



# Determination of Bookmaking Rights

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## INVITATION TO TENDER

*"Bookmaking Right" means a transferable right determined by the Board in terms of section 7(2)(d) or a non-transferable right granted, in terms of section 89(7), by the Board and which allows the owner thereof, under the authority of a bookmaker's licence, to operate a bookmaking business from a single bookmaker premises or from a single racecourse*

## 1 DEFINITIONS

In this Determination of Bookmaking Rights and Invitation to Tenders, including the appendices and annexures thereto, unless the content indicates otherwise:

<b>Act</b>	means the KwaZulu-Natal Gaming and Betting Act, 2010 (Act No. 8 of 2010), as amended;
<b>Applicant</b>	means a person who submits an application for a bookmaker's licence pursuant to this Invitation to Tender.
<b>B-BBEE</b>	means Broad-Based Black Economic Empowerment, as envisaged in the Broad-Based Black Economic Empowerment Act, 2003 (Act No.53 of 2003) and the Codes of Good Practice on Black Economic Empowerment, issued under section 9(1) of thereof;
<b>B-BBEE Act</b>	means Broad-Based Black Economic Empowerment Act, 2003 (Act No 53. of 2003)
<b>Bet</b>	means an agreement between two persons whereby one person stakes money or a valuable thing with the other person on the outcome of a horse race, sporting event or other event or contingency, or on the cumulative outcome of a combination of horse races, sporting events or other events or contingencies and that outcome or cumulative outcome determines the financial benefit, if any, which accrues to either of those persons, and "to bet" and "betting" have a corresponding meaning as defined in the Act;
<b>Bettor</b>	means any person who makes a bet as defined in the Act;
<b>Black Persons</b>	means a Black Person as defined in the B-BBEE Act;
<b>Black Designated Groups</b>	means Black Designated Groups as defined in the B-BBEE Codes of Good Practice issued on 11 October 2013 under Government Gazette No 36928 Vol 580;
<b>Board</b>	means the KwaZulu-Natal Gaming and Betting Board, established in terms of section 5 of the Act;
<b>Bookmaker</b>	means a person who is licensed in terms of section 94 of the Act, to accept offers or stakes in the process of transacting bets on horse races, sports, sporting events or any other events or contingencies, or on a combination of such horse races, sports, sporting events, other events or contingencies;
<b>Bookmaker Premises</b>	means the physical outlet, physical structure, space or place from which a Bookmaking Business operates;
<b>Bookmaking Business</b>	means a natural person or a corporate body that owns one or more Bookmaking Rights and that trades as a Bookmaker;
<b>Bookmaking Right</b>	means a transferable right determined by the Board in terms of section 7(2)(d) of the Act or a non-transferable right granted, in terms of section 89(7) of the Act, by the Board and which allows the owner thereof, under the authority of a Bookmaker's

Licence, to operate a Bookmaking Business from a single Bookmaker Premises or from a single racecourse;

<b>Chairperson</b>	means the chairperson of the Board or of a committee of the Board, as the case may be, and includes a person who is acting as chairperson;
<b>Chief Executive Officer</b>	means the person appointed to this position in terms of section 23(1) of the Act;
<b>Committee</b>	means a committee established by the Board in accordance with section 18 of the Act;
<b>Defined Area</b>	means a town or location or township or otherwise an area with specific boundaries, defined by the Board in terms of section 7(2)(c), within which a specified maximum number of Bookmaking Rights may be granted;
<b>District</b>	means an area in the Province determined by the Municipal Demarcation Board in terms of the Municipal Demarcation Act, 1998 to be either a metropolitan or district municipality;
<b>Licence</b>	means a Bookmaker's Licence issued in terms of the Act;
<b>Licensed Premises</b>	means any premises on which gambling takes place under the authority of a Licence issued in terms of the Act;
<b>Licensee</b>	means a person who holds a valid Licence or temporary Licence issued in terms of the Act;
<b>Local person</b>	means a natural person whose normal residence is within the Province or a juristic person in whom the majority ownership, employment and beneficitation is ultimately held or accrues to natural persons whose normal residence is within the Province;
<b>Minor</b>	means a person under the age of 18 years;
<b>National Act</b>	means the National Gambling Act, 2004 (Act No. 7 of 2004);
<b>New Entrants</b>	means a person who is neither a current shareholder in the gambling industry nor a current holder of a gambling licence, or an employment licence.
<b>Person</b>	includes a partnership, association, trust or a juristic person established by or in terms of any law;
<b>Province</b>	means the Province of KwaZulu-Natal as referred to in section 103 of the Constitution of the Republic of South Africa, 1996 (Act No.108 of 1996);
<b>Provincial Revenue Fund</b>	means the fund established for the Province by section 226 of the Constitution of the Republic of South Africa, 1996;
<b>RFP</b>	This Determination of Bookmaking Rights and Invitation to Tender document;

<b>Regulations</b>	means the KwaZulu-Natal Gaming and Betting Regulations, 2012, as may be amended from time to time;
<b>Responsible Member of the Executive Council</b>	means the Member of the Executive Council for Economic Development in the Province of KwaZulu-Natal (the MEC for Economic Development in KwaZulu-Natal) or that Member of the Executive Council of the Province of KwaZulu-Natal to whom the Premier has assigned the administration of the Act;
<b>Rules</b>	means rules made by the Board in terms of section 7 of the Act;
<b>SANS Specifications</b>	standards set by the South African Bureau of Standards, specifying the technical requirements for gambling equipment;
<b>Small, Medium and Micro-sized Enterprise</b>	means a business enterprise commonly regarded as small, medium and/or micro-sized in terms of legislation in the Republic of South Africa;
<b>SMME</b>	means a Small, Medium and Micro-sized Enterprise as defined in this document and SMMEs has a corresponding meaning;

