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## G O V E R N M E N T   N O T I C E

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### DEPARTMENT OF TRADE AND INDUSTRY

**No. R. 1425**

21 December 2000

### NATIONAL GAMBLING ACT, 1996

### REGULATIONS ON LIMITED PAYOUT MACHINES.

The Minister of Trade and Industry has, after consultation with the National Gambling Board and the premiers of each province, under section 17 of the National Gambling Act, 1996 (Act No. 33 of 1996), made the regulations in the Schedule.

### SCHEDULE

#### Definitions

**1.** In these regulations any word or expression to which a meaning has been assigned in the Act, **including those contained** in section 13 **(2)** of the Act, shall have the meaning so assigned and unless the context otherwise indicates.

“cash” means physical coins, notes, tokens, magnetic or smart cards or any other representation of money in the gambling environment;

“credits” means the amount of money available to a player, as reflected on a limited payout machine in increments of the denomination of that particular limited payout

machine in Rand value, which accrues as a **result** of the insertion of cash or tokens, into the limited payout machine or the accumulation of anything won by a player at the completion of a game;

‘designated area’ means an **area** at a site, where limited payout machines are authorised to be placed;

“double-up” means a gambling option whereby a player may during a game risk a previous win, bet or a portion of that bet on the selection of a further outcome;

“independent site operator” means a site operator, who is not linked to a route operator and is licensed to own and operate limited payout machines on a single site and is responsible for maintaining the machines, effecting the collection of money and paying the provincial taxes and levies due to the provincial licensing authorities;

“licensee” means a holder of a **licence** contemplated in regulation **9**;

“limited payout machine” means a gambling machine outside of a casino in respect of the playing of which the stakes and prizes are limited as prescribed by these regulations;

“limited payout machine game” means any game on a limited payout machine which

- (a) commences when the **player** –
  - (i) makes a bet from the player’s credit meter that is not part of any previous game ; or
  - (ii) inserts cash and game play is initiated;
- (b) is completed when the player –
  - (i) cannot continue play activity without committing additional **credits** from the credit meter or coin acceptance device; and
  - (ii) has no **credits at risk**; and
- (c) contains one or more of the following elements, each of which is deemed to be part of a single game -
  - (i) Games that trigger a free game feature and subsequent free games;
  - (ii) a metamorphic feature;
  - (iii) a “second screen” bonus feature;
  - (iv) games with player choice, for example draw poker and blackjack;

- (v) games where the rules permit the wagering of additional credits, for example blackjack insurance or the second part of a two-part keno game; or
- (vi) a **gamble** feature – such as a double up.

“progressive jackpot” means an additional variable award, additional to the game's maximum aggregate prize, available to be won by a player as a **result** of an event **on one** or more limited payout machine(s);

“request for application” means the document contemplated in regulation 17 and includes a request for proposal;

“route operator” means a company registered in terms of the Companies Act, 1973 (Act No. 61 of 1973), which is -

- (a) licensed to own and operate limited payout machines;
- (b) responsible for maintaining limited payout machines; and
- (c) responsible for effecting the collection of money and paying the provincial taxes and levies in respect of any limited payout machine under its **licence**;

“site” means premises licensed by a provincial licensing authority for the placement and operation of one or more limited payout machines;

“site operator” means -

- (a) the licensee who is entitled to keep limited payout machines owned by a route operator on his premises and to make them available to be played by members of the public, or
- (b) where a provincial licensing authority licenses **the** premises **on** which the activities contemplated in paragraph (a) are conducted, that licensed premises;

“the Act” means the National Gambling Act, 1996 (Act No. 33 of 1996);

“token” means an element with an indicated Rand ‘value used as input for gaming equipment for gambling purposes.

**CHAPTER 1****Maximum number of limited payout machines**

2. (1) The maximum number of limited payout machines which maybe licensed in the Republic, is 50000.

