



Registration No. NE/RN-646

सन्तुष्टि जयते
**THE NAGALAND GAZETTE
EXTRAORDINARY
PUBLISHED BY AUTHORITY**

No. 10 Kohima, Thursday, May 12, 2016, Vaisakha 22, 1938 (Saka)

NOTIFICATION

Dated Kohima, the 12th May 2016

No. FIN/ LOT-12/ 2002 (A): In exercise of the powers conferred by sub-section (6) of Section 7 of the Nagaland Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Act 2016, the Governor of Nagaland is pleased to notify the following rules for Prohibition of Gambling and Promotion and Regulation of Online Games of Skill as follows:-

1. Short title and commencement.

- (1) These rules may be called the Nagaland Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Rules, 2016.
- (2) They shall come into force on the date of publication in the Official Gazette.

2. Definitions.

- (1) In these Rules, unless the context otherwise requires,
 - (a) "Act" means the "Nagaland Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Act", 2016;
 - (b) "Ad Hoc Committee" shall mean a Committee comprising of 3 persons, out of which the first member shall be a representative of the Government of Nagaland and currently within its employment, the second member shall be a person who has been actively engaged in the sporting activities of and for the welfare of the State of Nagaland and the third member shall be a person who has been a part of the Online Gaming Industry and should possess a professional background with good understanding of finance as well as Online Gaming issues. The Ad Hoc Committee shall be appointed by the Licensing Authority immediately after the notification of these rules, or at any time when the constitution of the Expert Committee is pending following the completion of tenure of the last Committee. The Ad Hoc Committee shall be required to perform the functions and duties provided below in the Rules. The Ad Hoc Committee shall be a permanent body which shall work as per the rule of majority in its decision making.
 - (c) "Application fee" shall mean the fee required to be paid along with the application for issue of a license under the Act.
 - (d) "Bouquet of games" shall mean a license for 3 or more games including for all the genres of games provided together.
 - (e) "Committee" shall mean a Committee appointed by the Licensing Authority to constantly monitor the progress of development of "Games of Skill" as per the provisions of the Act.

(f) "Empanelled Firm" shall mean Lawyers/Firms, Chartered Accountants/Firms/ Finance Experts, and IT Companies/Firms of repute to assist the State Government in scrutinizing all applications for license under this Act and Rules. Such firms shall require to possess a minimum experience of five years in their respective fields of work.

(g) "Expert" shall mean a person qualified and experienced in the field of 'Games of Skill' in the capacity of being a Lawyer or Chartered Accountant.

(h) "Gross revenue" shall mean revenue earned from conduct of the games as reduced by bonuses and discounts and cash backs given, as well as the payment gateway and banking charges.

(i) "Licensee" shall mean a person, company or limited liability company or any other legal entity under law to whom a license has been issued under the Act;

(j) "Licensing Authority" shall mean the Director Lotteries or any other authority designated and empowered by the Government for this purpose.

(2) Words and expressions used but not defined herein but defined in the Act shall have the meanings respectively assigned to them in the Act.

3. **Issue of license to conduct online games of skill.**- The State Government may issue licenses to individuals, firms or companies to conduct games of skill subject to the conditions specified in the Act and these Rules, and the following conditions specified below:-

- (1) Only those individuals/companies/firms that are not engaged in 'gambling' shall be eligible.
- (2) The applicants should not have any criminal history, and should not have been charge-sheeted or convicted under any offence under FEMA or money laundering in India or abroad.
- (3) In the case of firms/companies, it shall be ensured that the controlling stake remains in India, and that all executive decisions are taken in India.
- (4) The operations of the company holding the license as well as the technology support such as platform, software, servers etc. are controlled, maintained and operated from within the territorial boundaries of India.
- (5) The Licensee shall be permitted to advertise on online and offline mediums, and it may display the fact that it has a license from the Government of Nagaland.
- (6) The Licensee shall be permitted to offer the games for stake and earn a profit from the rake generated and from advertising, downloading and other revenue streams.

- (7) The Licensee shall be permitted to offer its site and the games for stake and profit on the Internet through the mediums of computer or mobile phones or television or radio etc.
- (8) The players playing within India shall not be permitted to play with other players who are situated outside India if they are playing in any other currency apart from Indian Rupees.
- (9) The State Government may, by notification, designate the Licensing Authority to issue licenses under the Act after satisfying itself of the credentials of the applicant.

