



REPUBLIC OF ZAMBIA

MINISTRY OF TOURISM AND ARTS

PROPOSAL ON THE REVISION OF THE CASINO BILL

DOT

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Contents

1.0 INTRODUCTION	2
2.0 BACKGROUND	2
3.0 ISSUES TO BE ADDRESSED.....	3
4.0 MEASURES TO PUT IN PLACE	4
5.0 MEETING WITH BRRA.....	5
6.0 GUIDANCE FROM THE MINISTRY OF JUSTICE.....	7
7.0 JUSTIFICATION FOR THE REVISION OF THE CASINO BILL.....	7
8.0 RESOURCES AND BUDGET.....	10
9.0 TIME LINE.....	10
10.0 CONCLUSION	12

1.0 INTRODUCTION

This is a proposal to strengthen the regulations for operating Casino establishments in response to the weaknesses and short comings identified in the licensing process. These weaknesses have been brought up at different platforms, including the Auditor Generals 2017 Report and the floor of the house at Parliament as attested by the statements prepared for the Vice Presidents Question and Answer at Parliament explaining the proliferation of gambling in Zambia. The revisions necessitate a change in the principal law as well as the regulations and hence there will be need to consult relevant stakeholders on the matter.

2.0 BACKGROUND

The Ministry responsible for tourism, under the Tourism and Hospitality Act No. 13 of 2015, and Part VI of the Tourism and Hospitality No 23 of 2007 is mandated to license tourism enterprises defined under the Act including casinos. The Act further states that, no person shall operate a Casino, or allow to be kept, or played, on any premises, games of chance (card games or table games or gaming machines) for the purpose of gaming without a casino licence.

A Casino is defined as, *“any premises kept and managed for the purpose of gaming”*. Gaming, “means the playing of a game of chance for winnings in money or money’s worth and the word ‘game’ is construed accordingly”. A game of chance does not include any athletic game of sport. This is what distinguishes a casino from sports betting. The Casino license, issued by the Ministry of Tourism and Arts, is the principal license any casino establishment needs to conduct business. A subsidiary regulation, Statutory Instrument No. 93 of 2016, which strengthened the regulation function was introduced in 2017, and fully implemented in 2018.

The licensing of Casinos is facilitated by a Tourism Enterprises Authorisation and Licensing Committee (TEALC), consisting of eleven part-time members appointed by the Minister, for a period of 3 years. The Department of Tourism plays a Secretariat role. The Licensing Committee is recognized as the regulator for casino operations and is appointed as a supervisor under the Financial Intelligence Act, 2010 on anti-money laundering and counter-terrorist financing issues. Casinos, due to their cash-based operations are rated high risk for money laundering and vulnerable to provide cash for terrorist financing and are designated as reporting entities.

An attempt was made in 2015 to draft a separate Casino Bill which was scheduled to be enacted together with the Tourism and Hospitality Act No. 13 of 2015. However, this work was brought

to a halt, to give way to the Establishment of the Gambling Authority, championed by the Ministry of Finance, which to date has not been finalized, presumably because the issue is not a priority for the Department chairing the Technical Committee at the Ministry of Finance as they are not directly responsible for regulating gambling activities. Currently the Ministry is still referring to the sections in the repealed Tourism and Hospitality Act of 2007, while the casino industry has undergone several transformations over time, rendering the current provisions of the law not responsive to emerging issues in the regulation of the sector. This situation cannot be allowed to continue unchecked and the need to update the legal framework cannot be over emphasized.