(2) The maximum number of limited payout machines, which maybe licensed in any particular province is the number indicated next to the name of the province in respect of which the relevant provincial licensing authority has jurisdiction:

(a)	Eastern Cape	6 000;
(b)	Free State	4 000;
(c)	Gauteng	10 000;
(d)	Kwa Zulu-Natal	9 000;
(e)	Mpumalanga	4 000;
(f)	Northern Cape	2 000;
(g)	Northern Province	3 000;
(h)	North West	3 000;and
(i)	Western Cape	9000.

**Number of limited payout machines per site**

3. (1) Subject to the provisions of sub-regulation (2), the maximum number of limited payout machines which may be allowed by a provincial licensing authority to be operated on a single site must be five.

(2) The Board may, on good cause shown and upon application by a provincial licensing authority, approve the operation of limited payout machines in excess of five machines and not more than forty: Provided that such application must be made in respect of every site for which limited payout machines in excess of five is sought.

**Prohibition of gambling by certain persons**

4. (1) A person under the age of 18 years may not enter any designated area or take part in any gambling on a limited payout machine or operate a limited payout machine.

(2) A licensee or employee of such licensee may not permit any person who is under the age of 18 years to enter or remain in a designated area or to take part in any gambling or betting or to handle or operate a limited payout machine.

**Stakes**

5. (1) For the purpose of this regulation, a stake is the total Rand value of all cash and / or credits put at risk at the commencement of a limited payout machine game or during a single limited payout machine game.

(2) The maximum aggregate stake with which to commence a Limited payout machine game and play it to its conclusion is five Rand.

(3) No double-up is allowed on a limited payout machine game.

**Prizes**

6. (1) The maximum aggregate prize payable in respect of a limited payout machine game, is R500.

(2) A prize won on a limited payout machine game must be accrued to the winner as credits or paid to the winner in Rand denominated currency: Provided that the payment of a prize may be made by way of cheque *on request* or with the consent of the winner.

(3) No benefit may be effected to or accepted by the winner of a limited payout machine game in addition to a prize won on such a limited payout machine game.

**Progressive jackpots**

7. (1) Progressive jackpots are not allowed in respect of limited payout machines.

(2) No limited payout machine or licensee may offer any prize in excess of or in addition to the maximum prize contemplated in regulation 6.

**Central electronic monitoring system**

8. (1) The central electronic monitoring system referred to in section 13(1) (l) of the Act must comply with the standard from time to time laid down by the South African Bureau of Standards and must be approved by the Board.

(2) A single central electronic monitoring system shall be operated by a person appointed on the terms and conditions as laid down by the Board after consultation with the Minister.

**Categories of operator licenses**

9. Only three categories of operator **licences** may be issued with respect to limited payout machines, namely:

- (a) route operators;
- (b) site operators; and
- (c) independent site operators.

### **Geographic distribution of limited payout machine operator licences**

10. Provincial licensing authorities must, through their evaluation criteria, promote wide geographic spread of site operators and independent site operators, to ensure that this form of entertainment is accessible to a wide range of the population of the Republic.

### **Credit extension**

11. (1) A licensee may not, directly or indirectly, whether in his or her own name or that of a third party, extend credit, in any form whatsoever, to any person, for the purpose of playing on, or operating, a limited payout machine.

(2) For purposes of this regulation credit extension includes advancement of cash by the licensee against a person's credit card or a cheque.

### **Registration or licensing of limited payout machines**

12. **No** limited payout machine may be -

- (a) distributed to a site operator or an independent site operator; or
- (b) exposed for play unless such machine has been -
  - (i) certified by the South African Bureau of Standards; and
  - (ii) approved and registered or licensed by the relevant provincial licensing authority.

### **Standardisation of limited payout machines**

13. All limited payout machines must comply with the Single Station Gaming Machine Standard 1718 as laid down by the Standard of the South African Bureau of Standards and approved by the Board.

