



Determination of Bookmaking Rights

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INVITATION FOR PUBLIC COMMENT TO DRAFT REQUEST FOR APPLICATIONS



"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 Request for Applications, including the appendices and annexures thereto, unless the content indicates otherwise:

Act	means the KwaZulu-Natal Gaming and Betting Act, 2010 (Act No. 8 of 2010), as amended;
Applicant	means any person who responds to the Application in terms of this Request for Applications.
B-BBEE	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 the Broad-Based Black Economic Empowerment Act, as amended from time to time;
B-BBEE Act	means Broad-Based Black Economic Empowerment Act no 53. of 2003
Bet	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;
Bettor	means any person who makes a bet as defined in the Act;
Black Persons	means a Black Person as defined in the B-BBEE Act;
Board	means the KwaZulu-Natal Gaming and Betting Board, established in terms of section 5 of the Act;
Bookmaker	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;
Bookmaker Premises	means the physical outlet, physical structure, space or place from which a Bookmaking Business operates;
Bookmaking Business	means a natural person or a corporate body that owns one or more Bookmaking Rights and that trades as a Bookmaker;
Bookmaking Right	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;

Chairperson	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;
Chief Executive Officer	means the person appointed to this position in terms of section 23(1) of the Act;
Committee	means a committee established by the Board in accordance with section 18 of the Act;
Defined Area	means a municipal district 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;
District	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;
Licence	means a Bookmaker's Licence issued in terms of the Act;
Licensed Premises	means any premises on which gambling takes place under the authority of a Licence issued in terms of the Act;
Licensee	means a person who holds a valid Licence or temporary Licence issued in terms of the Act;
Local	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;
Minor	means a person under the age of 18 years;
National Act	means the National Gambling Act, 2004 (Act No. 7 of 2004);
New Entrants	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.
Person	includes a partnership, association, trust or a juristic person established by or in terms of any law;
Province	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);
Provincial Revenue Fund	means the fund established for the Province by section 226 of the Constitution of the Republic of South Africa, 1996;
Regulations	means the regulations made by the responsible Member of the Executive Council in terms of section 146 of the Act;
Responsible Member of the Executive Council	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;

Rules	means rules made by the Board in terms of section 7 of the Act;
SANS Specifications	standards set by the South African Bureau of Standards, specifying the technical requirements for gambling equipment;
Small, Medium and Micro-sized Enterprise	means a business enterprise commonly regarded as small, medium and/or micro-sized in terms of legislation in the Republic of South Africa;
SMME	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 bookmaking sector, and thereby invites applications 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 KZN Gaming and Betting Regulations promulgated thereunder, the Kwa-Zulu-Natal Gaming and Betting Board invites applications for Bookmaking Rights.
- 2.4 The Kwa-Zulu Natal Gaming and Betting 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 109 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 Request for Applications.

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 make an application under this Request for Applications 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 to¹ -

- *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 the year for which it was issued 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, as amended. 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 109 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	3
(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.	Defined Area	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 Municipal District for which it shall be granted.
- 7.4 The Board also resolved to publish the details of the aforementioned determination in the Gazette and to engage the Responsible Member of the Executive Council on the manner in which such rights must be disposed of.

8. REQUEST FOR APPLICATIONS

- 8.1 Invitation is hereby extended to interested parties to apply 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 socio-economic objectives of the government 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 bids:–

- 8.2.1 that the disposal of each Bookmaking Right determined above shall be restricted to Black African 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 African People where the latter own and control at least 20% of 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.
- 8.3 Awards would be made to qualifying bidders with the highest points in each Defined Area.
- 8.4 **A Compulsory Briefing Session will be held on [THE DATE TO BE DETERMINED] at [THE TIME TO BE DETERMINED] [THE PLACE TO BE DETERMINED]. 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 [THE DATE TO BE DETERMINED], to the following address:**
- KwaZulu-Natal Gaming and Betting Board
1 George MacFarlane Lane
Town Hill
Pietermaritzburg
KwaZulu-Natal
3201
For Attention: The Chief Executive Officer
- 8.5 Bidders should take note that they are merely tendering for the 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 in terms of the Act by the winning bidders for the Bookmaker's Licence.
- 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.
- 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	30	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	5	10	Based on the key areas identified by the Board as priority areas.
	Govt.	3		
	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.
Total			100	
Women, Youth and Designated Groups (*Bonus points)	10*		10*	Quality/Content of the proposal / plans submitted by the tenderer.
Grand Total			110	

