



**BERMUDA**

**GAMING (CASINO FEES) REGULATIONS 2017**

**BR 24 / 2017**

TABLE OF CONTENTS

1	Citation
2	Interpretation
3	Calculation of and deposit for the reimbursement of costs and fees
4	Liability for fees
5	Cost of replacing a lost, stolen or damaged licence
6	Costs of investigation and suitability tests
7	Manner of payment of fees
8	Penalty for non-payment of fees
9	Recovery of Fees
10	Special Allocation of Provisional Licence Issue Fee
11	Casino Licence Issue Fee and Annual Casino Licence Fee
12	Waiver or deferment of fees in exceptional circumstances

SCHEDULE

The Minister responsible for gaming, in exercise of the power conferred by section 196 of the Gaming Act 2014, makes the following Regulations:

**Citation**

1 These Regulations may be cited as the Gaming (Casino Fees) Regulations 2017.

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

**Interpretation**

2 In these Regulations, unless the context otherwise requires—

“Act” means the Gaming Act 2014;

## **GAMING (CASINO FEES) REGULATIONS 2017**

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“applicant” shall mean the person applying for a licence or approval under the Act, irrespective of whether that person will be the holder or recipient of the licence or approval sought;

“casino licence” means a licence granted under section 38 of the Act;

“casino tax” means the tax payable by a casino operator on the gross gaming revenue pursuant to the Act and in accordance with the Gaming (General Reserve and Casino Taxes) Regulations 2017;

“Commission” means the Bermuda Gaming Commission established under section 6 of the Act;

“Compliance Committee” means the committee established by a casino operator pursuant to section 52A of the Act;

“investigation” means any steps taken by or on behalf the Commission or on the instruction of the Commission and for which the applicant is obligated to reimburse the Commission in accordance with these Regulations;

“provisional licence” means a licence granted pursuant to section 32A of the Act;

“reimburse” means the payment of all costs to the Commission to acquire, produce, accomplish or obtain the relevant information, item or objective, without profit to the Commission, and shall not include the time or labour costs to the Commission.

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

### **Calculation of and deposit for the reimbursement of costs and fees**

3 (1) For the purpose of these Regulations or any regulations where the fee is stated as “reimbursement”, or where a person is stated as being liable to reimburse the Commission, this regulation shall apply.

(2) The Commission may require by written notice, and the applicant—

- (a) shall pay to the Commission, a deposit; or
- (b) shall deposit such further funds with the Commission,

in such sum, currency, within such period, and in such manner, as may be specified by the Commission.

(3) The Commission may pay from the deposit all sums incurred in relation to, or required for, the relevant investigation, which may include third party costs and travel and other costs incurred by or on behalf of the Commission.

(4) Following the determination of the application, the Commission shall produce a certificate signed by an officer of the Commission stating the total costs relating to the application and such certificate shall, in the absence of manifest error, be final conclusive and binding on the applicant.

## **GAMING (CASINO FEES) REGULATIONS 2017**

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(5) Where the amount stated in the certificate is higher than the amount paid under paragraph (2) above, the Commission may by written notice require the applicants to reimburse the Commission the excess within such period as may be specified in the notice.

(6) Where the amount stated in the certificate is less than the amount paid under paragraph (2) above, the Commission shall return the balance to the applicant without interest as soon as reasonably practicable.

(7) In addition to the Certificate, the Commission shall provide to an applicant a general breakdown of the sums deducted from the deposit, as the Commission shall see fit, and subject to the right of the Commission to redact any documents or invoices disclosed.

### **Liability for fees**

4 (1) The fees to be charged pursuant to the Act and any regulations made under the Act shall be those set out in the Schedule.

(2) *[Revoked by 2019 : 42 s. 20]*

*[Regulation 4 paragraph (2) revoked by 2019 : 42 s.20(2) effective 26 November 2019]*

### **Cost of replacing a lost, stolen or damaged licence**

5 (1) Upon an application for the replacement of a licence the applicant shall pay the fee as set out in the Schedule.

(2) The applicant shall be liable to reimburse the Commission for the costs of any investigation undertaken as a consequence of the replacement of the licence, and regulation 3 above shall apply accordingly.