### **Movement of limited payout machines**

14. (1) The movement of machines to or from sites must be with the prior approval of the provincial licensing authority.

(2) The machine movement process must be monitored, documented and controlled in a method acceptable to the provincial licensing authority.

(3) A licensee must submit to the relevant provincial licensing authority as part of the minimum of internal control procedures the following:

- (a) sourcing of machines;
- (b) distribution and movements of machines;
- (c) machine conversions; and
- (d) disposal of machines.

### **Registration or licensing of employees**

**15,** (1) Provincial measures must provide for the licensing or registration of the following categories of persons:

- (a) Any executive, employee, or agent of a licensee having the power to exercise a significant influence over decisions concerning any part of the operations of such licensee;
- (b) the senior management of the licensee;
- (c) every director, officer or equivalent of any such corporate body holding such a **licence**;
- (d) any individual who has been specifically represented to the provincial licensing authority by the licensee officer or director thereof as being important or necessary to the operation of the licensee;
- (e) all persons who individually or as part of a group formulate the management policy of the licensee; and
- (f) any job position or individual who, in terms of the provincial legislation is required to be registered or licensed

(2) A provincial licensing authority must keep a database of the record of persons or employees registered or licensed by it in terms of **subregulation (1)**, for purposes of providing for a central national database, which shall include -

- (a) the name of every such person;
- (b) his or her identity or passport number;
- (c) the name of the gambling business in which such person or employee is involved; and
- (d) his or her date of registration or licensing.



**Employee report**

16. Any information that comes to the attention of the licensee which may affect the suitability of an employee to be registered or licenced must be brought to the attention of the relevant provincial licensing authority within seven days of such information coming to the licensee's attention.

**Publication of notice inviting applications for licence**

17. When it intends to invite applications, a provincial licensing authority shall publish a notice in the provincial gazette and two newspapers circulating in the relevant province informing the public of the availability of the official request for application document in that province.

**issuing of request for application**

18. A request for application for a licence must be available for purchase at the offices of the provincial licensing authority for a period determined in terms of provincial legislation or specified by the provincial licensing authority at a cost determined in terms of the relevant provincial legislation or by the provincial licensing authority, as the case may be.

**Clarification phase of application documentation**

19. (1) Persons who obtain a request for application must be given an opportunity to obtain clarification on the request for application during the period after the request for application is published up until the closing date for applications.

(2) All requests for clarification contemplated in sub-regulation (1) must be in writing,

(3) Where a request for clarification deals with an issue which, in the opinion of the provincial licensing authority, is relevant to other persons who have acquired a request for application, the provincial licensing authority must make available the details of the request and the answer thereto to all persons who do purchase or have purchased or otherwise obtained a request for application.

(4) A provincial licensing authority may at any time request further information or clarification from the applicant.

**Advertisement of application**

**20** (1) An advertisement advising the public that an application is or will be available for public viewing must be placed by the relevant provincial licensing authority or applicant, as determined in terms of the relevant provincial legislation.

(2) The advertisement contemplated in **subregulation (1)** must be placed in the provincial gazette and one or more newspapers circulating in the area to which the application relates.

(3) The advertisement contemplated in subregulation (1) must state that the application is or will be available for public inspection at the offices of the provincial licensing authority and, if applicable, in terms of provincial legislation, such other place as the provincial licensing authority may determine and must invite interested parties to make written representation to the provincial licensing authority within the time determined in terms of provincial legislation or determined by the provincial licensing authority and stipulated in such advertisement.

**Public inspection and objection**

**21.** (1) All applications for licenses contemplated in regulation 9, excluding documents and information which the provincial licensing authority has determined to be confidential, must lie open for public inspection for a period determined in terms of provincial legislation.

(2) The public must be given an opportunity to inspect and comment on or object to any application.

**Confidentiality**

**22.** (1) An applicant may identify any document or information in the application which, in the opinion of the applicant, is confidential and should not be disclosed to the public and show cause why the provincial licensing authority may determine that such document or information should not be open for public inspection.

