

**NATIONAL ASSEMBLY
ASSEMBLY CHAMBERS
WINDHOEK**

10 APRIL 2018

HON SPEAKER:

**ANSWERS TO THE DEBATE ON THE SECOND READING: GAMING AND
ENTERTAINMENT CONTROL BILL**

[4 & 5 APRIL 2018]

Thank you very much Hon. Members for your contributions and concerns raised on the discussions related to the Gaming and Entertainment Control Bill.

1. Allow me now to submit and state that the questions and comments of the Hon. Members have been taken into consideration. Some statements were of a general nature and somewhere clarifications.
2. Allow me further to point out that the Name of the Bill is the Gaming and Entertainment Control Bill. The rationale for this is the following;
 - a. It is a term of art in the sector
 - b. The customer is playing games (thus gaming) for entertainment with the hope of winning.
 - c. The games are tables, cards and machines in the case of Casinos and just machines in the case of Gambling Houses.
3. It must be noted that in South Africa there are more Casinos than Gambling houses. The Namibian government took an ~~an~~ in principle decision to have more gambling houses so that it can serve as an economic transformation and empowerment tool for previously disadvantaged Namibians. This objective has been met. We know today that the gambling houses have become a matter of livelihood security for many Namibian families and business men. In fact it has served as a life line and thus is a bread and butter issue. This fact must not be forgotten.

4. To acquire a Casino in Windhoek the following conditions are applicable
 - a. A non- refundable application fee of N\$ 80 000
 - b. You must have a 4 star hotel with a 100 rooms
 - c. The officials must physically count the rooms and see the stars before an Ok can be given
 - d. If there is an objection to the Casino the proponent must pay for legal advice during the hearing
 - e. The licence was for life
 - f. It is a significant investment way above N\$ 400 million Namibian dollars
5. To acquire a Casino elsewhere in Namibia
 - a. A non- refundable application fee of N\$ 80 000
 - b. You must have a 3 star hotel with a 50 rooms
 - c. The officials must physically count the rooms and see the stars before an Ok can be given
 - d. If there is an objection to the Casino the proponent must pay for legal advice during the hearing
 - e. The license was for life
 - f. It is a significant investment way above N\$100 million Namibian dollars
6. To date the issuing of new gambling house licences was put on ice by the moratorium instituted by the Damaseb Commission the requirement
 - a. Application fee of N\$2000
 - b. Liquor licence
 - c. Premises
 - d. The licence was for live
 - e. The investment would be in the region of 50 000 N\$ or less
7. The duration of the licence thus has an impact on the investment required in terms of return on investment.
8. I will now turn to the specific questions.

QUESTION 1

How will the Board and the Trust Fund address the compulsive and prolific gamblers?

ANSWER:

The gambling activities are very dynamic, hence there is a need to balance the prevailing situations at a given time through various interventions from the government; operator; gambler and the public. The Bill provides for allocation of money from the trust fund for expenditure of socio-economic impact of gambling activities such as addiction or compulsion of gambling and rehabilitation of persons addicted to gambling.

The objective of regulating the industry is also to encourage good practices and minimise problem gambling and its impact. The Regulator, would engage in any relevant public-private initiatives between the gambling regulators and the industries to create an institution for responsible gambling similar to the South African Responsible Gambling Foundation, funded by voluntary contributions from the gambling industry – which includes the casinos and gambling houses. Although independent, such institutions report regularly on their activities to the industry and the authorities charged with the regulation of gambling industry.

Such an intervention also facilitates toll free counselling line, sms helpline or email facilities. In addition to providing free and confidential treatment and counselling to those affected by problem gambling and their immediate family members.

It is not the intention of this response to dwell on the conceptual issues, but I purely attempt to clarify the question of the Honourable member concerning the aspects of gambling addiction which is also referred to as problem gambling. Gambling can be defined as staking something valuable in the hope of winning a prize where the outcome is unknown to the participants.

Whether gambling is regarded as a vice or a form of recreation depends on moral judgements, which vary in different traditions, cultures, spiritual orientation as well as religious orientation at different points in history and among different individuals.

