KwaZulu-Natal Province
KwaZulu-Natal Provinsie
Isifundazwe saKwaZulu-Natali

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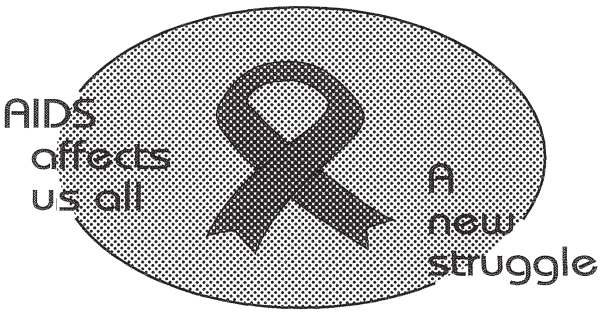
We all have the power to prevent AIDS



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DEPARTMENT OF HEALTH

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PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 619 OF 2023

KWAZULU-NATAL PROVINCIAL NOTICE

KWAZULU- NATAL GAMING AND BETTING ACT, 2010

(ACT NO 8 OF 2010) AS AMENDED

NOTICE FOR THE REPEAL AND REPLACEMENT OF THE CASINO DIRECTIVES ISSUED IN TERMS OF SECTION 47(3) OF ACT No. 08 OF 2010, AS AMENDED.

1. I, in my capacity as the Member of the Executive Council responsible for Economic Development, Tourism and Environmental Affairs in KwaZulu-Natal after consultation with the Executive Council for the KwaZulu-Natal Provincial Government, and having consulted the KwaZulu-Natal Gaming and Betting Board and after consultation with the holders of Casino licences in KwaZulu-Natal hereby issue new Casino Directives in terms of section 47(3) of the KwaZulu-Natal Gaming and Betting Act (Act No. 8 of 2010), as amended;

2. The Directives replace the Premier's Notice and Ministerial Directives issued in terms of the KwaZulu-Natal Gambling Act, 1996 (Act No. 10 of 1996) in 1997;

3. The new Casino Directives will be effective from the date of Publication of this Notice.

Given under my Hand at PMB..... this 29th.. day of NOVEMBER.. 2023.

MR. SIBONISO DUMA, MPL

Member of the Executive Council of the Province of KwaZulu-Natal

Responsible for Economic Development, Tourism and Environmental Affairs

KWAZULU-NATAL PROVINCE

ECONOMIC DEVELOPMENT, TOURISM AND ENVIRONMENTAL AFFAIRS

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REPEALING AND REPLACEMENT OF CASINO DIRECTIVES IN TERMS OF SECTION 47(3) OF ACT 8 OF 2010, AS AMENDED

KWAZULU-NATAL GAMING & BETTING ACT,2010

Section 47(3) of the KwaZulu-Natal Gaming and Betting Act, 2010 (Act No. 08 of 2010 as amended ("the Provincial Act"), empowers the responsible Member of the Executive Council ("the responsible MEC") to issue directives to the KwaZulu-Natal Gaming and Betting Board ("the Board") or its successors in title, and to vary or withdraw existing directives as to requirements for casinos, including, *inter alia*, the permissible locations for casinos in the province; and the required size, type and style of casinos. The existing directives were issued in terms of the KwaZulu-Natal Gambling Act, 1996 (Act No. 10 of 1996) have become obsolete due to the repealing of the KwaZulu-Natal Gambling Act. These directives will be replacing the old existing directives entirely from the date of the publication of the notice.

DIRECRIVES AS TO REQUIREMENTS FOR CASINOS

A. INTRODUCTION

1. OBJECTIVES OF THE ACT

Section 6(1) of the Act describe the policy objectives of the Provincial Act as:- to

- ensure that all gambling authorised under this Act is conducted in a manner which promotes the integrity of the gambling industry and does not cause harm to the public interest;

- ensure that gambling authorised under the Provincial Act promotes the Province's objectives for developing a gaming industry which objectives are the promotion of tourism, employment and economic and social development in the Province;

- promote opportunities for black people to participate in the gambling industries in the capacity of licence holders;

- increase the ownership stakes of black people in the gambling industry;

- develop appreciation for and knowledge of horse racing amongst all communities, particularly those comprised of historically disadvantaged persons; and

- limit restrictive practices, the abuse of dominant market position and mergers in the gambling industry, as contemplated in the Competition Act, 1998 (Act No. 89 of 1998).

The licensing of casinos empowers them to offer both table and machine gaming forms of gambling.