9.1 Ownership/Shareholding by Black Persons (30):

- 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 30% must be held by locals and of which a minimum of 35% of the 70% must be held by women.
- 9.1.4 The applicant shall ensure that a minimum of 60% of the Management Control is held by previous disadvantaged individuals.

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 persons disadvantaged by unfair discrimination as contemplated in the BBBEE Act 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)

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

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

The focus by the applicant 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. Applicants are expected to contribute a minimum of 1% (percent) of their gross takings to specific projects in line with government strategic framework objectives and priorities as may be identified by the Board from time to time.

The application 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)

The Licence bid shall contain full details of the financing and funding of developments and operations of the applicant, including, but not limited to the following:

- 9.5.1 Details of the Project Team
- 9.5.2 Related managerial experience
- 9.5.3 Summary of business plan
- 9.5.4 Financial and funding model or strategy, including a summary of the sourcing, level and nature of financing and the ability to meet financial obligations
- 9.5.5 Summary of estimated financial returns to the applicant from operations
- 9.5.6 A summary of estimated revenue to provincial government in respect of taxes
- 9.5.7 Capital Adequacy – details amount of capital resources to invest in the province as a result of their operation;
- 9.5.8 Details of the person(s) providing finance and funding, as well as the agreements, arrangements and structures in this regard,
- 9.5.9 The solvency and liquidity of the applicant company if it had been operating;
- 9.5.10 Demonstrated ability to service a debt
- 9.5.11 Demonstrated projections reflecting adequacy of operating cash inflows to cover outflows.
- 9.5.12 Details of financial control considerations, including sufficient details to enable the Board to verify the control structure and control mechanisms applicable to the applicant
- 9.5.13 The applicants should provide signed shareholders' agreements, including empowerment shareholders, the full details of all circumstances and / or agreements affecting the control of the applicant 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
- 9.5.14 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

- 9.5.15 Details of financial strength considerations, including recent audited financial statements for the applicant
- 9.5.16 Details of access to capital
- 9.5.16 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)

- 9.1 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 women; youth; etc.

10. TENDER FORMAT

- 10.1 Bids should be submitted in the following format –

- 10.1.1 Bidders desiring to operate, carry on or conduct the business of a bookmaker are required to submit applications in accordance with this Request for Applications (RFA).

Applicants must submit the following –

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

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

Three bound copies of the entire application and attachments

- 10.1.2 The applicant for a bookmaker license shall submit in their bid proposal, a list of potential sites / premises, stating the District Municipality in which they intend to operate the bookmaker site(s). These proposed sites will remain potential sites until found suitable for the proposed business operation, and approved by the Board. The bookmaker licence holder shall create the infrastructure to link to the allocated sites to ensure that the number of bookmaking sites, as per the bid, are operational at all times.

- 10.1.3 Once the bookmaker licence is granted, the bookmaker licensee shall identify potential bookmaking sites in the District Municipality in the Province of KwaZulu-Natal and enter into an agreement with the owner of the premises where the booking business is to be conducted.