(2) A provincial licensing authority may determine that any document or information contained in an application and identified as such by the applicant in terms of subregulation (1) is confidential and should not be open to public inspection where such information relates to -

- (a) the names of the prospective employees;
- (b) the personal history and financial capacity of the persons participating in the application, including the applicant itself, himself or herself;
- (c) the business plans of the applicant; or

(d) the financial projections of the applicant.

(3) Any person commenting or objecting to an application may show good cause why the provincial licensing authority may determine that his identity should not be revealed and the provincial licensing authority may determine that the identity of such person should not be divulged to any other person.

### **Investigation and evaluation**

23. Before deciding whether or not to grant a licence, the provincial licensing authority considering the application must:

- (a) conduct an assessment of the application against the specific evaluation criteria laid down in regulation 37, 46 or 59;
- (b) conduct a thorough probity investigation of
  - (i) the applicant;
  - (ii) persons who own five percent or more of the applicant; and
  - (iii) other persons contemplated in regulation 15 identified in the application;and
- (c) in respect of applications for route and independent site operators, conduct a financial viability investigation to determine the suitability of the applicant.

### **Public hearing**

24. (1) Before deciding whether or not to grant a licence a provincial licensing authority must hold a public hearing.

(2) A provincial licensing authority must advertise the place, date and times of a public hearing in the provincial gazette and a newspaper circulating in the area.

### **Recording requirements**

25. The public hearings and all deliberations by the provincial licensing authority relating to applications must be recorded on audio tape and such recordings must be kept for at least two years or any longer period as maybe required in terms of relevant legislation.

**Deliberation and selection**

26. The deliberation and selection must be based on the criteria set in the request for application and must comply with the provisions of applicable national and provincial gambling legislation.

**Issuing of licence**

27. (1) The issuing of the licence must be in terms of the conditions laid down by the provincial licensing authority.

(2) The licence must specify, in detail, the conditions relevant to the licensee.

**Display of licence**

28. A licence issued by a provincial licensing authority to a site operator or an independent site operator must be prominently displayed at the entrance to the designated area, together with a copy of the licence issued to the relevant route operator, if applicable.

**Advertising**

29. (1) A licensee may only advertise its gambling activity in or on the exterior of the site.

(2) No advertising may -

- (a) be offensive;
- (b) promote over-stimulation of the latent demand for gambling;
- (c) be intended, directly or indirectly, to attract persons under the age of 18 years;
- (d) contain a comparison between such licence holder and any other licence holder in respect of -
  - (i) the size;
  - (ii) the number of games available; or
  - (iii) the house advantage, hold, win or any similar indication of the probability of winning or losing;

or

- (e) be misleading,

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## CHAPTER 2

### Route Operators

30. The provisions of this Chapter shall only apply to the licensing of route operators.

Machines available per site: route operator

31. A route operator may not make available for play -
- (a) more limited payout machines than the maximum number of machines for which that route operator is licensed; and
  - (b) more limited payout machines on a site than the relevant site is licensed for.

### Accounting records

32. (1) A route operator must keep the following records:
- (a) details of all transactions effected during its financial year; and effectively regulate licensees.
  - (b) statements of monthly reconciliations between meter revenue readings and cash collections.
- (2) The records referred to in sub-regulation (1) must conform to generally accepted accounting practice and must be kept in accordance with the licensee's system of internal control.

Minimum internal control standards

33. (1) A route operator must establish and maintain minimum standards with regard to administrative and accounting procedures for the purpose of determining the licensee's liability for fees, levies and taxes and for the purpose of exercising effective control over regulatory matters pertaining to the business of the licensee.

