



KWAZULU-NATAL PROVINCE
KWAZULU-NATAL PROVINSIE
ISIFUNDAZWE SAKWAZULU-NATALI

Provincial Gazette • Provinsiale Koerant • Igazethi Yesifundazwe

EXTRAORDINARY — BUITENGEWOON

(Registered at the post office as a newspaper) • (As 'n nuusblad by die poskantoor geregistreer)
(Irejistiwee njengephephandaba eposihhovisi)

Vol: 16

PIETERMARITZBURG

7 JANUARY 2022
7 JANUARIE 2022

No: 2358

We all have the power to prevent AIDS



**AIDS
HELPLINE**

0800 012 322

DEPARTMENT OF HEALTH

Prevention is the cure

N.B. The Government Printing Works will not be held responsible for the quality of "Hard Copies" or "Electronic Files" submitted for publication purposes

ISSN 1994-4551



9 771994 455008



0 2 3 5 8

IMPORTANT NOTICE:

THE GOVERNMENT PRINTING WORKS WILL NOT BE HELD RESPONSIBLE FOR ANY ERRORS THAT MIGHT OCCUR DUE TO THE SUBMISSION OF INCOMPLETE / INCORRECT / ILLEGIBLE COPY.

No FUTURE QUERIES WILL BE HANDLED IN CONNECTION WITH THE ABOVE.

Contents

<i>No.</i>		<i>Gazette No.</i>	<i>Page No.</i>
GENERAL NOTICES • ALGEMENE KENNISGEWINGS			
26	KwaZulu-Natal Gaming and Betting Tax Amendment Bill, 2021: Notice in terms of Rule 218 of the Standing Rules of the KwaZulu-Natal Legislature	2358	3

GENERAL NOTICES • ALGEMENE KENNISGEWINGS**GENERAL NOTICE 26 OF 2022****KWAZULU-NATAL GAMING AND BETTING TAX AMENDMENT BILL, 2021****Notice in terms of Rule 218 of the Standing Rules of the KwaZulu-Natal Legislature**

Notice is hereby given in terms of Rule 218 of the Standing Rules of the KwaZulu-Natal Legislature that the KwaZulu-Natal Gaming and Betting Tax Amendment Bill, 2021, as set out hereunder, has been introduced in the aforesaid Legislature on 10 December 2021 and will be considered by the Portfolio Committee on Finance. Interested parties and institutions are hereby invited to submit written representations on the said Bill, which representations must be addressed to –

The Secretary
KwaZulu-Natal Legislature
Private Bag X9112
PIETERMARITZBURG
3200

Attention: Mr S Chili

Email: Chili@kznleg.gov.za

so as to reach him not later than **30 days** from the date of publication of this Notice.



N NAIDOO

Secretary to the KwaZulu-Natal Legislature

**KWAZULU-NATAL
GAMING AND BETTING TAX
AMENDMENT BILL, 2021**

—————
(As introduced in the Provincial Legislature)
(The English text is the official text of the Bill)

—————
(MEC FOR FINANCE)

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments
_____ Words underlined with a solid line indicate insertions in existing enactments

BILL

To amend the KwaZulu-Natal Gaming and Betting Tax Act, 2010, so as to repeal section 5; to provide for validation of taxes collected or paid in terms of Provincial Notice No. 112 of 5 October 2012; to provide for the substitution of the Schedule to the Act; and to provide for matters connected therewith.

BE IT ENACTED by the Provincial Legislature of the Province of KwaZulu-Natal, as follows:-

Repeal of section 5 of Act 9 of 2010

1. Section 5 of the KwaZulu-Natal Gaming and Betting Tax Act, 2010 (Act No. 9 of 2010), hereinafter referred to as the principal Act, is hereby repealed.

Validation of Provincial Notice No. 112 of 5 October 2012

2. Any money or taxes collected or paid, or any act, determination, designation, decision, matter or any other thing done, made, taken, executed or carried out or purported to have been done, made, taken, executed or carried out in terms of Provincial Notice No. 112 of 5 October 2012, issued in terms of the repealed section 5 of the principal Act is not invalid for reason only of the Schedule to the principal Act being amended or substituted by notice as provided for in the repealed section 5 of the principal Act.

Substitution of Schedule to Act 9 of 2010

3. The following Schedule is hereby substituted for the Schedule to the principal Act –

“SCHEDULE
Taxes
(Section 3)

A. CASINOS GAMING TAX

1.(1) A licensed casino operator must pay the casino gaming tax to the Provincial Revenue Fund at the rate prescribed in the table below:

<u>Taxable Revenue</u>	<u>Rate of tax in respect of Licensed Casino Operators</u>
<u>Where the gross gaming revenue for the tax period –</u>	
<u>Does not exceed R 12 million</u>	<u>9.85% of gross gaming revenue</u>
<u>Exceeds R 12 million but does not exceed R 30 million</u>	<u>R 1,182,000.00 plus 11.30% of the amount by which gross gaming revenue exceeds R 12 million</u>
<u>Exceeds R 30 million but does not exceed R 50 million</u>	<u>R 3,216,000.00 plus 12.20% of the amount by which gross gaming revenue exceeds R 30 million</u>
<u>Exceeds R 50 million but does not exceed R 100 million</u>	<u>R 5,656,000.00 plus 13.10% of the amount by which gross gaming revenue exceeds R 50 million</u>
<u>Exceeds R 100 million</u>	<u>R 12,206,000.00 plus 14.05% of the amount by which gross gaming revenue exceeds R 100 million</u>

(2) For each table game, gross gaming revenue equals the closing bankroll plus credit slips for chips or tokens removed from the gaming table, plus drop, less opening bankroll and any fill to the table.

(3) For each gaming machine, gross gaming revenue must be calculated using the appropriate electronic meters of the machine so as to determine both the amount of money gambled on the gaming machine and the amount of money won by persons using the gaming machine.

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

(5) If, in any taxation period, the amount of gross gaming revenue is less than zero, the licensee may deduct the excess in the succeeding tax periods, until the excess is fully offset against gross gaming revenue.

2. The Provincial Treasury must, within 20 days of receipt by it of the tax, distribute to the Transformation Fund a portion of that tax equal to 1.00 percent of the total casino gross gaming revenue received as contemplated in item A.1.

B. LIMITED PAYOUT MACHINES GAMING TAX

1. A licensed route operator and a licensed independent site operator must pay limited payout

machine gaming tax at the rate of 15.25 percent of gross gaming revenue in the taxation period to the Provincial Revenue Fund, where gross gaming revenue must be calculated using the appropriate electronic meters of the machine so as to determine the amount of money gambled on the limited payout machine and the amount of money won by persons using the limited payout machine.

2. The Provincial Treasury must, within 20 days of receipt by it of the tax, distribute to the Transformation Fund a portion of that tax equal to 0.25 percent of the total limited payout machine gross gaming revenue received as contemplated in item B.1.

C. BINGO GAMING TAX

1. A licensed bingo operator must pay into the Provincial Revenue Fund bingo gaming tax, at the rate of the licensee's bingo revenue as prescribed in the table below, where bingo revenue equals the total amount of money staked by players on a bingo game, including participation fees, less the total amount returned to players by way of prizes, during a taxation period.

<u>Where bingo revenue for the tax period –</u>	<u>Rate of tax in respect of Licensed Bingo Operators</u>
<u>Does not exceed R 500,000.00</u>	<u>6.50% of Gross Gaming Revenue</u>
<u>Exceeds R 500,000.00 but does not exceed R 1 million</u>	<u>R 32,500.00 plus 8.25% of the amount by which gross gaming revenue exceeds R 500,000.00</u>
<u>Exceeds R 1 million</u>	<u>R 73,750.00 plus 10.25% of the amount by which gross gaming revenue exceeds R 1 million</u>

2. The Provincial Treasury must, within 20 days of receipt by it of the tax, distribute to the Transformation Fund a portion of that tax equal to 1.00 percent of the total bingo gross gaming revenue received as contemplated in item C.1.

D. BETTING

Fixed-odds bets on horse races

1.(1)(a) A bookmaker must, as contemplated in section 128 of the KwaZulu-Natal Gaming and Betting Act, 2010, deduct from the amount won by a bettor, exclusive of the amount staked by the bettor, a tax equal to 6.00 percent in respect of fixed-odds bets on horse races placed with a bookmaker or a bookmaker's manager.

(b) A bookmaker must pay into the Provincial Revenue Fund, in accordance with section 129 of the

KwaZulu-Natal Gaming and Betting Act, 2010, the tax contemplated in item D.1(1)(a).

(c) The distribution by the Provincial Treasury to –

(i) the Provincial Revenue Fund;

(ii) the Transformation Fund; and

(iii) the categories of licensed racecourse operators listed as beneficiaries in the first column of the table below,

must take place within 20 days of receipt by Provincial Treasury, of the tax, at the rates contemplated in the second column of the table below:

<u>Beneficiaries</u>	<u>Fixed-odds bets placed with a bookmaker or manager</u>
<u>Provincial Revenue Fund</u>	<u>3.00%</u>
<u>Transformation Fund</u>	<u>1.00%</u>
<u>Category 1 licensed racecourse operators: Thoroughbred horse race meetings</u>	<u>1.60%</u>
<u>Category 2 licensed racecourse operators: Harness racing horse race meetings</u>	<u>0.20%</u>
<u>Category 3 Licensed racecourse operators: Standardbred horse race meetings</u>	<u>0.20%</u>
<u>Total tax rate</u>	<u>6.00%</u>

(d) In the event that –

(i) more than one racecourse operator is licensed in any category of licensed racecourse operators listed in the table in paragraph (c)(iii), the percentage allocated to such category of licensed racecourse operators will be split equally amongst all the licensed operators; and

(ii) no racecourse operator is licensed in any category of licensed racecourse operator listed in the table in paragraph (c)(iii), the percentage allocated to such category of licensed racecourse operator then accrues to the Transformation Fund.

(2) The funds comprising the distribution to the categories of licensed racecourse operators listed in the table in item D.1(1)(c)(iii) must be utilised by the licensed racecourse operators, as beneficiaries of the distribution, specifically for purposes of the development of horseracing and the transformation of the horseracing industry and any further conditions of a similar nature as may be imposed from time to time by the Board: Provided that –

(a) each licensed racecourse operator must submit a comprehensive Business Plan by no later than 31 December of each successive year, for approval by the Board, stipulating the manner in which the distributed taxes contemplated in item D(1)(c)(iii) will be utilised to develop and

- transform the horseracing industry in accordance with the conditions imposed by the Board;
- (b) the Board must consider and approve or decline to approve the Business Plan contemplated in this item within a period of 60 days of the date of submission of the Business Plan to the Board; and
- (c) in the event that the Board declines to approve the Business Plan of the relevant licensed racecourse operator as contemplated in paragraph (b) –
- (i) the Board must provide reasons for its decision in compliance with the provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000); and
 - (ii) the relevant operator may exercise its rights to lodge an appeal as contemplated in section 140 of the KwaZulu-Natal Gaming and Betting Act, 2010 (Act No. 8 of 2010).

(3) The Provincial Treasury must, at the request of the Board, suspend the distribution of funds to any category of licensed racecourse operator contemplated in the table in item D.1(1)(c)(iii) in the event that –

- (a) a licensed racecourse operator fails to submit the Business Plan contemplated in item D.1(2) by 31 December of any particular year, or the Board declines to approve the Business Plan as contemplated in item D.1(2)(c), the said relevant licensed racecourse operator will forfeit any distribution of funds until the first day of the calendar month following the date of approval of the Business Plan; or
- (b) a licensed racecourse operator fails to submit proof of expenditure of the distributed funds in accordance with the approved Business Plan contemplated in item D.1(2)(a), to the satisfaction of the Board, and within the timeframe determined by the Board.

Fixed-odds bets on sporting events or other events or contingencies

2.(1) A bookmaker must pay into the Provincial Revenue Fund a betting tax equal to 6.75 percent of such bookmaker's gross gaming revenue on all betting transactions entered into by that bookmaker on –

- (a) sporting events;
- (b) other events or contingencies; or
- (c) any combination thereof.

(2) Any betting transaction which constitutes a multiple bet and which multiple bet includes any selection involving the outcome of a horse race, does not constitute a betting transaction on a

sporting event or other event or contingency and the taxation prescribed in item D.1 is therefore applicable to such multiple bet.

(3) The Provincial Treasury must, within 20 days of receipt by it of the tax, distribute to the Transformation Fund a portion of that tax equal to 0.25 percent of the total gross gaming revenue received as contemplated in item D.2(1).

Pari-mutuel bets on horse races, sporting events or other events or contingencies

3. In respect of pari-mutuel bets placed with a totalisator on horse races, sporting events or other events or contingencies –

(a) the minimum amount to be returned to persons who have taken winning pari-mutuel bets on horse races, sporting events or other events or contingencies with a totalisator must, in aggregate, not be less than:

(i) 65 percent of all monies bet on the totalisator on the bet type referred to as the Super 8; or

(ii) 75 percent of all monies bet on the totalisator at any one race meeting, or on any sporting event or other event or contingency, excluding the bet type referred to as the Super 8;

(b) the amount of the tax payable to the Provincial Revenue Fund as referred to in this Act and section 130 of the KwaZulu-Natal Gaming and Betting Act, 2010, must be calculated at the rate of 1.50 percent of all monies bet on the totalisator; and

(c) the totalisator licensee may retain from the amount that is not returned to persons who have taken winning pari-mutuel bets on horse races, sporting events or other events or contingencies with a totalisator, in accordance with paragraph (a) of this item, such amount as remains after deduction of the 1.50 percent tax contemplated in paragraph (b) of this item:

Provided that –

(i) when a totalisator licensee offers bets on commingled betting pools, the totalisator rules applicable to the host totalisator must apply; and

(ii) the totalisator rules of the host totalisator must be advertised to bettors by the guest totalisator in the manner prescribed by the Board.

E. LICENSEES MAY ACCESS FUNDING FOR SPECIFIC PROJECTS FROM

TRANSFORMATION FUND

A licensee may, on application to the Board in the manner as may be determined by the Board, request an allocation of funding from the Transformation Fund for specific projects to be undertaken by the licensee in accordance with a detailed project plan as may be approved by the Board, subject to any conditions as may be imposed by the Board, where the Board is satisfied that the relevant project will make a significant and positive contribution to the transformation of the gambling industry in the Province.