## 2 INTRODUCTION

- 2.1 Gambling was introduced in the the Province of KwaZulu-Natal in terms of the National Gambling Act; the erstwhile KwaZulu-Natal Gambling Act (Act No. 10 of 1996), the Rules and Regulations with the view to achieving the following objectives:-
- enhancement of economic growth and development in the Province through the stimulation of the tourism sector, the creation of tourism infrastructure, the creation of tourism opportunities within the local economy;
  - upliftment; advancement and economic empowerment of historically disadvantaged communities;
  - promotion of economic development in the Province;
  - creation of employment opportunities in areas where gambling venues are situated;
  - promotion of opportunities for SMME and Enterprise Development;
  - increase in fiscal / tax revenues for the Province; and
  - provision of entertainment and recreational activities for members of the public.
- 2.2 The KwaZulu-Natal Gaming and Betting Board has considered expanding entertainment and economic opportunities in the betting sector, and thereby invites bids for additional bookmaking rights in the province. This will assist the Board in achieving the following objectives:-
- to diversify and expand the existing bookmaking sector by providing additional bookmaking rights to other areas determined by the Board;
  - to open the bookmaking sector by creation of opportunities for direct economic participation of local black people; new entrants and SMME entrepreneurs;
  - to create needed, new job opportunities in previously disadvantaged areas;

- to contribute to the eradication of illegal gambling in the Province;
- to generate additional fiscal/tax revenue for the Province;
- to promote the ideals of B-BBEE, by increasing the participation of women and designated groups in the bookmaking industry and sector;
- to dilute excessive concentration of ownership and control of the bookmaking industry to few companies and expand full and free participation of black owned businesses and SMMEs in the sector

- 2.3 In terms of the Act, and in particular Sections 7(2)(c) and 7(2)(d) and the Regulations, the invites bids for Bookmaking Rights.
- 2.4 The Board has a transformation strategy whereby the invitation to tender is in line with the strategy to create opportunities for Black Persons within the Bookmaking Industry.
- 2.5 There are currently 110 active Bookmaking Rights in the Province. The Board has resolved to exercise its powers in terms of the Act and review the numbers by determining 18 (eighteen) additional Bookmaking Rights for each District Municipality in defined areas, as more fully set out in paragraph [7.2] of this FRP.

### 3. **PURPOSE OF INVITATION**

The purpose of this document is to provide all interested parties with the regulatory requirements and process to be followed for any persons wishing to tender under this RFP and to set out the principles applicable and the criteria that will be applicable in the consideration and awarding of the Bookmaking Rights.

The document also provides interested parties with guidelines on information required by the Board when evaluating applications.

### 4. **LEGISLATIVE REQUIREMENTS**

- 4.1 Section 7(2) of the Act provides that *“the Board’s powers and functions, in respect of horse racing and betting, are to –*

*.....*

*(c) determine, define and periodically review the boundaries of an area or areas within which a specified maximum number of Bookmaking Rights may be granted: Provided that the Board must publish the details of such determination, definition or review by notice in the Gazette;*

*(d) determine and periodically review the maximum number of Bookmaking Rights which may operate at any one time in a specified defined area or areas: Provided that where the Board determines the establishment of a new Bookmaking Right in a defined area, such right must be disposed of as prescribed by the responsible Member of the Executive Council: Provided, further, that the Board must publish the details of such determination or review by notice in the Gazette ...”*

#### 4.2 The Act enjoins the Board to<sup>1</sup> -

- *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 all gaming authorised under this 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 "persons contemplated in the definition of broad-based black economic empowerment", as contained in the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003), to participate in the gambling industry of the Province in the capacity of licensees or registrants under the Act;*
- *increase the ownership stakes of persons contemplated in the definition of "broad-based black economic empowerment", as contained in the Broad-Based Black Economic Empowerment Act, 2003 (Act No. 53 of 2003) in the gambling industry of the Province;*
- *develop appreciation for and knowledge of horse racing amongst all communities, particularly those comprised of historically disadvantaged persons;*
- *limit restrictive practices, the abuse of dominant market position and mergers in the betting industry, as contemplated in the Competition Act, 1998 (Act No. 89 of 1998), and the Board is, for the purposes of the said Act, a regulatory authority as defined in section 1 of that Act.*

#### 4.3 Regulation 161 of the Regulations provides as follows –

##### ***"Sale of bookmaking right by Board***

**161.(1)** *Whenever a bookmaking right is required to be disposed of in terms of sections 7(2)(d), 45(7), 99(8)(b) or 99(11)(b) of the Act, the Board must dispose of such right by way of public tender.*

*(2) Any invitation to tender and any award of a bookmaking right arising from such a tender must be published by the Board in the Gazette.*

*(3) The invitation, publication, adjudication and award of a tender contemplated in subregulation (1), must be based on –*

*(a) a rating and categorisation of bidders according to the national law on broad-based black economic empowerment; and*

*(b) an award of the tender to the highest bidder within that category of bidders holding the highest broad-based black economic empowerment rating*

- 4.4 Section 53(1)(a)(i) of the National Act enjoins the Board when considering an application for a licence to *“consider the commitments, if any, made by the applicant ... in relation to black economic empowerment ...”*

## **5 LICENSING OBJECTIVES**

- 5.1 The Board intends, among others, to achieve the following objectives through the introduction of additional bookmaking rights in the Province:

- Creation of opportunities for Black Persons in the Betting Industry;
- Transformation of the bookmaking industry through the creation of new entrants into the Betting Industry;
- Promotion of B-BBEE with specific focus to those persons who were previously excluded, including youth, women and designated groups;
- Provision of additional employment opportunities in the townships and spatial areas and towns within the Province of KwaZulu-Natal;
- Enhancement of exposure to the Betting industry thereby increasing industry related knowledge and skills within the Bookmaking Industry;
- Enhancement of economic growth and development in the Province through the stimulation of small and medium sized businesses;
- Introduction of new entertainment and recreational facilities spread throughout the Province
- Contribution to SMME, Small Business and Enterprise Development within the gambling industry;
- Provision of additional tax/fiscal revenue for the Province

