroor so 'n persoon nie beheer sou kon uitoefen nie) nie herkiesbaar is vir aanstelling as 'n lid of werknemer van die Raad nie.

7. Voorgestelde wysiging van artikel 12 van Wet 4 van 1996

7.1 Die voorgestelde invoeging van die woorde “oor te dra” in artikel 12(3) is nodig met die oog daarop dat, aangesien dit volgens die Nasionale Wet 'n vereiste is dat die houer van 'n totalisator-operateurlisensie 'n regspersoon moet wees (en ook voorsiening maak vir die oordrag van lisensies indien by provinsiale wet gemagtig), die bestaande lisensie wat ten opsigte van die totalisator uitgereik is, oorgedra sal moet word van die huidige houer (wat nie 'n regspersoon is nie) na die maatskappy wat tans die totalisator namens die lisensiehouer bestuur.

7.2 Die invoeging van die voorgestelde subartikel (4A) is nodig om die Raad in die algemeen te magtig om nasionale lisensies uit te reik, te hernu, te weier, op te skort of in te trek, soos deur die Nasionale Wet daarvoor voorsiening gemaak word.

7.3 Daar word voorgestel dat die bestaande subartikel (5) geskrap moet word, aangesien dit gaan oor 'n saak waarvoor (*histories*) nie meer voorsiening gemaak hoef te word nie.

7.4 Die voorgestelde wysiging in subartikel (14) laat die bewoording wat daarin gebruik word, ooreenstem met die omskrewe begrippe wat gewysig word.

8. Voorgestelde wysiging van artikel 15 van Wet 4 van 1996

8.1 Die voorgestelde wysiging in subartikel (1) laat die bewoording van die betrokke bepaling ooreenstem met die vereistes van die Nasionale Wet.

8.2 Die voorgestelde wysigings in subartikel (2) wat gaan oor werkdiskwalifikasies wat op Raadslede, lede van die Uitvoerende Raad of lede van die Staande Komitee betrekking het—

8.2.1 verfyn die bewoording wat in paragraaf (a) gebruik word, en

8.2.2 verbied, deur die invoeging van die voorgestelde paragraaf (b), so 'n persoon om werk te bekom of te aanvaar van 'n persoon wat aansoek om 'n lisensie gedoen het of aan wie die Raad 'n lisensie uitgereik het in omstandighede waar die persepsie van 'n belangebotsing as gevolg van dié werk moontlik kan ontstaan, te wete waar enige deel van die vergoeding wat ten opsigte van die werk betaal moet word, deur daardie Aansoeker of lisensiehouer gefinansier of gesubsidieer word of van daardie Aansoeker of lisensiehouer afkomstig is.

9. Voorgestelde wysiging van artikel 15A van Wet 4 van 1996

9.1 Die voorgestelde wysigings in subartikel (1) is bedoel om die bewoording te laat ooreenstem met dié van die voorgestelde gewysigde omskrywings wat daarop gemik is om die Wet in ooreenstemming met die Nasionale Wet te bring.

9.2 Die voorgestelde invoeging van die nuwe subartikel (3) skakel weereens die onwerkbare vereiste uit dat gevalle van 'n belangebotsing aan die Raad openbaar gemaak moet word waar die persone wat geraak word, 'n nominale belang in 'n lisensiehouer hou bloot op grond van beleggings in ander institusionele beleggingsinstellings (waaroor so 'n persoon geen beheer het nie en waarvan hy of sy moontlik nie eens bewus is nie)

10. Voorgestelde wysiging van artikel 20 van Wet 4 van 1996

10.1 Die voorgestelde wysiging in subartikel (3) is nodig omdat die herroeping van die Wes-Kaapse Skatkiswet, 1994, nou aan die gang is.

11. Voorgestelde wysiging van artikel 23 van Wet 4 van 1996

11.1 Die voorgestelde wysiging in artikel 23(1)(a)(iii) is bedoel om dit duidelik te stel dat die Raad ondersoekverhore kan hou wanneer oortredings van die Provinsiale Wet op 'n gelisensieerde *perseel* begaan word, ook al word die oortredings nie noodwendig deur 'n lisensiehouer begaan nie (soos tans in die wetgewing bepaal word), sodat die lisensiehouer nietemin verantwoordbaar moet wees wanneer oortredings plaasvind op gelisensieerde persele waarvoor lisensiehouers beheer uitoefen.

12. Voorgestelde wysiging van artikel 27 van Wet 4 van 1996

12.1 Die invoeging van die nuwe paragraaf ((hB) is bedoel om, soos in die Nasionale Wet, ook in die Wet voorsiening te maak vir die insluiting van nasionale lisensies in die lys van lisensies wat deur die Raad uitgereik kan word.

13. Voorgestelde invoeging van artikel 27A in Wet 3 van 1996

13.1 Die voorgestelde nuwe artikel 27A gaan oor nasionale lisensies wat ingevolge die Nasionale Wet deur enige provinsiale raad uitgereik kan word, maar wat die houer daarvan toelaat om die aktiwiteit daardeur gemagtig ook in enige ander provinsie uit te voer. Die doel van die voorgestelde artikel is om die bepalings van die Provinsiale Wet toepaslik te maak op nasionale lisensies wat deur die Raad uitgereik word en aldus 'n lisensie te ag ingevolge die Wet uitgereik te gewees het. Dit sal die uitvoering van die aktiwiteit deur die lisensie gemagtig, in die Provinsie wettig, asook die betrokke lisensie onderwerp aan alle prosedure- en verwante vereistes waaraan lisensies ingevolge die Wet uitgereik (in teenstelling met die Nasionale Wet) andersins onderworpe sou wees.

14. Voorgestelde wysiging van artikel 28 van Wet 4 van 1996

14.1 Die voorgestelde wysigings in artikel 28 laat die algemene kwalifikasiemaatstawwe ooreenstem met dié van die Nasionale Wet.

15. Voorgestelde wysiging van artikel 29 van Wet 4 van 1996

15.1 Die voorgestelde wysigings in die opskrif en inhoud van artikel 29 maak voorsiening voorsiening daarvoor dat die skema wat deur die Nasionale Wet gevolg word vir sover dit tussen die vereiste kwalifikasiemaatstawwe vir werknemerlisensies en dié van toepassing op ander lisensies (soos in die voorgestelde wysigings in artikel 30 behandel) onderskei, deur die Provinsie vir eie gebruik aangeneem word. As sodanig, weerspieël al die voorgestelde wysigings, of is hulle bestaanbaar met, dié in die Nasionale Wet, uitgesonderd die voorgestelde voorbehoudsbepaling by paragraaf (d), wat 'n uitsondering op die algemene reël skep, te wete dat 'n persoon nie 'n werknemerlisensie mag hou indien hy of sy 'n familielid van 'n werknemer van die Raad is nie. Die voorgestelde uitsondering is bedoel om billikheid by die toepassing van hierdie voorbehoudsbepaling te verseker, sodat familieledede van persone wat by die Raad in diens is in posisies waarvan daar nie redelikerwys gesê kan word dat die verwantskap tot 'n belangebotsing aanleiding sal gee nie, toegelaat sal word om so 'n lisensie te bekom.

15.2 Daar moet op gelet word dat die bepalings van die Nasionale Wet die Raad belet om sekere diskwalifikasies te kondoneer, soos vroeër die geval was.

16 Voorgestelde wysiging van artikel 30 van Wet 4 van 1996

16.1 Die voorgestelde gewysigde artikel 30 gaan oor kwalifikasiemaatstawwe vir alle lisensies, uitgesonderd werklisensies, ooreenkomstig die skema in die Nasionale Wet gevolg, en die bepaalde kwalifikasiekriteria daarin uiteengesit. Ooreenkomstig die bepalings van die Nasionale Wet handel die voorgestelde artikel ook oor die kwalifikasiemaatstawwe vir persone wat enige geldelike belang in 'n lisensiehouer hou, waarmee die betrokke artikel vroeër eksklusief gehandel het.

16.2 Die voorgestelde voorbehoudsbepaling by subartikel (2) stel dit egter duidelik dat die Raad, hoewel bevoeg om enige houer van 'n geldelike belang in 'n Aansoeker of lisensiehouer tydens onkreukbaarheidsondersoeke te ondersoek, nie verplig is om dit te doen in die geval van persone wat minder as vyf persent van die totale geldelike belang

in die betrokke Aansoeker of lisensiehouer hou nie. Die voorbehoudsbepaling is gegrond op die onuitvoerbaarheid van ondersoek in sulke gevalle, asook die feit dat daar nie redelikerwys verwag sou kon word dat enige houër van so 'n nominale belang in 'n lisensiehouer enige invloed op die gedrag of bestuur van die betrokke gelisensieerde aktiwiteit sal kan uitoefen nie.

16.3 Daar sal weereens opgelet word dat dit die Raad ingevolge die gewysigde artikel nie meer sal vrystaan om sekere kategorieë van diskwalifikasies te kondoneer nie.

16.4 Die voorgestelde subartikel (4) is bedoel om dit duidelik te stel dat 'n persoon wat 'n onregstreekse geldelike belang in 'n lisensiehouer hou bloot op grond van 'n belegging in 'n fonds (ten opsigte waarvan daardie persoon geen beheer oor die beleggingsbesluite het nie) vir die toepassing van die artikel nie geag sal word 'n houër van 'n geldelike belang te wees nie en gevolglik nie hoef te voldoen aan die kwalifikasiemaatstawwe wat daarin uiteengesit word nie.

17 Voorgestelde wysiging van artikel 35 van Wet 4 van 1996

17.1 Die voorgestelde wysigings in artikel 35(3)(vi) is nodig om die bepalings van die betrokke paragraaf te laat ooreenstem met die toepaslike artikelnummers.

18. Voorgestelde wysiging van artikel 37 van Wet 4 van 1996

18.1 Al die voorgestelde wysigings in hierdie artikel is nodig om die bepalings van die Wet te laat ooreenstem met die voorgestelde wysigings in die omskrywings, wat op hul beurt in ooreenstemming met die Nasionale Wet gewysig is.

19. Voorgestelde wysiging van artikel 39 van Wet 4 van 1996

19.1 Die doel van die voorgestelde wysiging in subartikels (2) en (3) is om die bepalings van subartikel (3) deur die bepalings van subartikel (2) te vervang ten einde die verskillende stappe van die prosedure wat die Raad gemagtig het om in verband met sekuriteite deur lisensiehouers verskaf, te doen, chronologies beter weer te gee.

19.2 Die wyse waarop die wetgewing tans bewoord is, het aanleiding gegee tot verskillende interpretasies van wat die verhouding is tussen die stappe beoog in subartikel (2) en dié waarvoor in subartikel (3) voorsiening gemaak word. Onsekerheid het ontstaan of die maatreëls in hierdie subartikel beoog, mekaar wedersyds uitsluit, veral omrede van die verskillende tydperke in elkeen gestipuleer ten opsigte van die verpligtinge wat op lisensiehouers geplaas word om sekuriteite aan te vul of te vermeerder en die gevolge van enige versuim om die verskillende stappe daarin gestipuleer, te doen. Verder stel die artikel in sy huidige vorm dit nie duidelik of die bepalings van subartikels (2) of (3), of albei, van toepassing is wanneer 'n sekuriteit of 'n deel daarvan ingevolge subartikel (5) deur die Hoof Uitvoerende Beampte gerealiseer word nie. Ten einde hierdie probleme uit die weg te ruim en voorsiening te maak vir 'n administratief logiese benadering word derhalwe voorgestel om—

- 19.2.1 by wyse van subartikel (2), te bepaal dat die Raad in die eerste instansie bevoeg is om te gelas dat die bedrag of waarde van 'n sekuriteit binne 'n sekere tydperk vermeerder moet word;
- 19.2.2 by wyse van subartikel (3), te bepaal dat, indien sekuriteite wat gegee is, verstryk, ongeldig word, of nie vermeerder word soos in subartikel (2) beoog nie, die betrokke lisensie geag word opgeskort te gewees het, en
- 19.2.3 by wyse van die voorgestelde paragrafe (a) en (b) van subartikel (5), te bepaal dat, waar die Hoof Uitvoerende Beampte die sekuriteit realiseer—
 - (a) die lisensiehouer gelas sal word om die sekuriteit aan te vul, soos in subartikel (2) beoog, indien die bedrag wat gerealiseer is minder is as die helfte van die sekuriteit wat oorspronklik verskaf is, of
 - (b) die lisensie geag sal word opgeskort te gewees het, soos in subartikel (3) beoog, indien die bedrag van die sekuriteit gerealiseer, die helfte of meer is as die helfte van die sekuriteit wat oorspronklik verskaf is.

Die rede waarom tussen bogenoemde onderskei word, is dat die Raad en die provinsiale fiskus, uit die oogpunt van risiko vir die publiek, die risiko's inherent daaraan verbonde om die lisensiehouer toe te laat om sy bedrywighede voort te sit voordat die sekuriteit ten volle aangevul of herstel is, te groot is waar die bedrag aan sekuriteit deur die Hoof Uitvoerende Beampte gerealiseer vyftig persent of meer is as die bedrag oorspronklik

verskaf. Waar die bedrag gerealiseer egter minder is as vyftig persent van die bedrag wat oorspronklik verskaf is, is die risiko's inherent daaraan verbonde om die betrokke lisensiehouer toe te laat om bedrywighede voort te vir 'n tydperk van een week (waarbinne die sekuriteit aangevul moet word) te onbeduidend is om die opskorting van die betrokke lisensie te regverdig.

19.3 Die voorgestelde wysiging in subartikel (6) verwyder die vereiste dat die Hoof Uitvoerende Beampte, by intrekking of opskorting van 'n lisensie, die sekuriteit of saldo daarvan na negentig dae moet vrystel, en vervang dit deur 'n bepaling ten effekte dat die Hoof Uitvoerende Beampte hierdie funksie na 'n tydperk van "nie minder nie" as negentig dae na die datum van intrekking of opskorting moet verrig. Die rede vir die wysiging is dat komplekse afsluitingsoudits in sekere gevalle uitgevoer moet word. Dit is dalk nie moontlik om binne die tydperk van negentig dae vas te stel presies watter bedrag aan sekuriteit deur die Hoof Uitvoerende Beampte gerealiseer moet word nie, wat formele nakoming van hierdie subartikel problematies maak.

20. Voorgestelde wysiging van artikel 41 van Wet 4 van 1996

20.1 Die voorgestelde wysigings in artikel 41 van die Wet berus op die feit dat die houër van 'n totalisatorlisensie, vanweë die vereiste in die Nasionale Wet dat die houër van 'n totalisator-operateurlisensie 'n regs persoon moet wees (en ook voorsiening maak vir die oordrag van lisensies indien by provinsiale wet gemagtig), die bestaande lisensie ten opsigte van die totalisator van die huidige houër (wat nie 'n regs persoon is nie) oorgedra sal moet word na die maatskappy wat tans die totalisator namens die lisensiehouer bestuur. Die nodige wysigings word voorgestel—

20.1.1 deur die nuwe subartikel (1A) in te voeg, en

20.1.2 deur in subartikel (1) te stipuleer dat daardie subartikel onderworpe is aan die bepalings van subartikel (1A).

20.2 Daar sal gemerk word dat die totalisator-operateurlisensie die enigste lisensie is wat deur bogenoemde vereistes van die Nasionale Wet geraak word.

21. Voorgestelde wysiging van artikel 41A van Wet 4 van 1996

21.1 Die voorgestelde wysigings in artikel 41A het ontstaan omrede hierdie artikel, ten spyte daarvan dat dit oënskynlik gaan oor ander lisensiehouers as die houers van sleutel- of dobbelarywerknemerlisensie, in werklikheid verwys na die prosedures wat gevolg moet word wanneer natuurlike persone wat die houers van lisensies is, sterf of ongeskik raak. Aangesien die enigste kategorieë van lisensies wat ingevolge die Wet aan natuurlike persone uitgereik mag word, sleutel- of dobbelarywerknemerlisensies is, het die artikel nie sin nie.

21.2 Die doel van die wysigings is om die artikel toepaslik te maak waar natuurlike persone wat 'n geldelike belang in 'n lisensiehouer het, sterf of ongeskik raak. Die voorgestelde wysigings om dit te bewerkstellig is—

21.2.1 deur die bewoording van die artikel se opskrif te wysig;

21.2.2 deur subartikel (1), wat nutteloos is, soos hierbo aangedui, te skrap, en

21.2.3 deur gepaste wysigings in die bewoording van subartikel (2) in te voeg.

22. Voorgestelde wysiging van artikel 46 van Wet 4 van 1996

22.1 Die voorgestelde wysigings in artikel 46 word genoodsaak deurdat eenvormigheid tussen die Wet en die Nasionale Wet ten opsigte van die tipes lisensies wat uitgereik kan word, bewerkstellig moet word. Die tipe lisensie "beperkte-dobbelmasjien-operateurlisensie" word dus in die opskrif van die artikel en in die artikel self, vervang deur die tipe lisensie "roete-operateurlisensie", en die uitdrukking "beperkte dobbelmasjien" word deur die uitdrukking "beperkte uitbetaalmasjien" vervang.

23. Voorgestelde wysiging van artikel 47 van Wet 4 van 1996

23.1 Op dieselfde wyse bring die voorgestelde wysigings in artikel 47 die bepalings van die Wet in ooreenstemming met dié van die Nasionale Wet deur in die opskrif van die artikel, en regdeur die artikel self, die woord "beperkte-dobbelmasjien-perseel-lisensie" deur die woord "terreinlisensie" te vervang, en die woorde "beperkte dobbelmasjien" deur die woorde "beperkte uitbetaalmasjien" te vervang.

23.2 Die voorgestelde invoeging van subartikel (3) stel dit duidelik dat 'n terreinlisensie gekoppel is aan die perseel ten opsigte waarvan dit uitgereik word.

23.3 Die voorgestelde invoeging van subartikel (4) stel dit duidelik dat, ofskoon 'n terreinlisensie ten opsigte van die betrokke perseel uitgereik word, die Raad nie so 'n lisensie mag uitreik indien die persone wat vir die bedryf van die dobbelarybesigheid op die terrein verantwoordelik gaan wees (hoewel hulle streng gesproke nie lisensiehouers is nie), of enige persoon wat 'n geldelike belang van vyf persent of meer in daardie persone het, nie vir lisensiëring ingevolge die Wet sou gekwalifiseer het nie. Daardeur word voorsiening gemaak vir maatreëls wat nodig is om die absolute integriteit van die beperkteuitbetaalmasjien-bedryf op individuele terreinvlak te verseker.

24. Voorgestelde wysiging van artikel 48 van Wet 4 van 1996

24.1 Die voorgestelde wysiging in subartikel (2) het ten doel om dit duidelik te stel dat 'n bingolisensie nie 'n vereiste vir bingo is wanneer dit ingevolge artikel 67(1)(c) van die Wet gemagtig is nie. Die subartikel in sy huidige vorm skep die indruk dat 'n lisensie te alle tye wanneer bingo gespeel word, 'n vereiste is, wat dus sou bots met artikel 1 en artikel 67(1)(c). Die voorgestelde wysiging is juis bedoel om hierdie onduidelikheid te verwyder.

25. Voorgestelde wysiging van artikel 53 van Wet 4 van 1996

25.1 Die voorgestelde wysiging in subartikel (3) bepaal, omrede van die betreklike onsekerheid wat tans oor die wettige toelaatbaarheid van poelwedderly op ander gebeurtenisse as perdewedrenne bestaan, dat 'n totalisator bedryf kan word ten opsigte van daardie gebeurlikhede wat bestaanbaar is met die bepalings van die Wet op Loterye, 1997 (Wet 57 van 1997).

26. Voorgestelde wysiging van artikel 54 van Wet 4 van 1996

Die voorgestelde wysiging in subartikel (2) verfyn die bewoording van daardie subartikel.

27. Voorgestelde wysiging van artikel 55 van Wet 4 van 1996

27.1 Die voorgestelde wysigings in subartikel (1) is bedoel om ooreen te stem met die gedetailleerde omskrywing van wedderly (soos deur gelisensieerde boekmakers uitgevoer) wat in artikel 1(3)(b) uiteengesit word.

27.2 Die voorgestelde wysigings in subartikel (3) stel dit duidelik dat boekmakers nie net weddenskappe aanvaar nie, maar ook aangaan ("dekkingsweddenskappe"), en skakel die onsekerheid uit oor die wettigheid van "totalisator-tipe weddenskappe" deur die bewoording deur die woord "totalisatorweddenskappe" te vervang. Daardeur word dit duidelik gestel dat ope weddenskappe, ten opsigte waarvan die wenpryse bepaal word volgens die dividend wat deur die totalisator gegenereer word, wettig aangegaan kan word deur die houer van 'n boekmakerlisensie.

28. Voorgestelde wysiging van artikel 55A van Wet 4 van 1996

28.1 Die voorgestelde skraping van subartikel (3) berus op die feit dat die betrokke bepaling (wat 'n oorgangsbepaling was) nie meer van toepassing is nie.

29. Voorgestelde wysiging van artikel 58 van Wet 4 van 1996

29.1 Die voorgestelde wysigings in artikel 58 is geskoei op wysigings wat in die Nasionale Wet aangebring gaan word en waartoe ingestem is. Dit sal die verkryging van geldelike belange in lisensiehouers reguleer. Die voordeel van die voorgestelde wysigings is dat daarmee toegegee word dat lisensiehouers nie altyd in 'n posisie sal wees om aan die vereiste in die bestaande subartikel (1) vervat, te voldoen nie. Dié subartikel bepaal dat lisensiehouers enige persoon moet verhinder om 'n geldelike belang van vyf persent of meer in lisensiehouers te verkry tensy dit gedoen word met die voorafverkreë goedkeuring van die Raad. Die verhandeling van aandele in 'n lisensiehouer kan sonder die lisensiehouer se medewete plaasvind, veral in die geval van 'n lisensiehouer wat 'n genoteerde maatskappy word, of verhandeling plaasvind in

genoteerde maatskappye wat self belange in 'n lisensiehouer het. Die voorgestelde subartikel (1) vereis dus van enige persoon wat so 'n belang verkry het, om binne 'n vasgestelde tydperk by die Raad aansoek te doen om die betrokke verkryging goed te keur. 'n Verdere voordeel van die voorgestelde herbewoorde subartikel is dat institusionele beleggers, openbaar verhandelde beleggers en instellings wat aandele nominaal namens die bevoordeelde eienaars daarvan hou, uitgesluit word van die trefwydte van die subartikel.