3.0 ISSUES TO BE ADDRESSED

The following are the specific issues that have necessitated the revision:

- 3.1 The Assessors from the Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG) conducted an on-site assessment in June 2018 and according to their findings, the regulation of casinos has for the most part, not taken on board issues pertaining to anti- money laundering and cash for terrorist financing. One major citation in the report is the weak market entry requirements and inadequate due diligence conducted on the industry players, at entry or during operations.
- 3.2 Field visits to assess the gaming and lotteries business environment conducted on Casinos and sports betting outlets in Lusaka, in November 2018 found that the Casino Operators complained of the increasing number of casinos being licensed, some of whom they believed the intentions were not professional.
- 3.3 The 2017 Auditor General's Report cited weaknesses in the licensing and monitoring of casinos vis-a-vis casinos operating without being registered with the licensing committee, under payment of Casino registration fees; and lack of monitoring systems for Casinos.
- 3.4 Concerns have been raised at high levels of Government that the last few years have seen an unprecedented growth and interest in the establishment of businesses that are categorized under the Gambling Industry in Zambia. In 2018, the Ministry was requested twice to prepare statements for the Vice Presidents Question and Answer at Parliament explaining the proliferation of gambling in Zambia.
- 3.5 The Department conducted a desk review of the casino regulatory jurisdictions around the region and found that the current legal framework governing the regulation of casino establishments in Zambia is out of date, and does not have

provision for most of the issues that have emerged over the years. For instance, in Tanzania, Botswana, Mozambique, South Africa, and even the United Kingdom, the regulation of casinos goes beyond the conduct of table and slot machines.

It covers issues such as: the regulation of casino adverts; online gaming; the need for a capital requirement for investors; distinction between local and foreign ownership in the licenses; certification of manufacturers of gaming equipment; provision of sellers or distributors licenses for the supply, sell or servicing of gaming equipment, licensing of key gaming employees to mention but a few. The Zambian law in its current state, does not take into consideration these issues.

4.0 MEASURES TO PUT IN PLACE

To respond to the issues above, the Department has identified a number of key issues that will strengthen the regulatory function and respond to mitigating Money Laundering and Terrorist Financing risks as well as strengthening the Anti-Money Laundering and Cash for Terrorist Financing obligations by the casino operators.

Critical measures are outlined as follows:

No.	Measure	Objective
4.1	Conduct due diligence on casino applicants.	<ul style="list-style-type: none">- To require the submission of information which can assist in identifying and preventing criminals or their associates from holding (or being the beneficial owner of) a significant or controlling interest, or holding a management function, or being an operator of a casino.- To identify the controlling structure and beneficial ownership, in line with international AML/CFT requirements.
4.2	Strengthen the sanctions in the law.	To provide administrative penalties for offences that clearly outline procedure to enforce compliance and do not need to pass through the courts of law to be enforced.
4.3	Request government security agencies to vet casino licence applicants.	To obtain information which can assist in identifying and preventing criminals or their associates from holding (or being the beneficial owner of) a significant or controlling interest, or

		holding a management function, or being an operator of a casino.
4.4	Restrict the geographical location of setting up casinos	To permitted locations only and provide a radius within which casinos can be located.
4.5	Create a minimum capital investment requirement threshold.	To strengthen the market entry requirements while taking into consideration both locally and foreign-owned casinos and ensure that debts are honored.
4.6	Request a disclosure of the source of the initial capital to be invested and that of any future funding made.	Bank account details and evidence of start-up funds for New Applicants will strengthen the market entry requirements.
4.7	Promote Responsible Gambling	In order to protect punters and the integrity and fairness of the industry as well as society from over-stimulation of latent gambling and provide for a detailed program of corporate social responsibility.
4.8	Enhance the internal record-keeping requirement	To keep records in electronic and hardcopy format for a period of 10 years from transaction date or from end of relationship with the customer.
4.9	Increase and graduate licence fees	To take into consideration the size and type of the operations and the costs of enforcing compliance in order to attribute costs more accurately to operators and the activities they carry out.
4.10	Compel operators to obtain permits to import gaming equipment.	To enable the regulation of the machines that are coming into the country.
4.11	Establish a central monitoring system for all the gaming machines.	To enable remote monitoring of the level of transactions on each machine so that they are not manipulated.

