

DEPARTMENT OF THE PREMIER

REGULATION NOTICE

No. , 2009

**AMENDMENT OF THE REGULATIONS MADE IN TERMS OF SECTION 42 OF THE
REGULATION OF RACING AND BETTING ORDINANCE, 1957 (ORDINANCE NO.
28 OF 1957)**

I hereby amend the Regulations made in terms of section 42 of the Regulation of Racing and Betting Ordinance, 1957 (Ordinance No. 28 of 1957), as set out in the Schedule hereto.

Given under my Hand at Pietermaritzburg, this day of Two thousand and Nine.

ZL MKHIZE

Member of the Executive Council of the Province of KwaZulu-Natal
responsible for Gaming and Betting



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

SCHEDULE**Definitions**

1. In these regulations “the regulations” mean the Horse Racing and Betting Control Regulations, 1981, published in Provincial Notice No. 381 of 6 August 1981, as amended by Provincial Notices Nos. 697 of 10 December 1981, 104 of 4 March 1982, 292 of 24 June 1982, 10 of 13 January 1983, 190 of 19 April 1984, 299 of 14 June 1984, 506 of 27 September 1984, 579 of 8 November 1984, 475 of 28 November 1985, 330 of 7 August 1986, 295 of 13 August 1987, 518 of 24 December 1987, 562 of 22 December 1988, 41 of 8 February 1990, 136 of 26 May 1990, 173 of 28 June 1990, 273 of 26 September 1991, 349 of 29 November 1991, 40 of 20 February 1992, 149 of 18 June 1992, 328 of 3 December 1992, 12 of 28 January 1994, 38 of 10 March 1994, 74 of 13 May 1994, 186 of 31 October 1994, 210 of 17 November 1994, 211 of 17 November 1994, 222 of 1 December 1994, 161 of 20 July 1995, 179 of 10 August 1995, 403 of 24 October 1996, 186 of 5 June 1997, 414 of 27 November 1997, 16 of 22 January 1998, 48 of 19 February 1998, 195 of 2 July 1998, 72 of 11 March 1999, 351 of 17 December 1999, 126 of 19 June 2008 and 164 of 24 July 2008.

Amendment of Regulation 1

2. Regulation 1 of the regulations is hereby amended by –

- (a) the deletion of the definition of “**computer-aided record keeping system**”;
- (b) the deletion of the definition of “**cubicle**”;
- (c) the deletion of the definition of “**Director**”;
- (d) the deletion of the definition of “**Non-exotic bet**”;
- (e) the deletion of the definition of “**Secretary**”;
- (f) the substitution for the definition of “**computerized record keeping system**” of the following definition:

““**computerised record keeping system**” means a record keeping system which involves the use of electronic computer equipment and computer

software and which is utilised by a bookmaker for the purpose of recording details of all bets laid with him and details of all take-back bets taken by him and which automatically generates the prescribed records;”;

(g) the insertion after the definition of “**Pari-mutuel bet**” of the following definition:

“**political office bearer**” means –

(a) a member of the National Assembly, the National Council of Provinces or the Cabinet;

(b) a member of a provincial legislature or of the Executive Council of a province;

(c) a municipal councillor;

(d) a diplomatic representative of the Republic who is not a member of the public service;

(e) a member of a house of traditional leaders; or

(f) a national or provincial office bearer of a political party, organisation, body, alliance or movement registered in terms of section 15 or 15A of the Electoral Commission Act, 1996 (Act No. 51 of 1996).”;

(h) the insertion after the definition of “**political office bearer**” of the following definition:

“**primary betting room premises**” means the premises from which a bookmaking business is primarily operated, as specified in the bookmaker's licence and which are open to the public during normal business hours;”;

(i) the insertion after the definition of “**primary betting room premises**” of the following definition:

“**relative**” means any of the following, as the case may be –

(a) a husband or a wife, any partner in a marriage concluded under any tradition or under any system of religious practice, or any partner in a relationship where the parties live together in a manner resembling a marital partnership, a marriage concluded under any tradition or under any system of religious practice;

(b) any child born out of any one of the marriages or unions referred to in paragraph (a) or any child born to one of the partners referred to in paragraph (a);

(c) the parents of a person referred to in paragraph (a) and the parents of such person's husband, wife or partner referred to in the said paragraph (a).";

(j) the insertion after the definition of "relative" of the following definition:

"secondary betting room premises" means the residential premises at which a bookmaker ordinarily resides and from which premises a bookmaker operates a bookmaking business from time to time, under the authority contemplated in regulation 20(5)."; and

(k) the insertion after the definition of "take-back bet" of the following definition:

"the Ordinance" means The Regulation of Racing and Betting Ordinance, 1957 (Ordinance No. 28 of 1957)."

Amendment of Regulation 2

3. Regulation 2 of the regulations is hereby amended by the deletion of the reference to Schedule 9 –

"[Schedule 9 – Notice of temporary suspension.]"

Substitution of Regulation 3

4. The regulations are hereby amended by the substitution for regulation 3 of the following regulation –

"3. A non-proprietary club or association of persons desirous of obtaining a racecourse licence in terms of section 3 of the Ordinance shall lodge written application with the Director-General; provided that such application shall not be lodged before there shall have been published at least once a week for four consecutive weeks in two or more newspapers circulating in the area in which the proposed racecourse is to be established, **[in the manner prescribed by section 110 of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961),]** a notice setting out the intention of such club or association of persons to make the application and containing a statement that any person having a sufficient interest who objects to the granting of the application may lodge his objection together with the grounds

thereof, with the Director-General not later than one week after the fourth publication of such notice;”.

Deletion of Regulation 5

5. Regulation 5 of the regulations is hereby deleted.

Amendment of regulation 8

6. Regulation 8 of the regulations is hereby amended by –

(a) the substitution for subregulation (5) of the following subregulation:

“(5) Any money standing to the credit of the Committee and available for investment shall be invested for, on behalf of and for the benefit of the Committee and in its name in such **[Government or other securities]** accounts as may be approved by the Minister.”;

(b) the substitution for subregulation (7A) of the following subregulation:

“(7A) ~~[(i)]~~(a) The Committee shall not be permitted to distribute any of its **[profits or gains]** surplus funds to any person and shall utilize its funds solely for investment or the objects for which it has been established; Provided that nothing shall prevent the Committee from procuring and paying for goods and services procured for the purpose of attaining the objects for which it has been established.

~~[(ii)]~~(b) Upon dissolution of the Committee its assets shall be realized by a person appointed by the Minister and after all debts have been settled, the balance, if any, shall be paid into the Provincial Revenue Fund.”;

(c) the addition to subregulation (8) of the following proviso:

“: Provided that the necessary funds are available and that the Committee makes the necessary provision in its annual budget plan for all costs related to the employment of its staff.”;

(d) the insertion after subregulation (8) of the following subregulations:

“(8A) The post title of the most senior employee appointed by the Committee shall be the Chief Executive Officer and he or she shall, in addition to the powers, functions and duties set out in his or her contract of employment, have the powers, functions and duties as set out in these Regulations.

(8B) The work performance of all employees of the Committee shall be monitored and managed via a performance management policy, which policy shall incorporate the requirement that all employees enter into a performance management agreement.”;

(e) the insertion after subregulation (9) of the following subregulations –

“(10) The Minister shall determine the claims and remuneration policy and rates of remuneration of the Chairperson, Vice-Chairperson and members of the Committee.

(11) A person is disqualified from being appointed to the Committee or from remaining on the Committee, by reason that –

(a) he or she is not a South African citizen;

(b) he or she is not a resident of KwaZulu-Natal;

(c) he or she is, at the time of the appointment, or during the preceding 12 months was –

(i) a person contemplated in section 8(1) of the Public Service Act, 1994 (Proclamation No. 103 of 1994); or

(ii) a political office bearer;

(d) his or her relative is a person contemplated in subregulation (11)(c)(ii);

(e) he or she is a member of a board of directors of any entity involving gambling or fund-raising, has a controlling interest or any financial interest or other interest in any gambling or fund-raising activity or acquires a direct or indirect financial interest in any gambling or fund-raising activity or is employed by any person, company, organisation or other body, whether corporate or unincorporated, which has an interest contemplated in this subregulation;

(f) his or her relative is a member of a board of directors of any entity involving gambling or fund-raising or has any direct or controlling interest in such entity;

(g) he or she is an unrehabilitated insolvent;

(h) he or she –

(i) is a person under curatorship;

(ii) is certified under section 9 of the Mental Health Act, 1973 (Act No. 18 of 1973), and has not been discharged from an institution contemplated under such Act; or

(iii) can be conclusively shown to be of unsound mind or suffering from infirmity of body which prevents him or her from the proper execution of his or her duties;

(i) he or she has at any time been removed from an office of trust on account of misconduct involving theft or fraud;