29.2 Die voorgestelde subartikel (2) stel dit egter as 'n vereiste dat 'n openbaar verhandelde belegger (wat as belegger op die Effektebeurs genoteer is en *vir sy eie rekening* in genoteerde maatskappye belê) wat tien persent of meer van die geldelike belang in 'n lisensie verkry, by die Raad aansoek moet doen om goedkeuring om so 'n belang te hou. Die logiese verklaring vir die gestipuleerde drempel van tien persent is dat openbaar verhandelde beleggers gewoonlik groot maatskappye is wat 'n ooreenstemmend sterk aandeelhouerprofiel het. Die verkryging van 'n belang van minder as tien persent deur so 'n belegger in 'n lisensiehouer sal dus nie meebring dat enige van die individuele aandeelhouers daarin 'n noemenswaardige deel van die ekwiteit in die lisensiehouer verkry nie.

29.3 Die voorgestelde subartikel (3) stel dit eweneens as 'n vereiste dat 'n institusionele belegger (te wete 'n belegger wat self genoteer is en *namens ander beleggers* in genoteerde aandele belê om slegs vir beleggingsdoeleindes te hou) wat vyftien persent of meer van die geldelike belang in 'n lisensie verkry, by die Raad aansoek moet doen om goedkeuring van die verkryging. Die logiese verklaring vir die drempel van vyftien persent is dat institusionele beleggers eksponensieel groter is en 'n selfs breër basis van individuele aandeelhouers het wat hul beleggings deel. Dit sal dus nie vir die Raad haalbaar of nodig wees om ondersoek in te stel na enige transaksie ten opsigte waarvan so 'n belegger 'n geldelike belang in 'n lisensiehouer verkry het nie, tensy daardie belang soveel as vyftien persent van die totale ekonomiese belang in die lisensiehouer is.

29.4 Die voorgestelde subartikel (4) maak die kwalifikasiemaatstawwe by artikels 28 en 30 ingestel en die vereiste ten opsigte van advertering van die aansoek in artikel 32 vervat, van toepassing op 'n aansoek wat ingevolge die artikel gedoen word. Dit verhoog die deursigtigheid van die proses uit die oogpunt van openbare deelname.

29.5 Die voorgestelde subartikel (5) belet die Raad om 'n aansoek ingevolge die artikel toe te staan waar bevind word dat die Aansoeker ingevolge die kwalifikasiemaatstawwe in die Wet vervat, gediskwalifiseer is.

29.6 Die voorgestelde subartikel (6) vereis dat enige Aansoeker wie se aansoek ingevolge die artikel geweier word, die betrokke belang binne 'n gestipuleerde tydperk moet wegdoen.

29.7 Die voorgestelde subartikel (7) verhoed enige persoon of kategorie van belegger in die artikel beoog om 'n belang namens 'n onbekende prinsipaal te verkry.

29.8 Die voorgestelde subartikel (8) skep uitsonderings op die toepaslikheid van die artikel. Hulle is sentrale effektebewaarplesse en bewaringsinstellings, soos in artikel 1 omskryf. Aangesien hierdie instellings self geen belang het in die sekuriteite wat hulle normaalweg namens ander hou nie, word die uitsondering in paragraaf (a) beoog, gewaarborg. Paragraaf (b) stel dit egter duidelik dat die bevoordeelde eienaars van sekuriteite aldus gehou nie vrygestel sal word van die toepassing van die artikel nie.

29.9 Die voorgestelde subartikel (9) beklemtoon die bepaling van die verskillende subartikels deur kriminele aanspreeklikheid ten opsigte van gevalle van nie-nakoming te skep.

30. Voorgestelde wysiging van artikel 66 van Wet 4 van 1996

30.1 Die voorgestelde wysigings in subartikel (1) verwyder die verwysing na “'n gelisensieerde renbaan” aangesien renbaanlisensies reeds uit die Wet geskrap is, en in plaas daarvan word die vereiste gestel dat wedrenbyeenkomste gehou moet word op “persele ingevolge hierdie Wet gelisensieer”. Die logiese verklaring vir hierdie bepaling is dat alle renbane in die Provinsie uiteraard gelisensieerde totalisatorpersele is.

30.2 Die doel van die voorgestelde wysiging in subartikel (2) is eweneens om die verwysing na die renbaanlisensie uit die subartikel te verwyder.

30.3 Die voorgestelde skraping van subartikel (3) berus op die beperkte mate waarin die vermoede deur die subartikel geskep, in enige vervolging van nut sal wees, tesame

met die grondwetlike probleme wat teengekom word by die toepassing van vermoedens in 'n strafhofkonteks.

31. Voorgestelde wysiging van artikel 67 van Wet 4 van 1996

31.1 Die voorgestelde wysigings in subartikel (1)(a) het ten doel om die bedoeling van die verbod in die subartikel vervat, te laat ooreenstem met die voorgestelde omskrywing van “dobbelaktiwiteit” in artikel 1 vervat.

32. Voorgestelde wysiging van artikel 72 van Wet 4 van 1996

32.1 Die voorgestelde wysiging in die opskrif van die artikel beoog 'n meer paslike beskrywing van die inhoud daarvan, te wete die aanspreeklikheid wat deur die gedrag daarin beoog, opgeloop word.

32.2 Die doel van die voorgestelde wysigings in subartikel (2) is om die bewoording daarvan aan die hand van die bedoeling van die subartikel te laat ooreenstem met die omskrywing van “dobbelaktiwiteit”, en om te spesifiseer dat aanspreeklikheid ter sprake sal wees selfs al kom bloot “enige aspek” van die bestuur of uitvoering van die aktiwiteit buite die Provinsie voor.

33. Voorgestelde wysiging van artikel 74 van Wet 4 van 1996

33.1 Die voorgestelde wysiging in subartikel (1) is bedoel om te onderskei tussen die voorgeskewe verpligtinge van die lisensiehouer ten opsigte van advertering met betrekking tot dobbelary, in teenstelling met die algemene verbodinge wat vir alle persone geld, soos dit in die nuwe voorgestelde subartikel (1A) voorkom. Die voorgestelde subartikel (1) moet ook 'n verwysing bevat na die regulasies ten opsigte van advertering wat die nasionale Minister van Handel en Nywerheid ingevolge die Nasionale Wet gemagtig is om te maak.

33.2 Die voorgestelde subartikel (1A) plaas effektief 'n verbod op enige persoon om enige advertering ten opsigte van enige dobbelaktiwiteit wat nie ingevolge die Wet of die wetgewing van 'n ander jurisdiksie in Suid-Afrika geleë, gelisensieer is nie, in die Provinsie te laat publiseer of om toe te laat dat dit gedoen word. Ook word 'n uitsondering geskep ten opsigte van advertensies van dobbelaktiwiteite wat ingevolge die wet van ander jurisdiksies gelisensieer is, mits die advertensie nie alleenlik of eksklusief op inwoners van die land gerig is nie of dit aan al die voorgeskewe vereiste voldoen en inwoners van die Provinsie buite die Provinsie sal moet reis om aan die geadverteerde aktiwiteit deel te neem.

34. Voorgestelde wysiging van artikel 75 van Wet 4 van 1996

34.1 Die voorgestelde invoeging van paragrawe (cA) en (cB) in artikel 75 het ten doel om die gedrag van enige persoon wat op 'n ander wyse as ooreenkomstig die Wet 'n rekenaar as 'n middel gebruik om aan 'n dobbelaktiwiteit deel te neem of 'n dobbelaktiwiteit beskikbaar te stel, ongeag waar daardie dobbelaktiwiteit plaasvind, te kriminaliseer en om 'n verbod te plaas op die verspreiding van rekenaarsagteware wat die funksie verrig of in hoofsaak bedoel is om die funksie te verrig, van persone in die Provinsie te bemagtig om toegang te verkry tot dobbelarybesighede buite die Provinsie wat internetdobbels aanbied.

35. Voorgestelde wysiging van artikel 75A van Wet 4 van 1996

35.1 Die voorgestelde wysigings in subartikel (1) het ten doel om dit duidelik te stel dat administratiewe sanksies, waarvoor die artikel voorsiening maak, opgelê kan word op grond van getuienis wat by enige ondersoekverhoor, ondersoek of navraag ingevolge die Wet uitgevoer, voorgelê of gelewer word, en om deur die invoeging van die uitdrukking “enige van of almal” klem te lê op die feit dat 'n aantal verskillende lisensiehouers (ongegag of hulle afsonderlik of in samewerking met ander persone optree) potensieel strafbaar kan wees met die straf in subartikel (2) bedoel.

36. Voorgestelde skrapping van artikels 84, 84A, 84B en 84C van Wet 4 van 1996

36.1 Die oorgangsbepalings wat vroeër in artikels 84 tot 84C van die Wet vervat is, is nie meer van toepassing nie en daar word nou voorgestel dat hulle geskrap moet word.

37. Voorgestelde invoeging van artikel 84D in Wet 4 van 1996

37.1 Die voorgestelde artikel maak voorsiening vir die kwessie van interaktiewe dobbel. Die betrokke bepalings is gebaseer op die feit dat artikel 11 van die Nasionale Wet wat interaktiewe dobbel (wat ingevolge nasionale wetgewing gereguleer gaan word) in die algemeen verbied. Die doel van die bepalings in die voorgestelde artikel 84D vervat is om die tipes aktiwiteite waarvoor die verbod geld, te spesifiseer, te wete transaksies wat op 'n ander wyse as ingevolge die Nasionale Wet toegelaat, plaasvind by wyse van die telefoon, telefaks, interaktiewe televisie, elektroniese pos, internet-deursending of enige verwante kommunikasiemedium.

37.2 Die voorgestelde subartikel (2) brei aanspreeklikheid uit na persone wat dobbelgeleenthede soos bogenoemde, aan persone in die Provinsie beskikbaar stel.

37.3 Die voorgestelde subartikel (3) skep uitsonderings ten opsigte van weddery wat ingevolge 'n boekmakerlisensie of totalisator-operateurlisensie plaasvind, en in gevalle waar die betrokke dobbelaktiwiteit plaasvind op toepaslik gelisensieerde persele (ten opsigte waarvan 'n deel van die aktiwiteite van 'n sentrale bediener na die betrokke perseel oorgesend word).

37.4 Die voorgestelde subartikel (4) maak dit 'n misdryf om enige van die bepalings van hierdie artikel te oortree.

38. Voorgestelde oorgangsbepalings (klousule 40)

38.1 Die voorgestelde subartikels (1) en (2) van die voorgestelde artikel 38 is bedoel om te verseker dat lisensies wat die Raad ten opsigte van tipes lisensies uitreik wat 'n naamsverandering ondergaan, geag word die tipes lisensies te wees soos in die Wetsontwerp omskryf.

38.2 Die voorgeskrewe subartikel (3) gaan oor die situasie wat ontstaan waar 'n persoon aan wie die Raad voorheen 'n lisensie uitgereik het, vanweë die gewysigde kwalifikasiemaatstawwe as lisensiehouer gediskwalifiseer word. Die voorgestelde subartikel verplig so 'n persoon om sy of haar werkgewer (normaalweg die houër van die betrokke operateurlisensie) binne 'n vasgestelde tydperk daarvoor in te lig, waarna die werkgewer of lisensiehouer die Raad in kennis moet stel sodat die toepaslike stappe gedoen kan word.

38.3 Die voorgestelde subartikel (4) bepaal dat 'n persoon wat voorheen gediskwalifiseer was om 'n lisensiehouer te wees maar ten gevolge van die gewysigde kwalifikasiemaatstawwe nie meer aldus gediskwalifiseer is nie, nie belet sal word om weer om 'n lisensie aansoek te doen binne die tydperke in artikel 31 van die Wet gespesifiseer nie. Die logiese verklaring vir hierdie bepaling is dat 'n persoon wat voorheen gediskwalifiseer was om 'n lisensie te hou, nie gepenaliseer behoort te word in omstandighede waar die diskwalifikasie op grond van die wysiging van die Wet verval het nie.

INQAKWANA LENGCACISO NGOKUBANZI:

- [] Amagama abhalwe ngqindilili nakoonobiyela abasikwele achaza oko kushiyeayo kwimithetho ekhoyo.
- _____ Amagama akrwelwe ngomgca ongqindilili ngezantsi achaza amagama afakelwe kwimithetho ekhoyo.

UMTHETHO OYILWAYO

Yenzelwe ukhlomla umThetho woNgcakazo neMidyarho weNtshona Koloni, 1996 ngokusebenzisa igama lesiNgesi elithi “Act” endaweni yegama elithi “Law”, kususwe imimiselo engqzulana nemimiselo ekumThetho weSizwe woNgcakazo, 2004; kuhlonyelwe iinkcazo ezithile; kulungiselelwe inkqubo yokukhutshwa kweelayisenisi zesizwe; kuhlonyelwe imimiselo ethile yofaneleko ngokubhekiselele kwiilayisenisi; kuhlonyelwe iintlobo ezithile zeelayisenisi; ukucima imimiselo ethile yethutyana esele iphelelwe lixesha; ukufaka imimiselo ethile yethutyana; nokujongana nemiba enxulumene noko.

KUNGOKO KE KUSIWISWA umthetho yiPalamente yePhondo leNtshona Koloni ngale ndlela ilandelayo:—

UkuHlonyelwa komThetho weBhodi yoNgcakazo nemiDyarho yeNtshona Koloni, 1996 (umThetho 4 ka 1996)

1. umThetho woNgcakazo neMidyarho weNtshona Koloni, 1996 (“umThetho oyintloko”) uhlonyelwa ngokususa igama lesiNgesi elithi “Law” kufakwe endaweni yalo igama lesiNgesi elithi “Act” naphi na apho lithe lasetyenziswa khona. 5

Ukuhlonyelwa kwendlela ekulungelelaniswe ngayo amacandelo omThetho 4 ka-1996

2. Indlela ekulungelelaniswe ngayo amacandelo omThetho woNgcakazo neMidyarho weNtshona Koloni, 1996 (umThetho oyintloko) ihlonyelwa ngolu hlobo:— 10

(a) ngokufakela emva komba 27 othi “Iintlobo zeelayisenisi”, lo mba ulandelayo:

“27A. IiLayisenisi zeSizwe”,

(b) ngokufaka lo mba ulandelayo endaweni yomba 29: 15

“29. Ukungafaneleki ngokubhekiselele kwiilayisenisi zengqesho”;

(c) ngokufaka lo mba ulandelayo endaweni yomba 30:

“30. **[Abantu abaminqweno ingamkelekanga ngokuthe ngqo okanye ngokungathangangqo]** Ukungafaneleki nokuchaphazeleka ngokubhekiselele kwezinye iilayisenisi”;

(d) ngokufaka lo mba ulandelayo endaweni yomba 41: 20

“41. **[Ukungadluliseki]** Izithintelo ezimalunga nokudluliseka kweelayisenisi”;

(e) ngokufakwa kwalo mba ulandelayo endaweni yomba 41A:

“41A. Ukufa okanye ukukhubazeka komntu onomqweno othile ngokubhekiselele kumnini-layisenisi”;

- (f) ngokufakwa kwalo mba ulandelayo endaweni yomba 46:
 “46. [Umatshini wongcakazo olungephi] Ilayisenisi yokusebenzisa umatshini wohlobo lwe-Route”;
- (g) ngokufakwa kwalo mba ulandelayo endaweni yomba 47:
 “47. [Indawo yomatshini wongcakazo olungephi] Ilayisenisi yeSiza”;
- (h) ngokufakwa kwalo mba ulandelayo endaweni yomba 72:
 “72. [Ukuthintelwa kwezenzo] Ubutyala ngokubhekiselele kwizenzo zongcakazo [imidlalo nokubheja]”;
- (i) ngokucinywa kwale miba: 84, 84A, 84B nomba 84C: 10
- (j) nangokufakwa kwala macandelo alandelayo emva komba 83:
 “84D Ukuthintelwa kwezenzo ezithile zongcakazo
 84E Imimiselo yethutyana”

Ukuhlonyelwa kwecandelo 1 lomThetho 4 ka-1996, ngokokuhlonyelwa kwawo nguMthetho 4 ka-1997, umThetho 10 ka-1997, umThetho 4 ka-1999 nomThetho 11 ka-2000 15

3. Icandelo 1 lomThetho oyintloko lihlonyelwa

- (a) ngokufakelwa ngqo kuka-“(1)” kanye emva kwenombolo yecandelo;
- (b) kucinywe iinombolo ezikoonobiyela ngaphambili nangemva kwenkcazelo nganye; 20
- (c) kufakelwe isemikholoni ekupheleni kwenkcazelo nganye endaweni yesiphumlisi esisekupheleni kwenkcazelo ngaphandle kwakwinkcazelo yamagama athi “*usihlalo*”;
- (d) kufakelwe le nkcazelo elandelayo ngaphambi kwenkcazelo yegama elithi “*Umdlalo woNzcakazo*” 25
 “Umdlalo wokuzonwabisa” ngamagama athetha nawuphi na umdlalo, ngaphandle komdlalo webhingo okanye umdlalo ofanayo nalowo okanye ofanekiswe nomdlalo odlalwa kwikhasino okanye kumatshini wokudlala imali, mdlalo lowo udlalwa ngomatshini wokuzonwabisa, kwakuhlalulwa imali ethile, ithokeni okanye nantoni na efana naloo nto, nto leyo yenza ukuba umdlali wawo awine ibhaso, kodwa ke elo bhaso lingabi yimali eziinkozo, iithokeni, ityala okanye nantoni na enye ebumali, koko elo bhaso liyakuba yiyo nantoni na engeyiyo imali phofu enexabiso lokuthengiswa elingadlulanga kwixabiso elimiselwe ngumgaqo womThetho weSizwe;” 35
 Kufakelwe le nkcazelo ilandelayo npaphambi kwenkcazelo yepama elithi “Umdlali.”
 “‘*Umatshini wokuzonwabisa*’ ngamagama athetha umatshini okanye isixhobo esingesimo isixhobo sokungcakaza, matshini okanye sixhobo eso ekunokudlalwa kuso okanye ngaso umdlalo wokuzonwabisa;” 40
- (e) kufakelwe le nkcazelo ilandelayo ngaphambi kwenkcazelo yamagama athi “Ubhelo”
 “‘*Ozimanyanisayo*’ ligama elithetha
 (a) umqeshi; 45
 (b) ihlakani loshishino apho kukho isivumelwano sobuhlakani;
 (c) omnye umnini-zabelo wenkampani yabucala njengoko kukhankanywe kwicandelo 20 lomThetho weeNkampani, 1973 (UmThetho onguNombolo 61 ka-1973);
 (d) elinye ilungu lenkampani yohlobo lweClose Corporation njengoko kukhankanywe kwicandelo 2 lomThetho weeNkampani zoHlobo lwe-Close Corporation, 1984 (UmThetho onguNombolo 69 ka-1984). 50
 (e) umntu onike omnye okanye umntu ekufunyenwe kuye incwadi jikelele yokugunyazisa ukumelwa;”
- (f) kufakwe le nkcazelo ilandelayo endaweni yenkcazelo echaza amagama athi “Ubhejo okanye ukubheja”: 55
 “‘*Ubhejo*’ okanye ‘*ukubheja*’ ligama elithetha isenzo esichazwe kwicandelo 1(3) ngezantsi apha;”;
- (g) kufakwe le nkcazelo ilandelayo endaweni yenkcazelo yegama elithi “IBhingo”: 60
 “‘*IBhingo*’ ligama elithetha umdlalo, kubandakanywa nomdlalo