4. **Procedural set-up for licensing and the terms and conditions.-**

A license under this Act shall be issued in the following manner:-

- (1) In order for any entity to offer "games of skill" on their website, mobile platform, television or any other online media, and earn revenue from the same whether by means of advertising revenue or taking a percentage of winnings of gameplay or charging fixed fee for membership or for downloading the game etc., it shall be necessary for the entity to obtain a valid license for the games prescribed under Schedule-A of this Act.
- (2) The license may be issued to any person or entity upon fulfillment of the terms and conditions prescribed herein.
- (3) The interested person, firm or entity shall submit an application to the Licensing Authority identifying the games for which a license is being sought for. Such an application shall be accompanied by documents in support of the credentials of the promoters, audited financials, a note on the software technology platform, a proposed business plan and financial projections. The application shall be accompanied by a non-refundable application fee of Rs. 50,000 in demand draft in favour of the Licensing Authority, Government of Nagaland.
- (4) Every application referred to above shall be submitted in both hard and soft copy. The soft copy of the application shall be in PDF format.
- (5) The Licensing Authority shall, upon receipt of an application along with the accompanying documents, issue an acknowledgement of receipt of the application and the prescribed fees and shall also forward the details of the application and information to the 'Empanelled Firms'.
- (6) While forwarding the application and information to the 'Empanelled Firms', upon prima facie enquiry and satisfaction regarding the completeness of the application and eligibility of the applicant, the Licensing Authority may simultaneously issue a 'Letter of Intent' to the Applicant.

- (7) The 'Empanelled Firms' shall, within a period not exceeding 30 days, issue or decline to issue the prescribed certifications, and they shall return the application form along with their certification or decision to refuse the certification to the Licensing Authority. The 'Empanelled Firms' may also make recommendations to the Applicant in case they are of the opinion that with adoption of the said recommendations, the Applicant would become eligible for the certification and thus the license. The said recommendations shall also be forwarded to the Licensing Authority along with the copy of the application. The Licensing Authority shall have the right to refer the said recommendations to the Ad Hoc Committee or Expert Committee, as the case may be, to determine whether any of the recommendations made by the 'Empanelled Firms' are required to be adopted by the Applicant. In the event of failure of the 'Empanelled Firm' to issue the certification within the prescribed period due to any reason, including vacancy, the Applicant may take up the matter with the Licensing Authority, who shall refer the matter to the Ad Hoc Committee or Expert Committee, as the case may be.
- (8) The Ad Hoc Committee/Expert Committee shall be required to give its recommendations to the Licensing Authority in such a case within 2 weeks of the reference being made to it. The Licensing Authority in such a case shall give due regard to the recommendations of the Ad hoc Committee/Expert Committee, but shall not be strictly bound by the same. In case the Licensing Authority disagrees with the recommendation of the Ad hoc/Expert Committee it shall state its reasons in writing.
- (9) The Licensing Authority shall, within 14 days of receipt of the certification from the 'Empanelled firms', issue a License to the Applicant/Letter of Intent holder.
- (11) The State Government or the Licensing Authority may, once every year in consultation with the empanelled experts, fix the rates or fees to be paid by the applicants to the empanelled experts for the certifications prescribed in sub-rule (7) of Rule 4. The rates shall be as per standard industry norms.
- (12) A license issued under this Act shall be valid for a period of five (5) years subject to compliance of prescribed conditions, and shall be deemed to have been renewed every year thereafter as long as the license fee has been duly paid by the license holder within the specified period, and the license has not been revoked as per the provisions of the Act.
- (13) A license under this Act shall be issued only to a person or entity which is incorporated in India, and has a substantial holding and controlling stake in India. The executive decision making powers and process shall be required to be performed from within the territorial boundaries of India and the technology

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support provision including hosting and management of website, placement of servers etc. shall remain in India.

5. Termination of license.-

- (1) A License once issued shall not be summarily terminated except for the breach of its conditions or violation of the provisions of the Act or Rules. The breach may be brought to the notice of the Licensing Authority, or it may suo moto enquire into the same.
- (2) In case of breach of the terms and conditions of the license, the Licensing Authority shall issue a notice to show cause to the Licensee as to why the license should not be cancelled, and the license holder shall be granted the right to make a written as well as oral representation.

Provided that the violation of the license terms may be compounded if the breach is remedied within 30 days of the breach having been established, to the satisfaction of the Licensing Authority.