(j) he or she has been convicted and sentenced to a term of imprisonment without the option of a fine, except that the Minister may, upon a person who is nominated for appointment disclosing full details of an offence in an affidavit, condone a conviction: Provided that it is not a conviction for an offence involving murder, culpable homicide involving an assault, rape, robbery, theft, fraud, forgery and uttering, perjury, an offence under the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), the Prevention of Organised Crime Act, 1998 (Act No. 121 of 1998), or the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001), any serious offence involving dishonesty, an offence involving trafficking in scheduled substances and drugs, an offence relating to proceeds of defined crime as contemplated in the Drugs and Drug Trafficking Act, 1992 (Act No. 140 of 1992), or any offence under this Act or any other similar law: Provided, further, that –

(i) any conviction or sentence imposed by a court beyond the borders of the Republic of South Africa must not be taken into account for the purposes of this subregulation unless at that time such offence would have been an offence if committed within the Republic of South Africa; and

(ii) for the purposes of this subregulation, a person is regarded not to have been convicted and sentenced –

(aa) until any appeal noted or lodged against such conviction or sentence has been heard and judgement given on such appeal;

(bb) until the time permitted by law for the noting or lodgement of any appeal against such conviction or

sentence has lapsed without any such appeal being noted or lodged; or

(cc) if he or she has been granted amnesty or a free pardon by a competent authority;

(k) he or she is an employee of a totalisator, or is a totalisator agent, or is an employee of such agent, as contemplated in the Ordinance;

(l) he or she or his or her relative has a controlling interest or any financial or other interest in any bookmaker licensee, totalisator, totalisator agent or holder of a racecourse licence, as contemplated in the Ordinance;

(m) he or she or his or her relative has a controlling interest or any financial or other interest in any undertaking, including a corporate body, which is an owner, breeder or trainer of race horses; or

(n) he or she is listed in the register of excluded persons, contemplated by section 14(7) of the National Gambling Act by order of court.

(12) If any member of the Committee becomes disqualified during his or her term of office in terms of subregulation (11) he or she must immediately upon such disqualification in writing declare such information to the Minister, so as to enable the Minister to take steps to fill the vacancy so caused.

(13) For the purposes of this regulation, 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.”.

Substitution of Regulation 9

7. The regulations are hereby amended by the substitution for regulation 9 of the following regulation:

“9.(1) The **[Chairman]** Chairperson or, in his absence, the **[Vice-Chairman]** Vice-Chairperson shall determine the date, time and place of each meeting of the Committee.

(2) A quorum of the Committee shall be four, consisting of four members **[of]** or alternate members, or four members and alternate members.

(3) Decisions of the Committee shall be by vote of the majority; provided that in the case of an equality of voting, the **[Chairman]** Chairperson, or in his absence, the Vice-Chairperson or in the absence of both of them, the person elected in terms of subregulation (4), shall have a casting as well as a deliberative vote.

(4) The chair at any meeting shall be taken by the **[Chairman]** Chairperson, or in his absence, by the **[Vice-Chairman]** Vice-Chairperson. In the event of neither the **[Chairman]** Chairperson nor the **[Vice-Chairman]** Vice-Chairperson being present at a meeting of the Committee, the members and alternate members then present shall elect, from their own number, a person who shall act as **[Chairman]** Chairperson for the duration of that meeting.”.

Substitution of Regulation 10

8. The regulations are hereby amended by the substitution for regulation 10 of the following regulation:

“10. The Committee may, subject to –

(a) the approval of the Minister; and

(b) publication of the draft rules for public comment, in the Provincial Gazette,

make rules for the –

(i) control of bookmakers; and

(ii) management and control of betting rooms and such other places at which a bookmaker may accept bets as may be prescribed.”.

Amendment of Regulation 11

9. Regulation 11 of the regulations is hereby amended by –

(a) the substitution for subregulation (1) of the following subregulation:

“(1) The Committee, **[or]** its delegate, or those of its employees appointed as inspectors, shall investigate any allegation relating to a bookmaker, **[or]** a registered manager, or a registered clerk –

(a) of **[dishonourable or disgraceful]** conduct contrary to any code of conduct which binds such bookmaker, registered manager or registered clerk;

(b) of the breach of any duty or obligation imposed upon him by the Ordinance, these regulations, the conditions of his licence or the rules referred to in regulation 10;

(c) that he has been party to such conduct or breach referred to in paragraphs (a) or (b) on the part of any other **[book-maker]** bookmaker; and may after such investigation and upon good cause shown serve immediately on the bookmaker, **[concerned, his]** the registered manager or on **[his]** the registered clerk **[authorised in terms of regulation 31,]** a written notice of temporary suspension **[in the form prescribed and]** in which shall be specified –

(i) the period for which the bookmaker’s licence or **[a]** the manager’s or clerk’s certificate of registration shall be suspended; and

(ii) the date on which such bookmaker, **[or]** manager or clerk shall appear before the Committee for a **[decision]** hearing as contemplated by subregulation (4);

provided that the period and date referred to above shall not exceed seven days from the date of the notice.”;

(b) the substitution for subregulation (2) of the following subregulation:

“(2) **[A delegatee of the Committee shall, within]** In a case in which a notice of temporary suspension has been issued in terms of subregulation (1)(c), the person or body who or which issued the notice, shall, within forty eight hours of issuing the **[a temporary]** notice **[of suspension]**, furnish to the **[Secretary of Committee]** Chief Executive Officer, a full report on the circumstances giving rise to the said suspension.”;

(c) the substitution for subregulation (3) of the following subregulation:

“(3) The Committee shall have the power to set aside a temporary suspension by its delegatee or employee before the date on which the

bookmaker, **[or]** the registered manager, or registered clerk is required to appear before it **[. Such]** : Provided that the setting aside of a temporary suspension shall not absolve the bookmaker, **[or]** the manager, or the clerk concerned from appearing before the Committee on the date specified in the Notice of Temporary Suspension, unless the Committee has determined another date for this purpose.”;

(d) the substitution for subregulation (4) of the following subregulation:

“(4) When a bookmaker appears before the Committee for a **[decision] hearing** regarding the matters which gave cause for the temporary suspension of his licence, the Committee may, at the conclusion of the hearing, take a decision to –

- (a) set aside the suspension;
- (b) suspend such bookmaker’s licence for such further period as it deems fit; or
- (c) impose a fine in any amount not exceeding **[R5 000] R25 000** for each incident relating to such conduct or breach as is referred to in subregulation (1) by such bookmaker, with or without the suspension of his licence in addition, or as an alternative to payment of such fine; Provided that the total fine imposed for more than 40 incidents relating to such conduct or breaches contemplated in subregulation (1), may not exceed R1 000 000.”;

(e) the substitution for subregulation (4A) of the following subregulation:

“(4A) When a registered manager or a registered clerk appears before the Committee for a **[decision] hearing** regarding the matters which gave cause for the temporary suspension of his registration certificate, the Committee may, at the conclusion of the hearing, take a decision to –

- (a) set aside the suspension;
- (b) suspend such manager’s or such clerk’s certificate of registration for such further period as it deems fit;
- (c) cancel forthwith such manager’s or such clerk’s certificate of registration; or
- (d) impose a fine not exceeding –
 - (i) **[R1 000] R5 000** for each incident relating to such conduct or breach as is referred to in subregulation (1) by such manager, with

or without the suspension or cancellation of his certificate of registration in addition, or as an alternative to payment of such fine.”.

(ii) R1 000 for each incident relating to such conduct or breach referred to in subregulation (1) by such clerk, with or without the suspension or cancellation of his or her certificate of registration in addition, or as an alternative to payment of such fine.”;

(f) the substitution for subregulation (5) of the following subregulation:

“(5) The Committee, its delegatee, or those of its employees appointed as inspectors, shall also have the power to investigate any conduct and breach as referred to in subregulation (1)(a), (b) and (c) without being required to issue a temporary notice of suspension, in which event the provisions of subregulation (4)(b) and (c) and subregulation (4A)(b), (c) and (d) shall apply *mutatis mutandis*.”;

(g) the substitution for subregulation (6) of the following subregulation:

“(6)(a) Any bookmaker, **[or]** registered manager or registered clerk in respect of whom an investigation in terms of subregulation (1) and (5) is held, shall appear before the Committee in person and shall be entitled to give evidence and either personally, or through an advocate or attorney, be heard, call witnesses, cross-examine witnesses called by another party or the Committee and inspect documents and articles produced in evidence.

(b) Before any bookmaker, **[or]** registered manager or registered clerk contemplated in paragraph (a) or any witness gives evidence before the Committee, he shall take an oath or make an affirmation, which oath or affirmation shall be administered by the **[Chairman]** Chairperson or the **[Vice-Chairman]** Vice-Chairperson of the Committee, as the case may be.