(2) The accounting procedures contemplated in subregulation (1) must be designed by the route operator to ensure that -

- (a) assets are safeguarded;
- (b) financial and operational records are accurate and reliable;
- (c) transactions are performed only in accordance with management's general or specific authorisation;
- (d) transactions are recorded accurately to permit proper reporting of gambling revenues, levies and taxes; and

- (e) functions, duties and responsibilities are appropriately segregated and performed in accordance with sound practices by competent, appropriately qualified personnel

(3) Prior to being granted approval to start operations, a route operator must submit its system of minimum internal controls for approval to the provincial licensing authority.

(4) The submission of the system of minimum internal controls contemplated in sub-regulation (3) must comprise a detailed description relating to administrative and accounting procedures including -

- (a) an organisational chart depicting segregation of functions and responsibilities;
- (b) a description of the duties and responsibilities of each position shown on the organisational chart; and
- (c) proof from an independent registered chartered accountant stating that the system of internal control has been reviewed by the accountant and complies with the provisions of this regulation.

(5) A route operator wishing to amend its approved system of minimum internal controls must, prior to implementing such amended system, submit to the provincial licensing authority a copy of the revised system of minimum internal controls for approval.

### **Internal audit function**

**34.** A route operator must establish and maintain an internal audit function which shall provide, without limitation, for the following:

- (a) the review and evaluation of the adequacy of internal controls;
- (b) monitoring the compliance with the minimum internal control standards and other provisions in terms of national and provincial legislation;
- (c) the reporting to the board of directors or committee thereof, or management and the provincial licensing authority of instances of non-compliance with these minimum internal control standards or any national or provincial legislation;
- (d) the reporting to the board of directors or committee thereof, or management and the provincial licensing authority of any material weaknesses or shortcomings in the system of internal control;
- (e) the recommendation to management of procedures to eliminate any material weaknesses or shortcomings in the system of internal control; and

- (f) the preparation and maintenance of reports documenting the information referred to in **subregulations (a) to (e)**.

### **Audited financial statements**

**35.** (1) A route operator must provide the provincial licensing authority with audited annual financial statements and any report communicating the results of the audit within such periods as specified in terms of the relevant provincial legislation.

(2) The provincial licensing authority may request additional information or documents from either the route operator or the auditor of the route operator regarding the financial statements or the services performed by the auditor,

### **Contents of the application for route operator licence**

**36.** The information requested by a provincial licensing authority for an application for a route operator licence must contain at least the following:

- (a) The name, address and other relevant details of the applicant;
- (b) a company registration certificate or number;
- (c) the corporate structure of the applicant, including holding companies, effective owners, shareholders, **affiliates**, subsidiaries, members, trustees, partners, joint ventures, related parties and any other entity or individual who has an interest in the applicant;
- (d) an organisational chart of the enterprise of the applicant, which includes position descriptions and the names of persons holding such positions;
- (e) personal declaration forms or business declaration forms of all persons owning directly or indirectly more than five percent of equity of the applicant and all key employees;
- (f) the criminal history, if any, of the applicant, the enterprise of the applicant, its owners, directors and officers;
- (g) detailed financial statements including full description of significant assets and liabilities, where applicable;
- (h) tax details, including proof of registration or application for VAT, PAYE, Regional Services Council levies and income tax, including a valid tax clearance certificate, where applicable, if already registered;
- (i) details of gambling related **licences** held anywhere in the world and of pending and unsuccessful applications;
- (j) details of the solvency history of the applicant;

- (k) a detailed business plan;
- (l) detailed financial projections in line with the attached *proforma* documentation;
- (m) a schedule of proposed sites and a description of the primary business of each site;
- (n) details of economic empowerment and community benefit plans;
- (o) release authorisations to conduct background investigations; and
- (p) confirmation of payment of any fees required in terms of the relevant provincial legislation, where payment is not made by cheque simultaneously with the application.

### **Evaluation criteria for licensing route operators**

**37.** (1) The provincial licensing authority must undertake a proper evaluation and adjudication process based on the criteria contained in the request for application.