## **6. BOOKMAKING RIGHTS AND BOOKMAKING LICENCES**

- 6.1 A person is not permitted to conduct the business of a Bookmaker without holding a Bookmaker's Licence. A Bookmaking Right allows the owner thereof to apply for a Bookmaker's Licence to operate a Bookmaking Business from a single Bookmaker Premises or from a single racecourse.
- 6.2 When considering an application for a Bookmaker's Licence the Board must consider the economic, social development and competition issues such as commitments, if any, made by the applicant to B-BBEE and combating the incidence of addictive and compulsive gambling.
- 6.3 A Bookmaker's Licence expires on the thirty-first day of March of every year but it may be renewed from year to year at the discretion of the Board as set out in the Act.
- 6.4 A Bookmaker's Licence may not be issued to or held by any person who is or becomes subject to a disqualification contemplated in section 32 of the Act. A Bookmaker's Licence cannot be issued to or be held by a corporate body if any director, member or any shareholder with an interest, including a financial interest, of five percent or more in the corporate body is or becomes subject to a disqualification contemplated in section 32, read with section 43A of the Act.

## 7. THE BOARD'S DETERMINATION

7.1 The 110 active Bookmaking Rights are spread out across the Province as follows –

No.	Defined Area	Active Rights
(a)	eThekweni District Municipality	61
(b)	uMgungundlovu District Municipality	10
(c)	iLembe District Municipality	8
(d)	Ugu District Municipality	8
(e)	uThukela District Municipality	3
(f)	Uthungulu District Municipality	5
(g)	Sisonke District Municipality	3
(h)	Amajuba District Municipality	4
(i)	Umkhanyakude District Municipality	2
(j)	Umzinyathi District Municipality	3
(k)	Zululand District Municipality	3

7.2 The Board has, in terms of section 7 (2) (c) and (d) determined the establishment of the following eighteen (18) additional Bookmaking Rights in the following Municipal Districts in addition to the existing determined bookmaking rights.

No.	District	Additional Determined Rights
(a)	eThekweni District Municipality	4
(b)	uMgungundlovu District Municipality	2
(c)	iLembe District Municipality	1
(d)	Ugu District Municipality	1
(e)	uThukela District Municipality	1
(f)	Uthungulu District Municipality	4
(g)	Sisonke District Municipality	1
(h)	Amajuba District Municipality	1
(i)	Umkhanyakude District Municipality	1
(j)	Umzinyathi District Municipality	1
(k)	Zululand District Municipality	1

7.3 The Board has also determined that each Additional Determined Right shall be restricted to the Defined Area for which it shall be granted: Provided that the Board may approve a relocation of licensed premises to any address within a district in which the defined area falls, only if it is satisfied that a Bookmaker has traded from the defined area for a continuous period of not less than twelve (12) months

## 8. INVITATION TO TENDER

8.1 Invitation is hereby extended to interested parties to tender for the Bookmaking Rights determined by the Board in terms of section 7 (2) (c) and (d) of the Act.



8.2 In order to achieve the objects of the Act and to ensure the financial viability of the Bookmaking Businesses to be created, the Board has resolved that the following shall be the criteria for adjudication of bids:–

8.2.1 that the disposal of each Bookmaking Right shall be restricted to Black People only: Provided that persons who currently hold Bookmakers' Licences issued in terms of the Act shall be allowed to form joint ventures with Black People where People own and control at least 70% financial interest in the business; and

8.2.2 that bids shall be scored in accordance with the criteria set out in the table set out in paragraph [9] below and the tenders will be awarded to bids with the highest scores per area.

8.4 A **Non-Compulsory Briefing Session** will be held on **29 April 2021**, there will be two sessions: **First session 09:30 – 11:30 and Second session 14:00 – 16:00**. The session will be conducted virtually through the medium of Microsoft Teams as well as in-person at the Offices of the KZN Gaming and Betting Board: 01 George Macfarlane Drive, Wembley, Pietermaritzburg. Due to Covid-19 health protocols, in-person attendance will be limited per session and will be on a first come first serve basis. **Registration for the briefing session is compulsory**. Kindly refer to the registration process contained on the website [www.kznghbb.org.za](http://www.kznghbb.org.za) in order to register for the briefing sessions. No late registrations will be accepted and no walk-ins will be allowed on the day.

**Applications/Bids should be submitted in the format appearing below. Applications/Bids should be sealed and should be delivered by no later than 12:00 noon on 20 May 2021 to the following address:**

KwaZulu-Natal Gaming and Betting Board  
KZNGBB House, Redlands Estate  
1 George MacFarlane Lane  
Wembley  
Pietermaritzburg  
KwaZulu-Natal  
3201

For Attention: The Chief Executive Officer

8.5 Bidders should take note that they are merely tendering for a right to make application for a Bookmakers' Licence. Only the award of a Bookmakers' Licence, the payment of the required guarantees and the approval of the premises from which the Bookmaking Business is to be operated, will allow those persons whose bids are successful to actually operate the Bookmaking Business.

8.6 Essentially then, the process initiated by the Board consists of two separate and distinct phases. The first phase entails an open competitive tender process in which the highest qualifying bidders will win the right to enter the second phase. The second phase entails a formal application for a Bookmaker's Licence in terms of the Act by the winning bidders.

8.7 If the application for a Bookmaker's Licence is for any reason not successful the person who was the second highest bidder in the tender process will be invited to apply for the Licence. If for any reason, a winning bidder is unable to apply for a licence for a period of more twelve (12) months from the date of the award, the Bookmaking Right so awarded lapses.

8.8 Bookmaking Businesses are regulated in terms of the Act, the Regulations, the National Act and other related legislation. Interested parties are strongly advised to familiarise themselves with all relevant legislation.