(c) After having been sworn or having made affirmation, any person who gives false evidence before the Committee on any matter, knowing such evidence to be false or not knowing or believing it to be true, shall be guilty of an offence.

(d) Should **[such]** any bookmaker, [or] registered manager or registered clerk fail to appear before the Committee, the Committee may in the absence of such bookmaker, **[or]** registered manager or registered clerk, exercise the

powers referred to in subregulations (4) and (5) in the case of a bookmaker and subregulations (4A) and (5) in the case of a manager or a clerk.”;

(h) the substitution for subregulation (7) of the following subregulation:

“(7) The noting of an appeal against the decision of the Committee made in terms of **[subregulation]** subregulations (4), (4A) or (5) hereof, shall, in the case of a decision to impose a fine, not suspend the enforcement of such decision.”; and

(i) the insertion of the following subregulations after subregulation (9):

“(10) Within 7 days of having taken a decision contemplated in subregulations (4) or (4A) hereof, the Committee shall furnish detailed written reasons for its decision to all persons and bodies affected by the decision.

“(11) The Committee shall determine the format of and manner in which the hearings contemplated in subregulations (4) or (4A) hereof are to be conducted, including, *inter alia*, matters such as the admissibility of evidence.”.

Amendment of Regulation 12

10. Regulation 12 of the regulations is hereby amended by the substitution for subregulation (1) of the following subregulation:

“(1) The Committee shall, when exercising its powers to delegate to a sub-committee under section 21A (3) of the Ordinance, designate a member thereof as **[Chairman]** Chairperson.”.

Amendment of Regulation 13

11. Regulation 13 of the regulations is hereby amended by –

(a) the substitution for subregulation (1) of the following subregulation:

“(1) An appeal in terms of section 21B of the Ordinance shall be noted by the **[lodgement]** lodging with the **[Secretary]** Chief Executive Officer, within 21 days of the decision appealed against, of a written notice of appeal setting out the grounds upon which such appeal is based.

- (1A) An appellant shall, when lodging an appeal in terms of subregulation (1), pay to the **[Secretary] Committee** –
- (a) a deposit of **[R4 000,00] R4 000**; or
 - (b) where the appellant is a bettor, making appeal to the Minister against a decision of the Committee in terms of subregulation (4) or (5) of regulation 26, a deposit of **[R500,00] R500**; or
 - (c) where the appellant is a bookmaker, making appeal to the Minister against a decision of the Committee in terms of subregulation (4) or (5) of regulation 26, a deposit of **[R2 000,00] R5 000[.]**; or
 - (d) where the appellant is employed by the Committee as an inspector prosecuting a matter contemplated in regulations 11(4) or 11(4A), no deposit is payable.”;
- (b) the substitution for subregulation (2) of the following subregulation:
- “(2) In the event of the appeal being to the Minister from a decision of the Committee, the Committee shall, within seven days of the noting of an appeal, forward a copy of the notice of an appeal and all other documents and transcripts relevant to the appeal, together with a copy of the Committee’s reasons for its decision, to the Director-General, for consideration by the Minister.”;
- (c) the substitution for subregulation (3) of the following subregulation:
- “(3) In the event of an appeal to the Committee from a decision of its delegatee, the **[Chairman] Chairperson** shall as soon as convenient convene a meeting of the Committee at which meeting the [matter] appeal shall be [dealt with de novo] heard by the Committee, excluding such delegatee, unless the Committee cannot remain quorate in the absence of its delegatee, in which case the Committee shall refer the appeal to the Director-General for consideration by the Minister.”; and
- (d) the substitution for subregulation (4) of the following subregulation:
- “(4) The Minister must consider the appeal as soon as is practical and after considering the appeal, may –
- (a) disallow an appeal and uphold the decision of the Committee;
 - (b) uphold the appeal wholly or partially and substitute his decision for or alter the decision of the Committee;

- (c) refer the application back to the Committee for reconsideration and decision with such instructions as he may deem fit[.];
- (d) order that any deposit paid be refunded, after the Minister has heard the appeal, or if the appeal is withdrawn before the Minister hears it, at the time the notification of the withdrawal of the appeal is received; or
- (e) order forfeiture of any deposit paid if he deems an appeal to be frivolous.”.

Deletion of Regulation 14

12. Regulation 14 of the regulations is hereby deleted.

Amendment of Regulation 15

13. Regulation 15 of the regulations is hereby amended by –

(a) the substitution for subregulation (2) of the following subregulation:

“(2) The application shall be accompanied by –

- (a) a certified copy of the agreement of sale governing the applicant’s proposed acquisition of the whole or a share of the relevant bookmaking business;
- (b) a copy of the partnership agreement, where applicable;
- (c) proof of membership of the Society;
- (d) **[written notice by the Committee of its decision to support or oppose the application and in the case of a decision to oppose the application, the full reasons for that decision]** the application fee prescribed in the First Schedule to the Ordinance, which fee shall accrue to the Committee;
- (e) the written consent of the applicable racing club if the applicant intends operating on a racecourse;
- (f) the applicant’s income tax registration number;
- (g) copies of the applicant’s tax assessments or returns for the two tax years immediately preceding the year in which the application is made;
- (h) the applicant’s written consent to an investigation being undertaken by the Committee, or by the Committee’s agent, consultant or employee, into

his or her financial background, financial standing, business history, employment history and any other matter that is required to be disclosed in the **[affidavit contemplated in paragraph (i)]** licence application form;

(i) **[an affidavit by the applicant stating whether or not he or she –**

(i) has been found guilty of any crimes involving fraud or theft;

(ii) is the judgment debtor under any undischarged civil court judgements;

(iii) is an unrehabilitated insolvent;

(iv) has been posted as a defaulter by the Jockey Club of Southern Africa or the Committee; and

(v) has contravened any provision of the Ordinance, and, if so, giving full details thereof and acknowledging that should it subsequently be found that this affidavit was not correct, or he or she is subsequently convicted of an offence involving fraud or theft, any bookmaker's licence then held by him or her will automatically be suspended temporarily, pending a decision by the Committee as contemplated in regulation 11 (4);] a full set of the applicant's fingerprints, obtained from the South African Police Services; and

(j) [the application fee prescribed in the First Schedule to the Ordinance, which fee shall accrue to the Committee.] proof of payment to the South African Police Services of the fee in respect of a request for a certificate indicating the applicant's criminal record status.;
and

(b) the insertion after subregulation (3) of the following subregulations:

“(4) An applicant who does not already hold a bookmaker's license in KwaZulu-Natal may be required to undergo an evaluation of his or her knowledge of the business of bookmaking and of the law applicable to bookmaking.

(5) The evaluation contemplated in subregulation (4) shall be administered by the Committee.”.

Amendment of Regulation 16

14. Regulation 16 of the regulations is hereby amended by –

(a) the substitution for subregulation (1) of the following subregulation:

“(1) Application for a temporary bookmaker’s licence shall be addressed by the applicant to the Director-General and shall be accompanied by –

(a) payment of the temporary licence fee prescribed in the First Schedule to the Ordinance;

(b) the name and physical address of the bookmaker by whom the applicant is to be employed; and

(c) a sworn affidavit by the applicant stating that he or she is not disqualified from such employment by virtue of the provisions of section 49 of the National Gambling Act, 2004 (Act No. 7 of 2004).”;

(b) the substitution for subregulation (3) of the following subregulation:

“(3) **[After having considered the application referred to in subregulation (1), the Committee may reject or approve the application, in which event it shall, upon receipt of the temporary licence fee prescribed in the First Schedule to the Ordinance, issue to him or her a temporary bookmaker’s licence,]** A temporary bookmaker’s licence granted by the Minister and issued by the Director-General in terms of section 22 of the Ordinance shall be granted, subject to the following conditions –

(a) that **[he or she]** the licensee shall operate only in the betting room of a licensed bookmaker; and

(b) that **[he or she shall, before taking up employment, inform the Committee, in writing, of the name and physical address of]** the bookmaker by whom **[he or she]** the applicant is to be temporarily employed **[and the said employer]** shall confirm the employment **[and acknowledge that he or she is liable for all the duties and obligations]** of the temporary bookmaker.”; and

(c) the substitution for subregulation (4) of the following subregulation:

“(4) A temporary bookmaker’s licence shall reflect the full names of the temporary bookmaker to which such licence refers, the period for which the licence is valid[,] and the date of issue **[and the conditions referred to in subregulation (2)].”.**

Amendment of Regulation 17

15. Regulation 17 of the regulations is hereby amended by –

(a) the substitution for the regulation heading of the following heading:

“Application for a Temporary **[Crossbar]** Licence to operate on a racecourse”; and

(b) the substitution for subregulation (1) of the following subregulation:

“17.(1) An **[A]** application made, by a bookmaker who holds a licence to operate **[in the gold ring]** on a racecourse, for a licence to operate for a single day **[at the crossbar]** on a racecourse, shall be made to the racing club concerned.”.

