

## MPUMALANGA GAMBLING LEVIES BILL, 2007

**To provide for the imposition and payment of gambling levies; and to provide for matters incidental thereto.**

**BE IT THEREFORE ENACTED** by the Provincial Legislature of the Province of Mpumalanga as follows:

**1. Definitions.** (1) In this Act, unless the context indicates otherwise –

“**Board**” means the Mpumalanga Gambling Board established under section 2 of the Gambling Act;

“**Gambling Act**” means the Mpumalanga Gambling Act, 1995 (Act No. 5 of 1995); and

“**levy**” means the amount imposed by the Schedule to this Act.

(2) Any other word or phrase defined in the Gambling Act will, unless the context indicates otherwise, have a similar meaning in this Act.

**2. Imposition of gambling levies.** (1) Every holder of a licence (except a manufacturer, maintenance or supplier licence) is liable to pay the gambling levies as set out in the Schedule.

(2) Any payment of the gambling levies referred to in subsection (1) must be accompanied by a return in the form determined by the Board.

(3) Notwithstanding anything to the contrary contained in any other law, there is no period of grace for the payment of the gambling levies referred to in subsection (1), and if such gambling levies are not paid in compliance with this Act, the licence concerned may be suspended by the Board in terms of section 33A of the Gambling Act until the gambling levies payable in terms of subsection (1) and the penalties payable in terms of section 4, have been paid.

(4) Any licence holder who fails to pay the gambling levies in compliance with this Act is liable, in addition to such gambling levies, to pay a penalty as contemplated in section 4.

(5) The gambling levies payable in terms of this section must be collected by the Board and such levies must be paid into the Provincial Revenue Fund on a monthly basis after receipt and verification of the correctness thereof.

(6) Notwithstanding any other provision of this Act or the Gambling Act, a court convicting a person of a contravention of section 74 of the Gambling Act may, in addition to any penalties it may impose in terms of this Act or the Gambling Act, order such person to pay the relevant gambling levies due in terms of this Act as if such person was the holder of a licence.

**3. Payment of gambling levies.** (1) Every licence holder must –

- (a) submit to the Board, not later than seven days following the last day the preceding month, or, if such seventh day is a Sunday or public holiday, not later than the next working day, a return in the form and containing such information in respect of its gambling operations during the preceding month as may be determined by the Board; and
- (b) simultaneously pay to the Board any gambling levy due in respect of the preceding month, unless the Board determines otherwise.

(2) The preceding month contemplated in subsection (1) is the month ending at the time stipulated in the license holder's approved internal control procedures.

**4. Penalty for late payment of gambling levies.** If the gambling levy payable in terms of section 2 of this Act is not paid in compliance with this Act, the license holder must pay a penalty on the amount of any outstanding levies at a rate of ten percent of the levies for each month or part of a month during which the levies remain unpaid: Provided that such penalty must not exceed twice the amount of the levies in respect of which such penalty is payable: Provided further that where the Chief Executive Officer is satisfied that the failure on the part of any license holder to make timeous payment of the levy concerned was not due to, or intended to avoid or postpone liability for payment of the amount due, the Chief Executive Officer may, in writing, remit in whole or in part any penalty payable in terms thereof and report such remittance to the Board.

**5. Short title and commencement.** This Act is called the Mpumalanga Gambling Levies Act, 2007.

## SCHEDULE

### GAMBLING LEVIES

#### Gambling levy - Casinos

1. (1) The gambling levy payable in terms of section 2 of this Act is paid at a sliding rate calculated on the licensee's monthly gross gambling revenue as follows:

GROSS GAMBLING REVENUE	RATE OF LEVY, EXCLUSIVE OF VALUE ADDED TAX
R0 to R10 000 000	5% of each R1
R10 000 001 to R15 000 000	R500 000 plus 7.5% of amount exceeding R10 000 000
Exceeds R15 000 000	R875 000 plus 10% of amount exceeding R15 000 000

(2) For each table game, gross gambling revenue equals the closing table float plus credit slips for cash, chips or tokens returned to the casino cage, plus drop, less opening table float and fills to the table.

(3) For each gambling machine, gross gambling revenue equals the total value registered on the in meter less the total value registered on the out meter less the total value registered on the jackpot meter: Provided that if any malfunction occurs resulting in incomplete or inaccurate data being received from one or more of the in meter, out meter or jackpot meter of a gambling machine, the licensee shall immediately communicate the malfunction to the Board and after approval by the Board, the method of calculation of gross gambling revenue for that gambling machine will be: Drop less hopper fills less hand payments. The initial hopper load will not be regarded as a hopper fill and will not affect the calculation of gross gambling revenue.

(4) For each card game and any other casino game in which the licensee is not a party to a wager, gross gambling revenue equals all money received by the licensee as compensation for conducting the game.

