



BERMUDA

CASINO GAMING AMENDMENT ACT 2016

2016 : 48

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WHEREAS it is expedient to amend the Casino Gaming Act 2014 and make consequential provision;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act, which amends the Casino Gaming Act 2014 (the "principal Act"), may be cited as the Casino Gaming Amendment Act 2016.

Amends section 2

2 Section 2 of the principal Act is amended—

- (a) in the definition of "Development Agreement"—
 - (i) by deleting the words "by a company";
 - (ii) by deleting the words "a designated site" and substituting the word "land";
- (b) by deleting the definition of "special employee" and substituting the following—

"special employee" means a person required to hold a special employee licence in accordance with Part 5;"; and
- (c) by inserting in the appropriate alphabetical order the following definitions—

"foreign casino regulatory body" means a person in whom there are vested functions under the law of another country or territory with respect to the enforcement or the administration of provisions of law of that country or territory concerning gaming, betting or casinos;

"General Administrative Documents" means such documents as may be prescribed in regulations;

"guidelines" means guidelines issued by the Commission under section 200;

"immediate family" shall mean—

 - (a) a person's spouse, parent or sibling;
 - (b) a person's child, which shall include step children and foster children;
or
 - (c) any other person with whom the person is sharing a household (other than by reason only of a landlord-tenant or employer-employee relationship).

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“information” means any fact, opinion or other data or meta-data and any document or record on which such facts, opinions or data and meta-data may be recorded.

Amends section 3

3 Section 3 of the principal Act is amended—

- (a) in subsection (1), by deleting the words “a significant” and substituting “an”;
- (b) in subsection (2)—
 - (i) by deleting the words “significant”;
 - (ii) by inserting after paragraph (d) the following—
 - “(da) whether the person has any interest, directly or indirectly, in the designated site or the integrated resort;”.

Amends section 4A

4 Section 4A(2)(b) of the principal Act is amended by inserting after the words “the prescribed fee” the words “which shall be payable to the Commission and shall be non-refundable”.

Inserts section 5A

5 The principal Act is amended by inserting after section 5 the following—

“Revocation of designated site order on advice of the Commission

5A The Minister shall revoke, after consultation with the Commission, an order under section 4(1) where he is satisfied, after giving a designated site owner the opportunity to be heard, that –

- (a) a provisional casino licence is not granted under section 32A to the owner of a designated site;
- (b) a provisional casino licence is granted, but is deemed to be cancelled under section 32A(7);
- (c) a provisional casino licence is granted under section 32A, but the Commission refuses to grant a casino licence to the provisional licensee.”.

Amends section 9

6 Section 9(1) of the principal Act is amended by inserting after paragraph (a) the following—

- “(aa) subject to section 32A(3) and pursuant to consideration and determination of any application it receives for a casino licence, to

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decide whether to grant or refuse to grant a provisional casino licence;”.

Inserts section 14A

7 The principal Act is amended by inserting after section 14 the following—

“Inspector may require information on oath

14A (1) For the purposes of this Act, an inspector is authorised to administer oaths.

(2) An inspector may require any information submitted pursuant to this Act to be provided on oath.

(3) An inspector may instead of administering an oath require the person examined to make and subscribe a declaration of the truth of the matters about which that person is examined.”

Amends section 15

8 Section 15 of the principal Act is amended by deleting subsection (2) and substituting the following—

“(2) An inspector is not authorised to require a person to state his name or address unless the inspector suspects on reasonable grounds that an offence under this Act has been committed.

(2A) If any person refuses to provide an inspector with a full name and residential address, or the inspector has reason to believe that the information given is false, the inspector may detain that person provided that—

- (a) no more force is used than may be reasonably necessary;
- (b) the person detained is informed of the reasons for the detention;
and
- (c) the police are immediately informed of the detention.”.

Amends section 16

9 Section 16 of the principal Act is amended—

(a) in subsection (1) by deleting the word “five” and substituting the word “thirty”;

(b) by deleting subsection (2) and substituting the following—

“(2) An inspector may apply to a court within thirty days of the seizure of the item or upon completion of the investigation by an inspector in relation to any item seized under subsection (1) (whichever is the earlier) for an order that the item seized under that subsection be forfeited to the Commission or any other such order as may be appropriate in all the circumstances.”;

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(c) by deleting and substituting subsection (4) with the following—

“(4) The court may, on an application by the Commission or any person interested in the item, vary the time period referred to in subsections (1) and (2) as it considers appropriate, including extending the time so as to permit the inspector to complete the investigation.”;

(d) in subsection (5) at the end of paragraph (a), by deleting the word “and” and substituting a semicolon; and

(e) in subsection (5) paragraph (b) by inserting after the words “the Commission” the words “or such other order as appropriate in all the circumstances;”.

Amends section 17

10 Section 17 of the principal Act is amended by repealing subsection (b) and substituting the following—

“(b) all fees and financial penalties paid under this Act;”.

Inserts section 17A

11 The principal Act is amended by inserting after section 17 the following—

“Power to borrow

17A (1) Subject to subsection (2), the Commission may borrow such sums as it may require for any of the following purposes—

- (a) the provision of working capital required by the Commission;
- (b) any other purpose for which capital moneys are properly applicable; or
- (c) any purpose that may be necessary or expedient respecting this Act.

(2) The Commission may borrow money with the consent of the Minister and the approval of the Minister of Finance.”.

Inserts section 18A

12 The principal Act is amended by inserting after section 18 the following—

“Work plan and budget

18A (1) The Commission shall prepare an annual budget, which shall include—

- (a) an estimate of total operating expenditures for the upcoming financial year;

- (b) an estimate of the total capital expenditures for the upcoming financial year; and
 - (c) an estimate of the total revenues, by source.
- (2) Not later than six months before the commencement of each financial year, the Commission shall prepare its work plan for the upcoming financial year, which shall include—
 - (a) the Commission's strategic priorities for the upcoming financial year;
 - (b) any major activities that the Commission anticipates undertaking during the upcoming financial year;
 - (c) any quantitative indicators that the Commission has adopted to measure its performance during the upcoming financial year; and
 - (d) a preliminary estimate of the Commission's budget for the upcoming financial year.
- (3) Not later than three months before the commencement of each financial year, the Commission shall submit to the Minister and to the Minister of Finance—
 - (a) a preliminary report setting out the Commission's proposed work plan for the next financial year; and
 - (b) a proposed budget, with a request for approval, in such form and in such detail as the Ministers may require, for the upcoming financial year.
- (4) The Minister of Finance shall—
 - (a) consider—
 - (i) the documents submitted under subsection (3) and any other information submitted by the Commission; and
 - (ii) any information submitted by the Minister;
 - (b) after taking into account and having due regard to such representations made by the Commission and the Minister, make any modifications to the proposed budget that the Minister of Finance deems necessary and proper; and
 - (c) issue a written decision approving the budget.
- (5) The budget that is approved under subsection (4)(c) shall constitute the Commission's budget for the upcoming financial year and shall be published in the Gazette.
- (6) Once the budget has been approved, the Commission shall issue a final report setting out the Commission's work plan for the next financial year.

