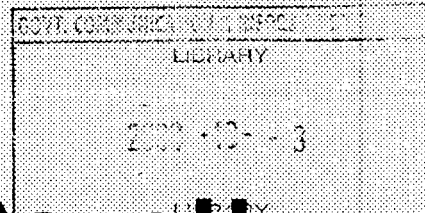


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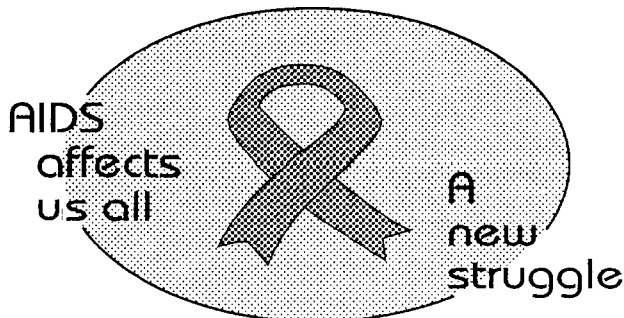
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DEPARTMENT OF HEALTH

G O V E R N M E N T N O T I C E

DEPARTMENT OF TRADE AND INDUSTRY

No. R. 957

22 September 2000

DRAFT

REGULATIONS UNDER THE NATIONAL GAMBLING ACT, 1996

(ACT NO. 33 OF 1996)

NATIONAL GAMBLING REGULATIONS ON LIMITED PAYOUT MACHINES.

THE MINISTER OF TRADE AND INDUSTRY HAS, UNDER SECTION 17 OF THE NATIONAL GAMBLING ACT, 1996 (ACT NO. 33 OF 1996) MADE THE REGULATIONS IN THE SCHEDULE

Interested persons and institutions are invited to submit written representation on the draft regulation to Mr. Gabrielle Makhonxa at the Department of Trade and Industry by no later than 29 September 2000 at:

**Department of Trade and Industry
Private Bag X84
0001**

Tel: **(012)3101113**

Fax: (012) 320-8527

SCHEDULE

PART 1 - GENERAL

CHAPTER 1

Definitions

1 In these regulations all words or expressions defined in the Act, including those contained in section 13 (2) of the Act, must have the meaning ascribed to them therein,

unless any such word or expression is defined in these regulations or the *context* indicates **otherwise**.

credits means the amount of money available to a player with which to commence a game, as reflected on a limited payout machine in increments of the denomination of that particular limited payout machine or 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;

gamble means the risking of anything of value including anything won by a player during the course of a game on the outcome of an event which forms part of the game being played and includes the term **double-up**;

game means an event which

- (a) commences when-
 - (i) the player makes a bet from the player's credit meter that is not part of any previous game ; or
 - (ii) inserts one or more coins and game play is initiated. .
- (b) is completed when-
 - (i) the player cannot continue play activity without committing additional credits from the credit meter or coin acceptance device; and
 - (ii) has no credits at risk.
- (c) contains one or more of the following elements, each of which are 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) "second screen" bonus feature (s);
 - (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;
 - (vi) gamble feature, (for example, Double-up);

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 monies and paying the provincial taxes and levies due to the provincial licensing authorities;

jackpot means a prize in excess of the maximum prize and or additional to a game's pay-table that is available to be won by a player on one or more gaming machines;

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;

prescribed means prescribed in the regulation issued in terms of the Act;

request for application (RFA) includes a request for proposal (RFP)

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 monies and paying the provincial taxes and levies in respect of 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 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, where a provincial licensing authority licenses the premises on which such activities are conducted, means such licensed premises;

stake means the total Rand value of all coins and or credits put at risk at the commencement of a game or during a single game;

token means circular elements with an indicated Rand value used as input for gaming equipment in a licensed venue; and

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

CHAPTER 2**Maximum number of limited payout machines**

2 (1) The maximum number of limited payout machines which must be allowed to be operated in the Republic in terms of all licences granted must be 50000 (fifty thousand).

(2) The maximum number of limited payout machines, which must be allowed to be operated in terms of all licences granted by a provincial licensing authority in any particular province must be the number indicated next to the name of the province in respect of which that provincial licensing authority has jurisdiction:

(a)	Eastern Cape	6000
(b)	Free State	4000
(c)	Gauteng	10000
(d)	Kwa-Zulu Natal	9000
(e)	Mpumalanga	4000
(f)	Northern Cape	2000
(g)	Northern Province	3000
(h)	North West	3000
(i)	Western Cape	9000

Number of limited payout machines per site

3 (1) The operation of limited payout machines must be incidental to the primary business conducted on a site except in circumstances as described in sub-regulation (4).

