As of 2017-04-24, this is the most current version available. It is current for the period set out in the footer below. It is the first version and has not been amended.

Le texte figurant ci-dessous constitue la codification la plus récente en date du 2017-04-24. Son contenu était à jour pendant la période indiquée en bas de page. Il s'agit de la première version; elle n'a fait l'objet d'aucune modification.

THE LIQUOR AND GAMING CONTROL ACT
(C.C.S.M. c. L153)

Licensing and Appeals Regulation

Regulation 63/2014
Registered March 13, 2014

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PART 1

INTRODUCTORY PROVISIONS

Definitions

1 The following definitions apply in this regulation.

"**Act**" means *The Liquor and Gaming Control Act*.

"**applicant**" means a person applying for a licence under the Act.

"**gaming event licence**" means a gaming event licence within a class of gaming events licences prescribed in the *Gaming Regulation*.

Financial interest

2 For the purpose of subsection 102(2) of the Act, the following persons have a financial interest in an applicant:

(a) a person who, directly or indirectly, holds 10% or more of the outstanding shares, or of a class of share, of

(i) an applicant that is a corporation, or

(ii) a corporation that effectively controls the business of a corporation that is an applicant;

(b) a person who will be entitled to any of the profits from the licensed activity or who will be liable for any obligations incurred from the licensed activity;

(c) a person who loans or advances or causes to be loaned or advanced money or any thing of value, with or without security, to the applicant.

Change in control

3(1) Unless approved by the executive director, a licence ceases to be valid if

(a) the licence holder sells, assigns or transfers its assets through which it carries out the activities authorized by the licence;

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(b) 10% or more of the shares, or any class of share, of the following are sold, assigned or transferred:

(i) a licence holder that is a corporation, or

(ii) a corporation that effectively controls the business of a corporation that is a licence holder;

(c) a person becomes or ceases to be a partner of a licence holder that is a partnership;

(d) a person becomes entitled to any of the profits from the licensed activity or becomes liable for any obligations incurred from the licensed activity; or

(e) a person loans or advances or causes to be loaned or advanced money or any thing of value, with or without security, to the licence holder.

Application for approval
3(2) To seek the executive director's approval of a change described in subsection (1), the licence holder must, at least 10 days before the proposed change is to occur,

(a) apply to the executive director in writing; and

(b) provide any information requested by the executive director.

Exclusion — profit-sharing benefiting employees
4(1) A profit-sharing fund, scheme, or arrangement, for the benefit of employees, is excluded from the application of clauses 2(b) and 3(1)(d).

Exclusion — loans or credit from financial institutions
4(2) A loan or advance made by a bank, credit union, trust company or loan company authorized under the law to accept money for deposit and carrying deposit insurance in accordance with the *Canada Deposit Insurance Corporation Act* is excluded from the application of clauses 2(c) and 3(1)(e).

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PART 2

LICENSING

APPLICATIONS FOR LICENCES

Different forms for different applications
5(1) The executive director may approve different application forms for use in respect of applications for different types of licences.

Forms must be used
5(2) When applying for a licence, an applicant must use the approved licence application form and must provide all the information necessary to accurately complete the application form.

Examples of information to be provided
5(3) Without limitation, an application form may require information respecting the following:

(a) the principals of the applicant, as described in subsection 102(2) of the Act;

(b) if the applicant is a corporation,

(i) the corporation's articles of incorporation and most recent annual return filed with the Companies Office, and

(iii) a list of all the shareholders of the corporation, if the applicant is not a publicly traded corporation;

(c) if the application is in respect of a premises licence,

(i) a certified status of title or a certified copy of a certificate of title issued by the appropriate land titles office for the premises, and any other documents considered necessary by the authority to establish ownership of the premises,

(ii) a copy of any agreement under which the applicant will occupy the premises, whether conditional or unconditional, if the applicant is not the owner in fee simple of the premises at the time the licence application is made,

(iii) a copy of plans showing clearly and at an appropriate scale the general layout, floor plan and facilities of the premises, and

(iv) a detailed description of the security plans for the proposed premises;

(d) if the applicant proposes to carry on a business in relation to the licence, a copy of any agreement under which the applicant will operate the business, including any franchise agreement or agreement to purchase an on-going business or the assets of such a business.

