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# Gaming Law 2023

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## **South Africa: Law & Practice**

Wayne Lurie  
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# SOUTH AFRICA



## Law and Practice

### Contributed by:

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Contributed by: Wayne Lurie, Lurie Inc

Lurie Inc is the oldest niche gambling law practice in South Africa, having been founded over 20 years ago. The firm is held in high regard by operators and regulators and has consulted extensively on the drafting of gambling legislation in South Africa and abroad. In addition, it has consulted at the highest levels of government in several African jurisdictions on gambling law reform. Lurie Inc has also been involved in licens-

ing applications and consulting on operating aspects in numerous international jurisdictions such as the UK, Malta, Germany and other EU member states. The firm has an excellent track record of success in the management and referral of disputes surrounding gambling laws and challenging their mistaken application, as well as in dispute resolution and litigation covering all aspects of the gambling industry.

## Author



Wayne Lurie began his law career in the late 90s and, after gaining extensive experience as counsel to the then largest online casino group in the world, founded the firm Lurie Inc in

2003. He is consulted by a broad range of clients, local and international, on all manner of issues in the gambling sector, online and terrestrial. Wayne's gambling law practice includes commercial, regulatory and litigation

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**LURIE INC.**  
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## 1. Introduction

### 1.1 Current Outlook and Recent Changes Online Growth

The South African online betting market continues to show signs of consistent growth particularly in the casino-style contingency games and variety thereof that are offered by online betting sites under the aegis of their bookmaker licences.

#### Technical Challenges

The Western Cape regulator remains the only significant one offering online-only bookmaker licences on demand; however, the burden that the high demand for such licences is placing on that regulator is becoming noticeable with many operators experiencing delays in introducing new content.

As new online content becomes available, regulators struggle to swiftly certify it in the current framework of technical standards, and the Western Cape has announced a review of such processes with some delays in the interim.

In the meantime, the Mpumalanga regulator shows promising signs of grappling with the new developments in the area to see its licensees able to rapidly assimilate the new content and able to offer it to its customers.

#### Crypto

Interest is being shown in the crypto sector and whether this is a form of betting to be regulated as a form of gambling or whether it falls within the remit of the financial services regulator.

#### Lottery Bets

A court case that commenced in 2016 in Mpumalanga surrounding whether a handful of bookmakers could lay online fixed-odds bets on the

outcome of lotteries, as had been permitted by their gambling regulator, or whether this constituted an actual lottery in and of itself has finally found itself in the highest court of the land, the Supreme Court of Appeals (SCA). The SCA has warned interested parties that it is likely to pronounce a judgment on the matter that will impact the betting industry nationally and invited interested parties that ostensibly wish to make their own cases to formally express their interest to the court during the past couple of months – with directives for participation to be issued in due course. It is anticipated that this will be a critical case for the future of the betting industry, as betting on the outcome of lotteries has become popular and constitutes a significant portion of revenues derived by many bookmakers.

#### Land-Based Stagnation

Land-based casinos are showing a consistent decline in footfall with most large terrestrial casino groups having diversified their offerings to online betting sites under bookmaker licences extending their ability to offer casino-style games online.

#### Terrestrial Low Denomination/Low Payout Machines

These appear to be showing stable growth with occasional new sites and licences emerging.

## 2. Jurisdictional Overview

### 2.1 Online

The gambling sector in South Africa is prescribed in the constitution as the subject of concurrent competency between the national government and the nine provinces.

Conducting a lottery is a specific carve-out and is the subject of national legislation only and

the administration by a national regulator, the National Lotteries Commission (NLC). Currently, there is only one national licensee appointed by the NLC but the process for tendering for the appointment of the new licensee is set to be finalised by mid-2024. In this sense, when discussing “gambling” or “betting” in the local context this generally is not thought of as including “lottery”.