(2) No gambling game must be played on a site other than a game as defined in these regulations: Provided that the game of Bingo may be played on a site under a licence permitting Bingo to be conducted at such a site.

(3) Subject to the provisions of sub-regulation (4), the maximum number of limited payout machines which must be allowed by a provincial licensing authority to be operated on a single site must be 5 (five).

(4) The Board may, on good cause shown and upon application by a provincial licensing authority, approve the licensing of limited payout machines in excess of 5 (five) machines and not more than 40 (forty): Provided that such application must be made in respect of every site for which limited payout machines in excess of 5 (five) is sought.

Prohibition of gambling by certain persons

4 (1) No person under the age of 18 (eighteen) must enter any designated area where limited payout machines are located or take part in any gambling or betting on a limited payout machine or operate a limited payout machine,

(2) No licensee or employee must permit any person who is under the age of 18 (eighteen) to enter or remain in an area where limited payout machines are located or to take part in any gambling or betting or to handle or operate a limited payout machine.

Stakes

5 (1) The maximum aggregate stake with which to commence a game and play it to its conclusion must be R 5-00 (five Rand).

(2) Notwithstanding anything to the contrary contained in the legislation of any province, no double-up must be allowed in a game.

Prizes

6 (1) The maximum aggregate prize payable in respect of a game, must be R500-00 (five hundred Rand).

(2) Any prize won in a game must be accrued to the winner thereof as credits or paid to such winner in cash and no prize or benefit may be offered to or accepted by the winner thereof in addition to or *in lieu* of credits or cash: Provided that payment of prize money may be made by way of a cheque on request or with the consent of the winner thereof.

Jackpots

7 (1) No linked or progressive jackpots must be allowed in respect of limited payout machines.

(2) No limited payout machine may offer any prize in excess of or in addition to the maximum prize payable in respect of a game.

Central electronic monitoring system

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

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

Categories of operator licenses

9 There must be only three categories of operators with respect to limited payout machines:

- (a) Route operators;
- (b) Site operators; and
- (c) Independent site operators.

Geographic distribution of limited payout machine licences

10 Provincial licensing authorities must promote through their evaluation criteria wide geographic spread of limited payout machine 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 must 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 patron, for the purpose of playing on, or operating, a limited payout machine.

(2) For purposes of this paragraph credit extension includes advancement of cash by the licensee against a patron's credit card and/or a cheque.

Registration or licensing of limited payout machines

12 All limited payout machines licensed must be certified by the South African Bureau of Standards (SABS), or such other accredited authority nominated by the Board for this purpose and these machines must then be approved and registered or licensed by the relevant provincial licensing authority.

Standardisation of limited payout machines

13 All limited payout machines contemplated in these regulations must comply with the Single Station Gaming Machine Standard as laid down by the SABS, or such other accredited authority nominated by the Board for this purpose.

Movement of limited payout machines

14 (1) The removal of limited payout machines to or from licensed sites requires the prior approval of the provincial licensing authority and the process must be adequately monitored, documented and controlled.

(2) A licensee must submit as part of the minimum standard of internal control procedures, procedures to be followed relating the following:

- (a) Sourcing of machines
- (b) Distribution and movements of machines
- (c) Machine conversions
- (d) Disposal of machines.

Registration or licensing of employees

15 (1) Key employees as well as other employees required to be registered or licensed in terms of any gambling legislation must be registered or licensed with the licensing authority.

(2) In order to provide for a central national database the record of employee registration or licensing must be kept in a computerised database containing at least the information required by the Board.

(3) The following employees of a licensee must be classified as key employees for the purposes of these regulations:

- (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 management policy
- (f) Any job position or individual who, upon written notification by the provincial licensing authority, is considered to be a key position or employee for purposes of these standards

Employee report

16 Any information that comes to the attention of the licensee which may have a bearing on the suitability of an employee must be brought to the attention of the provincial licensing authority within 7 (seven) days.

Publication of a notice of availability of RFA

17 Notice of the availability of the Request for Application (RFA), must be issued by a provincial licensing authority and must be published in the Provincial Gazette and in the media circulating in the province.

Issuing of the RFA

18 The RFA must be available at the offices of the provincial licensing authority for a period to be determined in terms of provincial legislation or specified by the provincial licensing authority at a cost to be specified by the provincial licensing authority.