9. THE BROAD ASSESSMENT CRITERIA TO BE APPLIED BY THE BOARD IN AWARDING LICENCES ARE AS FOLLOWS:

Criteria	Points		Total Points	Comment
Black Ownership	100% Shares	40	40	This will be assessed on the level of Black ownership of the business to be conducted.
	80% Shares	30		
	70% Shares	10		
Skills Development and Expertise	20		20	The applicant must demonstrate the ability to operate a bookmaking business or there should be a plan for the transfer of such skills to new owners.
Shares by local Black People	20		20	This will be assessed on equity participation by local black people, creation of employment opportunities for staff members to be recruited from the Province and efforts to promote small, medium and micro business opportunities
Corporate Social Investment (CSI) and Socio-Economic Development (CSD)	Local & Govt. aligned	10	10	Based on the key areas identified by the Board as priority areas.
	Other	2		
Financial Viability	10		10	This will be assessed on the viability of the plan to secure funding for the costs of operating betting room premises.
New Entrants	10		10	This will be measured by the measuring the level of participation by the new entrants to the industry; the demographic profiles and number of new applicants/entrants.
<b>Total</b>			<b>110</b>	
Black Women, Black Youth and Black Designated Groups (*Bonus points)	10*		10*	Quality/Content of the proposal / plans submitted by the tenderer.
<b>Grand Total</b>			<b>120</b>	

9.1 Ownership/Shareholding by Black Persons (40):

- 9.1.1 The Boards requirements are to prioritize ownership when issuing the licences;
- 9.1.2 Ownership preference is given to Black Owned Businesses
- 9.1.3 The Applicant shall have a minimum of 70% shareholding held by Black People of which a minimum of 20% must be held by local persons.
- 9.1.4 The applicant shall ensure that a minimum of 60% voting rights under the Management Control are held by Black People.

## **9.2 Skills development and Expertise (20)**

- 9.2.1 Skill and Experience in the Gambling Industry or business management, including evidence of having successfully executed or conducted a similar operation.
- 9.2.2 Demonstration of economic empowerment for Black People and people with disabilities including but not limited to equity or profit participation, skills transfers, etc
- 9.2.3 Staff composition indicating provision for race, gender, and employment of disabled persons and staffing levels in respect of employees

## **9.3. Shares held by local black people (20)**

- 9.3.1 The Board will consider the promotion of B-BBEE and in particular, local black people as matters of vital importance to the application.
- 9.3.2 The Board will also look at the level of participation by local participants; and
- 9.3.3 Demographic profile and number of local participants.

## **9.4. Corporate Social Investment (CSI) and Socio-Economic Development (CSD) (10)**

- 9.4.1 The focus of the bidder must be at the location where the proposed business would be based, and must indicate how it will contribute, participate and be involved in social responsibility or community development projects.
- 9.4.2 Licensees are expected to contribute a minimum of 1% of their gross profits to specific projects in line with government strategic framework objectives and priorities as may be identified by the Board from time to time.
- 9.4.3 The Bid must contain full details regarding the proposed socio economic development initiatives and projects, including
  - (a) participation in the national responsible gambling program,
  - (b) strategies for promotion of B-BBEE with regard to socio-economic development initiatives,
  - (c) a summary of key socio-economic benefits to residents of the Province of KwaZulu-Natal.

## **9.5 Financial Viability and Financing of the Business (10)**

- 9.5.1 The bid shall contain full details of the financing and funding of developments and operations of the bidder, including, but not limited to the following:
  - 9.5.1.1 Details of the Project Team;
  - 9.5.1.2 Related managerial experience;
  - 9.5.1.3 Summary of business plan;
  - 9.5.1.4 Financial and funding model or strategy, including a summary of the sourcing, level and nature of financing and the ability to meet financial obligations;
  - 9.5.1.5 Summary of estimated financial returns to the applicant from operations;
  - 9.5.1.6 A summary of estimated revenue to provincial government in respect of taxes;
  - 9.5.1.7 Capital Adequacy – details amount of capital resources to invest in the province as a result of their operation;
  - 9.5.1.8 Details of the person(s) providing finance and funding, as well as the agreements, arrangements and structures in this regard;
  - 9.5.1.9 The solvency and liquidity of the applicant company if it had been operating;
  - 9.5.1.10 Demonstrated ability to service a debt;
  - 9.5.1.11 Demonstrated projections reflecting adequacy of operating cash inflows to cover outflows;

- 9.5.1.12 Details of financial control considerations, including sufficient details to enable the Board to verify the control structure and control mechanisms applicable to the bidder;
- 9.5.1.13 The bidder should provide signed shareholders' agreements, including empowerment shareholders, the full details of all circumstances and / or agreements affecting the control of the bidder by either the shareholders or directors or both; details regarding how the directors are to be appointed, and by whom – who appoints the chairperson and whether the chairperson has a casting vote;
- 9.5.1.14 With regard to consortium members, such as an empowerment grouping, details of any arrangements by which voting rights differ from those for ordinary voting shares, preference share arrangements, voting pools and conversion rights attaching to shares;
- 9.5.1.15 Details of financial strength considerations, including recent audited financial statements for the applicant;
- 9.5.1.16 Details of access to capital;
- 9.5.1.17 Details of financial viability considerations, including financial projections on total income and expenditure relating to the applicant, covering a period of five (5) years.

## **9.6. New Entrants (10)**

- 9.6.1 This would be assessed at the level of participation by new entrants to the gambling industry; and the demographic profile and number of new entrants.

## **9.7. Bonus Points (10)**

- 9.7.1. Bonus points would be awarded to a bidder showing demonstrable commitment to uplifting persons from designated groups, such as black women; black youth; people with disabilities; etc.

## **10. APPLICATION AND TENDER FORMAT**

- 10.1 Applications for Bookmaker's Licences should be submitted in the following format –

- 10.1.1 The successful Bidders desiring to obtain a Bookmaker's Licence are required to submit applications in accordance with the Act.