5.0 MEETING WITH BRRA

The Business Regulatory Act No. 3 of 2014 provides guidance on the procedures for imposition of a new Regulatory Framework or Policy. It states that, any Public body that intends to introduce any policy or proposed law for regulating business activities should follow a prescribed procedure.

The Department of Tourism held a meeting with the Business Regulatory Review Agency (BRRA) on the procedure to revise Casino License Fees upwards and other legal entry requirements following the need to restrict entry into the Casino Sector to the high end

investors and for Government to realize true income from Casinos. The main aim of the meeting was to get information on the procedure of how to conduct the revision in accordance with the stipulated procedure by BRRA.

BRRA stated that the procedure to carry out the Regulatory Impact Assessment (RIA) is in two phases and documents on the RIA process were provided. An outline of the process and expectations is as below:

5.1 PHASE ONE

Phase one commences with the initiation of the draft RIA Report using available information and desk Research. The Ministry will need to facilitate a 5 day retreat to draft the RIA report. Participants in the retreat are to be drawn from BRRA, Ministry of Justice and Ministry of Finance.

The process consists of:

- i. Defining the problem/ stating the problem- brief statement of the problem and should be very clearly;
- ii. Conceptualizing the problem;
- iii. Stating the objectives/public policy goals;
- iv. Clearly stating the options that are available to deal with the stated problem; and
- v. Compiling the draft RIA report.

5.2 PHASE TWO

This stage involved consultation of the establishments to be regulated, as well as other stakeholders. Consultations involved circulation of the Draft RIA Report through online methods or through presentations and discussion in stakeholder meetings.

5.2.1 CONSOLIDATION OF THE DOCUMENTS

Subsequent to the consultations, the Ministry should provide the following reports:-

- 5.2.1.1 Summary of the RIA document;
- 5.2.1.2 Consultative report from the Stakeholders; and
- 5.2.1.3 Implementation plan of how Ministry proposes to proceed clearly stating the direction of transition from one license regime to another.

5.2.2 PREPARATION OF FINAL DOCUMENTS

A final document will be prepared and submitted to BRRA. The whole process of consultations and receiving feedback from the stakeholders should take 30 days and 14 days to receive feedback from BRRA. Feedback from BRRA could be positive in the favour of the Ministry or negative if the review of the consultations are not done widely, among other things. If the feedback is positive, the report will be submitted to Ministry of Justice and a cab memo submitted to Cabinet.

5.2.3 WAY FORWARD

The meeting agreed that the Ministry of Tourism and Arts could go ahead to prepare to conduct the RIA.

6.0 GUIDANCE FROM THE MINISTRY OF JUSTICE

The Ministry of Justice, who were copied in the correspondence to BRRA has guided that rather than work on piece meal solutions and improvements to the current legislation, the Ministry should review the entire legal framework governing casinos and re-commence work on the draft casino bill which was stopped in 2015.

According to the Ministry of Justice, the casino bill needs to be enacted to cover the current lacunas exposed in the law, especially in terms of anti-money laundering and countering the financing of terrorism, and the current status is not tenable. The Casino law will be repealed and replaced when the Gambling Authority Bill is put in its place. The Ministry of Justice has since provided a copy of the draft bill for our use in this regard.

7.0 JUSTIFICATION FOR THE REVISION OF THE CASINO BILL

The Department is well versed and is a proponent of the need to put in place a more robust framework for regulating the whole gambling sector as one, instead of the fragmented manner, however, the regulation of casinos is being adversely affected with the delays in implementation of government's policy and there is little the ministry can do to push the process along, since the chairmanship of the technical committee lies in the Economic Management Department at the Ministry of Finance.