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Meaning of "premises licence"
5(4) In clause (3)(c), a "**premises licence**" means

(a) a liquor service licence;

(b) a retail liquor licence;

(c) a manufacturer's licence;

(d) a sacramental wine vendor licence;

(e) a gaming event licence, if the gaming event is to be held in a premises;

(f) a gaming operator licence; and

(g) a gaming centre provider licence.

Expression of interest in engaging person as an employee
6 A person applying to be licensed as a gaming employee must submit evidence satisfactory to the executive director that MLLC or a gaming operator is interested in employing the person.

Prescribed percentage of liquor sale profits
7 For the purpose of clause 106(2)(b) of the Act, an applicant for a liquor service licence or a retail beer vendor licence or the holder of such a licence must be entitled to at least 80% of the profits from the sale of liquor at the premises in question.

Material filed to be confidential
8(1) Except as provided in subsection (2), material filed by an applicant in support of an application for a licence is confidential and no member or employee of the authority shall disclose it, or knowingly permit it to be disclosed, to any person except with the written consent of the applicant.

Disclosure when no consent
8(2) Material filed by an applicant in support of an application may be disclosed

(a) for the purpose of the administration or enforcement of the Act or legal proceedings related to that enforcement;

(b) when required by law;

(c) for research or statistical purposes to the extent that the disclosure would not reasonably be expected to reveal the identity of any specific applicant; or

(d) when the information is publicly available.

Public notice — liquor licence application
9 A public notice given in respect of a liquor service licence or a retail beer vendor licence that is required under section 105 of the Act must include

(a) the hours of operation permitted under the licence; and

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(b) any other information required by the executive director.

Application fees — liquor licences
10(1) A person applying for the following must include a non-refundable application fee of $500 with the application:

(a) a liquor service licence;

(b) a retail beer vendor licence;

(c) a manufacturer's licence;

(d) a sacramental wine vendor licence.

Application fee — brew pub endorsement
10(2) A person applying for a brew pub endorsement on a liquor service licence must include a non-refundable application fee of $300 with the application.

Additional categories
10(3) The application fee in subsection (1) is reduced to $300 if, in respect of a premises, a person already holds one or more liquor service licences and applies for another category of liquor service licence for the same premises.

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PART 3

LICENCE FEES

Liquor service licence fees
11(1) The following annual fees are payable for the liquor service licence indicated:

(a) dining room licence $300;

(b) dining room/lounge licence $800;

(c) beverage room licence $500;

(d) entertainment facility licence $500;

(e) customer/member service licence $300;

(f) unique hospitality venue licence . . . . . $500.

Retail liquor licence fees
11(2) The following annual fees are payable for the retail liquor licence indicated:

(a) liquor store licence $1,000;

(b) specialty wine store licence $1,000;

(c) retail beer vendor licence . . . . . $500.

Manufacturer's endorsement
11(3) The annual fee payable for a retail endorsement on a manufacturer's licence is $500.

Gaming licence fees
12 The following annual fees are payable for the gaming licence indicated:

(a) gaming employee licence $50;

(b) electronic gaming device licence (pro-rated as applicable) . . . . . $425.

Gaming event licence fee
13(1) The fee payable for a gaming event licence is 1.5% of the anticipated gross revenue of the gaming event.

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Gross revenue of a gaming event
13(2) Despite subsection (1), the executive director may allow a person who is issued a gaming event licence to submit the fee after it has been issued, in which case,

(a) the gross revenue used to calculate the licence fee is the actual gross revenue of the gaming event; and

(b) the person must submit the licence fee at the time or times specified by the executive director.

Specific fee provisions for certain gaming event licences
13(3) Despite subsection (1),

(a) the fee for a Monte Carlo event licence is $5 per blackjack or wheel of fortune table per day;

(b) the licence fee for a midway licence is $150; and

(c) no fee is payable for a breakopen licence or for a licence issued in respect of a gaming event if the anticipated gross revenue of the event is $10,000 or less.

Gaming supplier licence fees
14(1) The annual fee payable for a gaming supplier licence is

(a) $5,000, for supplying electronic gaming devices, gaming paper and products and security and surveillance systems; and

(b) $500, for supplying ticket sales and verification devices or provincial gaming equipment.

