



Wes-Kaapse Provinsiale Parlement Western Cape Provincial Parliament IPalamente yePhondo leNtshona Koloni

MINUTES OF PROCEEDINGS

STANDING COMMITTEE ON FINANCE, ECONOMIC OPPORTUNITIES AND TOURISM

Friday, 11 September 2020 (13h00), Virtual Meeting via MS Teams

ATTENDANCE

Members:

Democratic Alliance

Baartman, D (Chairperson)
Mitchell, D
Van der Westhuizen, A

African National Congress

Nkondlo, N (ANC)

Additional Member

Maseko, M (DA)(Alternate)

Apology

Makamba-Botya, N (EFF)

The following persons were in attendance:

Provincial Treasury

Mr A Phillips, Deputy-Director-General
Dr N Nleya, Director
Ms C Horton, Economist
Dr R Havemann, Deputy Director-General

Department of the Premier

Ms A Muller, State Law Adviser

Members of the Public

Ms E Brand, Attorney: ENSAfrica for Tsogo Sun and Vukani Gaming

Mr N Altini, Partner: Herbert Smith Freehills for Sun International

Ms L Engelbrecht, Herbert Smith Freehills for Sun International

Mr L Reddy, Group Manager: Compliance and Regulatory Affairs for Sun International

Ms A Thomas: Group Manager: Lean for Sun International

Western Cape Provincial Parliament

Ms Z Adams, Committee Coordinator

Ms L Cloete, Senior Coordinator

Adv R Maasdorp, Legal Adviser

1. Welcome and attendance

The Chairperson welcomed the Members, the officials from Provincial Treasury and members of the public and media to the meeting. The Chairperson noted the apologies from the Head of Provincial Treasury, Mr D Savage, and Member N Makamba-Botya (EFF).

The Chairperson reminded the Committee that the public hearing on the Western Cape Nineteenth Gambling and Racing Amendment Bill [B1 - 2020] (the Bill) was held on 9 September 2020, and the current meeting would focus on the deliberations on the submissions made by interested stakeholders.

The Chairperson explained the rules of engagement for virtual meetings and proceeded with the discussion on the submissions received on the Bill.

2. Deliberations on the Western Cape Nineteenth Gambling and Racing Amendment Bill [B1 - 2020] and the Submissions received on the Bill

The Committee agreed to deliberate on the Bill clause-by-clause and to cross-reference amendments with submissions made by stakeholders. The Committee also agreed that Members would be able to ask questions of clarity.

The Provincial Treasury responded to questions posed by Members.

Adv R Maasdorp, Legal Adviser for the Western Cape Provincial Parliament, raised a concern that from the discussions held between the Committee and the Provincial Treasury, it seemed that totalisators and bookmakers within the gambling industry would not be subjected to the fee obligations imposed on other industry players (such as Casino and Limited Pay-out Machine (LPM) operators) by the Bill. He warned that this seemed to be selective, as all industry players are not being equally charged according to the Bill. Therefore, in the absence of an objectively sound basis for the differentiation (i.e. a rational nexus between the differentiation and the stated legitimate purpose), the Provincial Minister's means to achieve its objective of sourcing fees, may be deemed to be arbitrary, unfairly discriminatory and accordingly potentially exposing the Bill to constitutional challenge.

Ms A Muller, State Law Adviser for the Department of the Premier, explained that legislation can differentiate between categories of persons, provided there was a rational basis for this. It was not necessary for totalisators and bookmakers to be included as fee-paying operators

in the Bill as long as the Provincial Government could explain how the differentiation between players links to the purpose, then this would be rational.

Ms C Horton, Economist at the Provincial Treasury, added that the casino and LPM operators comprised the majority of the work executed by the Western Cape Gambling and Racing Board (the Board), given their size in the industry, the number of machines that needed to be monitored, the amount of oversight needed and audits that needed to be conducted etc. Hence, the need for casino and LPM operators to pay their proportional share of the Board's operating costs. The Board is also responsible for promoting responsible gambling, research and gambling awareness. Most of these activities are centred on casinos and the LPM components of the gambling industry.

The Committee agreed that both Adv Maasdorp and Ms Muller should provide separate legal opinions based on their views raised on the above matter during this discussion. The legal opinions should focus on whether it is good law to regulate parts of the industry in this Bill, and not others. It was agreed that the deadline for the submission of the legal opinions would be 1 October 2020.

The Committee also agreed that it would deliberate on these legal opinions on 7 October 2020, and to move the informal and formal deliberations on the Bill to 21 October 2020.

3. Committee Matters

The Chairperson informed the Committee that it was confirmed that the Committee would undertake an oversight visit to Ankerlig Power Station and Atlantis on 15 October 2020. It was also confirmed that the Economic/Energy/Tourism visit week would take place between 2 and 6 November 2020.

The Chairperson requested that the Members indicate to the Procedural Officer confirmation of their attendance at both oversight visits and other logistical arrangements once the Procedural Officer communicates the arrangements to the Members.

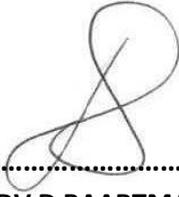
The Chairperson also noted that the Committee would have to comply with all COVID-19 regulations in terms of its logistical arrangements.

4. Resolutions/Actions

The Committee RESOLVED that:

- 4.1 Adv Maasdorp (WCPP) and Ms Muller (Department of the Premier) provide the Committee with separate legal opinions on whether it is good law to regulate parts of the gambling industry in the Western Cape Nineteenth Gambling and Racing Amendment Bill, and not others;
- 4.2 The deadline for submission of the legal opinions would be 1 October 2020;
- 4.3 The Provincial Treasury provide the Committee with a report on the calculations and reasoning/rationale for the fee amounts included under Clause 3 of the Bill;
- 4.4 The Provincial Treasury provide the Committee with a table/summary of fee increases and fees collected from industry players over the last ten years, for the various categories of fees levied; and
- 4.5 The Provincial Treasury provide the Committee with a report on the financial situation of the gambling industry, currently, with the turnover for all major industry players and operators (if this information is available for the public).

The meeting adjourned at 15h50.



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ADV D BAARTMAN, MPP

**CHAIRPERSON: STANDING COMMITTEE ON FINANCE, ECONOMIC OPPORTUNITIES AND
TOURISM**