F. SPECIFIC DEFINITIONS FOR PURPOSES OF SCHEDULE

For the purposes of this Schedule –

“amount of money” or “money” includes the value of any credit, reward, bonus, loyalty or the like, made available to such person for gaming with a licensee or for use at a gaming machine operated by the licensee irrespective of the source of such value of credit, reward, bonus, loyalty or the like;

“bankroll” means the total value of chips on a game table as at an opening or closing of a gaming day;

“commingling” means the process whereby a guest totalisator betting pool is combined with a host totalisator betting pool and "commingle", "commingled", and "commingles" have a corresponding meaning;

“drop” means, in the case of –

(a) a table game, the total amount of cash, chips, tokens, plaques and credit markers in the drop; or

(b) a gaming machine, the total amount of –

(i) cash or tokens required to be in the drop box or drop bucket of such machine according to the meters monitoring such machine; or

(ii) all amounts electronically downloaded by players from smart cards or smart devices to the credit meter of such machine and played by such players;

“fill” means, in the case of –

(a) a table game, the issue of additional chips, plaques or tokens to the gaming table; or

(b) a gaming machine, the issue of cash or tokens to the hopper of the gaming machine;

“gross gaming revenue” means the difference between the amount of money or monetary value gambled or staked by persons and the amount of money or monetary value won, returned or paid out to such persons by a licensee as a direct consequence of the gambling activity in which they participated;

“guest totalisator” means a totalisator operator licensed in KwaZulu-Natal;

“host totalisator” means a totalisator operator licensed in a province, state or country outside of KwaZulu-Natal;

“taxation period” means a calendar month;

“totalisator rules” means the rules applicable to a totalisator operator which include, *inter alia*, betting rules and rules authorising deductions other than tax deductions from betting pools; and

“Transformation Fund” means the Transformation Fund established in terms of section 137(1) of the KwaZulu-Natal Gaming and Betting Act, 2010..

Short title

4. This Act is called the KwaZulu-Natal Gaming and Betting Tax Amendment Act, 2021.

**MEMORANDUM ON THE OBJECTS
OF THE
KWAZULU-NATAL GAMING AND BETTING TAX AMENDMENT BILL, 2021**

1. BACKGROUND

The KwaZulu-Natal Gaming and Betting Tax Act, 2010 (the “principal Act”), provides for the payment of taxes by persons licensed in terms of the KwaZulu-Natal Gaming and Betting Act, 2010. Whereas the Schedule to the principal Act, providing for various gaming and betting tax rates, was last amended by way of a Provincial Notice in October 2012, the need for the revision of the tax rates and allocation of revenues received is long overdue.

It has been deemed necessary to amend the principal Act to –

- (a) amend certain tax rates;
- (b) reallocate tax revenues;
- (c) amend and include certain definitions
- (d) provide clarity in respect of distribution of betting taxes;
- (e) include a distribution model for the transformation fund; and
- (f) ancillary amendments.

Substantive amendments are proposed in the new Schedule dealing with a variety of issues discussed hereunder.

A. An increase in most tax rates

The increase includes the tax rates in the casino gaming tax, the limited payout machine gaming tax, the bingo gaming tax, and the betting tax on fixed odds bets on sporting events and other events or contingencies. It is not envisaged that the new proposals could reasonably be opposed by either the Board or the industry given that the tax rates have not been revised for many years. These proposed tax increases are long overdue as the last tax rate amendments were promulgated in 2012.

B. The reallocation of tax revenue from horse racing

Horse racing goes as far back as 1795 when British rule first came to the Cape. Horses used for racing were known as “capers”. These were later replaced by *thoroughbred* horses. Traditionally in South Africa, thoroughbred racing has been known as the “sport of kings” and is associated with the wealthy elite. The thoroughbred horse racing industry is a duopoly with major

role players being Phumelela and Gold Circle. Gold Circle is the primary operator in KZN, whilst the rest of the country is either run or managed by Phumelela.

The betting industry in KwaZulu-Natal was regulated in terms of the Betting Ordinance (No. 28 of 1957), which was replaced by the KwaZulu-Natal Gaming and Betting Act, 2010. The ordinance provided for a tax regime where the government sourced funding from taxes for both the Provincial Revenue Fund and the Racecourse Development Fund.

In and around 1994/95, sports betting was introduced and taxes were distributed to the Provincial revenue Fund (5%) and the Sports Fund (1%). In approximately 1998, the Racecourse Development Fund was dissolved and their portion of the distributions were made to the Bookmakers Control Committee

The distribution model included funding for the three racing clubs (Durban Turf Club, Pietermaritzburg Turf Club and Clairwood Park turf Club). These racing clubs were merged to form one racing club, Gold Circle (Pty) Ltd, to manage the interests of the merged racing clubs.

At this time, traditional (*uMtebelelo*), standardbred and harness racing horse racing was not regulated and, as a result, the sole beneficiary to the distribution of taxes was Gold Circle who was the only licensed racecourse operator.

The revenues currently paid solely to *Gold Circle* exclusively as the "racecourse operator" contemplated in the current Schedule are, in terms of the proposal, extended to other categories of licensed racecourse operators as well.

C. The amendment and inclusion of certain definitions

The proposal inserts a definition of "*amount of money*" or "*money*" and seeks to address the "freeplay" issue beyond all doubt to ensure that, *going forward*, potential tax revenue for the Province is not lost. The above is a consequence of the increased reliance on "freeplay" as a reward to attract patrons through freeplay offers. South Africa is no different to other international jurisdictions who have had to rethink the tax treatment of these incentives.

D. The apportionment and distribution of revenue due to racecourse operators

In 2014, *Ithotho* wrote to the Office of the Premier saying that as a licenced racecourse operator item D of the Schedule to the principal Act entitles them to benefit from the 3 per cent revenue paid back to the racecourse operator. Historically *Gold Circle* has, to date, been receiving the entire 3 per cent of this revenue.

Between April 2015 and March 2020, approximately R 205 million was paid to *Gold Circle* by the Board in terms of the provisions of the Schedule to the Tax Act.

Ithotho as the other licensed racecourse operator has raised this issue more recently seeking the intervention of the Premier, arguing that their exclusion not only places them, as a licensed racecourse operator, at a distinct disadvantage, but also “naturally restricts” their transformation mandate of “rural horse-racing”.

With the amendment of the KZN Gaming and Betting Act, 2010, by the KwaZulu-Natal Gaming and Betting Amendment Act, 2017, section 89 of that Act was amended by expressly pluralising the term “racecourse operator” wherever it is used in the Act. This amendment effectively removes the perceived monopoly in respect of *Gold Circle* and paves the way for a more equitable tax distribution model, sensitive to all parties’ operations.

It is submitted that the proposed inclusion of other licensed racecourse operators, such as *Ithotho*, as beneficiaries of the distribution is not only long overdue, but will go a long way to avoid any litigation that they may be contemplating. The allocation of 0.2% to the additional categories of licensed racecourse operators in respect of *harness racing horse race meetings* and *standardbred horse race meetings*, will enable any other licensed racecourse operators to operate efficiently and utilise the funding in a way to enhance development of horse racing in the Province and of previously disadvantaged persons associated with the sport.

The proposed amendment to, and substitution of, the Schedule also envisages that the funds comprising the distribution to the licensed racecourse operators must be used by the licensed racecourse operators, as beneficiaries of the distribution, specifically for purposes of the development of horseracing and the transformation of the horseracing industry, subject to any further conditions as may be imposed from time to time by the Board.

Currently, *Gold Circle*, as the licensed racecourse operator in respect of *thoroughbred horse race meetings*, in its sole discretion utilises these funds as an unconditional grant. In this regard the financial statements recently supplied by *Gold Circle* demonstrate that the use of these funds may be questionable. The funds distributed to the licensed racecourse operators must be used for development of horseracing and the transformation of the horseracing industry.

The proposed amendments enable the Board to have more effective oversight of the funds distributed to the licensed racecourse operators and also allows the Board impose further conditions, from time to time, on the utilisation of the funds. The proposed changes allow for increased accountability, transparency and enhanced monitoring of the utilisation of the funding.

Category 1 licensed racecourse operators: *Thoroughbred horse race meetings*, will receive 1.6%. This share is relatively high as most of the race meetings held fall in this category, thus contributing to the bulk of the tax revenue as compared to other racecourse operator categories. In fact, the other licensed racecourse operator categories will be subsidised by revenue accruing from the Category 1: *Thoroughbred horse race meetings*.

As stated above, the Category 2 licensed racecourse operators: *Harness racing horse race meetings* and the Category 3 licensed racecourse operators: *Standardbred horse race meetings* each share 0.2%. This funding distribution is aimed primarily at “kick-starting” the development of these sections or categories of the horseracing industry to a level where they are placed in position to stage more race meetings.

It is proposed that 1% of the distribution will be made to the Transformation Fund, and additional funding may be accessed by any licensee through the Transformation Fund for specific projects that will make a significant and positive contribution to the transformation of the gambling industry in the Province. These projects must be approved by the Board in accordance with a detailed project plan. Projects must be defined by the licensees to be accepted and monitored by the Board and funds released incrementally as pre-determined targets and milestones are successfully reached in the implementation of the projects.

It must be emphasised that these distribution percentages in the table above are not fixed and static, but the intention is to review them periodically in the light of the degree of achievement of the development and transformation goals in horseracing and the horseracing industry.

E. The Transformation Fund

A new proposal is also that a small percentage of these taxes paid into the Provincial Revenue Fund must be distributed by the Provincial Treasury to the Transformation Fund to provide an additional source of funding for the Transformation Fund established in terms of section 137(1) of the KwaZulu-Natal Gaming and Betting Act, 2010, to ensure that the Transformation Fund is able to fulfil its stated transformation objectives.

The new Schedule expressly provides that a licensee will then be able to access funding from the Transformation Fund for specific projects to be undertaken by the licensee in accordance with a detailed project plan as may be approved by the Board, subject to any conditions as may be imposed by the Board, where the Board is satisfied that the relevant project will make a significant and positive contribution to the transformation of the gambling industry in the Province.

F. Ancillary amendments

Whereas legal opinion sought has raised some doubt as to the validity of section 5 of the principal Act, providing for the amendment or substitution of the Schedule by notice in the *Provincial Gazette*, it has been considered prudent to repeal that section and present an amended Schedule as part of this Bill. As taxes have been paid and revenues allocated in terms of the abovementioned Provincial Notice, it is also necessary to validate their collection and payment.

2. CLAUSE BY CLAUSE EXPLANATION

In summary, the Bill provides as follows –

Clause 1:

Clause 1 repeals section 5 of the principal Act which currently provides for the amendment or substitution of the Schedule by notice in the *Provincial Gazette*. Legal opinion sought has raised some doubt as to the validity of section 5 of the principal Act. The argument is that as the principal Act is a Money Bill, the principal Act and its Schedule may only be amended by an amendment Act and not by notice.

Clause 2:

Clause 2 provides for the validation of taxes collected or paid as well as anything else done in terms of Provincial Notice No. 112 of 5 October 2012, issued in terms of the repealed section 5 of the principal Act. The validation clause is limited. The effect is that nothing done in terms of this notice will be invalid merely because the Schedule to the principal Act was purportedly amended or substituted by notice as provided for in the repealed section 5 of the principal Act and not in terms of a law/ Bill amending or substituting the Schedule.

Clause 3:

Clause 3 of the Bill proposes the substitution of the Schedule to the principal Act dealing with the gaming and betting taxes and tax rates. The amendments provide for a nominal increase in tax rates for casino's, LPM's, and bookmakers. The intention is to provide a means of funding the transformation fund, which is established in terms of section 137 of the KZN Gaming and Betting Act, 2010, to enable the transformation fund to fulfil its mandate. This is a great step towards the Board's effort to transform the Gaming and Betting industry. The clause further gives effect to the amendments of the KZN Gaming and Betting Act, 2010, effected in 2017, which introduced additional categories of racecourse operators (standardbred and harness racing), thereby recognising the existence of different categories of horse racing and licenced racecourse operators. The clause provides that 1% will be allocated to the Transformation Fund, whilst also introducing the following categories of beneficiaries who will all benefit from the distribution of taxes generated by bookmakers on horse-racing events (punters' tax) in future, subject to certain control measures to ensure that the distributed tax is utilised for transformation purposes:

- (a) Category 1 licensed Racecourse Operators: *Thoroughbred Horse Race Meetings*, with a shared allocation of 1.6% of betting taxes;
- (b) Category 2 licensed Racecourse Operators: *Harness Racing Horse Race Meetings*, with a shared allocation of 0.2% of betting taxes; and
- (c) Category 3 licenced Racecourse Operators: *Standardbred Horse Race Meetings*, with a shared allocation of 0.2% of betting taxes.

The proposal also inserts specific definitions for purposes of the new Schedule, including a definition of "amount of money" or "money", which seeks to address the "freeplay" issue beyond all doubt to ensure that, *going forward*, potential tax revenue for the Province is not lost. This provision also seeks to accommodate the latest technological developments within the gambling sector.

In respect of potential tax losses for the current period immediately *before* the publication of the proposed

new Schedule, certain casino operators are either already excluding “freeplay credit” from their “gross gaming revenue” or are insisting on receiving formal approval for such exclusion or deduction of “freeplay credit” for purposes of calculating their tax liability.

The clause further amends the definition of gaming revenue by inserting “monetary value” to accommodate the different gaming features as a result of technological advancements and new game types, and aligns the definition of gross gaming revenue to include “gross profits” from betting transactions.

Clause 4:

Clause 4 contains the short title of the Bill.

3. ORGANISATIONAL AND PERSONNEL IMPLICATIONS FOR PROVINCIAL GOVERNMENT

No additional organisational and personnel implications are foreseen.

4. FINANCIAL IMPLICATIONS FOR PROVINCIAL GOVERNMENT

The Bill provides for, and envisages, an increase of tax revenues for the Province to be paid into the Provincial Revenue Fund and monies paid to the Transformation Fund established in terms of section 137(1) of the KwaZulu-Natal Gaming and Betting Act, 2010, to ensure that the Transformation Fund is able to fulfil its stated transformation objectives.

5. DEPARTMENTS / BODIES / PERSONS CONSULTED

The Bill has been drafted after consultation with –

- (a) the Office of the Premier;
- (b) the Member of the Executive Council for Economic Development, Tourism and Environmental Affairs, as the MEC responsible for the administration of the KwaZulu-Natal Gaming and Betting Act, 2010; and
- (c) the KwaZulu-Natal Gaming and Betting Board.