Amendment of Regulation 18

16. Regulation 18 is hereby amended by the insertion after subregulation (2) of the following subregulations:

“(3) The Committee shall submit to the Director-General –

(a) the completed application form for a new bookmaker’s licence;

(b) its written report on the suitability of the applicant;

(c) its decision to support or oppose the application; and

(d) in the case of a decision to oppose the application, the full reasons for that decision.

(4) A report on the investigation into the suitability of an applicant for a bookmaker's licence as contemplated in regulation 15, shall remain valid for a period of twelve months from the date of its submission to the Director-General.

(5) Where an applicant for a bookmakers licence contemplated in regulation 15 has been successful and applies for another bookmakers licence within a period of twelve months from the date of the first submission to the Director-General, the report contemplated in subregulation (4) can be resubmitted by the Committee to the Director-General in support of the fresh application: Provided that the applicant shall confirm by way of affidavit that no material

information or circumstances reflected in his or her application documentation has changed in a way which is likely to affect the applicant's suitability for the grant of the fresh bookmaker's licence.

(6) Where the applicant contemplated in subregulation (5) can provide the required affidavit, the documentation in support of the application, as contemplated in regulation 15, remains valid for the same period as the report contemplated in subregulation (4): Provided that the applicant is still liable to pay the application fee and provided further that the applicant is nevertheless bound by the requirements of regulations 15(a), 15(b) and 15(e)."

Substitution of Regulation 19

17. The regulations are hereby amended by the substitution for regulation 19 of the following regulation:

"19.(1) The Minister must refuse to grant a licence to an applicant if that person –

(a) is under the age of 18 years;

(b) is a public servant or political office bearer;

(c) is listed on the register of excluded persons;

(d) is a member or employee of the Committee;

(e) is an unrehabilitated insolvent;

(f) is not a fit and proper person to be involved in the business concerned;

(g) is subject to an order of a competent court holding that person to be mentally unfit or deranged;

(h) has ever been removed from an office of trust on account of misconduct relating to fraud or the misappropriation of money;

(i) has been convicted during the previous ten years, in the Republic or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, an offence under the Corruption Act, 1992 (Act No. 94 of 1992), or an offence in terms of the Ordinance and has been sentenced to imprisonment without the option of a fine, or to a fine exceeding R3 000,

unless the person has received a grant of amnesty or free pardon for the offence; or

(j) is a relative of –

(aa) a public servant or political office bearer; or

(bb) a member or employee of the Committee.

(2) A provincial licensing authority must refuse to issue a licence to a person who is disqualified from holding an interest in a licence, licensee, licensed premises, or the business to which a licence relates, in terms of subregulation (1), or other applicable provincial law.

(3) The Minister must refuse to grant a licence to a person who is disqualified from holding an interest in a licence, licensee, licensed premises, or the business to which a licence relates, in terms of subregulation (1), or other applicable provincial law.

(4) The Minister must refuse to grant a licence to an applicant if, after conducting the prescribed investigations, the licensing authority has reason to believe that the applicant, any person who has a controlling interest in the applicant, any person who holds any of the total financial interest in the applicant, or any manager of the business concerned is –

(a) a family member of a member of that licensing authority; or

(b) disqualified from holding an interest in a licence, licensee, or the business to which a licence relates, in terms of subregulation (1).

(5) The Director-General shall, upon the granting of a licence by the Minister and compliance by the applicant with any condition imposed as a prerequisite to the issue of the licence and payment of the fee for the licence as laid down in the First Schedule to the Ordinance, issue the appropriate licence in the prescribed form and shall endorse thereon or on any annexure thereto any other conditions imposed by the Minister.”.

18. Regulation 20 of the regulations is hereby amended by –

(a) the substitution for subregulation (1) of the following subregulation:

“(1) Application for the renewal of a bookmaker’s licence shall be made in the prescribed form to the Director-General not earlier than 1 November and not later than **[31] 10** December of the year for which the licence was issued.”; and

(b) the insertion after subregulation (2) of the following subregulation:

“(3) A bookmaker making application for renewal of his or her licence in terms of this regulation must submit both annual financial statements and certified copies of all income tax returns in respect of the bookmaking business to which the licence relates.”.

Substitution of Regulation 21

19. The regulations are hereby amended by the substitution for regulation 21 of the following regulation:

“**21.** Except for the purposes of section 22 of the Ordinance an application for a bookmaker’s licence upon the change of ownership of an existing bookmaker’s business shall be deemed to be an application for a new licence.”.

Substitution of Regulation 22

20. The regulations are hereby amended by the substitution for regulation 22 of the following regulation:

“**22.**(1) Betting room premises, which shall be provided by the bookmaker at his own expense, shall be subject to the approval **[of] by** the **[Minister] Chief Executive Officer** of the **[accommodation therein provided and of the situation thereof]** locality thereof and of the suitability thereof for the purposes of bookmaking.

(2) The bookmaker shall at all times keep such premises in a clean and sanitary condition to the satisfaction of the **[Minister] Chief Executive Officer.**

(3) When more than one bookmaker operates from the same premises the duties imposed by regulation shall devolve upon them jointly and severally.

(4) The Minister may delegate his powers in terms of subregulation (1) and (2) to the **[Committee]** Chief Executive Officer.

[(5) The Committee may determine the nature, size and situation of bookmaker's cubicles in betting room premises approved by the Minister in terms of this regulation, including the initial occupation by and regular rotation of the occupiers of such cubicles.]”

Substitution of Regulation 23

21. The regulations are hereby amended by the substitution for regulation 23 of the following regulation:

“23.(1) No bookmaker shall carry on business in any premises, other than those specified in terms of section 22(8) of the Ordinance or in such other premises as the Minister may in writing approve .

(2) No bookmaker shall effect any structural alteration or addition to the primary betting room premises except with the prior written approval of the Minister.

(3) An application for the Minister's approval in terms of subregulations (1) and (2) shall be accompanied by a ground plan of the premises to which it is proposed to remove the business or of the structural alterations or additions as the case may be.

(4) For the purposes of this regulation, "secondary betting room premises" means the residential premises at which the bookmaker ordinarily resides, which premises are not open to the public and where activities relating to bookmaking take place.

(5) Where a bookmaker wishes to enter into betting transactions from a secondary betting room premises, he or she shall first make application, in writing, to –

(a) the Minister, for the approval of the secondary betting room premises; and

(b) the Committee, for the approval of the type of equipment to be used for the purpose of entering transactions on the bookmaker's computerized record-keeping system and for the actual installation of such equipment at his or her secondary betting room premises.

(6) Any equipment approved by the Committee in terms of subregulation (5)(b) above, must –

(a) operate in a manner substantially similar to a computer terminal ordinarily used by the bookmaker for capturing betting transactions at the bookmaker's primary betting room premises; and

(b) allow the bookmaker to enter betting transactions directly into the bookmaker's computerized record-keeping system, from the bookmaker's secondary betting room premises using the internet .

(7) Approval by the Committee of the installation at and the use of the computerized record-keeping system from the bookmaker's secondary betting room premises must have been communicated to the bookmaker before he or she may enter into betting transactions from any such premises.

(8) A bookmaker may only enter into betting transactions using his or her computerized record-keeping system at his or her secondary betting room premises, once the primary betting room premises utilized by the bookmaker have been closed to the public for business.”.

Substitution of Regulation 24

22. The regulations are hereby amended by the substitution for regulation 24 of the following regulation:

“24.(1) [Save as in the Ordinance otherwise specially provided, a] A bookmaker's primary betting room premises may be kept open for the making and settling of bets during such hours and on such days as the bookmaker may determine in respect of the rooms under his control[: **provided that no rooms shall be kept open —**

(a) earlier than 07h30 and later than one hour after the conclusion of the last race on any race day; or

(b) earlier than 09h00 and later than 18h00 on any days other than race days; or

(c) on Good Friday, Ascension Day, Christmas Day and on Sundays; provided further that betting rooms may be kept open in accordance with this regulation on those specific Sundays in respect of which the Minister determines that races may be held.

(2) The Committee may, on application by a bookmaker, authorise him to keep open a betting room—

(a) between the hours other than those mentioned in subregulation (1); and

(b) on the days mentioned in subregulation (1) for the purpose of taking bets on sporting events and any other event or contingency.]”.

