



BERMUDA

GAMING ACT 2014

2014 : 37

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WHEREAS it is expedient to provide for integrated resorts, to allow casino gaming, to establish a Casino Gaming Commission and to establish a Problem Gaming Council to address problem gambling, and matters incidental and connected therewith;

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:

PART 1 PRELIMINARY

Citation

1 This Act may be cited as the Gaming Act 2014.

[Section 1 and Title amended by 2021 : 23 s. 4 effective 1 August 2021]

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Interpretation

- 2 (1) In this Act, unless the context otherwise requires—
- “associate” has the meaning given in section 3;
- “authorised game” means a game declared by the Commission under section 91 to be an authorised game for the purposes of this Act;
- “authorised person” means any person authorised to perform any function or duty under section 12(4);
- “bank” means any bank licensed under the Banks and Deposit Companies Act 1999;
- “barrister” means a barrister and attorney admitted and enrolled as a barrister and attorney under section 51 of the Supreme Court Act 1905;
- “Bermuda Police Service” means the Bermuda Police Force referred to in section 102(1) of the Bermuda Constitution;
- “betting” means making or accepting a wager, otherwise than in relation to a game or a lottery, 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;
- “cashless wagering system” means an electronic system that allows a gaming operator to offer its patrons a way of placing stakes and receiving winnings, without using cash or chips, by means of direct debiting and crediting of the patron account;
- “casino” means any premises, or part of premises, within a designated site where persons may participate in one or more games approved by the Commission under section 91;
- “casino employee” *[Repealed by 2021 : 23 s. 5]*
- “casino licence” means a casino licence granted under section 38 that is in force;
- “casino marketing arrangement” means an arrangement or marketing agreement whereby a person or a group of individuals is introduced to a casino operator and the introducer is entitled to receive—
- (a) a commission based on the turnover of play in the casino attributable to the patron or patrons or otherwise derived from the play of the patron or patrons;
 - (b) such other form of payment or rebate, monetary or otherwise, as may be prescribed;
- “casino operator” means a person who is the holder of a casino licence;
- “casino premises” means the casino premises referred to in section 42;

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- “Chairman” means the Chairman of the Commission;
- “Chief Executive” means the Chief Executive of the Commission appointed under section 12 and includes any person acting in that capacity;
- “chip purchase voucher” means a voucher issued by a casino operator to a patron named in the voucher entitling the patron to be issued with chips of an equivalent value to that specified in the voucher;
- “chips” means any tokens used instead of money for the purpose of gaming and includes any voucher or other instrument that has a fixed dollar wagering value;
- “Commission” means the Bermuda Gaming Commission established under section 6;
- “company” has the same meaning given in section 2(1) of the Companies Act 1981;
- “compliance committee” means a committee established by a casino operator pursuant to section 52A;
- “compulsory exclusion order” means an order made pursuant to section 113;
- “Council” means the Problem Gaming Council established under section 147;
- “court” means Magistrates’ Court;
- “designated site” means any parcel or parcels of land or any building or part thereof and the land on which it stands designated by the Minister under section 4 as a site on which a casino may be located;
- “Development Agreement” means an agreement in writing to lease land to a person (referred to hereinafter as the “lessee”) for the development of an integrated resort thereon by the lessee on the terms and conditions stated in the agreement, and includes any supplemental agreement or other document amplifying or modifying those terms and conditions;
- “disciplinary action” means—
- (a) in relation to a casino operator, disciplinary action that may be taken under Part 3;
 - (b) in relation to a special employee, disciplinary action that may be taken under Part 5;
- “eGaming” means betting or wagering on games in which persons participate by the use of remote communication;
- “eGaming zone” means an area or areas within the designated site in which—
- (a) eGaming may take place;
 - (b) physical gaming may not take place;

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“electronic monitoring system” means any electronic or computer or communications system or device that is so designed that it may be used, or adapted, to send or receive data from gaming equipment in relation to the security, accounting or operation of gaming equipment;

“electronic table game” means a gaming machine used for the purpose of playing a game traditionally played at tables, and includes any electronic device through which bets may be placed on a game played at a table;

“employ” includes engage under a contract for services;