Recreational gambling, which is benign from the point of view of the gambler, provides at least the following pleasures:

- playing games
- fantasising about winning large sums of money
- feeling artificially endangered
- being in a simulating environment
- Feeling good about oneself

Gambling behaviour should be viewed as problematic when gamblers are:

- gambling excessively and thereby causing significant harm to themselves and to others, and
- failing to control this excessive behaviour by themselves and without assistance.

A problem gambler is somebody whose gambling activities negatively influence other parts of his/her life such as his/her work, family life, financial welfare and/or studies.

There are three different classes of gambling behaviour. While each may be difficult to distinguish times, most of the authorities worldwide now recognise these three groups.

- (a) Recreational gamblers gamble on social occasions with friends or colleagues. They have pre-determined acceptable losses and, by and large, their gambling activities cause little harm and their behaviour is associated with minimal guilt. They simply require information and education on gambling behaviour in order to make sensible decisions.
- (b) Problem gamblers spend too much time and money gambling. Their behaviour causes harm both to themselves and others and may be associated with much guilt. They very often respond positively to the targeted intervention.
- (c) Compulsive and pathological gamblers have a psychiatric disorder diagnosable by strict criteria. It is regarded as a disorder of impulse control and has a very poor prognosis. Such gamblers are unable to control their gambling, with consequent significant damage to themselves and others, and they are very difficult to treat.

I also want to remind the Honourable members though that compulsive expenditure is not peculiar to gambling. Studies have shown that between 1 % and 2 % of adults have some compulsive shopping tendencies amongst others.

QUESTION 2

How will the Minister attract the Board members?

ANSWER:

We take note of the concern. However, the Board will be appointed by the Minister after an open, fair and transparent process of invitation, interview and recommendation by a

recruitment panel. The process will involve media advertisement for the persons who are suitably qualified, fit and proper persons having knowledge and experience relevant. We also take note of the concern that this process may be too laborious, time consuming and may set a serious precedent for other sectors. We therefore would have to relook at the provisions with the legal drafters and find the best possible process based on regional and international best practice.

QUESTION 3

What is the criteria used to restrict a person from gambling?

ANSWER:

The Bill provides that a person may apply to the Board, in the prescribed form and manner, to be registered as a restricted person and for his or her name to be entered in the register of persons restricted from engaging in a gambling activity. The regulation will prescribe further details once the Bill has been enacted.

QUESTION 4

Is it the function of the court or the Board to restrict a person not to gamble?

ANSWER:

The process is initiated by the person or close family member and the Board or the court decides.

As a principal of our judicial system a person cannot put him/herself in prison without there being a complainant and due process followed. Thus the need for someone to put the member on a restricted list through the court.

QUESTION 5

What processes are in place before a person is deregistered?

ANSWER:

In terms of the Bill, a restricted person, to whom an order has been made, may at any time apply to the relevant authority to set aside the order. The board or court may grant or refuse the application. This process of de-registration however will be laid out in detail in the regulations. It is not simply a matter of requesting deregistration. The person may be required to provide proof that the challenge that led to him/her being on that list has been overcome. If this is not substantively and conclusively shown deregistration may be refused.

QUESTION 6

How many times can someone be reappointed to serve as a board member?

ANSWER:

There is no clear indication of how long the Board member can be reappointed. However, it is the discretion of the Minister to avoid excessive term of office of Board members. Again in this regard regional and international best practice will be followed to assure good governance and corporate culture prevails.

QUESTION 7

How will the people who need rehabilitation be identified?

ANSWER:

Part of the educational activities of the Board should be to encourage people to approach the Board to facilitate the rehabilitation of the people negatively affected. It is not the prerogative of the State to do this. However the list of registered persons serves as a good entry point and the fact that any person is free to report someone who is in need of rehabilitation as long as that individual who is in need is responsible for your welfare financially.

QUESTION 8

Is a license required for keeping a machine at home for entertainment purposes?

ANSWER:

The Bill provides that for keeping a gambling machines only through casino licence; gambling house licence and a manufacturer or supplier licence. Hence, there is no licence for keeping gambling machine at home.

(1) A casino licence authorises the -

- (a) playing of prescribed games; and
- (b) keeping of prescribed gambling machines not exceeding the maximum number specified in the licence,

(2) A gambling house licence authorises the keeping or playing in or on the premises, or the part of the premises as specified in the licence, of the accommodation establishment or the retail liquor business, of the prescribed gambling machines or prescribed gambling games but not exceeding the number specified in the licence.