Gaming tables
14(2) No annual fee is payable if a gaming supplier only supplies gaming tables.

Gaming service provider licence fees
15 The annual fee payable for a gaming service provider licence is

(a) $5,000, for providing services to MLLC or a gaming operator; and

(b) $150, for providing services to a gaming event licence holder only.

Limit on multiple fees — gaming suppliers
16 If a person who is licenced as a gaming supplier or a gaming service provider, or both, provides more than one class of gaming supplies or gaming services, the person must pay the highest fee applicable and, having done so, no other fee is payable.

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Person responsible for payment of licence fee
17(1) Except as provided in this section, the person responsible for paying the fee for a licence is the applicant or licence holder, as the case may be.

Licence fees payable by MLLC
17(2) MLLC must pay the fee in respect of the following licences:

(a) the fee for each liquor store licence and each specialty wine store licence;

(b) the fee for each of its employees who is issued a gaming employee licence;

(c) the fee for each electronic gaming device that is licenced for use in provincial gaming.

Licence fees payable by gaming operators
17(3) A gaming operator must pay the fees in respect of each of its employees who is issued a gaming employee licence.

TERM AND RENEWAL OF LICENCES

Length of licence term
18(1) The term of a licence issued under the Act must not exceed five years, but the executive director may issue a licence for a shorter term.

Indefinite term for electronic gaming machines
18(2) Despite subsection (1), an electronic gaming device licence has an indefinite term.

Annual fee must be paid
18(3) For certainty, the fee for a licence that is issued for a term of less than 12 months is the annual fee for the licence, as prescribed, but if the licence is renewed, no additional fee is payable for the 12 months after the licence was first issued.

Payment of annual fee for licence
19(1) For a licence having a term of more than one year, the person responsible for the payment of the fee for the licence must pay the applicable annual fee at the time or times specified in the terms and conditions that apply to the licence.

Fee for late payment of annual fee
19(2) A person who fails to pay an annual fee on or before the time or times specified in the terms and conditions that apply to the licence must pay a late payment penalty of $50.

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Renewals
20(1) The provisions of this Part apply with necessary changes to applications for the renewal of a licence.

Deadline for liquor renewal applications
20(2) An application to renew a liquor licence — being a licences provided for Part 3 of the Act — must be filed with the executive director no later than one month before the licence expires.
Late renewal applications
20(3) A licence holder who files an application for the renewal of a licence less than one month before it expires must pay a late filing fee of $150, and no renewal is to be issued until the fee is received by the authority.

MISCELLANEOUS

Licences for which no fee is prescribed
21 For certainty, the fee for any licence type or class established under the Act that is not otherwise prescribed in this Part is zero.

Reduction or waiver of fees
22 The board may reduce or waive a fee prescribed in this Part if the board determines such a reduction or waiver is appropriate in the circumstances.

Address for service
23(1) A licence holder must notify the executive director of any change in its address for service within 30 days of the change occurring.

Waiver
23(2) The executive director may waive the requirement under subsection (1) in respect of a specific licence holder or class of licence holders.

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PART 4

APPEALS

Hearing date
24 On receiving a notice of appeal, the board must

(a) set a time, date and place for an appeal hearing; and

(b) give written notice of the hearing to each party by delivering or mailing the notice at least ten days before the date of the hearing.

Information to be provided in advance
25(1) An appellant must, at the time of filing the notice of appeal or, with the consent of the board, as soon as reasonably practicable after that, provide the following to the board:

(a) a copy of the decision or order of the executive director, along with any written reasons provided by the executive director;

(b) a statement of the nature and extent of the information, including expert and documentary evidence, on which the party intends to rely;

(c) a statement of whether or not the party seeks an order excluding the public from the hearing and, if so, the grounds for seeking such an order;

(d) any other information the board directs.

Order to produce documents
25(2) Subject to subsection (3), the board may, either simultaneously with the notice referred to in clause 24(b) or at a subsequent time, order any party to produce to any other party a copy of

(a) any document that the party intends to rely on at the hearing; and

(b) any other document that, in the opinion of the board, is or may be relevant to the appeal.

