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PROVINCE OF WESTERN CAPE

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**WESTERN CAPE TWELFTH  
GAMBLING AND RACING  
AMENDMENT ACT, 2003**

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PROVINSIE WES-KAAP

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**TWAALFDE WES-KAAPSE  
WYSIGINGSWET OP DOBBELARY  
EN WEDRENNE, 2003**

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**No 1, 2003**



**concurrence with the member of the Executive Council responsible for finance].”, and**

- (c) by the substitution for subsection (4) of the following subsection:

“(4) Subject to compliance with all applicable national legislation, [A] any revenue of the Board which exceeds the Board’s total budget for a particular financial year by more than ten percent shall be paid into the Provincial Revenue Fund; provided that all surplus revenue received by the Board in terms of subsection (1)(a) shall, within six months of the end of the financial year concerned, be deposited into the Provincial Revenue Fund.”.

**Amendment of section 21 of Law 4 of 1996, as amended by section 8 of Act 11 of 1997**

3. Section 21 of the Law is amended—

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

“(1) The Board shall in accordance with the provisions of **[this Law]** the Public Finance Management Act, 1999, report to the Provincial Legislature, the responsible Member and any other applicable person or body on its activities and financial affairs.”;

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

“(2) The Chief Executive Officer **[is the accounting officer of the Board and]** shall cause such accounting and related records to be kept as are necessary to fairly present the state of affairs and activities of the Board and to explain its transactions and financial position.”, and

- (c) by the substitution for subsection (4) of the following subsection:

“(4) The Board shall, in respect of every financial year, cause annual financial statements to be prepared, audited and submitted in accordance with the provisions of the Public Finance Management Act, 1999 [shall, after such statements have been audited in terms of this Law, submit copies of such statements to the responsible Member within six months after the end of its financial year, and shall likewise submit a copy of such statements to the Director-General: Provincial Administration: Western Cape on which there shall be indicated by way of a note the funds received by the Board in terms of section 20(1)(a) and the utilisation thereof in terms of any conditions laid down by the said Director-General].”.

**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 and section 2 of Act 4 of 1999**

4. Section 23 (1) of the Law is amended, in paragraph (a):

- (a) by the substitution for sub-paragraph (i) of the following sub-paragraph:

“(i) an application for a licence under this Law; **[, and]**”;

- (b) by the substitution for sub-paragraph (ii) of the following sub-paragraph:

“(ii) the revocation or suspension of a licence issued under this Law, and[.]”;

and

- (c) by the addition of the following sub-paragraph:

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

**Amendment of section 69 of Law 4 of 1996, as amended by section 57 of Act 4 of 1997 and section 15 of Act 10 of 1997**

5. Section 69 of the Law is amended by the substitution for subsection (3) of the following subsection:

“(3) No person shall—

- (a) manufacture, assemble, sell, distribute, market, rent or lease any gambling device which does not comply with the relevant norms and standards; **[, or]**

- (b) without the appropriate licence, alter or modify any gambling device or related equipment in [a] any manner [which will cause such device or related equipment not to comply with the relevant norms and standards.];
- (c) alter or modify a gambling device or related equipment in a manner which will cause such device or equipment not to comply with the relevant norms and standards, or
- (d) be in possession of any gambling device or equipment which has been modified in any manner without documentary proof, reflecting the date of such modification, that such device or equipment has been modified by a person licensed to perform such modification in this Province.”.

**Amendment of section 75 of Law 4 of 1996, as amended by section 61 of Act 4 of 1997, section 16 of Act 10 of 1999, section 15 of Act 11 of 1997, section 4 of Act 8 of 1998 and section 2 of Act 10 of 2000**