Clarification phase of application documentation

19 (1) Applicants must be given reasonable opportunity to seek clarification of the requirements of the application during the period from publication of the RFA until the closing date for applications.

(2) All requests for clarification must be in writing.

(3) Where requests for clarification are raised which, in the opinion of the provincial licensing authority, are relevant to any other applicants, the provincial licensing authority must make available written clarification to all applicants.

(4) The provincial licensing authority may at any time request an applicant to clarify information provided pertaining to the request or to supply additional information.

Publication of a notice

20 (1) There must be an advertisement of an intention to apply or receipt of such an application as the case may be in the relevant Provincial Gazette and a newspaper circulating in the area.

(2) The advertisement must state that the application must be open for public inspection at the offices of the provincial licensing authority and or such place nominated

by the provincial licensing authority specifying the inspection period, hours and the address of the provincial licensing authority.

(3) Affected parties may make written representation to the provincial licensing authority with respect to the application,

Submission of the application

21 (1) Submission of the application must be done in accordance with the instructions contained in the application forms of the relevant provincial licensing authority and must contain all the information specified as well as specified documents and certified copies (if required) of the advertisements placed in the Provincial Gazette and newspaper(s), if applicable,

(2) An applicant may identify any document or information in the application which, in the opinion of the applicant, is confidential or should, for any reason, 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.

Public inspection and objection

22 (1) All applications must lie open for public inspection, with the exception of those documents which the provincial licensing authority has determined to be confidential.

(2) In terms of provincial licensing authority legislation and policy, and as indicated in the public advertisement, the public can inspect and make representation of any aspect of the application.

Investigation and evaluation

23 Before granting a licence, the provincial licensing authority considering the application must:

- (a) Conduct an assessment of the application against the specific evaluation criteria;
- (b) Conduct a satisfactory probity investigation of the applicant, its owners, management and all relevant key individuals which may include a review of a probity investigation undertaken by another provincial licensing authority; and

- (c) In the evaluation of route and independent site operators also conduct a financial viability investigation to determine the suitability of the business case of the applicant

Public hearing

- 24** (1) The provincial licensing authority, where applicable, must advertise the time and place of the public hearing in at least the Provincial Gazette and one newspaper circulating in the province.
- (2) All proceedings relating to public hearings and deliberation of applications must be recorded and the record of the proceedings retained for at least two years or such longer period as determined in such other relevant legislation.

Deliberation and selection

- 25** The deliberation and selection must be based on the evaluation criteria set in the RFA and must comply with the provisions of applicable national and provincial gambling legislation.

Issuing of licence

- 26** (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

- 27** The licence issued by the provincial licensing authority must be prominently displayed at the entrance to the designated area where the limited payout machines are situated.

Advertising

- 28** (1) A licensee must only advertise in or on the exterior of the premises,
- (2) No advertising must:
- (a) Be offensive
 - (b) Promote over-stimulation of gambling
 - (c) Be aimed at attracting persons under the age of eighteen
 - (d) Compare payout, hold, win or any like indication of other limited payout machines

- (e) Be misleading.

PART 2- APPLICABLE TO THE LICENSING OF ROUTE OPERATORS

CHAPTER 3

Licence to be issued to companies only

29- (1) A route operator licence must only be issued to a company registered in terms of the Companies Act, 1973 (Act No. 61 of 1973).

Number of machines available per site

30 (1) A route operator must make available for play no more than the number of limited payout machines permitted under the terms of a route operator's license.

(2) Only limited payout machines licensed to the linked site operator must be permitted by such a route operator.

(3) A route operator must at all times ensure that the maximum number of limited payout machines permitted on a site is not exceeded.

Accounting records

31 (1) Provincial licensing authorities must require a licensee to keep such records as will enable such licensing authority to effectively regulate the activities of the licensees,

(2) Provincial licensing authorities must require licensees to comply with the following minimum requirements:

- (a) Keeping of accurate, complete, legible and permanent records of all its transactions, conforming to generally accepted accounting practice
- (b) Performing at least on a monthly basis reconciliation between metered revenue readings and cash collections
- (c) Keeping of records required by the licensee's approved system of internal control.