South Africa is a quasi-federal state that for most practical purposes functions as a unitary state in most matters of law, except in certain specific areas benefitting from constitutional carve-outs as mentioned above. Gambling is one of these sectors. Whilst the constitutional mandate is “concurrent competency”, the provinces enjoy a good deal of autonomy in determining their respective approaches to gambling provided that such approaches remain within the broad parameters of the national legislation.

Given the broad definitions of gambling both in the national and provincial context; the aging nature of all applicable gambling statutes (both national and provincial) of between 20 and 30 years old; and the relative freedom of discretion that each provincial regulator has in administering the sector, approaches have ranged from conservative to liberal in the various provinces in so far as “online betting” is concerned.

Notwithstanding that provincial regulators may differ in the latitude offered to licensees and/or policies and approaches thereto, a de facto and time honoured comity has developed between the provincial regulators – such that cross-border, or inter-province, transactions between bookmakers outside of any given province and punters within other provinces are afforded freedom in transacting with one another, provided

that the gambling falls under the regulation of “one of” the provincial gambling regulators.

In understanding the landscape around online gambling in South Africa, it is very important to understand the constitutional and regulatory framework described above but it is even more important to understand that all available online betting in South Africa falls under the sole category of a licence awarded to bookmakers, being a bookmaker’s licence. Not all provinces have effectively opened the way for online gambling via a bookmaker’s licence and, even then, some have inextricably linked the provision of such to a compulsory land-based betting outlet, meaning one needs to operate a terrestrial retail shop in order to have an online presence.

The Western Cape Gambling and Racing Board and the Mpumalanga Economic Regulator, the respective gambling regulators for the Western Cape and Mpumalanga provinces, have over the past few years become viewed as the vanguards in facilitating online betting and gambling. The Western Cape is a particularly attractive province due to its “licence on demand” regime for bookmaker applicants and not requiring a terrestrial retail presence in order to operate an online betting site.

Currently and broadly dependent on the jurisdiction selected by potential entrants, the following activities are permitted online:

- betting – a wide range of sports betting and betting on contingencies (see **3. Legislative Framework**);
- casino-style games – approved as “contingencies”;
- fantasy sports – approved as “contingencies”;
- poker – two provinces have recently permitted this in terms of their statutory framework

but specific consultation and guidance is recommended as generally the South African legislative regime is prohibitive in so far as peer-to-peer gambling is concerned and careful consideration of this must take place in conjunction with equally careful structuring;

- social gaming – with equally careful consideration being given to the challenges pertaining to poker; and
- online lotteries are not permitted and nor is the participation by South African citizens in foreign lotteries, however, for many years several provincial gambling regulators have permitted the laying of fixed odds bets on the outcome of the local and foreign lotteries, which offers punters similar odds for similar stakes on such lotteries – this has become contentious and has become the subject of litigation for the past seven years culminating in the escalation of the issue to the highest court in the land (see **1.1 Current Outlook and Recent Changes**).

## 2.2 Land-Based

The following activities are legal in the land-based sector with the appropriate licensing.

Licences are generally limited and are available sporadically, sometimes with many year intervals between RFAs (request for applications) for the following activities.

- Bookmakers – retail with an online associated licence for the most part with some exceptions like the Western Cape where they are still available on demand and for online only.
- Casino – includes poker but the national maximum for casino licences is statutorily 40 spread across the provinces; no more are available for application and have not been for many years.

- Bingo – both in terms of traditional paper-based bingo and terminals which are similar to the Class II gaming machine, looking like a traditional slot machine but having bingo algorithms at the core.
- LPMs (limited payout machines) – low stakes, low payout slot machine halls and pub adjuncts to a limited number are available usually in response to occasional RFAs or via the acquisition of existing sites.
- Manufacturer licence – to manufacture, supply, distribute and maintain all manner of gambling equipment and software used in licensed gambling activities.