6. CONTACT PERSON

Name: **Mr Ndumiso Nkomo**

Position: Director: Legal Services (KZN Provincial Treasury)

Tel: 033 897 4544

Fax: 033 897 4594

Cellular: 071 362 4400

E-mail: ndumiso.nkomo@kzntreasury.gov.za

UMTHETHOSIVIVINYWA OCHIBIYELA UMTHETHO WENTELA YEMIDLALO YEMALI NOKUBHEJA WAKWAZULU-NATALI, KA-2021

Isaziso ngokuhambisana noMthetho 218 weMithetho Emileyo yeSishayamthetho saKwaZulu-Natali

Ngalokhu kunikezwa isaziso ngokulandela uMthetho 218 weMithetho Emileyo yeSishayamthetho sesiFundazwe maqondana nokuthi uMthethosivivinywa Ochibiyela uMthetho Wentela Yemidlalo Yemali Nokubheja waKwaZulu-Natali, ka-2021, njengoba uchazwe ngezansi, wethulwe eSishayamthetho esibalulwe ngenhla ngomhlaka zili-10 kuZibandlela 2021 futhi uzodingidwa yiKomidi Lezezimali leSishayamthetho. Izinhlangothi nezikhungo ezinentshisekelo ziyamenywa ukuba zilethe izethulo ezibhaliweyo mayelana nalo Mthethosivivinywa, okumele zithunyelwe:

KuNobhala: ISishayamthetho saKwaZulu-Natali
Isikhwama Seposi X9112
Pietermaritzburg
3200

Zibhekiswe kuMnu. S. Chili

Imeyili: Chili@kznleg.gov.za

ukuze zifinyelele kuye zingakapheli izinsuku ezingama-30 kusukela ngosuku okushicilelwe ngalo lesi Saziso



N NAIDOO
UNobhala weSishayamthetho saKwaZulu-Natali
ISIFUNDAZWE SAKWAZULU-NATALI

**UMTHETHOSIVIVINYWA OCHIBIYELA
UMTHETHO WENTELA YEMIDLALO NOKUBHEJA
WAKWAZULU-NATALI, 2021**

(Njengoba wethulwe eSishayamthetho sesiFundazwe)
(Umbhalo weSingisi uwumbhalo osemthethweni walo Mthethosivivinywa)

(UNGQONGQOSHE WEZEZIMALI)

IZINCAZELO EZIJWAYELEKILE:

[] Amagama abhalwe ngokugqamile kubakaki abayizikwele akhombisa okususiwe emthethweni okhona
_____ Amagama adweshelwe ngomugqa ohlangene akhombisa okufakiwe emthethweni okhona

UMTHETHOSIVIVINYWA

Ochibiyela uMthetho weNtela yeMidlalo yeMali nokuBheja, ka-2010, ukuze kuchithwe isigaba 5; kuhlinzekelwe ukuqinisekiswa kwezintela eziquqiwe noma ezikhokhwe ngokweSaziso sesiFundazwe No. 112 esashicilelwa mhla zi-5 kuMfumfu 2012;

kuhlinzekelwe ukushintshwa koHlelo loMthetho; kanye nokuhlinzekela okunye okuphathelene nalokho.

MAWUMISWE yiSishayamthetho sesiFundazwe saKwaZulu-Natali, kanje:

Ukuchithwa kwesigaba 5 soMthetho 9 ka 2010

1. Isigaba 5 soMthetho weNtela yeMidlalo yeMali nokuBheja, 2010 (uMthetho No. 9 ka 2010), emva kwalokhu ezobizwa ngoMthetho omkhulu, ngalokhu siyachithwa.

Ukuqinisekiswa kokuba semthethweni kweSaziso sesiFundazwe No. 112 esachilelwa mhla zi-5 kuMfumfu 2012

2. Noma iyiphi imali noma intela eqoqiwe noma ekhokhiwe, noma yisiphi isenzo, isinqumo, incasiselo, udaba, nanoma yini eyenziwe noma okuthathwa ngokuthi yenziwa, yathathwa ngokweSaziso sesiFundazwe No. 112 esashicilelwa zi-5 kuMfumfu 2012, okukhishwe ngokwesigaba 5 esicithiwe soMthetho omkhulu akuthathwa njengokungekho emthethweni ngenxa yokushicilelwa noma kokushintshwa koHlelo loMthetho omkhulu ngesaziso njengoba kuhlinzekelwe esigabeni 5 soMthetho omkhulu esichitshiyelwe noma esishintshwe ngesaziso njengoba sihlinzekelwe esigabeni 5 soMthetho omkhulu esichithiwe.

Ukushintshwa koHlelo loMthetho 9 ka 2010

3. Lolu Hlelo olulandelayo ngalokhu luyashintshwa ngokufaka lolu Hlelo olulandelayo eMthethweni omkhulu –

“UHLELO

Izintela

(Isigaba 3)

A. INTELA YEMIDLALO YEMALI YAMAKHASINO

1.(1) Umqhubi wekhasino enelayisensi kumele akhokhe intela yemidlalo yasekhasino esiKhwameni seNgenisonzuzo sesiFundazwe ngereyithi enqunywe kwithebula elingezansi:

<i>Isamba esibanjelwa intela</i>	<i>Ireythi yentela yabaQhubi bamaKhasino abanamaLayisensi</i>
<i>Lapho isamba sengenisonzuzo yemidlalo yemali sesikhathi sokukhokhwa kwentela</i>	
<u>Singevile kwizigidi zamarandi eziyi-12</u>	<u>Amaphesenti ayi-9.85 esamba sengenisonzuzo yemidlalo yemali</u>
<u>Singaphezu kwezigidi zamarandi eziyi-12 kodwa singevile kwizigidi zamarandi ezingama-30</u>	<u>R 1,182,000.00 kanye namaphesenti ayi-11.30 esamba sengenisonzuzo yemidlalo yemali esingaphezulu ngaso kwezigidi zamarandi eziyi-12</u>
<u>Singaphezu kwezigidi zamarandi ezingama-30 kodwa singevile kwizigidi zamarandi ezingama-50</u>	<u>R 3,216,000.00 kanye namaphesenti ayi-12.20 esamba sengenisonzuzo yemidlalo yemali esingaphezulu ngaso kwezigidi zamarandi angama-30</u>
<u>Singaphezu kwezigidi zamarandi ezingama-50 kodwa singevile kwizigidi zamarandi eziyi-100</u>	<u>R 5,656,000.00 kanye namaphesenti ayi-13.10 esamba sengenisonzuzo yemidlalo yemali esingaphezulu ngaso kwezigidi zamarandi angama-R 50</u>
<u>Singaphezu kwezigidi zamarandi ayi-100</u>	<u>R 12,206,000.00 kanye namaphesenti ayi-14.05 esamba sengenisonzuzo yemidlalo yemali esingaphezu kwezigidi zamarandi ayi-100</u>

(2) Emdlalweni odlalelwa etafuleni ngamunye, isamba sengenisonzuzo yemidlalo yemali silingana nemali yonke eqoqiwe ihlangene nama-credit slips ama-chips noma amathokheni okususwe

etafuleni yemidlalo yemali, kuhlenganisa ne-drop, ingabalwa i-bankroll ne-fill ebekufakwe etafuleni ngesikhathi kugala umdlalo.

(3) Emshinini womdlalo wemali ngamunye, isamba sengenisonzuzo yemidlalo yemali kumele sibalwe ngokusebenzisa amamitha kagesi ukuze kunqunywe isamba semali okugembulwe ngaso kanye nemali ewinwe abantu abasebenzise umshini wemidlalo yemali.

(4) Emdlalweni wamakhadi ngamunye nanoma yimuphi omunye umdlalo umnikazi welayisensi angeyona ingxenye yawo yokubheja, lapho isamba sengenisonzuzo yezemidlalo silingana nayo yonke imali etholwe ngumnikazi welayisensi njengomvuzo wokuqhuba umdlalo.

(5) Uma, nganoma yisiphi isikhathi sokukhokhwa kwentela, isamba sengenisonzuzo yemidlalo yemali singaphansi kweqanda, umnikazi welayisensi angabamba imali eyevile ngezikhathi zokukhokhwa ezilandelayo, kuze kube leyo mali eyevile iyehla uma iqhathaniswa nesamba sengenisonzuzo yemidlalo yemali.

2. UMnyango woMgcinimafa wesiFundazwe kumele, ezinsukwini ezingama-20 uthole intela, wabe ingxenye yaleyo ntela elingana nephesenti elilodwa (1.00%) lesamba sengenisonzuzo yemidlalo yemali yasekhasino esiKhwameni soGuquko etholakale njengoba kushiwo kwibinzana A.1.

B. IMISHINI EKHOKHA ISAMBA ESICALIWE

1. Umqhubi womzila onelayisensi kanye nomqhubi womzila ozimele onelayisensi kumele bakhokhe intela yemidlalo yemali yemishini ekhokha isamba esikaliwe ngereyithi yamaphesenti ayi-15.25 yesamba sengenisonzuzo yemidlalo yemali ngesikhathi sokukhokhwa kwentela esiKhwameni seNgenisonzuzo sesiFundazwe, lapho isamba sengenisonzuzo yemidlalo yemali sibalwa ngokusetshenziswa kwamamitha kagesi emishini ukuze kunqunywe isamba semali okugembulwe ngaso emshinini okhokha isamba esikaliwe kanye nemali ewinwe abantu abasebenzise umshini okhokha isamba esikaliwe.

2. UMnyango woMgcinimafa wesiFundazwe kumele, ezinsukwini ezingama-20, uthole intela, wabe ingxenye yaleyo ntela elingana nekota yephesenti elilodwa (0.25%) lesamba sengenisonzuzo yemidlalo yemali yasekhasino esiKhwameni soGuquko etholakale njengoba kushiwo kwibinzana B.1.

C. INTELA YEMIDLALO YEBHINGO

1. Umqhubi wemidlalo yebhingo onelayisensi kumele akhokhe intela yemidlalo yebhingo esiKhwameni seNgenisonzuzo sesiFundazwe, ngereyithi yengenisonzuzo yomqhubi wemidlalo yebhingo onelayisensi njengoba inqunye kwithebula elingezansi, lapho ingenisonzuzo yebhingo ilingana nesamba semali efakwe abadlali bomdlalo webhingo, kuhlanganisa nezimali zokubamba ighaza, kubanjwe isamba semali esibuyiselwe kubadlali ngemiklomelo, uma sekuyisikhathi sokukhokhwa kwentela.

<u>Lapho imidlalo yebhingo ngesikhathi sokukhokhwa kwentela –</u>	<u>Ireyithi yentela eqondene nabaQhubi bemiDlalo yeBhingo abanamaLayisensi</u>
<u>Ingevile emarandini angama-500,000.00</u>	<u>Amaphesenti ayi-6.50 esamba sengenisonzuzo yemidlalo yemali</u>
<u>Ingaphezu kwamarandi angama-500,000.00 kodwa ingevile emarandini ayi-1 000,000.00</u>	<u>R 32,250.00 kanye namaphesenti ayi-8.25 kwinani isamba sengenisonzuzo yemidlalo yemali eseqe ngaso emarandini angama-500,000.00</u>
<u>Ingaphezu kwamarandi ayi-1 000,000.00</u>	<u>R 73,750.00 kanye namaphesenti ayi-10.25 kwinani isamba sengenisonzuzo yemidlalo yemali eseqe ngaso emarandini ayi-1 000,000.00</u>

2. UMnyango woMgcinimafa wesiFundazwe kumele, ezinsukwini ezingama-20 uthole intela, wabe ingxenye yaleyo ntela elingana nephesenti elilodwa (1.00%) lesamba sengenisonzuzo

yemidlalo yemali yasekhasino esiKhwameni soGuquko etholakale njengoba kushiwo kwibinzana C.1.

D. UKUBHEJA

Imivuzo emile yokubheja emijahweni yamahhashi

1.(1)(a) Ubhuki kumele, njengoba kushiwo esigabeni 128 soMthetho weMidlalo yeMali nokuBheja waKwaZulu-Natali, 2010, abambe emalini ewinwe umuntu obebhejile, ngaphandle kwemali efakwe umuntu obhejile, intela elinganiselwa kumaphesenti ayi-6.00 maqondana nemivuzo emile yokubheja emijahweni yamahhashi efakwa kubhuki noma kumphathi kabhuki.

(b) Ubhuki kumele akhokhe imali yokubheja esiKhwameni seNgenisonzuzo sesiFundazwe, ngokuhambisana nesigaba 129 soMthetho weMidlalo yeMali nokuBheja waKwaZulu-Natali, 2010, intela eshiwo kwibinzana D.1(1)(a).

(c) Ukwabiwa kwemali uMnyango woMgcinimafa wesiFundazwe –

(i) esiKhwameni seNgenisonzuzo sesiFundazwe;

(ii) esiKhwameni soGuquko; kanye

(iii) nakweminye imikhakha eyehlukene yabaqhubi bezinkundla zemijaho yamahhashi abanamalayisensi ababalulwe njengabahlomuli ohlwini lokuqala kwithebula elingezansi, kumele kwenziwe ezinsukwini ezingama-20 itholwe uMnyango woMgcinimafa wesiFundazwe ngamareythi abekwe ohlwini lwesibili kwithebula elingezansi:

<u>Abahlomuli</u>	<u>Ukubheja okufakelwa imivuzo emile kubhuki noma kumphathi</u>
<u>IsiKhwama seNgenisonzuzo sesiFundazwe</u>	<u>Amaphesenti ama-3.00</u>
<u>IsiKhwama soGuquko</u>	<u>Ipheenti eli-1.00</u>
<u>Abaqhubi bezinkundla zemijaho yamahhashi abanamalayisensi abangaphansi kwesigaba 1: <i>Imihlangano yemijaho yamahhashi ye-thoroughbred</i></u>	<u>Ipheenti eli-1.60</u>
<u>Abaqhubi bezinkundla zemijaho</u>	<u>Ipheenti eli-0.20</u>

<u>yamahhashi abanamalayisensi abangaphansi kwesigaba 2: Imihlangano yemijaho yamahhashi ye-harness</u>	
<u>Abaqhubi bezinkundla zemijaho yamahhashi abanamalayisensi abangaphansi kwesigaba 3: Imihlangano yemijaho yamahhashi omtelebhelo</u>	<u>Iphesenti eli-0.20</u>
<u>Isamba esihlangene sereyithi yentela</u>	<u>Amaphesenti ayi-6.00</u>

(d) Uma –

(i) kunabaqhubi bezinkundla zemijaho yamahhashi abanamalayisensi kunoma yisiphi isigaba sabaqhubi bezinkundla zemijaho yamahhashi abanamalayisensi ababalulwe kwithebula elikwindima (c)(iii), iphesenti elabelwe abaqhubi bezinkundla zemijaho yamahhashi abanamalayisensi liyohlukaniswa ngokulingana phakathi kwabo bonke abaqhubi bezinkundla zemijaho yamahhashi abanamalayisensi;

(ii) engekho umqhubi wenkundla yemijaho yamahhashi onelayisensi kunoma yisiphi isigaba sabaqhubi bezinkundla zemijaho yamahhashi abanamalayisensi ababalulwe kwithebula elikwindima (c)(iii), ozothola umhlomulo njengomhlomuli wesabelo, iphesenti elabelwe lesigaba sabaqhubi bezinkundla zemijaho yamahhashi abanamalayisensi liqongelelwa esiKhwameni soGuquko.