2. CONSIDERATIONS FOR THE LICENSING OF CASINOS

Section 47 of the Provincial Act requires the Board to also take the following into consideration when it considers casino licence applications-

- any directive issued by the responsible MEC in terms of section 47;

- whether the proposed casino operation will satisfy the objectives of the Provincial Act;

- any representations made to it in connection with the application as well as any responses received to the representation;

- any further information obtained in connection with the application as a result of a request or an investigation by the Board or by a person acting on behalf of the Board;

- the extent to which a proposed casino and any resort attached to such casino will promote the attainment of the objectives referred to in Section 6(1) and 6(1)(b);

- the applicant's commitment to transformation of the sector, the promotion of tourism, sustainable employment and economic and social development in the Province; and

- the extent to which the applicant intends to provide for participation in ownership or profits of the casino by black people and vulnerable groups.

3. NATURE OF THE DIRECTIVES AND A CASINO LICENSING FRAMEWORK

In view of this, the licensing framework is structured in such a way that casinos contribute to transformation and inclusion of black people to change ownership patterns within the sector and its value chain, development of new infrastructure, with an emphasis on tourism infrastructure.

The spin offs of any casino development must be:

a) the creation of a mechanism for new investment in the Province;

b) supporting the economic recovery;

c) supporting the development of SMMEs and Black Industrialists;

d) scope for the expansion of sporting, recreational and entertainment facilities;

e) medium-term employment in the construction phase and long-term employment in the operational phase; and

f) vibrancy in other related industries and a catalyst to economic growth.

The casinos must provide economic empowerment opportunities to black people and that opportunities for emerging businesses to supply this industry with goods and services are created.

Social development must be a natural consequence of the foregoing and to reduce the negative effects which problem gambling has on society, and a proactive approach must be taken for the minimization and treatment of compulsive gambling.

In order for this directive to be effective, the licensing framework must be designed to ensure that-

- casino licences are granted in accordance with the prescripts of the Provincial Act read with National Gambling Act, 2004 (Act No. 7 of 2004 ("the National Act");

- casinos contribute to new infrastructural development, with an emphasis on tourism infrastructure;

- tourism is promoted in the Province;
- new investment in the Province is maximized;
- casinos provide employment and economic empowerment opportunities to black people and that opportunities for emerging businesses to supply this new industry with goods and services are created;
- social development and upliftment of rural communities are addressed;
- the industry operates on a financially sound basis;
- the industry is transformed at an ownership level;
- the public interest is protected through ensuring the integrity of the gaming industry and by sensitivity to the harmful effects of an over-stimulation of the latent demand for gambling; and
- licence fees and gaming taxes are paid.

B. DIRECTIVES

DIRECTIVE A

Maximum Permissible Number of Casino Licences to be Issued in the Province

The maximum number of casino licences that may be issued in the Province is 5, subject to any determination in terms of section 45 of the National Act by the Minister of Trade, Industry & Competition ("the Minister") . All casino licences that have been issued or that may be issued in KwaZulu-Natal must be issued in terms of the Provincial Act read with the National Act.

The ability to service a wide geographic area in the Province

Industry research both locally and abroad indicates that casino patrons are primarily sourced from an area within a 75km radius of a casino, and to a lesser extent from an outer ring of between 75km and 150km. Individuals living more than 150km from a casino rarely visit the venue.

Geographic allocation of casino operations is therefore important in KwaZulu-Natal, which covers some 92 180 km. Any reduction in the maximum number of licences would restrict the number of people served in the Province. Accordingly, the number of licences should be maximized to achieve the widest possible geographic coverage.

COMMENTS

Capital investment in the Province

Capital investment in casino facilities is determined with reference to expected casino gaming revenues. To achieve the maximum capital investment, casino gaming revenue in the Province must be maximized.

As described above, gaming revenue of casinos is derived primarily from patrons living within 150km of a casino. Reducing the number of casino licences available would therefore result in the exclusion of certain markets, thereby reducing the total casino gaming revenue in the Province.

Job creation, both during construction and thereafter

Job creation is directly linked to the size of the casino industry created in the Province. Recognizing this relationship, and given that casino gaming revenues and capital investment will be negatively impacted by a reduction in the number of casino licences, it stands to reason that job creation would be similarly negatively impacted.

Opportunities for Black Economic empowerment

Each licence application will provide opportunities for economic empowerment involving different consortia. Therefore, reducing the number of licences available would limit the number of empowerment opportunities in the Province. Based on the abovementioned considerations, the maximum of 5 casino licences as issued in KwaZulu-Natal.

It should be noted, however, that applications for licences will be measured against predetermined criteria, and in the event that none of the applications received meet these criteria, a licence will not be issued.

DIRECTIVE B

Permissible Location

For the purpose of specifying permissible locations for casino licences in the Province, four zones have been identified in the directives issued in 1997 will still be utilized under this directive. Zone 1 may, at any

given time, be allocated a maximum of three casino licences, whilst each of the other zones (Zone 2, 3 & 4) are allocated a maximum of two casino licence. i.e.

