

33 Economic and social development issues to be considered

(1) When considering an application for a licence, other than a key employee licence, the Board must consider-

- (a) all commitments made by the applicant in relation to-
 - (i) black economic empowerment;
 - (ii) combating the incidence of addictive and compulsive gambling; and
- (b) the potential socio-economic impact on the community of the proposed licence.

(2) The Board may impose reasonable and justifiable conditions on the licence to the extent necessary to address the matters referred to in subsection (1).

(3) At least once every year, after issuing a licence other than a key employee licence, the Board-

- (a) must review the commitments made in terms of subsection (1)(a) and the achievements of the licence holder relating to those commitments; and
- (b) may impose further or different reasonable and justifiable conditions on the licence to the extent necessary to address the matters referred to in subsection (1).

34 Competition issues to be considered

(1) When considering an application for a licence, other than a key employee licence, the Board must consider whether approving the licence is likely to substantially affect competition in the gambling industry generally, or in respect of the proposed activity within the province.

(2) After considering the matters contemplated in subsection (1), the Board must refuse the application unless there are overriding public interest reasons for approving it, if it appears that approving the application would result in the applicant alone or in conjunction with a related person, achieving market power.

(3) For the purposes of subsection (2)-

- (a) **"market power"** has the meaning set out in section 1 of the Competitions Act, 1998 (Act 89 of 1998);
- (b) **"public interest reasons"** include the reasons set out in section 12A(3) of the Competitions Act, 1998 (Act 89 of 1998); and
- (c) **"related person"** means a person-
 - (i) who has direct or indirect control of the applicant;
 - (ii) over whom the applicant has direct or indirect control; or
 - (iii) who is directly or indirectly controlled by a person referred to in subparagraph (i).

35 Licence conditions

(1) When the Board issues a provincial or national licence, the Board may issue the licence with or without conditions.

(2) A licence issued in terms of this Act, excluding a key employee licence, must specify the-

- (a) identity of the licence holder;
- (b) activities that the licence permits the licence holder to engage in, conduct or make available to the public;
- (c) name or clear description of the premises at, in or from which the licence holder is permitted to operate; and
- (d) duration of the licence.

(3) The Board may determine conditions in respect of any licence issued in terms of this Act, including conditions relating to-

- (a) gambling activities that may be conducted or the forms of betting that may be allowed;
- (b) the method of playing a gambling activity or the conducting of betting or racing;
- (c) the rules of a gambling activity, betting or racing;
- (d) the hours during which the business concerned may be conducted;
- (e) the provision of a guarantee by the applicant in a form acceptable to the Board for the liabilities of the applicant relating to-
 - (i) levies payable in terms of this Act; and
 - (ii) gambling debts payable by the applicant;
- (f) the erection, alteration, addition or reconstruction of a licensed site;
- (g) the location of sites;
- (h) the location where gambling activities will be permitted on such sites; and
- (i) matters that may be necessary to achieve the objects of this Act.

(4) The Board may only issue a licence-

- (a) as a permanent licence;
- (b) as a temporary licence, subject to the applicant fulfilling certain conditions within a specified period, with the intention that upon the fulfilment of those conditions, a permanent licence will be issued in substitution of the temporary licence; or
- (c) subject to subsection (3), as a special event licence, which permits the licensed

activity on specified dates only on a particular site determined in the licence.

(5) The Board may, where the risks relating to the settlement by the licence holder of any liability contemplated in subsection (3)(e) increases, require the licence holder to furnish guarantees other than or additional to the guarantee contemplated in that subsection.

(6) A licence is valid for a period determined by the Board.

36 Suspension or revocation of licence and amendment of licence conditions

(1) The Board may, subject to subsection (3)-

(a) amend a licence condition or impose further or different licence conditions which are reasonable;

[Para (a) substituted by sec 12(a) of Act 4 of 2016 wef 1 May 2017.]

(b) suspend a licence for such period as the Board may determine; or

(c) revoke a licence from a date determined by the Board,

when-

- (i) any information with regard to a licence, at the time the information was furnished, was false in any material respect or was subject to any material omission;
- (ii) the licence holder is or becomes disqualified from holding a licence in terms of this Act;
- (iii) the licence holder, an employee of the licence holder or any other person acting on the licence holder's behalf has failed to comply with a-
 - (aa) provision of this Act;
 - (bb) condition of a licence; or
 - (cc) written notice to remedy the non-compliance of a condition within a specified period;
- (iv) the licence holder has without the prior written consent of the Board, failed to carry on gambling activities for a period of thirty consecutive days;
- (v) the licence holder fails to pay any monies due to the Board in terms of this Act within the prescribed period;
- (vi) the licence holder fails to pay out a prize won in a gambling activity or winning bet;
- (vii) the licence holder, in the opinion of the Board, conducts gambling activities or allows gambling activities to be conducted in a manner which is detrimental to the public health, safety, morals, good order or general welfare of the inhabitants of the province;
- (viii) the licence holder or any person on the licence holder's behalf or employed by the licence holder uses a gambling device or permits the playing of any gambling