- odlalwa ngokupheleleyo okanye ngokungaphelelanga ngendlela ye-elektronika—
- (a) udlalelwa ukufumana inzuzo, kusetyenziswa iikhadi okanye ezinye izixhobo—
- (i) ezahlulahlulwe zaba zizithuba, zithuba ezo zinokuba nenombolo, umfanekiso okanye uphawu olwahlukileyo; kunye 5
- (ii) neenombolo, imifanekiso okanye iimpawu ezingahlelwanga ngokulandelelana kangangokuba ikhadi nganye okanye isixhobo eso sinjalo sibe neseti yeenombolo, imifanekiso okanye iimpawu ezizodwa; 10
- (b) apho umsebenzisi okanye umazisi abiza okanye aveza uludwe lweenombolo, lwemifanekiso okanye lweempawu ezikwikhadi okanye kwisixhobo eso ngokubizwa okanye ngokokuvezwa kwazo; kanaanjalo 15
- (c) nalapho umdlali othe wabangowokuqala ukuvala ngendlela efanelekileyo izithuba ezikwikhadi okanye kwisixhobo, okanye okwaze ukufanekisa iseti ethile yeenombolo, yemifanekiso okanye yeempawu kwikhadi okanye kwisixhobo, awina khona ibhaso. okanye nawuphi na omnye umdlalo ophantse wafana kakhulu nalowo waza wachazwa njengebhingo ngokwecandelo 6(4) lomThetho weSizwe;” 20
- (h) kufakwe le nkcazelo ilandelayo endaweni yenkcazelo yegama elithi “IBhukumeyikha”:
- “‘iBhukumeyikha’ ligama elithetha umntu obhejisa ngokuthe ngqo okanye ngokungathangangqo uluntu jikelele okanye ezinye iibhukumeyikha, okanye obheja ngaloo ndlela kwezinye iibhukumeyikha;” 25
- (i) kufakwe le nkcazelo ilandelayo endaweni yenkcazelo yegama elithi “Khasino”:
- “‘IKhasino’ ligama elithetha indawo apho kudlalwa khona imidlalo yongcakazo; okanye kulapho kukho imidlalo elolo hlobo, koko alizibandakanyi iindawo:
- (a) apho kudlalwa khona ibhingo kuphela, ingadlalwa eminye imidlalo okanye apho kungekho khona eminye imidlalo enokudlalwa; 35
- (b) apho kunokudlalwa khona oomatshini abahlawula imali eqingqiweyo;
- (c) apho kukho khona oomatshini abahlawula imali eqingqiweyo nebhingo, ingekho kwaphela eminye imidlalo yokungcakaza; ingenakudlalwa okanye ingabikho nokubakho; okanye 40
- (d) apho kunokudlalwa ungcakazo lwezentlalo ngokwemiqathango yalo mThetho;”
- (j) kufakwe le nkcazelo ilandelayo emva kwenkcazelo yegama elithi “IBhukumeyikha”:
- “‘ICentral Security Depository’ ligama elithetha uvimba njengoko kuchazwe kumthetho owaziwa njenge-Custody and Administration of Securities Act, 1992 (umThetho 85 ka-992);” 45
- (k) kufakwe le nkcazelo ilandelayo endaweni yenkcazelo yegama elithi “Sihlalo”:
- “‘uSihlalo’ ligama elithetha [a] umntu lowo utyunjelwe ukuba ngusihlalo weBhodi ngokwecandelo 3(3);” 50
- (l) kufakwe le nkcazelo ilandelayo endaweni yenkcazelo yegama elithi “Nzuzo”:
- “iNzuzo’ ligama elithetha:
- (a) imali, impahla, ipropati, itsheki, ithokeni, itikiti, ikhadi lemboleko-mali, ityala, idebhithi okanye itshipu ye-elektronika, okanye nantoni na efana nezo zinto, okanye 55
- (b) nayo nayiphi na enye into, ummiselo, isithembiso, isivumelwano okanye isiqinisekiso, lingananzwanga ixabiso elicingelwayo okanye elingacingelwayo, okanye nokuba loo nto idluliselwa ngokuthe ngqo okanye ngokungathanga ngqo kusini na;” 60

- (m) kufakwe le nkcazelo ilandelayo emva kwenkcazelo yegama elithi “Nzuzo”:
“Okungalindelekanga’ ligama elithetha isehlo okanye isiganeko esinesiphumo ekungaqinisekwanga ngaso okanye esingaziwayo ngumntu side senzeke;”;
- (n) kufakelwe le nkcazelo ilandelayo emva kwenkcazelo yepama elithi “Ixabiso.”
“Iziko elinguVimba wokugcina izinto ezixabisekileyo’ ligama elithetha iziko elinguvimba wokugcina izinto ezixabisekileyo njengoko kuchazwe kumthetho owaziwa njenge-Custody and Administration of Securities Act, 1992 (Act No. 85 of 1992);”;
- (o) kufakwe le nkcazelo ilandelayo emva kwenkcazelo yebinzana lamagama athi “Ilayisenisi yoMabi”:
“iLayisenisi yengqesho’ Ingamagama athetha ilayisenisi ekubhekiswe kuyo kwicandelo 27(l) necandelo 27(m);”;
- (p) ngokucima inkcazelo yamagama athi “Isehlo okanye okungalindelekanga”;
- (q) kufakwe le nkcazelo ilandelayo emva kwenkcazelo yamagama athi “Ilungu elinoxandwa”:
“Ilungu losapho’ libhekisa kwaba:—
 (a) lowo ungumlingane waloo mntu; okanye
 (b) umntwana wakhe, umzali wakhe, umnakwabo, udadewabo, nokuba obo buhlobo bungenxa yokuzalana, umtshato okanye ukuphiwa;”;
- (r) kufakwe le nkcazelo ilandelayo endaweni yenkcazelo yamagama athi “Ubandakanyeko ngokwezimali”:
“Ubandakanyeko ngokwezimali’ ngamagama athetha—
 (a) ilungelo okanye imfaneleko yokuxhamla kwiprofiti okanye ingeniso;
 (b) ilungelo lobunini-mhlaba ngokubhekiselele kwipropati yenkampani, ekakopolotyeni okanye eyeshishini;
 (c) ilungelo lobunini-mhlaba okanye lobunini kwipropati esetyenziswa yinkampani; ngokopolotyeni okanye lishishini;
 (d) ubandakanyeko ngqo okanye ngokungathanga ngqo kwizabelo zokuvota, okanye amalungelo okuvota ayanyaniswa nezabelo zenkampani okanye ubandakanyeko kwinkampani yohlobo lwe-close corporation;”;
- (s) kufakwe le nkcazelo ilandelayo endaweni yenkcazelo yamagama athi “Imimiselo yobhejo esisigxina”:
“Ukubheja okunenzuzo engummiselo’ ngamagama athetha ubhejo kwisenzo esinye okanye ezininzi ezisiphumo singalindelekanga ekuthe kwavunyelwana ngalo ngexesha ebekubhejwa ngalo;”;
- (t) kufakwe le nkcazelo ilandelayo endaweni yenkcazelo yegama elithi “uNgcakazo”:
“UNgcakazo’ okanye isenzo songcakazo’ ngamagama athetha nasiphi na isenzo esichazwe kwicandelo 1(2) ngezantsi apha, kodwa alubandakanywa ungcakazo lokuzonwabisa nje;”;
- (u) kufakwe le nkcazelo ilandelayo endaweni yenkcazelo yegama elithi “isixhobo soNgcakazo”:
“isixhobo soNgcakazo’ ngamagama athetha isixhobo okanye nayiphi na enye into ngaphandle kwemali, esetyenziswa ngqo ekuqhubeni isenzo songcakazo, okanye esithe ngexesha lokuveliswa kwaso sayilelwa ukusetyenziswa ekumiseleni isiphumo sesenzo songcakazo, kwaye nangona oku kungentla apha kuyinkcazo ngokubanzi, la magama aya kubandakanya—
 (a) umatshini wokungcakaza; kunye
 (b) neenkqubo zekhompuyutha okanye izinto ezifana nazo ezisetyenziswa ngumnini-layisenisi xa eqhuba nasiphi na isenzo songcakazo esinokumiselwa yiBhodi njengesixhobo songcakazo;”;
- (v) kufakwe le nkcazelo ilandelayo endaweni yenkcazelo yamagama athi “umdlalo woNgcakazo”:
“Umdlalo wongcakazo’ ngamagama athetha isenzo esichazwe kwicandelo 1 (5) ngezantsi apha;”;

- (w) kufakwe le nkcazelo ilandelayo emva kwenkcazelo yegama elithi “umdlalo woNgcakazo”:
- “‘Umatshini woNgcakazo’ ngamagama athetha isixhobo esisebenza ngeentsimbi, ngombane, ngevidiyo, ngeze-elektronika, ngeze-elektronika neentsimbi ngaxeshanye, okanye isixhobo simbi, esenziweyo, umatshini okanye inkqubo yekhompuyutha engeyiyo umatshini wokuzonwabisa—
- (a) esikhonele ukudlalwa okanye ukuqhutywa emva kokuhlawula imali ethile; nesinokuthi
- (b) ngenxa yokudlalwa okanye ukuqhutywa kwaso kwenzeke ukuba lowo usidlalayo okanye usiqhubayo afumane intlawulo ethile, okanye simnke intlawulo umdlali okanye umqhubi lowo;”;
- (x) kufakelwe lenkcazelo ilandelayo emva kwenkcazelo yepama elithi “Umntu.”
- “‘Umtyali-mali kumaziko’ ngamagama athetha umtyali-mali orhweba eluntwini kwiziko lonaniselwano-ngezabelo elaziwayo nelizabelo zigcinelwe utyalo-mali kuphela;”;
- (y) kufakelwe lenkcazelo ilandelayo emva kwenkcazelo yepama elithi “Iindawo ezinelayisenisi.”
- “‘I-intanethi’ ligama elithetha oko kuchazwe kwicandelo 1 lomthetho i-Electronic Communications and Transactions Act 2002 (UmThetho 25 ka-2002);”;
- (z) ngokucima inkcazelo yamagama athi “ibala lemidyarho elinelayisenisi”;
- (aa) kufakwe le nkcazelo ilandelayo endaweni yenkcazelo yegama elithi “uMatshini woNgcakazo olungephi”:
- “‘Umatshini ontlawulo ingephi’ ngamagama athetha umatshini wongcakazo ongaphandle kwekhasino omdlalo untlawulo ingephi nomabhaso angephi ngokokumiselwa yimigaqo emiselwe ngumThetho wesizwe (National Act);”;
- (bb) ngokucima inkcazo yebinzana lamagama athi “ilayisenisi yomqhubi womatshini wongcakazo olungephi”;
- (cc) ngokucima inkcazo yamagama athi “ilayisenisi yendawo yoomatshini bongcakazo olungephi”;
- (dd) kufakwe le nkcazelo ilandelayo emva kwenkcazelo yamagama athi “Ilayisenisi yoMvelisi”:
- “‘umThetho weSizwe’ ngamagama athetha i-National Gambling Act, 2004 (UmThetho 7 ka-2004);”;
- (ee) kufakwe le nkcazelo ilandelayo endaweni yenkcazelo yegama elithi “ubhejo oluvulelekileyo”:
- “‘Ubhejo oluvulelekileyo’ ngamagama athetha—
- (a) ubhejo olungelulo olwenziwe kwithathaseli, olwenziwe yibhukumeyikha kwizinto okanye kwizinto ezingalinelekanga, apho kungekho ntlawulo zimiselweyo ekuvunyelenwe ngazo ngexesha lokubheja; okanye
- (b) ubhejo oluntlawulo imiselwa emva kokwaziwa kwesiphumo saloo nto ingalindelekanga ebekubhejelwe yona, ngokubhekiselele kwiintlawulo eziphuma kwithathaseli;”;
- (ff) kufakwe le nkcazelo ilandelayo emva kwenkcazelo yamagama athi “Ilayisenisi yoMqhubi”:
- “‘Ilungu lombuso’ ngamagama athetha oko kuchazwe kwicandelo 239 lomGaqo-siseko weRiphabhlikhi yoMzantsi Afrika, 1996;”;
- (gg) kufakelwe le nkcazelo ilandelayo emva kwenkcazelo yepama elithi “Ukwenziwa kwesicelo.”
- “‘Umahlulelani’ ngamagama athetha nabani na ekwenziwe naye isivumelwano sokuba liqumrhu elidityanelweyo, sivumelwano eso senziwe ngenjongo yokwenza iprofiti;”;
- (hh) kufakelwe le nkcazelo ilandelayo emva kwenkcazelo yepama elithi “Umlingani.”
- “‘Umntu’ ubandakanya ulwahlulelwano, ithrasti okanye iqumrhu elimiselwe njengomntu ngokwasemthethweni nelimiselwe ngokwawo nawuphi na; umthetho;”;
- (ii) kufakwe le nkcazelo ilandelayo endaweni yenkcazelo yegama elithi “umDlali”:

- “‘Umdlali’ okanye ‘umxhasi’ ligama elithetha nabani na othabatha inxaxheba, ngaphandle komnini-layisenisi ekhutshwe ngokwalo mThetho, kwisenzo songcakazo [kwaye oko kubandakanya umbeji obheja kuyo nayiphi na into ebhejelwayo]”;
- (jj) kufakwe le nkcazelo ilandelayo endaweni yenkcazelo yegama elithi “iGosa lezoPolitiko”: 5
- “‘IGosa lezoPolitiko’ ligama elithetha—
- (a) ilungu leNdlu yoWiso-mthetho yeSizwe, leBhunga lamaPhondo eSizwe okanye leKhabhinethi yeSizwe; 10
- (b) ilungu lendlu yowiso-mthetho yephondo;
- (c) ilungu lebhunga loomasipala okanye logunyaziwe wendawo;
- (d) ummeli ongunozakuzaku weRiphabliki ongasebenzi kwiinkonzo zaseburhulumenteni;
- (e) ilungu lendlu okanye lebhunga leenkokeli zomthonyama; okanye 15
- (f) igosa leqela lezopolitiko kuburhulumente besizwe okanye kobamaphondo;”;
- (kk) kufakwe le nkcazelo ilandelayo endaweni yenkcazelo yegama elithi “Indawo”:
- “‘Indawo’ ligama elithetha nasiphi na isiza okanye indawo, [nokuba loo nto iyinxalenye yaso nasiphi na isakhiwo sethutyana okanye esisigxina, isithuthi okanye inqwelo-moya] kwaye loo nto ibandakanya umhlaba naso nasiphi na isakhiwo, into emisiweyo, isithuthi, isikhophe, isikhitshana, inqwelo-moya okanye ikhonteyina;”;
- (ll) kufakwe le nkcazelo ilandelayo emva kwenkcazelo yegama elithi “Isihlo”: 25
- “‘Isisebenzi sikarhulumente’ ligama elithetha umntu oqeshwe liqumrhu laseburhulumenteni okanye yinkundla yamatyala, okanye umntu oligosa lezomthetho;”;
- (mm) kufakelwe le nkcazelo ilandelayo emva kwenkcazelo yepama elithi “Umtyali-mali kumaziko.”
- “‘Umtyali-mali orhweba ngeemali zoluntu’ lithetha umtyali-mali obhaliswe kwiziko lorhwebelwano ngezabelo elamkelekileyo notyala imali kwizabelo ezibhaliswe kwiziko lorhwebelwano ngezabelo elamkelekileyo;”;
- (nn) kufakwe le nkcazelo ilandelayo endaweni yenkcazelo yegama elithi “umDyarho”: 35
- “‘UmDyarho’ ligama elithetha nawuphi na umdyarho wamashe oqhutyelwa kumabala achaziweyo okanye ekuvunyelenweyo ngawo nowenzelwe ukonwabisa uluntu namalungu ayo nayiphi na imanyano okanye iklabhu, kodwa loo nto ayiwubandakanyi—
- (a) nawuphi na umdyarho wokuphalisa amahashe eluntwini ngaphandle kokubheja, kuphalisa oko kuphantsi kolawulo lomnini-layisenisi [a] [yokuba nebala] lemidyarho; ndawonye 40
- (b) nawo nawuphi na umdyarho wabucala ekungabhejwayo kuwo;”;
- (oo) ngokucima inkcazelo yebinzana lamagama athi “ilayisenisi yokuba nebala lemidyarho”; 45
- (pp) kufakwe le nkcazelo ilandelayo emva kwenkcazelo yegama elithi “umntu”:
- “‘Umsebenzisi we-route’ ligama elithetha umntu okhutshelwe ilayisenisi yokuba ngumnini-ndlela ngokwecandelo 46;”;
- (qq) kufakelwe le nkcazelo ilandelayo emva kwenkcazelo yepama elithi “Ilayisenisi yomqeshwa wezongcakazo.” 50
- “‘Ilayisenisi yomsebenzisi we-route’ ligama elithetha nayiphi na ilayisenisi ekhutshwe ngokwecandelo 46;”;
- (rr) kufakwe le nkcazelo ilandelayo emva kwenkcazelo yegama elithi “Isixhobo songcakazo”:
- “‘Isiza’ ligama elithetha nayiphi na indawo elayiseniselwe ukubeka umatshini okanye oomatshini bongcakazo abantlawulo ingephi nabachazwe kwicandelo 47;”;
- (ss) kufakelwe le nkcazelo ilandelayo emva kwenkcazelo yepama elithi “Ilayisenisi yendawo.” 60
- “‘Ilayisenisi yesiza’ ngamagama achaza nayiphi na ilayisenisi ekhutshwe ngokwecandelo 47;”;
- (tt) ngokufakwa kwalo mhlathi ulandelayo wenkcazelo yegama elithi “ungcakazo i-social gambling” endaweni yomhlathi (c):

- (c) ukudlalwa komdlalo wokuzonwabisa “[, **mdlalo lowo, ngokwalo mThetho, uthetha umdlalo ngokokumiselwa kwawo.**]”;
- (uu) kufakwe le nkcazelo ilandelayo endaweni yenkcazelo yegama elithi “Umlingan”:
- “ ‘Umlingani’ ligama elithetha— 5
- (a) lowo kutshatwe naye;
- (b) lowo kutshatwe naye ngokwemithetho yomthonyama; okanye
- (c) lowo kuhlalisanwa naye ngokunga kutshatiwe okanye kutshatwe ngokokuzimanyanisa kwesintu.”
- (vv) ngokucima inkcazelo yegama elithi “Umntshini obala imali yemibekelo eyobelwa abo baphumeleleyo”;
- (ww) ngokufakelwa kwegama elithi “kunye” emva kwesemikhloni emva kwenkcazelo ethi “ungcakazo i-social gambling”;
- (xx) kufakwe le nkcazelo ilandelayo endaweni yenkcazelo yegama elithi “ubhejo ngempumelelo”:
- “ ‘Ubhejo oluyimpumelelo’ ligama elithetha naluphi na ubhejo apho umntu lowo ubhejileyo okanye uthabathe ubhejo akwazileyo ukusicingela ngokuchanekileyo isiphumo [**sesenzo okanye**] sokungalindelekanga okanye [**sezo zinto zombini**] sokungalindelekanga ebekubhejelwe kona.”; kananjalo 20
- (yy) kufakwe le nkcazelo ilandelayo emva kwenkcazelo yebinzana lamagama athi “Sihlalo”:
- “(2) Isenzo sibasisenzo songcakazo xa sibandakanya—
- (a) ukubheja okanye ukwamkela ubhejo okanye iwega ngokwecandelwana (3); 25
- (b) ukubheja okanye ukwamkela ubhejo lwethathaseli ngokwecandelwana (4); Okanye:
- (c) ukulungiselela ukuba kudlalwe, okanye kudlalwe ibhingo okanye omnye umdlalo wongcakazo njengoko kukhankanywe kwicandelwana (5). 30
- (3) Umntu uyabheja okanye wenza iwega xa loo mntu—
- (a) ongumdlali efake imali okanye nantoni na eyeyexabiso kubhejo lwee-odi ezisisigxina, okanye kubhejo oluvulelekileyo, nebhukumeyikha okanye nantoni na engalindelekanga; okanye 35
- (b) oyibhukumeyikha—
- (i) athe wafaka imali okanye nantoni na eyeyexabiso kubhejo lwee-odi ezisisigxina, okanye kubhejo oluvulelekileyo, kumdlali okanye nantoni na engalindelekanga; okanye
- (ii) xa athe wafaka imali okanye nantoni na eyeyexabiso kubhejo lwee-odi ezisisigxina, okanye kubhejo oluvulelekileyo, kwenye ibhukumeyikha okanye nantoni na engalindelekanga; 40
- (c) xa athe wafaka imali okanye nantoni na eyeyexabiso kumntu okanye abantu nakwintoni na engalindelekanga; okanye
- (d) xa athe ngokuphandle nangokucacileyo wathembisa okanye wavuma ukwenza nantoni na ekhankanywe kumhlathi (a), (b) okanye (c). 45
- (4) Umntu ubheja okanye wamkela ukubheja kwithathaseli xa loo mntu efake imali okanye nantoni na exabisekileyo kwisiphumo sesenzo okanye sesenzo—
- (a) ngenkqubo apho imali iyonke efakiweyo, emva kokuxhuzulwa kweemali ezimiselwe ngokomthetho okanye ngokwesivumelwano, yabelwa abantu ababheje ngempumelelo, oko kusenziwa ngokulingana nemali efakwe ngumntu ngamnye kubo ngokunxulumene nolo bhejo luyimpumelelo; okanye 50
- (b) nasiphi na isikimu, indlela okanye inkqubo yokubheja, nokuba yenzeka ngomatshini oqhutywa ngokwemimiselo efanayo naleyo. 55
- (5) Isenzo singumdlalo wongcakazo xa—
- (a) sihambelana nezi zinto zilandelayo:
- (i) loo mdlalo udlalwa xa kuhlalulwe nantoni na, ngethemba lokuba lowo udlale loo mdlalo unokufumana intlawulo ethile; 60 kananjalo

- (ii) sibe isiphumo saloo nto singenxa yobuchule bomdlali lowo okanye singenxa yethamsanqa lakhe okanye singenxa yezo zinto zombini;
- (b) silubhejo okanye uwego ngokwecandelwana (3), olwenziwe kwikhasino ngokunxulumene nasiphi na isenzo esihambelana neendlela ezichazwe kumhlathi (a). 5
- (6) Ngaphandle koko kuchazwe kwicandelwana (5), kuko konke okunxulumene nalo mThetho, akukho nasinye isenzo kwezi zilandelayo esisisenzo songcakazo:
- (a) ubhejo okanye iweqa ngokwecandelwana (3), ngaphandle kobhejo okanye iweqa ekhankanywe kwicandelwana (5)(b); 10
- (b) ubhejo lwethathaseli ngokwecandelwana (4); okanye
- (c) umdlalo wokuzonwabisa.
- (7) Ngokuxhomekeke kumhlathi (b), intlawulo:
- (a) yiyo nayiphi na imali, impahla, ipropati, itsheki, ikredithi, ikredithi ye-elektronika, idebhithi, ithokeni, itikiti okanye nantoni na eyenye enexabiso ewinwe ngumdlali— 15
- (i) nokuba kungenxa yobuchule bomdlali okanye bomqhubi, ukusetyenziswa kwethamsanqa, okanye zombini ezo zinto; kwaye 20
- (ii) nokuba intlawulo leyo yenziwe njani.
- (b) Akukho nanye kwezi zinto zilandelayo eyintlawulo:
- (i) Ithuba lokudlala omnye umdlalo; okanye
- (ii) ibhaso elinikwe othabatha inxaxheba okanye iqela labathabatha inxaxheba kumdlalo ngokubhekiselele kwindlela lowo uthabatha inxaxheba okanye iqela elo eliqhube ngayo. 25
- (c) Isiphumo somdlalo wongcakazo—
- (i) lithuba lokudlala omnye umdlalo ukuba umdlali lowo ulinikiwe ithuba lokuba aqhubeke ngaphandle kokuphazanyiswa xa edlala olo hlobo lomdlalo— 30
- (aa) okwenze ukuba kubekho ithuba lokuwina; kananjalo
- (bb) kumatshini ekuwinwe kulo ithuba elo; kodwa
- (ii) asililo ithuba lokudlala omnye umdlalo xa ithuba linakho nangayiphi na indlela, nokuba yethe ngqo okanye yengathanga ngqo— 35
- (aa) ukuthunyelwa okanye ukudluliselwa kumntu owine elo thuba okanye kuye nawuphi na omnye umntu, okanye
- (bb) xa linokuguqulwa libe yimali, ipropati, itsheki, ikredithi okanye nantoni na enexabiso; okanye
- (cc) xa linokuguqulwa ngokwaso nasiphi na isikimu, okanye nawaphi na amalungiselelo, nayiphi na inkqubo, isicwangciso okanye isixhobo esimiselwe ngokomThetho weSizwe.”. 40

Ukuhlonyelwa kwecandelo 3 lomThetho 4, ngokokuhlonyelwa kwawo licandelo 2 lomThetho 11 ka-1997 kunye necandelo 6 lomThetho 4 ka-1997 45

4. Icandelo 3 lomThetho oyintloko lihlonyelwa—

- (a) ngokufaka eli candelwana lilandelayo endaweni yecandelwana (1):
- “(1) Ibhodi iya kuba namalungu asixhenxe, atyunjelwe ithutyana, etyunjwa liBhunga loLawulo ngokwenkqubo emiselweyo, eyakuvumela ukuba uluntu lube nokuthabatha inxaxheba kutyunjwa kwabo bafanele ukutyunjwa, phofu ukuba ikomiti esisigxina yeNdlu yoWiso-mthetho nejongene nalo mThetho iya kuvavanya bonke abafanele ukutyunjwa, bevavanyelwa ukufaneleka kwabo ekutyunjweni”, kananjalo 50
- (b) ngokucima icandelwana (2A).