### **Costs of investigation and suitability tests**

6 Unless otherwise stated in the Act or these Regulations, and in addition to any fee payable, where the Commission undertakes any investigations and/or suitability checks pursuant to powers contained in the Act at the request of or on an application by a person, that person shall be liable to reimburse the Commission for the costs of such investigation and/or suitability checks and regulation 3 above shall apply.

### **Manner of payment of fees**

7 (1) All fees in the Schedule and all other payments made pursuant to the Act shall be paid by direct transfer in Bermuda Dollars or such other currency as may be specified by the Commission and into such account of the Commission designated in the relevant application form or as may be directed in writing by the Commission.

(2) All fees are non-refundable.

### **Penalty for non-payment of fees**

8 (1) Subject to paragraph (2), if an applicant fails to comply with the requirement to pay the fees in accordance with these Regulations, and as required under the Act then,

## **GAMING (CASINO FEES) REGULATIONS 2017**

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without prejudice to any other proceedings that may be taken in respect of such failure, the applicant commits an offence.

(2) Notwithstanding paragraph (1), where an applicant has not made payment of any fees payable in accordance with these Regulations and as required by the Act or any regulation, and where the Commission is satisfied that such non-payment is not due to wilful neglect or default, the Commission may accept payment of the sum due together with, or without, a penalty of 10% of the amount due for each month or part month during which the default occurs.

(3) Where the Commission accepts payment made under this paragraph no offence under the Act shall have been committed and no disciplinary action shall be taken.

(4) A person who commits an offence under this regulation is liable on summary conviction, to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

(5) A person is not guilty of an offence under this regulation if he took all reasonable steps and exercised all due diligence to avoid committing the offence.

### **Recovery of Fees**

9 (1) Any fee or any penalty payable under these Regulations may be recovered by the Commission in its own name in a court of summary jurisdiction as a civil debt, irrespective of the amount so payable, and any officer of the Commission may conduct such proceedings.

(2) A certificate signed by an officer of the Commission stating the amount of any fees and costs due and unpaid shall in the absence of manifest error be conclusive evidence that the sum stated in the certificate is unpaid and is due to the Commission and any document purporting to be such a certificate shall be deemed to be such a certificate until the contrary is proved.

### **Special Allocation of Provisional Licence Issue Fee**

10 Upon receipt of an amount in respect of a Provisional Licence Issue Fee the Commission shall ensure that—

- (a) 10% of the amount is provided to the Problem Gaming Council for the purpose of—
  - (i) providing training in problem gambling to treatment professionals;
  - (ii) providing marketing and community outreach programs to educate relevant stakeholders on treatment and harm mitigation programs; and
  - (iii) such other activities as may be specified by the Commission; and
- (b) 15% of the amount is provided to educational facilities in Bermuda or other such bodies in Bermuda as the Commission sees fit for the

## **GAMING (CASINO FEES) REGULATIONS 2017**

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purpose of providing educational and vocational training relating to employment at a Casino or relating to gaming generally.

*[Regulation 10 amended by BR 82 / 2020 reg. 2 effective 24 July 2020]*

### **Casino Licence Issue Fee and Annual Casino Licence Fee**

11 (1) Upon the granting of a casino licence the owner of an integrated resort on behalf of the casino operator shall be liable to pay to the Commission the Casino Licence Issue Fee, payable upon demand by the Commission, as set out in the Schedule.

(2) A casino licence shall not take effect until such time as the Casino Licence Issue Fee payable under paragraph (1) has been paid in full.

(3) Upon each 12 month anniversary of the grant of a casino licence the owner of an integrated resort on behalf of the casino operator shall be liable to pay the Annual Casino Licence Fee as set out in the Schedule.

(4) The owner of the integrated resort shall be entitled to a deduction from the amount of the Annual Casino Licence Fee calculated in accordance with this regulation.

(5) The maximum discount may be up to 100% of the Annual Casino Licence Fee.

(6) The deduction from the Annual Casino Licence Fee shall be equal to the casino tax paid by the casino operator in the 12 month period for which the Annual Casino Licence Fee is payable.

(7) The Commission shall provide notice in writing to the owner of the integrated resort of the liability to pay the Annual Casino Licence Fee and a certificate stating any applicable deduction, and the owner of the integrated resort shall pay the Annual Casino Licence Fee to the Commission as directed in the notice in writing.