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(7) The Commission shall not, without the approval of the Minister, spend in total in any financial year more than the total amount of expenditures specified in the approved budget for that financial year.

(8) The Commission shall make annual or periodic budget reports in respect of its activities in such form as the Minister may direct.

(9) The Commission shall submit to the Minister its reports quarterly during each financial year or as the Minister may from time to time otherwise require.

(10) The Commission shall specify in its annual report the title and corresponding salary of every senior executive within the Commission.

(11) In this section, “senior executive” means—

- (a) a Commissioner;
- (b) the Chief Executive Officer; and
- (c) any other person who, under the immediate authority of the Chief Executive Officer—
 - (i) exercises managerial functions; or
 - (ii) is responsible for maintaining accounts or other records of the Commission.”

Amends section 19

13 Section 19 of the principal Act is amended by deleting the words “fines, composition sums”.

Amends section 24

14 Section 24 of the principal Act is amended—

- (a) in subsection (1) by deleting the comma and the words “directly or indirectly” and inserting after the word “records” the word “directly,”;
- (b) in subsection (2) by inserting after the word “records” the following—

“directly relating to the financial transactions of the Commission”;

- (c) in subsection (3) by inserting after the word “access” the following—

“directly relating to the financial transactions of the Commission”;

- (d) in subsection (4) —

- (i) in paragraph (a), by inserting after the word “records” the words “directly relating to the financial transactions of the Commission”; and
- (ii) in paragraph (b) by inserting after the words “authorised by the auditor” the words “pursuant to this section”.

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Amends section 28

15 Section 28 of the principal Act is amended by inserting after subsection (2) the following—

“(3) any casino licence granted to the Developer, as defined in section 2 of the St. George’s Resort Act 2015, shall not be included in calculating the number of casino licences prescribed by subsection (1).”.

Replaces section 29 and inserts section 29A

16 (1) Section 29 of the principal Act is repealed and substituted with the following—

“ Licensed casinos declared lawful

29 (1) Notwithstanding any other law, but subject to this Act and any regulations, it is lawful for a person—

(a) to conduct a game or use gaming equipment in a casino operated by or on behalf of a casino operator; and

(b) to—

(i) play an authorised game in a gaming area in a casino;

(ii) use approved gaming equipment or chips in the conduct and playing of an authorised game in the casino;

(iii) play an authorised game by way of eGaming in an eGaming zone;

(iv) place a bet with a bookmaker in a gaming area in a Casino.

(2) The Minister may by regulations regulate eGaming and betting on a casino premises generally and without prejudice to the generality of the foregoing—

(a) provide that a specified system or method of communication is or is not to be treated as a form of remote communication for the purposes of eGaming;

(b) specify an eGaming zone or zones in which eGaming may take place;

(c) prescribe the subject, races, competitions, or other events or processes on which a bet may be placed.

(3) The Betting Act 1975 shall not apply to any casino operator.

(4) In this section, “bookmaker” means a casino operator whose casino licence permits betting.

Sale of intoxicating liquor on casino premises

29A (1) Notwithstanding any other law, but subject to this Act and any regulations, it is lawful for a person holding a valid casino licence, or upon the authority of such a person, to sell intoxicating liquor and permit the consumption of that intoxicating liquor on the casino premises, in accordance with—

- (a) the terms of the casino licence;
- (b) regulations made pursuant to this Act; and
- (c) directions given by the Commission.

(2) The Minister may by regulation regulate the sale of intoxicating liquor on casino premises.

(3) Nothing in the Liquor Licence Act 1974 shall render unlawful the sale of intoxicating liquor by or on behalf of a casino operator on the casino premises provided that the sale of intoxicating liquor is in accordance with this Act, the regulations, and any conditions of the casino licence relating to the sale of intoxicating liquor.

(4) In this section, “intoxicating liquor” has the meaning given in section 1 of the Liquor Licence Act 1974.”

(2) In consequence of subsection (1)—

- (a) amend section 2 by inserting in the appropriate alphabetical order the following definitions—

“ “authorised game” means a game declared by the Commission under section 91 to be an authorised game for the purposes of this Act;

“betting” means making or accepting a bet on—

- (a) the outcome of a race, competition or other event or process,
- (b) the likelihood of anything occurring or not occurring,
- (c) whether anything is or is not true;

“eGaming” means gaming or betting in which persons participate by the use of remote communication;

“eGaming zone” means an area or areas within the casino premises in which—

- (a) eGaming may take place;
- (b) physical gaming may not take place.

“gaming area” means the area or areas within the casino premises in which physical gaming, betting and eGaming may take place;

“physical gaming” means the playing of a game other than by way of eGaming. ”

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(b) repeal section 145(2) and substitute the following—

“(2) Part VI of the Miscellaneous Taxes Act 1976 (Betting Duty) shall not apply to a casino operator.”.

(c) amend the Betting Act 1975 by inserting next after section 2—

“Application of Casino Gaming Act 2014

2A Nothing in this Act shall render unlawful the business of receiving or negotiating bets by a casino operator licenced in accordance with the Casino Gaming Act 2014.”.

(d) amend Schedule 1 of the Liquor Licence Act 1974 by inserting next after paragraph 14—

“15 The sale of intoxicating liquor on casino premises in accordance with the terms of a casino licence granted under the Casino Gaming Act 2014.”.

Amends section 32

17 Section 32 of the principal Act is amended by inserting after subsection (2) the following—

“(3) By submitting an application for a casino licence an applicant consents to any investigation undertaken pursuant to this Act.”.

Inserts sections 32A and 32B

18 (1) The principal Act is amended by inserting after section 32 the following—

“Grant of a provisional casino licence

32A (1) The Commission may, pursuant to an application for a casino licence and in accordance with this Act and regulations made hereunder, grant, or refuse to grant, a provisional casino licence to an applicant for a casino licence.

(2) A provisional casino licence may only be granted upon—

(a) the Minister having made a designated site order under section 4 in relation to the proposed site for the casino premises; and

(b) the Commission having formed an opinion on the integrated resort pursuant to section 34.

(3) Notwithstanding subsections (1) and (2)(b), a provisional casino licence is hereby granted, in the public interest, to the Developer, as defined in section 2 of the St. George’s Resort Act 2015; and, for the avoidance of doubt, such licence is granted subject to subsections (4) and (5) and to the applicable provisions of this Act and regulations made hereunder.

(4) The Commission may, upon the grant of a provisional casino licence—

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- (a) impose such conditions; and
- (b) specify such period,

as the Commission thinks fit.

(5) Upon the granting of a provisional casino licence, the Commission shall investigate suitability pursuant to section 33.

(6) A provisional casino licence is not a valid casino licence for the purpose of section 31(1).

(7) Where the person to whom a provisional casino licence is granted under this section does not satisfy the Commission as regards to suitability as set out in section 33, the Commission may cancel the provisional casino licence by providing written notice of the cancellation to the holder of the provisional casino licence.

(8) The Commission shall not be required to give reasons for the grant or refusal to grant a casino licence or a provisional casino licence or the attachment of conditions thereto.