Objection to production
25(3) If a party objects to producing any document under subsection (2), the board may inquire into the matter and may

(a) confirm or cancel the order in respect of the document; or

(b) make such special order in respect of the document as the board considers to be just and appropriate in the circumstances.

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Form of hearing
26(1) An appeal may be conducted in person, or by videoconference or teleconference, as determined by the board.

Appeal without oral hearing
26(2) Despite subsection (1), with the consent of the parties to an appeal, the consideration of the appeal may be conducted without an oral hearing.

Filing of material if no oral hearing
26(3) If an appeal is conducted without an oral hearing, all matters concerning the appeal must be submitted to the board in writing, or as otherwise directed by the board, within 30 days after the parties provide their consent under subsection (2). On request, the board may extend the 30 day period.

Summons
27(1) On the request in writing of any party, the board may issue a summons compelling a person to attend at an appeal. The summons may require the person to bring documents and other materials to the hearing, to the extent specified in the summons.

Service of summons
27(2) The party that requests the board issue a summons must serve the summons on the person to whom it is directed by personal service on the person or by registered mail sent to the address of the person.

Attendance money
27(3) Attendance money calculated in accordance with Tariff "B" of the *Queen's Bench Rules* must be paid or tendered to a person at the time of serving a summons under subsection (2). Failure to pay or tender the required amount invalidates the summons.

Responsibility for payment
27(4) Unless the board orders otherwise, the party responsible for service of a summons under subsection (2) is liable for payment of attendance money under subsection (3).

Representatives
28 A party to an appeal may request that another person communicate with the board on the party's behalf, and that person may be present with the party at the appeal hearing.

Hearing may be recorded
29 On the request in writing of a party or on its own initiative, the board may direct that a hearing be recorded.

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When hearing may be closed to the public
30(1) The board may make an order that an appeal or any part of it be closed to the public if it is satisfied that

(a) financial or personal or other matters may be disclosed at the hearing of such a nature that the desirability of avoiding public disclosure of those matters in the interest of any person affected or in the public interest outweighs the desirability of adhering to the principle that appeal hearings be open to the public;

(b) a person involved in a criminal proceeding or in a civil suit or proceeding may be prejudiced; or

(c) the safety of a person may be jeopardized.

Interpretation: "other matters"
30(2) In clause (1)(a), other matters includes information related to gaming integrity and security and surveillance.

Making of order to be made public
30(3) The board must ensure that any order it makes closing a hearing to the public is made available to the public and includes the reasons for the order.

Procedure: order of submissions
31 Despite being the respondent, the board may require the executive director to make his or her submission at a hearing first.

Adjournment
32 The board may adjourn a hearing for such time, to such place and upon such terms as it sees fit.

Absence of party
33 If a party to an appeal fails to appear in person or by lawyer or other advocate within one hour from the time set out in the notice given under clause 24(b), the appeal may be dismissed or the hearing conducted and determined in that person's absence as the board considers proper in the circumstances.

Requests for standing at hearing
34(1) At any time at or before a hearing, the board may accept requests in writing from anyone seeking standing to participate in the hearing.

Content of request
34(2) A request for standing must include

(a) the name and address of the applicant seeking standing;

(b) the grounds on which the request is made; and

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(c) if standing were granted, a statement of the nature and extent of the information, including expert and documentary evidence, on which the applicant for standing intends to rely.

Notice to other parties

34(3) The board must notify the parties to the hearing of any request for standing received and the parties may advise the board, in the manner and time period the board specifies, of their position on the request.

Decision re standing

34(4) The board may grant a request for standing that it considers appropriate. When such a request is granted, the board must give notice to the other parties to the appeal.

Proceeding not invalidated

35 No appeal is invalid by reason only of a defect in form, a technical irregularity or a lack of formality.

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PART 5

COMING INTO FORCE

Coming into force

36 This regulation comes into force on the same day that Schedule B of *The Manitoba Liquor and Lotteries Corporation Act and Liquor and Gaming Control Act*, S.M. 2013, c. 51 comes into force.

February 28, 2014 **Liquor and Gaming Authority of Manitoba:**

Donna Roed
Vice-chairperson

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