## 3. Legislative Framework

### 3.1 Key Legislation

The National Gambling Act of 2004 is the national legislation outlining the broad definitions of legal gambling types, standards and policies. The 2004 Act made minor reform to the 1996 post-apartheid legislation following the legalisation of gambling in South Africa in 1995. The major feature of this statute was to prescribe that further provisions for interactive gambling should be finalised within two years of its promulgation. To this end, a special statutory committee was to be formed to advise the Minister of Trade and Industry of draft legislation within one year.

The author formed part of this committee and the duty of that committee was discharged at the end of 2005 with the publication of a comprehensive report. In 2008, a draft amendment to the national legislation, not featuring many of the committee's recommendations, was promulgated. The 2008 amendment was contingent on the further promulgation of regulations. To date, there are no such regulations, and the amendment is effectively redundant, leaving no effect-

tive national legislation on the topic of online gambling other than a general one-line ban on “interactive gambling”, which is inapplicable to the provincial licensing regimes surrounding bookmaker licences and online betting that to all intents and purposes facilitate online or interactive gambling with national reach across provincial borders.

This dichotomy causes major confusion at every turn, even with local banks and media partners in South Africa that are on the one hand aware of the national “ban” but do not fully comprehend the differences in the provincial approach and the legitimacy thereof in terms of the constitutional imperative granting concurrent competency to national and provincial governments respectively. This leads to challenges in areas like marketing and payment processing. Based on this apparent contradiction the, albeit lucrative, South African gambling market is a veritable minefield to navigate for potential entrants without the proper guidance and advice.

Each of the nine provinces have their own gambling statutes that all essentially hark back to the 1995 legalisation on gambling in South Africa. Prior to 1995, betting on horse racing was the only legal form of gambling allowed – save for the casinos in the “homelands”, which were deemed independent territories within South African borders and therefore not forming part of the Republic legally.

The nine provincial statutes are:

- the Eastern Cape Gambling and Betting Act, 1997 (No 5 of 1997);
- the Free State Gambling and Liquor Act, 2010 (No 6 of 2010);
- the Gauteng Gambling Act, 1995 (No 4 of 1995);

- the KwaZulu-Natal Gaming and Betting Act, 2010 (No 8 of 2010);
- the Limpopo Gambling Act, 2013 (No 3 of 2013);
- the Mpumalanga Gambling Act, 1995 (No 5 of 1995);
- the Northern Cape Gambling Act, 2008 (No 3 of 2008);
- the North West Gambling Act, 2001 (No 2 of 2001); and
- the Western Cape Gambling and Racing Act, 1996 (No 4 of 1996).

Whilst some of these statutes have been “overhauled” as recently as 2013, in essence the content of the statutes has remained the same, in terms of core concepts, since the late 1990s.

This leaves much of the adaptation of the respective statutes and their application to the discretion of the respective regulators and their interpretation of 20–30-year-old statutes in the light of present circumstances and technological innovations.

## 3.2 Definition of Gambling

Generally, across all statutes, gambling is determined to be an activity which involves staking or betting anything of value on an (at the time of placing the bet) unknown outcome with the expectation of receiving something of value in return.

The unknown outcome is generally defined as being a “contingency” or contingent event, which is generally understood as “any event or occurrence of which the outcome is uncertain or unknown to any person until it happens”.

There is of course nuance and slight variation to this from province to province but an understanding of the concept of staking something

for value on the unknown outcome of any event goes a long way to understanding the concept of gambling in South Africa.

### 3.3 Definition of Land-Based Gambling

Each of the ten applicable statutes define gambling per type or licence, and reference should be had to the content at **2.2 Land-Based** explaining these gambling types and where more specific content is required to the relevant statute itself.

### 3.4 Definition of Online Gambling

The National Gambling Act defines an interactive game as a “gambling game played or available to be played through the mechanism of an electronic agent accessed over the internet other than a game that can be accessed for play only in licensed premises, and only if the licensee of any such premises is authorised to make such a game available for play” and then proceeds to deem such to be unlawful. However, as mentioned at **2.1 Online**, online betting with a provincially issued bookmaker licence permits operators to accept bets online in all manner of contingency thus creating a thriving online gaming environment, which very often may even appear and function similarly to what is traditionally recognised as an “online casino”.