(2) Izimali ezihlanganisa izimali ezabelwa abaqhubi bezinkundla zemijaho yamahhashi abanamalayisensi ezibalulwe ohlwini olukwithebula kwibinzana D.1(1)(c)(iii) kumele zisetshenziswe abaqhubi bezinkundla zemijaho yamahhashi abanamalayisensi, njengabahlomuli balezo zabelo, ngenhloso yokuthuthukisa imijaho yamahhashi kanye nokuququla imboni yezemijaho yamahhashi, kuncike kunanoma yimiphi imibandela efana naleyo njengoba ingabekwa yiBhodi ngezikhathi ezithile: Kuncike ekutheni –

(a) umqhubi wenkundla yemijaho yamahhashi onelayisensi kumele alethe uHlelo lweBhizinisi olunzulu ungakadluli umhla zingama-31 kuZibandlela wonyaka olandelayo ngamunye, ukuze lugunyazwe yiBhodi, lubalule indlela izintela ezabiwe ezishiwo

kwibinzana D(1)(c)(iii) ezizosetshenziswa ngayo ukuthuthukisa kanye nokuguqula imboni yemijaho yamahhashi ngokuhambisana nemibandela ebekwe yiBhodi;

(b) iBhodi kumele icubungule futhi igunyaze noma ingabe ukugunyazwa koHlelo lweBhizinisi olushiwo kuleli binzana esikhathini esiyizinsuku ezingama-60 kusukela ngosuku okulethwe ngalo uHlelo lweBhizinisi kwiBhodi; futhi

(c) uma kungukuthi iBhodi ingaba ukugunyaza uHlelo lweBhizinisi lomqhubi wenkundla yemijaho yamahhashi onelayisensi njengoba kushiwo kwindima (b) –

(i) iBhodi kumele ihlinzeke izizathu ngesinqumo sayo ngokuhambisana nezinhlinzeko ze-*Promotion of Administrative Justice Act, 2000* (uMthetho No. 3 ka 2000); futhi

(ii) umqhubi othintekayo angasebenzisa amandla akhe ukufaka isikhalo njengoba ushiwo esigabeni 140 soMthetho weMidlalo yeMali nokuBheja waKwaZulu-Natali, 2010 (uMthetho No. 8 ka 2010).

(3) UMnyango woMqcinimafa wesiFundazwe kumele, uma ucelwa yiBhodi, uhoxise ukwabiwa kwezimali kunoma yisiphi isigaba sabaqhubi bezinkundla zemijaho yamahhashi abanamalayisensi esishiwo kwithebula elikwibinzana D.1(1)(c)(iii) uma –

(a) umqhubi wenkundla yemijaho yamahhashi onelayisensi ehluleka ukuletha uHlelo lweBhizinisi olushiwo kwibinzana D.1(2) ungakadluli umhla wama-31 kuZibandlela wanoma yimuphi unyaka, noma iBhodi ingaba ukugunyaza uHlelo lweBhizinisi njengoba kushiwo kwibinzana D.1(2)(c), umqhubi wenkundla yemijaho yamahhashi onelayisensi okukhulunywe ngaye uyolahlekelwa yinoma izimali ezabiwe kuze kube usuku lokuqala lwenyanga elandelayo kusukela ngosuku lokugunyazwa koHlelo lweBhizinisi; noma

(b) umqhubi wenkundla yemijaho yamahhashi onelayisensi ehluleka ukuletha ubufakazi bezimali ezabiwe ezisetshenziwe ngokuhambisana noHlelo lweBhizinisi olushiwo kwibinzana D.1(2)(a), ngendlela eqculisa iBhodi, nangesikhathi esinqunywe yiBhodi.

Imivuzo emile yokubheja emicimbini yezemidlalo noma kweminye imicimbi

2.(1) Ubhuki kumele akhokhe intela yokubheja esiKhwameni seNgenisonzuzo sesiFundazwe elingana namaphesenti ayi-6.75 engenisonzuzo eyenziwe ubhuki ngokubheja lowo ubhuki akungenele –

- (a) emicimbini yezemidlalo;
- (b) kweminye imicimbi; noma
- (c) kwinhlanganisela yalokhu.

(2) Noma yikuphi ukubheja okubandakanya ukubheja okungxubevange futhi lokho kubheja okungxubevange kubandakanya noma yikuphi okuqokiwe okubandakanya imiphumela yomjaho wamahhashi, akubandakanyi ukubheja emcimbini wezemidlalo noma komunye umcimbi ngakho-ke nentela ebekwe kwibinzana D.1 iyasebenza kulokho kubheja okungxubevange.

(3) UMnyango woMgcinimafa wesiFundazwe kumele, ezinsukwini ezingama-20, ufake ikota yephesenti (0.25%) lesamba sengenisonzuzo yentela yokubheja esiKhwameni soGuguko etholakale njengoba kushiwo kwibinzana D.2(1).

Ukubheja ngokuhlanganyela emjahweni wamahhashi, emicimbini yezemidlalo noma kweminye imicimbi

3. Maqondana nokubhejela umjaho wamahhashi ngokuhlanganyela ethotho, emicimbini yezemidlalo noma kweminye imicimbi –

(a) isamba esincane esingabuyiselwa kubantu abawine kade bebheje ngokuhlanganyela emijahweni wamahhashi, emicimbini yezemidlalo noma kweminye imicimbi kumele, sesisonke, singabi ngaphansi:

(i) kwamaphesenti angama-65 azo zonke izimali zokubheja ethotho kulolo hlobo lokubheja olubizwa nge-Super 8; noma

(ii) kwamaphesenti angama-75 azo zonke izimali zokubheja ethotho kunoma yimuphi umhlangano womjaho, noma emcimbini wezemidlalo noma komunye umcimbi, ngaphandle kohlobo lokubheja olubizwa nge-Super 8;

(b) isamba sentela okumele ikhokhwe esiKhwameni seNgenisonzuzo sesiFundazwe njengoba kushiwo kulo Mthetho nasesiqabeni 130 soMthetho weMidlalo yeMali nokuBheja waKwaZulu-Natali, 2010, kumele sibalwe ngereyithi yephesenti eli-1.50 lazo zonke izimali zokubheja ethotho; futhi

(c) umnikazi welayisensi yethotho angagcina emalini engabuyiselwanga kubantu abawine kade bebheje ngokuhlanganyela emijahweni yamahhashi, emicimbini yezemidlalo noma kweminye imicimbi ethotho, ngokuhambisana nendima (a) yaleli binzana, leso samba semali njengoba sisele ngemva kokubanjwa kwemali eyiphesenti eli-1.50 eshiwo kwindima (b) yaleli binzana: Kuncike ekutheni –

(i) uma umnikazi welayisensi yethotho ehlinzekela ukubheja ezindaweni zokubheja ezihlanganyele, kumele kusebenze imithetho yaleyo thotho; futhi

(ii) imithetho yethotho yomqhubi wethotho kumele ikhangiswe lapho izobonwa khona ababheji nomqhubi wethotho oyisivakashi ngendlela enqunywe yiBhodi.

E. ABANIKAZI BAMALAYISENSI BANGAKWAZI UKUTHOLA UXHASO LWEZIMALI ESIKHWAMENI SOGUQUKO MAQONDANA NEMIKLAMO ETHILE

Umnikazi welayisensi, angakwazi ukufaka isicelo kwiBhodi ngendlela enqunywe yiBhodi sokucela ukuthi athole isabelo soxhaso ezimalini ezikhishwa yisiKhwama soGuguqo maqondana nemiklamo ethile ezokwenziwa umnikazi welayisensi ngokuhambisana nohlelo lwemiklamo olunzulu njengoba lungavunywa yiBhodi, kuncike kunoma yimiphi imibandela engabekwa yiBhodi, uma iBhodi yenelisekile ukuthi lowo mklamo uzoba nomthelela ekuququlweni kwemboni yezokugembula esiFundazweni.

F. IZINCAZELO EZIQONDENE NEZINHLOSO ZALOLU HLELO

Ngokwezinhloso zalolu Hlelo –

“isamba semali” noma “imali” kubandakanya isamba sanoma yisiphi isikweletu, sanoma yimuphi umvuzo, umklomelo, sanoma iyiphi ibhonasi, noma semali oyithola ngokuba ngovame ukudlala kuleyo khasino noma okunye okufana nalokho, esitholwa noma etholwa yilowo muntu ngokudlala kuleyo ndawo yomnikazi welayisensi yekhasino kungakhathaleki ukuthi yini umthombo waleyo mali, waleso sikweletu, walowo mklomelo, walowo mvuzo, waleyo bhonasi noma okufana nalokho;

“imali yonke eqoqiwe” kushiwo isamba nenani lama-chips etafuleni lokudlala ngesikhathi kuqala noma kuphela usuku okudlalwa ngalo;

“ukubheja ngokuhlanganyela” kushiwo isimo lapho umqhubi wethotho oyisivakashi ukubheja kwakhe kuhlanganiswa nokubheja komqhubi wethotho okubhejelwa endaweni yakhe kanti “ukuhlanganyela”, okuhlanganyelwe”, “ohlanganyelayo” kunencazelo efanayo;

“i-drop” kushiwo, uma kukhulunywa –

(a) ngemidlalo yasetafuleni, isamba semali, sama-chips, samathokheni, samaplakhi kanye nokokumaka izikweletu kwi-drop; noma

(b) umshini wemidlalo yemali, isamba –

(i) semali ewukheshi noma samathokheni esidingeka ukuthi sibe kwi-drop box noma kwi-drop bucket salowo mshini ngokwamamitha aqophe lowo mshini; noma

(ii) zonke izamba ezikhishwe ngobuxhakaxhaka bezobuchwepheshe ngabadlali kwimitha lalowo mshini labo badlali abadlala ngazo;

“i-fill” kushiwo, uma kukhulunywa –

(a) ngomdlalo odlalelwa etafuleni, ukufakwa kwama-chips, kwamaplakhi noma kwamathokheni engeziwe etafuleni lemidlalo yemali; noma

(b) ngomshini wemidlalo yemali, ukufakwa kwemali ewukheshi noma kwamathokheni kwihopha yemidlalo yemali;

“isamba sengenisonzuzo yemidlalo yemali” kushiwo umehluko phakathi kwesamba semali egenjulwe abantu ngesikhathi bedlala endaweni yomnikazi welayisensi nemali ebuyele kubantu ikhishwa umnikazi welayisensi, njengemali ewinwe ngesikhathi labo bantu begembula;

“umqhubi wethotho oyisivakashi” kushiwo umqhubi wethotho onelayisensi equnyazwe KwaZulu-Natali;

“umqhubi wethotho umdlalo obanjelwe endaweni yakhe” kushiwo umqhubi wethotho onelayisensi egunyazwe esiFundazweni, ezweni noma ngaphandle kwaKwaZulu-Natali;

“isikhathi sokukhokhwa kwentela” kushiwo inyanga;

“imithetho yethotho” kushiwo imithetho esebenza kumqhubi wethotho ebandakanya, phakathi kokunye, imithetho yokubheja kanye nemithetho egunyaza ukubanjwa kwezimali ngaphandle kwentela yokubheja ngokuhlanganyela;

“isiKhwama soGuquko” kushiwo siKhwama soGuquko esisungulwe ngokwesigaba 137(1) soMthetho weMidlalo yeMali nokuBheja waKwaZulu-Natali, 2010.”.

Isihloko esifingqiwe

4. Lo Mthetho ubizwa ngoMthethosichibiyelo weNtela yeMidlalo yeMali nokuBheja waKwaZulu-Natali, ka-2021.

IMEMORANDAMU NGEZINHLOSO ZOMTHETHOSIVIVINYWA OCHIBIYELA UMTHETHO WENTELA YEMIDLALO YEMALI NOKUBHEJA WAKWAZULU-NATALI, KA-2021

1. ISENDLALELO

UMthetho weNtela yeMidlalo yeMali nokuBheja waKwaZulu-Natali, 2010 (“uMthetho omkhulu”), sihlinzekela ukukhokhwa kwezintela ngabantu abanamalayasensi ngokoMthetho weMidlalo yeMali nokuBheja waKwaZulu-Natali, 2010. Njengoba uHlelo loMthetho omkhulu, oluhlinzekela amareyithi entela yemidlalo yemali nokubheja okuhlukahlukene, wagcina ukuchitshiyelwa

ngesaziso sesiFundazwe kuMfumu wangonyaka ka-2012, isidingo sokubuyezwa kwamareyithi ezintela kanye nokwabiwa kwengenisonzuzo bekumele engabe kade kwenzeka.

Kubonakale kunesidingo sokuchibiyela uMthetho omkhulu –

- (a) sokuchibiyela amareyithi ezintela ezithile;
- (b) sokwaba kabusha kwengenisonzuzo yezintela;
- (c) sokuchibiyela nesokufaka izincazelo ezithile;
- (d) sokucacisa mayelana nokwabiwa kwezintela zokubheja;
- (e) nokufaka imodeli yokwabiwa kwezimali lwesikhwama soguquko; kanye
- (f) nezinye izichibiyelo.

Izichibiyelo ezinzulu zihlongozwe oHlelweni olusha oluthinta izindaba ezahlukahlekene ezidingidwa lapha ngezansi.

A. Ukunyuka kwamareyithi entela ayidlanzana

Ukunyuka kubandakanya amareyithi ezintela kwintela yemidlalo yemali yasemakhasino, kwintela yemidlalo yebhingo, kwintela yemidlalo yemali yomshini okhokha isamba esikaliwe, kwintela yemidlalo yebhingo, kanye nentela yokubheja kuma-*fixed odds bets* emicimbini yemidlalo kanye nakweminye imicimbi. Akulindelekile ukuthi izisongozo ezintsha zingaphikiswa yiBhodi noma yimboni ngenxa yokuthi amareyithi ezintela osekuyiminyaka engabuyezwa. Lokhu kunyuswa kwentela okuhlongozwayo kumele engabe kade kwenzeka njengoba izichibiyelo zamareyithi entela zagcina ukushicilelwa ngonyaka ka-2012.

B. Ukwabiwa kabusha kwemali yentela yemijaho yamahhashi

Imijaho yamahhashi yaqala kudala ngonyaka ka-1795 ngesikhathi umthetho wamaNgisi uqala ukusebenza eKapa. Amahhashi ayasetshenziselwa imijaho ayebizwa ngama-*“capers”*. Ngemva kwesikhathi esikhundleni sawo kwasetshenziswa amahhashi aziwa ngama-*“thoroughbred”*. Ngokwesiko eNingizimu Afrika, umjaho wamahhashi waziwa “njengomdlalo wamakhosi” futhi uyamaniswa nezinjinga ezidla izambane likapondo. Umjaho wamahhashi we-*thoroughbred* uyimboni okukhonya kuyo izinkunzi ezimbili

esibayeni esisodwa okuyiPhumelela kanye ne-*Gold Circle*. I-*Gold Circle* iyona ekhonyayo KwaZulu-Natali, bese kuthi iPhumelela ilawule zonke ezinye izindawo kuleli.

Imboni yokubheja KwaZulu-Natali yayilawulwa nge-Odinensi yokuBheja, 1957 (i-Odinensi No. 28 ka 1957), esikhundleni sayo okwangena uMthetho weMidlalo yeMali nokuBheja waKwaZulu-Natali, 2010. I-odinensi yayihlinzeka inqubo yentela lapho umthombo kahulumeni wezimali kwakuyintela yesiKhwama seNgenisonzuzo sesiFundazwe kanye nesiKhwama sokuThuthukisa iziNkundla zeMijaho yamaHashi.

Ngonyaka ka 1994/1995, kwaqalwa imidlalo yokubheja izintela ezingamaphesenti amahlanu zafakwa esiKhwameni seNgenisonzuzo sesiFundazwe kwathi iphesenti elilodwa lafakwa esiKhwameni sezeMidlalo. Ngabo 1998, isiKhwama sokuThuthukisa iziNkundla zeMijaho yamaHashi sahlakazwa kwathi ingxenye yezabelo sazo yakhokhwa kwiKomidi eliLawula oBhukhi.

