
PROVINCE OF WESTERN CAPE

**WESTERN CAPE THIRTEENTH
GAMBLING AND RACING
AMENDMENT ACT, 2003**

PROVINSIE WES-KAAP

**DETIENDE WES-KAAPSE
WYSIGINGSWET OP DOBBELARY
EN WEDRENNE, 2003**

No 3, 2003

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.

ACT

To amend the Western Cape Gambling and Racing Law, 1996, so as to provide for the clarification of definitions, for inflation adjustments to the tax structure applicable to the holders of casino operator licences, for an alternative means of determining tax liability; and to provide for matters connected therewith.

BE IT ENACTED by the Provincial Parliament of the Western Cape, as follows:—

Amendment of Schedule III of Law 4 of 1996, as amended by section 71 of Act 4 of 1997, section 2 of Act 9 of 1998, section 2 of Act 9 of 2001 and section 2 of Act 8 of 2002 5

1. Schedule III of the Western Cape Gambling and Racing Law, 1996 is amended—

(a) in Part A—

(i) by the substitution for the definition of “adjusted gross revenue” of the following definition:

“ ‘adjusted gross revenue’ means—

(a) except in regard to any game contemplated in subparagraphs (b), 10

(c), (d), **[and]** (e) and (f) below, the total amount of all bets accepted in the Province and received by or accruing to a licence holder, including the face value of any credit instrument accepted, and any payment received by or accruing to a betting operator as winnings in consequence of a take-back bet placed by such betting operator, less winnings paid out by a licence holder; provided that a bet shall be deemed to have been accepted by a licence holder at the licensed premises of such licence holder, if acceptance of the bet by the licence holder concludes the transaction; 15

(b) in relation to any gambling game in which the licence holder is not a party to a bet, all amounts received by or accruing to the licence holder as compensation for conducting such a gambling game in the Province; 20

(c) in relation to any table games, other than those contemplated in subparagraph (b) above, conducted by a licence holder in the Province, the closing bankroll plus credit slips for cash, chips or tokens returned to the casino cashier, plus drop, plus the face value of coupons, less the opening bankroll and fills to the table; 25

- (d) in relation to slot machines, other than those contemplated in subparagraphs (e) and (f) below operated by a licence holder in the Province, the drop, less fills to the machine and winnings paid out; provided that the initial hopper load shall not constitute a fill and shall not affect the calculation of adjusted gross revenue[**, and**]; 5
- (e) in relation to slot machines operated by a licence holder in the Province which are linked via a wide-area progressive system, the drop, less fills to the machine, less any contributions made by the licence holder which are payable in consequence of such wide-area progressive system in respect of such slot machines during the tax period, and less any winnings paid out which are not recoverable from the central fund in terms of the wide-area progressive system; provided that the initial hopper load shall not constitute a fill and shall not affect the calculation of adjusted gross revenue; provided further that where any surplus amount is distributed from the central fund to a licence holder or where any licence holder withdraws from a wide-area progressive system and in consequence of such distribution or withdrawal recovers or recoups during any tax period any contribution previously deducted under this subparagraph, such contribution so recovered or recouped shall be included in the licence holder's adjusted gross revenue in the tax period in which the contribution is recovered or recouped[**;**]; and; 10
- (f) in relation to limited gambling machines exposed for play in the Province by the holder of a limited gambling machine operator licence, the total value registered by the electronic monitoring system on the in-meter less the total value so registered on the out meter of each such machine; 15
- and 20
- (ii) by the substitution for the definition of "prescribed rate" of the following definition: 30
- " 'prescribed rate'; in relation to any interest payable in terms of this Schedule, means[—
- (a) **in the case of interest payable in terms of the provisions of paragraph 1(1)(a)(ii) of Part C, a rate of one comma two per cent for each month or part of a month contemplated in the said provision, or** 35
- (b) **in the case of interest payable in terms of the provisions of paragraph 4(2) of Part C, a rate of sixteen per cent per annum, or,**
- in either case,]** such [other] rate of interest as the national Minister of Finance [member of the Executive Council responsible for finance] may [from time to time fix by notice in the *Provincial Gazette*] determine in terms of section 80(1)(b) of the Public Finance Management Act, 1999;"; 40
- (b) in Part B,— 45
- (i) by the substitution for subparagraph (a) of paragraph 1 of the following subparagraph: 50
- "Casino operator licence
- (a) In respect of the taxable revenue in any tax period, an amount of tax calculated in accordance with the table below: 50