### 3.5 Key Offences

Key offences are essentially any statutory breach of the various statutes and facilitating or participating in illegal gambling.

### 3.6 Penalties for Unlawful Gambling

All offences are subject to a maximum penalty of ZAR10 million and/or ten years’ imprisonment at the discretion of the court presiding. The penalties are applicable to both the provider and consumer of unlawful gambling.

### 3.7 Recent or Forthcoming Legislative Changes

Since the weak attempt at modernisation and reform of national law to cater for technological innovation in 2008, followed by the appointment of another commission in 2011 to revisit the topic of reform, there has been no meaningful attempt by national government to adapt legislation to keep up with technology and new forms of gaming.

The provinces have also made little progress in formally adapting statutes to keep abreast of the times and new technologies, however, with varying degrees of effort, they have attempted to implement policies, procedures and standards at an administrative level to cope with changing times.

This places an enormous burden on the regulator as executive functionary to interpret and adapt often ill-suited statutes to the subject matter for which they were never intended.

In 2015, a private member’s bill was introduced in parliament by the Shadow Minister of Trade and Industry, in the formal opposition party, to bring all interactive gambling to a central national regulator with a refreshed and more appropriate approach and legal framework. The bill never progressed.

In 2022, a senior member of the opposition reintroduced the same bill with minor changes but expectations for it to progress any further than the last 2015 attempt have not developed much optimism. To gain traction, the bill would require the support of the ruling party and any indications of this are somewhat lacking. At this stage, it is premature to refer to this as a “forthcoming legislative change” as even if it were to pass through parliament, the practical implementation

of the regime conceived in the bill would take years.

## 4. Licensing and Regulatory Framework

### 4.1 Regulatory Authority

In addition to the National Gambling Commission, each of the nine provinces in South Africa has its own regulator, namely:

- the Eastern Cape Gambling and Betting Board;
- the Free State Gambling, Liquor and Tourism Authority;
- the Gauteng Gambling Board;
- the Kwazulu-Natal Gambling and Betting Board;
- the Limpopo Gambling Board;
- the Mpumalanga Economic Regulator;
- the North West Gambling Board;
- the Northern Cape Gambling and Liquor Board; and
- the Western Cape Gambling and Racing Board.

Lotteries are separately regulated by the National Lotteries Commission.

### 4.2 Regulatory Approach

The general approach of South African regulators is one of business enablement and certainty of the law. Generally, the various regulators are not punitive at the outset when issues arise or looking to sanction regulators for minor administrative defaults, however, occasionally certain regulators have been known to adopt this type of approach.

For the most part, new applications are dealt with as swiftly as possible, however, in recent

times the busier regulators have found themselves very stretched by workload ostensibly outstripping resource.

In addition, given the archaic legislation and even technical standards applicable to new products, the online-centric regulators bear the additional burden of having to remain abreast of new games, content and contingencies and the administrative approval processes around these.

### 4.3 Recent or Forthcoming Changes

At the time of writing, the Western Cape Gambling and Racing Board has announced that it is reviewing the technical standards applicable to online betting content and contingencies/games that bookmakers may present to punters for betting/play and also the regime around certificates of suitability (certificates generally provided to third party content providers that wish to integrate their products into the offerings of locally licensed manufacturers). This guidance is expected to be provided by this regulator to the industry on 17 November 2023.

### 4.4 Types of Licences

See, inter alia, 2.2 Land-Based.

### 4.5 Availability of Licences

Generally, licences are limited and, as mentioned at 2.1 Online and 2.2 Land-Based, subject to the issue of an RFA by the respective regulators. Online only bookmaker licences are available on demand in very few provinces but most notably in the Western Cape, which is the predominant “online regulator” currently followed by Mpumalanga – which province differs in that licences are not available on demand.