Uhlelo lokwabiwa kwezimali lwalubandakanya amakilabhu emijaho yamahhashi amathathu (Durban Turf Club, Pietermaritzburg Turf Club kanye ne-Clairwood Park Turf Club). Lamakilabhu emijaho yamahhashi ahlanganiswa aba yikilabhu eyodwa, i-*Gold Circle (Pty) Ltd*, ukuze kulawulwe izintshisekelo zalamakilabhu ahlanganisiwe.

Ngaleso sikhathi, umtelebhelo ojwayelekile, i-*standardbred* kanye nomjaho we-*harness* yayingalawulwa futhi, ngenxa yalokho kwakunomhlomuli oyedwa wezintela ezabiwayo okwakuyi-*Gold Circle* okuyiyona yodwa eyayingumqhubi wenkundla yemijaho yamahhashi onelayisensi.

Ingenisonzuzo njengamanje ekhokhelwa i-*Gold Circle* kuphela “njengomqhubi wenkundla yemijaho yamahhashi eshiwo oHlelweni olukhona, ngokokuhlongozwayo, yelulelwa nakwezinye izigaba zabaqhubi bezinkundla zemijaho yamahhashi abanamalayisensi.

C. Ukuchitshiyelwa kanye nokufakwa kwezincazelo ezithile

Lokhu okuhlongozwayo kufaka izincazelo “*isamba semali*” noma “*imali*” futhi kuhlose ukubhekana nodaba lwe-“*freeplay*” ngaphandle kokunanaza ukuqinisekisa ukuthi,

esikhathini esizayo, ingenisonzuzo yentela engatholwa yisiFundazwe ayilahleki. Lokhu okungenhla kuwumphumela wokwenyuka kwezinga lokuncika kwi-“freeplay” njengomvuzo wokuheha abazodlala ngokubathembisa ama-“freeplay”. INingizimu Afrka ayihlukile kwamanye amazwe aphesheya okudingeke ukuthi ayifakele izibuko indlela okuphathwa ngayo intela yale mihlomulo.

D. Ukwabiwa nokusatshalaliswa kwengenisonzuzo okumele ikhokhelwe abaqhubi bezinkundla zemijaho yamahhashi

Ngonyaka ka 2014, Ithotho yabhalela iHhovisi likaNdunankulu ithi njengomqhubi wenkundla yemijaho yamahhashi onelayisensi, ibinzana D loHlelo loMthetho omkhulu liyigunyaza ukuthi ihlomule ngamaphesenti amathathu kwengenisonzuzo ebuyiselwa kumqhubi wenkundla zemijaho yamahhashi. Phambilini kuze kube yimanje i-*Gold Circle* ibiyithola yonke lengenisonzuzo engamaphesenti amathathu.

Phakathi kukaMbaso 2015 kuya kuNdasa 2020, imali elinganiselwa kumarandi ayizigidi ezingama-205 iBhodi yayikhokhela i-*Gold Circle* ngokwezinhlinzeko zalolu Hlelo loMthetho weNtela.

Ithotho njengomunye umqhubi wenkundla yemijaho yamahhashi onelayisensi isanda kubika lolu daba kuNdunankulu icela ukuthi angenelele, ikhala ngokuthi ukushiywa ngaphandle kwayo akuyincishi nje kuphela amathuba, kodwa kuphinde kuvimbe umgomo wayo woguquko “wemijaho yamahhashi ezindaweni zasemakhaya”.

Ngokuchitshiyelwa koMthetho weMidlalo yeMali nokuBheja waKwaZulu-Natali, 2010, ngoMthetho weMidlalo yeMali nokuBheja waKwaZulu-Natali, 2017, isigaba 89 salowo Mthetho sachitshiyelwa ngokubeka ebuningini igama elithi “umqhubi wenkundla yemijaho yamahhashi” njalo uma lisetshenziswa eMthethweni. Lesi sichibiyelo sisusa lokho okubukeka njengegunya labakhethiweyo maqondana ne-*Gold Circle* futhi sicaba indlela yohlelo lokwabiwa kwentela ngendlela elinganayo, ebhekelela yonke imisebenzi yezinhlangothi ezithintekayo.

Kuyiqiniso ukuthi ukufakwa okuhlongozwayo kwabanye abaqhubi bezinkundla zemijaho yamahhashi, njenge-lthotho, njengabahlomuli bezabelo akukona nje ukuthi bese kudlulelwe yisikhathi, kodwa kuyosiza kakhulu ukuvimbela noma yikuphi ukumangalelana okungenzeka ukuthi bayakucabanga. Isabelo esiwu-0.2% esiyonikwa ezinye izigaba zabaqhubi bezinkundla zemijaho yamahhashi abanamalayisensi maqondana nemihlangano yemijaho yamahhashi ye-*harness* kanye nemihlangano yemijaho yamahhashi omtelbhelo, siyosiza abaqhubi bezinkundla zemijaho yamahhashi ukusebenza ngendlela efanele futhi basebenzise leyo mali ukuthuthukisa imijaho yamahhashi esiFundazweni kanye nabantu abayamaniswa nalo mdlalo.

Lokhu kuchitshiyelwa kanye nokuguqulwa okuhlongozwayo koHlelo kuhlose ukuthi izimali eziqukethe izabelo ezizonikezwa abaqhubi bezinkundla zemijaho yamahhashi abanamalayisensi kumele zisestshenziwe abaqhubi bezinkundla zemijaho yamahhashi abanamalayisensi, njengabahlomuli bezabelo, ikakhulu ngezinhloso zokuthuthukisa imijaho yamahhashi nokuletha uguquko embonini yemijaho yamahhashi, kuncike kunoma yimiphi eminye imigomo engabekwa yiBhodi ngezikhathi ezithile.

Njengamanje, i-*Gold Circle*, njengomqhubi wenkundla yemijaho yamahhashi maqondana nemihlangano yemijaho yamahhashi ye-*thoroughbred*, ngendlela ebona ngayo isebenzisa lezi zimali njengesibonelelo esingenamibandela. Maqondana nalokhu izitatimende zezimali ezisanda kuthunyelwa yi-*Gold Circle* zikhombisa ukuthi ukusetshenziswa kwalezi zimali kungakuba nogcobho. Izimali ezabelwe abaqhubi bezinkundla zemijaho yamahhashi kumele zisetshenziselwe ukuthuthukisa nokuguqula imboni yemijaho yamahhashi.

Izichibiyelo ezihlongozwayo zisiza iBhodi ukuthi ikwazi ukuba namandla okuba yihlo ezimalini ezabelwe abaqhubi bezinkundla zemijaho yamahhashi futhi zivumela iBhodi ukuthi ibeke eminye imibandela, ngezikhathi ezithile, ngendlela izimali okumele zisetshenziswe ngayo. Izinguquko ezihlongozwayo zizosiza ngokwenyusa izinga lokuba nesibopho sokubika, nokusebenza ngendlela evulelekile emphakathini nangokuphucula indlela yokuqashwa kokusetshenziswa kwezimali.

Abaqhubi bezinkundla zemijaho yamahhashi abangaphansi kweSigaba 1: Imihlangano yemijaho yamahhashi ye-*thoroughbred*, bayothola isabelo esiyi-1,6%. Lesi sabelo sikhulu kakhulu njengoba imihlangano yemijaho eminingi ingena ngaphansi kwalesi sigaba, ngakho-ke iletha ingxenye enkulu yengenisonzuzo yentela uma kuqhathaniswa nezinye izigaba zabaqhubi bezinkundla zemijaho yamahhashi. Empeleni, lezi ezinye izigaba zabaqhubi bezinkundla zemijaho yamahhashi ziyoxhaswa ngengenisonzuzo eqongelelwa emihlanganweni yemijaho yamahhashi ye-*thoroughbred*, engaphansi kweSigaba 1.

Njengoba kubekiwe ngasenhla, abaqhubi bezinkundla zemijaho yamahhashi abanamalayisensi abangaphansi kweSigaba 2: Imihlangano yemijaho yamahhashi ye-*harness* kanye nabaqhubi bezinkundla zemijaho yamahhashi abangaphansi kweSigaba 3: Imihlangano yemijaho yamahhashi omtelbhelo bayothola isabelo esiyi-0.2% emunye. Lokhu kwabiwa kwezimali kuhloswe ukuthi kuqalise ukuthuthukiswa kwalezi zigaba zembali yemijaho yamahhashi ngendlela yokuthi zibe sezingeni lapho ziyokwazi ukuba nemihlangano yemijaho yamahhashi engaphezu kwale eziba nayo njengamanje.

Kuhlongozwa ukuthi iphesenti elilodwa lemali eyokwabiwa liyofakwa esiKhwameni soGuquko, futhi abanikazi bamalayisensi bangathola ezinye izimali esiKhwameni soGuquko, ukwenza imiklamo ethile eyoba nomthelela omuhle nobonakalayo wokuguqula imboni yezokugembula esiFundazweni. Le miklamo kumele igunyazwe yiBhodi ngokuhambisana nohlelo olunzulu. Imiklamo kumele ichazwe ngabanikazi bamalayisensi abazokwamukelwa futhi baqashwe yiBhodi bese kuthi izimali zikhishwe kuqalwe kusukela kwencane kuye ngokwenyuka uma sekufezwe obekuhlosiwe ngempumelelo ekuqalisweni kwemiklamo.

Kumele kugcizelelwe ukuthi la maphesenti ezabelo kwithebula elingenhla ayashintsha awahlali enjalo, kodwa inhloso ukuthi abuyekwezwe njalo emva kwesikhathi esithile kubhekelelwa izinga lokufezwa kwezinjongo zokuthuthukiswa nokuguqulwa kwemijaho yamahhashi kanye nembali yemijaho yamahhashi.

E. IsiKhwama soGuquko

Okunye okusha okuhlongozwayo ingxenye encane ngokwamaphesenti yalezi zintela ekhokhwa esiKhwameni seNgenisonzuzo sesiFundazwe kumele uMnyango woMgcinimafa wesiFundazwe uyabele isiKhwama soGuquko ukuhlinzeka omunye umthombo wezimali wesiKhwama soGuquko esasungulwa ngokwesigaba 137(1) soMthetho weMidlalo yeMali nokuBheja waKwaZulu-Natali, 2010, ukuqinisekisa ukuthi isiKhwama soGuquko siyakwazi ukufeza izinjongo zaso ezibekiwe.

UHlelo olusha lukubeka ngokusobala ukuthi umnikazi welayisensi uyobe esekwazi ukuthola imali ethile esiKhwameni soGuquko yemiklamo ethile eyokwenziwa umnikazi welayisensi ngokuhambisana nohlelo lomklamo oluchaza kabanzi njengoba kungagunyaza iBhodi, kuncike kunoma yimiphi imibandela engabekwa yiBhodi, uma kungukuthi iBhodi igculisekile ukuthi lowo mklamo othintekayo uzoba nomthelela onqala nomuhle ekuguquleni imboni yokugembula esiFundazweni.

F. Ezinye izichibiyelo

Njengoba imibono yezomthetho efuniwe isiveze ukungabaza mayelana nokuba semthethweni kwesigaba 5 soMthetho omkhulu, esihlinzekela ukuchitshiyelwa noma ukuguqulwa koHlelo ngeSaziso kwiGazethi, kubonakale kuwumqondo ophusile ukuchitha lesi sigaba bese kwethulwa uHlelo oluchitshiyelwe njengengxenye yalo Mthethosivivinywa. Njengoba izintela sezikhokhiwe nezimali zabiwe ngokweSaziso sesiFundazwe esibaluwe ngasenhla, kubalulekile ukuqinisekisa ukuqoqwa nokukhokwa kwezintela.

UKUCHAZWA KWESIGABA SOMTHETHO NGASINYE

Kafishane, umthethosivivinywa uhlinzekela lokhu okulandelayo –

Isigaba soMthetho 1:

Isigaba soMthetho 1 sichitha isigaba 5 soMthetho omkhulu okwamanje esihlinzekela ukuchitshiyelwa noma ukuguqulwa koHlelo ngesaziso kwiGazethi yesiFundazwe. Imibono yezomthetho efuniwe isiveze ukungabaza mayelana nokuba semthethweni kwesigaba 5

soMthetho omkhulu. Kunombono wokuthi njengoba uMthetho omkhulu uwumthethosivivinywa weMali, uMthetho omkhulu kanye noHlelo lwawo ungachitshiyelwa kuphela ngoMthethosichibiyelo hhayi ngesaziso.

Isigaba soMthetho 2:

Isigaba soMthetho 2 sihlizekela ukuqinisekiswa kwezintela eziqoqiwe nezikhokhiwe kanye nanoma yini enye eyenziwe ngokweSaziso No. 112 esashicilelwa mhla zi-5 kuMfumu ngonyaka ka 2012, okukhishwe ngokwesigaba 5 esesichithiwe soMthetho omkhulu. Isigaba soMthetho sokuqinisekiswa sinomkhawulo. Umthelela ukuthi akukho okwenziwe ngokwalesi saziso okuyothathwa njengokungekho semthethweni ngoba nje uHlelo loMthetho omkhulu kwakumele luchitshiyelwe noma luguqulwe ngesaziso njengoba kuhlinzekelwe esigabeni 5 soMthetho omkhulu hhayi ngokomthetho noma ngokoMthethosivivinywa ochibiyela noma oguqula uHlelo.

Isigaba soMthetho 3:

Isigaba soMthetho 3 sihlongoza ukuguqulwa koHlelo lomthetho omkhulu olukhuluma ngezintela zemidlalo yemali nokubheja kanye nezintela zamareyithi. Izichibiyelo zihlinzekela ukukhushulwa okungatheni kwamareyithi ezintela zamakhasino, zama-LPM's kanye nezobhuki. Inhloso ukuhlinzeka indlela yokukhokhela isikhwama soguquko, esisungulwe ngokwesigaba 137 soMthetho weMidlalo yeMali nokuGembula waKwaZulu-Natali, 2010, ukuze isikhwama soguquko sikwazi ukufeza esijutshelwe kona. Leli yigxathu elikhulu lemizamo yeBhodi yokuguqula imboni yeMidlalo yeMali nokuBheja. Isigaba somthetho siphinde siqalise izichibiyelo zoMthetho weMidlalo yeMali nokuBheja waKwaZulu-Natali, 2010, ezenziwa ngonyaka ka 2017, ezethula ezinye izigaba ezengeziwe zabaqhubi bezinkundla zemijaho yamahhashi (zemijaho yamahhashi omtelabhelo kanye neye-harness); ngalokho kwamukelwa ukuba khona kwezigaba ezehlukene zemijaho yamahhashi kanye nabaqhubi bezinkundla zemijaho yamahhashi. Lesi sigaba soMthetho sihlizekela ukuthi iphesenti elilodwa liyokwabelwa isiKhwama soGuquko, sibe futhi sethula lezi zigaba ezilandelayo zabahlomuli abayohlomula uma sekwabiwa izintela ezikhokhwe

obhuki emicimbini yemijaho yamahhashi (intela yamaphanta) esikhathini esizayo, kuncike ezinhlelweni zokulawula ukuqinisekisa ukuthi intela eyabiwe isetshenziselwa izinhloso zoguquko:

(a) Isigaba 1 – Abaqhubi bezinkundla zemijaho yamahhashi abanamalayisensi:

Imihlangano yemijaho yamahhashi ye-*thoroughbred*, abanesabelo esiyi-1.6% sezintela zokubheja;

(b) Isigaba 1 – Abaqhubi bezinkundla zemijaho yamahhashi abanamalayisensi:

Imihlangano yemijaho yamahhashi ye-*harness*, abanesabelo esiwu-0.2% sezintela zokubheja; kanye

(c) Nesigaba 1 – Abaqhubi bezinkundla zemijaho yamahhashi abanamalayisensi:

Imihlangano yemijaho yamahhashi ye-*thoroughbred*, abanesabelo esiwu-0.2% sezintela zokubheja.