(3) A manufacturer or supplier licence authorises the holder of the manufacturer or supplier licence to import, manufacture, sell, lease, make available, distribute, maintain or repair gambling machines.

QUESTION 9

How many gambling house licenses will be allowed per person?

ANSWER:

The number of gambling house licences per person will be determined by the Minister in consultation with the Board.

Once the Act is operationalized all owners of gambling machines will be given a 6 months grace period to register all the machines without being persecuted.

This is to allow the Minister to know the following:

- a) how many machines are in the country (per town, per region)
- b) What type and other particulars of those machines are in the country (per town, per region)

From the above he will then make regulations on how many machines, gambling houses, and Casinos per town or region.

It will also allow the Minister to know whether the type of machines that we have in the country will be compatible with the proposed electronic monitoring system

Therefore if owners do not come forth and have their machines registered this will delay and compromise the effective implementation of the Act. After the grace period the law will kick in and the penalties will be meted out to all those who will be in the possession of un registered gambling houses. It will mean payment of hefty fees or imprisonment

QUESTION 10

How will I know I am registered as a restricted person?

ANSWER:

The Board will keep record of all restricted persons. On receipt of application for a person to be restricted, a proof will be issued by the relevant authority.

This list will be made available to all gambling houses and Casino and the honus will be upon them to ensure that such persons are not to enter their premises as the operator will be liable should such a person be found in a gambling premise. This must be viewed in the same manner and context of selling alcohol to a minor, or finding a minor in a bar, nightclub or any other place that is restrict for that person.

QUESTION 11

Does the law protect gamblers from gambling on credit?

ANSWER:

In terms of the Bill, Section 76 - (1) A licence holder may not, either direct or indirect, give credit to a person for the purposes of gambling.

(2) A person who contravenes or fails to comply with subsection (1) commits an offence and on conviction is liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years or to both the fine and imprisonment.

QUESTION 12

Will the revenue be able to cater for the huge staff salary and maintenance of offices in regions?

ANSWER:

Just like any other public entities, the board will run operations according to approved annual budget and strategy. The operational costs for remuneration including at regional offices will form part of that.

It must be noted and applauded that in the last financial year the Casino and Gambling Houses sector contributed 34 Million to the State. When illegal gambling is curbed this figure will raise to even more than that. The Registered gambling operators, required to contribute to state revenue fund as per the new bill. Gambling machines are a business. Equally illegal gambling machines are regarded as illegal businesses and they are thus stealing from the State Revenue in a form of tax and levies. From this perspective they do not contribute in any way to state revenue and therefore deprives the poor of the social and economic welfare.

QUESTION 13

What experience does one need to be a Chief Executive Officer?

ANSWER:

The CEO will be the accounting officer of the board. The Board will determine the nature and level of experience for the position. The Board must appoint a suitably qualified and experienced person that will best serve the Board. We must keep in mind that benchmarking will be done and regional and international best practice will be taken into account

QUESTION 14

How will the Board ensure that the machines which are already operating are registered?

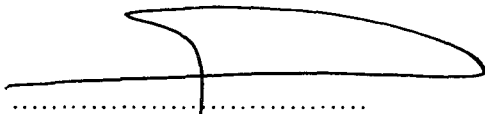
ANSWER:

The Board will required to come up with the programme as part of planning and have all machines registered. In terms of the transitional provisions in relation to gambling machines:

As stated before “Section 91 (1) Subject to this Act, a person who at the commencement of this Act has in his or her possession a gambling machine which is required to be registered or to be linked to the central electronic monitoring system in terms of this Part must, in the prescribed manner, register the gambling machine and link the gambling machine to the central electronic system within a period of six months after the commencement date of this Act or within such further period not exceeding 12 months as may be determined by the Board.

(2) A person who refuses or fails to comply with subsection (1) commits an offence and on conviction is liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding two years or to both such fine and such imprisonment.”

In conclusion, I thank you Hon. Members for your attention and support to have the Gaming and Entertainment Control Bill successfully considered.



Hon. Pohamba Shifeta (MP)

MINISTER OF ENVIRONMENT AND TOURISM

10.4.18

Date