



BERMUDA

GAMING (DESIGNATED SITES) REGULATIONS 2016

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The Minister responsible for gaming, in exercise of the power conferred by section 196(2)(s) of the Gaming Act 2014, makes the following regulations:

Citation

1 These Regulations may be cited as the Gaming (Designated Sites) Regulations 2016.

[Regulation 1 amended by 2021 : 23 s. 51(2) effective 1 August 2021]

Interpretation

2 In these Regulations—

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“Act” means the Gaming Act 2014;

“applicant” means the owner of a parcel of land or an existing tourist resort who submits an application for the designation of that parcel of land or existing resort as a site for an integrated resort and “application” shall be construed accordingly;

“Commission” means the Bermuda Gaming Commission referred to in section 6 of the Act;

“company” has the meaning given in section 2(1) of the Companies Act 1981;

“Designated Site Order” means an order that may be made by the Minister under section 4 of the Act;

“entity” includes a company or other body corporate but does not include a trust or other similar legal arrangement;

“integrated resort” has the meaning given in section 2 of the Act;

“material change” has the meaning given in regulation 6(4);

“owner” has the meaning given in section 2 of the Act;

“site” means a parcel of land or an existing tourist resort in relation to which an application has been submitted under regulation 3.

[Regulation 2 definitions "Act" and "Commission" amended by 2021 : 23 s. 54 effective 1 August 2021]

Application for Designated Site Order

3 (1) An application under section 4A of the Act for the designation of a site shall be made by the owner of such site in the form approved by the Commission.

(2) The application shall—

- (a) contain the information and documents set out in Schedule 1;
- (b) be delivered to the Ministry responsible for gaming for the attention of the Permanent Secretary for that Ministry in such form and accompanied by such forms as may be approved by the Commission from time to time;
- (c) be accompanied by the application fee set out in Schedule 2.

(3) The Commission need not take any action on the application unless the fee has been paid in full.

Title page and other information

4 (1) Every application for a Designated Site Order made under section 4A of the Act shall have a title page which shall contain the following information, namely, "APPLICATION FOR A DESIGNATED SITE ORDER (the name and address of the applicant)."

(2) The body of such application shall contain the documents and information specified in Schedule 1.

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(3) Seven hard copies and one electronic copy of such application, and any forms required by regulation 3(1) shall be delivered by the applicant to the Permanent Secretary for the Ministry responsible for gaming.

(4) The pages of such application (except for the title page and Table of Contents) shall be numbered consecutively from the beginning with the final page headed by the words "Final Page".

Commission to consider applications and give advice

5 (1) On receipt of an application, the Minister shall submit the application to the Commission.

(2) As soon as reasonably practicable after receipt of an application from the Minister, the Commission shall consider such application.

(3) The Commission shall advise the Minister whether to make an Order under section 4 of the Act in relation to the site.

(4) Where the Commission thinks necessary the Commission may, by notice in writing, require an applicant—

- (a) to furnish such additional information or document as it may specify;
- (b) to attend an interview with the Commission at a date and time convenient to the Commission.

(5) The Commission's decision and advice to the Minister shall be based on the facts and circumstances known to it at the time the decision is made and may be subject to such conditions that the Commission deems reasonable in the public interest.

(6) If a requirement made under this regulation is not complied with, the Commission may refuse to consider or further consider the application concerned and may advise the Minister to refuse to make a Designated Site Order in respect of the application.

Duty to notify of material change

6 (1) If a material change occurs in the information including, but not limited to, any plan, specification, drawings or report provided in or in connection with an application for a Designated Site Order under section 4 of the Act, the applicant shall as soon as possible after such change, give the Commission written particulars of the change.

(2) Where written particulars of a material change are provided they shall, if the Commission so determines, form part of the original application.

(3) If a requirement under this regulation is not complied with, the Commission may refuse to consider or further consider the application concerned and may advise the Minister to refuse to make a Designated Site Order in respect of the application.