(5) If the amount of gross gambling revenue is less than zero for any particular week for which levies are to be calculated in terms hereof, the licensee may deduct the loss in the subsequent weeks, until the loss is fully set-off against gross gambling revenue.

(6) No licensee may deduct any amount of money from any gambling levy payable in terms hereof, unless prior permission for such deduction has been granted in writing by the staff of the Board, irrespective of whether a dispute exists as referred to in subitem (8) or not.

(7) If a licensee fails to keep the records used or required to be used to calculate gross gambling revenue, the Board may compute and determine gross gambling revenue based on an audit conducted by its staff, upon the basis of any information within the Board's possession, or upon statistical analysis.

(8) If a dispute arises between a licensee and the staff of the Board on the issue of the amount of gambling levies payable, which dispute cannot be resolved between the licensee and the Board's staff, the Board itself must resolve such dispute.

### **Gambling levy - Bingo**

2. (1) The gambling levy payable in terms of section 2 of this Act is paid at the rate of eight percent, exclusive of Value Added Tax, of the licensee's bingo revenue.

(2) For purposes of subitem (1), bingo revenue means the total amount of money staked by players on a bingo game, including participation fees, less the total amount returned to players by way of prizes.

(3) No licensee may deduct any amount of money from any gambling levy payable in terms hereof, unless prior permission for such deduction has been granted in writing by the staff of the Board, irrespective of whether a dispute exists as referred to in subitem (8) or not.

(4) If a licensee fails to keep the records used or required to be used to calculate gross gambling revenue, the Board may compute and determine gross gambling revenue based on an audit conducted by its staff, upon the basis of any information within the Board's possession, or upon statistical analysis.

(5) If a dispute arises between a licensee and the staff of the Board on the issue of the amount of gambling levies payable, which dispute cannot be resolved between the licensee and the Board's staff, the Board itself must resolve such dispute.

### **Gambling levy – Route Operators**

3. (1) The gambling levy payable in terms of section 2 of this Act is paid at the rate of ten percent, exclusive of Value Added Tax, of the licensee's gross gambling revenue.

(2) For each limited payout machine, gross gambling revenue equals the total value registered on the in meter less the total value registered on the out meter less the total value registered on the jackpot meter: Provided that if any malfunction occurs resulting in incomplete or inaccurate data being received from one or more of the in meter, out meter or jackpot meter of a limited payout machine, the method of calculation of gross gambling revenue for that limited payout machine will be: Drop less hopper fills less hand payments. The initial hopper load will not be regarded as a hopper fill and will not affect the calculation of gross gambling revenue.

(3) If the amount of gross gambling revenue is less than zero for any particular week for which levies are to be calculated in terms of these regulations, the licensee may deduct the loss in the subsequent weeks, until the loss is fully set-off against gross gambling revenue.

(4) No licensee may deduct any amount of money from any gambling levy payable in terms hereof, unless prior permission for such deduction has been granted in writing by the staff of the Board, irrespective of whether a dispute exists as referred to in subitem (6) or not.

(5) If a licensee fails to keep the records used or required to be used to calculate gross gambling revenue, the Board may compute and determine gross gambling revenue based on an audit conducted by its staff, upon the basis of any information within the Board's possession, or upon statistical analysis.

(6) If a dispute arises between a licensee and the staff of the Board on the issue of the amount of gambling levies payable, which cannot be resolved between the licensee and the Board's staff, the Board itself must resolve such dispute.

### **Gambling levy – Independent Site Operator**

4. (1) The gambling levy payable in terms of section 2 of this Act is paid at the rate of ten percent, exclusive of Value Added Tax, of the licensee's gross gambling revenue.

(2) For each limited payout machine, gross gambling revenue equals the total value registered on the in meter less the total value registered on the out meter less the total value registered on the jackpot meter: Provided that if any malfunction occurs resulting in incomplete or inaccurate data being received from one or more of the in-meter, out-meter or jackpot meter of a limited payout machine, the method of calculation of gross gambling revenue for that limited payout machine will be: Drop less hopper fills less hand payments. The initial hopper load will not be regarded as a hopper fill and will not affect the calculation of gross gambling revenue.

(3) If the amount of gross gambling revenue is less than zero for any particular week for which levies are to be calculated in terms hereof, the licensee may deduct the loss in the subsequent weeks, until the loss is fully set-off against gross gambling revenue.

(4) No licensee may deduct any amount of money from any gambling levy payable in terms hereof, unless prior permission for such deduction has been granted in writing by the staff of the Board, irrespective of whether a dispute exists as referred to in subitem (6) or not.