(8) A certificate signed by an officer of the Commission stating the amount of any deduction shall in the absence of manifest error be conclusive evidence of the deduction from the Annual Casino Licence Fee, and any document purporting to be such a certificate shall be deemed to be such a certificate until the contrary is proved.

### **Waiver or deferment of fees in exceptional circumstances**

12 (1) The Minister may, on application in writing by the Commission setting out the exceptional circumstances necessitating the request, waive or defer the payment of a fee under these Regulations—

- (a) in whole or in part;
- (b) for a specified period, subject to paragraph (5);
- (c) with respect to a specified person or class of persons.

(2) No such waiver or deferment of the payment of a fee shall be granted unless—

- (a) the Minister is satisfied that there are exceptional circumstances justifying the waiver or deferment in that particular case;

## **GAMING (CASINO FEES) REGULATIONS 2017**

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- (b) the Minister has approved the waiver or deferment in writing;
  - (c) the Minister has notified the Accountant-General in writing.
- (3) The Minister may provide for the waiver or deferment of the payment of a fee—
  - (a) in accordance with any or all of the provisions of subparagraphs (a) to (c) of paragraph (1);
  - (b) with retrospective effect, subject to paragraph (5); and
  - (c) subject to such conditions as the Minister may deem appropriate to impose on the person benefiting from the waiver or deferment.
- (4) The Commission shall—
  - (a) maintain proper books or records with respect to the waiver or deferment of the payment of any fees and provide such details of the amounts of the fees waived or deferred as the Accountant-General may direct; and
  - (b) provide such other information relating to the fees waived or deferred as the Accountant-General may request.
- (5) No application to waive or defer the payment of a fee shall be granted under this regulation in relation to a fee that would otherwise—
  - (a) have been payable before the financial year in which the application is granted; or
  - (b) be payable beyond a period of two years from the time the application is granted.
- (6) Where a person benefiting from a waiver or deferment of the payment of a fee granted under this regulation, which is subject to any condition and such person fails to comply with such condition, the Minister may—
  - (a) determine to cancel the waiver or deferment granted for the entire period for which it was granted or for a portion of such period; and
  - (b) require the fees due to have been paid during the period of the cancelled waiver or deferment to be paid and, where necessary, be recovered before a court of summary jurisdiction in the manner provided by the Magistrates Act 1948 for the recovery of a debt or liquidated demand.
- (7) In this regulation, “exceptional circumstances” include—
  - (a) a Proclamation of a State of Emergency under section 14 of the Bermuda Constitution Order 1968;
  - (b) a declaration of a public health emergency by the Minister of Health under section 107A of the Public Health Act 1949;

## **GAMING (CASINO FEES) REGULATIONS 2017**

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- (c) hurricanes and other major adverse natural or weather related events significantly impacting Bermuda negatively, whether directly or indirectly;
- (d) an event or occurrence significantly impacting a sector of the economy or community in Bermuda negatively, whether directly or indirectly, that could not reasonably have been foreseen.

(8) The Commission shall include in its financial statements for a financial year a report on the waiving or deferment of fees under this regulation during that financial year.

*[Regulation 12 inserted by BR 82 / 2020 reg. 3 effective 24 July 2020; Regulation 12 paragraph (2)(b) amended by 2023 : 15 s. 5 effective 31 March 2023]*

## **GAMING (CASINO FEES) REGULATIONS 2017**

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### **SCHEDULE**

(regulations 4)

1 If a licence or other service that is provided under the Act, the Gaming (Casino Licence Application) Regulations 2017, or the Gaming (Casino) Regulations 2018, is specified in column 1 of the table below, then the fee payable is the sum of—

- (a) if a fixed fee is specified in the table, the fixed fee; and
- (b) if reimbursement is specified, reimbursement in accordance with regulations 3 and 4 for any of the costs to the Commission of any evaluation or investigations required in order to deal with the application or request.

2 In the Relevant Provisions column, a reference to a section is, unless otherwise stated, a reference to the Gaming Act 2014 and a reference to a regulation is, unless otherwise stated, a reference to the Gaming (Casino) Regulations 2018.

