

Guidelines for Declaration of Approved Integrated Resort Development in Jamaica



The Ministry of Finance and the Public Service

30 National Heroes Circle
Kingston 4
Jamaica, West Indies
www.mof.gov.jm

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Disclaimer

This publication serves as a guide to assist investors in the completion and submission of their applications in response to the Government of Jamaica's (GOJ) request for applications (RFA) for Declaration of an Approved Integrated Resort Developments (AIRD). The Guidelines are based on provisions of the Regulations related to Applications for Declaration of an Approved Integrated Resort Development and the Casino Gaming Act (CGA) and are designed to provide information and assist in decision-making. These Guidelines are not intended to replace the provisions of the laws and should not be construed as such nor should they be interpreted as prescribing an exclusive course of management.

Users of this publication are advised to seek guidance from the Ministry of Finance and the Public Service (MoFPS) in case of uncertainty or ambiguity. The (MoFPS) shall, in no circumstances whatsoever, be held liable for any issue arising from use of information contained herein.

Integrated Resort Development (IRD) Overview

The IRD is envisaged to be a large-scale sustainable attraction and one that strengthens Jamaica's competitiveness in the tourism industry and appeals to potential and repeat tourists as a must-visit attraction. The facilities will provide offerings that will ensure a fun filled memorable experience for guests and will complement the Island's existing attractions. The IRD is expected to bolster economic development through job creation, tax revenue, the creation of markets for locally produced goods and services, as well as serve as a catalyst for new investments in Jamaica.

General Objective

The document seeks to:

1. Define procedures based on the prerequisite of the Casino Gaming (Application for Declaration of Approved Integrated Resort Development) Regulations.
2. Provide a user-friendly guide and reference document to assist investors in preparing and submitting applications under the development.
3. Assist in minimizing any misunderstanding in interpretation, application or implementation of the procedures, rulings and regulations and to ensure that the implementation of IRD projects is in conformance with the Regulations.
4. Provide guidelines relating to submission, processing and evaluation of applications to ensure transparency.

Introduction

The (GOJ) is prepared to declare a maximum of two (2) developments to be approved IRDs. Investors who wish to establish large-scale integrated resort developments in Jamaica must include casino gaming facilities among the mix of offerings available to guests in the resorts.

GOJ has passed legislation (the Casino Gaming Act) to facilitate the programme. The CGA contemplates that in each case the Government would by way of a development Order approve proposed plans for an Integrated Resort Development. In addition, the developer of the Approved Integrated Resort Development (AIRD) or a qualified nominee of the developer would thereby be entitled to apply for a licence to operate a casino or casinos within the resort development subject to the resort being completed in accordance with the approved development plan. The CGA currently provides for three (3) such AIRDs.

The GOJ recently passed the Casino Gaming (Amendment) Act 2021. The amended Act outlined additional provisions including that Integrated Resorts, when completed, will be comprised of one or more hotels providing in aggregate at least one thousand associated hotel rooms including hotel rooms under construction (but excluding rooms already in existence) prior to making the application, of which five hundred rooms will be designated as luxury hotel rooms. In addition a minimum capital investment of five hundred million United States dollars (US\$500,000,000.00) is also required by the developer.

The Government's Objective

- GOJ is seeking to identify investors who have the capacity and resources to establish and operate first-class IRDs and who by themselves or in partnership with operators of casino gaming facilities licensed in well regulated gaming jurisdictions, can establish and operate casino gaming facilities within the IRD which will be compliant with the regulatory regime provided for under the CGA, amendments to the CGA and Regulations

issued thereunder. The CGA, the Casino Gaming (Amendment) Act 2021 and the Regulations (the Casino Gaming (Applications for Integrated Resort Development Orders) Regulations) which govern applications for declaration of an approved integrated resort development, may be accessed via the Ministry of Finance and the Public Service's (www.mof.gov.jm) and JAMPRO's (www.dobusinessjamaica.com) websites.

Applicants should examine for themselves the CGA, Amendments to the CGA and the Regulations governing applications.