Distribution of Casino Licences and Maximum Licences Per Zone	
Zones	**Maximum Licences**
Zone 1	3
Zone 2	2
Zone 3	2
Zone 4	2

This approach recognizes that accessibility is a key determinant in realizing the full potential of the casino industry in the Province. Creation of the four zones ensures that the majority of the major markets within the Province are serviced.

In the event that the Minister, acting in terms of section 45 of the National Act, increases the number of casino licences that may be issued in KwaZulu-Natal, an additional licence or licences shall be allocated by the Board to any of the existing zones, subject to the limits in number of casinos per zone as determined by this directive.

This approach recognises that accessibility is a key determinant in realising the full potential of the casino industry in the Province. Creation of the four zones will ensure that the majority of the major markets within the Province are serviced.

Relocation of licences across zones may only be approved if the Board is satisfied that:

a) the relocation will not cause a material negative effect on the viability of casinos and other gaming venues already licensed in the proposed zone;

b) there will be a substantially similar investment or investment of equal measure in the location and/or zone from which a casino is relocating. This is to ensure that the disruption of economic activity and employment is minimized; and

c) the relocation, broadly, will enhance the achievement of the objects of the Board as set out in section 6 of the Provincial Act.

With regard to zoning or land-use approvals, unless the property concerned conforms with the provisions of a statutory plan in force in the zone or within the local authority, (i.e. gambling zone) an applicant for a casino licence must obtain land-use planning approval in accordance with the laws and regulations applicable to the property.

The zones are comprised of the following magisterial districts:-

Zone 1	Zone 2	Zone 3	Zone 4
Durban	Lower Umfolozi	Vryheid	Bergville
Camperdown	Mtunzini	Dundee	Pietermeritzburg
Chatsworth	Eshowe	Piet Retief	Lions River
Umbumbulu	Hlabisa	Ngotshe	Mooi River
Inanda	Mahlabatini	Nqutu	New Hanover
Ndwendwe	Nkandla	Paulpietersburg	Richmond
Pinetown	Babanango	Utrecht	Escourt
Lower Tugela	Ingwavuma	Glencoe	Emvoti
Umlazi	Mtonjaneni	Msinga	Weenen
Maphumulo	Ubombo	New Castle	Mpendle
Port Shepstone		Klip River	Kranskop
Alfred		Nongoma	Underberg
Umzinto		Dannhauser	Pholela
Ixopo			
Mount Currie			

COMMENTS

The four zones created for allocation of the available casino licences ensures that a geographic spread of casino operations is achieved in the Province.

The zones were derived by the identification of population concentrations by major centre, analysed in terms of total disposable income and accessibility to the centre.

Geographic Coverage

As noted above, casino patrons are primarily sourced from an area within a 75km radius of the casino, and to a lesser extent from an outer ring between 75km and 150km. Therefore, by attaching licences to zones across the Province, most of the major markets will be served.

Tourism Infrastructure and New Investment

The allocation of licences to 4 zones across the Province has shown the following major benefits for tourism infrastructure in the Province:-

Zone 1

Zone 1 market adequately supports more than two casino licences. The current operation of two casino licences in this zone stimulated competition between the licensees to the benefit of their patrons. In order to ensure market share the casinos will have to be cost sensitive, whilst at the same time providing meaningful ancillary attractions, which could include a super bowl, mega dome or Disney style theme park.

The concept of providing a "*must see*" or "*must do*" ancillary attraction, as part of the casino developments in Zone 1, stimulated both the domestic and foreign tourist markets in the Province.

Zones 2 to 4

The Board may license no more two 2 casinos in Zones 2 to 4 at any given time. Allocation of the remaining casino licences to Zone 2 to 4 ensures that tourism is supported across the entire Province.

It should be recognized that casinos in these locations have lower casino gaming revenues than the Zone 1 casinos, they are not in the same position to create major ancillary attractions. However, these casinos have the capacity, based on casino gaming revenues from local populations, to support tourism and other ancillary attractions.

DIRECTIVE C

The required size, type and style of casinos

The size, type and style of casinos is determined principally by markets served within each of the 4 zones.

Developments must support tourism infrastructure in the Province. All casinos must always have a hotel, tourism facilities, entertainment attractions and any other related facilities as the Board may direct.

Zone 1 casino developments must always provide a "*must do*" or "*must see*" ancillary attraction which attract domestic and foreign tourists. Additional facilities should be included to support Tourism, Culture, Art, Sport and convention and conference market in the region. Ancillary developments should not cause any significant displacement of existing facilities in a zone.