Lokhu okuhlongozwayo kuphinde kufake izincazelo ngezinhloso zoHlelo olusha, kubandakanya nencazelo “*yesamba semali*” noma “*imali*”, ngenhloso yokubhekana nodaba lwe-“*freeplay*” ngaphandle kokunanaza ukuqinisekisa ukuthi, esikhathini esizayo, imali yentela engatholwa yisiFundazwe ayilahleki. Lenhlinzeko ihlose nokwamukela ukuphuculwa kwezobuchwepheshe kulo mkhakha wezokugembula.

Maqondana nokulahleka kwezintela okungaba khona ngaphambi kokushicilelwa koHlelo olusha oluhlongozwayo, abanye abaqhubi bamakhasino kuyimanje sebeyiyekile “*i-freeplay credit*” “ezimalini eziyisamba zengenisonzuzo” noma sebefuna ukuthola imvume esemthethweni yokushiya ngaphandle noma yokubanjelwa imali “*ye-freeplay credit*” ngezinhloso zokubala imali yentela abayikweletayo.

Lesi sigaba somthetho siphinde sichibiyele incazelo yengenisonzuzo ngokufaka “inani lemali” ukubhekelela izinto ezahlukene emidlalweni yemali ngenxa yokuphuculwa kwezobuchwepheshe kanye nezinhlobo ezintsha zemidlalo, futhi siphinde siqondise incazelo yengenisonzuzo yemidlalo yemali ukuthi ibandakanye “izamba zenzuzo” ezitholakala ngemidlalo yemali.

Isigaba somthetho 4:

Isigaba somthetho 4 siqukethe isihloko esifingqiwe soMthethosivivinywa.

3. ABASEBENZI ABANGASE BADINGWE UHULUMENI WESIFUNDAZWE

Abekho abanye abasebenzi abazodingeka.

4. IZIMALI EZIZODINGWA UHULUMENI WESIFUNDAZWE

Umthethosivivinywa uhlinzekela, futhi uhlongoza, ukwenyuka kwentela esiFundazweni ezizokhokhwa esiKhwameni seNgenisonzuzo sesiFundazwe kanye nezimali ezizokhokhwa esiKhwameni soGuquko esasungulwa ngokwesigaba 137(1) soMthetho weMidlalo yeMali nokuBheja waKwaZulu-Natali, 2010, ukuqinisekisa ukuthi isiKhwama soGuquko siyakwazi ukufeza izinhloso zaso ezinqunyiwe.

5. IMINYANGO / IMIGWAMANDA / ABANTU OKUBONISENWE NABO

Umthethosivivinywa ulotshwe emva kokubonisana –

(a) neHhovisi likaNdunankulu;

(b) noNgqongqoshe wezokuThuthukiswa koMnotho, ezokuVakasha nezeMvelo, njengoNgqongqoshe obhekele ukuphathwa koMthetho weMidlalo yeMali nokuBheja, 2010; kanye

(c) neBhodi yeMidlalo yeMali nokuBheja.

6. OKUNGAXHUNYWANA NAYE

Igama: **Mnu. Ndumiso Nkomo**

Isikhundla: uMqondisi woPhiko lwezoMthetho eMnyangweni woMgcinimafa wesiFundazwe

Ucingo: (033) 897 4544

Ifeksi: (033) 897 4594

Inombolo yeselula: 071 362 4400

I-imeyli: ndumiso.nkomo@kzntreasury.gov.za

KWAZULU-NATAL BELASTINGWYSIGINGSWETSONTWERP OP DOBBELARY EN WEDDERY, 2021

Kennisgewing ooreenkomstig Reël 218 van die Staande Reëls van die KwaZulu-Natalse Wetgewer

Kennisgewing geskied hiermee dat, ooreenkomstig Reël 218 van die Staande Reëls van die KwaZulu-Natalse Wetgewer, die KwaZulu-Natal Belastingwysigingswetsontwerp op Dobbelary en Weddery, 2021, soos hieronder uiteengesit, op 10 Desember 2021 by die voorgemelde Wetgewer

ingelei is en deur die Portefeuljekomitee oor Finansies oorweeg sal word. Belanghebbende partye en instellings word hiermee uitgenooi om skriftelike verhoë oor die vermelde Wetsontwerp in te dien, welke verhoë gerig moet word aan –

Die Sekretaris
KwaZulu-Natalse Wetgewer
Privaatsak X 9112
PIETERMARITZBURG
3200

Aandag: Mnr S Chili

E-pos: Chili@kznleg.gov.za

Verhoë moet hom nie later nie as **30 dae** vanaf die datum van hierdie kennisgewing bereik.



N NAIDOO

Sekretaris van die KwaZulu-Natalse Wetgewer

PROVINSIE VAN KWAZULU-NATAL

KWAZULU-NATAL BELASTINGWYSIGINGSWETSONWERP OP DOBBELARY EN WEDDERY, 2021

—————
(Soos ingelei in die Provinsiale Wetgewer)
(Die Engelse teks is die amptelike teks van die Wetsontwerp)

—————

(LUR VIR FINANSIES)

ALGEMENE VERDUIDELIKENDE NOTA:

[] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande wetsbepalings aan
_____ Woorde met 'n volstreep daaronder dui invoegings in bestaande wetsbepalings aan

WETSONTWERP

Om die KwaZulu-Natal Belastingwet op Dobbelary en Weddery, 2010, te wysig ten einde artikel 5 te herroep; om voorsiening te maak vir die geldigverklaring van belasting wat ingevolge Provinsiale Kennisgewing No. 112 van 5 Oktober 2012 ingevorder of betaal is; om voorsiening te maak vir die vervanging van die Bylae by die Wet; en om voorsiening te maak vir aangeleenthede wat daarmee verband hou.

DAAR WORD BEPAAL deur die Provinsiale Wetgewer van die Provinsie KwaZulu-Natal, soos volg:

Herroeping van artikel 5 van Wet 9 van 2010

1. Artikel 5 van die KwaZulu-Natal Belastingwet op Dobbelary en Weddery, 2010 (Wet No. 9 van 2010), hierna die "Hoofwet" genoem, word hiermee herroep.

Geldigverklaring van Provinsiale Kennisgewing No. 112 van 5 Oktober 2012

2. Enige geld of belasting wat ingesamel of betaal is, of enige handeling, bepaling, toedeling, besluit, aangeleentheid of enige ander ding wat gedoen, gemaak, geneem, verrig of uitgevoer of beweer is dat dit gedoen, gemaak, geneem, verrig of uitgevoer is ingevolge Provinsiale Kennisgewing No. 112 van 5 Oktober 2012, uitgereik ingevolge die herroepe artikel 5 van die Hoofwet is nie ongeldig nie slegs omdat die Bylae van die Hoofwet gewysig of vervang word by kennisgewing soos bepaal in die herroepe artikel 5 van die Hoofwet.

Vervanging van Bylae by Wet 9 van 2010

3. Die volgende Bylae vervang die Bylae by die Hoofwet –

"BYLAE

Belasting

(artikel 3)

A. CASINODOBBELBELASTING

1. (1) 'n Gelisensieerde casino-operateur moet die casinodobbelbelasting aan die Provinsiale Inkomstefonds betaal teen die koers wat in die tabel hieronder voorgeskryf word:

<u>Belasbare Inkomste</u>	<u>Belastingkoers ten opsigte van Gelisensieerde Casino-operateurs</u>
<u>Waar die bruto dobbelinkomste vir die belastingtydperk –</u>	
<u>Nie R 12 miljoen oorskry nie</u>	<u>9.85% van bruto dobbelinkomste</u>

<u>R 12 miljoen oorskry maar nie R 30 miljoen oorskry nie</u>	<u>R 1,182,000.00 plus 11.30% van die bedrag waarmee bruto dobbelinkomste R 12 miljoen oorskry</u>
<u>R 30 miljoen oorskry maar nie R 50 miljoen oorskry nie</u>	<u>R 3,216,000.00 plus 12.20% van die bedrag waarmee bruto dobbelinkomste R 30 miljoen oorskry</u>
<u>R 50 miljoen oorskry maar nie R 100 miljoen oorskry nie</u>	<u>R 5,656,000.00 plus 13.10% van die bedrag waarmee bruto dobbelinkomste R 50 miljoen oorskry</u>
<u>R 100 miljoen oorskry</u>	<u>R 12,206,000.00 plus 14.05% van die bedrag waarmee bruto dobbelinkomste R 100 miljoen oorskry</u>

(2) Vir elke tafelspel is bruto dobbelinkomste gelyk aan die sluitingsbankrol plus kredietstrokie, dubbelskyfies of tekenmunte wat van die dobbeltafel verwyder is, plus valluik, min openingsbankrol en enige vul vir die tafel.

(3) Vir elke dobbelmasjien moet bruto dobbelinkomste bereken word deur die toepaslike elektroniese meters van die masjien te gebruik om beide die geldbedrag te bepaal wat op die dobbelmasjien gedobbel is asook die bedrag geld wat deur die persone gewen is wat die dobbelmasjien gebruik het.

(4) Vir elke kaartspel en enige ander spel waar die lisensiehouer nie deel het aan 'n weddenskap nie, is bruto dobbelinkomste gelyk aan alle gelde wat die lisensiehouer as vergoeding vir die hou van die spel ontvang.

(5) Indien die bedrag van bruto dobbelinkomste, in enige belastingtydperk, minder as nul is, kan die lisensiehouer die oorskryding in opvolgende belastingtydperke aftrek, totdat daar ten volle gekompenseer is vir die oorskryding teen bruto casinodobbelinkomste.

2. Die Provinsiale Tesourie moet, binne 20 dae nadat die belasting ontvang is, 'n deel van daardie belasting gelyk aan 1.00 persent van die totale bruto dobbelinkomste ontvang, aan die Transformasiefonds versprei soos bedoel in item A.1.

B. BEPERKTE UITBETAALMASJIENDOBDELBELASTING

1. 'n Gelisensieerde roete-operateur en 'n gelisensieerde onafhanklike perseeloperateur moet beperkte uitbetaalmasjiendobbelbelasting teen 'n koers van 15.25 persent van bruto dobbelinkomste

vir die belastingtydperk aan die Provinsiale Inkomstefonds betaal, waar bruto dobbelinkomste bereken moet word deur gebruik te maak van die toepaslike elektroniese meters van die masjien om die geldbedrag wat op die beperkte uitbetaalmasjien gedobbel is en die geldbedrag wat deur persone wat die beperkte uitbetaalmasjien gebruik het, te bepaal.

2. Die Provinsiale Tesourie moet, binne 20 dae nadat die belasting ontvang is, 'n deel van daardie belasting gelyk aan 0.25 persent van die totale beperkte uitbetaalmasjien bruto dobbelinkomste ontvang aan die Transformasiefonds versprei soos bedoel in item B.1.

C. BINGO-DOBBELBELASTING

1. 'n Gelisensieerde bingo-operateur moet bingo-dobbelbelasting teen die koers van die lisensiehouer se bingo-inkomste soos voorgeskryf in die tabel hieronder aan die Provinsiale Inkomstefonds betaal, waar bingo-inkomste gelyk is aan die totale geldbedrag wat deur spelers in 'n bingospel gewaag word, met inbegrip van deelnemingsgelde, min die totale bedrag wat in 'n belastingtydperk aan spelers teruggegee word by wyse van pryse:

<u>Waar bingo-inkomste vir die belastingtydperk –</u>	<u>Belastingkoers ten opsigte van Gelisensieerde Bingo-operateurs</u>
<u>Nie R 500,000.00 oorskry nie</u>	<u>6.50% van bruto dobbelinkomste</u>
<u>R 500,000.00 oorskry maar nie R 1 miljoen oorskry nie</u>	<u>R 32,500.00 plus 8.25% van die bedrag waarmee bruto dobbelinkomste R 500,000.00 oorskry</u>
<u>R 1 miljoen oorskry</u>	<u>R 73,750.00 plus 10.25% van die bedrag waarmee bruto dobbelinkomste R 1 miljoen oorskry</u>

2. Die Provinsiale Tesourie moet, binne 20 dae nadat die belasting ontvang is, 'n deel van daardie belasting gelyk aan 1.00 persent van die totale bruto bingo-dobbelinkomste ontvang aan die Transformasiefonds versprei soos bedoel in item C.1.

D. WEDDERY

Weddenskappe met vaste wedpryse op perdewedrenne

1.(1)(a) 'n Beroepswedder moet, soos bedoel in artikel 128 van die KwaZulu-Natal Wet op Dobbelaar en Weddery, 2010, 'n belasting gelyk aan 6.00 persent ten opsigte van weddenskappe met vaste wedpryse op perdewedrenne by 'n beroepswedder of 'n beroepswedder se bestuurder aangegaan,

afrek van die bedrag wat deur die wedder gewen is, uitgeslote die bedrag wat deur die wedder gewaag is.

(b) 'n Beroepswedder moet, in ooreenstemming met artikel 129 van die die KwaZulu-Natal Wet op Dobbelay en Weddery, 2010, die belasting bedoel in D.1(1)(a) aan die Provinsiale Inkomstefonds betaal.

(c) Die verspreiding deur die Provinsiale Tesourie aan –

(i) die Provinsiale Inkomstefonds;

(ii) die Transformasiefonds; en

(iii) die kategorieë van gelisensieerde renbaanoperateurs gelys as begunstigdes in die eerste kolom van die tabel hieronder.

moet plaasvind teen die koerse bedoel in die tabel hieronder binne 20 dae nadat die Provinsiale Tesourie die belasting ontvang het:

<u>Begunstigdes</u>	<u>Weddenskappe met vaste pryse aangegaan by 'n beroepswedder of bestuurder</u>
<u>Provinsiale Inkomstefonds</u>	<u>3.00%</u>
<u>Transformasiefonds</u>	<u>1.00%</u>
<u>Kategorie 1 Gelisensieerde renbaanoperateurs: Volbloedperdewedrenbyeenkomste</u>	<u>1.60%</u>
<u>Kategorie 2 Gelisensieerde renbaanoperateurs: Tuiqwedren-perdewedrenbyeenkomste</u>	<u>0.20%</u>
<u>Kategorie 3 Gelisensieerde renbaanoperateurs: Standaardgeteelde perdewedrenbyeenkomste;</u>	<u>0.20%</u>
<u>Totale belastingkoers</u>	<u>6.00%</u>

(d) In die geval waar –

(i) meer as een renbaanoperateur gelisensieer is in enige kategorie van gelisensieerde renbaanoperateurs gelys in die tabel in paragraaf (c)(iii), sal die persentasie toegewys aan sodanige kategorie van gelisensieerde renbaanoperateurs gelykop verdeel word tussen al die gelisensieerde operateurs; en

(ii) geen renbaanoperateur gelisensieer is in enige kategorie van gelisensieerde renbaanoperateurs gelys in die tabel in paragraaf (c)(iii), sal die persentasie toegewys aan

sodanige kategorie van gelisensieerde renbaanoperateurs na die Transformasiefonds gaan.