Amendment of Regulation 26

23. Regulation 26 of the regulations is hereby amended by –

(a) the substitution for subregulation (1) of the following subregulation:

“(1) The Committee shall have power to settle any betting dispute between a bookmaker and a bettor or between a bookmaker and another bookmaker.”;

(b) the substitution for subregulation (2) of the following subregulation:

“(2) Any bettor or bookmaker wishing to submit a betting dispute to the Committee shall do so in writing addressed to the **[Secretary]** Chief Executive Officer within fourteen days from the date upon which the dispute arose, while at the same time furnishing full particulars of such dispute: provided that any bettor may be required by the **[Committee]** Chief Executive

Officer to pay a deposit of R500,00 to the **[Secretary] Committee** and any bookmaker **[shall]** may be required by the **[Committee] Chief Executive Officer** to pay a deposit of R2 000,00 to the **[Secretary] Committee.**”;

(c) the substitution for subregulation (3) of the following subregulation:

“(3) The **[Secretary] Chief Executive Officer** shall immediately upon receipt of notification of such dispute enter the particulars thereof in a register to be kept for that purpose.”;

(d) the substitution for subregulation (4) of the following subregulation:

“(4) The Committee shall, after **[due investigation into the dispute] receiving a report drafted by employees of the Committee on their investigation into the dispute, conduct a hearing regarding the dispute and [,]** subject to the provisions of subregulation (5), **[after hearing the parties thereto,] at the conclusion of the hearing,** adjudicate upon the dispute, as contemplated in subregulation (6).”;

(e) the substitution for subregulation (6) of the following subregulation:

“(6) The Committee may -

(a) order that any deposit paid be refunded, after the Committee has heard the dispute, or if the dispute is withdrawn before the Committee hears it, at the time that the notification of the withdrawal of the dispute is received; or

(b) order forfeiture of any deposit paid if it deems a dispute to be frivolous[.]; and

(c) make an order determining the manner in which the betting dispute is to be resolved, including, *inter alia*, an order which voids a bet, or voids a selection, or an order which determines the payment of any amount by one party to the other.”; and

(f) the addition after subregulation (6) of the following subregulation:

“(7) The noting of an appeal against the decision or order of the Committee made in terms of subregulation (4) or (6) hereof, shall not suspend the enforcement of such decision or order: Provided that where a bookmaker who has been ordered, through a decision made by the Committee on a betting dispute, to pay any winnings or other amount to a bettor, appeals the decision, payment of the winnings or other amount should be made by such bookmaker to the Committee and the Committee shall hold such payment in

trust, pending the outcome of the appeal, whereupon the Committee shall pay out the winnings or other amount, in terms of the Minister's order."

Amendment of Regulation 27

24. Regulation 27 of the regulations is hereby amended by –

- (a) the deletion of subregulation (3);
- (b) the substitution for subregulation (4) of the following subregulation:

“(4) No bookmaker shall allow any person other than an authorised and licensed partner **[an]** a financial or controlling interest in his **[book]** bookmaking business.”;
- (c) the substitution for subregulation (7) of the following subregulation:

“(7) The Minister may, at his sole discretion and by way of endorsement on or by way of an Annexure to the bookmaker’s licence or licences issued to the partners in a bookmaking business impose such conditions, limitations and restrictions as he deems necessary **[fit]**.”; and
- (d) the insertion of after subregulation (7) of the following subregulations:

“(8) In the event that it is intended to terminate a partnership of licensed bookmakers, the partners concerned must immediately notify the Minister in writing of their intention to do so.

(9) In the event of the death of a licensed bookmaker having carried on business in partnership, any surviving partner or partners within the partnership may continue to operate the bookmaking business.

(10) Notwithstanding subregulation 27(4), a bookmaker is not precluded from concluding a franchise agreement whereby the bookmaker would be entitled to the intellectual property, know how and business methods of the franchisor in operating his or her bookmaking business, and the franchisor would be entitled to royalties in the form of a share of the financial returns from the business.

(11) A franchise agreement as contemplated in subregulation (10) may not be implemented, unless the agreement has been approved by the Minister.

(12) A franchise agreement as contemplated in subregulation (10) may not have the effect of transferring ownership of, or any aspect of control over the bookmaker's business, to the franchisor.

(13) The manner of implementing a franchise agreement as contemplated in subregulation (10) may not have the effect of transferring any aspect of control over the bookmaker's business, to the franchisor.

(14) The manner of implementing a franchise agreement as contemplated in subregulation (10) may not have the effect of depicting to the public, through advertising or through any other means, that a bookmaker's business is owned by a corporate entity.”.

Amendment of Regulation 28

25. Regulation 28 of the regulations is hereby amended by –

(a) the substitution for the regulation heading of the following heading:

“Bookmakers’ Records to be Kept in Respect of a Manual Record Keeping System **[and a Computer-aided Record System]**”;

(b) the substitution for subregulation (1) of the following subregulation:

“**28.**(1) Every bookmaker not **[utilizing]** able to utilize his or her [a] computerised record keeping system shall keep the following physical books and records disclosing a full and accurate account of his betting transaction –

(a) on a racecourse or gymkhana course –

(i) **[where a manual record keeping system is used,]** a field book which shall provide for an original and two copies of each page thereof by means of carbon sheets **[or, where a computer-aided record keeping system is used, a computer generated field sheet]**; and

(ii) a supply of serially numbered tickets~~[,]~~; and

(b) in a betting room or at such other venue approved for the taking of bets on sporting events or any other event or contingency –

- (i) **[where a manual record keeping system is used,]** a field book **[or, where a computer-aided record keeping system is used, a computer generated field sheet];**
 - (ii) a ticket book;
 - (iii) a desk book which shall provide for an original and two copies of each page thereof by means of carbon sheets;
 - (iv) a take-back bet book; and
 - (v) a multiple bet book reflecting all bets taken on horses in races to be run on different race days and all bets taken on sporting events or any other events or contingencies or a combination of races, sporting events or other events or contingencies taking place on different days.”;
- (c) the deletion of subregulation (2A): and
- (d) the substitution for subregulation (4) of the following subregulation:
- “(4)(a) No bookmaker shall use any book which has not been signed on behalf of the committee by a duly authorized employee of the Committee.
- (b) The committee shall maintain a register in which shall be recorded particulars of all books signed on its behalf in terms of paragraph (a) and the date **[of such signature]** that such book was signed.”.

Amendment of Regulation 28A

26. Regulation 28A of the regulations is hereby amended by –

- (a) the substitution for the heading of the following heading:

“Procedures on Laying a Bet where a Manual Record Keeping System **[or a Computer-aided Record Keeping System]** is Utilised”;
- (b) the substitution for subregulation (1) of the following subregulation:

“(1) Every bookmaker not **[utilizing]** able to utilize a computerised record keeping system shall immediately on laying a bet on a racecourse or a gymkhana course—

 - (a) record particulars thereof in a field book or a field sheet as contemplated by regulation 28(1)(a)(i); **[and]**

(b) if such bet is a cash bet, issue to the person with whom the bet is made, a numbered ticket contemplated in regulation 28(1)(a)(ii), showing in legible form particulars of such bet; and

(c) shall enter the number of such ticket against the record of the bet in the field book contemplated in paragraph (a).”;

(c) the substitution for subregulation (2) of the following subregulation:

“(2) (a) Every bookmaker not **[utilizing]** able to utilize a computerised record keeping system, shall immediately on laying a bet in a betting room, or at such other venue approved for the taking of bets on sporting events or any other event or contingency—

(i) issue a numbered ticket from a ticket book contemplated in regulation 28(1) (b) (ii) showing in legible form the date and time the bet was struck and full particulars thereof; including in the case of a telephone or credit bet, the name of the person with whom the bet is made in such detail as to make it possible for any inspector appointed or authorised in terms of the Ordinance or any member of the Committee to identify the said person;

(ii) thereafter record full particulars thereof—

(aa) in a field book or a field sheet contemplated in regulation 28 (1)(b) (i), and

(bb) in a desk book contemplated in regulation 28(1)(b)(iii); **[both of which shall provide for duplicate copies of entries by means of a carbon sheet;]** and

(iii) if such bet is a take-back bet, record particulars thereof in a take-back bet book contemplated in regulation 28(1)(b)(iv).”;

(d) the substitution for subregulation (3) of the following subregulation:

“(3) Every bookmaker not **[utilizing]** able to utilize a computerised record keeping system while conducting business at a race meeting or gymkhana shall immediately upon demand deliver to the representative of the racing club or gymkhana club concerned the carbon duplicate or a computer generated copy of such page of the field book or field sheet as may be demanded.”; and

(e) the substitution for subregulation (4) of the following subregulation:

“(4) A ticket issued in terms of subregulations (1)(b) and (2)(a)(i) shall, unless is issued in consequence of a telephone bet, **[forthwith]** be delivered immediately to the person with whom the bet is made.”.