Further, the revision of the Casino bill will be beneficial to the Ministry as, in addition to the benefits of curing mischiefs, closing the lacunas in the law and updating it to respond to current issues, it will clear the way for the generation of non-tax revenue for the government in the following ways and more:

7.1 Upward Adjustment of License Fees

The revision of the Casino bill will enable the Ministry to revise fees upwards for applying for a casino license. Currently, casinos pay K24, 000 on application, plus an additional amount for the tables and gaming machines before commencement of operations. The total amount depending on the number of tables and machines which are charged individually does not exceed K100, 000.00. The casino operators have attested that the license fees are too low and are the lowest in the region, they have suggested license fees in excess of K1mn.

The Ministry's proposal is two-fold, different fees for Zambian and non-Zambians and at the very least, casinos will be paying in excess of K1, 000, 000.00 for a license valid for 3 years. Assuming only 15 of the 24 currently licensed casinos renew their licenses in 2021 at a minimum estimated license fee of K500, 000, **K15, 000,000** will be raised in non-tax revenue.

7.2 Introduction of Capital Requirement

In addition, there is also an intention to introduce a capital requirement like is the case in the financial institutions. This amount will be substantial and so entails that Zambia will attract only high end investors with large investment sums, unlike the situation pertaining today where any investor with any amount can invest, increasing number of casinos but adding little value to the economy.

Zambians who wish to enter into the casino business will need to create joint ventures and consortiums ensuring that only those with genuine intentions in the profession operate casino establishments. This move will ultimately reduce the number of casinos in operation while making those that survive more profitable. Further, the capital investment will be in a Zambian bank and in turn the Zambian economy will benefit from these funds. At a minimum, it is proposed that the capital requirement be articulated as follows:

PROPOSED REQUIRED CAPITAL FOR CASINO	FEE UNITS	AMOUNT
Tables	6 700 000	K2 010 000 Zambians
	16 680 000	K5 560 000 Non- Zambians
Slots Machines	3 400 000	K1,020,000 Zambians
	8 340 000	K2,502,000 Non-Zambians

7.3 Introduction of Administrative Sanctions

The sanctions in the casino industry will be strengthened and administrative penalties for offences introduced so that non-compliance by the casino operators will attract prohibitive penalties that will be enforced in monetary terms. This will promote compliance and enable government to also benefit from the taxes which will be paid by the operators. An estimate of the penalties for violations is provided below;

PENALTIES	FEE UNITS	AMOUNT
Operating without a valid operating licence	1,000, 000	K300, 000 Zambians
	5, 000, 000	K1 500 000 Non- Zambians
Playing of un -authorised/ Illegal Games	300,000	K90,000
Failure to provide casino returns	100,000	K30,00 000

7.4 Strengthening regulations

The revision of the Casino bill will create an opportunity to strengthen regulations and align them with sanctions that will compel the casino operators to declare the true value of turnover and profits generated. Under-declaration and the intentional provision of false information will be penalized and a central monitoring system for all the gaming machines and transactions to be remotely monitored will result in true declaration of income.

There is also need to update the legal framework and include emerging issues in the Casino industry that will take care of issues such as anti-money laundering, online gaming and responsible gambling. As it is the law does not have provisions to compel licensees to identify and assist problem gamblers, rather the corporate social responsibility that is undertaken by casinos is not related to the problems caused by gambling such as addiction; and

7.5 Introduction of New License Fee Streams

The revision of the Casino bill will create opportunities for the introduction of other license fee streams and emerging issues that are currently not provided for in the current legal framework. This includes the licensing of: casino staff (management and dealers); casino equipment manufacturers and suppliers; casino equipment maintenance and test service providers; route operators; and issuance of temporary licenses. Whether online casino games should be allowed will also be reviewed during the process.

8.0 RESOURCES AND BUDGET

The Department acknowledges that undertaking the review will be a challenge as the available resources and budget are inadequate to undertake activity. The Casino licensing budget line only has a 2019 Yellow Book allocation of K150,000.00. However these issues still need to be addressed and innovative means such as requesting for variation to fund the activity may have to be considered, to achieve the intended objective.