activity on a gambling device-

- (i) supplied by or acquired from a person not licensed in terms of section 57;
- (ii) which does not comply with the prescribed norms and standards;
- (ix) the licence holder employs a person contemplated in section 62 without the required licence;
- (x) the licence holder, without the prior written consent of the Board, sells or alienates or ceases to operate any business in respect of any part of the licensed site; or
- (xi) the licence holder wilfully or persistently uses or tolerates methods of operation the Board regards as unsuitable.

(2) The Board may reinstate a licence suspended under subsection (1) if the reason for suspension ceases to exist.

(3) The Board must by written notice, prior to suspending or revoking a licence or imposing further or different licence conditions provide the licence holder with reasons for decision of the Board and afford the licence holder the opportunity to submit written reasons within 14 days of receiving such notice, why the licence must not be suspended, revoked or a licence condition amended or added.

[Subsec (3) substituted by sec 12(b) of Act 4 of 2016 wef 1 May 2017.]

(4)(a) Subject to paragraph (b), where the Board is of the opinion that the public interest requires that a licence or a licence condition must be suspended with immediate effect, the Board may suspend the licence or licence condition.

(b) Immediately after the Board suspends the licence or licence condition in terms of paragraph (a), the Board must apply the provisions of the Promotion of Administrative Justice Act, 2000 (Act 3 of 2000).

(c) If, after complying with paragraph (b), the Board is satisfied that revoking the licence may be justifiable, the Board must follow the procedure set out in subsection (3).

(5) During the period for which the licence is suspended, the licence holder may not permit, undertake, participate or engage in the activities which are suspended.

(6) The licence holder is not entitled to a refund of any monies paid when a licence is suspended or revoked.

(7) The licence holder whose licence has been suspended or revoked must deliver the licence to the Board within seven days of being notified thereof.

(8) For the purposes of this section "licence" includes a certificate of suitability referred to in section 43.

37 Temporary licence

(1) Where an application for a licence is granted, the Board may determine that a temporary licence be issued-

- (a) where the site concerned requires alteration, addition, construction or reconstruction; or
- (b) in any other circumstance where the issuing of a temporary licence is appropriate.

(2) The Board may issue a temporary licence to an applicant subject to the applicant complying, within the period specified in the temporary licence, with such conditions or requirements as the Board may determine.

(3) The Board may, on application by the temporary licence holder, at any time after the temporary licence has been issued, on good cause shown, extend the period to a term not exceeding 24 months.

(4) When the Board is satisfied, on application by the temporary licence holder, that the conditions and requirements of the temporary licence have been complied with, the Board must issue a licence in substitution of the temporary licence concerned.

[Subsec (4) substituted by sec 13 of Act 4 of 2016 wef 1 May 2017.]

(5) If a licence is not issued as contemplated in subsection (4) before the expiration of the period specified in the temporary licence, the temporary licence lapses.

38 Site relocation

(1) The licence holder may, in the prescribed format, apply for the relocation, whether permanently or temporarily, of the gambling business concerned to another site.

(2) In the case of a licensed casino relocating to another site, the provisions of section 26 to 35 and section 44 of this Act applies.

(3) The Board may, subject to such conditions as the Board may determine, authorise an applicant contemplated in subsection (2), to conduct the business of the licence holder on the site, pending the outcome of the applicant's application for site relocation.

39 Death or disability

(1) When a licence holder or a person who holds an interest in a licence, dies or becomes disabled, the executor or curator of that person's estate or another person having an interest in such licence, may apply to the Board for the appropriate licence.

(2) The Board may, subject to such conditions as the Board may determine, authorise an applicant contemplated in subsection (1), to conduct the business of the licence holder, pending the outcome of the applicant's application for the licence.

40 Duty to display and produce licence

(1) A licence holder must at all times prominently display the licence on the licensed site.

(2) A licence holder, an employee of the licence holder or a person acting on behalf of the licence holder must, on demand by an inspector or police officer, produce the licence concerned.