Amendment of Regulation 28B

27. Regulation 28B of the regulations is hereby amended by –

(a) the substitution for the regulation heading of the following heading:

“Computerised Record Keeping System **[and Computer-aided Record Keeping System]**”;

(b) the substitution for subregulation (2) of the following subregulation:

“(2) The supplier of a computerised record keeping system or any amendment to an approved computerised record keeping system shall submit such system or amendment to the South African Bureau of Standards for certification in terms of the applicable national standard and, upon receipt of the necessary certification, submit same, as well as a written description of the system or amendment and any other documentation which the appointed officer may require, to the appointed officer, who may, subject to subregulation (3), refuse, or approve, with or without conditions, such system or amendment, or refer such system or amendment back to the supplier for any changes to such system or amendment, or request the supplier to submit additional information.”;

(c) the substitution for subregulation (3) of the following subregulation:

“(3) The appointed officer shall refer any computerised record keeping system or any amendment to an approved computerised record keeping system to the **[South African Bureau of Standards] Committee** or to any other person or body, for evaluation, prior to taking a final decision on any application contemplated in subregulation (2) [and any costs incurred in such evaluation shall be borne by the supplier].”;

(d) the substitution for subregulation (4) of the following subregulation:

“(4) **[The submission by the supplier contemplated in subregulation (2), shall be accompanied by a written description of the system or amendment and any other documentation which the appointed officer may require.]** Any costs incurred by the supplier of a computerised record

keeping system in making application for approval of a computerised record keeping system, or any amendment to an approved computerised record keeping system, shall be borne by the supplier.”;

(e) the substitution for subregulation (6) of the following subregulation:

“(6) No bookmaker shall be permitted to use a computerised record keeping system in conjunction with the manual record keeping system contemplated by regulations 28 and 28A, except **[in the circumstances referred to in subregulation (7) or where there is a breakdown of the bookmaker’s computer equipment due to a power failure or to the unavailability of his or her system due to system downtime,]** in the event of the total failure of the approved computerised record keeping system to correctly capture betting transactions, in which event—

(a) he or she shall comply with the provisions of regulations 28 and 28A insofar as they relate to a manual record keeping system;

(b) he or she shall revert to the computerised record keeping system immediately on it being possible to do so; and

[(c) he or she shall ensure that full particulars of each bet recorded in accordance with the manual record keeping system are entered onto the computerised record keeping system before finalising his or her records for the relevant race meeting, sporting event or other event or contingency and before preparing the data and records for copying as required by regulation 28C(3); and]

[(d) (c) the manual records shall be retained for inspection purposes.”;

(f) the deletion of subregulation (7);

(g) the substitution for subregulation (8) of the following subregulation:

“(7) Any bookmaker who fails to comply with the provisions of subregulation[s] (6) **[and (7)]** shall be in breach of a duty or obligation imposed upon him or her by the Ordinance.”; and

(h) the substitution for subregulation (10) of the following subregulation:

“(9) Any bookmaker utilising a computerised record keeping system **[or a computer-aided record keeping system]** –

(a) in conjunction with a computerised record keeping system which has not been approved and registered by the appointed officer in terms of this regulation;

- (b) without a ticket printer[, **in the case of a computerised record keeping system**]; or
- (c) who is found to have tampered with or in any way interfered with a computerised record keeping system after it has been approved and registered in accordance with this regulation, **[and]** shall be in breach of a duty or obligation imposed upon him or her by the Ordinance.”.

Amendment of Regulation 28C

28. Regulation 28C of the regulations is hereby amended by –

- (a) the substitution for subregulation (1) of the following subregulation:

“(1) Every bookmaker utilising a computerised record keeping system shall keep the following records disclosing a full and accurate account of his betting transactions –

- (a) a field sheet corresponding with each horse race, sporting event or other event or contingency, in respect of which the bookmaker has entered into a betting transaction;

[(b) a reconciliation or desk sheet;]

[(c)](b) a list of each ticket issued or cancelled;

[(d)](c) a list showing details of each bet made;

[(e)](d) a list of each take-back bet taken; and

[(f)](e) a list of each multiple bet reflecting all bets taken on horses in races to be run on different race days and all bets taken on sporting events or any other events or contingencies or a combination of races, sporting events or other events or contingencies taking place on different days.”;

- (b) the substitution for subregulation (3) of the following subregulation:

“(3) All data and the records contemplated in subregulation (1) shall be copied onto a **[stiffy or 1,44 megabyte computer disk and shall be printed onto clean stationery]** suitable and portable electronic recording medium or device at the end of each **[race meeting, sporting event or other event or contingency]** day and each such **[disk and print-out]** electronic recording medium or device and the data saved therein or thereon shall be securely

retained in chronological order for inspection purposes at a premises other than the primary betting room premises.”; and

(c) the insertion after subregulation (3) of the following subregulation:

“(4) The Committee shall determine whether or not a portable electronic recording medium or device as contemplated in subregulation (3) is suitable for the purpose contemplated in subregulation (3) and shall further determine the suitability of the place and manner in which such portable electronic recording medium or device is retained.”.

Amendment of Regulation 28D

29. Regulation 28D of the regulations is hereby amended by –

(a) the substitution for subregulation (1)(c) of the following subregulation:

“(c) **[such bet is a take-back bet,]** ensure that where such bet is a take-back bet, full particulars of such bet are recorded in the list of take-back bets referred to in regulation 28C(1);”; and

(b) the substitution for subregulation (2) of the following subregulation:

“(2) Every bookmaker utilising a computerised record keeping system and conducting business at a race meeting or gymkhana shall immediately upon demand, deliver to the representative of the racing club or gymkhana club concerned, a printer copy of the field sheet **[as may be demanded]**.”.

Amendment of Regulation 29

30. Regulation 29 of the regulations is hereby deleted.

Amendment of Regulation 30

31. Regulation 30 of the regulations is hereby amended by the deletion of subregulations (1) and (2).

Amendment of Regulation 31

32. Regulation 31 of the regulations is hereby amended by –

(a) the substitution for subregulation (2) of the following subregulation:

“(2) The application contemplated in subregulation (1) shall be **[accompanied by:]** made using a form designed by the Committee for that purpose, which form shall include requirements for documentation and information to be supplied by the applicant, including,—

(a) the full names and identity number of the applicant;

(b) the applicant’s residential and postal addresses;

(c) a record of the applicant’s knowledge of bookmaking practice and procedure and knowledge or experience relevant to employment in the bookmaking industry, if any;

[(d) full particulars of the applicant’s financial position and financial record];

(e) the applicant’s written consent to an investigation being undertaken by the Committee, its employee or agent, into his or her **[financial] personal history and background** and any other matters or information disclosed in the application form, or in the affidavit contemplated in paragraph (f), or in any related documentation;

(f) an affidavit by the applicant stating whether or not he or she [—

(i) has been found guilty of any crimes involving fraud or theft;

(ii) is the judgment debtor under any undischarged civil court judgements;

(iii) is an unrehabilitated insolvent;

(iv) has been posted as a defaulter by the Jockey Club of Southern Africa or the Committee; and

(v) has contravened any provision of the Ordinance,

and, if so, giving full details thereof and acknowledging that should it subsequently be found that this statement was not correct, or he and she or she is subsequently convicted of an offence involving fraud or theft, any manager’s registration certificate then held by him or her will automatically be suspended temporarily, pending a decision by the Committee as contemplated in regulation 11(4)] is disqualified from being registered in terms of this regulation, by reason of one or more of

the disqualifying factors prescribed in section 49 of the National Gambling Act, 2004; and

(g) the application fee prescribed in the First Schedule to the Ordinance, which fee shall accrue to the Committee[.];

(h) a full set of the applicant's fingerprints, obtained from the South African Police Services; and

(i) proof of payment to the South African Police Services of the fee in respect of a request for a certificate indicating the applicant's criminal record status.'

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

"(2A) The Committee may evaluate an applicant for registration as a bookmaker's manager on his or her knowledge of the law applicable to bookmaking.";

(c) the substitution for subregulation (3) of the following subregulation:

"(3) After the investigation contemplated in subregulation (2)(e) having been completed and reported upon to the Committee and after having considered the application, the Committee may refuse to register the manager, or may register the manager in which event it shall, upon receipt of the registration fee prescribed in the First Schedule to the Ordinance, issue to him or her a certificate of registration, subject to the following conditions:

(a) that the registration shall lapse on 31 December of each year unless it has been renewed in the manner contemplated in subregulation (6);

(b) that he or she shall operate only in the betting room of a licensed bookmaker;

(c) that he or she shall, before taking up employment, inform the Committee of the name and physical address of the bookmaker by whom he or she is to be employed and likewise shall inform the Committee of any proposed change of employment and the bookmaker concerned shall confirm, in writing, the employment and acknowledge that he or she is liable for all the actions of the manager; and

(d) any further conditions which the Committee, in its discretion, decides to impose.";

(d) the substitution for subregulation (7) of the following subregulation:

“(7) [(a) A bookmaker who is not conducting business in partnership with any other bookmaker shall be permitted to employ not more than two registered managers in respect of the bookmaking right owned by him or her.