Ukuhlonyelwa kwecandelo 5 lomThetho 4 ka-1996, ngokokuhlonyelwa kwawo licandelo 7 lomThetho 10 ka-1997 55

5. Icandelo 5 lomThetho lihlonyelwa—

- (a) ngokufakela u-“(1)” emva kwenombolo yecandelo;

- (b) ngokufaka lo mhlathi ulandelayo endaweni yomhlathi (f) kwicandelwana (1) lalo mhlathi ulandelayo:
- (f) nabani na othe, nokuba oko ukwenze ngokwakhe okanye kwenziwe ngowakwakhe, kwenziwe lilungu losapho [**elona likufutshane ngokokuzalana okanye ngokokuzalana ngokwegazi**], ihlakani okanye osebenzisana naye [, **okanye nawuphi na umntu onxulumene naloo mntu ngokomtshato**]—
- (i) ofumene inxaxheba yezimali ngokuthe ngqo okanye ngokungathanga ngqo kulo naliphi na ishishini longcakazo okanye indawo yongcakazo, okanye
- (ii) othe waba nenxaxheba kulo naliphi na ishishini okanye iqumrhu elinokungquzulana okanye liphazamise ukuwenza ngendlela eyiyo umsebenzi wakhe njengelungu okanye umqeshwa weBhodi kuyo nayiphi na ilayisenisi ekhutshwe phantsi kwalo mThetho.”,
- kananjalo
- (c) kufakwe eli candelwana lilandelayo emva kwecandelwana (1):
- “(2) Ngokunxulumene neli candela inxaxheba yezimali engathanga ngqo ayibandakanyi nxaxheba ingathanga ngqo echongwe ngenxa yayo nayiphi na ingxowa-mali okanye utyalo-mali xa umntu onaloo nxaxheba engenalungelo lokulawula izigqibo ezingotyalo-mali ezenziwa ngokunxulumene naloo ngxowa-mali okanye nolo tyalo-mali.”

Ukuhlonyelwa kwecandelo 12 lomThetho 4 ka-1996, ngokokuhlonyelwa kwawo licandelo 4 lomThetho 10 ka-1997, icandelo 10 lomThetho 4 ka-1997 kunye necandelo 1 lomThetho 1 ka-2003

6. Icandelo 12 lomThetho oyintloko lihlonyelwa—
- (a) ngokufaka eli candelwana lilandelayo endaweni yecandelwana (3):
- “(3) ukunika, ukuhlaziya, ukuhlomela, ukwala, ukudlulisela, ukunqumamisa okanye ukuchitha ilayisenisi phantsi kwalo mThetho;”;
- (b) kufakwe eli candelwana lilandelayo emva kwecandelwana (4):
- “4A. ukunika, ukuhlaziya, ukwala, ukunqumamisa okanye ukuchitha ilayisenisi zesizwe ngokomThetho weSizwe;”;
- (c) ngokucima icandelwana (5), kananjalo
- (d) ngokufaka eli candelwana lilandelayo endaweni yecandelwana (14):
- “(14) ukwenza imigaqo yokulawula ulayiseniso, ukuphathwa nokuqhutywa kwaso nasiphina isenzo sonzcakazo [**okanye imidyarho okanye izenzo ezayamene noko**];”.

Ukuhlonyelwa kwecandelo 15 lomThetho 4 ka-1996, ngokokuhlonyelwa kwawo licandelo 13 lomThetho 4 ka-1997, icandelo 5 lomThetho 11 ka-1997 kunye necandelo 5 lomThetho 10 ka-1997

7. Icandelo 15 lomThetho oyintloko lihlonyelwa—
- (a) ngokufakela eli candelwana lilandelayo endaweni yecandelwana (1):
- “(1) Ilungu okanye umqeshwa weBhodi, ilungu leBhunga loLawulo okanye ilungu lekomiti esisigxina yeNdlu yoWiso-mthetho yePhondo ejongene nalo mThetho okanye [**owakwakhe okanye**] ilungu losapho lwakhe [**njengoko kuchazwe kwicandelo 5(f)**] aliyikwamkela ngokuthe ngqo okanye ngokungathanga ngqo nantoni na enexabiso kuye nawuphi na umntu, nto leyo inokuba ngunobangela wongquzulwano okanye wokuphazanyiswa kwendlela eyiyo kwemisebenzi yaloo mqeshwa.”;
- kananjalo
- (b) ngokufaka eli candelwana lilandelayo endaweni yecandelwana (2):
- “(2) Ilungu leBhodi, leBhunga loLawulo okanye lekomiti esisigxina yeNdlu yoWiso-mthetho yePhondo elijongene nalo mThetho kwaye abalingani babo abayikufuna okanye kwamkela umsebenzi—
- (a) kuye nawuphi na umntu ofake isicelo selayisenisi okanye okhutshelwe ilayisenisi ngokwalo mThetho, okanye
- (b) nawuphi na umntu okanye iqumrhu elibonelela okanye elihlawula umvuzo ofumana imali okanye oncediswa ngemali ngumntu okhankanywe ku-(a) kwiminyaka emine emva kokuqokunjelwa kobude bethuba lokuba kweso sikhundla;

xa phofu naliphi na ilungu leBhodi liyekile emsebenzini, inxalenye |
eseleyo yethuba lokuba sesikhundleni iya kongezwa kwinani leminyaka |
ekubhekiswa kuyo kummiselo ochazwe ngaphambili apha.”.

**Ukuhlonyelwa kwecandelo 15A lomThetho 4 ka-1996, ngokuhlonyelwa kwawo
licandelo 6 lomThetho 10 ka-1997**

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8. Icandelo 15A lomThetho oyintloko lihlonyelwa—

(a) ngokufakela eli candelwana lilandelayo endaweni yecandelwana (1):

“(1) Ilungu okanye umqeshwa weBhodi ngokukhawuleza uya kufaka
isibhengezo kwiBhodi-ukuba

(a) yena okanye ilungu losapho lwakhe [**owakwakhe nokufutshane** 10
naye] njengoko kuchazwe kwicandelo [**5(f)**] 30(2)(d), bathe baba
nenxaxheba yezimali ngokuthe ngqo okanye ngokungathanga ngqo
kulo naliphi na ishishini okanye indawo yongcakazo;

(b) yena okanye ilungu losapho lwakhe [**owakwakhe okanye** 15
owosapho okufutshane njengoko kuchazwe kwicandelo 5(f)]
unenxaxheba okanye ufumana inxaxheba kulo naliphi na ishishini
okanye iqumrhu enokungquzulana okanye iphazamisane
nokuwuqhuba kwakhe kakuhle umsebenzi wakhe njengelungu
okanye umqeshwa weBhodi, okanye nakwiyiphi na ilayisenisi
ekhutshwe phantsi kwalo mThetho; 20

(c) yena okanye ilungu losapho lwakhe [**owakwakhe okanye**
owosapho okufutshane njengoko kuchazwe kwicandelo 5(f)]
ufumene nantoni na echazwe kwicandelo 15(1);

(d) yena okanye ilungu losapho lwakhe [**owakwakhe okanye** 25
owosapho okufutshane njengoko kuchazwe kwicandelo 5(f)]
ufuna okanye wamkela umsebenzi kumnini-layisenisi okanye
umenzi-sicelo sokuba nelayisenisi ngokwalo mThetho, kananjalo

(e) yena uthabathe inxaxheba kungcakazo, okanye ufumanise ukuba
owakwakhe ukhe wathabatha inxaxheba kungcakazo, kweli phondo
okanye kulo naliphi na ishishini longcakazo elichazwe kwicandelo 30
15(3);”, kananjalo

(b) kufakwe eli candelwana lilandelayo emva kwecandelwana (2):

“(3) Ngokunxulumene neli candela inxaxheba yezimali engathanga
ngqo ayibandakanyi inxaxheba engathanga ngqo echongwe ngenxa yayo
nayiphi na ingxowa-mali okanye utyalo-mali xa umntu onaloo nxaxheba 35
engenalungelo lokulawula izigqibo ezingotyalo-mali ezenziwa ngoku-
nxulumene naloo ngxowa-mali okanye nolo tyalo-mali.”

**Ukuhlonyelwa kwecandelo 20 lomThetho 4 ka-1996, ngokokuhlonyelwa kwawo
licandelo 19 lomThetho 1 ka-2003**

**9. Icandelo 20 lomThetho oyintloko lihlonyelwa ngokufaka eli candelwana 40
lilandelayo endaweni yecandelwana (3):**

“(3) IBhodi inakho nakowuphi na unyaka-mali ukwenza izicelo zokongezelwa
imali, ezo zicelo izibhekisa kwiLungu elisingatha loo mcimbi ukuze loo mali
ifakwe kuqikelelo-mali [**njengoko kuchazwe kwinkcazelo yoko kwicandelo 1**
**lomThetho iWestern Cape Exchequer Law 1994 (UmThetho 4 ka-1994)] 45
ngokuhambelana nomthetho onxulumene noko.”.**

**Ukuhlonyelwa kwecandelo 23 lomThetho 4 ka-1996, ngokokuhlonyelwa kwawo
licandelo 20 lomThetho 4 ka-1997, icandelo 8 lomThetho 10 ka-1997, icandelo 2
lomThetho 4 ka-1999 kunye necandelo 4 lomThetho 1 ka-2003**

**10. Icandelo 23 lomThetho oyintloko lihlonyelwa ngokufaka lo mhlathana 50
ulandelayo endaweni yomhlathana (iii) ukuya kumhlathi (1)(a):**

“(iii) nakuphi na ukwaphula okanye ukutyholwa ngokwaphula okanye nakuphi na
ukusilela okanye ukutyholwa ngokusilela ukuthobela nawuphi na ummiselo
walo mThetho kuyo nayiphi na indawo enelayisenisi okanye ngumnini-
layisenisi ekhutshwe ngokwalo mThetho.”. 55

Ukuhlonyelwa kwecandelo 27 lomThetho 4 ka-1996, ngokokuhlonyelwa kwawo licandelo 3 lomThetho 4 ka-1999 necandelo 2 lomThetho 11 ka-2000

11. Icandelo 27 lomThetho oyintloko lihlonyelwa ngokufaka lo mhlathi ulandelayo emva komhlathi (g):

“(hB) ilayisenisi zesizwe njengoko zichazwe kumThetho weSizwe;” 5

Ukufakwa kwecandelo 27A kumThetho 4 ka-1996

12. Eli candelo lilandelayo lifakwa emva kwecandelo 27 lomThetho oyintloko:

“Ilayisenisi zeSizwe

27A. (1) IBhodi inakho ukukhupha ilayisenisi zesizwe njengoko kuchazwe kumThetho weSizwe. 10

(2) Ngaphandle kwalapho umThetho wesizwe umisele mmiselo wumbi, imimiselo yalo mThetho iya kusebenza ngokubhekiselele kuyo nayiphi na ilayisenisi ekhutshwe ngokomThetho weSizwe.

(3) Ingatyeshelwanga imimiselo yalo mThetho, umnini-layisenisi yesizwe uyakuba nelungelo lokuqhuba imisebenzi egunyaziswe liphondo, ngokungathi loo layisenisi ikhutshwe ngokwalo mThetho.” 15

Ukuhlonyelwa kwecandelo 28 lomThetho 4 ka-1996, ngokokuhlonyelwa kwawo licandelo 23 lomThetho 4 ka-1997 necandelo 2 lomThetho 8 ka-1998

13. Eli candelo lilandelayo lifakwa endaweni yecandelo 28 lomThetho oyintloko:

“28. Ukuze umntu abe nelungelo lokufumana ilayisenisi— 20

(a) umntu lowo, ngaphandle kwenkampani okanye elinye iqumrhu, kufuneka—

(i) abe ngumntu ofanelekileyo nokulungeleyo oko, abe ngumntu othembekileyo, onyanisekileyo, okuziphatha kwangenxa engaphambili, owukhathaleleyo umthetho, ogama, ozenzo nokuzibandakanya kungenakufaka engozini impilo, ukhuseleko, izimilo, ucwangco nentlalo-ntle ngokubanzi yabemi bePhondo nemimiselo nemigaqo-nkqubo yalo mThetho, kananjalo 25

(ii) ingabi ngomntu ungafanelekanga ngokwalo mThetho, kananjalo

(b) inkampani okanye iqumrhu kufuneka— 30

(i) libhaliswe phantsi kwemithetho echaphazelekayo yeRiphabhlikhi;

(ii) libe limi kakuhle ngokwezimali kananjalo libenakho ukuyiqhuba nokuyinyamezela ngokwaneleyo imisebenzi ekufunyanelwe yona ilayisenisi, kananjalo 35

(iii) ngeenguqulelo eziyimfuneko, libenakho ukuthobela umhlathi (a).”

Ukuhlonyelwa kwecandelo 29 lomThetho 4 ka-1996, ngokokuhlonyelwa kwawo licandelo 24 lomThetho 4 ka-1997, icandelo 9 lomThetho 10 ka-1997 kunye necandelo 4 lomThetho 4 ka-1999 40

14. Eli candelo lilandelayo lifakwa endaweni yecandelo 29 lomThetho oyintloko:

“Ukungafaneleki ngokubhekiselele kwiilayisenisi zengqesho

29. Umntu akanakho ukuba nelayisenisi yengqesho ekhutshwe ngokwalo mThetho, ukuba loo mntu—

(a) akayithobeli imiqathango yecandelo 28(a)(i); 45

(b) ngumntu owatshonayo waza akabinakho ukubuyela kwimo efanelekileyo okanye ophantsi kokuthintelwa ngumthetho;

(c) ulilungu leBhodi, ilungu leBhunga loLawulo okanye ilungu lekomiti esisigxina yeNdlu yoWisomthetho yePhondo elijongene nalo mThetho, okanye ungumntu ozalana naloo mntu; 50

- (d) ungumqeshwa weBhodi, okanye uzalana naloo mntu, ngaphandle kokuba iBhodi inakho ukuyixolela loo nto xa ikhona ngokubhekiselele kumntu ekuzalanwayo naye ukuba yanelisekile ukuba akukho lungquzulwano lungako kuloo nto olunokuvela ngenxa yaloo ngqesho; 5
- (e) uneminyaka yobudala engaphantsi kweli-18;
- (f) ungumsebenzi waseburhulumenteni okanye uligosa lezopolitiko;
- (g) kufumaniseke ngenxa yophando oluqhutywe ngokwecandelo 30(2), ukuba akanamfanelo yokuba nenxaxheba kumnini-layisenisi, kwindawo elayisenisiweyo okanye kwishishini elinxulumene nelayisenisi; 10
- (h) ubhaliswe kwirejistara yabantu abathintelweyo njengoko kuchazwe kumThetho weSizwe;
- (i) uphantsi komyalelo wenkundla efanelekileyo ethe loo mntu akaphilanga kakuhle ngokwengqondo okanye uphambene; 15
- (j) wakha wasuswa esikhundleni sentembeko ngenxa yokungaziphathi kakuhle okunxulumene nobuqhophololo okanye ukusebenzisa imali ngokungendlela; okanye
- (k) wakha wafunyanwa enetyala kwiminyaka edlulileyo elishumi, kwiRiphabhlikhi okanye kwenye indawo ngenxa yorhwaphilizo, ubusela, ubuqhophololo, ukukhohlisa okanye ukuveza uxwebhu olukhohlisayo, ukufunga ubuxoki, okanye ulwaphulo-mthetho phantsi kwalo Mthetho okanye umThetho weSizwe, waza wagwetywa ukuvalelwa entolongweni ngaphandle kwefayini, okanye wagwetywa ifayini engaphezulu kwemali emiselwe kumThetho weSizwe, ngaphandle kokuba umntu lowo wafunyaniswa uxolelo okanye waxolelwa ngesenzo eso.”. 20 25

Ukuhlonyelwa kwecandelo 30 lomThetho 4 ka-1996, ngokuhlonyelwa kwawo licandelo 25 lomThetho 4 ka-1997

15. Eli candelo lilandelayo lifakwa endaweni yecandelo 30 loMThetho oyintloko: 30

“[Abantu abanexaxheba ethile ethe ngqo okanye engathanga ngqo abafanelekanga] Ukungafaneleki nokuthintelwa ngokubhekiselele kwezinye iilayisenisi

- 30. (1) Eli candela alisebenzi kwilayisenisi yengqesho.**
- (2) Umntu akanakho ukuba nelayisenisi ekubhekiswe kuyo kweli candelo, okanye abanexaxheba kumnini-layisenisi leyo ukuba loo mntu— 35
- (a) ungumntu ochazwe kwicandelo 29(a), (e), (f), (i), (j) okanye (k);
- (b) uliqumrhu elimiselwe ngokomthetho apho uMbuso okanye naliphi na iqumrhu likarhulumente okanye nawuphi na umbutho onxulumene noMbuso, mbutho lowo unenxaxheba yezimali, ngaphandle kwenxaxheba emalunga nerhafu, kuso nasiphi na isenzo songcakazo, nangona imimiselo yalo mhlathi ingayi kuyibandakanya inxaxheba yoMbuso okanye yequmrhu loMbuso okanye nawuphi na umbutho onxulumene noMbuso, ngenxa yentsebenziswano engabhekele phi ngokwezekhamesi ngokubhekiselele koku— 40 45
- (i) isivumelwano sokuqesha apho intlawulo yerenti efanele ukhulawulwa ingabalwanga ngokubhekiswa kwimali engenileyo, okanye iprofiti evela kuso nasiphi na isenzo songcakazo; 50
- (ii) ukuthengiswa kwepropati, okanye
- (iii) ukunikwa ilungelo lokukhetha ukuthenga;
- (c) ungumntu owatshonayo nomoyakhe ingekahlaziyya;
- (d) ungumntu ozalana, ngaphandle komnakwabo okanye udadewabo womntu olilungu okanye umqeshwa weziko elinegunya lokumisela imigaqo nokumbeka iliso loo mnini-layisenisi; 55
- nangona xa kusetyenzwa umcimbi wezicelo zokunikwa okanye zokuhlaziya iilayisenisi okanye xa kuqhutywa inkqubo yokufumanisa ukufaneleka kwabanini-layisenisi okanye kwabantu abanexaxheba yezimali kuloo nto, ibhodi inakho, kodwa ayisayi kunyanzeliswa, ukuba

iqhube uphando okanye ifake imibuzo ngokubhekiselele kubantu abanexaxheba yezimali engaphantsi kweepesenti ezintlanu kumenzi-sicelo.

(3) IBhodi kufuneka yale ukumkhuphela ilayisenisi umenzi-sicelo, emva kokuqhuba uphando okanye emva kokufaka imibuzo njengoko kuchazwe kwicandelo (2), ukuba inaso isizathu sokukholelwa ukuba—

(a) umenzi-sicelo okanye nawuphi na umntu onexaxheba yezimali kuye okanye ukuba nawuphi na umphathi weshishini elo uyazalana, ngaphandle komnakwabo okanye udadewabo, nomntu lowo ulilungu okanye ungumqeshwa weziko elinegunya lokukhupha ilayisenisi.

(b) umenzi-sicelo okanye nawuphi na umntu onexaxheba yezimali eziipesenti ezintlanu okanye ngaphezulu kumenzi-sicelo akavumelekanga ukuba abanexaxheba kumnini-layisenisi okanye kwishishini elinxulumene nelayisenisi leyo, ngokwecandelwana (2).

(4) Ngokunxulumene neli candelo inxaxheba yezimali engathanga ngqo ayibandakanyi inxaxheba engathanga ngqo ekho ngenxa yayo nayiphi na ingxowa-mali okanye utyalo-mali xa umntu onaloo nxaxheba engenalungelo lokulawula izigqibo ezingotyalo-mali ezenziwa ngokunxulumene naloo ngxowa-mali okanye nolo tyalo-mali.”

Ukuhlonyelwa kwecandelo 35 lomThetho 4 ka-1996, ngokukhlonyelwa kwawo licandelo 29 lomThetho 4 ka-1997, icandelo 11 lomThetho 10 ka-1997 kunye necandelo 5 lomThetho 4 ka-1999

16. Icandelo 35 lomThetho oyintloko lihlonyelwa ngokufaka lo mhlathi ulandelayo endaweni yomhlathi (vi) wecandelo (3):

“(vi) umenzi-sicelo ufanelekile ngokwecandelo [28]29 kwaye akathintelwanga ngokwecandelo [29]30, kananjalo”.