(5) If a licensee fails to keep the records used or required to be used to calculate gross gambling revenue, the Board may compute and determine gross gambling revenue based on an audit conducted by its staff, upon the basis of any information within the Board's possession, or upon statistical analysis.

(6) If a dispute arises between a licensee and the staff of the Board on the issue of the amount of gambling levies payable, which cannot be resolved between the licensee and the Board's staff, the Board itself must resolve such dispute.

**Applicability of item 4**

5. The provisions of item 4 are not applicable to a site operator licensee who makes available for play only limited payout machines operated by the holder of a route operator licence.

## **MEMORANDUM ON THE OBJECTS OF THE MPUMALANGA GAMBLING LEVIES BILL, 2006**

### **1. BACKGROUND**

The current gambling levies charged in terms of the Mpumalanga Gambling Act (“the Act”) is a fixed rate of 5% across the board i.e for all casinos irrespective of the turnover of their gross gambling levies. This rate was fixed when the Act came into operation in 1995 and has never been amended. The Mpumalanga Gambling Board (“the Board”) has therefore embarked on a survey to determine whether the gambling levies should be increased or not. The Board had conducted an investigation on the gambling levies and more specifically on the comparison between a fixed rate of levies and a sliding one. The investigation also considered the rate in comparison to other Provinces in full recognition of the size of the market of the Province and whether an increase in the levies will not adversely affect gaming operations in the Province.

In the investigation, the Board took into consideration the gaming levy structures of all the Provinces, the location and size of their gaming establishment and their gaming revenue figures, where common factors were found.

The investigation revealed that where a Province has big and small operations, a sliding scale is an equitable method of determining gaming levies. It was also observed that the economy where the gaming operations are located plays an important role, as it has a major effect on the size of gaming revenue. This means therefore that the determination of levies must take into consideration any adverse effect that may be caused on small operators.

The final outcome of the investigation revealed that an outright increase in the gaming levies is not a viable option as it will adversely affect the small operators in the Province. The information gathered also revealed that the gaming market in the Province is on a steady increase and under these circumstances a fixed rate will necessitates some adjustments in future when the market demands such. The observations made from other jurisdictions also suggest that a sliding scale is the best long-term solution and it remains relevant for an ever-changing market.

### **2. PURPOSE OF BILL**

The purpose of the Bill is to provide for the imposition and payment of different types of gambling levies. The Bill prescribes the rate of gambling levies to be paid depending on the gross gambling revenue of the casinos.

The clause by clause analysis of the Bill is as follows:

### **Clause 1**

Clause 1 defines words used in the Bill.

### **Clause 2**

Clause 2 provides for the liability of every holder of a license issued in terms of the Act, for gambling levies. The levies are payable to the Board which must forward such to the Provincial Revenue Fund.

### **Clause 3**

Clause 3 provides for the payment of the gambling levies. The levies, accompanied by a return form, are payable to the Board not later than the 7<sup>th</sup> day of every month in relation to operations of the previous month.

### **Clause 4**

Clause 4 prescribes a penalty for failure to pay levies due in terms of the Bill. The penalty is 10% of any outstanding levy for each month in which the levy remains unpaid.

### **Clause 5**

Clause 5 is the short title of the Bill and commencement thereof.

### **Schedule**

The schedule sets out the different rates of levies as per different operations.

Item 1 thereof sets out the sliding rate with regard to casino levies. The rate depends on the gross gaming revenue of a casino. The item further indicates the calculation of the gross gambling revenue from which the levy will be determined.

Item 2 thereof sets out the rate of levy of bingo, calculated from the bingo revenue. The item further indicates the calculation of the bingo revenue from which the levy will be determined.

Item 3 thereof sets out the rate of levy of route operators, calculated from the gross gambling revenue. The item further indicates the calculation of the gross gambling revenue from which the levy will be determined.

Item 4 thereof sets out the rate of levy of independent site operators, calculated from the gross gambling revenue. The item further indicates the calculation of the gross gambling revenue from which the levy will be determined.

Item 5 provides an exclusion from the liability to pay an independent site operator levy.

### **3. ORGANISATIONAL AND HUMAN RESOURCE IMPLICATIONS**

None.

### **4. FINANCIAL IMPLICATIONS FOR PROVINCE**

The increase in the gambling levy of the casinos will have a positive impact for the Province as it will increase the revenue generated from the gambling levies.

### **5. COMMUNICATION IMPLICATIONS**

The affected casinos will be consulted on the contents of the Bill once it is approved by the Executive Council.

### **6. OTHER DEPARTMENTS/ BODIES CONSULTED**

Department of Finance: Mpumalanga Province;

Department of Economic Development and Planning: Mpumalanga Province;

Mpumalanga Gambling Board: Mpumalanga Province;

Eastern Cape Gambling and Racing Board; and

Gauteng Gambling Board.