Three provisional casino licences only

32B (1) Subject to subsection (2), there shall not be more than three provisional casino licences in force and validly held at any one time.

(2) The calculation of the number of provisional casino licences, shall be as follows—

- (a) for each grant of a casino licence the number of provisional casino licences available shall be decreased accordingly;
- (b) if a casino licence is revoked or cancelled then the number of provisional casino licences available shall increase accordingly;
- (c) the provisional casino licence granted under section 32A(3) shall not be included in the calculation of the number of provisional licences which may be granted by the Commission.”.

(2) In consequence of subsection (1), amend section 2 by inserting the following definition in the appropriate alphabetical order—

“provisional casino licence” means a provisional casino licence granted under section 32A and provisional casino licensee shall be construed accordingly.”.

Amends section 33

19 Section 33 subsection (2) of the principal Act is amended in paragraph (f) by deleting the words “body or association”.

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Amends section 34

20 Section 34 subsection (1) of the principal Act is amended by inserting after the word “any” the word “proposed”.

Amends section 38

21 Section 38 of the principal Act is amended—

(a) by deleting subsection (1) and substituting the following—

“(1) Upon the granting of a provisional licence under sections 32A(1) and 32A(3) the Commission—

- (a) being satisfied that any conditions attached to the provisional licence have been complied with; and
- (b) having completed its investigation into suitability pursuant to section 33,

shall determine an application for a casino licence by either granting or refusing the application and shall notify the applicant in writing of its decision.”; and

(b) by inserting after subsection (4) the following—

“(5) The Commission shall not be required to—

- (a) give reasons for a refusal of a casino licence or for the attachment of conditions;
- (b) provide copies of any documents or records or provide details of the information considered by the Commission in determining an application for a casino licence or the source(s) of that information.

(6) The Commission shall not, under any circumstances, be liable for any financial outlay or financial or other losses incurred or suffered by an applicant as a result of—

- (a) an application for a licence being refused; or
- (b) the attachment of conditions to a casino licence.”.

Amends section 42

22 Section 42 of the principal Act is amended—

(a) by deleting subsection (2) and substituting the following—

“(2) The Commission may, from time to time—

- (a) redefine the boundaries of the casino premises, within the designated site for which the casino licence is granted;
- (b) further define, within the boundaries of the casino premises—

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- (i) gaming area(s); and
- (ii) eGaming Zone(s),

as the Commission thinks fit and may do so of its own motion or on the application of the casino operator.”;

- (b) in subsection (3) by inserting after the words “casino premises” the words “the gaming areas or the gaming zones”; and
- (c) in subsection (4) by inserting after the words “casino premises” the words “the gaming areas or the gaming zones”.

Amends section 43

23 Section 43 of the principal Act is repealed and replaced with the following—

“Duration of a Casino Licence

43 (1) A casino licence remains in force for a period of ten years, unless it is sooner renewed, cancelled, revoked or surrendered under this Act.

(2) A casino licence shall become automatically revocable if a casino licence holder—

- (a) dies;
- (b) in the opinion of the Commission becomes incapable of carrying on as a casino operator due to mental or physical incapacity;
- (c) ceases to be a fit and proper person;
- (d) becomes bankrupt in any jurisdiction;
- (e) ceases to exist; or
- (f) goes into liquidation,

until such time as the Commission provides the casino operator with written notice confirming that the casino licence shall not be revoked.

(3) In the event of a casino licence becoming revocable pursuant to subsection (2) the Commission shall be entitled to—

- (a) serve a notice of revocation of the casino licence on any special employee at the casino premises;
- (b) appoint a temporary manager in accordance with section 50.

(4) Where a casino licence has been revoked pursuant to this section the Commission may reinstate the casino licence with retrospective effect.

(5) The Minister may by regulation make further provision for the revocation of a casino licence.”.

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Amends section 44

24 Section 44 of the principal Act is amended—

- (a) in subsection (2) by inserting after the word “permitted” the words “without the written permission of the Commission”; and
- (b) by inserting after subsection (2) the following—

“For the purposes of obtaining the written permission mentioned in subsection (2), sections 32 to 37 shall apply *mutatis mutandis*.”

Amends section 45

25 The provisions of section 45 of the principal Act become subsection (1), and after that subsection insert—

“(2) The Minister may by order subject to the negative resolution procedure amend the definition of “disciplinary action” in subsection (1) to insert additional forms of disciplinary action.”.

Amends section 46

26 The provisions of section 46 of the principal Act become subsection (1), and after that subsection insert—

“(2) The Minister may by order subject to the negative resolution procedure amend subsection (1) to insert additional grounds for sanction.

(3) A casino operator may be subject to disciplinary action and shall be liable for any act, omission, neglect or default by any employee servant or agent of the casino operator that constitutes a breach of this Act or any regulations or direction made or given under this Act, as fully and effectually as if the act or omission, neglect or default were done or committed by the casino operator.”.

Amends section 48

27 Section 48 of the principal Act is repealed and replaced with the following—

“Procedure to be followed as regards disciplinary action

48 The Minister may by regulation prescribe—

- (a) the procedure to be followed as regards disciplinary action against a casino operator;
- (b) the powers of the Commission as regards disciplinary action against a casino operator and the powers of the Commission for the hearing of an appeal against the decision of an inspector;
- (c) the establishment, conduct, procedure (including any fees) and powers of a tribunal for the hearing of any appeal against any disciplinary decision; and

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- (d) the regulation of disciplinary action against a casino operator generally.”

Amends section 51

28 Section 51 of the principal Act is repealed and replaced with the following—

“Appeals

51 The Minister may by regulation prescribe the process by which a casino operator who is aggrieved by any decision regarding the operator’s licence may appeal that decision.”.

Inserts section 52A

29 (1) The principal Act is amended by inserting after section 52 the following—

“Compliance Committee

52A (1) Every casino operator shall, if so required by the Commission, establish and maintain a compliance committee in accordance with any regulations made under this Act and any guidelines issued by the Commission.

(2) The compliance committee shall be responsible for ensuring that the casino is operated in compliance with the requirements of this Act and any applicable regulations and directions, any applicable enactment relating to anti-money laundering and anti-terrorist financing, and shall have such other obligations as may be prescribed by regulations under section 196.

(3) The compliance committee shall be required to furnish the Commission with such information and documents at such intervals as shall be required by the Commission.

(4) The Commission may require any member or members of the compliance committee to attend before the Commission at such time and place as the Commission shall determine to answer such questions or provide such information as the Commission sees fit.

(5) The casino operator shall at all times be liable for the acts and omissions of the compliance committee.

(6) Failure by the compliance committee to comply with this Act, any regulations or any guidelines given by the Commission shall result in disciplinary action being taken against the casino operator under Part 3 and may result in the imposition of sanctions including the suspension or cancellation of the casino licence.”.

(2) In consequence of subsection (1)—

- (a) amend section 2 by inserting in the appropriate alphabetical order the following definition—

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“compliance committee” means a committee established by a casino operator pursuant to section 52A;”

(b) repeal section 196(2)(r) and substitute the following—

“(r) the establishment, functions and obligations of a compliance committee and all other matters relating to compliance obligations.”.