(2) The process contemplated in **subregulation (1)** must be transparent and fully documented.

(3) At least the following criteria must be considered during the evaluation of applications for route operator licences -

- (a) Qualification to hold a licence in terms of national and provincial acts, regulations, rules and standards;
- (b) suitability of applicant and persons contemplated in regulation 15, by considering, inter alia –
  - (i) good character and integrity;
  - (ii) compliance with the law;
  - (iii) criminal history and prior convictions;
  - (iv) solvency history;
  - (iv) associations with unsuitable persons;
  - (v) licensing history; and
  - (vi) taxation history;
- (c) business plan, comprising inter alia -
  - (i) viability and financing of the project;
  - (ii) financial resources or access thereto;
  - (iii) experience and expertise in gambling;
  - (iv) management competence;
  - (v) suitability of the source of funding;
  - (vi) acceptability of key assumptions used in financial projections;



- (vii) promotion of national objectives regarding responsible gambling;  
and
- (viii) revenue benefits from taxes and levies;
- (d) economic empowerment and community benefits, by considering *inter alia*-
  - (i) affirmative action and employment equity;
  - (ii) level of **local** participation;
  - (iii) promotion of small, medium and micro enterprises;
  - (iv) job creation;
  - (v) community benefits to **be** derived from the operation; and
  - (vi) the extent to which the South African demographic profile is represented in the ownership, control and management structure of the operator, sub-contractors, suppliers, service providers and limited payout machine sites to be operated;
- (e) geographical spread of sites; and
- (f) the *extent to* which the applicant is able to demonstrate the achievement of Black economic empowerment through the operation and the selection of the sites, by considering, *inter alia* -
  - (i) the extent to which historically disadvantaged individuals are represented in the management structure of **the** business;
  - (ii) the extent to which historically disadvantaged individuals hold equity in the business;
  - (iii) the extent to which services, suppliers etc. will be provided by firms owned and operated by historically disadvantaged individuals; and
  - (iv) plans to educate and transfer skills to historically disadvantaged individuals.

### Chapter 3

#### Site operators

38. The provisions of this Chapter shall only apply to the licensing of site operators.

#### Unsuitable locations

39. (1) A provincial licensing authority may deny an application for a site licence if the provincial licensing authority deems the **place** or location for which the licence is sought to be unsuitable for the conduct of such gambling.

(2) Without limiting the generality of the foregoing, the following may be deemed unsuitable:

- (a) Premises inconsistent with national and provincial gambling legislation;
- (b) premises located in a place where gambling is specifically prohibited by valid zoning rights;
- (c) premises lacking adequate supervision or surveillance;
- (d) any other premises where the conduct of gambling would be inconsistent with the public interest and policy of the Republic ;and
- (e) premises in respect of which the designated area will be accessible to persons under the age of 18 years.

(3) In considering the suitability of premises the provincial licensing authority may take into account the proximity of churches and the like, schools and childrens' playgrounds,

#### **Ownership of premises** where gambling is conducted

**40.** (1) Provincial licensing authorities may deem that premises are unsuitable for the conduct of gambling operations by reason of ownership by a person who is disqualified to hold a gambling licence.

(2) In all cases in which the premises in or on which the gambling operation for which a licence is sought are not wholly-owned by the applicant, the applicant must furnish to the provincial licensing authority a statement of the name and address of the owner or owners of such premises, a copy of all agreements whereby the applicant is entitled to possession of the premises, and such other information as the provincial licensing authority may require.

(3) in all cases in which the premises are owned or partly owned by the applicant, the applicant must furnish to the provincial licensing authority complete information pertaining to the interest held by any person, including interest held under any mortgage, deed or trust agreement, or other device whatsoever, together with such other information as the provincial licensing authority may require.

(4) Every licensee must furnish to the provincial licensing authority complete information pertaining to any change of ownership of the site or of any change of any interest in the site in or on which the licensed gambling is operated within thirty days of becoming aware of such a change.