Development Orders and Casino Gaming Licences

Under the Act the Minister of Finance issues development Orders. The Casino Gaming Commission (“**the Commission**”) is the regulatory authority for the granting of casino gaming licences and the conduct of casino gaming. Once the Minister approves a proposed IRD by issuing a development Order, the Commission shall receive and consider an application for a Casino gaming licence from the approved developer or its qualified nominee. The casino licence however only becomes effective if development conditions are met and at least **1,000** newly constructed guestrooms (including hotel rooms under construction but excluding hotel rooms already in existence) have been completed and available for occupancy.

The preferred condition for issuing a casino licence is based on the aforementioned provisions, however in exceptional circumstances on the recommendation of the Casino Gaming Commission, the Minister may consider providing a temporary licence for a maximum period of 3 years, subject to the commencement of construction of the AIRD. This allows the promoter to operate the casino in a temporary facility while establishing the AIRD based on the approved conditions. An applicant for declaration of an AIRD who intends to conduct casino gaming before commencement of hotel operations is expected to demonstrate how operation of a casino under a temporary casino gaming licence will enhance the development of the proposed resort.

A casino gaming licence will entitle the holder to provide to guests within the AIRD the full range of gaming facilities including traditional table games as well as gaming machines. The CGA empowers the Minister to grant exclusivity status to an AIRD, this means that the casino operation would be the only one within a specified geographic area of Jamaica for an agreed period of not less than 12 years subject possibly, to casino gaming conducted for bona fide visiting cruise ship passengers on certain cruise ships during overnight stays in cruise ports. The only full casino operations which would be licensed in Jamaica will be those conducted in the integrated resorts approved under the Act.

Current Gaming Situation

Currently, gaming by way of gaming machines is governed in Jamaica under the Betting Gaming and Lotteries Act and permitted under strict limits as to the number of machines per establishment and number of establishments that can own machines including hotels. The conduct of traditional table games are not and may not be permitted save in casinos licensed under the Casino Gaming Act. Currently no casino gaming licences have been issued. For purposes of the Casino Gaming Act “casino gaming” involves the playing of live table games. See the Casino Gaming (Prescribed Games) Regulations. Note however (see above) that a casino gaming licensee will be entitled to conduct table games as well as all other gaming including gaming machines.

Taxation and Resort Development; Gaming Taxes and Fees

Hotel Incentives:

There are existing arrangements under the Omnibus Tax Incentive regime for favourable tax consideration for resort developments. The Omnibus Tax Incentive legislation includes the Stamp Duty (Amendment of Schedule) Order Resolution; the Customs and Tariffs Revision (Amendment) Order Resolution; the Income Tax Relief (Large-Scale Projects and Pioneer

Industries) Act; and the Fiscal Incentives (Miscellaneous Provisions) Act. Additional information on the process and benefits are available here: <https://dobusiness.gov.jm/approved-hotel-status>

Gaming Taxes and Fees:

The Casino Gaming Act currently provides for a Government levy (“**gross profits tax**”) at a rate of ten per cent (10%) of gross profit accruing to a casino operator monthly. Gross profit refers to the difference between the aggregate amount staked or wagered by patrons and the total amount paid out to patrons as winnings. Regulations under the Act provide for fees payable to the Casino Gaming Commission including –

- annual licence fee payable by the casino gaming licensee
- annual licence fee payable by the casino gaming licensee per licensed gaming machine
- annual licence fees payable by the holders of personal licences required for the holding of certain key positions in the casino organisation
- application fees for licences

Development of the Regulations under the Act

Regulations relating to the following include provision and Orders for

- Powers of Inspectors and Authorized Officers
- Gaming Machines and Gaming Equipment Regulations
- Exclusion and Self-Exclusion
- Accounting, Internal Controls and Audits

Approved developers may be asked to collaborate with the Commission in the finalizing of these other Regulations. Proposers may be asked, in the course of review of their applications, to give their views on aspects of the concepts for the abovementioned four regulations.

Legal Basis

These guidelines are based on:

1. The Casino Gaming Act
2. Casino Gaming (Application for Declaration of Approved Integrated Resort Development) Regulations

Applicants should examine for themselves the Act and the Regulations that are available via the Ministry of Finance and the Public Service's (www.mof.gov.jm) and JAMPRO's (www.dobusinessjamaica.com) websites.