Ukuhlonyelwa kwecandelo 37 lomThetho 4 ka-1996, ngokukhlonyelwa kwawo licandelo 31 lomThetho 4 ka-1997

17. Icandelo 37 lomThetho oyintloko lihlonyelwa i—

(a) ngokufaka lo mhlathi ulandelayo endaweni yomhlathi (f) wecandelwana (1):

“(f) ngokunxulumene neendawo apho izenzo zongcakazo [, **imidyarho okanye izenzo ezayamene noko**] zithi iqhubeke khona, kubandakanywa ukuphuhliswa nokusetyenziswa kwazo;”;

(b) kufakwe lo mhlathi ulandelayo endaweni yomhlathi (g) wecandelwana (1):

“(g) kufuneka ukuba kuthunyelwe iingxelo neeritheni kwiBhodi nezinxulumene nongcakazo [**okanye nemidyarho okanye nezenzo ezinxulumene noko**]”;;

(c) kufakwe lo mhlathi ulandelayo endaweni yomhlathi (i) wecandelwana (1):

“(i) ngokunxulumene neentsuku neeyure ekunokuqhutywa ngazo izenzo zongcakazo okanye ezemidyarho;”;

(d) kufakwe lo mhlathi ulandelayo endaweni yomhlathi (k) wecandelwana (1):

“(k) ngokunxulumene nazo naziphi na izixhobo ezisetyenziswayo okanye eziya kusetyenziswa ngokunxulumene naso nasiphi na isenzo songcakazo okanye sokudyarha;”.

Ukuhlonyelwa kwecandelo 39 lomThetho 4 ka-1996, ngokukhlonyelwa kwawo licandelo 33 lomThetho 4 ka-1997

18. candelo 39 lomThetho oyintloko lihlonyelwa—

(a) ngokufaka eli candelwana lilandelayo endaweni yecandelwana (2):

“(2) IBhodi inakho ngamaxesha ngamaxesha ukuyalela ukuba inani okanye ixabiso lemali ekumiswa ngayo ekubhekiswe kuyo kwicandelwana (1) inyuswe okanye ihliswe, ukuze ke ngoko umnini-layisenisi abenakho ukuthi kwiintsuku ezisixhenxe emva kokufumana kwakhe isaziso sokuba iBhodi iyalele ngaloo ndlela, aqinisekise ukuba loo mali kubanjiswe ngayo inyusiwe okanye ihlisiwe ngokomyalelo lowo.

- (b) ngokufaka eli candelwana lilandelayo endaweni yecandelwana (3):
 “(3) Ukuba nayiphi na imali ekubanjiswe ngayo ithe ngokwecandelwana (1) yaphelelwa lixesha, ayabi sasebenza okanye ayanyuswa kwithuba elichazwe kwicandelwana (2), loo layisenisi, ingatyeshelwanga imiqathango yecandelo 42(3), iya kuthatyathwa njengenqunyanyisiweyo ngokwecandelo 42(1) kwaye umnini-layisenisi akayi kuqhubeka ngokuqhuba ishishini eligunyaziswe phantsi kwaloo layisenisi kude kuvuselelwe loo mali kumiswe ngayo okanye yenziwe esebenzayo okanye kufakwe enye endaweni yayo okanye de ibe inyusiwe.”
- (c) ngokufaka eli candelwana lilandelayo endaweni yecandelwana (5):
 (5) Ukuba nawuphi na umnini-layisenisi uthe wasilela ekuhlawuleni iirhafu, imirhumo okanye izinyanzeliso zongcakazo ezifanele ukuhlawulwa [nguye] phantsi kwalo mThetho iGosa eliyiNtloko yoLawulo liya kuhlawula loo mali yokubambisa ekubhekiswe kuyo kwicandelwana (1) kananjalo lisebenzise nayiphi na imali evele kuloo nto ekuhlawuleni ezo rhafu, loo mirhumo okanye ezo zinyanzeliso zongcakazo ezinokufuneka ukuze emva koko—
 (a) kusebenze imimiselo yecandelwana (2), ukuba loo mali yokubambisa ingaphantsi kwesiqingatha semali yokubambisa emiselwe yiBhodi ngokunxulumene naloo mnini-layisenisi, okanye
 (b) kusebenze imimiselo yecandelwana (3), ukuba loo mali yokubambisa isisiqingatha okanye ingaphezulu kwemali yokubambisa iyonke emiselwe yiBhodi ngokunxulumene naloo mnini-layisenisi;” kananjalo
- (d) ngokufaka eli candelwana lilandelayo endaweni yecandelwana (6):
 (6) Nanini na xa ilayisenisi ekhutshwe ngokwalo mThetho iphelelwe okanye irhoxisiwe njengoko kumiselwe kulo mThetho, iGosa eliyiNtloko yoLawulo liya kuthi emva kwethuba elingekho ngaphantsi kweentsuku ezingamashumi alithoba emva koko kuphelelwa okanye oko kurhoxiswa kananjalo nasemva kokuthobela imimiselo yecandelwana (5), ukuba imimiselo elolo hlobo iyasebenza, liyikhuphe loo mali yokubambisa okanye intsalela yayo.

Ukuhlonyelwa kwecandelo 41 lomThetho 4 ka-1996, ngokokuhlonyelwa kwawo licandelo 35 lomThetho 4 ka-1997 necandelo 7 lomThetho 4 ka-1999

19. Icandelo 41 lomThetho oyintloko lihlonyelwa—

- (a) ngokufaka esi sihloko secandelo silandelayo endaweni yesihloko seli candelo: **[Ukungadluliseki] Izithintelo ezimalunga nokudluliseka kweelayisenisi”;**
- (b) ngokufaka eli candelwana lilandelayo endaweni yecandelwana (1):
 “(1) [Akukho] Ngokwemimiselo yecandelwana (1A), akukho layisenisi inikezelwe phantsi kwalo mThetho inokudluliselwa ngumniniyo komnye umntu, kananjalo akukho layisenisi yendawo ekhutshwe ngokwalo mThetho iya kudluliselwa ukusuka kuyo nayiphi na enye indawo enxulumene nayo, iyise kuyo nayiphi na enye indawo.”; kananjalo
- (c) kufakwe eli candelwana lilandelayo emva kwecandelwana (1):
 “1A. Ilayisenisi iya kudluliselwa ukusuka kumnini-layisenisi iye komnye umntu kuphela xa—
 (a) ukudluliselwa kwaloo layisenisi ukusuka kumniniyo ukuya komnye umntu kuyimfuneko ukuze kuqinisekise ukuthotyelwa kwemimiselo yomThetho weSizwe;
 (b) umnini-layisenisi efake isicelo esibhaliweyo kwintlalontle sokuba kudluliselwe ilayisenisi yakhe ngokwezizathu ezichazwe kumhlathi (a), naxa
 (c) nentlalontle ivume isicelo esichazwe kumhlathi (b).”.

Ukuhlonyelwa kwecandelo 41A lomThetho 4 ka-1996, ngokuhlonyelwa kwawo licandelo 36 lomThetho 4 ka-1997

20. Icandelo 41A lomThetho oyintloko lihlonyelwa—

- (a) Ngokufaka esi sihloko secandelo silandelayo endaweni yesihloko seli candelo: 5
Ukufa okanye ukukhubazeka komntu [onelayisenisi] onenxaxheba ethile ngokubhekiselele kumnini-layisenisi”:
- (b) ngokucima icandelwana (1);
- (c) ngokufaka eli candelwana lilandelayo endaweni yecandelwana (2): 10
 “(2) Apho kukho [I] inxaxheba ethile kushishino longcakazo olunelayisenisi [longasekhoyo okanye] lomntu obhubhayo okanye okhubazekayo [mntu lowo] uyidlulisela ngokokusebenza komthetho okanye ngenye indlela kwilifa lakhe okanye komnye umntu ongenguye umabi, umgcini okanye omnye umntu onenxaxheba ethile kwakuloo [kwilayisenisi edityanelweyo] layisenisi, kumabi welifa okanye komnye umntu ofanayo naye [okanye kumabi welifa] uyakuthi kwi-intsuku ezingama shumi amathathu (30) emva komhla wokubhubha okanye wokukhubazeka, afake isicelo kwiBhodi selayisenisi efanelekileyo.”; 15

Ukuhlonyelwa kwecandelo 46 lomThetho 4 ka-1996, ngokuhlonyelwa kwawo licandelo 40 lomThetho 4 ka-1997 20

21. Icandelo 46 lomThetho oyintloko lihlonyelwa—

- (a) Ngokufaka esi sihloko secandelo silandelayo endaweni yesihloko seli candelo: 25
“[Umatshini wongcakazo olungephi] Ilayisenisi yokusebenzisa umatshini wohlobo lwe-Route”;
- (b) ngokufaka eli candelwana lilandelayo endaweni yecandelwana (1):
 “(1) [Umatshini wongcakazo olungephi] Ilayisenisi yokusebenzisa umatshini wohlobo lwe-route”; iya kukhutshelwa kuphela inkampani ebhaliswe ngokomThetho weeNkampani, 1973.”; 30
- (c) ngokufaka eli candelwana lilandelayo endaweni yecandelwana (2):
 “(2) Ilayisenisi [Umatshini wongcakazo olungephi] yohlobo lwe-route operator iyafuneka kuzo zonke iinkampani ezivumela okanye eziqhuba ishishini loomatshini abakhupha iintlawulo zongcakazo olungephi kwindawo enye okanye kwezininzi ezilayiseniswe ngokwecandelo 47.”; 35
- (d) ngokufaka eli candelwana lilandelayo endaweni yecandelwana (2A):
 “2A. Ilayisenisi [yoomatshini bongcakazo olungephi] yohlobo lwe-route operator iyakuba [yeyendawo] yeyomsebenzisi okhankanywe kwilayisenisi leyo.”; kanaanjalo 40
- (e) ngokufaka eli candelwana lilandelayo endaweni yecandelwana (3):
 “(3) Ilayisenisi [yoomatshini bongcakazo olungephi] yohlobo lwe-route operator iya kunika nentlalontle igunya, ngokuxhomekeke kuyo nayiphi na imiqathango enokuyimisela, lokusebenzisa oomatshini [bongcakazo] olungephi abakhupha iintlawulo kwindawo okanye kwinxalenye yeendawo ezilayiseniswe ngokwecandelo 47.”; 45

Ukuhlonyelwa kwecandelo 47 lomThetho 4 ka-1996, ngokuhlonyelwa kwawo licandelo 41 lomThetho 4 ka-1997

22. Icandelo 47 lomThetho oyintloko lihlonyelwa—

- (a) Ngokufaka esi sihloko secandelo silandelayo endaweni yesihloko seli candelo: 50
“[Iindawo zoomatshini bongcakazo olungephi] Ilayisenisi yeSiza”;
 kanaanjalo
- (b) ngokufaka eli candelwana lilandelayo endaweni yecandelwana (1):
 “(1) Ilayisenisi [yendawo yoomatshini bongcakazo olungephi] yesiza iyafuneka ngokubhekiselele kuyo nayiphi na indawo kweli Phondo apho kubekwe khona oomatshini [bongcakazo] abakhupha

- iintlawulo ngumnini layiseni [**yoomatshini bongcakazo olungephi**] yohlobo lwe-route operator.”;
- (c) ngokuthi kufakwe eli candelwana lilandelayo endaweni yecandelwana (2):
 “(2) Ilayiseni [**yendawo yoomatshini bongcakazo olungephi**] yesiza iya kugunyazisa, ngokuxhomekeke kuyo nayiphi na imiqathango yentlalontle enokumiselwa, ukugcinwa nokulungiselelwa ukwenziwa komboniso kwindawo elayisenisiweyo okanye kwinxalenye yaloo ndawo njengoko kuchazwe kwilayisenisi yawo nawuphi na umatshini [**wongcakazo**] olungephi okhupha intlawulo nosetyenziswa ngokwecandelo 46.”;
- (d) kufakwe la macandelwana alandelayo emva kwecandelwana (2):
 “(3) Ilayiseni yesiza iya kunxulumana nendawo leyo ichazwe kwilayisenisi.
 (4) Nentlalontle ayisayi kusivuma isicelo selayisenisi yesiza ngaphandle kokuba yanelisekile kukuba—
 (a) umntu lowo uya kujongana nokuqhutywa kolo shishino longcakazo kweso siza, kanaanjalo
 (b) ngokuxhomekeke kwimimiselo ebhekise kwicandelo 30(2), bonke abantu abanenxaxheba yezimali elinganiselwa kwiipesenti ezintlanu nangaphezulu kuloo mntu uchazwe kumhlathi (a) uyayithobela imimiselo yecandelo 28 neyecandelo 29, nokuba liliphi kuloo macandelo kunye necandelo 30.”.

Ukuhlonyelwa kwecandelo 48 lomThetho 4 ka-1996, ngokuhlonyelwa kwawo licandelo 8 lomThetho 4 ka-1999

23. Icandelo 48 lomThetho oyintloko lihlonyelwa ngokufakwa kweli candelwana lilandelayo endaweni yecandelwana (2):
 “(2) Ilayiseni yebhingo iyafuneka kubo bonke abantu kweli Phondo abavumela okanye abaqhuba umdlalo webhingo, bengawuqhubeli ungcakazo lwentlalo olugunyaziswe ngokwecandelo 67(1)(c), kwindawo enye okanye kwezininzi, ezichazwe kuloo layisenisi, ndawo ezo kuya kufuneka ukuba zibe zilayiseniswe ngokwecandelo 48A.”.

Ukuhlonyelwa kwecandelo 53 lomThetho 4 ka-1996, ngokokuhlonyelwa kwawo licandelo 44 lomThetho 4 ka-1997 necandelo 13 lomThetho 4 ka-1999

24. Icandelo 53 lomThetho oyintloko lihlonyelwa ngokufaka eli candelwana lilandelayo endaweni yecandelwana (3):
 “(3) Ilayiseni yomsebenzisi-thathaseli iya kugunyazisa, ngokuxhomekeke kuyo nayiphi na imiqathango enokumiselwa yiBhodi, ukuqhutywa kwethathaseli ngokubhekiselele [**kuso naso nasiphi na isehlo Okungalindelekanga**] zinto ezo zingalindelekanga ezihambelana nemimiselo yomthetho owaziwa njenge-Lotteries Act, 1997 (Act 57 of 1997), kunye nokwamkelwa kwezabelo ezinxulumene naloo thathaseli kwindawo elayiseniswe ngokwecandelo 54.”.

Ukuhlonyelwa kwecandelo 54 lomThetho 4 ka-1996, ngokokuhlonyelwa kwawo licandelo 45 lomThetho 4 ka-1997 necandelo 14 lomThetho 4 ka-1999

25. Icandelo 54 lomThetho oyintloko lihlonyelwa ngokufaka eli candelwana lilandelayo endaweni yecandelwana (2):
 “(2) Ilayiseni yendawo yethathaseli iya kugunyazisa, ngokuxhomekeke kuyo nayiphi na imiqathango enokumiselwa yiBhodi, ukwamkelwa kwezabelo ezinxulumene naloo thathaseli kwindawo echazwe kuloo layisenisi ngumnini-layisenisi nechazwe [**elayisenisiweyo ngokwe-**] kwicandelo 53.”.

Ukuhlonyelwa kwecandelo 55 lomThetho 4 ka-1996, ngokokuhlonyelwa kwawo licandelo 46 lomThetho 4 ka-1997 necandelo 15 lomThetho 4 ka-1999

26. Icandelo 55 lomThetho oyintloko lihlonyelwa—
 (a) ngokufaka eli candelwana lilandelayo endaweni yecandelwana (1).
 (1) Ilayiseni yebhukumeyikha iyafuneka kuye wonke ubani kweli phondo, oqhuba ishishini lokuthabatha ubhejo ngokuthe ngqo okanye

ngokungathanga ngqo [, ngaphandle kobhejo lohlobo lwethathaseli] njengoko kuchazwe kwicandelo 1, noluntu jikelele okanye nezinye iibhukumeyikha kwindawo enye okanye ezininzi, ndawo ezo zichazwe kuloo layisenisi, ndawo ezo ekufuneka zibe zilayiseniswe ngokwecandelo 55A.”, kananjalo

(b) ngokufaka eli candelwana lilandelayo endaweni yecandelwana (3):

“(3) Ilayisenisi yebhukumeyikha iya kugunyazisa, ngokuxhomekeke kwimiqathango enokumiselwa yiBhodi ukuqhutywa kweshishini lebhukumeyikha kwindawo leyo ngokubekwa kwee-odi ezisisigxina nobhejo oluvulekileyo, kodwa kungelulo [olungelulo olo hlobo lwethathaseli] ubhejo lwethathaseli.”

Ukuhlonyelwa kwecandelo 55A lomThetho 4 ka-1996, ngokuhlonyelwa kwawo licandelo 16 lomThetho 4 ka-1999

27. Icandelo 55A lomThetho oyintloko lihlonyelwa ngokucinywa kwecandelo (3).

Ukuhlonyelwa kwecandelo 58 lomThetho 4 ka-1996, ngokuhlonyelwa kwawo licandelo 2 lomThetho 5 ka-1999

28. Eli candelo lilandelayo lifakwa endaweni yecandelo 58 lomThetho oyintloko:

“58. (1) Nawuphi na umntu ngaphandle komtyali-mali oliziko, umtyali-mali orhwebelana noluntu, iziko elinguvimba, lona linokuthenga iipesenti ezintlanu zenxaxheba ngokuthe ngqo okanye ngokungathanga ngqo kwishishini elinxulumene nelayisenisi leyo uyakuthi kwithuba nangendlela emiselweyo yentlalontle, afake isicelo kwintlalontle sokuvunyelwa ukuba naloo nxaxheba.

(2) Nawuphi na umtyali-mali orhwebelana noluntu ngaphandle komtyali-mali oliziko, lona unokuthenga iipesenti ezintlanu zenxaxheba ngokuthe ngqo okanye ngokungathanga ngqo kwishishini elinxulumene nelayisenisi leyo, uyakuthi kwithuba nangendlela emiselweyo yentlalontle, afake isicelo kwintlalontle sokuvunyelwa ukuba naloo nxaxheba.

(3) Nawuphi na umtyali-mali oliziko, unokuthenga iipesenti ezintlanu nangaphezulu zenxaxheba ngokuthe ngqo okanye ngokungathanga ngqo kwishishini elinxulumene nelayisenisi leyo, uyakuthi kwithuba nangendlela emiselweyo yentlalontle, afake isicelo kwintlalontle sokuvunyelwa ukuba naloo nxaxheba.

(4) Imimiselo yamacandelo 28, 30 neyecandelo 32 iya kusebenza ngokunxulumene naso nasiphi na isicelo esichazwe kumacandelwana (1), (2) necandelwana (3).

(5) Nentlalontle ayisayi kukhupha mvume phantsi kwamacandelwana (1), (2) necandelwana (3) apho umntu lowo okanye umtyali-mali orhwebelana noluntu okanye umtyali-mali oliziko ofaka isicelo engakufanelanga ukuba nelayisenisi ngokwalo mThetho.

(6) Apho imvume ingakhutshwanga ngokweli candelo, loo mntu, loo mtyali-mali urhwebelana noluntu okanye loo mtyali-mali uliziko; kuya kufuneka ukuba kwithuba elimiselweyo nangendlela emiselwe yiBhodi ayichithe loo nxaxheba.

(7) Akukho mntu, mtyali-mali orhwebelana noluntu okanye mtyali-mali oliziko uya kuthenga inxaxheba echazwe kumacandelwana (1), (2) necandelwana (3) njengomtyunjwa okanye i-arhente okanye ngenye indlela egameni layo nayiphi na intloko okanye umxhamli xa loo mntu engamazisanga umnini-layisenisi lowo neBhodi ngenchwadi ngeenkukacha zaloo ntloko okanye loo mxhamli.

(8) Imimiselo yeli candelo—

(a) ayisayi kusebenza kwiziko elinguvimba okanye kwiziko lokugcina izabelo ngokunxulumene nenxaxheba yezimali elinayo egameni labantu abangabanye ngaphandle kwalo kwizabelo ezibhaliswe kwiziko lorchwebelwano ngezabelo eMzantsi-Afrika nelibhaliswe ngaloo ndlela ngokwe-Stock Exchange Control Act, 1985 (Act No 1 of 1985), kodwa

- (b) uya kusebenza ngokubhekiselele kubanini abangabaxhamli kwizabelo njengoko kuchazwe kumhlathi (a).
 (9) Nabani na owaphula imimiselo yamacandelwana (1), (2), (3), (6) okanye necandelwana (7) “uyakuba netyala.”.

Ukuhlonyelwa kwecandelo 66 lomThetho 4 ka-1996 5

29. Icandelo 66 lomThetho oyintloko lihlonyelwa—

- (a) ngokufaka eli candelwana lilandelayo endaweni yecandelwana (1):
 “(1) Akukho mntu uya—
 (a) kubamba, kuququzelela, kuzimasa okanye nangayiphi na indlela kuthabatha inxaxheba okanye kuncedisa kwindibano yemidyarho, okanye
 (b) kushicilela, kubanekhadi lomdyarho, okanye kulithengisa okanye nangayiphi indlela oya kusabalalisa ikhadi lomdyarho ngokunxulumene nendibano yomdyarho, ngaphandle kokuba loo ndibano yemidyarho yenzeka **[kwibala lomdyarho elibhalisiweyo]** kwindawo elayiseniswe ngokwalo mThetho.” 15
 (b) ngokufaka eli candelwana lilandelayo endaweni yecandelwana (2):
 “(2) Nawuphi na umntu owaphula imimiselo yecandelwana (1) **[okanye nawuphi na ummiselo welayisenisi yamabala omdyarho]** uya kubanetyala.”; kananjalo 20
 (c) ngokucima icandelwana (3).