Where two or more bookmakers carry on business in partnership, such partnership shall be permitted to employ not more than two registered managers in respect of the bookmaking right owned by the partnership.] Notwithstanding the provisions of subregulation (3), the Committee may issue a temporary registration certificate to an applicant for registration as a manager, prior to the completion of the investigation contemplated in subregulation (2)(e), provided that the application documentation does not disclose any grounds upon which the applicant may be disqualified from being registered.”; and

(e) the addition after subregulation (9) of the following subregulations:

“(10) A bookmaker may not employ, or allow the employment in his or her bookmaking business, of any person, in the capacity of a clerk or of a manager, unless that person is properly registered in terms of this regulation, as a clerk or as a manager, as the case may be.

(11) No person must accept employment or work with a bookmaker, in the capacity of a clerk or of a manager, unless that person is properly registered in terms of these regulations.

(12) A bookmaker's clerk is a class of employee of a bookmaker, or of a partnership of bookmakers, employed in a capacity which allows or requires that employee to transact bets with the public, the totalisator, or with other bookmakers.

(13) A manager is employed to –

(a) be in authority over all registered clerks and other employees of the bookmaker, or partnership of bookmakers;

(b) transact bets with the public, the totalisator, or with other bookmakers;

and

(c) subject to the criteria outlined in the definition of “manager” in section 2 of the Ordinance, be responsible for all obligations of the bookmaker when the bookmaker is unavailable.

(14) Every bookmaker or partnership of bookmakers must register at least one employee as a manager, in accordance with these regulations.”.

Amendment of Regulation 32

33. Regulation 32 of the regulations is hereby deleted.

Amendment of Regulation 33

34. Regulation 33 of the regulations is hereby amended by –

(a) the substitution for subregulation (1) of the following subregulation:

“**33.**(1) Any person having a valid claim against a bookmaker in respect of a bet which such bookmaker has failed to settle after a request to do so, shall report the circumstances in writing to the **[Committee] Chief Executive Officer.**”; and

(b) the substitution for subregulation (2) of the following subregulation:

“(2) The **[Secretary] Chief Executive Officer** on receiving such notice shall record it forthwith in a register kept for the purpose, and shall submit it without delay to the Committee.”.

Amendment of Regulation 35

35. Regulation 35 of the regulations is hereby amended by the substitution for paragraph (a) of subregulation (4) of the following paragraph:

“(a) Any bettor who has been adjudged to be a defaulter by the Committee shall not enter or be upon any premises licensed as a racecourse in terms of this ordinance, any premises referred to in section 28(2) or (3) of the ordinance or any premises upon which a licensed bookmaker carries on business until time as all his liabilities to bookmakers have been discharged

and the Committee is satisfied that he is a fit and proper person to resume betting.”.

Amendment of Regulation 36

36. Regulation 36 of the regulations is hereby amended by the insertion of the following heading:

“Defaulter: Jockey Club of South Africa”.

Deletion of Regulation 37

37. Regulation 37 of the regulations is hereby deleted.

Amendment of Regulation 38

38. Regulation 38 of the regulations is hereby amended by the deletion in subregulation (1) of paragraph (c).

Amendment of Regulation 38A

39. Regulation 38A of the regulations is hereby amended by the substitution for all the words preceding the table of the following words:

“The taxes deducted from the amount won by a person who has made a winning bet with a bookmaker in respect of a horse race shall be at the percentages reflected in the distribution table as follows, which taxes shall be exclusive of Value-Added Tax:”.

Amendment of Regulation 39

40. Regulation 39 of the regulations is hereby amended by the substitution for subregulation (8) of the following subregulation:

“(8) Every licensed bookmaker shall, within fifteen days of the last day of every month, lodge with the Committee a **[certified]** true copy of Schedule 1,

as lodged with the appointed officer, and shall simultaneously pay to the Committee the tax prescribed in terms of regulation 38A.”.

Amendment of Regulation 40

41. Regulation 40 of the regulations is hereby amended by the substitution for subregulation (1) of the following subregulation:

“(1) Unless a bookmaker has the written authority of the **[Director: Financial Administration]** Director-General authorising him to transact business after he has failed to lodge the statement contemplated in regulation 39 and to pay the taxes referred to in section 30 of the Ordinance, his licence shall be deemed to have been suspended while and for so long as his failure to lodge the said statement and to pay the taxes and any penalties due in terms of the Ordinance continues.”.

Amendment of Regulation 43

42. Regulation 43 of the regulations is hereby amended by the substitution for regulation 43 of the following regulation:

“**[Racecourse Development Fund]** Approval Procedure: Other Events and Contingencies

43.(1) **[(a) The Board of Trustees contemplated by section 41ter of the Ordinance shall consist of—**

(i) the Chairman from time to time of the Local Executive Stewards contemplated in clause 24 of the Constitution of the Jockey Club of South Africa, in respect of the KwaZulu-Natal Racing District, who shall be Chairman of the Board of Trustees;

(ii) the Deputy Chairman from time to time of the Local Executive Stewards contemplated in clause 24 of the Constitution of the Jockey Club of South Africa, in respect of the KwaZulu-Natal Racing District, who shall be Deputy Chairman of the Board of Trustees;

(iii) the Chairman from time to time of—

(aa) the Clairwood Turf Club;

(bb) the Durban Turf Club;

- (cc) the Pietermaritzburg Turf Club;
 - (dd) the Bookmakers Control Committee contemplated by section 21A of the Ordinance, and
 - (ee) the KwaZulu-Natal Owners and Trainers Association;
 - (iv) a representative of the Minister, appointed by him from time to time, and
 - (v) not more than two persons appointed by the Minister, initially for the period from 1 September 1987 to 30 June 1989, and thereafter for periods of office of three years at a time, commencing on 1 July 1989.
 - (b) The Chairman of the Local Executive Stewards contemplated in clause 24 of the constitution of the Jockey Club of South Africa, in respect of the KwaZulu-Natal Racing District shall, from time to time, nominate a member of the said Local Executive Stewards as an alternate member of the Board of Trustees, who shall take his seat as such in the absence of the Deputy Chairman or when the Deputy Chairman is acting as Chairman of the Board of Trustees.
 - (c) The Vice Chairman from time to time of the bodies referred to in paragraph (a) (iii) shall be alternate members of the Board of Trustees and shall so act in the absence of their respective Chairmen.
 - (d) In the event of a vacancy occurring in the membership contemplated in paragraph (a) (v), otherwise than in consequence of the expiration of a member's period of office, the Minister may appoint a person to fill such vacancy for the unexpired portion of the period office of the member in whose place such person is appointed.
 - (e) The person contemplated in paragraph (a) (v) shall be eligible for re-appointment as members of the Board of Trustees on expiration of their period office.
- (2) For the purpose of carrying out its functions and duties and exercising its powers in terms of the Ordinance in relation to the Racecourse Development Fund established by the said section 41ter, hereinafter referred to as the Fund, the said Board shall—

- (a) be a juristic person;
 - (b) be known as the Board of Trustees of the Racecourse Development Fund, hereinafter referred to as the Trustees;
 - (c) act as Trustees for and on behalf of the Fund subject to the directions of the Minister; and
 - (d) as Trustees be vested with the assets and the liabilities (if any) of the Fund.
- (3) Every racing club or gymkhana club conducting a totalisator at any race meeting or gymkhana shall, within seven days after such race meeting or gymkhana, pay to the Trustees the amount deducted from the “jackpot” and “place accumulator” pools in terms of section 41ter (2) of the Ordinance, and shall at the same time submit to the Trustees a statement showing how such amount was calculated. A copy of such statement shall be forwarded to the Director: Financial Management.
- (4) All monies or other income accruing to the Fund from whatever source shall be paid into a banking account or accounts approved by the Minister and opened in the name of the Trustees.
- (5) Any money standing to the credit of the Fund and available for investment shall be invested for, on behalf of and for the benefit of the Fund in the name of the Trustees, in such Government or other securities as may be approved by the Minister.
- (6) (a) Whenever immovable property is acquired on behalf of the Fund the Minister may impose such conditions as he may think fit, including restrictive conditions of title, and require such conditions to be registered against the title deed of the property.
- (b) The provisions of paragraph (a) shall mutatis mutandis apply to any immovable property owned or acquired by any company in which the Fund holds any direct or indirect controlling interest.
- (7) Any immovable property acquired by the Fund shall be registered in the name of the Trustees of the Racecourse Development Fund.
- (8) The Trustees shall, within seven days after the end of each calendar month, submit to the Director: Financial Management a statement showing the transactions relative to the Fund during the preceding month and the total assets of the Fund as at the last day of such month.

(9) (a) The Books of Account of the Fund shall be subject to audit annually at the expense of the Fund by Auditors appointed by the Trustees with the prior approval of the Minister.

(b) An audited statement of the Fund shall be submitted to the Director-General annually not later than ninety days after the end of the Fund's financial year as determined from time to time by the Trustees.]

