

THE BETTING, LOTTERIES AND GAMING (ONLINE GAMING) REGULATIONS, 2019

- Citation.
1. These Regulations may be cited as the Betting, Lotteries and Gaming (Online Gaming) Regulations, 2019.
 2. These Regulations shall apply to-
 - (a) online and mobile bookmaking;
 - (b) online and mobile Lotteries;
 - (c) online and mobile casino operation; and
 - (d) online and short messaging system (SMS) games and promotions.
 - (e) Other forms of remote gaming.
- Interpretation.
3. In these Regulations, unless the context otherwise requires-

“client account” means an account held by an operator under Regulation 13;

“mobile gaming” means engaging in any of the activities described in regulation 3;

“operator” means the holder of mobile or online gaming, lottery or a betting licence; and

“player’s money” means money for the purpose of gaming held by an operator on behalf of a player; or owed to a player by the operator as unused deposits, winnings, transfers or redeemable bonuses.
- Application.
4. These Regulations shall apply where-
 - (a) a player enters or takes any step in any game of chance, lottery or betting, through telecommunication; or
 - (b) the negotiation or receiving of a game, lottery or bet is done through telecommunication, including through a mobile telephone; and a participant acquires a chance by means of telecommunication.

Application for a mobile gaming license and or an online gaming license.

5. (1) An applicant under these Regulations may apply for--

- (a) a mobile online gaming, lottery or betting licence; or
- (b) online gaming, lottery or betting licence.

(2) An application for a licence under these Regulations shall be as prescribed in the Act.

(3) An application for licence under these Regulations shall be made through a registered body corporate with not less than two directors.

(4) where the body corporate referred to in subregulation (3) is a company, at least forty percent of its shareholding shall be held by Kenyan citizens.

(5) An applicant for a licence under these Regulations shall demonstrate at least one of the directors or partners, as the case may be, has at least five years experience in gaming operations.

Requirement for an application.

6. An application for a licence shall be submitted together with-

- (a) a copy of the certificate of incorporation or registration, as the case may be;
- (b) copies of the memorandum and articles of association or partnership deed where applicable;
- (c) copy of Personal Identification Number;
- (d) Tax compliance Certificate from Kenya Revenue Authority or a tax clearance certificate from jurisdictions the applicant operates gaming;
- (e) good conduct certificate;
- (f) list of the applicants' directors certified by the Registrar of business services;
- (g) a valid premium rated service provider license or a current contract with a licensed premium rated service provider;
- (h) a business plan showing the minimum investment and source of funds;
- (i) a statement of the applicable charges;
- (j) a valid contract with a reputable odds feed provider where applicable;
- (k) the relevant documents showing the technical specifications and physical location of both hard and software to be used in the conduct of the online or mobile gaming, lottery and or a betting operation;

- (l) the proposed terms and conditions, under which the online or mobile online gaming, lottery or betting operation shall be undertaken; and
- (m) an application fee.

Terms and conditions.

7. The terms and conditions referred to in subregulation 5(1) shall, *inter alia* provide for-

- (a) definitions of terms;
- (b) customer registration;
- (c) age restriction for players;
- (d) customer account security;
- (e) pricing of bets;
- (f) conditions for acceptance, cancellation and validation of bets;
- (g) dispute resolution mechanism;
- (h) errors;
- (i) fraud;
- (j) results;
- (k) voids;
- (l) abandoned matches;
- (m) postponed or arranged matches;
- (n) setting of bets;
- (o) maximum bet and payouts; and
- (p) jackpots and multiple play.

Financial security.

8. In addition to the requirements under regulation 4, an applicant for an license under these Regulations shall provide the Board with-

- (a) details of its financial ability to meet the online or mobile online gaming, lottery and or a betting obligations;
- (b) a list of all bank accounts held by the applicant, including the jackpot account; and
- (c) such security as may be imposed by the Board under section 6 of the Act.

Investigations by the Board.