	<b>Description</b>	<b>Fixed Fee</b>	<b>Reimbursement</b>	<b>Relevant Provisions</b>
1.	Casino licence application fee	\$600,000	Yes	Section 32
2.	Provisional licence issue fee	\$1.4m	No	Regulation 29 of the Gaming (Casino Licence Application) Regulations 2017
3.	Casino licence issue fee	\$1m	No	Section 39
4.	Annual casino licence issue fee	\$1m (less applicable discount)	Yes	Section 39
5.	Application fee for the redefining of the boundaries of a casino	\$5,000	Yes	Section 42
6.	Approval of eGaming or betting	\$5,000	Yes	Section 29(2)
7.	Approval of inter-casino linked jackpot system	\$10,000	Yes	Section 97
8.	Key employee licence application fee	\$500	Yes	Section 67 and regulation 45(3)
9.	Supervisory employee licence application fee	\$500	Yes	Section 67 and regulation 45(3)



## **GAMING (CASINO FEES) REGULATIONS 2017**

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	<b>Description</b>	<b>Fixed Fee</b>	<b>Reimbursement</b>	<b>Relevant Provisions</b>
10.	Gaming employee licence application fee	\$200	Yes	Section 67 and regulation 45(4)
11.	Evaluation of suitability for a gaming employee licence	—	Yes	Regulation 52
12.	Replacement fee for special employee licence	\$100	Yes	Section 77
13.	Application fee for variation of the conditions of a special employee licence	\$200	Yes	Section 72 and regulation 53
14.	Investigation into the continuing suitability of a special employee for licence	—	Yes	Regulation 57
15.	Gaming supplier approval application fee	\$5,000	Yes	Section 95(2) and regulation 32
16.	Gaming supplier approval issue fee	\$500	No	Section 95(3)
17.	Withdrawal of approval of gaming supplier	—	Yes	Regulation 37
18.	Application for approval of an item of gaming equipment or a model or class of gaming equipment	—	Yes	Regulation 10
19.	Request for equipment standard or recognition of a model	—	Yes	Regulation 26
20.	Application for approval of a game	—	Yes	Regulation 10
21.	Game approval fee	\$50	Yes	Section 91 and regulation 10
22.	Investigation of controlled or notifiable contract	—	Yes	Regulation 78
23.	Expedited approval of controlled contract	\$5,000	Yes	Regulation 80

## **GAMING (CASINO FEES) REGULATIONS 2017**

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	<b>Description</b>	<b>Fixed Fee</b>	<b>Reimbursement</b>	<b>Relevant Provisions</b>
24.	Approval of IC document	—	Yes	Regulation 86
25.	Request for approval of an independent entity to provide AML/ATF accreditation	—	Yes	Regulation 154
26.	Approval of advertising or promotional activity	—	Yes	Regulation 160
27.	Objection to advertising discontinuance notice	\$200	Yes	Regulation 162
28.	Review of decision of an inspector in relation to a gaming complaint	—	Yes	Regulation 239
29.	Approval of betting business for layoff wagers	—	Yes	Regulation 234
30.	Application for a casino marketing licence	—	Yes	Regulation 241
31.	Casino marketing licence issue fee	\$500	No	Section 102
32.	Application for variation of casino marketing licence	—	Yes	Regulation 246
33.	Monitoring investigation for casino marketing licence	—	Yes	Regulation 247
34.	Cancellation of casino marketing licence	—	Yes	Regulation 249
35.	Application to vary or revoke a compulsory exclusion order	\$1,000	No	Regulations 195 and 197
36.	Notice of appeal fee for casino operator	\$500	No	Regulation 279

## **GAMING (CASINO FEES) REGULATIONS 2017**

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<b>Description</b>	<b>Fixed Fee</b>	<b>Reimbursement</b>	<b>Relevant Provisions</b>
37. Notice of appeal fee for special employee	\$200	No	Regulation 279

*[Schedule revoked and substituted by 2019 : 42 s.20(3) effective 26 November 2019; Schedule amended by 2021 : 23 s. 54 effective 1 August 2021]*

Made this 28th day of March 2017

Acting Minister of Tourism, Transport and Municipalities

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*[Amended by:*

2019 : 42

BR 82 / 2020

2021 : 23

2023 : 15]