

**POLICY REGARDING THE IMPLEMENTATION OF BROAD-
BASED BLACK ECONOMIC EMPOWERMENT IN THE
GAMBLING INDUSTRY
IN THE EASTERN CAPE**

OF

THE EASTERN CAPE GAMBLING BOARD

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INTRODUCTION

1. The policy regarding the implementation of broad - based black economic empowerment in the gambling industry in the Eastern Cape (“**the policy**”) applies to bookmaker, casino, manufacturer, route operator, bingo, limited payout machine (“**LPM**”) machine site, racecourse and totalisator licences in the Eastern Cape (“**the province**”), as defined in the Eastern Cape Gambling Act, 1997 (“**the Act**”).

PURPOSE

2. The purpose of the policy is to record the measures imposed by the Eastern Cape Gambling Board (“**the ECGB**”) to promote broad-based black economic empowerment (“**B-BBEE**”) in the province as qualification criteria for licensing and as conditions of licence.

POLICY OBJECTIVES

3. To objectives of the policy are transformation of the gambling industry and the improvement of the socio-economic conditions of previously disadvantaged individuals (“**PDIs**”)¹ in the province.

THE LEGAL AND POLICY FRAMEWORK

4. The ECGB, as a provincial licensing authority, is empowered in terms of section 53(1)(c) of the National Gambling Act, No. 7 of 2004 to impose reasonable and justifiable conditions on a licence to *inter alia* address B-BBEE and socio-economic development (“**SED**”).

¹ The term PDI means a person or a groups of persons previously disadvantaged by unfair discrimination defined as a historically disadvantaged individual in the B-BBEE Act

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5. The ECGB is furthermore empowered by the provisions of section 33(1)(k) of the Act to impose the following conditions on a licence:

(k) relating to all matters in the public interest, including:-

(i) the extent to which the applicant will procure labour, goods and services from within the Province in general for the conducting of the business to which the application relates;

(ii) compliance with bid undertakings;

(iii) the empowerment of historically disadvantaged individuals, including the extent to which the applicant intends to provide for participation in the ownership or profits of the business to which the application relates by historically disadvantaged persons, or groups or categories of historically disadvantaged persons, permanently resident in the Province

6. The Generic, Tourism and ICT Codes (“the Codes”) issued in terms of section 9(1) of the Broad Based Black Economic Empowerment Act, 53 of 2003 (“**the B-BBEE Act**”) provide a mechanism for the measurement of B-BBEE recognition levels. The ECGB imposes B-BBEE recognition levels on licensees that must be maintained for the duration of a licence.
7. The Codes provide for the enhanced recognition for certain categories of PDIs, these include PDI women, PDIs with disabilities, PDI youth, PDIs living in rural areas and unemployed PDIs.

 

8. The Codes do not set minimum qualification criteria in accordance with section 10(1) of the B-BBEE Act that the ECGB must adopt in its licensing processes. The Codes provide a standard by which entities may be measured for B-BBEE compliance. They do not provide an invariable standard which entities must meet. It follows that the Codes do not apply to the licensing processes contemplated in the Act.
9. The ECGB is accordingly empowered to determine qualification criteria to address B-BBEE that exceed or deviate from the criteria (if any) prescribed in the B-BBEE Act and the Codes.
10. The Eastern Cape Provincial Government prioritizes six key areas: economic growth and job creation, reducing poverty and the high cost of living, building a capable, ethical, and developmental state, education, health, and rural development.

CRITERIA FOR LICENSING

Ownership

11. The ECGB requires the following minimum ownership percentages for applicants for licences:

Casino

- 11.1. At least 40 (forty) percent shareholding by PDIs.
- 11.2. At least 75 (seventy-five) percent of the 40 (forty) percent shareholding

 

by PDIs shall comprise of local PDIs² [30 (thirty) percent shareholding by local PDIs].

11.3. At least 35 (thirty-five) percent of the 40 (forty) percent shareholding by PDIs shall be women, youth, military veterans or people living with disabilities.

11.4. Of the 35 (thirty-five) percent at least 20 (twenty) percent shall be local PDI women.

Bingo

11.5. At least 40 (forty) percent shareholding by PDIs.

11.6. At least 75 (seventy-five) percent of the 40 (forty) percent shareholding by PDIs shall comprise of local PDIs [30 (thirty) percent shareholding by local PDIs].

11.7. At least 35 (thirty-five) percent of the 40 (forty) percent shareholding by PDIs shall be women, youth, military veterans or people living with disabilities.

11.8. Of the 35 (thirty-five) percent at least 20 (twenty) percent shall be local PDI women.

² Means a PDI who is a permanent resident in the province

 

Route operator

- 11.9. At least 40 (forty) percent shareholding by PDIs.
- 11.10. At least 75 (seventy-five) percent of the 40 (forty) percent shareholding by PDIs shall comprise of local PDIs [30 (thirty) percent shareholding by local PDIs].
- 11.11. At least 35 (thirty-five) percent of the 40 (forty) percent shareholding by PDIs shall be women, youth, military veterans or people living with disabilities.
- 11.12. Of the 35 (thirty five) percent at least 20 (twenty) percent shall be local PDI women.