COMMENT

Zone 1 casino licensees, incorporating the eThekwini Metropolitan Municipal jurisdiction, are significantly larger than those in the other zones, and accordingly they support ancillary attractions at a bigger scale.

Casinos in Zone 2 to 4 are smaller in size, but are still required to support the development of tourism and entertainment facilities.

DIRECTIVE D

The grant of exclusive rights, for a specified period

A period of exclusivity of up to 15 years or such other lesser periods as the Board may, in its discretion, determine and for such a radius to be determined by the Board on a case by case basis, may be acquired by casino licensees within each of the 4 zones. It is the prerogative of a casino licensee to apply to the Board for an exclusivity right.

Such exclusivity will relate only to the issue of further casino licences in each zone and will not restrict other forms of gambling.

The funds raised in this exclusivity process will be disbursed into the Transformation Fund administered by the Board. The exclusivity funds will be used to fund those activities which fall within the terms of reference of the Transformation Fund.

COMMENTS

Acquisition of exclusivity rights within each zone affords casino licensees the ability to secure their market for a period of time. This has the advantage of providing a degree of certainty as regards likely casino gaming revenue, allowing casino licensees to maximise capital investments.

Acquisition of exclusivity rights will not prevent revocation of a licence in terms of the Provincial Act within such period. Exclusivity periods may vary.

DIRECTIVE E

The extension of a period of exclusivity

Extensions to periods of exclusivity may only be approved if it was applied for prior to expiry of the existing exclusivity right. The Board shall decide whether or not the extension is warranted.

DIRECTIVE F

The payment of a fee, including the quantum of such fee for the grant of exclusive rights

A period of exclusivity referred to in Directive D shall be acquired by a casino licensee, on payment of a fee equal to 5 percent of the total initial capital investment in the casino, hotel and ancillary attractions in the case of a new casino or in the case of a renewal of an exclusivity right, 5% of the casino licence holder's annual gross gaming revenue in the preceding financial year.

COMMENTS

As noted above, exclusivity fees are linked to the period and distance to be determined by the Board. A fee at the rate of 5 percent of the total capital investment or 5 percent of annual gross gaming revenue, as the case may be, is considered appropriate for a 15-year period of exclusivity and will be sustainable by casino licensees.

DIRECTIVE G

Other matters

Fees

Proposal Fees

- Collection of Request for Proposal
- Confirmation of Intention to submit a proposal for a licence
- Submission of preliminary proposal Zone 1
- Submission of preliminary proposal Zone 2 to 4
- Submission of final proposal Zone 1
- Submission of final Zone 2 to 4

All the fees will be in accordance with the approved fee schedule from time to time

Licence Application Fees

- Casino/temporary casino licence application fee will be in accordance with the fee schedule approved from time to time

Annual Licence Fees

- Annual casino licence renewal fee

- Annual gaming machine licence fee
- Annual gaming equipment licence fee
- Annual temporary casino licence renewal fee

All the Annual fees will be in accordance with the fee schedule approved from time to time.

Amendments

Amendment of casino/ temporary casino licence will be in accordance with the fee schedule approved from time to time.

Taxes

- Monthly Gross Gaming Revenue
- R0 to R30 000 000
- R30 000 001 and over

Gaming tax will be levied in terms of the KwaZulu-Natal Gaming Tax Act

Fees/costs of the following documents/activities shall be determined by the Board:

a) Copy of Requests for Proposal;
b) Confirmation of intention to submit a proposal for a licence;
c) Submission of preliminary proposal Zone 1;
d) Submission of preliminary proposal Zone 2 to 4; and
e) Submission of final proposal Zone 1 to 4.

Licence Application Fees, licence fees, annual licence renewal fees and other related fees are determined in Schedule 2 to the Provincial Act or its successor in title. Gambling tax rates and/levies are determined in KZN Gaming and Betting Tax Act 9 of 2010 or its successors in title.

Proposal for Fees

In the case of a new casino licence, a phased approach must be adopted in the evaluation of proposal for casino licences. Copies of a "request for proposal" are to be distributed at an amount to be determined by the Board.

A procedure for the receipt, evaluation and adjudication of bids shall be set out in the Request for Proposal

Licence Applications Fees

Once a preferred bidder has been selected for a licence, application must be made for the licence in terms of the Provincial Act.

Annual Renewal Licence Fees

Applications for annual renewal of licences shall be dealt with in accordance with the provisions of the Provincial Act, its Regulations as well as the gambling rules of the Board.

MR S.A. DUMA, MPL

MEC: ECONOMIC DEVELOPMENT, TOURISM AND ENVIRONMENTAL AFFAIRS, KZN

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