Amends section 53

30 Section 53 of the principal Act is amended—

- (a) in subsection (1) by deleting the words “and, if it directed to do so by the Minister, shall investigate the casino”;
- (b) in subsection (2) paragraph (e) by deleting the words “body or association”;
- (c) by inserting after subsection (2) the following—

“(2A) Where the person being investigated pursuant to this section is a company or association or body of persons (whether corporate or unincorporate) the investigation may include all other persons related to the company or association or body of persons under investigation which shall include members, shareholders, directors, and officers.

(2B) Any person who refuses to permit, or seeks to prevent, an investigation pursuant to this Part commits an offence under section 178.

(2C) Unless the Commission otherwise directs, the casino to which the investigation relates shall pay to the Commission all expenses of or incidental to the investigation.”; and

- (d) in subsection (3) by deleting the words “and shall make such a report if the investigation was made at the direction of the Minister”.

Amends section 58

31 Section 58 subsection (1) of the principal Act is amended in paragraph (b), by deleting the words “body or association”.

Amends section 59

32 Section 59 of the principal Act is repealed and replaced with the following—

“Application and interpretation of this Chapter

59 (1) In this Chapter—

“controlled contract”, means a contract or a class or type of contract prescribed in regulations as a controlled contract for the purposes of this Chapter;

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“notifiable contract” means a contract or a class or type of contract prescribed in regulations as a notifiable contract for the purposes of this Chapter.

(2) The Minister may make regulations governing contracts generally or to specific classes or types of contracts specified in the regulations.”.

Amends section 60

33 Section 60 of the principal Act is amended by inserting after subsection (5) the following—

“(6) No compensation for economic loss shall be payable by the Commission in respect of any refusal of permission to enter into or vary a contract pursuant to this section, whether or not such contract is terminated as a result.”.

Amends section 66

34 Section 66 of the principal Act is repealed and replaced with the following—

“Special employees to be licenced

66 (1) The Minister may make regulations—

- (a) prescribing functions which may only be performed by a licensee;
- (b) prescribing any person who, irrespective of the functions performed, is required to be licenced under this section;
- (c) prescribing the circumstances in which the functions of a licensee may be undertaken by an employee not in possession of a special licence;
- (d) prescribing different categories of special employee licences;
- (e) prescribing the obligations of a licensee; and
- (f) providing for disciplinary action against a licensee.

(2) Every licensee must exercise his functions in accordance with any conditions of his special employee licence and must not undertake any special employee functions outside of those permitted by his licence.

(3) A person shall not exercise any of the functions of a special employee unless that person—

- (a) has a valid special employee licence permitting him to perform those specific functions; or
- (b) is otherwise permitted to perform those functions by regulations passed under this Act.

(4) A casino operator shall not—

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- (a) employ or use the services of a person to perform any function of a special employee in or in relation to a casino; or
- (b) allocate or permit or suffer to be allocated to a person the exercise of any function of a special employee in or in relation to the casino,

unless the person is authorised by a special employee licence or by regulations to exercise the function concerned.

(5) Any person who contravenes subsections (2), (3) or (4) commits an offence.”

Amends section 67

35 Section 67 of the principal Act is amended—

- (a) in subsection (1)(c) by inserting after the word “certificate” the following—

“, in such form and manner as may be prescribed”; and

- (b) by deleting subsection (4) and substituting the following—

“(4) A special employee licence may not be granted to a person who is under 18 years of age or is a person within a class of persons prescribed as being ineligible to hold a special employee licence.”.

Amends section 75

36 Section 75 of the principal Act is amended by deleting the words “for a period of five years” and substituting the words “for such period as may be determined by the Commission”.

Amends section 78

37 The provisions of section 78 of the principal Act become subsection (1), and after that subsection insert—

“(2) The Minister may by order subject to the negative resolution procedure amend subsection (1) to insert additional forms of disciplinary action.”

Amends section 79

38 The provisions of section 79 of the principal Act become subsection (1), and after that subsection insert—

“(2) The Minister may by order subject to the negative resolution procedure amend subsection (1) to insert additional grounds for disciplinary action.”

Amends section 80

39 Section 80 of the principal Act is repealed and replaced with the following—

“Procedure to be followed as regards disciplinary action concerning special employee

80 The Minister may by regulation prescribe—

- (a) the procedure to be followed as regards disciplinary action against a licensee;
- (b) the powers of the Commission as regards disciplinary action against a licensee and the powers, procedure (including any fees) and conduct of the Commission for the hearing of an appeal against the decision of an inspector;
- (c) the establishment, powers, procedure (including any fees), and conduct of a tribunal for the hearing of any appeal against the decision of the Commission; and
- (d) disciplinary action against a licensee generally.”.

Amends section 81

40 Section 81 of the principal Act is amended by—

- (a) in subsection (2) deleting the words “pursuant to a hearing”; and
- (b) inserting after subsection (2) the following—

“(2A) The Minister may by order subject to the negative resolution procedure amend subsection (2) to insert additional penalties.”.

Amends section 82

41 Section 82 of the principal Act is amended by deleting subsection (1) and substituting the following—

“(1) In any case where—

- (a) it appears to be necessary to the Commission to prevent any threat to the security of the public or of casino operations; or
- (b) disciplinary proceedings have been or are likely to be commenced against a licensee; or
- (c) the Commission has been informed that a licensee is under investigation for, or has been charged with—
 - (i) an offence under this Act;
 - (ii) an offence arising out of or in connection with the employment of the licensee under this Act; or
 - (iii) an offence involving dishonesty or moral turpitude, whether in Bermuda or elsewhere.
- (d) the licensee has been made bankrupt in any jurisdiction;

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- (e) the Commission reasonably believes that it is necessary and proportionate to suspend the license prior to a decision being made as to whether disciplinary proceedings are likely to be taken,

the Commission may suspend the licence concerned, pending the conclusion of any inquiry or disciplinary proceedings against the licensee under this Part, if the Commission thinks it necessary in the public interest that the licensee should immediately cease his functions in relation to any casino.”.

Amends section 89

42 Section 89 of the principal Act is repealed and substituted with the following—

“Appeals

89 The Minister may by regulation prescribe the process by which a special employee who is aggrieved by any decision regarding his special employee licence may appeal that decision.”.

Amends section 90

43 Section 90 of the principal Act is deleted and substituted with the following—

“1 A casino operator shall ensure that the layout of the casino complies with such requirements as may be prescribed.”.

Amends section 91

44 Section 91 of the principal Act is amended—

- (a) in subsection (1) paragraph (a) by deleting the words “issued to a casino operator,”;
- (b) by inserting after subsection (1)—

“(1A) The Commission may direct that a game or class of games authorised and approved by a specified foreign casino regulatory body be automatically included in the list of approved games provided pursuant to subsection (1) (a).”; and

- (c) by deleting subsection (2) and substituting the following—

“(2) The Commission may, under subsection (1), give approvals that—

- (a) differ according to differences in time, place or circumstances;
- (b) are conditional.”.