Most land-based or terrestrial licence types are restricted and subject to tender process or

RFA; currently, there are no significant tenders or RFAs out.

## 4.6 Duration of Licences

In general, licences are not issued for a finite period and are “in perpetuity” subject to annual renewal with major probity of the licensee occurring every three years or so.

## 4.7 Application Requirements

The application requirements for all licence types comprise an application form accompanied by very detailed and in-depth disclosure documents for all business entities and/or individuals involved in the ownership of the applicant through to the ultimate beneficial owner level, notwithstanding the layers or complexity of structure involved.

Disclosure thresholds are generally 5% of ownership or more but the regulators may elect to probe shareholders holding a lesser stake – in practice, this is rare.

The same individual disclosures are required of key management personnel.

The paperwork is more or less uniform across the provinces.

Applicants are expected to disclose detailed financial and tax information and to provide a business plan demonstrating sufficient planning and financial liquidity to execute upon the business associated with the licence type.

In addition, applicants are expected to comply with the statutory Broad-Based Black Economic Empowerment (BBBEE) regime determined by the BBBEE Act, No 53 of 2003. The fundamental objective of the Act is to advance economic transformation and enhance the economic par-

ticipation of black people in the South African economy.

Accordingly, black ownership is a substantial and complex part of BBBEE (BEE) with varying requirements and levels expected to be achieved by the respective provincial regulators.

Regulators require that all new applicants submit BEE plans with their applications, which should set out the applicant’s transformation and enterprise development strategies as well as its strategy for introducing black ownership.

Gaming lawyers in this arena are generally versed with the requirements of BBBEE and – working with experts in the area – are able to assist in advising thereon.

## 4.8 Application Timing

Timing varies from jurisdiction to jurisdiction, as the assessment and committee processes may vary slightly but generally one may expect to wait anywhere from 4-12 months for an outcome of an application.

For most licence types, one will be expected to advertise the licence application in both the Provincial Gazette concerned as well as local newspapers, allowing 21-30 days (depending on jurisdiction) for potential objections to be lodged.

## 4.9 Application Fees

Fees vary depending on licence type and jurisdiction, and potential applicants would be best advised to obtain the current fee schedules of the regulators concerned. In planning one’s fees, one should look beyond the fees payable to the regulator to those of the attorneys and consultants that an applicant will generally need to engage in applying for and maintaining a gambling licence.

## 4.10 Ongoing Annual Fees

Much like the application fees across nine provinces and with certain national licence types (eg, national manufacturer), the renewals will vary but generally a licence holder might expect to pay roughly 75% of the original licence fee upon renewal annually.

## 5. Land-Based Gambling

### 5.1 Premises Licensing

This will vary per licence type in terms of floor space and the like but there are general rules and restrictions surrounding the location of all gambling premises, for instance proximity to schools, places of worship and liquor outlets.

A description of the details of each premises per licence type is beyond the scope of this Q&A, particularly where most licences in this regard are the subject of a tender process and the regulator concerned may stipulate specific requirements in each tender.

### 5.2 Recent or Forthcoming Changes

The land-based sector is static and possibly even in decline with the impact of land-based casinos in particular experiencing dwindling footfall.

## 6. Online Gambling

### 6.1 B2C Licences

In the online space, as mentioned at **2.1 Online**, the only licence type is the bookmaker licence, which might be obtained provincially from the respective regulator in the province where one establishes a presence, dependent upon the availability of such licence “on demand”. If bookmaker licences are not freely available (which

is the current situation in the Western Cape for instance) then potential applicants have the option of either waiting for a tender process or attempting to purchase one from an existing operator.

In the event of a purchase of a licensee by an acquirer, the purchaser is still required to apply to the regulator for approval of the acquisition of the licence, which is identical to the application for a new licence.