(2) Die fondse bestaande uit die verspreiding na die kategorieë gelisensieerde renbaanoperateurs in die tabel in item D.1(1)(c)(iii), moet deur die gelisensieerde renbaanoperateurs, as begunstigdes van die verdeling, spesifiek aangewend word vir doeleindes van die ontwikkeling van perdewedrenne en die transformasie van die perdewedrenbedryf en enige verdere voorwaardes van soortgelyke aard wat die Raad van tyd tot tyd mag oplê: Met dien verstande dat -

(a) elke gelisensieerde renbaanoperateur 'n omvattende sakeplan teen nie later nie as 31 Desember van elke opeenvolgende jaar indien vir goedkeuring deur die Raad waarin uitgestippel word hoe die verspreide belasting bedoel in item D.(1)(c)(iii) aangewend sal word om die perdewedrenbedryf te ontwikkel en te transformeer in ooreenstemming met die voorwaardes deur die Raad opgelê;

(b) die Raad die sakeplan in hierdie item bedoel, oorweeg en goedkeur of weier binne 'n tydperk van 60 dae vanaf die datum van indiening van die sakeplan by die Raad; en

(c) in die geval waar die Raad weier om die sakeplan van die betrokke gelisensieerde renbaanoperateur bedoel in paragraaf (b) goed te keur -

(i) moet die Raad redes vir sy besluit verskaf in ooreenstemming met die bepalings van die Wet op die Bevordering van Administratiewe Geregtigheid, 2000 (Wet No. 3 van 2000); en

(ii) kan die betrokke operateur sy regte uitoefen deur appèl aan te teken soos bedoel in artikel 140 van die KwaZulu-Natal Wet op Dobbelaar en Weddery, 2010 (Wet No. 8 van 2010).

(3) Die Provinsiale Tesourie moet, op versoek van die Raad, die verspreiding van fondse aan enige kategorie van gelisensieerde renbaanoperateur bedoel in die tabel in item D.1(1)(c)(iii) opskort in die geval waar -

(a) 'n gelisensieerde renbaanoperateur versuim om die sakeplan soos bedoel in item D.1(2) voor 31 Desember van 'n spesifieke jaar voor te lê, of die Raad weier om die sakeplan soos bedoel in item D.1(2)(c) goed te keur, sal die gemelde betrokke gelisensieerde renbaanoperateur enige verspreiding van fondse verbeur tot die eerste dag van die kalendermaand wat volg op die datum van goedkeuring van die sakeplan; of

(b) 'n gelisensieerde renbaanoperateur versuim om bewys van uitgawes van die verspreide fondse in ooreenstemming met die goedgekeurde sakeplan bedoel in item D.1(2)(a) tot bevrediging van die Raad, en binne die tydramwerk deur die Raad bepaal, in te dien.

Weddenskappe met vaste wedpryse op sportgebeurtenisse of ander gebeurtenisse of gebeurlikhede

2.(1) 'n Beroepswedder moet 'n wedderybelasting gelyk aan 6.8 % van sodanige beroepswedder se bruto dobbelinkomste aan die Provinsiale Inkomstefonds betaal ten opsigte van alle wedtransaksies deur die beroepswedder aangegaan op -

- (a) sportgebeurtenis;
- (b) ander gebeurtenisse of gebeurlikhede; of
- (c) enige kombinasie daarvan.

(2) Enige wedtransaksie wat 'n veelvoudige weddenskap uitmaak en welke veelvoudige weddenskap enige keuse insluit wat die uitslag van 'n perdewedren behels, maak nie deel uit van 'n wedtransaksie op 'n sportgebeurtenis of ander gebeurtenis of gebeurlikheid nie en die belasting in item D.1 voorgeskryf, is derhalwe van toepassing op sodanige veelvoudige weddenskap.

(3) Die Provinsiale Tesourie moet, binne 20 dae nadat die belasting ontvang is, 'n gedeelte van die belasting gelyk aan 0.25 persent van die totale bruto dobbelinkomste ontvang aan die Transformasiefonds versprei soos bedoel in item D.2(1).

Pari-mutuel-weddenskappe op perdewedrenne, sportgebeurtenisse of ander gebeurtenisse of gebeurlikhede

3. Ten opsigte van pari-mutuel-weddenskappe op perdewedrenne, sportgebeurtenisse of ander gebeurtenisse of gebeurlikhede by 'n totalisator aangegaan –

- (a) moet die minimum bedrag wat aan persone terugbetaal word wat wen-pari-mutuel-weddenskappe op perdewedrenne, sportgebeurtenisse of ander gebeurtenisse of gebeurlikhede by 'n totalisator aangegaan het altesaam nie minder wees nie
 - (i) 65 persent van alle gelde wat op die totalisator verwed is op die weddenskap-tipe bekend as Super 8; of
 - (ii) 75 persent van alle gelde wat op die totalisator verwed is by enige enkele wedrenbyeenkoms of op enige sportgebeurtenis of ander gebeurtenis of gebeurlikheid uitgesonder die weddenskap-tipe bekend as die Super 8;
- (b) die bedrag wat aan die Provinsiale Inkomstefonds betaalbaar is soos bedoel in hierdie Wet

en artikel 130 van die KwaZulu-Natal Wet op Dobbelaar en Weddery, 2010, moet bereken word teen die koers van 1.50 persent van alle gelde wat op die totalisator verweerd word; en
(c) die totalisatorlisensiehouer kan van die bedrag wat nie terugbetaal word nie aan persone wat wen-pari-mutuel-weddenskappe aangegaan het op perdewedrenne, sportgebeurtenisse of ander gebeurtenisse of gebeurlikhede by 'n totalisator ooreenkomstig (a), sodanige bedrag behou wat oorbly na aftrekking van die 1.5 persent bedoel in paragraaf (b) van hierdie item:
Met dien verstande dat –

- (i) wanneer 'n totalisatorlisensiehouer weddenskappe op vermengde weddenskappe aanbied, moet die totalisatorreëls geld wat op die gasheertotalisator van toepassing is; en
- (ii) die totalisatorreëls van die gasheertotalisator deur die gasheertotalisator by wedders geadverteer moet word op die wyse soos deur die Raad voorgeskryf.

E. GELISENSIEERDES KAN TOEGANG TOT FONDSE VIR SPESIFIEKE PROJEKTE UIT DIE TRANSFORMASIEFONDS VERKRY

'n Lisensiehouer kan, by wyse van 'n aansoek aan die Raad op die wyse deur die Raad bepaal, 'n toewysing vir befondsing uit die Transformasiefonds vir spesifieke projekte versoek wat deur die lisensiehouer staan uitgevoer te word in ooreenstemming met 'n gedetailleerde projekplan soos die Raad mag goedkeur, onderhewig aan enige voorwaardes wat die Raad mag oplê, waar die Raad tevrede is dat die betrokke projek 'n beduidende en positiewe bydrae tot die transformasie van die dobbelbedryf in die Provinsie sal lewer.

F. SPESIFIEKE OMSKRYWINGS VIR DOELEINDES VAN BYLAE

Vir die doeleindes van hierdie Bylae beteken –

“bankrol” die totale waarde van dobbelmunte by 'n speeltafel soos by die opening of sluiting van 'n dobbeldag;

“geldbedrag” of “geld” die waarde van enige krediet, beloning, bonus, lojaliteit of dies meer aan sodanige persoon beskikbaar gestel om by 'n lisensiehouer te dobbel of vir gebruik by 'n dobbelmasjien wat deur die lisensiehouer bedryf word, ongeag die bron van sodanige waarde van krediet, beloning, bonus, lojaliteit of dies meer;

“belastingtydperk” ’n kalendermaand;

“bruto dobbelinkomste” die verskil tussen die bedrag geld of monetêre waarde gedobbel of gewaag deur persone en die bedrag geld of monetêre waarde gewen, teruggestuur of uitbetaal aan sodanige persone deur ’n gelisenseerde as ’n direkte gevolg van die dobbelaktiwiteit waaraan hulle deelgeneem het;

“gasheertotalisator” ’n totalisatoroperateur wat in ’n provinsie, staat of land buite KwaZulu-Natal gelisenseer is;

“gastotalisator” ’n totalisatoroperateur wat in KwaZulu-Natal gelisenseer is;

“Transformasiefonds” die Transformasiefonds ingestel ingevolge artikel 137(1) van die KwaZulu-Natal Wet op Dobbelaar en Weddery, 2010.

“totalisatorreëls” die reëls wat van toepassing is op ’n totalisatoroperateur wat, onder andere, weddenskapreëls insluit, asook reëls wat aftrekkings buiten belastingaftrekkings van weddenskappele magtig; en

“valluik”, in die geval van –

(a) ’n tafelspel, die totale kontantbedrag, dubbelskyfies, tekenmunte, plakette en kredietmerkers in die valluik; of

(b) ’n dobbelmasjien, die totale bedrag –

(i) kontant of ruilmunte vereis om in die valluik-houer of valluik-emmer van sodanige masjien te wees in ooreenstemming met die meters wat sodanige masjien monitor;
of

(ii) alle bedrae elektronies deur spelers afgelaai van slimkaarte of slimtoestelle op die kredietmeter van sodanige masjien waarop sodanige spelers speel;

“vermenging” die proses waarby ’n gastotalisator-weddenskappele gekombineer word met ’n gasheertotalisator-weddenskappele en "vermeng", "vermengde" en "vermengings" het ’n ooreenstemmende betekenis.

“Vul”, in die geval van –

(a) 'n tafelspel, die uitreiking van bykomende dobbelskyfies, plakette of tekenmunte in die valluik; of

(b) 'n dobbelmasjien, die uitreik van kontant of tekenmunte aan die stortbak van die dobbelmasjien;

Korttitel

4. Die Wet heet die KwaZulu-Natal Belastingwysigingswet op Dobbelary en Weddery, 2021.

**MEMORANDUM OOR DIE OOGMERKE
VAN DIE
KWAZULU-NATAL BELASTINGWYSIGINGSWET OP DOBBELARY EN WEDDERY, 2021**

1. AGTERGROND

Die KwaZulu-Natal Wet op Dobbelary en Wedderybelasting, 2010 (die “Hoofwet”) maak voorsiening vir die betaling van belasting deur persone wat gelisensieer is ingevolge die KwaZulu-Natal Wet op Dobbelary en Weddery, 2010. Aangesien die Bylae tot die Hoofwet, wat voorsiening maak vir verskeie dobbel- en wedderybelastingkoerse laas gewysig is by wyse van 'n Provinsiale Kennisgewing in Oktober 2012, is die behoefte aan die hersiening van die belastingkoerse en die toewysing van ontvangste reeds 'n geruime tyd nodig.

Dit is nodig geag om die Hoofwet te wysig om –

- (a) sekere belastingkoerse te wysig;
- (b) belastinginkomste opnuut toe te wys;
- (c) sekere omskrywings te wysig en in te sluit;
- (d) duidelikheid te gee oor die verspreiding van dobbelbelasting;
- (e) 'n verspreidingsmodel vir die Transformasiefonds in te sluit; en
- (f) aanvullende wysigings,

en substantiewe wysigings word in die nuwe Bylae betreffende die volgende aangeleenthede voorgestel:

A. 'n Verhoging in meeste belastingkoerse

Die verhoging sluit die belastingkoerse in die casinodobbelbelasting, die beperkte uitbetaalmasjienbelasting, die bingo-dobbelbelasting en die wedderybelasting op weddery met vaste wedpryse op sportgebeurtenisse en ander gebeurtenisse of gebeurlikhede in. Daar word nie verwag dat die nuwe voorstelle redelikerwys deur of die Raad of die bedryf teengestaan sal word nie aangesien die belastingkoerse vir baie jare nie hersien is nie. Hierdie voorgestelde belastingverhogings moes lankal plaasgevind het aangesien die laaste belastingkoerswysigings in 2012 afgekondig is.

B. Die herverdeling van belastinginkomste uit perdewedrenne

Perdewedrenne strek terug tot in 1795 toe die Kaap vir die eerste keer onder Britse bewind gekom het. Perde wat vir wedrenne gebruik is, het as "capers" bekend gestaan. Hulle is later deur *volbloedperde* vervang. In Suid-Afrika staan volbloedperdewedrenne tradisioneel bekend as die "sport van konings" en word geassosieer met die ryk elite. Die volbloedperdewedrenbedryf is 'n duopolie met die belangrikste rolspelers Phumelela en Gold Circle. Gold Circle is die primêre operateur in KwaZulu-Natal (KZN), terwyl die res van die land deur Phumelela bedryf of bestuur word.

Die dobbelbedryf in KZN is gereguleer ingevolge die Ordonnansie op Dobbelay (No. 28 van 1957), wat vervang is deur die KwaZulu-Natal Wet op Dobbelay en Weddery, 2010. Die Ordonnansie het voorsiening gemaak vir 'n belastingstelsel waar die regering geld van belasting gekry het vir beide die Provinsiale Inkomstefonds en die Renbaanontwikkelingsfonds.

Om en by 1994/95 is sportweddenskappe bekend gestel en belasting is aan die Provinsiale Inkomstefonds (5%) en die Sportfonds (1%) versprei. In ongeveer 1998 is die Renbaanontwikkelingsfonds ontbind, en hul deel van die verspreiding is na die Beheerliggaam vir Beroepswedders oorgeplaas.

Die verspreidingsmodel het befondsing vir die drie wedrenklubs (Durban Turf Club, Pietermaritzburg Turf Club en Clairwood Park Turf Club) ingesluit. Hierdie wedrenklubs het saamgesmelt in een wedrenklub, Gold Circle (Edms.) Bpk. om die belange van die saamgesmelte wedrenklubs te bestuur.

Op hierdie tydstip was tradisionele (*uMtelebelo*) standaardgeteelde en tuigwedrenperdewedrenbyeenkomste nie gereguleer nie, en gevolglik was Gold Circle die enigste gelisensieerde renbaanoperateur.

Die inkomste wat tans net aan Gold Circle betaal word as die uitsluitlik "renbaanoperateur" in die huidige Bylae bedoel, word ingevolge die voorstel ook uitgebrei na ander kategorieë gelisensieerde renbaanoperateurs.