Repeals section 96

45 Section 96 of the principal Act is repealed.

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Amends section 97

46 Section 97 of the principal Act is amended—

- (a) in subsection (2) paragraph (b) by deleting the word “another” and substituting the word “other”;
- (b) in subsection (3) by deleting the words “or a licensed special employee”; and
- (c) by deleting subsection (4) and substituting the following—

“(4) This section shall not apply to a jackpot that is linked exclusively within an individual casino premises.”.

Amends section 100

47 Section 100 of the principal Act is amended—

- (a) by deleting subsection (7), and substituting the following—

“(7) Any—

- (a) casino operator which contravenes subsection (1) or (6); or
- (b) licensed special employee who contravenes subsection (l),

shall be liable to disciplinary action.”; and

- (b) by deleting subsections (8), (9) and (10) by renumbering subsection (11) as subsection (8).

Amends section 101

48 Section 101 of the principal Act is amended in subsection (1) by deleting the words “casino premises” and substituting the words “gaming area”.

Amends section 102

49 (1) Section 102 of the principal Act is repealed and the following is substituted—

“Casino Marketing Arrangements

102 (1) The Minister may by regulation—

- (a) require a person or class of persons involved in a casino marketing arrangement to be licenced;
- (b) prescribe the procedure and fees for such a licence;
- (c) regulate casino marketing arrangements;
- (d) regulate the conduct of persons licenced under this section and provide for disciplinary action against them.

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(2) The Commission may give a direction to a casino operator to cease any further business association with any person required to be licenced under subsection 1 and any casino operator who fails to comply with such direction shall be liable to disciplinary action.”.

(2) In consequence of subsection (1)—

(a) in section 2—

(i) in the definition of “casino marketing arrangement”, delete the words “by an international market agent who receives—” and substitute the words “and the introducer is entitled to receive—”;

(ii) delete the definition of “international market agent”, “international market agent licence”, “international market agent representative”, and “international market agent representative licence”;

(b) in section 14(1)(e)(i) delete the words “international market agent licence, international market agent representative licence”;

(c) in section 100(1) delete the words “marketing agreement operator or associate, licensed international market agent, agent or employee of a licensed marketing agreement operator,”;

(d) repeal sections 103 and 104;

(e) in section 119(1), repeal paragraph (d) and substitute a period for the semi-colon preceding it;

(f) repeal section 121(1)(d).

Amends section 105

50 Section 105(1) of the principal Act is amended by inserting after the word “conducted,” the words “and the amount in dispute is not less than \$500,”;

Inserts section 111A

51 (1) The principal Act is amended by deleting sections 112 to 118 and substituting the following—

“Exclusion orders

111A (1) The Minister may make regulations governing the procedure for making, varying, and revoking exclusion orders made under this part.

(2) An exclusion order may relate to the whole or any part of a casino premises.

(3) No liability shall be incurred by any person towards an excluded person arising out of—

(a) any failure by the casino operator to prevent the excluded person from entering the casino premises;

- (b) any failure by the casino operator to prevent the excluded person from engaging in gaming or betting;
 - (c) confiscation of winnings pursuant to this Act.
- (4) A self-exclusion order shall not apply in the event that the excluded person—
- (a) is required to be on the casino premises as a result of his employment; and
 - (b) has given the casino operator prior notice (unless the circumstances are such that prior notice has not been possible); and
 - (c) does not engage in any gaming or betting activities.”

Self-Exclusion orders

112 (1) A casino operator, the Commission, or any other person as may be specified, may make a self-exclusion order in relation to a person at the request of that person.

- (2) A voluntary request by a person under subsection (1)—
- (a) shall be in writing on such form as may be prescribed by the Commission; and
 - (b) signed by the requestor in accordance with any directions given by the Commission.
- (3) As soon as practicable after a casino operator gives a self-exclusion order under this Part, the casino operator shall notify the Commission of that order.
- (4) The self-excluded person may apply to the Commission for the revocation or variation of a self-exclusion order in accordance with section 115.

Compulsory-Exclusion Orders

113 (1) The Commission or a casino operator may make a compulsory-exclusion order in relation to a person if there are reasonable grounds for believing—

- (a) that the person is affecting or is likely to affect the orderly functioning of the operations of the casino;
 - (b) that the person appears to be cheating, or attempting to cheat, in the casino; or
 - (c) that the making of the order is appropriate in the circumstances.
- (2) As soon as practicable after the making of a compulsory-exclusion order under this part the Commission or the casino operator must effect personal service of the compulsory-exclusion order on the excluded person.

(3) As soon as practicable after a casino operator gives a compulsory-exclusion order under this Part, the casino operator shall notify the Commission of that order and the reasons for the order.

(4) A compulsory-exclusion order made by the Commission shall apply to all casinos in Bermuda unless otherwise specified in the order.

(5) A compulsory-exclusion order made by a casino operator may only relate to premises of, or the business conducted by, that casino operator.

(6) An appeal against a compulsory-exclusion order made by a casino operator under this section may be made to the Commission in accordance with Rules made under this section.

(7) An appeal against an order made by the Commission under this section may be made in accordance with Rules made under this section.

(8) The casino operator or the excluded person may apply to the Commission to vary or revoke a compulsory-exclusion order in accordance with section 115.

Duration of exclusion orders

114 (1) Subject to this section, an exclusion order made under this Part remains in force in respect of a person until it is revoked—

- (a) by the Commission upon an application by the excluded person for revocation following expiry of the minimum period; or
- (b) by the Commission or on appeal.

(2) An exclusion order shall state a minimum duration and may be made for an indefinite duration but may not be made for a period of less than 30 days.

(3) An exclusion order made at the request of the excluded person may specify a minimum period during which the order must remain in force. During the minimum period an excluded individual may only apply for the variation or revocation of an exclusion order under section 115 if there has been a material change in circumstances since the making of the order.

(4) If a casino operator makes an exclusion order or receives a request to make an exclusion order, the casino operator shall—

- (a) make a record of the order or request in a manner and containing the particulars required by the Commission; and
- (b) within seven days after making the order or making a decision to refuse the request, notify the Commission of the order or decision in a manner, and containing the particulars, required by the Commission.

(5) A person who has been given an exclusion order under this Part and is aggrieved thereby may appeal in accordance with Rules made under this section.

Variation or revocation of exclusion order

115 (1) The Commission may make an order affirming, varying or revoking an exclusion order under this Part at any time of its own volition or on an application by the casino operator or the excluded person in accordance with this Part and in such manner as may be prescribed.

(2) The Commission may vary an order as it sees fit which may include extending or shortening the period of exclusion, the imposition of conditions, suspending the order for a set period (whether conditionally or unconditionally) or affirming the order on different grounds.

(3) The Commission may take into account all of the circumstances including events subsequent to the date the exclusion order was first made.

List of persons excluded by casino operator

116 (1) A casino operator shall at all times maintain a list of those persons subject to an exclusion order made by the casino operator. The Commission may, from time to time, require a casino operator to furnish that list of persons excluded from the casino premises by the casino operator.