The applicant for a bookmaker licence shall include full details regarding the following matters:-

- (a) 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'
- (b) an artist impression of the design and layout of the potential sites / premises, including the placement of terminals, entertainment and other activities;
- (c) the legal right to the premises, including copies of contracts and the owner's consent (if applicable);
- (d) proposed floor plan

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

TENDER IN RESPECT OF THE BOOKMAKING RIGHT TO BE ISSUED IN TERMS OF THE KWAZULU-NATAL GAMING AND BETTING ACT, 2010 (ACT NO. 08 OF 2010)

- A. Full name(s) of the person (s) tendering for the Bookmaking Right(s).
- B. Identity/registration numbers of the person(s) tendering for the Bookmaking Right(s).
- C. Physical address(es) of the person(s) tendering for the Bookmaking Right(s).
- D. Postal address(es) of the person(s) tendering for the Bookmaking Right(s).
- E. Telephonic and other contact details of the person(s) tendering for the Bookmaking Right(s).
- F. Municipal District to which the tender relates.
- G. Ownership details of the tendering entity(ies).
- H. B-BBEE verification certificates of tendering joint venture entity(ies) or proof of exemption.
- I. Affidavit confirming that the person tendering is not disqualified in terms of section 32 of the Act from holding a Bookmaker's Licence.
- J. 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.
- K. 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.
- L. 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 winning tenders. 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 roll out path of the Bookmaking Rights and/or Bookmakers' Licences. 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 Request for Comments on the Proposed RFA	23 January 2020
(b)	Written Comments to be Submitted by	27 February 2020
(c)	Evaluation of the Comments	To be determined
(d)	Issuing of the RFA	To be determined
(e)	Compulsory Briefing Session	To be determined
(f)	Clarification of the RFA (Open for a period of 30 days)	To be determined
(g)	Submission of Application to the Board to close on	To be determined
(h)	Public Inspection and Objection Period	To be determined

No.	Process	Date
(i)	Evaluation of Licence Bids	To be determined
(j)	Selection of Preferred Finalists	To be determined
(k)	Probity investigations on Preferred Finalists	To be determined
(l)	Enquiries, Hearings and/or Public Hearings	To be determined
(m)	Decision by the Board to refuse or grant an application	To be determined
(n)	Site verification and testing	To be determined
(o)	Monitoring of projects	To be determined
(p)	Site verification and testing	To be determined
(q)	Issuing of a permanent licence	To be determined

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 Black Economic Empowerment and as such, will seek to ensure commitment to, adherence and compliance to B-BBEE legislative provisions.

The KZNGBB in line with its objectives as contemplated under the KZN 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.

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 locals and of which a minimum of 35% of the 70% must be held by women.
The applicant shall ensure that a minimum of 60% of the Management Control held by previous disadvantaged individuals.

12.8 Transformation Objectives

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. 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 accept.

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 within a period of six 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 The 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.

13. ENQUIRIES

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

Mr Robert Bestel
Tel: 031-583 1800
Fax: 031-583 1820
Email: Robert.Bestel@kzngbb.org.za

14. EVALUATION CRITERIA

14.1 General Suitability Criteria

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:

- (a) Applicant registration details in respect of legal form, address and owner(s);
- (b) Associates in respect of funding, business and ownership of premises;
- (c) Business conduct in respect of type, experience, lawfulness, tax record, credit record and financial status;

- (d) Site selection, description and other details (including site location and layout);
- (e) Public objection matters;
- (f) Corporate Governance matters;
- (g) Personal background;
- (h) Employment background;
- (i) Financial background;
- (j) Criminal background; and
- (k) Any other matter related to the suitability of an applicant.

14.2 Experience, skills or management competence

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

14.3 Viability and financing

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.

- Proof of financial standing of your existing business (audited financial statements of business you are involved in); if any,
- Detailed cash flow (including sourcing of funds), income statement and balance sheet projections of proposed business;
- Applicants must demonstrate that their proposed project is commercially viable.
- Analysis of the market potential relevant to the proposed application;
- A summary of the key market demand assumptions (size, frequency of use, etc.) used in the financial projections.
- Financing: sourcing, level and nature of financing and the ability to meet financial obligations.
- Details of any pending gambling licence applications or existing licence in the gambling;

14.4 Empowerment, human resource strategy and community benefits

- Demonstration of economic empowerment for persons disadvantaged by unfair discrimination as contemplated in the BBBEE Act including but not limited to equity or profit participation, skills transfers, etc.
- Contribution to Corporate Social Investment and the use to which these funds will be applied.
- The creation of employment opportunities, split between direct employment creation and estimated indirect employment creation.
- The numbers of staff members to be recruited from the Province, other Provinces and other countries.
- Social impact: the maximisation of positive, and limitation of negative, social impact on the local community.
- Equity participation by previously disadvantaged persons.