41 Duty to pay fees and levies

- (1) An applicant for a licence must pay to the Board-
 - (a) the prescribed licence application fees; and
 - (b) all other prescribed fees imposed by the Board; and
 - (c) fees for the recovery of all reasonable costs, including investigation costs, incurred by the Board in connection with the application.
- (2) A licence holder must pay to the Board-
 - (a) the prescribed licence fees;
 - (b) the prescribed penalty for the late payment of fees, which penalty may not exceed twice the amount of the fee in respect of which the penalty is payable;
 - (c) the prescribed levies;
 - (d) the prescribed penalty on late payment of levies, which penalty may not exceed twice the amount of the levy in respect of which the penalty is payable; and
 - (e) all other prescribed fees or levies imposed by the Board.
- (3) Licence fees may differ in relation to different types of licences.

42 Financial and controlling interest

- (1) A person who, directly or indirectly, procures a controlling interest or a financial interest of five percent or more, or any lesser percentage as may be prescribed, in the business to which a licence relates, must within the period and manner determined by the Board, apply to the Board for consent to hold such interest.
- (2) The provisions that apply to an applicant for a licence, applies to an application referred to in subsection (1).
- (3) The Board must not grant consent to an application in terms of subsection (1) where the applicant is a disqualified person contemplated in section 24.
- (4) Where the Board does not consent to an application in terms of subsection (1), the applicant concerned must within the period determined by the Board dispose of the interest in the licence.
- (5) No person may procure an interest contemplated in subsection (1), as nominee or agent of or otherwise on behalf of any principal or beneficiary, if that person has not informed the licence holder concerned and the Board, in writing of the identity of such principal or beneficiary.

43 Certificate of suitability

- (1) The MEC may, by notice in the *Gazette*, list categories of persons that require a certificate of suitability.

(2) Where a licence holder requires goods or services from the categories of persons listed in the notice referred to in subsection (1), the licence holder must acquire those goods or services from a person who holds a certificate of suitability to supply those goods or services.

(3) A person must apply to the Board for a certificate of suitability in the format and manner determined by the Board.

(4) The Board may enquire and obtain information from any person or source, including the South African Police Service, relating to the suitability of the applicant, in order for the Board to consider the application.

(5) The Board may, after providing the holder of a certificate of suitability the opportunity to make representations, suspend for a specified period or revoke a certificate of suitability, if-

- (a) information in the application for such certificate was false in any material respect or was subject to a material omission;
- (b) the holder of the certificate has failed to comply with or has contravened any term or condition of the certificate; or
- (c) the Board is of the opinion that it is necessary and justifiable for the proper control of gambling.

44 Limitation of rights applicable to licence

Only a juristic person may be licensed as a-

- (a) casino operator;
- (b) limited payout machine route operator;
- (c) manufacturer;
- (d) totalisator operator; or
- (e) limited payout machine independent site operator.

[Sec 44 substituted by sec 14 of Act 4 of 2016 wef 1 May 2017.]

CHAPTER 4 CASINO OPERATOR LICENCE

[Heading substituted by sec 15 of Act 4 of 2016 wef 1 May 2017.]

45 Casino operator licence

(1) For the purpose of this Chapter-

"casino game" means a game, irrespective of whether or not the result thereof is determined by chance or a measure of skill, played with playing cards, dice, a gambling machine or any other device used to determine win or loss in the outcome of money or other valuable consideration, and includes, without derogating from the generality of the foregoing, blackjack, chemin de fer, baccarat, bingo, keno, twenty-one, poker and roulette,

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or any other game whose rules closely resemble that of the foregoing.

(2) The Board may only issue a casino operator licence after consulting with the MEC and if the Board is satisfied that the applicant has-

- (a) appropriate knowledge and experience or is able to acquire the necessary knowledge and experience to operate a casino;
- (b) complied with all the requirements for the application as determined by the Board in terms of this Act;
- (c) sole and exclusive legal possession of the licensed site; and
- (d) access to sufficient capital resources which are adequate for operating the casino.

(3) A casino operator licence authorise, subject to conditions which the Board may impose, the conducting and playing of casino games at the site specified in the licence.

(4) The holder of a casino operator licence may not link any gambling machines to a wide area progressive jackpot without the prior written approval of the Board.

(5) The Board may, in respect of gambling machines linked to a wide area progressive jackpot referred to in subsection (4), enter into agreements with other regulatory agencies outside the province to ensure the proper control of such wide progressive jackpot.

[Sec 45 substituted by sec 16 of Act 4 of 2016 wef 1 May 2017.]