Minimum internal control standards

32 (1) It must be a requirement that a licensee 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 procedures must be designed by the licensee 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
- (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 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
- (c) A letter from an independent practicing chartered accountant stating that the system of internal control has been reviewed by the accountant and complies with the above requirements
- (d) A licensee 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

33 (1) It is a requirement that a route operator licensee must establish and maintain an internal audit function that must be responsible for, without limitation, the following:

- (a) The review and evaluation of the adequacy of internal controls
- (b) Monitoring the licensee's 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, executive management and the provincial licensing authority of instances of non-compliance with such minimum internal control standards or any national or provincial legislation
- (d) The reporting to the board of directors or committee thereof, executive 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 above.

Audited financial statements

34 (1) A route operator must provide the provincial licensing authority with audited annual financial statements 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 licensee or the auditor of the licensee regarding the financial statements or the services performed by the auditor.

Cost of monitoring representations and commitments

35 A route operator licence must be granted subject to the condition that applicants commit themselves to bearing the reasonable cost of monitoring by the provincial licensing authorities that the representations and commitments made in their applications, *inter alia*, with regard to Black Economic Empowerment, are being complied with and this includes compliance with the relevant provincial legislation.

Licensing process for route operators

36 (1) When submitting an application for a route operator licence the applicant must indicate the proposed sites, which are envisaged to form part of the route.

(2) A route operator licence application must be in a format specified by the provincial licensing authority.

- (3) The process to be followed by provincial licensing authorities in processing route operator licences must provide for the following as provided for in regulations 17-26
- (a) Publication of a notice calling for applications for route operators
 - (b) Issue of the Request for Application (RFA)
 - (c) Clarification of Request for Application (RFA)
 - (d) Publication of a notice of intention to apply for a route operator licence or receipt of such application by a provincial licensing authority, as applies in a particular province
 - (e) Submission of applications to the provincial licensing authority
 - (f) Public inspection and objection
 - (g) Investigation and evaluation
 - (h) Public hearings
 - (i) Deliberation and selection
 - (j) Issuing of a licence.

Contents of the application for a route operator licence

37 The information requested by a provincial licensing authority 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 (if required), 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
- (p) Confirmation of payment of prescribed fees
- (q) Copies of prescribed notices.

Evaluation criteria for licensing route operators

38 (1) The provincial licensing authority must undertake a proper evaluation and adjudicating process based on the evaluation and selection criteria contained in the RFA.

(2) This process 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 key persons
 - 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) Business plan
 - 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
- viii. Revenue benefits from taxes and levies
- (d) Economic empowerment and community benefits
 - 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
- 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
- (f) The extent to which the applicant is able to demonstrate the achievement of Black Economic Empowerment through the operation of the route and the selection of the sites
 - 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
 - iv. Plans to educate and transfer skills to historically disadvantaged individuals.

PART 3- APPLICABLE TO THE LICENSING OF SITE OPERATORS

CHAPTER 4

Unsuitable locations

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

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

- (a) Premises inconsistent with national and provincial gambling legislation
- (b) Premises located in a place where gambling is contrary to 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 policy of the Republic
- (e) Premises on which a site is located are accessible to persons under the age of eighteen
- (f) Premises that may result in problem gambling

(3) In considering the suitability of premises the provincial licensing authority may take into account the situation of such premises whether they are within the immediate vicinity of churches and the like, schools, children's playgrounds and premises difficult to police.

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 unqualified or 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 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 premises or of any change of any interest in the premises in or on the licensed gambling is operated within thirty days of becoming aware of such a change.

Operation of limited payout machines must not be the 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
- (f) Other factors, including but not limited to the establishments name, the establishment's marketing practices and the public's perception of the business.

Supervision and location of limited payout machines

42 A licensee must maintain adequate control and supervision of all limited payout machines during hours of operation and must not increase the number of limited payout machines or change the location of any limited payout machine 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 narrative written description of the primary business.

(2) The diagram must be representative, proportional, including specific reference to the size of the premises through the use of detailed measurements. The diagram 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
- (c) Any video surveillance equipment that will be used for supervision
- (d) The location of any recreational, non-gambling arcade or amusement games or devices at an establishment where there is access to persons under the age of 18 (eighteen). The location of these must be sufficiently separated from any limited payout machines to deter loitering near the gambling area by persons under the age of 18 (eighteen).

Hours of operation

44 (1) in granting a site licence the provincial licensing authority may, after taking into account the situation of the site, determine and limit the hours of operation of the site.

(2) The provincial licensing authority may, if good cause shown license the operation of limited payout machines outside the normal hours of operation of the primary business.