(2) The Commission shall keep and maintain a record containing—

(a) the prescribed particulars in respect of—

(i) exclusion orders; and

(ii) requests for exclusion orders that are refused.

(b) any other information that, in the opinion of the Commission, is relevant to exclusion of persons from gambling activities or casinos.

(3) The Commission shall maintain and make available to all casino operators a record containing, for each excluded person, the full name and address and a photograph of that person, the start and end date (if applicable) of any exclusion order relating to that person, and whether the order is a compulsory-exclusion order.

(4) Information referred to in subsection (2) shall be treated as confidential information and may only be disclosed for the purposes of this Act.

(5) A person who discloses information contrary to subsection (4) commits an offence against this Act.

(6) The entry of a person's name in the record of excluded persons is, unless the contrary is proved, evidence that he is an excluded person.

(7) A casino operator shall establish procedures in accordance with any regulations or directions given by the Commission to ensure that all appropriate employees and agents are notified of the individuals on the list of excluded persons.

Excluded person not to enter casino premises

117 (1) An excluded person shall not enter or remain, or take part in any gaming, on any casino premises.

(2) Any person who is subject to a compulsory-exclusion order made under this Part who contravenes the order commits an offence and shall be liable—

- (a) on summary conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding two years or both;
- (b) on conviction on indictment to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding five years or both.

Casino operator to bar excluded persons from casino premises

118 (1) A casino operator shall not, without reasonable excuse, permit an excluded person to enter or remain on the casino premises.

(2) A casino operator shall close every casino deposit account of a person with the casino operator—

- (a) to whom the casino operator has given an exclusion order under this Part;
- (b) upon being notified that the person has been given an exclusion order by the Commission.

(3) The Minister may by regulation prescribe further obligations on a casino operator in relation to excluded individuals.

(4) A casino operator that fails to comply with the provisions of this Chapter or any regulations made thereunder shall be liable to disciplinary action.”.

(2) In consequence of subsection (1)—

(a) amend section 2 by—

(i) deleting the definition of “exclusion order” and substituting the following—

“exclusion order” means a self-exclusion order and compulsory-exclusion order under Part 6, barring a person from entering or remaining on the casino premises, but does not include a family-exclusion order made under Part 10 of this Act;”;

(ii) inserting in the appropriate alphabetical order the following definitions—

“compulsory exclusion order” means an order made pursuant to section 113;

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“family-exclusion order” means an order made pursuant to section 150 of this Act;

“self-exclusion order” means an order made pursuant to section 112.”;

- (b) amend section 150—
 - (i) by deleting the words “an exclusion order” and substituting the words “a family exclusion order”; and
 - (ii) in subsection (5) by deleting the words “as to the grounds” and substituting the words “as regards ground (a) of subsection (1)”;
- (c) amend section 152(1) by deleting the words “an exclusion order” and substituting the words “a family exclusion order”; and
- (d) amend section 163(1) by deleting the words “or by self-exclusion” and substituting the word “only”.

Amends section 120

52 Section 120 of the principal Act is amended—

- (a) in subsection (2)—
 - (i) by deleting the word “including” and substituting the words “excluding winnings from”;
 - (ii) by inserting after the word “jackpots” the words “which shall be dealt with in accordance with subsection (9)”;
 - (iii) by deleting the words “Consolidated Fund” and substituting the word “Commission”.
- (b) in subsection (3) by deleting the words “Consolidated Fund” and substituting the word “Commission”; and
- (c) by inserting after subsection (8) the following—

“(9) Any winnings from a linked jackpot must be returned to the casino operator who must comply with directions given by the Commission regarding the application of funds returned in accordance with this section.

“(10) Subject to subsection (9) the Commission shall ensure that all funds received by the Commission pursuant to this section are used to support the functions of the Problem Gaming Advisory Council.”.

Amends section 121

53 Section 121 of the principal Act is amended in subsection (1)—

- (a) by deleting the period at the end of paragraph (f) and substituting a semi colon;
- (b) by inserting after paragraph (f) the following—

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- “(g) any behaviour likely to amount to a serious arrestable offence listed in Schedule 1 to the Police and Criminal Evidence Act 2006; and
- (h) any behaviour likely to bring the casino, the Commission or Bermuda into disrepute.”.

Inserts section 121A

54 The principal Act is amended by inserting after section 121 the following new section—

“Gaming and betting by employee of casino

121A (1) The Commission may give directions prohibiting a casino employee, a class of casino employees, and immediate family of a casino employee, from gaming or betting in the casino to which his employment relates or any part thereof.

(2) An employee or immediate family member who contravenes a direction given by the Commission pursuant to subsection (1) shall commit an offence.”.

Amends various provisions relating to minors

55 (1) Section 123 of the principal Act is amended—

- (a) in the heading, by deleting the words “casino premises” and substituting the words “gaming area”; and
- (b) in subsection (1) by,
 - (i) deleting the words “on any casino premises”; and
 - (ii) inserting after the word “remain” the words “in a gaming area”

(2) Section 124 of the principal Act is amended—

- (a) in the heading, by deleting the words “casino premises” and substituting the words “gaming area”;
- (b) in subsection (1), by deleting the words “on the casino premises” and substituting the words “in a gaming area”;
- (c) in subsection (2), by deleting the words “on the casino premises” and substituting the words “in a gaming area” and by deleting the words “notify an inspector who shall forthwith notify the appropriate authority” and substituting the words “remove the minor from the gaming area”;
- (d) in subsection (4), by inserting after the words “removed from the” the words “gaming area or”; and
- (e) in subsection (5), by deleting the words “on the casino premises” and substituting the words “in a gaming area”.

(3) Section 125 of the principal Act is amended in subsection (1) by deleting the words “casino premises” wherever they appear and substituting the words “gaming area”.

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(4) Section 126 of the principal Act is amended in subsection (1), by—

- (a) deleting the words “on the casino premises” and substituting the words “in a gaming area”; and
- (b) in paragraph (a), by deleting the words “on the casino premises”.

(5) Section 127 of the principal Act is amended by deleting the words “on any casino premises” and substituting the words “in any gaming area”.

(6) Section 128 of the principal Act is amended in subsection (1) by deleting the words “casino premises” and substituting the words “gaming area”.

Amends section 134

56 Section 134 of the principal Act is amended—

- (a) by deleting the period at the end of paragraph (b) and substituting “; and”; and
- (b) by inserting after paragraph (b) the following—

“(c) any other statement, document, information or schedule required by the Commission.”.

Amends section 140

57 Section 140 of the principal Act is repealed and replaced with the following—

“Payment of casino tax

140 (1) A casino operator shall deliver to the Commission, and the Commission shall receive, a casino tax in accordance with this section and any regulations made under section 144.

(2) The amount of casino tax payable under subsection (1) shall be such percentage of the gross gaming revenue for the month from any player as shall be prescribed in Regulations made under section 144.”.