(4) In this regulation, "material change" in relation to the applicant or the site, means any change—

- (a) to the information provided pursuant to regulation 3(2)(a);

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- (b) to the additional information included in the application other than the information required pursuant to regulation 3(2)(a); and
- (c) any change with respect to the applicant or to the site,

that is a significant or relevant change that would affect the accuracy or completeness of the information provided in the application.

Criteria for consideration of applications

7 (1) In formulating its advice in relation to an application, the Commission shall consider—

- (a) in relation to an application relating to a site that is a parcel of land, the location and its suitability for development as an integrated resort;
- (b) for an application relating to a site that is part of an existing tourist resort, the location of the site and its suitability for the operation of a casino.

(2) The Commission may request information from third parties, and may instruct agents to obtain information on its behalf, as the Commission sees fit.

(3) The Commission may consider any matters or information that the Commission deems relevant in order to make a decision regarding the application.

(4) The applicant shall include in the application all information and documentation on which the applicant wishes to rely, and the burden shall at all times be on the applicant to satisfy the Commission that the site ought to be designated by the Minister under section 4 of the Act.

(5) The obligation to provide written particulars of any material change arises upon the submission of an application and shall continue until the earlier of—

- (a) notification to the applicant that the application has been unsuccessful;
- (b) expiry of any period in relation to the Designated Site Order; or
- (c) revocation of the Designated Site Order under section 5 of the Act.

(6) Failure of the applicant to comply with this regulation may be grounds for the Commission not to further consider the application.

Designated Site Order

8 (1) Upon receiving advice from the Commission, the Minister shall notify the applicant whether its site has been selected for designation under section 4 of the Act.

(2) The Minister shall not be bound to give reasons in connection with the applicant's or any other application.

(3) If he receives advice from the Commission that an application should be granted, the Minister may make an Order designating the site for the purposes of section 4 of the Act for the site as defined and for such period and on such conditions as shall be specified in the Order.

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(4) If any condition imposed in relation to a Designated Site Order has not been complied with or begun within the period specified in relation to the Order, this may result in the Order being revoked and a new application being required to be made.

Effect of Designated Site Order

9 (1) The making of a Designated Site Order in relation to any application under these Regulations—

- (a) is limited solely to the suitability of the site for the purposes of the application;
- (b) does not allow gaming to take place on the designated site;
- (c) shall not be construed as constituting actual or implied approval of any future application for a casino licence or finding of suitability of the owner or any person for such casino licence;
- (d) shall not be construed as constituting any actual or implied finding of suitability of the owner or any person for such casino licence.

(2) Designation of a site does not confer rights or approval to develop under the Development and Planning Act 1974.

SCHEDULE 1

(regulation 3(2)(a))

GENERAL INFORMATION ABOUT THE APPLICANT

1. The name of the applicant and contact details
2. Physical and mailing address of the applicant; telephone number; facsimile number; email address; website URL
3. Legal form or ownership structure of the applicant
4. In the case of a company or other entity—
 - (a) the jurisdiction in which it was originally incorporated or formed;
 - (b) date of incorporation or formation;
 - (c) a certificate of good standing or equivalent document, from the supervisory or regulatory body of the company or other entity;
 - (d) details of the site and premises for the proposed integrated resort;

GENERAL INFORMATION ABOUT THE SITE

5. The following information shall be provided about the site—
 - (a) documentation showing ownership of the land;
 - (b) legal description of the land, whether to be developed or an existing tourist resort;
 - (c) location and map of the land;
 - (d) existing layout, site characteristics, built and natural environment, open and amenity space and all relevant zoning under the current Bermuda plan;
 - (e) if an existing tourist resort—
 - (i) all current retail, dining, entertainment, recreation or other facilities;
 - (ii) number of rooms; and
 - (iii) use with respect to each zoning under the current Bermuda plan.

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SCHEDULE 2

(regulation 3(2)(c))

FEE

Application Fee for Designated Site Order

1 The fee for an application for a Designated Site Order shall be \$50,000.

Fee non-refundable

2 The application fee payable is non-refundable.

Made this 4th day of January 2016

Minister of Tourism Development and Transport

[Amended by:

2021 : 23]