- 10.1.2 Applicants must submit the following –

- 10.1.2.1 One (1) original bound copy and one (1) loose leaf copy of the entire application and attachments;
- 10.1.2.2 Two (2) bound copies excluding confidential information (for public inspection); and
- 10.1.2.3 Three bound copies of the entire application and attachments.

- 10.1.3 The applicant for a bookmaker license shall submit, a list of potential sites / premises, stating the District Municipality in which they intend to operate the bookmaker business(s).

- 10.1.4 These proposed premises will remain potential premises until they are found suitable for the proposed bookmaking business operation, and approved by the Board.

- 10.1.5 The licensee shall create an infrastructure to link to the allocated premises to ensure that the number of licensed premises are operational at all times.

- 10.1.6 Once a bookmaker licence is granted, the licensee shall required to enter into an agreement with the owner of the premises where the booking business is to be conducted.

- 10.1.7 The application for a Bookmaker's Licence shall, at a minimum, include full details regarding the following matters:-

- 10.1.7.1 intended geographic location and spread of the potential sites / premises per District Municipality, including commitment to ensure that these will be established at suitable sites not within close proximity to other gambling outlets, schools, churches and other places of worship or educational institutions’;
- 10.1.7.2 an artist impression of the design and layout of the potential sites / premises, including the placement of terminals, entertainment and other activities;
- 10.1.7.3 the legal right to the premises, including copies of contracts and the owner’s consent (if applicable);
- 10.1.7.4 proposed floor plan

10.2 The bids should be submitted in the following format:-

- 10.2.1 Full name(s) of the person (s) tendering for the Bookmaking Right(s);
  - 10.2.2 Identity/registration numbers of the person(s) tendering for the Bookmaking Right(s);
  - 10.2.3 Physical address(es) of the person(s) tendering for the Bookmaking Right(s);
  - 10.2.4 Postal address(es) of the person(s) tendering for the Bookmaking Right(s);
  - 10.2.5 Telephonic and other contact details of the person(s) tendering for the Bookmaking Right(s);
  - 10.2.6 Municipal District to which the tender relates;
  - 10.2.7 Ownership details of the tendering entity(ies);
  - 10.2.8 B-BBEE verification certificates of tendering joint venture entity(ies) or proof of exemption;
  - 10.2.9 Affidavit confirming that the person tendering is not disqualified in terms of section 32 of the Act from holding a Bookmaker’s Licence;
  - 10.2.10 Proof that the person tendering has a viable plan to secure adequate financial resources to ensure the financial viability of the business to which the Bookmaking Right relates including a business plan with a cost analysis;
  - 10.2.11 Proof that the person tendering has sufficient experience in the management and operation of such business or access to the services of persons with such experience and plans to transfer skills to the person tendering; and
  - 10.2.12 Skills development plan that talks to the proposed employment opportunities and training program.
- 10.3 Submission of the above information/documentation is mandatory. Tender documentation that does not follow the format prescribed above will be rejected. No correspondence will be entered into with persons who have submitted tenders prior to the announcement of the successful bids. Tenders will remain sealed prior to the closing date. It is therefore incumbent upon the persons who have submitted tenders, to ensure that the tender documentation is complete and correct.

## 11. TIMETABLE

11.1 The timetable below provides an indication of the critical path of the first phase. The Board reserves the right to change the timetable as and when necessary at its discretion without providing reasons:

No.	Process	Date
(a)	Publication of this RFP will not be later than	08 April 2021
(b)	Compulsory Briefing Session	22 April 2021
(c)	Closing date for Submission of Bids	20 May 2021
(d)	Evaluation of Licence Bids	01 June 2021
(e)	Publication of Notice of Intention to Award	30 June 2021
(f)	Closing date for submission of Appeals	15 July 2021
(g)	Publication of Notice of Award	31 August 2021
(h)	Due date for submission of application for Bookmaker's Licences	12 months after final award

## 12. TERMS AND CONDITIONS

### 12.1 Disclaimer

12.1.1 Every effort has been made to ensure that the information contained in this invitation is correct but it is the obligation of interested parties to ensure that their applications are correct and that they comply with the provisions of the Act in all material respects.

12.1.2 In view of the above:

- Each interested party must make its own independent assessment and investigation of the issues required to be dealt with in its application and should not rely solely on the accuracy of the information provided in this invitation; and
- Neither the Board, its employees nor its agents will be held liable for any act performed in good faith during the application process.

12.1.3 Any additional information provided to interested parties by the Board or any of its employees in connection with this invitation or the Bookmaker's Licence application process will also be subject to the terms of this invitation.

### 12.2 Changes

12.2.1 The Board may, at its discretion, by notice in the Provincial Gazette or in writing to applicants, supplement or update any of the contents or terms and conditions applicable to the invitation. It may also change procedures, timetables, requirements and any other aspect of or in connection with matters covered in the invitation.

### 12.3 No guarantee

12.3.1 The Board does not guarantee that any applicant will be granted a Licence.

#### **12.4 No compensation**

- 12.4.1 The Board will not, under any circumstances, be liable to compensate an applicant or any other party for any expenses, losses and/or damages arising from whatsoever nature incurred or suffered by the applicant or any party in acting upon this invitation and/or otherwise participating in the Bookmaker's Licence application process.

#### **12.5 Waiver of immaterial defects**

- 12.5.1 The Board may at its sole discretion, waive any immaterial defect or lack of compliance with any formality in any application or application procedure. The level of materiality and/or lack of compliance warranting such waiver shall be determined by the Board.

#### **12.6 Wagering System**

- 12.6.1 All bookmaking activities must be conducted through an approved wagering system. Wagering and betting equipment must be tested by an accredited test laboratory in South Africa, certified by the National Regulator for Compulsory Specifications (NRCS) and approved by the Board.
- 12.6.2 All wagering and betting equipment must be supplied and maintained by licensed manufactures, suppliers and distributors in South Africa, unless a Bookmaker uses and maintain its own system.