Licensing process for site operators

45 The process to be followed by provincial licensing authorities in granting site operator licences must provide for the following as provided for in

regulations 17-26:

- (a) Publication of a notice calling for applications for site operators
- (b) Issue of the Request for Application (RFA)
- (c) Clarification of Request for Application (RFA)
- (d) Publication of a notice of intention to apply for a site operator licence or receipt of an application for a site operator licence
- (e) Submission of applications to the provincial licensing authority
- (f) Public inspection and objection
- (g) Investigation and evaluation
- (h) Public hearings where applicable
- (i) Deliberation and selection
- (j) Issuing of a licence.

Contents of the application for a site operator licence

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

- (a) The name, address and other relevant details of the applicant
- (b) A description of the form of the enterprise
- (c) Company 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 required) if already registered
- (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 prescribed fees
- (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
- (n) Copies of prescribed notices
- (o) Additional information as specified in sub-regulation 41.

Evaluation criteria for licensing site operators

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

(1) The provincial licensing authority must undertake a proper evaluation and adjudicating process based on the evaluation and selection criteria contained in the RFA.

(2) This process 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 key persons

- 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) Evaluation in terms of the provisions of regulation 41
- (d) 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
- (e) The extent to which the applicant is able to demonstrate the achievement of Black Economic Empowerment through ownership and operation of the business.

PART 4- APPLICABLE TO THE LICENSING OF INDEPENDENT SITE OPERATORS

CHAPTER 5

Maximum number of machines

48 An independent site operator must make available for play only the maximum number of limited payout machines authorised in terms of its licence, but in any event may not operate more than a maximum of forty machines as provided for in terms of the national regulations.

Accounting records

49 Provincial licensing authorities must require licensees to comply with the following minimum requirements:

- (1) The provincial licensing authority must undertake a proper evaluation and adjudicating process based on the evaluation and selection criteria contained in the RFA.
- (2) This process must be transparent and fully documented.
- (3) At least the following criteria must be considered during the evaluation of applications for independent site operator licences:

- (a) Keeping of accurate, complete, legible and permanent records of all its transactions, conforming to generally accepted accounting practice
- (b) Performing at least on a monthly basis reconciliation between metered revenue readings and cash collections
- (c) Keeping of records required by the licensee's approved system of internal control.

Minimum internal **control standards**

50 (1) It must be a requirement that a licensee 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 procedures must be designed 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
- (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, an applicant 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 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
- (c) A letter from an independent practicing chartered accountant stating that the system of internal control has been reviewed by the accountant and complies with the above requirements
- (d) A licensee 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

51 It is a requirement that an independent site operator licensee must establish and maintain an internal audit function that must be responsible for, without limitation, the following:

- (a) The review and evaluation of the adequacy of internal controls
- (b) Monitoring the licensee's 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, executive management and the provincial licensing authority of instances of non-compliance with such minimum internal control standards or any national or provincial legislation
- (d) The reporting to the board of directors or committee thereof, executive management and the provincial licensing authority of any material weaknesses in the system of internal control
- (e) The recommendation to management of procedures to eliminate any material weaknesses in the system of internal control; and
- (f) The preparation and maintenance of reports documenting the information referred to above.

Audited financial statements

52 (1) Each licensee must submit to the provincial licensing authority a copy of its audited annual financial statements, and any reports communicating the results of the audit within such period as required by the provincial licensing authority.

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

Cost of monitoring representations and commitments

53 It must be a condition for granting an independent site operator licence that applicants commit themselves to bearing the reasonable cost of monitoring by the provincial licensing authorities that the representations and commitments made in their applications, *inter alia*, with regard to economic empowerment and Black Economic

Empowerment, are being complied with and this includes compliance with the relevant provincial legislation.

Licence to be issued to companies only

54 Where the independent site operator applies to own and operate more than five machines the applicant must be a company registered in terms of the Companies Act (Act No. 61 of 1973).

Unsuitable locations

55 (1) A provincial licensing authority may deny an application for an independent site operator licence if the provincial licensing authority deems that the place or location for which the licence is sought is unsuitable for the conduct of such gambling.

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

- (a) Premises inconsistent with national and provincial gambling legislation
- (b) Premises located in a place where gambling is contrary to 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 policy of the Republic
- (e) Premises on which a site is located are accessible to persons under the age of eighteen
- (f) Premises that may result in problem gambling

(3) In considering the suitability of premises the provincial licensing authority may take into account the situation such premises whether they are within the immediate vicinity of churches and the like, schools, children's playgrounds and premises difficult to police.