TAXABLE REVENUE	RATES OF TAX IN RESPECT OF CASINO OPERATOR LICENCE
Where the taxable revenue in the tax period— Does not exceed [R10] R12,4 million	6% of each R1 of the taxable revenue
Exceeds [R10] R12,4 million but does not exceed [R20] R24,8 million	[R600,000] R744,000 plus 8,5% of the amount by which the taxable revenue exceeds [R10] R12,4 million
Exceeds [R20] R24,8 million but does not exceed [R30] R37,2 million	[R1,45 million] R1,798 million plus 11% of the amount by which the taxable revenue exceeds [R20] R24,8 million
Exceeds [R30] R37,2 million but does not exceed [R40] R49,6 million	[R2,55 million] R3,162 million plus 13% of the amount by which the taxable revenue exceeds [R30] R37,2 million
Exceeds [R40] R49,6 million but does not exceed [R50] R62,0 million	[R3,85 million] R4,774 million plus 15% of the amount by which the taxable revenue exceeds [R40] R49,6 million
Exceeds [R50] R62,0 million	[R5,35 million] R6,634 million plus 17% of the amount by which the taxable revenue exceeds [R50] R62,0 million”

- (ii) by the substitution for paragraph 2 of the following paragraph: 30
“2. The tax period in respect of the licence holders contemplated in this Part shall be a period of one month ending on the last day of each of the twelve months of the calendar year; provided that any such tax period may, subject to the prior written approval of the [Director-General: Provincial Administration: Western Cape] the Head: Provincial Treasury, end within ten days before or after such last day; provided further that the first tax period of any licence holder shall commence on the date on which such licence holder becomes licensed under this Law or on the date on which he or she would have become licensed had he or she qualified for licensing.”, and 40
- (iii) by the insertion after paragraph 2 of the following paragraph: 35
“**Alternative means of determining liability for tax**
3. (1) If a licence holder fails to keep the records used or required to be used to calculate taxable revenue, the Chief Executive Officer may determine taxable revenue in respect of the period during which such records were not kept by having regard to— 45
(a) audits conducted by staff of the Board;
(b) statistical analysis, or

(c) any other information in the possession of the Board pertaining to gambling transactions conducted by the licence holder.

(2) If the liability for tax of a licence holder cannot be established as a result of incomplete or inaccurate data being received from or transmitted by an electronic monitoring system, the Chief Executive Officer may determine the taxable revenue of the licence holder in the manner contemplated in sub-paragraph (1) or by using such other reasonable method as he or she may determine.

(3) Where the Chief Executive Officer has determined a licence holder's liability for tax pursuant to this paragraph, the licence holder shall make payment of the amount of tax so determined within the prescribed period, notwithstanding that an objection or appeal may have been lodged in respect of such determination.”, and

(c) in Part C, by the substitution for paragraph 1(1)(a) of the following paragraph:

“1. (1)(a) If any licence holder who is liable for the payment of tax is required to make such payment in the prescribed manner but fails to pay any amount of such payment, the licence holder shall, in addition to such amount of tax, pay—

(i) a penalty equal to ten per cent of the said amount of tax per **[month]** tax period or part thereof that the amount remains outstanding; provided that the maximum penalty shall not exceed one hundred per cent of the said amount of tax, and

(ii) where payment of the said amount of tax is made on or after the first day following the **[month]** date on **[during]** which the period allowed for payment of the tax ended, interest on the said amount of tax, calculated at the prescribed rate for each **[month]** day or part thereof **[a month]** in the period reckoned from the said first day until the date on which payment is received by the Chief Executive Officer; provided that, if the said amount of tax is not paid within forty-five days after the date on which it became payable, the Chief Executive Officer shall give the licence holder fourteen days written notice to effect payment of the said tax, and if such tax is not paid prior to the expiration of the said fourteen days, the Board may suspend or revoke the licence of the said licence holder.”.

Short Title and commencement

2. This Act is called the Western Cape Thirteenth Gambling and Racing Amendment Act, 2003 and comes into operation on 1 July 2003.