### 6.2 B2B Licences (Suppliers, Software, Etc)

The primary B2B licence type is the manufacturer licence, which might be obtained provincially from the respective regulator, or nationally under the auspices of the National Gambling Commission, albeit via the provincial regulator within the province where one establishes or intends to establish a presence.

The term “manufacturer” and the parameters of the licence type are very broad, with such licence permitting the manufacture, licensing, distribution, supply and maintenance of gambling equipment or devices including software for online betting.

### 6.3 Affiliates

The issue of affiliates is dealt with by application of existing legislation. There is no uniform policy on this but the Western Cape regulator for example views these arrangements as “gambling-related contracts” between a bookmaker and a “supplier”. Each affiliate arrangement must be approved by the regulator via its mechanisms and forms relating to this type of contract.

### 6.4 White Labels

There are no provisions to deal with white labels as such, but this type of arrangement might con-

ceivably be approached via the manufacturer licence provisions, where the content is brought in by or via a licensed manufacturer, bearing in mind the very broad scope that such licence affords.

In addition, and allied to the concept of “gambling related contracts”, there is specific provision for third-party content or “components” to be integrated into an existing offering by a manufacturer in the form of an application by the third party for a “certificate of suitability”, which is a lighter process than a full-blown manufacturer licence application that permits such provider to “shelter” under the licence of an existing manufacturer.

This process is not considered ideal for several reasons and is furthermore being reviewed by the regulator as the origin of the process is over 20 years old and was originally intended for the integration of components in the land-based industry.

## 6.5 Recent or Forthcoming Changes

See 3.7 Recent or Forthcoming Legislative Changes.

## 6.6 Technical Measures

There are currently no government or regulatory direct technical measures in operation.

Consumer protection is expected to be implemented by the operators in accordance with broad statutory principles.

## 7. Responsible Gambling (RG), Also Known as Safer Gambling (SG)

### 7.1 RG Requirements

RG is an area provided for as a matter of national policy in the National Gambling Act and carried through in the provincial statutes. There is not a great deal of detail or stipulation in terms of measures to be applied and reference is made to the South African Responsible Gambling Foundation, a quasi-governmental body tasked with providing guidelines to operators and assistance to problem gamblers. In general, the guidelines have been fairly broad and static for over 20 years and operators are expected to formulate and maintain their own policies and standards for detecting and dealing with problem gamblers, which has been aided by technology in recent years.

The National Gambling Board is tasked statutorily with maintaining a self-exclusion register for problem gamblers, however, many complain of the accessibility, currency and/or functionality of such register.

### 7.2 Recent or Forthcoming Changes

As mentioned in 7.1 RG Requirements, the area is rather static.

### 7.3 Gambling Management Tools

See 7.1 RG Requirements – in essence, this is largely left to the operators themselves.

## 8. Anti-money Laundering (AML)

### 8.1 AML Legislation

AML is the subject of a separate national statute being the Financial Intelligence Centre Act, No 38 of 2001 (FICA).

The structure and provisions of FICA are in line with the international Financial Action Task Force (FATF) guidelines, and a strict degree of compliance is expected of gambling licensees in line with a schedule specifically applicable to gambling institutions.

The relevant regulator via which an operator holds its licence is expected to act as the “supervisory body” in ensuring compliance with FICA by operators.

Enforcement and fines for non-compliance are strictly and actively applied.

## 8.2 Recent or Forthcoming Changes

Directives are issued by the Financial Intelligence Centre periodically, although there has not been a specific directive applicable to the gambling industry for almost five years (since the publication of Public Compliance Communication 20 (PCC20)).

Licensees can expect stricter audits and compliance inspections in the future due to the broader pressure on the South African government following its recent international grey-listing.

## 8.3 AML Requirements

FICA requires a full KYC to be conducted on the establishment of the business relationship with a customer.

There has been some debate as to when the business relationship is established in the context of an online betting customer with some suggesting this is upon registration of the customer with the operator and others suggesting this is only when the first deposit of real money is received from the customer.