- (3) During the pendency of enquiry for assessing breach and the termination proceedings, the license shall be deemed to be in existence and valid.
- (4) The Licensing Authority may take the assistance of the Experts Committee constituted under Rule 15 for conduct of the enquiry. The Committee shall submit to the Licensing Authority its findings and observations within a period not exceeding 30 days from the date the matter has been referred to it.
- (5) If there is any delay in payment of license fee, the said breach may be compounded by payment of penalty calculated @ 12% simple interest per annum.
- (6) The Licensing Authority shall after taking into account the report of the Expert Committee, pass orders for termination of the license or drop the proceedings, as the case may be.
- (7) The order of termination of a license shall not take effect before the expiry of 15 (fifteen) days from the date of issue of the order. The Licensee may, within this period, approach the Arbitrator for arbitration as per the provisions of Rule 15. The award of the Arbitrator shall be final and binding in this regard.

7. Refusal to issue license:

- (1) The Licensing Authority may, subject to satisfaction that the applicant does not meet the eligibility criteria specified in the Act and Rules, refuse to issue license to an applicant through a speaking order citing the reasons for the refusal.

- (2) An applicant who has been refused a license may file an appeal against the order of the Licensing Authority to the Arbitrator. The proceedings before the Arbitrator shall be governed by the Arbitration and Conciliation Act, 1996 as amended upto date.

8. **Cancellation of license.**- A license issued by the Licensing Authority shall be liable to be cancelled after issue of a show cause notice for 30 days on the following grounds:-

- (1) For violation of the provisions of the Act, its Rules or Regulations;
- (2) for violation of the terms and conditions of the license; and
- (3) for mis-declaration of facts to the Licensing Authority.

9. **Responsibilities of a licensee.**- It shall be the responsibility of any person/firm or company issued a license under this Act to ensure the following –

- (1) That no brand names, corporate name, trademark or logos whether owned or licensed from a third party that are associated in any part of the world with gambling or used for gambling related promotions are used for running the 'games of skill' as per the license in India.
- (2) That 'Games of skill' are not provided in States/Union Territories or any part of India where they are prohibited by any law of the State or any games contained in the Schedule A of the Act have been declared to be not a "game of skill".
- (3) That only players above the age of 18 are permitted to play for stake on the site.
- (4) That all payments on the site are made through registered and recognized payment modes including credit/debit cards, netbanking, use of e-wallets etc that comply with RBI rules and regulations. Payments in cash, if any, shall be permissible only subject to compliance with KYC norms and full disclosure.
- (5) It shall be ensured that there is no violation of foreign exchange laws of the country.
- (6) The licensee shall provide a dashboard with a user name and password to the Licensing Authority to facilitate supervision of activities of the licensee.
- (7) The licensee may be required to set up an office in Nagaland within 12 months from the date of issue of license.

10. **Maintenance of accounts and statements.**-

1. The Licensee shall maintain a designated account known to the Licensing Authority for conduct of all financial transactions in connection with the conduct of 'games of skill' under license from the State Government. The gross revenues earned by the Licensee shall be deposited only into the designated account to ensure transparency and control.
2. The Licensee shall be responsible for ensuring that the amounts due and payable to the State Government are transferred to the account designated by the Government of Nagaland for this purpose

3. The Licensee shall furnish necessary authorisations to the bank holding the designated and disclosed accounts to furnish print-outs, statements or reports of the transactions of the accounts as and when required by the State Government.

11. Fees and royalties.-

1. Every Licensee shall pay to the State Government the following fees and royalties as mentioned below:-
 - (i). The 'Annual License Fee' of Rs. 10 lakhs per game per annum, or Rs. 25 lakhs for a bouquet of games per annum for the first 3 (three) years, and Rs. 20 lakhs per game per annum or Rs. 50 lakhs for a bouquet of games per annum for the next two years.
 - (ii). In addition, the licensee shall further be required to pay an amount of 0.5% of the gross revenue generated (less Service Tax) as royalty to the State Government.
 - (iii). All payments to the State Government shall be made into the Consolidated Fund of the State in the manner prescribed by the Licensing Authority.
 - (iv). The Licensing Authority shall have the power to make assessment of the market and volumes of business generated from time to time, and make revisions to the annual license fee and royalty share of the State Government from time to time.

12. Empanelment of experts.- The Licensing Authority shall empanel a list of Lawyers/Firms, Chartered Accountants /Firms/Finance Experts, and IT Companies/Firms of repute to assist the State Government in scrutinizing all applications for license under this Act and Rules. Such firms shall require to possess a minimum experience of five years in their respective fields of work. The 'Empanelled Experts' shall be required to certify the following:-

- (1) In the case of a Lawyer/Firm, they will be required to certify that the Applicant is in compliance with the requirements of the Act, Rules and Regulations.
- (2) In the case of a Chartered Accountant/Firm or a Merchant Banker, to certify that the Applicant is compliant with the Act, Rules and Regulations, and is seen to have the capabilities to conduct games of skill as applied for with a viable business plan. They shall also ensure that the Applicants are in compliance of all other statutory requirements that are in force in the country.
- (3) In the case of an IT Company/Firm, they shall certify that the Applicant is in possession of software that is duly tested and certified for safety and integrity as per standard industry norms.
- (4) The above certifications shall be required to be furnished by every Licensee to the State Government for the purpose of obtaining a license, and the State Government through the licensing Authority may also call upon the "empanelled firms" to furnish a report with respect to any licensee at any stage of the license tenure.