Ukuhlonyelwa kwecandelo 67 lomThetho 4 ka-1996, ngokokuhlonyelwa kwawo licandelo 56 lomThetho 4 ka-1997, icandelo 14 lomThetho 10 ka-1997, icandelo 20 lomThetho 4 ka-1999 kunye necandelo 10 lomThetho 11 ka-2000 25

30. Icandelo 67 lomThetho oyintloko lihlonyelwa ngokufaka lo mhlathi ulandelayo endaweni yomhlathi (a) wecandelwana (1):

- “(a) ukuqhuba okanye ukuvumela [ukudlalwa kwe-] nasiphi na isenzo songcakazo [umdlalo okanye ukuqhuba okanye ukuvumela naluphi na ungcakazo] kuyo nayiphi na indawo ephantsi kolawulo lwakhe[,]; okanye” 30

Ukuhlonyelwa kwecandelo 72 lomThetho 4 ka-1996

31. Eli candelo lilandelayo lifakwa endaweni yecandelo 72 lomThetho oyintloko:

“[Ukuthintelwa kwezenzo] Ubutyala ngokubhekiselele kwizenzo zongcakazo [imidlalo nokubheja];

72. Akukho mntu uya kungabi nabutyala phantsi kwayo nayiphi na imimiselo yalo mThetho ngokunxulumene naso nasiphi na isenzo okanye into eyenziwe nguye okanye egunyaziswe okanye evunyelwe nguye ukuze yenziwe kweli Phondo ngokubhekiselele kuso nasiphi na isenzo songcakazo [umdlalo okanye ubhejo] njengesizathu sokuba nayiphi na into enxulumene nolawulo okanye [ukuqhuba] ukuqhutywa kwaso ngokupheleleyo okanye ngokungaphelelanga kuqhutywa kwindawo ethile engaphandle kweli Phondo.” 40

Ukuhlonyelwa kwecandelo 74 lomThetho 4 ka-1996, ngokuhlonyelwa kwawo licandelo 60 lomThetho 4 ka-1997

32. Icandelo 74 lomThetho oyintloko lihlonyelwa— 45

- (a) ngokufaka eli candelwana lilandelayo endaweni yecandelwana (1):
 “(1) Akukho **[mntu]** mnini-layisenisi olayisenisi ikhutshwe ngokwalo mThetho uya **[kwenza umboniso]** kwenza okanye kuvumela nasiphi na isaziso-ntengiso **[ngokubhekiselele]** ngokunxulumene nasiphi na isenzo songcakazo esiya kupapashwa [njengoko kunjalo] ngenye indlela engaphandle kwendlela emiselwe ngokwalo mThetho nomThetho weSizwe.” ,kananjalo 50
 (b) kufakwe la macandelwana alandelayo emva kwecandelwana (2):

“1A. Akukho mntu kweli Phondo uya kwenza okanye uya kuvumela ukupapashwa kwesaziso-ntengiso esinxulumene nasiphi na isenzo songcakazo, ngaphandle kokuba kukhutshwe ilayisenisi enxulumene neso senzo—

(a) ngokwalo mThetho;

(b) ngokomthetho welinye iphondo leRiphabhlikhi, okanye

(c) ngokomthetho wejurusidikishini ngaphandle kweRiphabhlikhi; phofu xa—

(i) eso saziso-ntengiso sipapashwe okanye sivela ngaphandle kweRiphabhlikhi babe abantu abahlala kwiRiphabhlikhi ingengabo kuphela isaziso-ntengiso esijolise kubo, okanye

(ii) xa isaziso-ntengiso eso sihambelana nayo yonke imimiselo emiselwe ngokwalo mThetho okanye ngokomThetho weSizwe kwaye abantu abaphendula eso isaziso-ntengiso kuya kufuneka baphumele ngaphandle kwephondo ukuze bathabathe inxaxheba kungcakazo oluchazwe kweso saziso-ntengiso.”.

Ukuhlonyelwa kwecandelo 75 lomThetho 4 ka-1996, ngokokuhlonyelwa kwawo licandelo 61 lomThetho 4 ka-1997, icandelo 15 lomThetho 11 ka-1997, icandelo 2 lomThetho ka-2000 kunye necandelo 6 lomThetho 1 ka-2003

33. Icandelo 75 lomThetho oyintloko lihlonyelwa ngokufaka lo mhlathi ulandelayo endaweni yomhlathi (c) wecandelwana (1):

“(cA) okanye ngenye indlela ngokuhambelana nalo mThetho, usebenzisa ikhompyutha okanye uvumela ukusetyenziswa kwekhompyutha—

(i) ukuze kube nokuthatyathwa inxaxheba kwisenzo songcakazo, okanye

(ii) ngokwenza ukuba loo khompyutha ibe nokusetyenziswa ngokupheleleyo okanye ngokungaphelelanga, nguye nabani na eluntwini ngenjongo yokuthabatha inxaxheba kuso nasiphi na isenzo songcakazo,

nokuba eso senzo songcakazo senzeka kwindawo ekungcakazwa kuyo okanye nge-intanethi okanye ngenye indlela yokuthumela izinto ngendlela ye-elektronika;

(cB) kwiPhondo, esabalalisa okanye esenza ukuba kubekhona iinkqubo zekhompyutha eziyilwe okanye ezimsebenzi uphambili ingowokwenza abantu kweli Phondo babenakho ukuqhagamshelana namashishini ongcakazo angaphandle kweli Phondo, mashishini lawo angcakazisa nge-intanethi.”.

Ukuhlonyelwa kwecandelo 75A lomThetho 4 ka-1996, ngokuhlonyelwa kwawo licandelo 7 lomThetho 1 ka-2003

34. Icandelo 75A lomThetho oyintloko lihlonyelwa ngokufaka eli candelwana lilandelayo endaweni yecandelwana (1):

“(1) Ukuba nentlalontle yanelisekile, ngokokuthalekiswa koko kunokwenzeka, ngokobungqina obandlaliweyo kwingxoxo [ethile] nokuba yiyiphi na, ngxoxo leyo iqhutywe ngokwemimiselo yalo mThetho okanye ubungqina obuvezwe ngenxa yalo naluphi na uphando okanye nayiphi na ingxoxo eqhutywe [ngokwecandelo 23(1)(a)(iii)] ngokwalo mThetho, ummiselo othile walo mThetho waphulwe okanye awuthotyelwanga—

(a) umnini-layisenisi yokuqhuba ungcakazo;

(b) umnini-layisenisi echazwe kwicandelo 27(f) okanye (g)

(c) umnini-layisenisi echazwe kwicandelo 27(l) okanye (m), okanye

(d) nawuphi na umntu owenza oko okanye othi wenza oko ngenxa yemimiselo yokuqeshwa kwakhe ngumnini-layisenisi yokuqhuba ungcakazo okanye ilayisenisi echazwe kwicandelo 27(f) okanye (g),

neBhodi inakho ukubeka ityala [komnye okanye kubo bobabini] nawuphi na okanye bonke abanini-layisenisi ngenxa yolo lwaphulo-mthetho, njengoko kunokwenzeka, kananjalo iwise isohlwayo esichazwe kwicandelwana (2).”.

Ukucinywa kwecandelo 84 lomThetho 4 ka-1996

35. Icandelo 84 lomThetho oyintloko liyacinywa.

Ukucinywa kwecandelo 84A lomThetho 4 ka-1996

36. Icandelo 84A lomThetho oyintloko liyacinywa.

Ukucinywa kwecandelo 84B lomThetho 4 ka-1996

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37. Icandelo 84B lomThetho oyintloko liyacinywa.

Ukucinywa kwecandelo 84C lomThetho 4 ka-1996

38. Icandelo 84C lomThetho oyintloko liyacinywa.

Ukufakwa kwecandelo 84D kumThetho 4 ka-1996

39. Eli candelo lilandelayo lifakwa emva kwecandelo 83 lomThetho oyintloko: 10

“Ukuthintelwa kwezenzo ezithile zongcakazo

84D. (1) Ngokuxhomekeke kwicandelwana (3), akukho mntu ukhoyo kwiPhondo uya kuthabatha inxaxheba kwisenzo songcakazo ngefowuni, ngefeksi, ngomabonakude ekuthethwayo naye, iposi ye-elektronika, i-intanethi okanye nayiphi na indlela yoqhagamshelwano enxulumene noko, ngaphandle kwaloo nto imiselwe ngumThetho weSizwe.

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(2) Ngokuxhomekeke kwicandelwana (3) akukho mntu—

- (a) uyakuthi, ngokokwazi komntu okhankanywe kuqala, ameme, ancedise okanye avumele omnye umntu okhoyo apha kwiPhondo, okanye
- (b) oya kukrokrelwa ngumntu okhankanywe kuqala ukuba ukhona kweli Phondo,

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ukuthabatha inxaxheba kwisenzo songcakazo esiqhutywa ngokupheleleyo okanye ngokungaphelelanga ngefowuni, ngefeksi, ngomabonakude ekuthethwayo naye, ngeposi ye-elektronika, nge-intanethi, okanye nayiphi na enye indlela yoqhagamshelwano, ngaphandle kokumiselwa ngumThetho weSizwe.

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(3) Imimiselo yeli candelo ayisayi kusebenza—

- (a) kubhejo oluthatyathwe yibhukumeyikha okanye yithathaseli elayiseniswe kulo naliphi na iphondo leRiphabhlikhi negunyaziswe yiloo layisenisi ukuba ibhejise, okanye
- (b) apho umdlali athabatha inxaxheba kwisenzo songcakazo esichazwe kweli candelo kwindawo elayisenisiweyo yomntu olayiseniswe ngokwalo mThetho ukuze aqhuba eso senzo songcakazo.

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(4) Nawuphi na umntu otyeshela ummiselo weli candelo uya kubanetyala.”.

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Ukucinywa kwecandelo 84E lomThetho 4 ka-1996

40. Eli candelo lilandelayo lifakwa emva kwecandelo 84D lomThetho oyintloko:

“ImiMiselo yeThutyana

84E. (1) Nayiphi na ilayisenisi engekaphelwa lixesha nekhutshwe licandelo lentlalontle ngokwecandelo 46, ngaphambi komhla wokusungulwa komThetho i-Western Cape Fifteenth Gambling and Racing Amendment Act, 2005 (kweli candelo kuthiwa “ngomThetho-sihlomelo”), iyakuthi nangaphandle kwendlela ebhalwe ngayo kananjalo kude kufike umhla wokuphelelwa kwayo ithatyathwe njenge-*route operator licence*.

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(2) Nayiphi na ilayisenisi engekaphelwa ekhutshwe licandelo lentlalontle ngokwecandelo 47, ngaphambi komhla wokusungulwa komThetho-sihlomelo, iyakuthi nangaphandle kwendlela ebhalwe ngayo

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kananjalo kude kufike umhla wokuphelelwa kwayo ithatyathwe njengelayisenisi yesiza.

(3) Nawuphi na umntu othe ngexesha lokusungulwa komThetho-sihlomelo, waba nelayisenisi, waba nenxaxheba eyimali kwilayisenisi okanye isatifiketi sokufaneleka esikhutshwe ngokomThetho, nothe ngenxa yemimiselo yalo mThetho okanye yomThetho weSizwe, akabi sakufanela ukuba nelayisenisi elolo hlobo, nenxaxheba eyimali okanye isatifiketi sokufaneleka, kufuneka kwiintsuku ezingama-30 zokusungulwa komThetho-sihlomelo, loo nto ayichaze

(a) kumqeshi wakhe, apho loo mntu angumnini-layisenisi yomqeshwa kananjalo eqeshwe ngumnini-layisenisi yokuqhuba ungcakazo;

(b) kumnini-layisenisi anenxaxheba yemali kuye okanye

(c) kumnini-layisenisi lowo loo mntu athe wakhutshelwa isatifiketi sokufaneleka ngenxa yayo'

ukuze emva koko loo mqeshwa okanye mnini-layisenisi kufuneka ukuba kwiintsuku ezingama-30 yenziwe ingxelo, azise icandelo lentlalontle ngokupheliswa kokufaneleka kwakhe.

(4) Imimiselo yecandelo 31 lalo mThetho ayisayi kusebenza nakubani na owaphelelwa kukufaneleka kwakhe kukuba nelayisenisi ngokwalo mThetho ngaphambi kokusungulwa komThetho-sihlomelo kananjalo nothe emva kokusungulwa komThetho-sihlomelo akaphelelwa kukufaneleka."

Isihloko esifutshaniweyo

41. Lo mThetho kuya kuthiwa ngumThetho-sihlomelo woNgcakazo nemiDyarho weShumi elineSihlanu weNtshona Koloni, 2005.

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**UMTHETHO OYILWAYO KA-2005 ENTSHONA KOLONI
NOWESHUMI ELINESIHLANU KUNGCAKAZO NOMDYARHO**

**ISIQULATHO ESINENKCAZELO NGEZILUNGISO EZINDULULELWE
UMTHETHO KA-1996 WENTSHONA KOLONI KUNGCAKAZO
NAKUMDYARHO, (UMTHETHO 4 KA-1996) NJENGOKO ULUNGISIWE
("UMTHETHO")**

1. AMAGQABANTSHINTSHI

1.1. UmThetho ka-2004 woNgcakazo kuZwelonke, (umThetho 7 ka-2004) ("umThetho kaZwelonke") waqalisa ukusebenza ngomhla wokuqala kuNovemba ka-2004 ngesaziso esaphuma kwiGazethi kaRhulumente. Lo mThetho ubhangisa laa mThetho ka-1996 woNgcakazo lukaZwelonke, (umThetho 33 ka-1996), ngokubhekiselele ekusekweni kwawo kuqala yiBhodi yoNgcakazo kuZwelonke.

1.2. Eyona nto ingunobangela wokwaziswa komThetho omtsha kaZwelonke nonobucukubhede ekulawulweni kweshishini longcakazo yayikukuba, kwafunyaniswa ukuba bezisahluka yaye ziphikisa iinkqubo neendlela ezithile zokuwuvelela ezilandelwa ngabahlukileyo abasemagunyeni bamaphondo nabanika imvume yokusetyenziswa kwemiqathango yoshishino, ukuze abo banemvume yokusebenza kwiphondo nakwezinye iindawo kwakufuneka basebenzise iintlobo ezahlukileyo kodwa yona imvume yoshishino iyeyohlobo olunye. Apho abanini beelayisenisi banqwenela ukusebenza nakwamanye amaphondo, kwakufuneka baluvumele uphando bephengu-phengululwa kwiphondo ngalinye, oko kwakubandakanya imizamo ephindaphindwayo (oko kusenziwa ziibhodi zongcakazo ezahlukileyo) yaye kuziindleko (kwabo ke baneelayisenisi zokushishina).

1.3. Lilonke kwabakho imfuneko yokufaniswa kwezinto kumaphondo onke, kwakhona nokudalwa kweendlela zowiso-mthetho ukuze kufikelelwe kolo faniso. Ukuze kujongwane nale minqwano ingentla nokuze kufaniswe yonke into, kwafuneka nkqubo ithile yokuqhubela phambili nokulawula iinkqubo ezifanele uZwelonke. Ngenxa yoko, kwacaca ukuba kukho imfuneko yokucacisa ngokweenkcukacha ezininzi ubudlelwane phakathi kweBhodi yoNgcakazo nomDyarho kunye nabephondo abagunyazisa ngeelayisenisi, ingakumbi kwiinkqubo zokunikezela ngeelayisenisi, zophando, ukwabelana ngolwazi nokusetyenziswa kwemiqathango.

1.4. Njengoko kuxeliwe apha ngasentla, injongo yomThetho kaZwelonke kukulungelelanisa impatho yokhuphiswano lowiso-mthetho oluvumelanayo kuzwelonke nakumaphondo ngokubhekiselele kumaziko okungcakaza, kungcakazo, emdyarhweni nakwisibekelwano (njengoko kulungiselelwe kwiShedyuli 4 kumGaqa-siseko), ngokunjalo phakathi kwePalamente yeSizwe soMzantsi-Afrika kwelinye icala nakumaqumrhu owiso-mthetho kumaphondo ahlukileyo kwelinye icala. Ngokumalunga nale njongo umThetho kaZwelonke ufuna ukubonisa ngokucacileyo izithethe nomgangatho ohambisana nalo mqathango nokunikezelwa kwemvume yokungcakaza (mqathango lowo usebenza kwiintlobo zonke zongcakazo, ngaphandle ke koNgcakaza kaZwelonke).

1.5. Ngokuchasene nokungentla okungumva ozotyweyo womgaqo-siseko, kuqwalwaselwa nemfuneko yokujongisa iingxwaba-ngxwaba eziphakathi kowiso-mthetho lwamaphondo nolukazwelonke malunga nalo mbandela mnye, malunga nomThetho kufuneka izilungiso eziliqela ukuze ulungelelaniswe namagatya omThetho kaZwelonke. Ngaphandle kokuba kucaciswe ngenye indlela apha, zonke izilungiso ezenzelwe umThetho oYilwayo zisekwe ngokwemvumelwano ephuma kwinkqubo yeengcebiso ebandakanya iBhodi yoNgcakazo lukaZwelonke neeBhodi zoNgcakazo kumaphondo. Oku kuqinisekisa ukuba oku kwenziwa kwezinto ngokufanayo kukhuthazwayo ngumThetho kaZwelonke kuyafumaneka ukususela ekuqaleni okanye kwasekuqaleni.

2. Isindululo sokususwa kwegama elithi “mThetho” kusetyenziswe elithi “mMiselo wePalamente”

Kanti ke ukuthi mThetho” kwakusetyenziswa kubhekiswa kuwiso-mthetho kumGaqo-siseko wexesha eliphakathi, endaweni yalo kwagqityelwa ngokusetyenziswa kwegama elithi mMiselo “wePalamente” kumGaqo-siseko ekwavunyelwanayo ngawo. Injongo yesilungiso lilonke kukulungelelanisa uluhlu lwamagama esihloko esiluwiso-mthetho nolo lomGaqo-siseko ekuvunyelweneyo ngawo.

3. Isilungiso esicetywayo samaLungiselelo amaCandelo

3.1. Izilungiso ezicamngcwayo kwisiQendu 1 somThetho oYilwayo zezisesikweni, yaye zinezindululo zokucinywayo nokufakelwayo emThethweni wezihloko zamacandelo, kukwakho nezilungiso ezithile ekufuneka zenziwe kuwo.

4. Isilungiso esindululwayo secandelo 1 somThetho 4 ka-1996

4.1. Izilungiso ezindululwayo ezikweli candelo zijongene ikakhulu nezo zeengcaciso nekufuneka zitshintshiwe ukufana phakathi komThetho kaZwelonke nomThetho.

4.2. Kwakhona kukho isindululo sokucima amanani emihlathi ejoliswe emntwini ahambisanayo ngoku nemiba eyahlukeneyo echazwayo, nanjengoko kungekho msebenzi unentsingiselo awenzayo yaye yaye ayaxakekisa xa kufuneka kucinyiwe okanye kufakelwe ngokwezindululo zezilungiso zamva. Malunga nendlela yokusebenza ecetywayo, imibandela ekufuneka ichazisiwe iya kwenziwa uluhlu olufuneka ngokoonobumba abalandelelanayo phantsi kwecandelwana (1) elisisindululo. Ukufakelwa kwecandelwana (1) elisisindululo kwenzelwe ukulungiselela ukuba amacandelwana adityanisiwayo, achazisiwe imibandela eyahlukeneyo ngokweenkucakacha ezininzi ezinobucukubhede, kundululwa ukuba mawafakelwe emva koluhlu lwemibandela ebandakanya uluntu. Oku kulandela ukumila nobukhulu boxwebhu olungumThetho kaZwelonke.

4.3. Ngaphandle kokuba kucaciswe ngenye indlela apha, iingcaciso ezahlukeyo ezifakelweyo, ezilungisiweyo okanye ezicinyiweyo, zizizilungiso ezindululwayo kujoliswe ekulungelelaniseni amagatya omThetho nalawo omThetho kaZwelonke.

4.4. Malunga nesilungiso esindululwayo kwingcaciso yengqiqo ethi “isixhobo sokungcakaza”, ekubeni eyokuqala isuntsu lokuqala lale ngcaciso lilandela ukumila nobukhulu boxwebhu olwenza umThetho kaZwelonke, kudityanisiwe iimfanelo ezixela ukulungela imibandela ngemihlathi (a) no (b) abalapho. Zona zicacisa ukuba oomatshini ekufakwa kubo imali (njengoko kuchaziwe ngoku) yaye iinkqubo ezikwikhompyutha okanye ezikwafanayo zingasetyenziswa ngolowo unelayisenisi kumsebenzi wongcakazo, kwakhona zakudityaniswa kuloo ngqikelelo njengoko kuchaziwe. Isizathu soko kukuba inkcazelo “yesixhobo sokungcakaza” ngoku isetyenziswa kuphela kwizixhobo zokusebenza okanye entweni esetyenziswa ngqo ekungcakazeni okanye kwinto ebiyilelwe ukusetyenziselwa “*ekuthatheni izigqibo ngeziphumo zokungcakaza*”.

Le nkcazelo ingentla ayanelanga kuba iinkqubo ezithile zekhompyutha ezisetyenziswayo kwiziko lokungcakaza, kwi“LPM” (kumatshini okhupha imali eqingqiweyo), ukubhejisa uluntu jikelele ngokuthe ngqo okanye ngokungathanga ngqo namashishini anoomatshini bokubala imali yobekelo ukuze ekugqibeleni komdyarho yabelwe abo baphumeleleyo, ukanti ayinazigqibo ngeziphumo zomsebenzi wokungcakaza, iyiyona ibalulekileyo kuba kufuneka ihambelane nemigangatho ethile, kufuneka ithembeke ngokungaguqukiyo kuqinisekiswa ukuba umsebenzi onxulumene nongcakazo wenziwa ngokungakrokrisiyo. Ngenxa yesi sizathu, kuyafuneka benazo iilayisenisi abantu abalawula ezi nkqubo zekhompyutha, abazithengisayo okanye nabazilungisayo. Ngokufanayo iinkqubo zekhompyutha ezinxulumene nalo msebenzi mazibekhona kwiinkqubo zokubhalisa ezicamngcwayo ngumThetho kaZwelonke.