This matter and others are left to a large degree to the operator’s devices in formulating a risk management and compliance programme (RMCP) as they are required to do by FICA.

The trouble is that operators may not know for certain if their RMCPs comply with FICA until an audit is conducted and non-compliance comes with a rather heavy sanction regime.

## 9. Advertising

### 9.1 Regulatory/Supervisory Agency

All advertising in South Africa is subject to the standards stipulated by the Advertising Standards Authority (ASA), a governmental agency.

In addition, certain regulators such as the Western Cape one stipulate requirements that no advertising may be published by their licensees unless prior approval has been obtained.

All advertising must be accompanied by prescribed responsible gambling warnings, in a fixed proportion to the advertising medium concerned.

The focus on restricting gambling advertising surrounds the prevention of under-age gambling and the over-stimulation of gambling.

### 9.2 Definition of Advertising

The definition of advertising follows the guidelines stipulated by the ASA without any specific definitions in the gambling statutes themselves.

### 9.3 Key Legal, Regulatory and Licensing Provisions

See 9.1 Regulatory/Supervisory Agency.

## 9.4 Restrictions on Advertising

See 9.1 Regulatory/Supervisory Agency.

## 9.5 Sanctions/Penalties

Distasteful or inappropriate advertising is generally the subject of takedown notices but in more serious cases, including disobedience in so far as advertising compliance is concerned, the general sanctions under the respective gambling statutes can extend to fines of up to ZAR10 million or even incarceration.

## 9.6 Recent or Forthcoming Changes

The area is static and there have been no recent changes; similarly, no forthcoming changes are forecast.

## 10. Acquisitions and Changes of Control

### 10.1 Disclosure Requirements

Disclosures are generally required in the circumstances described in 10.2 Change of Corporate Control Triggers and are of the same level of detail as required in brand new applications (in so far as the new acquirers are concerned).

### 10.2 Change of Corporate Control Triggers

Generally, any acquisition of financial interest over 5% triggers a post-transaction reporting and filing of detailed disclosures apropos the acquirer. The timelines for the filing and fees for the same vary from province to province but are fairly modest.

### 10.3 Passive Investors Requirements

If the passive or investment amounts to either a direct or indirect acquisition of more than 5% of the direct or indirect interest in the licensee, the

filings referred to in 10.2 Change of Corporate Control Triggers are still required to be made.

## 11. Enforcement

### 11.1 Powers

All of the gambling statutes stipulate potential criminal conviction and sanction for breaches of their provisions, where via the criminal justice system offenders might receive substantial fines of up to ZAR10 million and face custodial sentences of incarceration of up to ten years.

Where regulators generally lack teeth is that their enforcement is usually dependent on the co-operation of the over-stretched South African Police Service together with the National Prosecuting Authority. Gambling regulators are often frustrated in obtaining this co-operation from the police and prosecuting authorities, both in minor instances and in more complex cross-border infringements that might require international co-operation and liaison such as in cases of illegal online gambling.

Via exchange control and banking legislation there are provisions aimed at consumers using their banking instruments, such as credit cards, to bet online and offshore illegally; unfortunately, some of the more successful enforcement has occurred via these channels and has been directed at (often unwitting and ignorant) individuals versus the illegal operators themselves.

### 11.2 Sanctions

See 11.1 Powers.

### 11.3 Financial Penalties

See 11.1 Powers.

## **11.4 Personal Sanctions**

See 11.1 Powers.

## **12. Tax**

### **12.1 Tax Rate by Sector**

The land-based industry is taxed according to licence on a table that may be obtained from the relevant regulator, and it does vary from regulator to regulator. Generally, casinos are the highest taxed with an average of 10%–15% on gross gaming revenue.

The tax rate in the online betting industry is generally between 6% and 7% of winning bets or net gaming revenue.

## **13. Anticipated Reform**

### **13.1 Anticipated Reform**

See 1.1 Current Outlook and Recent Changes and 3.7 Recent or Forthcoming Legislative Changes.

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