C. Die wysiging en insluiting van sekere omskrywings

In die voorstel word 'n omskrywing van "bedrag geld" of "geld" ingevoeg en het ten doel om met die kwessie van "vryspel" bo alle twyfel te handel om te verseker dat potensiële belastinginkomste vir die Provinsie nie in die toekoms verlore gaan nie. Laasgenoemde is 'n gevolg van die toenemende afhanklikheid van "vryspel" as 'n beloning om kliënte deur middel van vryspelaanbiede te lok. Suid-Afrika verskil nie van ander internasionale regsgebiede wat die belastinghantering van hierdie aansporings moes heroorweeg nie.

D. Die toedeling en verspreiding van inkomste verskuldig aan renbaanoperateurs

In 2014 skryf *Ithotho* aan die Kantoor van die Premier en voer aan dat, as 'n gelisensieerde renbaanoperateur, item D van die Bylae by die Hoofwet hulle die reg gee om voordeel te trek uit die inkomste van 3 persent wat aan die renbaanoperateur terugbetaal word. Hierdie het Gold Circle tot dusver die volle 3 persent van hierdie inkomste ontvang.

Tussen April 2015 en Maart 2020 is ongeveer R 205 miljoen deur die Raad aan Gold Circle ingevolge die bepalings van die Bylae tot die Belastingwet betaal.

Ithotho as die ander gelisensieerde renbaanoperateur het hierdie kwessie meer onlangs aan die orde gestel en die ingryping van die Premier versoek, en aangevoer dat hulle uitsluiting hulle, as 'n gelisensieerde renbaanoperateur, nie net in 'n ooglopende nadelige posisie plaas nie, maar ook hul transformasiemandaat ten opsigte van "landelike perdewedrenne" beperk.

Met die wysiging van die KZN Wet op Dobbelaar en Weddery, 2010 deur die KwaZulu-Natal Wysigingswet op Dobbelaar en Weddery, 2017, is artikel 89 van die Wet gewysig deur die term "renbaanoperateur" uitdruklik te pluraliseer waar dit ookal in die Wet gebruik word. Hierdie wysiging verwyder die waargenome monopolie ten opsigte van Gold Circle doeltreffend en baan die weg vir 'n meer billike belastingverspreidings wat sensitief is vir alle partye se bedrywighede.

Daar word aangevoer dat die voorgestelde insluiting van ander gelisensieerde renbaanoperateurs, soos *Ithotho*, as begunstigdes van die verdeling nie net lankal moes gebeur het nie, maar dat dit sal help om enige gedingvoering wat hulle oorweeg, te vermy. Die toewysing van 0.2% aan die bykomende kategorieë van gelisensieerde renbaanoperateurs ten opsigte van tuigwedren-perdewedrenbyeenkomste en standaardgeteelde perdewedrenbyeenkomste sal enige ander gelisensieerde renbaanoperateurs in staat stel om doeltreffend te funksioneer en die befondsing op

so wyse te gebruik ten einde die ontwikkeling van perdewedrenne in die Provinsie en van voorheen benadeelde persone wat met die sport verbind word, te bevorder.

Die voorgestelde wysiging aan, en vervanging van, die Bylae stel in die vooruitsig dat die fondse bestaande uit die verspreiding aan die gelisensieerde renbaanoperateurs deur die gelisensieerde renbaanoperateurs, as begunstigdes van die verspreiding, spesifiek gebruik moet word vir die ontwikkeling van perdewedrenne en die transformasie van die perdewedrenbedryf, onderhewig aan enige verdere voorwaardes wat die Raad van tyd tot tyd mag oplê.

Tans gebruik Gold Circle, as die gelisensieerde renbaanoperateur ten opsigte van volbloedperdewedrenbyeenkomste, hierdie fondse as 'n onvoorwaardelike toelae. In hierdie verband toon die finansiële state wat onlangs deur Gold Circle verskaf is aan dat die gebruik van hierdie fondse twyfelagtig mag wees. Die geld wat aan die gelisensieerde renbaanoperateurs versprei word, moet aangewend word vir die ontwikkeling van perdewedrenne en die transformasie van die perdewedrenbedryf.

Die voorgestelde wysigings stel die Raad in staat om meer doeltreffend toesig te hou oor die geld wat aan die gelisensieerde renbaanoperateurs versprei word, en stel die Raad ook in staat om van tyd tot tyd verdere voorwaardes op te lê betreffende die benutting van die fondse. Die voorgestelde wysigings maak voorsiening vir groter aanspreeklikheid, deursigtigheid en verbeterde monitering van die benutting van die befondsing.

Kategorie 1 gelisensieerde renbaanoperateurs: *Volbloedperdewedrenbyeenkomste*, sal 1.6% ontvang. Hierdie aandeel is relatief hoog aangesien die meeste wedrenbyeenkomste wat gehou word in hierdie kategorie val, en dit dra gevolglik by tot die grootste deel van die belastinginkomste in vergelyking met ander kategorieë van renbaanoperateurs. Trouens, die ander kategorieë van gelisensieerde renbaanoperateurs sal gesubsidieer word deur inkomste wat oploop uit die Kategorie 1: *Volbloedperdewedrenbyeenkomste*.

Soos hierbo genoem, deel die Kategorie 2 gelisensieerde renbaanoperateurs: *Tuigwedrenperdebyeenkomste* en die Kategorie 3 gelisensieerde renbaanoperateurs: *Standaardgeteelde perdewedrenbyeenkomste* elk 0.2%. Hierdie finansieringsverspreiding is hoofsaaklik daarop gemik om die ontwikkeling van hierdie afdelings of kategorieë van die perdewedrenbedryf tot op 'n vlak te bring waar hulle in staat is om meer wedrenne aan te bied.

Daar word voorgestel dat 1% van die verspreiding aan die Transformasiefonds gemaak word, en addisionele befondsing deur enige lisensiehouer van die Transformasiefonds verkry kan word vir spesifieke projekte wat 'n beduidende en positiewe bydrae tot die transformasie van die dobbelbedryf in die Provinsie sal maak. Hierdie projekte moet ooreenkomstig die gedetailleerde projekplan deur die Raad goedgekeur word. Projekte moet deur die lisensiehouers omskryf word ten einde deur die Raad aanvaar en gemonitor te word, en fondse sal geleidelik vrygestel word soos voorafbepaalde doelwitte en mylpale suksesvol bereik word met die implementering van die projekte.

Dit moet beklemtoon word dat hierdie verspreidingspersentasies in die tabel hierbo nie vas en staties is nie, maar die bedoeling is om dit periodiek te hersien in die lig van die mate waarin die ontwikkelings- en transformasiedoelwitte met betrekking tot perdewedrenne en die perdewedrenbedryf bereik word.

E. Die Transformasiefonds

'n Nuwe voorstel is dat 'n klein persentasie van hierdie belasting wat in die Provinsiale Inkomstefonds betaal word deur die Provinsiale Tesourie na die Transformasiefonds versprei word om 'n addisionele bron van befondsing te bied vir die Transformasiefonds ingestel ingevolge artikel 137(1) van die KwaZulu-Natal Wet op Dobbelaar en Weddery, 2010 ten einde te verseker dat die Transformasiefonds in staat is om sy gestelde transformasiedoelwitte te bereik.

Die nuwe Bylae bepaal uitdruklik dat 'n lisensiehouer toegang tot befondsing van die Transformasiefonds kan kry vir spesifieke projekte wat die lisensiehouer onderneem, in ooreenstemming met 'n gedetailleerde projekplan soos deur die Raad goedgekeur, onderhewig aan enige voorwaardes wat deur die Raad opgelê mag word, waar die Raad oortuig is dat die betrokke projek 'n beduidende en positiewe bydrae tot die transformasie van die dobbelbedryf in die Provinsie sal lewer.

F. Aanvullende wysigings

Terwyl die regsadvies wat ingewin is, twyfel laat ontstaan het oor die geldigheid van artikel 5 van die Hoofwet wat voorsiening maak vir die wysiging of vervanging van die Bylae deur kennisgewing in die *Provinsiale Koerant*, is dit as verstandig geag om daardie artikel te herroep en 'n gewysigde Bylae

voor te lê as deel van hierdie Wetsontwerp. Aangesien belasting betaal is en die inkomste ingevolge bogenoemde Provinsiale Kennisgewing toegewys is, is dit ook nodig om die invordering en betaling daarvan geldig te verklaar.

2. KLOUSULE-VIR-KLOUSULE VERDUIDELIKING

Opsommend bevat die Wetsontwerp die volgende -

Klausule 1:

Klausule 1 herroep artikel 5 van die Hoofwet wat tans voorsiening maak vir die wysiging of vervanging van die Bylae deur kennisgewing in die *Provinsiale Koerant*. Die regsadvies wat ingewin is, het twyfel laat ontstaan oor die geldigheid van artikel 5 van die Hoofwet. Die argument is dat, aangesien die Hoofwet 'n geldwetsontwerp is, die Hoofwet en sy bylae slegs deur 'n wysigingswet gewysig kan word en nie deur middel van 'n kennisgewing nie.

Klausule 2:

Klausule 2 maak voorsiening vir die geldigverklaring van belasting wat ingesamel of betaal is, asook enigiets ander gedoen ingevolge Provinsiale Kennisgewing No. 112 van 5 Oktober 2012, uitgereik ingevolge die herroepe artikel 5 van die Hoofwet. Die geldigverklaringsklousule is beperk. Die gevolg is dat niks wat ingevolge hierdie kennisgewing gedoen is ongeldig is nie bloot omdat die Bylae tot die Hoofwet na bewering gewysig of vervang is deur kennisgewing soos daarvoor voorsiening gemaak in die herroepe artikel 5 van die Hoofwet en nie ingevolge 'n wet/wetsontwerp wat die Bylae verander of vervang nie.

Klausule 3:

Klausule 3 van die Wetsontwerp stel die vervanging van die Bylae by die Hoofwet voor wat handel oor dobbelary- en wedderybelasting en belastingkoerse. Die wysigings maak voorsiening vir 'n nominale verhoging van die belastingkoerse vir casino's, beperkte uitbetaalmasjiene en beroepswedders. Die bedoeling is om 'n finansieringsmiddel aan die Transformasiefonds te voorsien wat ingevolge artikel 137 van die KZN Wet op Dobbelary en Weddery, 2010 ingestel is ten einde die Transformasiefonds in staat te stel om sy mandaat uit te voer. Dit is 'n groot stap in die rigting van die Raad se poging om die dobbel- en weddenskapbedryf te verander. Die klousule gee verder uitvoering aan die wysigings aan die KZN Wet op Dobbelary en Weddery, 2010, wat in 2017 in werking gestel is, wat bykomende kategorieë van renbaanoperateurs (standaardgeteeldeperde- en tuigwedrenne) bekend gestel het, waardeur die bestaan van verskillende kategorieë perdededrenne en gelsensieerde renbaanoperateurs erken word. Die

klousule bepaal dat 1% aan die Transformasiefonds toegewys sal word, terwyl die volgende kategorieë begunstigdes bekend gestel word wat almal voordeel sal trek uit die verspreiding van belasting wat deur beroepswedders gegenerer word op perdewedrenne (beroepswedderbelasting), onderhewig aan sekere beheermaatreëls om te verseker dat die verspreide belasting vir transformasiedoeleindes aangewend word:

- (a) Kategorie 1 gelisensieerde renbaanoperateurs: *volbloedperdewedrenbyeenkomste* met 'n gedeelde toewysing van 1.6% van wedderybelasting;
- (b) Kategorie 2 gelisensieerde renbaanoperateurs: *Tuigwedren-perdewedrenbyeenkomste* met 'n gedeelde toewysing van van 0.2% van wedderybelasting; en
- (c) Kategorie 3 gelisensieerde renbaanoperateurs: *Standaardgeteelde perdewedrenbyeenkomste* met 'n gedeelde toewysing van 0.2% van wedderybelasting.

Die voorstel voeg ook spesifieke omskrywings in vir doeleindes van die nuwe Bylae, met inbegrip van 'n omskrywing vir "bedrag geld" of "geld", wat poog om enige twyfel oor die "vryspel"-kwessie uit die weg te ruim ten einde te verseker dat potensiële belastinginkomste nie in die toekoms vir die Provinsie verlore gaan nie. Hierdie bepaling het ook ten doel om die nuutste tegnologiese ontwikkelinge in die dobbelbedryf te akkommodeer.

Ten opsigte van moontlike belastingverliese vir die huidige tydperk onmiddellik voor die publikasie van die voorgestelde nuwe Bylae, sluit sekere casino-operateurs óf reeds "vryspel-krediet" uit uit hul "bruto dobbelinkomste" óf dring hulle daarop aan om formele goedkeuring vir sodanige uitsluiting of aftrekking vir "vryspel-krediet" te kry vir die berekening van hul belastingaanspreeklikheid.

Die klousule wysig voorts die omskrywing van "dobbelinkomste" deur "monetêre waarde" in te voeg om die verskillende dobbelfunksies te akkommodeer as gevolg van tegnologiese vooruitgang en nuwe tipes speletjies, en pas die omskrywing van "bruto dobbelinkomste" aan om "bruto wins" uit weddenskapstransaksies in te sluit.

Klousule 4:

Klousule 4 bevat die kort titel van die Wetsontwerp.

3. ORGANISATORIESE EN PERSOONLIKE IMPLIKASIES VIR PROVINSIALE REGERING

Geen verdere organisatoriese en personeelimplikasies word voorsien nie.

4. FINANSIËLE IMPLIKASIES VIR PROVINSIALE REGERING

Die Wetsontwerp maak voorsiening vir en stel 'n verhoging in belastinginkomste vir die Provinsie in die vooruitsig wat in die Provinsiale Inkomstefonds betaal moet word en gelde betaalbaar aan die Transformasiefonds ingestel ingevolge artikel 137(1) van die KwaZulu-Natal Wet op Dobbelary en Weddery, 2010, ten einde te verseker dat die Transformasiefonds in staat is om sy gestelde transformasiedoelwitte te bereik.

5. DEPARTEMENTE / LIGGAME / PERSONE GERAADPLEEG

Die Wetsontwerp is opgestel ná oorlegpleging met –

- (a) die Kantoor van die Premier;
- (b) die Lid van die Uitvoerende Raad vir Ekonomiese Ontwikkeling (LUR), Toerisme en Omgewingsake, as die LUR verantwoordelik vir die administrasie van die KwaZulu-Natal Wet op Dobbelary en Weddery, 2010; en
- (c) die KwaZulu-Natal Raad op Dobbelary en Weddery.

6. KONTAKPERSOON

Naam: **Mnr Ndumiso Nkomo**

Posisie: Direkteur: Regsdienste (KZN Provinsiale Tesourie)

Tel: 033 897 4544

Faks: 033 897 4594

Selfoon: 071 362 4400

E-pos: ndumiso.nkomo@kzntreasury.gov.za

Printed by and obtainable from the Government Printer, Bosman Street, Private Bag X85, Pretoria, 0001.
Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za
Publications: Tel: (012) 748 6053, 748 6061, 748 6065