Ukuze kufezeke oku, kuyafuneka kudityanisiwe ezi zichobo kuyo le nkcazelo ithi “isixhobo zokungcakaza”.

Kwakhona le nkcazelo ilungiselela ukudityaniswa koomatshini ekufakwa kubo imali kwingqikelelo ethi “isixhobo zokungcakaza” kuqinisekiswa ukuba abo matshini bayinveliso yeenkampani ezingenabameli kweli lizwe (ngeenjongo zokuveza ubungqina bokuba oomatshini abanjalo “bayilelwa ukuze basetyenziselwe ukwenza izigqibo ngeziphumo zomsebenzi wongcakazo”) kwakhona bayahambisana okanye bayavumelana nenkcazelo ekhoyo “ekumatshini ekufakwa kuwo imali”, bathathwa

njengezixhobo zokungcakaza, lilonke umntu akanalungelo lokuba nabo engenalo igunya lelayisenisi. Olu dibaniso lukwinkcazelo yeli suntwana lindululwayo, lona liya kwandisa ngokubalulekileyo ukusetyenziswa kakuhle komsebenzi osisinyanzelo esingumthetho weBhodi.

4.5. Nangona ukufakelwa kwenkcazelo esisindululo segama elithi “Internet” kuyilelwe ukulungelelanisa umThetho nomThetho kaZwelonke, kungaqaphelwa ukuba ukwaziswa kwale nkcazelo kunceda ekusekeni iindlela zodityaniso, ezindululelwa ukwaziswa kuwo umThetho, mthetho lowo useka ukuba nobutyala malunga nokuthatha inxaxheba kweli Phondo, emisebenzini yongcakazo ebanjwayo okanye efumanekayo kwiikhompyutha nakwezinye iindlela ezinxulumene nezo.

4.6. Ukufakelwa kwamacandela azizindululo angala (2), (3), (4), (5), (6) nelesi-(7) kwicandelo 1 lomThetho kulandela ukumila nobume boxwebhu luyingumThetho kaZwelonke, lona lujolise kwingqikelelo ethi “umsebenzi wokungcakaza”, “owokubheja okanye isibekelwano”, “ukubheja kumatshini obala imali yobekelo ukuze ekugqibeleni komdyarho yabelwe abaphumeleleyo”, “umdlalo wokungcakaza”, “intlawulo” kunye “ithuba lokuphinda udlale” ukwinqanaba eliphezulu emdlalweni lowo.

5. Isilungiso esicetywayo secandelo 3 lomThetho 4 ka-1996.

5.1. Esi silungiso sicetywayo secandelwana (1) leCandelo 3 nokucinywa kwecandelwana (2A), oko kwenzelwe ukuba kususwe igatya ebelenziwe kuqala, kwenzelwa amalungu athile eBhodi ukuze anyulelwe ukusebenza isigxina.

6. Isilungiso esicetywayo secandelo 5 lomThetho 4 ka-1996

6.1. Isilungiso esicetywayo ngecandelo 5(f) esele likhona, (ngoku elizakuba licandelo 5(1)(f) ukuze kuvumeleke ukufakelwa kwecandelwana (1)) okulungiselelwe ukulungelelanisa eli gatya sele likho lineenkcazelo ezilungisiweyo nezicetyelwa ukuba makufezeke ukufaniswa phakathi komThetho kaZwelonke kunye nomThetho.

6.2. Ukufakelwa okucetywayo kwecandelwana (2) ishenxisa uthintelo olungasebenzisekiyo ngokubhekiselele ebantwini abanomdla ngegama ekubeni babenazo iilayisenisi kuphela ngotyalo-mali kwamanye amaziko otyalo-mali (apho lowo angenalulawulo) engenakufaneleka ukuba anganyulwa njengelungu okanye njengoqeshwe yiBhodi..

7. Isilungiso esicetywayo secandelo 12 lomThetho 4 ka-1996

7.1. Ukufakelwa okucetywayo kwegama elithi “gqithisela” kwicandelo 12(3) kuyafuneka kuba, ngenxa yemfuneko kumThetho kaZwelonke yokuba umnini welayisenisi yomsebenzisi womatshini obala imali yobekelo ukuze ekugqibeleni komdyarho yabelwe abo baphumeleleyo, kufuneka abe ngokhetha abaphumeleleyo emdyarhweni, (kwakhona alungiselele ukugqithiswa kweelayisenisi xa oko kugunyaziswe ngumthetho wephondo), ilayisenisi ekhoyo ekhutshelwe umatshini obala imali kuya kufuneka isuswe kulowo unelayisenisi (ingenguye okhetha abaphumelele emdyarhweni) uye kwinkampani ewulawulayo umatshini obala imali yobekelo ukuze yabelwe abaphumeleleyo emdyarhweni egameni lomnini welayisenisi.

7.2. Ukufakelwa kwecandelwana (4A) elicetywayo kuyafuneka ukuze kugunyazise iBhodi, ngokweemeko eziqhelekileyo ukuze kukhutshwe, kuhlaziye, kwaliwe, kurhoxiswe okanye kuxhonywe ilayisenisi zikazwelonke njengoko oko kulungiselelwe kumThetho kaZwelonke.

7.3. Icandelwa (5) elikhoyo kukho isindululo sokuba malicinywe, ngoba lijongene nombandela apho igatya (ngokwasezimbali) lingasafuneki nganto.

7.4. Isilungiso esicetywayo secandelwana (14) silungelelanisa isigama esisetyenziswe apha kukwakho nengqikelelo yeenkcazelo ezilungisiweyo.

8. Isilungiso esicetywayo secandelo 15 lomThetho 4 ka-1996

8.1. Isilungiso esicetywayo secandelwana (1) silungelelanisa isigama segatya elinxulumene nokufunekayo kumThetho kaZwelonke.

8.2. Izilungiso ezicetywayo zecandelwana (2), ezijongene nezithintelo kwingqesho ebandakanya amalungu eBhodi, amalungu eQumrhu eliLawulayo okanye amalungu eKomiti ePhetheyo—

- 7.2.1. makuphuculwe isigama esisetyenziswe emhlathini (*a*), yaye
- 7.2.2. ngokufakelwa komhlathi (*b*) osisindululo, kuyamthintela umntu lowo ekubeni abe ligqwetha okanye aqeshwe ngumntu ofake isicelo saloo nto, okanye obenikwe ilayisenisi yiBhodi, kwiimeko apho kungakho ukungabi namdla okuqaphelwayo ngenxa yaloo msebenzi, ingakumbi xa inxalenye yentlawulo efunekayo ngaloo ngqesho ihlawulelwa okanye uncedo lwayo lufumaneka, okanye luvela kuloo mFaki-sicelo okanye mnini welayisenisi.

9. Isilungiso esicetywayo secandelo 15A lomThetho 4 ka-1996

9.1. Izilungiso ezicetywayo zecandelwana (1) zenzelwe ukulungelelanisa isigama samagatya anxulumene nalawo eenkazelo ezilungisiweyo nezicetywayo ezineenjongo zokulungelelanisa umThetho nomThetho kaZwelonke.

9.2. Ukufakelwa okucetywayo kwelitsha icandelwana (3) ngokufanayo oko kushenxisa imfuneko engasebenzisekiyo yokubhengeza eBhodini ukungavisisani kwiimeko apho abo bachaphazelekayo benomdla ngegama kulowo unelayisenisi kuphela ngenxa yotyalo-mali kwamanye amaziko otyalo-mali (apho loo mntu angenakulawula nalapho yena kunokuthi kanti akanalwazi ngaloo nto).

10. Isilungiso esicetywayo secandelo 20 lomThetho 4 ka-1996

10.1. Isilungiso esicetywayo secandelwana (3) siyafuneka ngenxa yokuba umThetho ka-1994 wesebe lemali likaRhulumente weNtshona Koloni usekwinkqubo yokubhangiswa.

11. Isilungiso esicetywayo secandelo 23 lomThetho 4 ka-1996

11.1. Isilungiso esicetywayo secandelo 23(1)(a)(iii) siyalungiswa ukuze kucace ukuba iBhodi ingalubamba uvavanyo olujongene nokuchaswa kolwaphulo-mthetho olwenzeke kwiindawo ezineelayisenisi, nangona loo nto kusenokwenzeka ukuba ayenziwanga ngumnini welayisenisi (njengoko kucacisiwe kuwiso-mthetho), ngenxa yokuba abanini beelayisenisi kufuneka beluthwele uxanduva lweziganeko ezenzeke kwiindawo ezineelayisenisi apho bona benolawulo khona.

12. Isilungiso esicetywayo secandelo 27 lomThetho 4 ka-1996

12.1. Ukufakelwa komtsha umhlathi (hB) kwenzelwe ukuba makudityaniswe iilayisenisi zikazwelonke, njengoko oko kulungiselelwe ngumThetho kaZwelonke, kanye kuluhlu lweelayisenisi ezisenokukhutshwa yiBhodi.

13. Ufakelo olucetywayo lwecandelo 27A kumThetho 4 ka-1996

13.1. Elicetywayo nelitsha icandelo 27A lijongene neelayisenisi zikazwelonke, loo nto, ngokubhekiselele kumThetho kaZwelonke, lingakhutshwa nayeyiphi na iBhodi yephondo, noxa kunjalo umnini-layisenisi uyavunyelwa ukuba enze nawuphi na umsebenzi ogunyazisiweyo apho nakweliphi na iphondo. Injongo yeli candelo lindululwayo kukwenza ukuba amagatya omThetho mawasebenze kwiilayisenisi zikazwelonke ezikhutshwayo yiBhodi nokuzama ukuba nayiphi na ilayisenisi ekhutshiweyo ngokubhekiselele kumThetho, ukuze zombini ukusetyenziswa kwazo kube semthethweni ngokugunyaziswa liPhondo ukuze ilayisenisi enxulumene noko ijongane neenkqubo kunye neemfuno ezihambisana noko apho iilayisenisi ezikhutshiweyo ngokubhekiselele kuwo umThetho (njengoko kuchasene nomThetho kaZwelonke) ngenye indlela ungalawula.

14. Isilungiso esindululwayo secandelo 28 lomThetho 4 ka-1996

14.1. Ezi zilungiso zindululwayo zecandelo 28 zilungelelanisa umqathango oqhelekileyo nongenasithintelo malunga neelayisenisi ukuze zihambelane nezomThetho kaZwelonke.

15. Isilungiso esicetywayo secandelo 29 lomThetho 4 ka-1996

15.1. Izilungiso ezicetywayo kwisihloko nakwiziqukatho zecandelo 29 zilungiselela ukusetyenziswa kwisikimu esilandelwa ngumThetho kaZwelonke, kangangokuba njengoko isahlukanisa phakathi kwabo baqeshwa bakufaneleyo ukuba neelayisenisi kunye nabo bafake iziceko zezinye iilayisenisi (ekuza kujongwana nazo kanye kwezo zilungiso zindululweyo zecandelo 30). Kangangokuba ezo zilungiso zindululweyo zonke ziyabonisa, okanye ziyahambelana nezo zikumThetho kaZwelonke, ngaphandle kwegatya elindululwayo elisemhlathini (*d*), lona lenza umahluko emthethweni oqhelekileyo wokuba umntu akanakuba neelayisenisi yengqesho ukuba yena ulilungu lomntu oqeshiweyo yiBhodi. Lo mahluko undululwayo uyilelwe ukuqinisekisa ukuba eli gatya lisebenza ngokungakrokrisiyo, ukuze amalungu eentsapho zabo baqeshwe yiBhodi kwizikhundla apho ukuzalana kungenakubangela ukungavisisani, bangavunyelwa ukiuba babenayo loo layisenisi.

15.2. Kufanele kuqaphelwe ukuba amatyathatho omThetho kaZwelonke ayayinqanda iBhodi ukuba mayiziyekelele izithintelo ezithile, njengoko kwanjalo ngaphambili.

16. Isilungiso esicetywayo secandelo 30 lomThetho 4 ka-1996

16.1. Icandelo 30 elinesindululo sokulungiswa lijongene nombandela wokungathinteleki kwiilayisenisi zonke ezingezizo ezo zengqesho, ngokumalunga nesikimu esilandelwayo kumThetho kaZwelonke kunye nombandela wokuvumeleka okhoyo apho. Malunga namatyathatho omThetho kaZwelonke, eli candelo linesindululo likwajongene nombandela wokufaneleka kwabantu ababonisa umhla wemali kumnini welayisenisi, oko bekujongenwe nako ngokukhethekileyo leli candelo linxulumene naloo nto.

16.2. Unciphiso olundululwayo kwicandelo (2), noxa kunjalo, luyacacisa ukuba, xa kuphandwa ngokusesikweni, iBhodi, nangona inegunya lokuphanda nabanina onomdla kumFaki-sicelo okanye kulowo unelayisenisi, ayisayi kunyanzelwa ukuba iphande ngokusesikweni ngabantu abaneepesenti ezingaphantsi kwesihlanu senzala yemali yonke yomFaki-sicelo onxulumene noko okanye kulowo unelayisenisi. Unciphiso luxhomekeke ekubeni kungabikho ndlela yophando kwiimeko ezinjalo, kananjalo nasekubeni nabani na onomdla ngegama kumnini welayisenisi akanakulindelwa ukuba angafaka iimpembelelo ngokubhekiselele ekuziphatheni okanye ekulawulweni kwemicimbi enjalo yeelayisenisi.

16.3. Kwakhona kwakuqaphelwa ukuba, ngokubhekiselele kwicandelo lolungiso, iBhodi ayisayi kuphinda ivumeleke ukuba ingazihoyi iimeko ezithile zokuthinteleka. Icandelwana (4) elindululwayo lenzelwe ukucacisa ukuba umntu ongenamdlalupheleleyo kwezemali zalowo unelayisenisi kuphela ngenxa yotyalo-mali kwingxowamali (ngezigqibo zotyalo-mali apho loo mntu angenalo ulawulo), akasayi kuthathwa njengalowo onomdla kwezemali ngenxa yelo candelo yaye akuzokubakho mfuneko yokuba makahambelane nomqathango wokuvumeleka omiswe njengento efunekayo apho.

17. Isilungiso esicetywayo secandelo 35 lomThetho 4 ka-1996

17.1. Izilungiso ezicetywayo zecandelo 35(3)(vi) ziyafuneka ukuze zilungelelanise amatyathatho omhlathi onxulumene nawo kubekho neenombolo ezithe ngqo zelo candelo.

18. Isilungiso esicetywayo secandelo 37 lomThetho 4 ka-1996

18.1. Zonke izilungiso ezicetywayo zeli candelo ziyafuneka ukuze kulungelelanise amatyathatho omThetho kubekho neenkcazelo zezilungiso esele zicetyiwe ukuze zisetyenziswe kulo nanjengokuba kunjalo kumThetho kaZwelonke.

19. Isilungiso esicetyiweyo secandelo 39 somThetho 4 ka-1996

19.1. Injongo yesi silungiso sicetyiweyo secandelwana (2) necandelwana (3) kukubuyisela endaweni amatyathatho ecandelwana (3) namatyathatho ecandelwana (2), ukwenzela ukubonakalisa, ngokulandelelana ngamaxesha, amanyathelo enkqubo egunyaziswayo mawathathwe yiBhodi malunga nezibambiso ezikhutshwe ngabanini beelayisenisi.

19.2. Indlela yangoku oluyilwe ngayo uwiso-mthetho izise ukutolikeka okwahlukene ngezimvo ngenxa yobudlelwane obuphakathi kwamanyathelo acamngcwayo kwicandelwana (2) nalawo sele ekho kwicandelwana (3). Kukho ukungaqiniseki okukhulu malunga nokuba la manyathelo acamngcwayo kula macandelwana azikhethe ngokufanayo na, ingakumbi ngenxa yamaxesha ahlukeneyo amiswe njengento efunekayo kwinyathelo ngalinye ngokumalunga nezinyanzeliso ezenziwe kubanini beelayisenisi ukuze bona izibambiso zabo bazizalise kwakhona okanye bazongeze kunye neziphumo ezilandelayo xa kungathathwanga manyathelo ahlukileyo ebemiselwe loo nto. Kwakhona, kule ndlela limi ngayo ngoku, eli candelo alicacisi nokuba amagatya ecandelwana (2) nawecandelwana (3), okanye omabini, asebenza xa isibambiso, okanye inxalenye yaso, iqaphelwa lelona Gosa liyiNtloko ngokubhekiselele kwicandelwana (5). Ngokunjalo, ukuze kusunjululwe obu bunzima kuvelwe ngendlela yolawulo olunobuchule, oku kucetyelwe ukuze kuziwe—

- 19.2.1. ngendlela yecandelwana (2), ukuze amandla eBhodi, okokuqala, kumiswe ukuba imali okanye ixabiso lesibambiso malinyuswe kwakufikelela ixesha elithile
- 19.2.2. ngendlela yecandelwana (3), yokuba xa isibambiso ebesikhutshiwe siphela, lithathwa njengelo lilambathayo, okanye siyongezwa njengoko bekucamngcwa kwicandelwana (2), ilayisenisi enxulumene noko ithathwa njengerhoxisiweyo, yaye
- 19.2.3. ngendlela yemihlathi ecetyiweyo eyile: (a) no (b) yecandelwana (5) ngokuba, xa iGosa eliyiNtloko liqaphela ubukho besibambiso—
 - (a) umnini welayisenisi kwakuthiwa makasizalise kwakhona isibambiso, njengoko kucamngciwe kwicandelwana (2), ukuba imali eqondiweyo ingaphantsi kwehafu yesibambiso ebesikhutshwe kuqala, okanye
 - (b) ilayisenisi iya kuthathwa njengerhoxisiweyo, njengoko kucamngciwe kwicandelwana (3), ukuba imali yesibambiso eqondiweyo iyihafu okanye ingaphezu kwehafu yesibambiso ebikhutshiwe kuqala.

Okukhuthazwayo malunga nalo mahluko ungentle kukuba, ngenxa yokucingela umngcipheko olunokubakuwo uluntu, iBhodi nabajongene nezimali zephondo, apho ubungakanani besibambiso buqondiweyo liGosa eliyiNtloko buziipesenti ezingama-50 okanye ngaphezulu kwemali ebekubanjiswe ngayo kuqala, mkhulu umngcipheko obekwayo ngokuvumela umnini welayisenisi ukuba aqhube ngokusebenza phambi kokuba isibambiso sizaliswe kwakhona, okanye sibekwe kwakhona endaweni yaso. Noxa kunjalo imali eqondiweyo nebhutshwe kuqala ingaphantsi kweepesenti ezingama-50, awucaci umngcipheko obekwayo ngokuvumela umnini welayisenisi ukuba makaqhube ngokusebenza kangangexesha eliyiveki enye (ngelo xesha kanye kufuneka sizalisiwe kwakhona isibambiso) ukuba ungade uvumele ukurhoxiswa kwelayisenisi enxulumene noko.

19.3. Isilungiso esicetyiweyo secandelwana (6) siyayisusa imfuneko yokuba, ekucinyweni okanye ekurhoxisweni kwelayisenisi, iGosa eliyiNtloko kufuneka, emva kweentsuku ezingamashumi asithoba, asikhulule isibambiso okanye umncono oshiyekileyo, endaweni yoko afake igatya elithi iGosa eliyiNtloko malenze lo msebenzi emva kwethuba “elingekho ngaphantsi” kweentsuku ezingamashumi asithoba emva kosuku olkucinywa okanye lokurhoxiswa oko. Isizathu sesi silungiso sesokuba, kwezinye iimeko, ngenxa yemfuneko yokuba kwenziwe uphicotho-zincwadi oluntsonkothileyo nolulawulwayo, akungebilula ukwazi, ngexesha leentsuku ezingamashumi asithoba, kanye-kanye ukuba ingakanani na imali ebekiweyo enokuphunyezwa liGosa eliyiNtloko. Le nto yenza ukuba kubenzima ukuhambisana ngokusesikweni neli candelwana.

20. Isilungiso esicetyiweyo secandelo 41 lomThetho 4 ka-1996

20.1. Izilungiso ezicetyiweyo zecandelo 41 lomThetho zibangelwe yinto yokuba, ngenxa yemfuno ekumThetho kaZwelonke yokuba umnini welayisenisi yomatshini obala imali ebekelwe ukwabiwa makabe ngumqondisi-mthetho (yaye alungiselele ukugqithiswa kweelayisenisi ukuba ugunyaziswa ngumthetho wephondo), ilayisenisi ekhoyo ikhutshelwa umatshini wokubala imali ebekelwe ukwabelwa abaphumeleleyo kwakufuneka kulo ungumnini wayo (xa engengomqondisi-mthetho) isiwe kwinkampani ewulawulayo lo matshini egameni lomnini welayisenisi. Ezi zilungiso zifunekayo zicetyelwa ukusetyenziswa—

- 20.1.1. ngokufakelwa kwelitsha icandelwana (1A), kunye
- 20.1.2. nokumiselwa, kwicandelwana (1), okokuba eli candelwana likho ngenxa yamagatya ecandelwana (1A).
- 20.2. Makuqaphelwe ukuba ilayisenisi yomatshini wokubala imali ikukuphela kwelayisenisi echaphazelekayo ngenxa yezi mfuno zingentla zomThetho kaZwelonke.

21. Isilungiso esicetyiweyo secandelo 41A lomThetho 4 ka-1996

21.1. Izilungiso ezicetyiweyo zecandelo 41A zivela kwinto yokuba, nangona eli candelo linenjongo yokujongana nabanini beelayisenisi nangaphezu kokujongana nabanini beelayisenisi zabaqeshelwe ukungcakaza, lijolise kwiinkqubo emazilandelwe apho abantu bemveli, abangabanini beelayisenisi, babhubhayo okanye bakhubazeke. Njengoko iindidi zeelayisenisi ekukuphela kwazo, kungenzeka, ngokubhekiselele emThethweni, zinikwe abantu bemvelo ziziilayisenisi zabaqeshelwe ukungcakaza, eli candelo alinantsingiselo.