Limited Payout Machines ("LPM")

- 11.13. At least 60 (sixty) percent of limited gambling machines operated by a route operator shall be located on sites where the sites licensee is controlled³ by persons or group or groups of persons previously disadvantaged by unfair discrimination.
- 11.14. At least 60 (sixty) percent of limited gambling machines operated by Independent Site Operator shall be located on sites where the sites licensee is controlled by persons or group or groups of persons previously disadvantaged by unfair discrimination.

³ Means that the person previously disadvantaged by unfair discrimination- (a) own at least 51 (fifty-one) percent of the shares, or members or partners interest in the business holding the site licence or totalizator agency; and (b) are entitled to at least 51 (fifty-one) percent of the profit of such site licensee or totalizator agency.

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Bookmaker, manufacturer, racecourse and totalisator

- 11.15. At least 26 (twenty-six) percent shareholding by PDIs.
- 11.16. At least 60 (sixty) percent of Historical Horseracing Terminals operated by a Totalisator Operator through Totalisator Agencies shall be located on Agencies where the Totalisator Agency is controlled by persons or group or groups of persons previously disadvantaged by unfair discrimination.

Trusts

- 11.17. In the event that a Trust is used as one of the vehicles for ownership by PDIs, the trust deed must comply with the requirements of annexes 100 (B) and (D) of the B-BBEE Act.

Management Fees

- 11.18. If an applicant for a licence appoints an operator who is a shareholder, related person or subsidiary of an applicant for a licence or shareholder then an amount equal to the PDI ownership percentage of the total management fee payable to such operator must accrue to an applicant's PDI shareholders.

 

SED

12. An applicant for a licence must provide, as a minimum response, a commitment to the ECGB to make an annual contribution of 1 (one) percent of its gross gaming revenue for SED for the duration of the licence period.

CONDITIONS OF LICENCE

13. The ECGB will impose the following minimum requirements in the conditions of licence issued to licensees in terms of section 33 of the Act following the award of a licence.

Skills development

14. A licensee must contribute 1 (one) percent of its total payroll towards skills development of its employees.

Employment

15. At least 80 (eighty) percent of the management of a licensee, including supervisors, must comprise of PDIs.
16. At least 50 (fifty) percent of the employees of the land based /retail licensee must be local PDIs.
17. At least 30 (thirty) percent of the employees of the land based /retail licensee must be local PDIs who are permanent residents of the metropolitan or district municipal area where the licensed premises is located.

 

Enterprise Development

18. A licensee must contribute at least 2% of Net Profit After Tax (NPAT) annually.

Procurement

19. A licensee shall in good faith and with due diligence endeavour to contribute to the economy of the province by sourcing products and services for the operation of the licensed premises from service providers and professionals located within the province in terms of a procurement policy approved by the ECGB.
20. In each case where a licensee does not source products or services from service providers and professionals located within the province as required, a licensee must report such non-compliance on a quarterly basis and must be able to demonstrate to the ECGB that such non-compliance was as a result of a significant material cost-efficiency for a licensee or that such products or services could not be sourced from the province.
21. The ECGB requires the following minimum procurement targets for the duration of a licence:
- 21.1. at least 40 (forty) percent of the expenditure on goods and services procured from B-BBEE Level 1 to 2 suppliers; and
- 21.2. at least 60 (sixty) percent of the expenditure on goods and services procured from PDI suppliers; and
- 21.3. at least 40 (forty) percent of the expenditure on goods and services

 

procured from local PDI suppliers.

B-BBEE codes and recognition levels for different sectors of the gambling industry

22. The following Codes find application to the gambling and racing industry:
- 22.1. The Generic Codes and Generic Scorecard should be applied by the bookmaker, bingo, totalisator, route operator and LPM site licensees.
 - 22.2. The Tourism Sector Codes and Scorecard should be applied by casino licensees.
 - 22.3. The ICT Sector Codes and Scorecard should be applied by the manufacturer licence holders or the Generic Codes (whichever is applicable).
23. The ECGB will impose the following targets for B-BBEE recognition levels in terms of the above Codes:
- 23.1. Casino licence holders should achieve a minimum overall rating of at least Level 4 in terms the Tourism Sector Codes and Scorecard.
 - 23.2. Bingo, route operator, ISO, LPM Type A site, LPM Type B site and LPM Type C site licence holders should achieve a minimum overall rating of at least Level 4 in terms the Generic Codes and Generic Scorecard.

 

23.3. Bookmaker, racecourse and totalisator licence holders should achieve a minimum overall rating of at least Level 4 in terms the Generic Codes and Generic Scorecard.

23.4. Manufacturer licence holder should achieve a minimum overall rating of at least Level 4 in terms of the in terms of the Generic or ICT Codes and the Generic or ICT Scorecard, whichever is applicable.

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