#### **12.7 B-BBEE**

- 12.7.1 As a public entity, the Board upholds and promotes the principles enshrined in the legislation pertaining to B-BBEE, and as such, will seek to ensure commitment to, adherence and compliance to the B-BBEE Act.
- 12.7.2 The KZNGBB in line with its objectives as contemplated under the Act and its Transformation Objectives will seek to ensure persons contemplated in the B-BBEE Act and Codes receive benefit. It will seek compliance with the B-BBEE Codes and transformation in terms of licence conditions.
- 12.7.3 The Boards B-BBEE Requirements are set out below:
- The Applicant shall have a minimum of 70% shareholding held by Black People of which a minimum of 30% must be held by local black persons.
  - The applicant shall ensure that a minimum of 60% of the Management Control held by previous disadvantaged individuals.

#### **12.8 Transformation Objectives**

- 12.8.1 The Licensee shall ensure that it operates in a manner which enhances the transformation objectives set out in this Invitation. The Licensee may not enter into commercial arrangements which undermine these objectives.
- 12.8.2 In the event that the licensee enters into a management agreement for the running of the Bookmaking business through an entity that does not reflect the minimum B-BBEE profile as set out in this Invitation to tender, the Board will not consider the bid, or may revoke a Bookmaker's Licence already granted, as the case may be.

## **12.9 False information and incomplete applications: -**

12.9.1 The Board reserves the right to refuse a proposal that:

- Contains false information; or
- Is incomplete.

## **12.10. Commencement of operations**

12.10.1 Successful applicants shall commence business activities authorised by the Bookmaker's Licence within a period of twenty four (24) months from the date of issue of the Licence failing which the Licence shall lapse.

## **12.11 Performance guarantee**

12.11.1 Successful applicants may be required to supply the Board with a performance guarantee to ensure compliance with bid undertakings.

## **12.12 License fees and guarantee for gambling debts and taxes**

12.12.1 A Bookmaker's Licence will be issued upon payment of the prescribed Licence fees and provision of a suitable guarantee for gambling debts and taxes.

## **12.13 Evaluation criteria**

12.13.1 Bookmaking Rights will be allocated to the highest tenderers and in terms of the assessment criteria.

12.13.2 In the event of an equality of points or scores, the Board will use its discretion and award a Bookmaking Right to a bidder whose bid, in the opinion of the Board, best achieves the objects of the Act.

## **13. ENQUIRIES**

13.1 All enquiries regarding this tender process must be directed to -

Ms Zanele Zwane / Mr Don Ngubane  
Tel: 033 345 2714  
Email: [zwanez@kzngbb.org.za](mailto:zwanez@kzngbb.org.za)

## **14. EVALUATION CRITERIA**

### **14.1 General Suitability Criteria**

14.1.1 The following criteria will be applicable during the evaluations of applications upon which the Board shall base its deliberations and selection, as required in terms of the Act:

14.1.1.1 Applicant registration details in respect of legal form, address and owner(s);



- 14.1.1.2 Associates in respect of funding, business and ownership of premises;
- 14.1.1.3 Business conduct in respect of type, experience, lawfulness, tax record, credit record and financial status;
- 14.1.1.4 Site selection, description and other details (including site location and layout);
- 14.1.1.5 Public objection matters;
- 14.1.1.6 Corporate Governance matters;
- 14.1.1.7 Personal background;
- 14.1.1.8 Employment background;
- 14.1.1.9 Financial background;
- 14.1.1.10 Criminal background; and
- 14.1.1.11 Any other matter related to the suitability of an applicant.

## **14.2 Experience, skills or management competence**

- 14.2.1 Business Acumen;
- 14.2.2 Financial resources or access thereto;
- 14.2.3 Exposure to Industry or to running your own business, if any;
- 14.2.4 Ability or potential to successfully and profitably manage the proposed bookmaking business;
- 14.2.5 Details of the expertise of the team;
- 14.2.6 Management structure including an organogram of top management of the applicant.

## **14.3 Viability and financing**

- 14.3.1 The following details should be included in the business plan specified and a narrative should be provided to support the financial information included in the application:
  - 14.3.1.1 Proof of financial standing of your existing business (audited financial statements of business you are involved in); if any,
  - 14.3.1.2 Detailed cash flow (including sourcing of funds), income statement and balance sheet projections of proposed business;
  - 14.3.1.3 Applicants must demonstrate that their proposed project is commercially viable.
  - 14.3.1.4 Analysis of the market potential relevant to the proposed application;
  - 14.3.1.5 A summary of the key market demand assumptions (size, frequency of use, etc.) used in the financial projections.
  - 14.3.1.6 Financing: sourcing, level and nature of financing and the ability to meet financial obligations.
  - 14.3.1.7 Details of any pending gambling licence applications or existing licence in the gambling;

## **14.4 Empowerment, human resource strategy and community benefits**

- 14.4.1 Demonstration of economic empowerment for Black People including but not limited to equity or profit participation, skills transfers, etc.
- 14.4.2 Contribution to Corporate Social Investment and the use to which these funds will be applied.
- 14.4.3 The creation of employment opportunities, split between direct employment creation and estimated indirect employment creation.
- 14.4.4 The numbers of staff members to be recruited from the Province, other Provinces and other countries.
- 14.4.5 Social impact: the maximisation of positive, and limitation of negative, social impact on the local

community.

- 14.4.6 Equity participation by previously disadvantaged persons.
- 14.4.7 Efforts to promote small, medium and micro business opportunities
- 14.4.8 Any other economic or community benefits.
- 14.4.9 Projected staff composition indicating provision for race, gender, and employment of disabled persons and staffing levels in respect of employees.

#### **14.5 Geographic spread**

- 14.5.1 Location of proposed bookmaker premises indicating the physical address and GPS Coordinates of the premises.
- 14.5.2 Potential socio-economic impact on the community of the proposed licence/premises (provide study).