9. The Board may, in consultation with the relevant security agencies, conduct an investigation to determine the suitability or otherwise of the applicant for grant of a licence under these Regulations.

Obligation of an operator,

10. (1) An operator shall provide the Board with-

- (a) the mechanism for participation across all channels including the mobile and online website platforms;
- (b) particulars of the charges to be levied by the operator;

- (c) particulars of the operator's system to show how a player may register and de-register on the system;
- (d) a list of the games to be offered by the operator;
- (e) particulars of its servers, including the location; and
- (f) in the case of a mobile online gaming, lottery or betting licence, particulars of a network connectivity with two independent links to mobile operators.

(2) An operator shall-

- (a) where the operator is based outside Kenya, establish and maintain an in-house customer care centre within Kenya to monitor and respond to queries by players;
- (b) notify the Board of any changes made to the operating system or operating procedures relating to the online or mobile game, lottery or bet; and
- (c) at all times, keep a backup of all bets placed by the players and the winnings.

Client account.

11. (1) Every operator shall maintain a client Account in which all the players' money shall be held in trust by the operator.

(2) An operator who is in default, shall not withdraw any money from the client Account unless the Board grants written authorization.

(3) An operator shall be deemed to be in default under this Regulation, where the operator-

- (a) has been put under receivership or any equivalent procedure has occurred in respect of the operator in Kenya or in a country or territory outside Kenya;
- (b) commits a material breach of any term of its license and if such breach is remediable fails to remedy that breach within a period of thirty days after being notified in writing to do so;
- (c) is deemed unable to pay its debts within the meaning of the Insolvency Act, 2015 or any equivalent legislation in any other jurisdiction;
- (d) suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business; or
- (e) has its registration suspended or cancelled.

- Registration of player. **12.** (1) An operator shall establish and maintain control, at all-times, over the registration process for a mobile or online game, lottery or bet.
- (2) An operator shall put in place mechanisms to ensure that underage persons are not registered for a mobile or online game, lottery or bet for which they are licensed to operate.
- (3) Subject to regulation 5, an operator shall establish a registration process, which requires a player to read and accept the terms and conditions.
- Privacy. **13.** (1) An operator shall not disclose information provided by a player except-
- (a) as required by any written law; or
- (b) where the player has given consent.
- (2) An operator shall put in place mechanisms to protect and prevent access to a player's account.
- Backup. **14.** An operator shall establish a backup of its system to ensure that all client information is recoverable in the case of failure in the parent system.
- Payment of winnings. **15.** An operator shall pay all the player's winnings within seven days from the date of the respective game.
- Returns by an online gaming license holder. **16.** An operator shall, every fourteen days, submit to the Board-
- (a) details of the number of entries in every game conducted during the period; and
- (b) the names of persons whose winnings amount to more than two hundred shillings.
- Code of conduct. **17.** (1) The Board shall develop and publish a code of conduct for operators under the these Regulations, which shall set out-
- (a) guidelines for best practices in mobile and online gaming, lottery or betting; and
- (b) a specific social responsibility code.
- (2) Every operator shall sign the code of conduct as a condition for the grant of a license under these Regulations.
- Control measures. **20.** An operator shall put in place responsible gaming measures to protect the public from addiction or exploitation.

Offences.

21. (1) Any person who-

- (i) operates any online gaming or mobile gaming without a license under these regulation;
- (ii) having been issued with a licence continues to operate online gaming or mobile gaming after such licence has been suspended or cancelled;
- (iii) who aids a person to operate online gaming or mobile gaming without a licence or whilst the person's licence has been suspended or cancelled either by way of advertisement, offering a mobile money platform or otherwise

commits an offence and on convictions shall be liable on conviction to a fine equivalent to three times the licence fee or the imprisonment for a term of five years or to both

(2) It shall not be a defence to any person that the person did not know that the operator did not have a licence or that his licence had been cancelled or suspended.

(3) Any person that fails to comply with any conditions of a licence commits an offence and shall be liable on conviction to a fine of one million shillings or to imprisonment for term of one year or to both.