46 Considerations for casino operator licence application

(1) When considering an application for a casino operator licence, the Board must consider the extent to which the-

- (a) casino will enhance the environment and neighbourhood;
- (b) casino will promote tourism in the area where the casino will be situated;
- (c) casino will promote sustainable employment;
- (d) applicant will provide training and skills to the employees of the casino;
- (e) applicant will procure labour, goods and services from the area and the province in general for the construction of the casino;
- (f) applicant intends to provide for participation in the ownership or profits of the casino by persons, or groups or categories of persons, previously disadvantaged by unfair discrimination; and
- (g) applicant intends to contribute any facility, advantage or contribution for the benefit, use or enjoyment of the community at or near the site where the casino will be situated.

(2) The Board may consider any other factor which may affect the decision to grant such application or to attach a condition or requirement.

[Sec 46 substituted by sec 17 of Act 4 of 2016 wef 1 May 2017.]

47 Display of information

The holder of a casino operator licence must-

- (a) display within the licensed site, information regarding casino games as determined by the Board; and
- (b) where a patron requests, make available for examination a copy of the rules determining the manner in which a casino game must be played.

[Sec 47 substituted by sec 18 of Act 4 of 2016 wef 1 May 2017.]

48 Use of word "casino"

No person may trade or carry on business under the name or title where the word "casino" is used if that person is not the holder of a casino operator licence issued in terms of this Act.

[Sec 48 substituted by sec 19 of Act 4 of 2016 wef 1 May 2017.]

CHAPTER 5 BINGO OPERATOR LICENCE AND BINGO SITE LICENCE

[Heading substituted by sec 20 of Act 4 of 2016 wef 1 May 2017.]

49 Bingo operator licence and bingo site licence

(1) A bingo operator licence authorise, subject to the conditions the Board may impose, the playing of or permitting the playing of bingo in or on one or more licensed sites.

(2) No person, other than a casino operator licence holder, may keep a site where bingo is played or permit the playing of bingo without a bingo operator licence and a bingo site licence issued in terms of this Act.

(3) No person may, by electronic or similar method of linking to another site, provide for bingo to be played at such site, without a bingo operator licence and a bingo site licence issued in terms of this Act.

(4) The Board may in respect of the linking contemplated in subsection (3), enter into agreements with other regulatory agencies outside the province to ensure proper control of linked bingo games.

(5) The MEC may, on recommendation of the Board, by notice in the *Gazette* declare that any particular game that is substantially similar to bingo is bingo.

[Sec 49 substituted by sec 21 of Act 4 of 2016 wef 1 May 2017.]

CHAPTER 6 LIMITED PAYOUT MACHINE ROUTE OPERATOR LICENCE, LIMITED PAYOUT MACHINE SITE OPERATOR LICENCE AND LIMITED PAYOUT MACHINE INDEPENDENT SITE OPERATOR LICENCE

[Heading substituted by sec 22 of Act 4 of 2016 wef 1 May 2017.]

50 Limited payout machine route operator licence

(1) A limited payout machine route operator licence authorise[s], subject to conditions that the Board may impose, the operation of limited payout machines that comply with the prescribed requirements specified in the limited payout machine licence.

(2) The holder of a limited payout machine route operator licence must enter into an agreement with the holder of a limited payout machine site licence for the placement of gambling machines on the licensed site.

[Subsec (2) substituted by sec 23 of Act 4 of 2016 wef 1 May 2017.]

(3) The Board may only issue a limited payout machine route operator licence if the Board is satisfied that the applicant-

- (a) has appropriate knowledge and experience or is able to acquire the necessary knowledge and experience to operate gambling machines; and
- (b) has complied with all the requirements for the application as determined by the Board in terms of this Act and the National Gambling Act, 2004.

(4) The Board may only issue a limited payout machine route operator licence for the number of gambling machines prescribed by the National Gambling Act, 2004.

(5) The holder of a limited payout machine route operator licence must link all the gambling machines specified in the licence to an electronic monitoring system contemplated in section 60.

(6) No person may, without a limited payout machine route operator licence issued in terms of this Act, permit or engage in the business of operating limited payout machines.

51 Limited payout machine site operator licence

(1) A limited payout machine site operator licence authorise[s], subject to conditions that the Board may impose, the keeping and exposing for play, a specified number of limited payout machines that comply with prescribed requirements, in a designated area at the site specified in the licence.

(2)(a) Subject to paragraph (b), the Board may not issue a limited payout machine site operator licence for the operation and keeping of more than five limited payout machines.

(b) The Board may apply to the National Gambling Board to approve the operation of limited payout machines in excess of five machines and not more than 40: Provided that such application must be made in respect of every site for which limited payout machines in excess of five is sought.

(3) The Board may only issue a limited payout machine site operator licence if-

- (a) the applicant has complied with all the requirements as determined by the Board in terms of this Act or the National Gambling Act, 2004; and
- (b) satisfied that the site for which the licence is sought will not be primarily used for the operation of limited payout machines.