#### **14.6 Promotion of new entrants in the gambling industry**

- 14.6.1 Level of participation by new entrants to the gambling industry; and
- 14.6.2 Demographic profile and number of new entrants.

### **15. APPLICATION AND LICENSING PROCESS**

#### **15.1 PROCESS**

- 15.1.1 The licensing of bookmakers will be dealt with through a process consisting of the following steps:
  - 15.1.1.1 Application for a Bookmaker's Licence;
  - 15.1.1.2 Publication of the application for a Bookmaker's Licence inviting comments or representations;
  - 15.1.1.3 Public inspection and objection period;
  - 15.1.1.4 Investigation of the Application and site visits;
  - 15.1.1.5 Public Hearings;
  - 15.1.1.6 Decision making on licence application and issuing of licences.

#### **15.2 CLARIFICATION OF RFA**

- 15.2.1 Applicants may seek clarification of the requirements of this RFP, during office hours (08h00 to 16h30).
- 15.2.2 All requests for clarification must be in writing, and may be sent by facsimile or email.
- 15.2.3 If requests for clarification are raised which, in the opinion of the Board, are relevant to all other applicants, the Board will provide written clarification to all applicants.
- 15.2.4 Requests for clarification should be directed to:

The Chief Executive Officer  
KwaZulu-Natal Gaming and Betting Board  
KZNGBB House, Redlands Estate  
1 George McFarlane Lane  
Wembley

The Chief Executive Officer  
KwaZulu-Natal Gaming and Betting Board  
Private Bag X9102  
Pietermaritzburg  
3200

Pietermaritzburg

Ms Zanele Zwane / Mr Don Ngubane

Tel: 033 345 2714

Email : [zwanez@kznghbb.org.za](mailto:zwanez@kznghbb.org.za)

The Chief Executive Officer  
KwaZulu-Natal Gaming and Betting Board  
18<sup>th</sup> Floor the Marine  
22 Dorothy Nyembe Street  
Durban

The Chief Executive Officer  
KwaZulu-Natal Gaming and Betting Board  
Private Bag X9102  
PIETERMARITZBURG  
3200

Email : [zwanez@kznghbb.org.za](mailto:zwanez@kznghbb.org.za)

### 15.3 LODGING OF APPLICATIONS

15.3.1 Applicants must submit the following –

15.3.1.1 One (1) original bound copy and one (1) loose leaf copy of the entire application and attachments;

15.3.1.2 Two (2) bound copies excluding confidential information (for public inspection).

15.3.1.3 Three bound copies of the entire application and attachments.

15.3.2 An applicant may in the application concerned identify any document or information included 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 Board should determine that such document or information should not be open to public inspection.

15.3.3 The application must be in English, prepared in black and white, standard A4 format, and be lodged with:

The Chief Executive Officer  
KwaZulu-Natal Gaming and Betting Board  
KZNGBB House, Redlands Estate  
1 George McFarlane Lane  
Wembley,  
Pietermaritzburg

The Chief Executive Officer  
KwaZulu-Natal Gaming and Betting Board  
Private Bag X9102  
Pietermaritzburg  
3200

### 15.4 APPLICATION FEES

#### 15.4.1 Bookmakers

All application fees as contained in the table below are non-refundable and are payable to the Board.

Type of application	Fee
(a) Application for bookmaker licence.	R5, 000.00 per application
(b) Application for registration as bookmaker manager.	R1, 000.00 per application
(c) Application for temporary registration as bookmaker's manager.	R750,00 per application
(d) Application to operate at a temporary venue.	R1, 000.00 per application

(e) Application for approval of a computerised record keeping system.	R2, 000.00 per application
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All licence fees and renewal fees as contained in the table below are payable to the Board.

Type of Licence	Bookmaker Licences
(a) Bookmaker's Licence Fee	R4, 000.00 per bookmaking right authorised by the licence
(b) Annual Bookmaker's Licence Renewal Fee	R4, 000.00 per bookmaking right authorised by the licence.

## 15.5 INVESTIGATION FEES

### 15.5.1 General Principle

- 15.5.1.1 In terms of section 73 of the Act any person who submits an application to the Board for a licence, for the amendment, substitution or rescission of a condition attached to a licence, for the transfer of a licence or for the removal of his or her business from the premises specified in the licence to other premises, must pay to the Board –
- 15.5.1.1.1 the application fee prescribed in Schedule 2; and
- 15.5.1.1.2 all direct expenses incurred by the Board in respect of any investigations undertaken by it in terms of sections 35 and 37: Provided that the Board may require an applicant to lodge with it such security, as it may determine, before conducting any investigation contemplated in the said sections.
- 15.5.1.2 Should it be deemed necessary, the Board may require an investigation fee, before proceeding with the investigation of an applicant. In such cases the applicant may request the Board to provide a budget/breakdown of the anticipated additional costs to be incurred.
- 15.5.1.3 After the conclusion of the investigation, usually at the time that the Board takes final action on the application, an invoice will be issued for the actual investigation expenses incurred. This invoice is set-off against the above mentioned investigation deposit and any shortfall must immediately be paid by the applicant. Any portion of an investigation deposit or deposits, in excess of the investigation expenses incurred, will be refunded to the applicant.

## 16 GENERAL TERMS AND CONDITIONS

### 16.1 GENERAL DISCLAIMER

- 16.1.1 This RFP supplies information on a wide range of matters, many of which depend on interpretation of law in its widest sense. The information given is not an exhaustive account of the statutory and licensing requirements and shall not be regarded as a complete or authoritative statement of relevant law. Each Bidder shall consult their own legal, tax, financial and other advisors on all relevant matters.
- 16.1.2 The Board, its employees and its agents accept no responsibility for the accuracy or otherwise of the information contained in this document, nor for any omission or opinion of law expressed herein, nor liability for any loss or damage whether resulting from negligence or otherwise, howsoever caused arising from the reliance of any person upon the statements or information contained in it.