**Operation of limited payout machines must not be primary business**

41. (1) An application for a site operator licence may only be granted if the operation of the limited payout machines is incidental to the primary business conducted at the premises.

(2) In determining whether the applicant's proposed operation of limited payout machines is incidental to the primary business at particular premises, the provincial licensing authority may consider some or all of the following factors:

- (a) The floor space used for the limited payout machines as compared to the floor space used for the primary business;
- (b) the investment in the operation of the limited payout machines as compared to the investment in the primary business;
- (c) the time required to manage or operate the limited payout machines as compared to the time required to manage or operate the primary business;
- (d) the gross revenue generated by the limited payout machines as compared to the gross revenue generated by the primary business;
- (e) whether a substantial portion of the financing of the business as a whole has been provided in exchange for the right to operate limited payout machines on the premises; or
- (f) other factors, including but not limited to the establishment's name, the establishment's marketing practices and the public's perception of the business.

**Supervision and location of limited payout machines**

42. A site operator must maintain adequate control and supervision of all limited payout machines during hours of operation and must not exceed the number of licenced limited payout machines or change the location of any limited payout machine as contemplated in regulation 14 or within the site without the prior approval of the provincial licensing authority.

**Layout of site**

43. (1) Upon application for a site operator licence, an applicant must submit with the application a clear and legible diagram, together with photographs of the exterior and interior of the business and a meaningful written description of the primary business.

(2) The diagram contemplated in subregulation (1) must be representative and proportional,

and must include specific reference to the size of the premises through the use of detailed measurements.

(3) The diagram contemplated in subregulation (1) must depict the number of limited payout machines to be exposed for play and their location within the establishment in a manner which must provide adequate supervision of each limited payout machine and which must depict -

- (a) an unobstructed view of each limited payout machine from the point of supervision;
- (b) any mirrors necessary to maintain adequate supervision; and
- (c) any video surveillance equipment that will be used for supervision.

(4) Where the premises to which an application for a limited payout machine site licence relates are accessible to persons under the age of 18 years, no such licence may be issued unless there is a separate cordoned off area wherein all limited payout machines are to be located: Provided that such limited payout machines may be located in a restricted part, as contemplated in the Liquor Act, 1989 (Act No. 27 of 1989), from which persons under the age of 18 years are excluded under section 45 read with section 44 (2) of that Act.

(5) No limited payout machine shall be within two metres of the edge of the area contemplated in subregulation (1) where that area joins the floor area of the rest of the premises: Provided that such limited payout machines may be less than two metres from the edge of such area where such area is separated from the rest of the premises by a non-transparent continuous wall with a height of at least two metres and all such limited payout machines are located at least two metres from any apertures in such wall.

#### Hours of operation

44. (1) In granting a site operator licence the provincial licensing authority may, after taking into consideration the locality of the site, determine and limit the hours of operation of the site.

(2) The provincial licensing authority may, on good cause shown, license the site operator to operate outside the normal hours of operation of the primary business.

#### Contents of application for site operator licence

45. The information requested by a provincial licensing authority must contain at least the following:

- (a) The name, address and identity number, if applicable, of the applicant;

- (b) a description of the form of the enterprise;
- (c) a registration certificate or number, if applicable;
- (d) a detailed description of the primary business conducted at the premises;
- (e) details of ownership of the business conducted at the premises;
- (f) tax details, including proof of registration or application for VAT, PAYE, Regional Services Council levies and income tax, including a valid tax clearance certificate if already registered, where applicable;
- (g) details of ownership of the premises, and or agreements whereby the applicant is entitled to possession of the premises subject to the application;
- (h) diagram, photographs and description of the site layout
- (i) site location plan;
- (j) confirmation of payment of any fees required in terms of the relevant provincial legislation, where payment is not made by cheque simultaneously with the application;
- (k) release authorisations to conduct background investigations;
- (l) a copy of the licence for the principal business conducted at the site;
- (m) personal declaration forms of the applicant, the enterprise of the applicant, its owners, directors and officers, if applicable; and
- (n) additional information as specified in regulation 41(2).