6. Section 75 of the Law is amended—

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

“(1) Any person who—

- (a) makes any false statement in any application or return under this Law;
- (b) contravenes any condition of a licence and in the case of a casino operator licence any condition of the concomitant approved development application;
- (c) in or on any licensed premises conducts any gambling game or betting or keeps any gambling device which is not approved under this Law or conducts any gambling game or betting otherwise than in accordance with the approved rules of such gambling game or betting;
- (d) hinders or obstructs any member of the Board, authorised officer or police officer whilst taking steps for the prevention or investigation of an offence under this Law;
- (e) fails to comply with an order made under section 71(4) or knowingly permits such person to enter the premises or part thereof;
- (f) having been summoned to give evidence at a hearing, an investigation or enquiry under section 23, without sufficient cause fails to attend such hearing, investigation or enquiry at the time and place specified in the summons, or to remain in attendance until the conclusion of the hearing, investigation or enquiry or until excused by the Board from further attendance, or to produce any book, document or thing in his or her possession or custody or under his or her control, which he or she has been summoned to produce;
- (g) having been summoned under section 23—
  - (i) without sufficient cause refuses to take the oath or to make an affirmation as a witness after he or she has been directed by the member of the Board presiding at the enquiry to do so, or refuses to testify or, subject to the law relating to privilege applicable to a person giving evidence or producing any book, document or thing before a court of law, refuses or fails to answer fully and satisfactorily to the best of his or her knowledge and belief any question lawfully put to him or her, or
  - (ii) after having taken the oath or having made an affirmation, gives false evidence before the Board at any enquiry on any matter, knowing such evidence to be false or not knowing or not believing it to be true;
- (h) without the appropriate licence (including a temporary licence) or a permit or otherwise than in accordance with the provisions of this Law possesses a gambling device, other than playing cards or dice, or

(i) contravenes, or fails to comply with, any other provision[s] of this Law, [**provided that, in the event of a second or subsequent conviction, the court may impose a penalty not exceeding twice the amount of such fine or double the term of such imprisonment**]

shall be guilty of an offence and on conviction (unless otherwise expressly provided elsewhere in this Law) be liable to a fine not exceeding two million rand or to imprisonment for a period not exceeding ten years; provided that, in the event of a second or subsequent conviction, the court may impose a penalty not exceeding twice the amount of such fine.”, and

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

“(2) All fines and penalties imposed in [**terms**] respect of contraventions of, or failures to comply with, any provision of this Law shall accrue to the Provincial Revenue Fund; **provided that the fines imposed in terms of a rule contemplated by section 82 shall accrue to the Board.**”.

#### Insertion of section 75A into Law 4 of 1996

7. The following section is inserted after section 75:

#### **“Contraventions of and failures to comply with the Law by licence holders and penalties therefor**

75A. (1) If the Board is satisfied on a balance of probabilities from evidence adduced at a hearing or produced as a result of an investigation or enquiry conducted pursuant to section 23(1)(a)(iii), 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 such licence holders liable for such contravention, as the case may be, and impose a penalty contemplated in subsection (2).

(2) If the Board, on the basis contemplated in subsection (1), finds that any holder of a licence referred to in paragraph (a), (b) or (c) of that subsection or any person referred to in paragraph (d) thereof, has contravened or has failed to comply with a provision of this Law it may, subject to the proviso hereto, impose on any such holder or person, a penalty not exceeding one million rand; provided that in the case of a contravention of, or non-compliance with—

- (a) a provision of this Law (other than a regulation or rule) for which a maximum fine has been expressly provided, the Board shall not impose a penalty in excess of that maximum fine;
- (b) a regulation for which a maximum fine has been prescribed, the Board shall not impose a penalty which exceeds the amount of the prescribed maximum fine, and
- (c) a rule, the Board shall not impose a penalty exceeding five hundred thousand rand, and if a maximum fine has been prescribed for the rule concerned, the Board shall not impose a penalty exceeding the amount of the prescribed maximum fine.”.

#### **Amendment of section 81 of Law 4 of 1996, as amended by section 65 of Act 4 of 1997, sections 17 and 21A of Act 10 of 1999 and section 6 of Act 8 of 1998**

8. Section 81 of the Law is amended by the substitution for subsection (2) of the following subsection:

“(2) A regulation made under this section may, for a contravention thereof or failure to comply therewith, prescribe a fine not exceeding [**five hundred thousand**] one million rand or imprisonment for a period not exceeding two years, or both such fine and such imprisonment; provided that in the event of a second or subsequent conviction by a criminal court, [**the**] such court may impose a penalty not exceeding twice the amount of such fine and double the term of imprisonment.”. 5

**Amendment of section 82 of Law 4 of 1996, as amended by section 66 of Act 4 of 1997 and section 18 of Act 10 of 1997**

**9.** Section 82 of the Law is amended by the substitution of the following subsection for subsection (2): 10

“(2) Any rule made under subsection (1) may, for a contravention thereof or failure to comply therewith, prescribe penalties, including a fine not exceeding [**fifty**] five hundred thousand rand.”.

**Short Title** 15

**10.** This Act is called the Western Cape Twelfth Gambling and Racing Amendment Act, 2003.