- (5) The Licensing Authority shall be required to give due weightage to the opinion of the experts while arriving at the decision of allowing or rejecting the application or for the purpose of cancellation of a License.

13. Appointment of Arbitrator.-

(i) The Licensing Authority shall appoint a legal expert or Chamber/Trust/ Association of Arbitrators to be the Arbitrator for the discharge of functions under Rule 14 below. The appointment shall be for a minimum term of 5 years, and shall not be revoked except on grounds of bankruptcy, moral turpitude or conviction in a criminal case.

(ii) The Arbitrator so appointed should have minimum experience of 10 years as a practicing lawyer in the High Court or Supreme Court of India, with a further experience in the gaming domain and in the areas of civil and criminal litigations, arbitrations, intellectual property and information technology.

(iii) The Arbitrator may, in case of necessity, appoint/nominate other arbitrators in his place. In case it is a Chamber of Arbitration that has been appointed, it shall have the right to conduct the proceedings as per its Rules.

14. Arbitration.-

In case of any dispute in relation to or arising out of or having a connection with the Act, the Rules, Regulations and license terms, including the issues relating to grant or refusal of license, cancellation of license, deciding on whether a game qualifies as a game of skill or not, or any other matters connected therewith, the same shall be referred to the Sole Arbitrator appointed under Rule 13 above. The Arbitration proceedings shall be conducted in accordance with the Arbitration and Conciliation Act, 1996 (as amended). The Arbitrator shall be permitted to decide the rules of procedure for the arbitration, the venue as well as the fees. The award shall be final and binding upon the parties.

15. Appointment of an Expert Committee:

(i) The State Government may, by notification constitute a Committee consisting of various stakeholders comprising of the department, experts in the field of online games of skill, law, chartered accountancy and information technology for the purposes of ensuring that 'games of skill' are conducted as per the provisions of the Act and the laws of the country.

(ii) Pending the constitution of such a Committee, the State Government may appoint an Ad Hoc Committee to perform the duties and functions of the Committee. The Ad Hoc Committee may also perform duties and functions as the State Government may assign to it from time to time, including the functions contemplated in Rule 12.

(iii) The Committee shall have a tenure of 5 years. The Chairman shall be nominated by the members of the Committee to hold office for a period of one year on rotation basis.

- (iv) The Chairman shall convene and conduct all the meetings of the Committee. All members of the Committee shall have a single vote. The quorum of the Committee shall be two-thirds of the total membership present and voting.
- (v) The Committee shall be required to constantly analyze the evolution of the sector of "games of skill" and suggest amendments, modifications etc. for the purpose of making the Act and the Regulations more effective and up to date. The Committee shall be further required to discharge such functions as directed by the licensing Authority for the purpose of achieving the objectives of this Act including with respect to Rule 5. The Expert Committee shall be empowered to avail the services of the Experts appointed under Regulation 12 for assistance.
- (vi) The Licensing Authority shall not be bound by the suggestions of the Committee, but shall give due weightage to the same.
- (vii) In the event of the recommendations of the Committee being rejected more than twice on the same subject matter however, the Arbitrator appointed under the Rules herein may be approached by the Committee/ Ad Hoc Committee to decide as to whether the Rules and regulations of the Act need to be amended in accordance with their recommendations. In case the Arbitrator is approached in such a manner, the same shall be construed to be a dispute falling within the ambit of Rule 14 above, and the decision of the Arbitrator shall be final and binding in that respect.
- (viii) The Committee shall meet at least twice a year at a time and place to be specified by the Chairman, or through video conferencing as may be decided.
- (ix) The Committee shall, in its suggestions and recommendations, be guided by high standards of transparency and best international practices in the industry.
- (x) The State Government shall pay TA/DA to the Members of the Committee/Ad Hoc Committee for all journeys undertaken on behalf of the State Government for any official purpose.
- (xi) All decisions of the Committee or the Ad Hoc Committee may be raised as a dispute before the Arbitrator by any affected party in accordance with Rule 14 above.

Sd/-
V. KEZO
Officer-on-Special Duty (G)