Amends section 143

58 Section 143 of the principal Act is repealed and replaced as follows—

“General Reserve

143 The Minister, with the approval of the Minister of Finance, may make regulations—

- (a) governing the payment and collection of casino taxes;
- (b) establishing a general reserve;
- (c) prescribing the permitted transactions relating to the general reserve;

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- (d) prescribing the time and manner of transactions relating to the general reserve;
- (e) prescribing the time and manner of transactions between the general reserve and the consolidated fund.”.

Amends section 144

59 Section 144 of the principal Act is amended in subsection (1) by deleting the words “after consultation with” and substituting “with the approval of”; and

Amends section 147

60 (1) Section 147 of the principal Act is amended by inserting after subsection (2) the following—

“(3) There shall be a Director of Problem and Responsible Gaming employed by the Commission on the advice of the Council who shall be responsible for problem and responsible gaming.

(4) The Council shall be funded by the Commission and the Minister may make regulations further prescribing the funding of the Council.”.

(2) In consequence of subsection (1)—

- (a) amend section 146 by inserting the following definition in the appropriate alphabetical order—

“ “Director” means the Director of Problem and Responsible Gaming;”;

- (b) amend section 148(1)(c) by inserting immediately before the word “publish” the words “to make recommendations to the Director and upon the instructions of the Director”.

Amends section 148

61 Section 148(1) of the principal Act is amended—

- (a) in paragraph (b) by deleting the words “to be made” and substituting the words “pursuant to this part”;
- (b) in paragraph (c) by deleting the period at the end and substituting “; and”;
- and
- (c) by inserting after paragraph (c) of subsection (1) the following—

“(d) to advise the Commission generally as to matters relating to problem and responsible gaming.”.

Amends section 158

62 Section 158(2)(b) of the principal Act is amended—

- (a) by deleting the words “28th” and substituting the words “10th”; and

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- (b) by deleting the words “or such later date as the Committee may determine in any particular case”.

Amends section 161

63 Section 161 of the principal Act is amended by deleting subsection (1) and substituting the following—

“(1) The Council may confirm, vary or revoke a family exclusion order made on an application by the respondent.”.

Amends section 163

64 Section 163 of the principal Act is amended—

- (a) by deleting subsection (2);
- (b) in subsection (5)—
 - (i) in paragraph (a), by inserting after the word “persons” the words “as soon as practicable”; and
 - (ii) in paragraph (b) of subsection (5), by inserting after the word “removal” the words “within 10 days of the removal”.

Amends section 166

65 The principal Act is amended by repealing section 166 and substituting the following—

“166 Casino advertising and promotions

166 (1) No person shall carry out any advertising or promotional activities relating to a casino or gaming in Bermuda unless that advertising or promotional activity is in accordance with—

- (a) any regulations made by the Minister; and
 - (b) any codes, guidance or directions given by the Commission.
- (2) Regulations made for the purposes of this section may—
- (a) specify the types of advertising and promotional activities for which approval is required;
 - (b) specify the persons or class of persons who shall be required to comply with this section;
 - (c) provide an appeal process for any person served with a notice pursuant to subsection (4).
- (3) Codes, guidance or directions given by the Commission may prescribe the form, content, timing and location of advertising or promotional activity relating to a casino or to gaming in Bermuda.

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(4) The Commission may serve a discontinuance notice in a form as may be prescribed on any person in relation to any advertisement or promotional activity.

(5) A discontinuance notice shall specify the advertisement or promotional activity to which the notice relates and the time period in which compliance is required, and may require the person served—

- (a) to take all necessary steps to discontinue the display of any advertisement;
- (b) to take all necessary steps to discontinue any promotional activity; and
- (c) to take any other steps as may be required in the notice.

(6) Any person who contravenes subsection (1) or fails to comply with a notice served pursuant to subsection (4) commits an offence and is liable on summary conviction to a fine not exceeding \$50,000.”.

Repeals section 171

66 Section 171 of the principal Act is repealed.

Amends section 185

67 Section 185 of the principal Act is amended by repealing subsection (1) and substituting the following—

“(1) The Commission may, by notice in writing, require the holder of any licence (including any provisional casino licence) or approval granted under this Act to furnish to the Commission a performance bond, deposit or some other form of security of such amount as the Commission may determine for the purpose of meeting—

- (a) any financial penalty arising out of any disciplinary proceedings commenced or to be commenced against the holder of a licence or an approval under this Act; or
- (b) any amount to defray the cost or anticipated cost of any investigation.”.

Inserts section Part 13A

68 The principal Act is amended by inserting after section 187 the following—

“PART 13A

COMBATTING CORRUPTION IN CASINO GAMING

Interpretation

187A (1) In this Part, “relevant official” means—

- (a) a Commissioner;
- (b) an employee or agent of the Commission;
- (c) a member of the Cabinet;
- (d) a member of the Legislature whose responsibilities relate directly to gaming;
- (e) a public officer whose responsibilities relate directly to gaming; and
- (f) any other person carrying out any function of a public nature whose responsibilities relate directly to gaming.

(2) In sections 187C and 187D, reference to an applicant for a licence shall include any entity that would or is likely to require a licence under the Act irrespective of whether the person has or intends to apply for a licence.

Improperly give or provide compensation, etc. to any relevant official

187B It shall be an offence for any person to improperly give or provide, or to improperly offer to give or provide, directly or indirectly, any compensation or reward or any percentage or share of the money or property played or received through gaming, eGaming or bookmaking, to any relevant official, or to the immediate family of such an official, in consideration for obtaining or assisting in obtaining a licence or approval under the Act.

Applicant and holder of a licence, etc. not to deliver any complimentary services, etc. to any relevant official

187C It shall be an offence for any applicant for or holder of a licence granted under this Act or any affiliate, intermediary, subsidiary or holding company thereof to offer or deliver to a relevant official, or to the immediate family of such an official, any complimentary services or discount where the person offering or delivering the complimentary service or discount knows or has reason to believe is other than a service or discount that is offered to members of the general public in like circumstances.

Relevant official to not hold any interest, etc. during and after time in office

187D During the period in which he holds office and for two years from the date on which he ceases to hold such office, it shall be an offence for any relevant official or for the immediate family of such an official, without the prior written consent of the Commission, to—

- (a) intentionally or knowingly hold any interest, whether legal or beneficial and whether directly or indirectly, in any licenced entity or any affiliate, intermediary, subsidiary or holding company thereof;
- (b) solicit or accept any complimentary service from an applicant for or holder of any licence granted under the Act or any affiliate,

intermediary, subsidiary or holding company thereof, which the relevant official knows or has reason to know is other than a service or discount which is offered to members of the general public in like circumstances; or

- (c) provide any goods or services to an applicant for or holder of any licence granted under the Act or any affiliate, intermediary, subsidiary or holding company thereof other than in the ordinary course of his duties as a relevant official.

Guidance as to consent under section 187D

187E (1) The Commission shall publish guidance setting out the criteria upon which it will make its decision to issue its written consent mentioned in section 187D.

(2) The Commission may, from time to time, publish revisions to guidance under this section or revised guidance.