Any person who wishes the Minister to make a determination, as contemplated in the definition of "other event or contingency" in the Ordinance, must make application to the Minister in writing.

(2) A written application contemplated in subregulation (1) shall include at least the following information and motivation –

(a) the profession, name, postal address and other contact details of the applicant;

(b) a clear, complete and concise description of the event or contingency for which the determination is requested;

(c) information regarding any organization which in any manner controls the event or contingency for which the determination is requested;

(d) motivation supporting the contention that the act of betting on the event or contingency for which the determination is requested, will not offend public morals; and

(e) motivation supporting the contention that the act of betting on the event or contingency for which the determination is requested, will not predispose the event or contingency to acts of corruption or manipulation of results.

(3) Any determination made by the Minister shall be by way of notice published in the Provincial Gazette.

(4) The effective date of a determination by the Minister as contemplated in this regulation shall be the date of publication of the Provincial Gazette in which the relevant notice is published."

Amendment of Regulation 44

43. Regulation 44 of the regulations is hereby amended by –

(a) the substitution for subregulation (1) of the following subregulation:

“(1) The record contemplated in section 38(~~3~~2) of the Ordinance shall contain the date, name of the racehorse, diagnosis of the ailment, the medicine, drug or apparatus used in the treatment, whether the medicine or drug has been administered orally, via an injection or infusion, or by external application, the name of the person who treated the horse, the name of the veterinary surgeon who prescribed the medicine or drug and details as to who supplied the medicine or drugs and the quantity supplied.”; and

(b) the substitution for subregulation (2) of the following subregulation:

“(2) For the purposes of subparagraph (ii) of section 38(2)(b) of the Ordinance, no residue of any substance, chemical or drug contemplated in section 38(1)(a) of the Ordinance shall be present in a racehorse during the period forty-eight hours prior to and twenty-four hours after a race in which such horse is to or did participate; provided that where a registered veterinary surgeon certifies that such substance, chemical or drug was –

- (a) not administered before the completion of the most recent race in which the horse participated; and
- (b) necessary for the well-being of the horse in question, the prohibition in respect of the aforesaid post-race 24-hour period shall not apply.”.

Amendment of Regulation 47

44. Regulation 47 of the regulations is hereby amended by –

(a) the substitution for subparagraphs (a), (b) and (c) of paragraph (c) of subregulation (3) of the following subparagraphs:

- “~~[(a)]~~(aa) sporting events;
- ~~[(b)]~~(bb) other events or contingencies; or
- ~~[(c)]~~(cc) any combination thereof,”; and

(b) the insertion subregulations (10) and (11) after subregulation (9):

“(10) If in any calendar month of the year, the amount of gross profits on betting transactions on –

- (a) sporting events; or
- (b) other events or contingencies.

is less than zero, the loss may be fully offset against gross profits in succeeding tax periods.

(11) For the purposes of subregulation (10) “tax period” means one calendar month.”.

Amendment of Regulation 49

45. Regulation 49 of the regulations is hereby amended by the substitution for subregulation (2) of the following subregulation:

“(2) Every bookmaker shall, within seven days of the last day of every month, submit a **[certified]** true copy of Schedule 10 to –

- (a) the Committee together with the taxes payable by him or her to the Committee in terms of this Chapter; and
- (b) the designated representative of the racing clubs together with the taxes payable to the racing clubs in terms of this Chapter.”.

Amendment of Regulation 50

46. Regulation 50 of the regulations is hereby amended by the substitution for subregulation (1) of the following subregulation:

“(1) Within seven days of the last day of every month, the Totalisator Agency Board (Natal) or the racing clubs concerned shall –

- (a) lodge with the appointed officer a return in the form of Schedules 10 and 11 which shall show the total amount paid into the totalisator in respect of any sporting event or other event or contingency covered by the said Schedules;
- (b) pay to the appointed officer the taxes payable in terms of this Chapter; and
- (c) submit a **[certified]** true copy of Schedule 10 to the Committee together with the taxes payable to the Committee in terms of this Chapter.”.

Deletion of Regulation 52

47. Regulation 52 of the regulations is hereby deleted.

Deletion of Regulation 53

48. Regulation 53 of the regulations is hereby deleted.

Amendment of Schedule 1 of the Regulations

49. Schedule 1 of the regulations is hereby amended by the substitution for the first part of the signed declaration of the following:

“SCHEDULE 1

PROVINCE OF KWAZULU-NATAL
REGULATION OF RACING AND BETTING ORDINANCE, 1957 (ORDINANCE NO. 28 OF 1957)

[SWORN] DECLARATION AND STATEMENTS, BY A BOOKMAKER OR THE TOTALISATOR AGENCY BOARD (KWAZULU-NATAL) OFFERING FIXED-ODDS BETS, IN RESPECT OF THE TAXES TO BE PAID OVER ON BETS ON HORSE RACES AND ANY TAKE-BACK BETS IN RESPECT OF WHICH A DEDUCTION IS CLAIMED

[To be completed in block letters and to be lodged in duplicate in terms of section 30 of the Ordinance as read with regulation 39]

Full name of bookmaker _____
(In case of a partnership, give full names of all partners)

Name under which business conducted _____

Physical address of betting room _____

Postal address _____

Month and year in respect of which return is rendered (in respect of a return on bets made in a betting room)

Name of racing/gymkhana club (in respect of a return on bets made at a racecourse/gymkhana course)

Date of race meeting/gymkhana (in respect of a return on bets made at a racecourse/gymkhana course)

DECLARATION

I, the abovementioned and undersigned bookmaker/partner in the abovenamed partnership*, hereby solemnly declare that—

- (i) the gross amount of any money, security or valuable thing paid or given or to be paid or given by me or to me in fulfilment of all bets made at the abovementioned race meeting or gymkhana is fully and truly disclosed in statement A hereto; and
- (ii) the details of the take-back bets taken by me to cover my liabilities in respect of bets made at the abovementioned race meeting or gymkhana are fully and truly disclosed in statement B hereto and in the attached schedule 2.

SIGNATURE OF BOOKMAKER (Please also print name where a partner signs for a partnership.)

[The deponent has acknowledged that he knows and understands the contents of this declaration, which was sworn to/affirmed by the deponent before me at on this day of 19.....

Justice of Peace/Commissioner of Oaths*] As witness:

Full names _____

[Business] Residential address _____

[Area for which appointed] Postal address _____

[State office held if appointment held ex officio] Telephonic contact details _____

South African Identification Number: _____

[* Delete words which are not applicable]”

50. Schedule 10 of the regulations is hereby amended by the substitution for the first part of the signed declaration of the following:

“SCHEDULE 10
PROVINCE OF KWAZULU-NATAL
REGULATION OF RACING AND BETTING ORDINANCE, 1957 (ORDINANCE NO. 28
OF 1957)
[SWORN] DECLARATION AND STATEMENTS BY A BOOKMAKER OR A
TOTALISATOR OFFERING FIXED-ODDS BETS, IN RESPECT OF THE TAXES TO
BE PAID OVER ON SPORTS BETS OR BETS ON ANY OTHER EVENT OR
CONTINGENCY AND ANY TAKE-BACK BETS IN RESPECT OF WHICH A
DEDUCTION IS CLAIMED

To be completed in BLOCK LETTERS and to be lodged in
DUPLICATE in terms of regulations 49 and 50 made under the
Ordinance.

Full name of bookmaker/TAB (Natal): _____

(in the case of a partnership, give full names of all partners)

Name under which business conducted: _____

Physical address of betting room/totalisator: _____

Postal address: _____

Month and year in respect of which return is rendered: _____

(in respect of a return on bets made in a betting room)

DECLARATION

I, the above-named and undersigned bookmaker/partner in the above-named partnership; or

I, the signatory for TAB (Natal)* hereby solemnly declare that—

- (i) the gross amount of any money, security or valuable thing paid or given or to be paid or given by me or to me in fulfilment of all sports bets made at the above-mentioned event is fully and truly disclosed in Statement A hereto; and
- (ii) the details of the take-back bets taken by me to cover my liabilities in respect of bets made at the above-mentioned event are fully and truly disclosed in Statement B hereto and in the attached Schedule 11.

.....
Signature of bookmaker/TAB (Natal) signatory*

[The deponent has acknowledged that he knows and understands the contents of this declaration, which was sworn to/affirmed by the deponent before me aton thisday of [19] 20.....

Justice of Peace/Commissioner of Oaths*] As witness (full names):

.....

[**Business**] Residential address:

.....

.....

[**Area for which appointed**] Postal address:

.....

.....

.....

.....

Telephonic contact numbers:

.....

South African Identification Number:

[**State office held if appointment held ex officio:.....**]

(please also print name).....

[* Delete words not applicable]".

Short title

51. These Regulations are called the Horse Racing and Betting Control Amendment Regulations, 2009.