- Efforts to promote small, medium and micro business opportunities
- Any other economic or community benefits.
- Projected staff composition indicating provision for race, gender, employment of disabled persons and staffing levels in respect of employees.

14.5 Geographic spread

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

14.6 Promotion of new entrants in the gambling industry.

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

15. APPLICATION AND LICENSING PROCESS

15.1 PROCESS

The licensing of bookmakers will be dealt with through a process consisting of the following steps:

- (a) Publication of Request for Comments on the Proposed RFA
- (b) Written Comments on the Proposed RFA
- (c) Evaluation of the Comments
- (d) Issuing of RFA.
- (e) A Compulsory Briefing Session will be held on at Pietermaritzburg.
- (f) Clarification of RFA (open for a period of 30 days from date of publication of notice).
- (g) Submission of applications to the Board shall close On
- (h) Public inspection and objection period.
- (i) Evaluation of licence bids.
- (j) Selection of Preferred Finalists.
- (k) Probity investigations on Preferred Finalists.
- (l) Enquiries, Hearings and/or Public Hearings.
- (m) Decision by the Board to refuse or grant an application.
- (n) Site verification and testing.
- (o) Monitoring of projects.
- (p) Site verification and testing.
- (q) Issuing of a permanent licence.

15.2 CLARIFICATION OF RFA

A Compulsory Briefing Session will be held on [DATE TO BE DETERMINED] Pietermaritzburg.

Applicants may seek clarification of the requirements of this RFA, during office hours (08h00 to 16h30). All requests for clarification must be in writing, and may be sent by facsimile or email. 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. Requests for clarification should be directed to:

The Chief Executive Officer
KwaZulu-Natal Gaming and Betting Board
Redlands
xxxx,

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

Pietermaritzburg

3200

Facsimile: 033 – 342 1971

Email : bestelr@kznngbb.org.za

The Chief Executive Officer
KwaZulu-Natal Gaming and Betting Board
18th Floor the Marine
xxxx,
Durban

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

Facsimile: 033 – 342 1971

Email : bestelr@kznngbb.org.za

15.3 NOTICE OF INTENT TO APPLY

Applicants should note that a notice of intent to apply for a bookmaking licence must be published in the Provincial Gazette and in a newspaper circulating in the Province in the area/region in which gambling is to take place and in which the said premises are or will be situated within 7 days prior to the lodging of the application.

15.4 LODGING OF APPLICATIONS

Submission of applications to the Board shall close on [DATE TO BE DETERMINED]. Applications received after this date will not be considered.

Applicants must submit the following –

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

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.

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
Natalia Building
330 Langalibalele Street,
Pietermaritzburg

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

15.5 APPLICATION FEES

15.5.1 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

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.

15.6 INVESTIGATION FEES

15.6.1 General Principle

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 –

- (a) the application fee prescribed in Schedule 2; and
- (b) 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.

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.

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

This RFA 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 applicant shall consult their own legal, tax, financial and other advisors on all relevant matters.

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.

It is the duty of the applicants 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 draft RFA.

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

16.2 RIGHT TO CANCEL THIS RFA

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

16.3 REJECTION

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

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

16.5 POSSIBILITY OF CHANGES IN LEGISLATION

Each applicant 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

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

16.7 RECTIFICATION

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

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

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

This RFA and the proposal or application from the successful applicant(s) shall not constitute a binding agreement and the selection of a successful applicant does not mean that such applicant'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 applicant be invalid, or incorrect. In such event the Board may, at its sole discretion, either select another applicant from the remaining applicants for the licence or re-advertise for applications.