#### **Evaluation criteria for licensing site operators**

**46.** (1) The provincial licensing authority must undertake a proper evaluation and adjudicating process based on the criteria contained in the request for application.

(2) The process contemplated in subregulation (1) must be transparent and fully documented.

(3) At least the following criteria must be considered during the evaluation of applications for site operator licences:

- (a) Qualification to hold a licence in terms of national and provincial acts, regulations, rules and standards;
- (b) suitability of applicant and key persons, by considering –
  - (i) good character and integrity;
  - (ii) compliance with the law;
  - (iii) criminal history and prior convictions;
  - (iv) solvency history;
  - (v) associations with unsuitable persons:

- (vi) licensing history;
- (vii) taxation history;
- (c) suitability of premises with regard to the proposed layout and the location of the site and other factors deemed relevant by the provincial licensing authority; and
- (d) the extent to which the applicant is able to demonstrate the achievement of **Black** economic empowerment through ownership and operation of the business.

## CHAPTER 4

### **Independent site operators**

47. The provisions of this Chapter shall only apply to the licensing of independent site operators.

### **Accounting records**

48. The provisions of regulation 32 shall apply, *mutatis mutandis*, in respect of independent site operators.

### **Minimum internal control standards**

49. The provisions of regulation 33 (1), (2), (3) and (5) shall apply, *mutatis mutandis*, in respect of independent site operators.

### **Internal audit function**

50. The provisions of regulation 34 shall apply, *mutatis mutandis*, in respect of independent site operators.

### **Audited financial statements**

51. An independent site operator must submit to **the** provincial licensing authority financial statements in a manner and format prescribed by the relevant provincial legislation.

### **Licence to be issued to juristic persons only**

52. Where an applicant applies to own and operate more than five machines as an independent site operator, the applicant must be a juristic person.

**Unsuitable locations**

53. The provisions of regulation 39 shall apply, *mutatis mutandis*, in respect of independent site operators.

**Ownership of premises where gambling is conducted**

54. The provisions of regulation 40 shall apply, *mutatis mutandis*, in respect of independent site operators.

**Operation of limited payout machines must not be primary business**

55. The provisions of regulation 41 shall apply, *mutatis mutandis*, in respect of independent site operators, unless the provisions contemplated in regulation 3(2) are applicable.

**Supervision and location of limited payout machines**

56. The provisions of regulation 42 shall apply, *mutatis mutandis*, in respect of independent site operators.

**Layout of site**

57. The provisions of regulation 43 shall apply, *mutatis mutandis*, in respect of independent site operators.

**Hours of operation**

58. The provisions of regulation 44 shall apply, *mutatis mutandis*, in respect of independent site operators.

**Contents of the application for an independent site operator licence**

59. The provisions of regulation 36 shall apply, *mutatis mutandis*, in respect of independent site operators.

### Evaluation criteria for licensing independent site operators

60. The provisions of regulation 37 dealing with evaluation criteria of route operators, where applicable, shall apply, *mutatis mutandis*, in respect of independent site operators.

## CHAPTER 5

### Provincial licensing authorities

61. The provisions of this Chapter shall only apply to a provincial licensing authority

#### Monitoring function

62. A provincial licensing authority must have in place a monitoring function and supporting structures that will be used to ensure that undertakings contained and made in the applications for licenses are being met.

### Procurement of financial and controlling interests in licensees

63. A provincial licensing authority must have provisions in place whereby any procurement of a financial or controlling interest of five percent or more in the business to which a licence relates would be required to apply for the consent of the relevant provincial licensing authority.

### Taxes and levies

64. The provincial licensing authority must put in place measures to ensure complete and timeous collection of taxes and or levies.

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