Ownership of premises where gambling is conducted

56 (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 unqualified or 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 partly owned by the applicant, the applicant must furnish to the provincial licensing authority complete information pertaining to the interest held by any person other than the applicant, 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 premises or of any change of any interest in the premises in or on which the licensed gambling is operated within 30 days of becoming aware of the change.

Supervision and location of limited payout machines

57 A licensee must maintain adequate control and supervision of all limited payout machines during hours of operation and must not increase the number of limited payout machines or change the location of any limited payout machine without the prior approval of the provincial licensing authority.

Layout of site

58 (1) Upon application for an independent 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 narrative written description of the primary business.

(2) The diagram must be representative, proportional, including specific reference to the size of the premises through the use of detailed measurements.

(3) The diagram 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
- (c) Any video surveillance equipment that will be used for supervision

- (d) The location of any recreational, non-gambling arcade or amusement games or devices at an establishment where there is access to persons under the age of 18 (eighteen). The location must be sufficiently separated from any limited payout machines to deter loitering near the gambling area by persons under the age of 18 (eighteen).

Hours of operation

59 (1) In granting an independent site licence the provincial licensing authority may, after taking into account the situation of the site, determine and limit the hours of operation of the site.

(2) In this regard, the provincial licensing authority may only licence operation of limited payout machines outside the normal hours of operation of the primary business upon good cause shown.

Licensing process for independent site operators

60 (1) An independent site operator licence application will be in a form specified by the provincial licensing authority.

(2) The process to be followed by provincial licensing authorities in granting independent site operator licences must provide for the following as provided for in regulations 17-26.

- (a) Publication of a notice calling for applications for independent site operators
- (b) Issue of the Request for Application (RFA)
- (c) Clarification of Request for Application (RFA)
- (d) Publication of a notice of intention to apply for a route operator licence
- (e) Submission of applications to the provincial licensing authority
- (f) Public inspection and objection
- (g) Evaluation and investigation
- (h) Public hearings
- (i) Deliberation and selection
- (j) Issuing of a licence certificate.

Contents of the application for an independent site operator licence

61 The information requested by a provincial licensing authority 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) 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
- (d) The criminal history, if **any**, of the applicant, the enterprise of the applicant, its owners, directors and officers
- (e) Detailed financial statements including full description of significant assets and liabilities (where applicable)
- (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 required), if already registered
- (g) Details of gambling related licences held anywhere in the world and of pending and unsuccessful applications
- (h) Details of the solvency history of the applicant
- (i) A detailed business plan
- (j) Detailed financial projections in line with the attached *proforma* documentation
- (k) Details of economic empowerment and community benefit plans
- (l) Release authorisations to conduct background investigations
- (m) Confirmation of payment of prescribed fees
- (n) Copies of prescribed notices.
- (o) Details of ownership of the premises, and/or agreements whereby the applicant is entitled to possession of the premises subject to the application
- (p) Diagram, photographs and description of the site layout
- (q) Site location plan
- (r) A copy of the licence for the principal business conducted at the site (if applicable)
- (s) Additional information as specified in sub-regulation 41. (if applicable)

Evaluation criteria for licensing independent site operators

62 (1) The provincial licensing authority must undertake a proper evaluation and adjudicating process based on the evaluation and selection criteria contained in the RFA. This process must be transparent and fully documented.

(2) At least the following criteria must be considered during the evaluation of applications for independent 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
 - 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) Business plan
 - 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
 - viii. Revenue benefits from taxes and levies
- (d) Economic empowerment and community benefits
 - i. Level of local participation
 - ii. Promotion of small, medium and micro enterprises
 - iii. Job creation
 - iv. Community benefits to be derived from the operation
- (e) The extent to which the applicant is able to demonstrate the achievement of **Black Economic Empowerment**
 - 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
- iv. Plans to educate and transfer skills to historically disadvantaged individuals
- (f) Suitability of the premises with regard to the proposed layout and the location of the site and other factors deemed relevant by the provincial licensing authority
- (g) Evaluation in terms of the provisions of regulation 41 (if applicable)
- (h) Affirmative action and employment equity.

PART 5- APPLICABLE TO THE PROVINCIAL LICENSING AUTHORITIES

CHAPTER 6

Monitoring function

63 The 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

64 Provincial licensing authorities 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

65 The provincial licensing authority must put in place measures to ensure complete and timely collection of taxes/levies.

CHAPTER 7

Title and commencement

66 These regulations shall be called the National Gambling Regulations on Limited Payout Machines and shall come into operation on the date of promulgation thereof.