Applicants

The following is expected to be included in the application in accordance with the Gaming Regulations (*Schedule Part 1 A*)

- Name
- Address
- Legal form
- Jurisdiction of incorporation
- Ownership structure

Development Requirements

The proposed development should include information on the site, physical development, feasibility, and economic effect in accordance with the Regulations (*Schedule Part 1 B*).

Site of Proposed Resort Development

- Include details on location and description

- Demonstrate ownership of the proposed development site, or provide supporting legally binding documentation to demonstrate the right to control and develop the property.
- Provide description and time frame for all proposed site modification and infrastructure works.
- Description and Construction Schedule for all facilities that comprise the IRD.
- Identify required approvals to carry out the works from the relevant authorities or include a statement indicating the status, schedule and timeframe for approval.
- Include aerial photograph of the development site.

Proposed Development

The proposed hotel development shall include a *minimum of 1,000 rooms* of which no less than *500 shall be designed and designated as luxury hotel rooms*. The remaining rooms should become operational within the agreed development period specified in the development order. The following should be included in the proposal in accordance with the Regulations (*Schedule Part 1 C*):

- Name of development.
- Detailed overall development plan including but not limited to, hotels, hotel rooms, villas, casinos, attractions, sporting facilities, entertainment facilities, service centres and shopping centres.
- Total number of rooms and phasing.
- 500 of the constructed rooms to be designed and implemented as luxury rooms
- Planning and development phase work plan
- Casino facility
- Minimum capital investment of USD\$500,000,000.00

Feasibility

The following should be included in the project feasibility in accordance with the Gaming Regulations (*Schedule Part 1 D*):

- A detailed operating plan for the development including name and detailed information as required on any operator that is expected to manage a major component of the operations
- Detailed financing plan distinguishing between debt and equity including relevant documentation to demonstrate funding commitment and timing
- Business plan for at least 5 years.

Contribution to Economic Development

The following should be included in the economic effect in accordance with the Gaming Regulations (*Schedule Part 1 E*)

- Direct and indirect employment
- Benefits to local community
- Tax revenue

Strength and Experience of Developers and Partners

- Operating similar business,
- Fit and proper
- Business financial performance
- Strength of management and partners.

Processing, Assessment and Evaluation of Applications

An application shall be considered as ready for processing by the Project Consultant at the date by which all the information and supporting documents have been duly submitted and considered as complete.

Assessment includes but is not limited to the following:

- Visit of the proposed site by the Assessment Technical Team
- Evaluation of development plan and designs
- Review of construction budget and development time frame
- Proposer may be required to make presentation to the relevant approval agencies including
 - National Environmental Protection Agency
 - National Works Agency
 - Parish Council/Local Planning Authority
 - National Water Commission
 - Jamaica Public Service Co. Ltd
 - Community representatives
 - National Heritage Trust
 - Ministry of Health (re sewerage)
- Feasibility study assessment
- Examination of strategic plan and budgets
- Study of financing plan and cash flow projections
- Credit checks on Proposer, directors and management staff
- Verification of supporting documentation
- Analysis of proposed economic impact on the community including proposed job creation and utilization of locally generated goods and services

Approval Phase

On conclusion of the evaluation of the applications by the Project Consultant, an Enterprise Team will make recommendations to the Minister of Finance and the Public Service. If he is satisfied that all conditions have been met he will recommend to the Cabinet that consideration be given to the granting of an Order declaring the proposed development an “Approved Integrated Resort Development”.

The Order which will be issued by the Minister will contain the terms and conditions of approval. Under the CGA an Order is revocable for non-compliance with the conditions of approval including the agreed development time frame. The granting of a casino licence is subject to the resort being completed in accordance with the approved development plan.

Communications and Queries

All communication related to this Request for Applications and the submission thereof should be made in writing to the Financial Secretary, Attention Project Consultant, Approved Integrated Resort Development at the Ministry of Finance and the Public Service 30 National Heroes Circle, Kingston 4. Email: irdapplications@mof.gov.jm.

The Ministry of Finance and the Public Service will place on its website information or clarification requested by all interested parties and the responses and explanations provided. It is therefore the responsibility of the applicant to frequently check the website for additional information related to this application process.