(3) Publication under this section is to be in such manner as the Commission considers appropriate to bring the guidance to the attention of persons likely to be affected by it.

(4) Guidance issued under this section is not a statutory instrument and the Statutory Instruments Act 1977 shall not apply to it.

Improper approach or influence by member of Legislature or public officer

187F It shall be an offence for—

- (a) a member of the Legislature;
- (b) a public officer;
- (c) any other person carrying out any function of a public nature; or
- (d) the immediate family of any of the persons listed in paragraphs (a) to (d);

to improperly approach, or to seek in any way to improperly influence, a Commissioner or an employee of the Commission as regards any decision of the Commission.

Time limit for summary prosecution

187G Notwithstanding section 80 of the Criminal Jurisdiction and Procedure Act 2015, summary proceedings for an offence under this Act shall be brought within three years of the commission of the offence.

Penalties

187H A person guilty of an offence under this Part is liable—

- (a) on summary conviction, to a fine not exceeding \$500,000 or to imprisonment for a term of 10 years, or to both;

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- (b) on conviction on indictment, to an unlimited fine or to imprisonment for a term of 15 years, or to both.

Savings for other corruption or bribery law

187I The provisions in this section shall apply in addition to and notwithstanding any other provision of law relating to the corruption and bribery of persons.

Forfeiture

187J (1) The court by or before which a person is convicted of an offence under this Part ("a corruption offence") may make a forfeiture order in accordance with this section.

(2) Where a person is convicted of a corruption offence, the court may order the forfeiture of any property which, at the time of the offence, he had in his possession or under his control and which he used or intended to use for the purposes of the offence.

(3) Where a person is convicted of a corruption offence, the court may order the forfeiture of any property which wholly or partly, and directly or indirectly, is received by any person as a payment or other reward in connection with the commission of the offence.

(4) Where a person other than the convicted person claims to be the owner of or otherwise interested in anything which can be forfeited by an order under this section, the court shall give him an opportunity to be heard before making an order.

Confiscation

187K The court by or before which a person is convicted of an offence under this Part may make a confiscation order requiring the person to pay an amount equal to the amount by which the person has benefited directly or indirectly as a result of the offence."

Amends section 189

69 Section 189 of the principal Act is repealed and substituted with the following—

"Preservation of secrecy

189 (1) Except for the purpose of the performance of his duties or the exercise of his functions or when lawfully required to do so by any court, no person who is or has been—

- (a) a member, an officer, an employee or an agent of the Commission;
- (b) a person on secondment or attachment to the Commission;
- (c) a person authorised, appointed, employed or directed by the Commission to exercise the Commission's powers, perform the Commission's functions or discharge the Commission's duties or

to assist the Commission in the exercise of its powers, the performance of its functions or the discharge of its duties under this Act or any other enactment;

- (d) an inspector or a person authorised, appointed or employed to assist an inspector in connection with any function or duty of the inspector under this Act;
- (e) a member of any committee appointed by the Commission under section 11(1) or by the Council under section 152; or
- (f) a member, a secretary or an officer of the Council,

shall disclose any information relating to the affairs of the Commission or of any other person which has been obtained by him in the performance of his duties or the exercise of his functions.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable—

- (a) on summary conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding two years or to both; or
- (b) on conviction on indictment to a fine not exceeding \$100,000 or imprisonment for a term not exceeding five years or to both.

Disclosure of Information by the Commission

189A (1) Notwithstanding section 189(1), any person referred to in paragraphs (a) to (e) of that subsection may—

- (a) furnish to the Tax Commissioner any information relating to casino tax which may be required by the Tax Commissioner or officer in the performance of his duties; and
- (b) permit the Tax Commissioner or an officer authorised by the Tax Commissioner to have access to, including taking copies of, such records or documents relating to casino tax in the possession of the Commission as the Chief Executive may allow,

where the Chief Executive is satisfied that such information or access is necessary for the performance of the duties of the Tax Commissioner or officer.

(2) Notwithstanding section 189(1), any person referred to in that subsection may furnish any information, report or document obtained in the performance of his duties or in the exercise of his functions under this Act to any individual or statutory body set out in Schedule 2 for the purpose of enabling the performance or discharge by that individual or statutory body of his or its public functions or duties.

(3) Any information disclosed pursuant to this section must not be further disclosed without the consent of the Commission.

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(4) The Commission may publish the name and address of any applicant for a licence or approval under this Act and may publish information relating to the progress or outcome of such application provided that the Commission is satisfied that such publication will not prejudice that application.

Disclosure of Information to the Commission

189B (1) Any person may disclose information to the Commission if the disclosure is made for the purpose of assisting the Commission in the performance of its functions under this Act.

(2) Disclosure made pursuant to subsection 1 shall not be a breach of confidence and shall not be a breach of any other restriction on the disclosure of information (however imposed) provided that such the information disclosed is not subject to legal professional privilege.

(3) Notwithstanding the provisions of the Rehabilitation of Offenders Act 1977 or any other provision of law, in any application for a licence or approval under the Act an applicant and any associate shall be required to disclose, and the Commission may take into consideration when assessing suitability, any conviction for an offence of dishonesty, violence or any gambling offence.”.

Amends section 190

70 Section 190 of the principal Act is amended—

(a) by inserting after subsection (2) the following—

“(2A) Notwithstanding Part 3 of the Public Access to Information Act 2010, the Personal Information Protection Act 2016, or other provision of law the Commission shall not be required to disclose or provide to any person any information, record or document obtained from or provided to a foreign casino regulatory body pursuant to or pertaining to a memorandum of understanding between the Commission and that body.”;

(b) by deleting subsection (4).

Amends section 192

71 Section 192 of the principal Act is amended by deleting the words “casino operator” and substituting the word “person”.

Amends section 196

72 Section 196 of the principal Act is amended—

(a) in subsection (2)—

(i) by inserting after paragraph (a) the following—

“(aa) the application for and the granting of casino licences and provisional casino licences;”

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(ii) by inserting after paragraph (t) the following—

“(ta) the storage and protection of information obtained by the Commission or the Council under this Act.”; and

(b) by repealing subsection (4) and substituting the following—

“(4) Regulations made under sections 4, 143 and 144, and regulations relating to fees, shall be subject to the affirmative resolution procedure.”

Amends Schedule 2

73 Schedule 2 to the principal Act is amended by deleting paragraph 6 and substituting the following—

“6. Any foreign casino regulatory bodies.

7. The Bermuda Police Service.

8. The Financial Intelligence Agency.”.

Amends the Prohibition of Gaming Machines Act 2001

74 The Prohibition of Gaming Machines Act 2001 is amended in section 6 by inserting next after subsection (5)—

“(6) This section does not apply in respect of gaming machines approved or authorised for use in a casino operated pursuant to a valid licence granted under section 38 of the Casino Gaming Act 2014.”.

Commencement

75 (1) This Act shall come into operation on such date as the Minister responsible for gaming may, by notice in the Gazette, appoint.

(2) The Minister may appoint different days for different provisions.

[Assent Date: 06 December 2016]

[Operative Date: 12 January 2017]