21.2. Injongo yezi zilungiso kukwenza ukuba eli candelo kusetyenzwe ngalo apho babhubhayo okanye bakhubazekayo abantu bemveli abanelungelo lezabelo eziyinzala kumnini welayisenisi. Ezi zilungiso zinxulumene noko zimele ukusetyenziswa—

- 21.2.1. ngokulungiswa kwesigama sesihloko secandelo;
- 21.1.2. ngokucinywa kwecandelwana (1), elingenantsingiselo, njengoko kubonisiwe ngasentla, kunye
- 21.2.3. nokufakelwa kwezilungiso ezifanelekileyo kwisigama secandelwana (2).

22. Isilungiso esicetyiweyo secandelo 46 lomThetho 4 ka-1996

22.1. Ezi zilungiso zecetyiweyo zecandelo 46 zixhomekeke kwimfuno yokuzuzwa kokufana phakathi komThetho nomThetho kaZwelonke malunga neendidi zeelayisenisi ezinokukhutshwa. Ngokunjalo, uhlobo lwelayisenisi ekuthiwa “limited gambling machine operator” endaweni yalo kufakwa, kwesi sihloko secandelo nakweli candelo lonke, uhlobo lwelayisenisi oluthi “route operator”, ukanti amagama athi “limited gambling machine” endaweni yawo kuthiwa “limited payout machine”.

23. Isilungiso esicetyiweyo secandelo 47 lomThetho 4 ka-1996

23.1. Ngokufanayo, izilungiso ezicetyiweyo zecandelo 47 zilungelelanisa amagatya omThetho nalawo omThetho kaZwelonke, ngokufakela, kwisihloko secandelo, nakwicandelo lonke, uhlobo lwelayisenisi oluthi “limited gambling machine premises” nesigama esithi “site” kunye nenthetho ethi “limited gambling machine” namagama athi “limited payout machine”.

23.2. Ufakelo olucetyiweyo lwecandelwana (3) lucacisa ukuba ilayisenisi yendawo ithimba kwindawo ekhutshelwe yona.

23.3. Ufakelo olucetyiweyo lwecandelwana (4) lucacisa ukuba, nangaphandle kokuba ikhutshwa ilayisenisi yendawo ngenxa yokuba ifuneka apho, iBhodi isenokungayikhupha ilayisenisi enjalo ukuba abantu abaza kuthwala uxanduva loshishino lokungcakaza kuloo ndawo (nangona bengengobanini ncam belayisenisi), okanye nawuphi na umntu onelungelo lokuzuza isabelo senzala esiyi-5% okanye ngaphezu koko kwabo bantu, ebengasayi kuyifanela ilayisenisi ngokubhekiselele emThethweni, oko kudala izikhuselo ezifunekayo zokuqinisekisa ukuthembeka okugqibeleleyo kushishino lomatshini wokungcakaza ongekho kwikhasino okanye kwindawo yongcakazo kwinqanaba lendawo yomntu.

24. Isilungiso esicetyiweyo secandelo 48 lomThetho 4 ka-1996

24.1. Isilungiso esicetyiweyo secandelwana (2) senzelve ukucacisa ukuba ilayisenisi kabingo ayifunelwa umdlalo ongubingo, xa oko kugunyazisiweyo ngokubhekiselele kwicandelo 67(1)(c) lomThetho. Njengoko ufundeka ngoku, eli candelwana liveza imbono yokuba, nakweyiphi na imeko apho kuxakekiwe ngomdlalo ibingo, ilayisenisi yiyona nto ifuneka kuqala, yaye lilonke oko kubangela ukungavisisani necandelo 1 necandelo 67(1)(c), wona ke bekulungiselelwe ukuba mawasuswe sisilungiso esicetyiweyo.

25. Isilungiso esicetyiweyo secandelwano 53 lomThetho 4 ka-1996

25.1. Isilungiso esicetyiweyo secandelwana (3) simisela ukuba, ngenxa yoku kungaqiniseki malunga nokuba ukubheja ngokuhlanganyela kwamkelekile na ngokwasemthethweni ngaphezu komdyarho wamahashe, nokuba umatshini wokubala imali ebekelwe ukwabiwa ungasetyenziswa na kwiimeko zokungaqiniseki ngolo hlobo na njengoko zihambelana namagatya omThetho ka-1997 weeLotteries (umThetho 57 ka-1997).

26. Isilungiso esicetyiweyo secandelwano 54 lomThetho 4 ka-1996

26.1. Isilungiso esicetyiweyo secandelwana (2) sisenza sisulungeke isigama seli candelwana.

27. Isilungiso esicetyiweyo secandelwano 55 lomThetho 4 ka-1996

27.1. Izilungiso ezicetyiweyo zecandelwana (1) zilungiselelwe ukuba zihambelane nenkcazelo enenkukacha zokubheja (njengoko kusenziwa ngabamkeli-mali yokubheja abaneelayisenisi) njengoko kubekiwe kwicandelo 1(3)(b).

27.2. Izilungiso ezicetyiweyo zecandelwana (3) zicacisa ukuba abamkeli-mali yokubheja abaneli kubekela, kwakhona bayabheja, yaye bayakushenxisa ukungaqiniseki ngokwasemthethweni kwangaphambili obekubangelwa kukusetyenziswa kwamagama athi “totalisator-type bets” ngokususa esi sigama babeke esithi “totalisator bets”. Oku kucacisa ukuba ubhejo oluthathwa ngumamkeli-mali yokubheja kwintandabuzo enye okanye ezininzi, malunga nokuba inzuzo kugqitywa ngayo ngokubhekiselele kwizahlulwa ezikhutshwe ngumatshini obala imali ebekelwe ukwabiwa, zingafakwa ngokusemthethweni ngumnini welayisenisi yokwamkela imali yokubheja.

28. Isilungiso esicetyiweyo secandelwano 55A lomThetho 4 ka-1996

28.1. Ukucinywa okucetyiweyo kwecandelwana (3) kuxhomekeke kwinto yokuba igatya elinxulumene noko (elalineemeko eziguqukayo) nngoku alisasebenzi.

29. Isilungiso esicetyiweyo secandelwano 58 lomThetho 4 ka-1996

29.1. Izilungiso ezicetyiweyo zecandelo 58 zakhelwe kwizilungiso ezithe, ngezivumelwano, kwafuneka zisetyenzisiwe kumThetho kaZwelonke ukuze kukhuthazwe ukuba kufumaneka ilungelo lokuba nezabelo zenzala kubanini beelayisenisi. Uncedo lwezi zilungiso zicetyiweyo kukuba ziyavuma ukuba abanini beelayisenisi abazokusoloko benakho ukuhambisana nokufunwayo okuqulathwe lelisekhoyo icandelwana (1) okuba kufuneka bathintele nawuphi na umntu ukuze angabinalungelo lokuzuzwa izabelo kwinzala eyi-5% okanye ngaphezu koko kumnini-layisenisi ngaphandle kokuba kwakuqala oko kwamkelwe yiBhodi. Lungenziwa urhwebo kwizabelo zabanini-layisenisi yona iBhodi ingaziswanga ngokuthe ngqo, ingakumbi xa umnini-layisenisi eyinkampani eseluhlwini okanye apho urhwebo lwenzeka kwiinkampani eziseluhlwini nezinlungelo lokuzuzwa izabelo zenzala kumnini welayisenisi. Lilonke, icandelwana (1) elicetyiweyo lifuna nawuphi na umntu onelungelo lokuzuzwa eso sabelo zenzala ukuba makafake isicelo eBhodini ukuze kwamkeleke oko kuzuzwa kwakhe ngexesha elimisiweyo. Olunye uncedo lweli candelwana licetyiweyo lwatshintshwa nesigama lolokuba abatyali-mali bamaziko, abatyali-mali abakwiindawo zonaniselwano namaziko anezabelo akhoyo ngegama egameni labaxhamli bezabelo, bona ababandakanywa kumda weli candelwana.

29.2. Icandelwana (2) elicetyiweyo, noko kunjalo, lifuna umtyali-mali okwindawo yonaniselwano (abe ngumtyali-mali, eseluhlwini lwalapho kuThengwa izahlulo zamaShishini, ukuze, ngobuqu bayo, ityale imali kwiinkampani eziseluhlwini) ifumane iipesenti ezilishumi okanye ngaphezu kwelungelo lokuzuzwa izabelo kwinzala yelayisenisi, ifake isicelo eBhodini ukuze kwamkelwe ukuba mayiyifumane loo nzala. Ingqiqo emalunga nalo mmiselo weepesenti ezilishumi yeyokuba abatyali-mali abakwiindawo zonaniselwano basoloko beziinkampani ezinkulu ezaziwa ngokuba nabanini-zabelo abaninzi. Lilonke, ukufumana komtyali-mali onelungelo lesabelo esingaphantsi kweepesenti ezilishumi kumnini-layisenisi akusayi kubakho nawuphi na

umnini-sabelo ofumana inxalenye ebalulekileyo kwizabelo zamashishini ezingenzala emisiweyo.

29.3. Ngokufanayo, icandelwana (3) elicetyiweyo lifuna umtyali-mali weziko (abe ngumtyali-mali, okwaseluhlwini, otyala imali kwizabelo eziseluhlwini egameni labanye abatyali-mali, abajongene kuphela notyalo-mali) oluzuzisa iipresenti ezilishimi elinesihlanu okanye nangaphezu kwelungelo lokuzuzisa izabelo zenzala kwilayisenisi afake isicelo eBhodini ukuze kwamkeleke ukuzuzisa kwakhe. Ingqiqo malunga nesiqalelo seepresenti ezilishumi elinesihlanu yeyokuba abatyali-mali bamaziko baziinkampani ezinkulu ngokwamanani, kanti baninzi nabantu bazo abanezabelo kolwabo utyalo-mali. Ngokunnjalo, akunakwenzeka kungekho mfuneko yokuba iBhodi mayibuzisise nangayiphi na intengiselwano emalunga nomtyali-mali onjalo xa enelungelo lokuba nezabelo zenzala kumnini-layisenisi ngaphandle kokuba loo nzala ibinkulu kangangeepresenti ezilishumi elinesihlanu lenzala epheleleyo kwezoqoqosho kumnini-layisenisi lowo.

29.4. Icandelwana (4) elicetyiweyo lenza umfaneleko osekwe licandelo 28 nelama-30 yaye okufunwayo malunga nobhengezo lofako-sicelo olukwicandelo 32, okusebenzayo ekufakweni kwesicelo kwenziwe ngokubhekiselele kweli candelo. Oku kwandisa ingcaciso yale nkqubo ukuze noluntu jikelele lukwazi ukuthatha inxaxheba.

29.5. Icandelwana (5) elicetyiweyo lithintela iBhodi ekuvumeleni isicelo esifakiweyo ngokubhekiselele kweli candelo apho umFaki-sicelo afunyenwe ethintelekile malunga nokufanela ukunyulwa okuqulathiweyo kuwo umThetho.

29.6. Icandelwana (6) elicetyiweyo lifuna nawuphi na umFaki-sicelo, osicelo, malunga necandelo eli, saliwayo okanye singamkelekanga ukuze kulahlwe inzala enxulumene noko ngexesha elimisiweyo.

29.7. Icandelwana (7) elicetyiweyo lithintela nawuphi na umntu okanye udidi lomtyali-mali ekucingwe ngaye ukuaze angafumani nzala egameni lesambuku esingekaxelwa.

29.8. Icandelwana (8) elicetyiweyo lidala iyantluko ekusetyenzisweni kweli candelo. Ezi zizibambiso zotyalo-mali namaziko agcina imali, njengoko kuchaziwe kwicandelo 1. Njengoko aba Bantu bengenanzala kolu tyalo-mali, balugcina egameni labakhoyo nje ngegama, umahluko ocamngcwayo kulo mhlathi (a) uyaqinisekiswa. Noxa kunjalo, umhlathi (b) ucacisa ukuba abaxhamli abangabanini bezibambiso ezilapho ngendlela ekuchazwe ngayo nabo bakubandakanyeka ekusetyenzisweni kweli candelo.

29.9. Icandelwana (9) elicetyiweyo liyawagxininisa amatyala amacandelwana ahlukeneyo ngokuseka ukuba nobutyala malunga neemeko zokungavumelani.

30. Isilungiso esicetyiweyo secandelo 66 lomThetho 4 ka-1996

30.1. Izilungiso ezicetyiweyo zecandelwana (1) ziyayisusa intsingiselo kuyo “indawo yomdyarho enelayisenisi” njengoko ilayisenisi zeendawo zomdyarho ziqale ngokucinywa kwangaphambili kuwo umThetho, endaweni yoko kufuneka ukuba iintlanganiselo zomdyarho mazibanjelwe “ezindaweni ezineelayisenisi ezimalunga nomThetho”. Ingqiqo malunga neli gatya yeyokuba zonke iindawo zomdyarho ezikwiPhondo, ngokwendalo yazo, ziziindawo ezineelayisenisi zomatshini bokubala imali ebekelwe ukwabelwa abaphumelele emdyarhweni.

30.2. Injongo yesi sindululo sicetyiweyo secandelwana (2) ngokufanayo ikukususa kweli candelwana intsingiselo ekwilayisenisi yendawo yomdyarho.

30.3. Ukucinywa kwecandelwana (3) okucetyiweyo kuxhomekeke kwixesha elibekiweyo apho ukucangca okudalwe licandelwana kuya kunceda nakuluphi na utshutshiso, kubonwa njengokuhambelana nobunzima bomgaqo-siseko obufunyenwe ekunyanzelisweni kolu camngcokwimeko yolwaphulo-mthetho.

31. Isilungiso esicetyiweyo secandelo 67 lomThetho 4 ka-1996

31.1. Izilungiso ezicetyiweyo zecandelwana (1)(a) zenzelwe ukulungelelanisa iinjongo zokuthintela eziphaya kwicandelwana elinenkcazelo ecetyiweyo “yomsebenzi wokungcakaza” okhoyo kwicandelo 1.

32. Isilungiso esicetyiweyo secandelo 72 lomThetho 4 ka-1996

32.1. Isilungiso esicetyiweyo sesihloko secandelo iinjongo zaso ikakhulu kukuchazisisa iziqukatho ezikuso, malunga nobutyala obukhoyo ngenxa yendlela yokuziphatha ecamngcwayo.

32.2. Injongo yezilungiso ezicetyiweyo zecandelwana (2) kukulungelelanisa inkcazelo yegama elithi “umsebenzi wokungcakaza”, mayelana nenjongo secandelwana nokucacisa ukuthi kuzobanetyala noma nayiphina inxenye yengcakazo iyenzakala ngaphandle kwePhondo.

33. Isilungiso esicetyiweyo secandelo 74 lomThetho 74 ka-1996

33.1. Isilungiso esicetyiweyo secandelwana (1) senzwe ukwahlula phakathi kwezinyanzelo ezinamathela kumnini-layisenisi, malunga nokubhengezwa okubandakanya ungcakazo, ngendlela ephikisana nezithintelo eziqhelekileyo, ezinxulumene nabantu bonke, ezivelayo kwelitsha nelicetyiweyo icandelwana (1A). Icandelwana (1) elitsha nelicetyiweyo likwafuneka ukuze kudityanise intsingiselo kwimiqathango emalunga nobhengezo apho umPhathiswa wezoRhwebo noShishino agunyazisiweyo ukuba enze izigqibo ngokubhekiselele kumThetho kaZwelonke..

33.2. Icandelwana (1A) elicetyiweyo limvumela kakuhle nawuphi na umntu ukuba angangunobangela walo naluphi na ubhengezo ukuba lupapashwe kwiPhondo malunga nomsebenzi wongcakazo olungenalayisenisi ngokubhekiselele emThethweni okanye kuwiso-mthetho lwenye indawo yolawulo ekwalapha eMzantsi-Afrika. Ukongeza apho, kudaleke umahluko wezibhengezo zemisebenzi yongcakazo eneelayisenisi ngokubhekiselele emthethweni wezinye iindawo ezilawulekayo, ingakumbi xa ubhengezo lungajoliswanga okanye lujoliswe kubemi belizwe okanye luhambisana neemfuno zonke ezamkelweyo yaye nabemi bePhondo kwakufuneka bahamba-hambe ngaphandle kwephondo ukuze bathathe inxaxheba emsebenzini obhengeziweyo.

34. Isilungiso esicetyiweyo secandelo 75 lomThetho 4 ka-1996

34.1. Ukufakelwa okucetyiweyo kwicandelo 75 lomhlathi (cA) nomhlathi (cB) kwenzelwe ukuba kubonwe ityala kwisenzo sakhe nawuphi na umntu, othe ngaphandle kwamalunga lomThetho, wasebenzisa ikhompyutha njengendlela yokuthatha inxaxheba okanye yokuzisa umsebenzi wongcakazo, nokuba lwenzeka phi na ungcakazo, yaye nokuthintela ukusasazwa kweenkqubo zekhompyutha okwenza umsebenzi, okanye okulungiselele ikakhulu ukwenza loo msebenzi, wokunceda abantu kwiPhondo ekuhambiseni ushishino longcakazo olwenzelwe ngaphandle kwephondo oluveza ungcakazo kwi-internet.

35. Isilungiso esicetyiweyo secandelo 75A lomThetho 4 ka-1996

35.1. Izilungiso ezicetyiweyo zecandelwana (1) zenzelwe ukucacisa ukuba ukuntswinywa kolawulo, njengoko kulungisiwe leli candelo, kungabekwa njengesiphumo sobungqina obuveziweyo okanye obubekwayo kuvavanyo lwetyala, kuphando okanye xa kubuziswayo ngokubhekiselele emThethweni yaye, ngokufakelwa kwamagama athi “nabani na okanye bonke”, kugxininiswa into yokuba inani labanini beelayisenisi abahlukeneyo (nokuba ingulowo usebenza yedwa okanye nabanye abantu) bangajongana nesohlwayo ekujoliswe kuso kwicandelwana (2).

36. Ukucinywa okucetyiweyo kwamacandelo 84, 84A, 84B no-84C OmThetho 4 ka-1996

36.1. Imimiselo yexeshana ebisoloko ikho kwicandelo 84 ukuya kwicandelo 84C lomThetho awasasebenzi yaye oko kumalunga nokucetyiwa kokucinywa kwawo.

37. Ukufakelwa okucetyiweyo kwecandelo 84D kumThetho 4 ka-1996

37.1. Icandelo elicetyiweyo lenza ulungiselelo lokukhutshwa kongcakazo olusebenzayo. Imimiselo enxulumene noko ixhomekeke kwinto yokuba icandelo 11 lomThetho kaZwelonke liyaluthintela ungcakazo olusebenzayo (ekufuneka lukhuthaziwe ngokubhekiselele kuwiso-mthetho lukaZwelonke) ngokwentetho eqhelekileyo. Injongo yemimiselo equlathwe licandelo 84D elicetyiweyo kukucacisa ngandlela zonke ngeendidi zemisebenzi efanele ukuthintelwa, oko kukuthi intengiselwano eyenziwa ngokutsalelana iminxeba, ngefowuni ekwasebenza njengefekisi, ngomabonwakude osebenzayo, ngemeyile yekhompyutha, nge-internet okanye nangaluphi na uhlobo lokuqhagamshelana, ngaphandle kwaleyo ivunyelweyo ngokwendlela yomThetho kaZwelonke.

37.2. Icandelo (2) elicetyiweyo landisa ubutyala babantu abenza amathuba ongcakazo ngale ndlela ingentla ifumanekayo ebantwini bePhondo.

37.3. Icandelwana (3) elicetyiweyo lidala iiyantluko malunga nokubheja okwenzeka ngogunyaziso lomamkeli wemali ebekelwe ukubheja okanye welayisenisi yomatshini obala imali, yaye nakwiimeko apho umsebenzi woku kubheja kuthethwa ngako wenzelwa kanye kwindawo enelayisenisi (apho ke inxalenye yaloo msebenzi ingasuswa kulowo ebewuphethe usiwe kule ndawo kuthethwa ngayo).

37.4. Icandelwana (4) elicetyiweyo likuthatha njengetyala lokwaphula umthetho ukungawuthobeli nawuphi na omnye wale mimiselo yeli candelo.

38. Imimiselo yexeshana ecetyiweyo (isiCatshulwa 40)

38.1. Amacandelwana (1) necandelwana (2) acetyiweyo ecandelo 38 elikwacetyiweyo, alungiselelwe ukuqinisekisa ukuba iilayisenisi ezikhutshiweyo yiBhodi ngomalunga neendidi zeelayisenisi ezinikwe amanye amagama zithathwa njengeentlobo zeelayisenisi njengoko kuchaziwe kumThetho oYilwayo.

38.2. Icandelwana (3) elicetyiweyo lijongene nemeko esuka apho umntu onikwe ilayisenisi yiBhodi ngoku ithintelwayo ekubeni ibe nelayisenisi, ngokwesiphumo senqobo yokugweba elungisiweyo nejongene nokufaneleka. Eli candelwana licetyiweyo linyanzela loo mntu ukuba makaxelele umqeshi wakhe (yena udla ngokuba ngumnini welayisenisi), ngexesha elimisiweyo, ukuze emva koko loo mqeshi okanye umnini welayisenisi, makayazise iBhodi ukuze kuthathwe amanyathelo afanelekileyo.

38.3. Icandelwana (4) elicetyiweyo lithi umntu obekhe wathintelwa ukuze angabinayo ilayisenisi, kodwa, ngenxa yenqobo yokugweba elungisiweyo nejongene nokufaneleka komntu, yena akasathintelekanga, akazokuthintelwa ekuphindeneni afake isicelo selayisenisi ngaloo maxesha amisiweyo kwicandelo 31 lomThetho.

