

GAUTENG PROVINCIAL LEGISLATURE

**GAUTENG GAMBLING
AMENDMENT BILL, 2006**

(As introduced by)

[G001—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.

BILL

To amend the Gauteng Gambling Act, 1995, so as to insert or define certain expressions; to provide for the responsible Member to appoint the chief executive officer; to further provide for the responsible Member to appoint an administrator to take over one or more functions of the Board; to provide for the responsible Member to dissolve the Board; and to provide for matters connected therewith.

BE IT ENACTED by the Provincial Legislature of Gauteng, as follows:—

Amendment of section 1 of Act No. 4 of 1995

1. Section 1 of the Gauteng Gambling Act No. 4 of 1995 (hereinafter referred to as “the principal Act”) is hereby amended by the insertion after the definition of “*sports fund*” of the following definition: 5

“**strategic plan**” means the strategic plan contemplated by Regulation 30 of the Treasury Regulations made in terms of the Public Finance Management Act, 1999;”.

Insertion of section 2A in Act 4 of 1995 10

2. The principal Act is hereby amended by the insertion after section 2 of the following section:

“2A Provincial policy

(1) The responsible Member, may issue a policy statement in respect of— 15

- (a) any matter concerning the oversight and control of gambling activities in the Province;
- (b) any other matter in respect of which the Board exercise powers or performs functions. 20

(2) Prior to issuing a policy in terms of subsection (1), the responsible Member must—

- (a) publish for public comment a notice in the *Provincial Gazette* containing a draft of the policy statement;
- (b) consider written representations received within the period prescribed in the notice. 25

(3) The board must comply with any policy statement issued in terms of sub-section (1) when performing any function or exercising any power in terms of section 4(1)(a).”

Insertion of section 4A of Act 4 of 1995

3. The Principal Act is hereby amended by the insertion after section 4 of the following section: 5

“4A Board’s objectives, outcomes, performances and indicators

- (1) The responsible Member, after consulting the board, must for each financial year— 10
- (a) identify the board’s objectives and outcomes;
 - (b) determine performance measures and indicators for assessing the board’s performance in delivering the objectives and outcomes.
- (2) The board must submit proposals to the responsible Member concerning the matters dealt with in sub-section (1) by no later than six months prior to the start of each financial year, or such other date as may be prescribed. 15
- (3) The responsible Member, after considering the proposals contemplated in sub-section (2), must notify the board of its objectives, outcomes, performance measures and indicators by no later than three months prior to the start of the financial year. 20
- (4) The board must incorporate these objectives, outcomes, performance measures and indicators in its strategic plan.” 20

Amendment of section 8 of Act 4 of 1995

4. Section 8 of the Principal Act is hereby amended by— 25
- (a) the substitution for subsection (2) of the following subsection:
“**(2) The responsible Member may [after giving the board member concerned an opportunity to be heard and after consulting with the Standing Committee of the Provincial Legislature responsible for economic affairs,] terminate the membership of any member of the board if good reasons exist for doing so.**” 30
 - (b) the insertion after subsection (2) of the following subsection:
“**(3) Without limiting the scope of subsection (2), the reasons contemplated in subsection (2) may relate to—**
(a) the manner in which a member has participated in the proceedings or conducted himself or herself as a member of the Board; 35
(b) the manner in which the Board has performed its functions or exercised its powers.”

Amendment of section 9 of Act 4 of 1995

5. Section 9 of the Principal Act is hereby amended by the substitution for subsection (1) of the following subsection— 40
- “(1) A member of the Board shall hold office, subject to the provisions of section 8, for **[five] three** years.”