16.1.3 It is the duty of the Bidders to establish, at their own expense, the legal and other requirements and implications of the National Act, National Regulations, the Act, the Regulations and this RFP.

16.1.4 The Board reserves the right to request new or additional information regarding the Bidder or other persons associated with their proposal or application.

## **16.2 RIGHT TO CANCEL THIS RFA**

16.2.1 The Board reserves the right to cancel or amend this RFP or restructure or cancel the process.

## **16.3 REJECTION**

16.3 The Board reserves the right to reject any or all proposals at its sole and absolute discretion and to waive any immaterial defect or lack of compliance with any formality in any proposal, application or process.

## **16.4 COST AND EXPENSES**

16.4.1 The Board or its agents will not be responsible for any costs or expenses incurred in the preparation of a bid or an application for a licence, whether or not an application is submitted or a licence issued.

## **16.5 POSSIBILITY OF CHANGES IN LEGISLATION**

16.5.1 Each Bidder shall be aware that the law, legislation, taxation, regulations and directives pertaining to gambling may change from time to time. The Board, its employees or agents do not take any responsibility for such changes.

## **16.6 NO GUARANTEE**

16.6.1 The Board does not guarantee that any applicant shall be granted a licence and this RFP shall not constitute an offer of any kind whatsoever to the Bidders or applicants.

## **16.7 RECTIFICATION**

16.7.1 It shall be the duty of each applicant to advise the Board forthwith in writing of any information contained in its proposal which the applicant subsequently establishes to be incorrect and to rectify such information. The Board reserves the right to deal with such rectified information, as it may deem fit.

## **16.8 REFUSAL, SUSPENSION OR REVOCATION OF LICENCE**

16.8.1 The Board may in terms of the law, refuse, suspend or revoke a licence if any information contained in a proposal is found to be false in any material respect or subject to any material omission, with the intention to mislead the Board, at the time the information was provided.

## **16.9 DISSEMINATION OF INFORMATION AND RETENTION OF MATERIAL**

16.9.1 The Board reserves the right to publicly disseminate any information of a non-confidential nature contained in any application or proposal. Any and all eligible applications including all related material shall become the property of the Board and shall not be returned.

## **16.10 NO BINDING AGREEMENT**

16.10.1 This RFP and the proposal or application from the successful applicant(s) shall not constitute a binding agreement and the selection of a successful bid does not mean that such bidder's proposal or application is necessarily totally acceptable in the form submitted. The Board reserves the right to decline

to issue a licence to the successful applicant(s) should such applicant fail, neglect or refuse to conform with any further or alternate requirements or conditions stipulated by the Board, or should any of the information contained in the proposal or application of the successful bidder or applicant be invalid, or incorrect. In such event the Board may, at its sole discretion, either invite the second highest bidder or refuse an application for a licence or invite further bids in respect of the Bookmaking right concerned.

## **16.11 APPEALS/REVIEWS**

16.11.1 Any person who is aggrieved by the decision of Board in not awarding or refusing to award a Bookmaking right has a right to lodge an appeal or review against the decision of the Board.

16.11.2 The appeal or review contemplated in this RFP must lodged within fifteen (15) working days from the date publication of a notice of final award by serving Notice of Appeal or Review with the Chief Executive Officer and the successful bidder in the Bookmaking right in relation to which the decision of the Board is sought to be appealed or reviewed. The Notice of Appeal or Review must, at a minimum, set out the following particulars:

16.11.2.1 The full names and contact particulars of appellant;

16.11.2.2 The bookmaking right and the district in relations to which the appeal or review is lodged;

16.11.2.3 The full names and contact particulars of the person to whom the Bookmaking right was awarded;

16.11.2.3 The grounds upon which the appeal or review is founded; and

16.11.2.4 The nature of the relief sought.

16.11.3 The appeal or review contemplated in this RFP shall be presided over by a five (5) member Special Review Panel, which shall be constituted as follows:

16.11.3.1 A practising Advocate holding the rank of a Senior Counsel, who shall be the Chairperson of the Special Review Panel and must be selected by the chairperson of the KwaZulu-Natal Legal Council;

16.11.3.2 A suitable person selected by the Head of Department: KwaZulu-Natal of Economic Development, Tourism and Environmental Affairs within this Department;

16.11.3.3 Three (3) additional members appointed by the Chairperson of this Special Review Panel, and must be constituted as follows:

16.11.3.3.1 One (1) man or woman who is a legal practitioner in terms of Chapter 3 of the Legal Practice Act, 2014 Act No. 28 of 2014);

16.11.3.3.2 One (1) man or woman who, in the opinion of the Chairperson of the Special Review Panel, has appropriate knowledge and experience business and commerce; and

16.11.3.3.3 One (1) man or woman who, in the opinion of the Chairperson of the Special Review Panel, has appropriate knowledge and experience in gambling regulation.

## **16.12 POWERS OF THE SPECIAL REVIEW PANEL**

16.12.1 The Special Review Panel:

16.12.1.1 Shall have power to preside over and decide appeals or reviews;

- 16.12.1.2 May declare that the Board failed to comply with any aspect of this RFP;
- 16.12.1.3 If it declares that the Board failed to comply with the RFP, may:
  - 16.12.1.3.1 Condone deviation which it considers immaterial;
  - 16.12.1.3.2 Set aside and refer the matter back to the Board for reconsideration;
  - 16.12.1.3.3 In exceptional circumstances, substitute the decision of the Board with its own decision.

#### **16.13 TIMELINE WITHIN WHICH TO FINALISE APPEAL OR REVIEW AND CONDUCT OF PROCEEDINGS**

- 16.13.1 An appeal or review lodged in terms of this RFP must finalised within three (3) from the date of constitution of the Special Review Panel.
- 16.13.2 The Chairperson of the Special Review Panel must, subject to clause 16.13.1, give directions on how the appeal or review proceedings shall be conducted.