

EASTERN CAPE PROVINCIAL LEGISLATURE

OFFICE OF THE CHAIRPERSON

PORTFOLIO COMMITTEE ON ECONOMIC DEVELOPMENT



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Date: 12 March 2019

Reference: NGAB/2018



NEGOTIATING MANDATE

To: The Chairperson:
Select Committee on Trade and International Relations

Name of Bill: National Gambling Amendment Bill

Number of Bill: [B27B-2018]

Date of Deliberation: 12 March 2019

1. Vote of the Legislature

The province votes in favour of the Bill and mandates the Eastern Cape delegate to the NCOP to negotiate within the following parameters:

1. Clause 1 – Definitions

- (a) It was submitted that the definition of “cash dispensing machine” should be replaced with the term “automated teller machine”, which should then be defined as follows:

“an electromechanical device that permits an authorized user to withdraw cash from an account held with a bank as defined in the Banks Act, 1990 (Act No.94 of 1990), a mutual bank as defined in the Mutual Banks Act, 1993 (Act No.124 of 1993) or a cooperative bank as defined in the Co-operatives Banks Act, 2007 (Act No.40 of 2007).”

2. Clause 3 – Register of unlawful gambling operators

- (a) It was submitted that whilst this proposed amendment is supported, the section should clarify that the requirement only applies to persons who engage in restricted gambling activities without holding an appropriate licence.

3. **Clause 12 – National Central Electronic Monitoring System (NCEMS)**

- (a) It was submitted that there was not sufficient consultation on the extension of the NCEMS. It was also contended that casinos have their own electronic monitoring systems as required by provincial legislation hence there is no need to develop a new monitoring system when its feasibility and costs have not been established.
- (b) It was also submitted that the NCEMS would take away the competency already conferred in Provincial Licensing Authorities and that decentralizing the monitoring system would create economic development for the Provinces.

4. **Clause 26 – Quorum of the National Gambling Policy Council (NGPC)**

- (a) It was submitted that it is undesirable to legitimize the taking of decisions by the NGPC in circumstances where it fails to achieve a quorum.
- (b) It was further submitted that given the significance of the Gambling Policy and its impact on provinces, a matter of such magnitude should not be taken by inquorate members of the NGPC.
- (c) It was also suggested that in the event that quorum is not established in meetings, a decision by round robin resolution should be reached in order to ensure that all Council member's views are heard and such a decision shall then be ratified at the Council's next meeting.
- (d) It was further submitted that the proposed amendment will undermine the important principle of a provincial majority established by the same section and that the effect of the proposed amendment is that a binding decision can be taken without at least five provinces being in favour of it.

5. **Clause 28 – Establishment of the National Gambling Regulator (NGR)**

- (a) It was submitted that there are no legally justifiable reasons for establishing the NGR.
- (b) It was also submitted that a governance structure which vests the governance of the NGR in the hands of an individual instead of a composite Board would leave the NGR vulnerable to changes in personnel.

- (c) It was further submitted that the replacement of the National Gambling Board (NGB) with the NGR will cause further delays in the implementation of the Act and that difficulties experienced with the NGB should rather be addressed by ensuring that persons with the appropriate expertise are appointed to the Board of the NGB and that it is adequately staffed and resourced.
- (d) Furthermore, it is averred that the NGR will be institutionally compromised in exercising its statutory evaluation and oversight functions in respect of Provincial Licensing Authorities if it is governed by a single individual in that it will be required to interrogate the actions of those authorities which are based on collective decision-making.

6. Clause 31 – Relations with provincial licensing authorities

- (a) It was submitted that Clause 31(e) intends to amend section 66(6) in circumstances in which there is no such a subsection in the Principal Act. It appears that the confusion may have been caused by the fact that the 2008 Amendment Act, which never came into operation had contemplated the insertion of subsection (6) in section 66.

7. Clause 35 – Repeal of section 69 (resignations, removal from office, and vacancies)

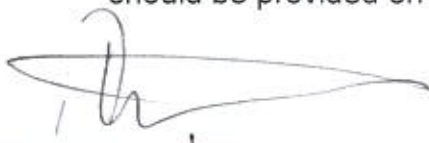
- (a) It was submitted that section 69 of the Principal Act should not be deleted but rather be modified so that the provisions relating to resignation and removal apply to the CEO and the Deputy CEO.

8. Clause 40 – Powers of national inspectorate

- (a) A concern was raised that the proposed insertion of section 76A would have undesirable effect of subjecting licence holders to the jurisdiction of two different compliance enforcement authorities. It was argued that this would not only expose licence holders to more than one disciplinary procedure in respect of the same conduct (as well as potentially different outcomes of the same enquiries based on differing interpretations and approaches by the respective authorities) but would also entail undue duplication of the regulatory effort and cost.

9. Written Submissions

- (a) The Portfolio Committee also received substantial written submissions from various organisations on the proposed amendments to the National Gambling Bill, which if included in the Negotiating Mandate would result in the Mandate being overwhelmingly bulky. As such, the submissions are attached hereto marked **Annexures A – F** for ease of reference.
- (b) The Committee therefore appeals that all matters raised in the attached Annexures should be afforded serious consideration by the Department of Trade and Industry and the Select Committee during deliberations and a response should be provided on all issues raised.



HON T. DUBA (MPL)

**CHAIRPERSON OF THE PORTFOLIO COMMITTEE ON ECONOMIC DEVELOPMENT,
ENVIRONMENTAL AFFAIRS AND TOURISM**

12/03/2019
DATE