Amendment of section 12 of Act 4 of 1995

6. Section 12 of the Principal Act is hereby amended by— 45
- (a) the substitution for paragraph (a) of subsection (1) of the following paragraph:
“(a) a chief executive officer appointed by **[the Board with the concurrence of]** the responsible Member;” and
 - (b) the insertion after section 12 of the following section:

“12A Conditions attached to appointment of Chief Executive Officer

- (1) The chief executive officer is an employee of the Board and is accountable to the Board. 5
- (2) The chief executive officer is responsible for the efficient management of the Board and must perform any duty assigned or delegated to the chief executive officer by the Board.
- (3) The chief executive officer holds office for a term not exceeding three years, and may be re-appointed upon expiry of that term of office.
- (4) The employment contract of the chief executive officer must be in writing and must incorporate in an appropriate form the provisions of section 56 of the Public Finance Management Act, 1999. 10
- (5) The Board and the chief executive officer must conclude a performance agreement for the chief executive officer—
- (a) within a reasonable time after the appointment of the chief executive officer; and 15
- (b) thereafter, annually within one month of the commencement of each financial year.
- (6) The performance agreement must include—
- (a) measurable performance objectives and targets that the chief executive officer must meet, and the time frames within which those performance objectives and targets must be met; 20
- (b) standards and procedures for evaluating performance and intervals for evaluation; and
- (c) the consequences of substandard performance. 25
- (7) If the chief executive officer is unable to fulfil his or her functions, the responsible Member may appoint an acting chief executive officer who shall have all the powers and duties of the chief executive officer.
- (8) The responsible Member may at any time terminate the employment of the chief executive officer if, in his or her opinion there are sufficient reasons for doing so.” 30

Amendment of section 15 of Act 4 of 1995

7. Section 15 of the Principal Act is hereby deleted.

Insertion of sections 18B and 18C in Act 4 of 1995

8. The following sections are inserted after section 18A: 35

“18B Responsible Member may issue instructions to the Board

- (1) If the responsible Member is satisfied that the board is failing to perform any function or exercise any power imposed on the board in terms of this Act or to comply with its strategic plan, the Member may instruct the board in writing to perform the function or exercise the power concerned which must be specified in the notice. 40
- (2) An instruction issued under subsection (1) must set out—
- (a) the reason for issuing the instruction; 45
- (b) the steps that the board is required to take and, if appropriate, the period within which such steps must be taken.
- (3) At the request of the board, the responsible Member may—
- (a) extend the period for complying with an instruction; or
- (b) revise the terms of the instruction. 50
- (4) The board and the chief executive officer must ensure that any instruction issued in accordance with subsection (1) is complied with.
- (5) If the board does not comply with an instruction issued in terms of subsection (1), the responsible Member may—
- (a) order an investigation into the management and administration of the board; or 55
- (b) take any other steps necessary to ensure that the board performs its functions or manages its finances in accordance with this Act; or

(6) If the board has unreasonably failed to institute disciplinary proceedings for misconduct against any employee of the board, the responsible Member may direct the board to institute disciplinary proceedings against that employee.”

(7) The responsible Member may at any time terminate the term of office of any member of the Board or the entire Board if in the responsible Member’s opinion there are good reasons for doing so.

18C Taking over administration of the Board

(1) The responsible Member may, after consultation with the Executive Council, by notice in the *Provincial Gazette*, appoint an administrator to perform the functions and exercise the powers of the board, either in whole or in part, if the responsible Member is of the opinion that—

- (a) the board has failed to perform its functions, exercise its powers or comply with its strategic plan;
- (b) has failed to comply with an instruction in terms of section 18B;
- (c) there is mismanagement of its finances; or
- (d) there is for any other reason, good cause to do so.

(2) In that notice the responsible Member—

- (a) must determine the powers and duties of the administrator appointed in terms of subsection (1);
- (b) for the purposes of ensuring the effective functioning of the board, may suspend or replace one or more members of the board;
- (c) may suspend the functioning of the board either in total or in part; and
- (d) after consulting the Executive Council, may deal with the assets of the board as he or her opinion consider appropriate, in accordance with the requirements of the Public Finance Management Act, 1999.

(3) If a notice is published in terms of subsection (1), the responsible Member may, to ensure that the board resumes the performance of its functions

- (a) amend its resolutions;
- (b) reinstate any of its members; and
- (c) withdraw or amend any provision of the notice contemplated in subsection (2) on such conditions as the responsible Member considers appropriate.

(4) The responsible Member may recover from the funds of the board the costs of appointing an administrator to take over the administration of the board.”

Short title

9. This Act is called the Gauteng Gambling Amendment Act, 2005.