The process and cost of enacting the casino law will be greatly reduced if undertaken subsequent to the RIA. This would entail that the consultative process is extended to cover the provisions of the entire bill, instead of being restricted only to entry requirements for licensing. The budget for the RIA process is estimated at K330, 511.71. The budget takes into consideration the need to hold consultations in Lusaka, Copperbelt and Southern Provinces as these are the destinations where casino operations are prevalent. The budget also takes into consideration the need to involve several ministerial staff, including those from the regional offices in order to build capacity on the regulation and management of the casino sector.

The Ministry of Justice has advised that the drafting process takes at a minimum, 14 days' in a workshop/retreat. The Department has endeavored to cost the drafting process and the estimate, subject to the venue and number of officers involved comes to a total amount of K438, 121.00. Thus the total amount for both the RIA exercise and the drafting of the casino bill is estimated at K744, 634.71.

It is the Department's considered view that as this money is not provided for in the 2019 budget the Ministry should request for a variation of departmental funds from the treasury, since the result of this process will have an upward adjustment of fees and hence, a positive effect on revenue collection. An attempt has been made to quantify some of the implications in the justification for the review of the casino bill above.

9.0 TIME LINE

The entire process up to the submission of the draft bill to cabinet will take about 7 months as outlined:

ACTIVITIES	APPROACH	TIME LINE	
		Start Date	End Date
Securing Finances	Write to the treasury to request a variation of funds to facilitate the activity	May 2019	May 2019
Developing the RIA Report	The Ministry will facilitate a 5 day retreat to draft the RIA report. Participants in the retreat	June 2019	June 2019

	are to be drawn from MTA, BRRA, Ministry of Justice and Ministry of Finance. The draft RIA report will be used as a consultation document. BRAA supervises the process.		
Stakeholder Consultation	This will be done by holding two meetings, one for casino operators and other private sector and another for public sector stakeholders. The meetings will be held in Lusaka, Kitwe and Livingstone. The draft RIA Report will be circulated through presentations, discussions and online. Stakeholders will provide written submissions within 30 days of the first stakeholder meeting.	June 2019	July 2019
Consolidation of final documents and submission to BRRA	Subsequent to the consultation, the Ministry will prepare and submit 3 reports to BRRA:- <ol style="list-style-type: none"> 1. Summary of the RIA document. 2. Consultative report from the Stakeholders. 3. Implementation plan of how Ministry propose to proceed clearly stating the direction of transition from one license regime to another. 	July 2019	July 2019
Feedback from BRRA	BRRA will provide feedback 14 days after receipt of the reports. Feedback from BRRA could be positive in the favour of the Ministry or negative. If positive, the reports will then be submitted to Ministry of Justice for action.	July 2019	Aug 2019
Obtaining Cabinet Drafting Cabinet Memorandum Authority	The Department will work with the Department of Planning and Information to draft a cab memo for submission to Cabinet for authority.	Aug 2019	Sep 2019
Casino Bill Review & Drafting	The drafting process is supervised by the Ministry of Justice, and the drafting process takes a minimum of 14 days' in a workshop/ retreat.	Oct 2019	Oct 2019
Submission of draft bill.	The draft bill will be submitted to Cabinet	Oct 2019	Nov 2019

10.0 CONCLUSION

The revision of the Casino bill will justify the introduction of new provisions in the law increase through a consultative process that will leave all concerned parties satisfied and Government will not be seen to have taken a high-handed approach to increase revenue. There is a very real potential to generate more non-tax revenue from the regulation of casino operations even after the abolishment of the 20% casino levy effected in 2019.

The Ministry would be remiss not to recognize and seize the opportunity to go ahead with the process. The benefits far outweigh the cost implications, especially if the RIA is undertaken as the first part of the process of enacting a casino bill, and not only restricted to revising the entry requirements for new casinos.