“excluded person” means a person who is the subject of an exclusion order;

“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;

“exempt conduct” means conduct that is declared to be exempt conduct by a provision of the gaming legislation;

“existing tourist resort” means a tourist resort existing on the date that section 4 of this Act comes into operation;

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

“Financial Intelligence Agency” means the Financial Intelligence Agency established by section 3 of the Financial Intelligence Agency Act 2007;

“foreign gaming 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;

“game” means—

- (a) a game that is, or is purported to be, a game of chance or a game of chance and skill combined; or
- (b) a scheme, method or device that—
 - (i) may be used to allot or distribute prizes by lot or chance amongst a group of participants; or
 - (ii) is prescribed as a game for the purposes of this definition;

“gaming” includes any kind of wagering;

“gaming area” *[Repealed by 2021 : 23 s. 5]*

“gaming equipment” means an electronic, electrical, or mechanical contrivance or machine or any device or thing (including chips) used, or capable of being used, for or in connection with gaming and betting and includes any of the following—

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- (a) a gaming machine;
- (b) linked jackpot equipment or system;
- (c) cashless wagering system;
- (d) an electronic monitoring system;
- (e) a part of, or a replacement part for, any such machine, equipment or system;
- (f) devices used in connection with the operation of table games, including but not limited to playing cards, chips and dice;
- (g) a computerised betting system;

“gaming legislation” means—

- (a) this Act;
- (b) the Betting Act 2021;
- (c) the Cruise Ships (Casinos) Act 2013;
- (d) the Lotteries Act 1944;

“gaming machine” means any device, whether wholly or partly mechanically or electronically operated, that is so designed that—

- (a) it may be used for the purpose of playing a game of chance or a game of mixed chance and skill; and
- (b) as a result of making a wager on the device, winnings may become payable;

“gaming premises” means—

- (a) casino premises; or
- (b) a betting premises within the meaning of the Betting Act 2021;

“gaming service” means a service provided by doing one or more of the following things—

- (a) placing, making, receiving or accepting wagers;
- (b) providing a service the sole or dominant purpose of which is to introduce individuals who wish to make or place wagers to individuals who are willing to receive or accept those wagers;
- (c) conducting a lottery;
- (d) supplying lottery tickets;
- (e) conducting a game, where—
 - (i) the game is played for money or money’s worth; and

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(ii) a customer of the service gives or agrees to give consideration to play or enter the game;

“gaming vendor” means a person who offers goods or services to a casino operator or applicant for a casino licence that directly relate to the operation of casino gaming, including the manufacture, sale, repair, testing and distribution of slot machines and table game equipment and systems;

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

“gross gaming revenue” has the meaning given in section 141;

“ground for disciplinary action” means—

- (a) in relation to a regulated person, one of the grounds set out in section 46; and
- (b) in relation to a special employee, one of the grounds set out in section 79;

“guidelines” means guidelines issued by the Commission under section 200;

“holding company” has the meaning given in section 86(2) of the Companies Act 1981;

“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).

“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.

“inspector” means an inspector appointed under section 12(4);

“integrated resort ” means—

- (a) a proposed development comprising hotel, retail, dining, entertainment, recreation and other facilities of which a casino may be a part, but does not include an extension, alteration or other redevelopment of an existing tourist resort; or
- (b) an existing tourist resort comprising a hotel with not fewer than 200 rooms available for sleeping accommodation, retail, dining, entertainment, recreation and other facilities, and of which a casino may be a part;

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“inter-casino linked system” includes the hardware, software, communications technology and other associated equipment used to link and monitor games or devices located at different licensed casinos;

“international market agent”*[deleted]*

“international market agent licence”*[deleted]*

“international market agent representative”*[deleted]*

“international market agent representative licence”*[deleted]*

“intoxicating liquor” has the same meaning as in the Liquor Licence Act 1974;

“items subject to legal privilege” has the meaning given in section 7(1) of the Proceeds of Crime Act 1997;

“jackpot” means the combination of letters, numbers, symbols or representations required to be displayed on the reels or video screen of a gaming machine so that the winnings in accordance with the prize payout scale displayed on the machine are payable from money which accumulates as contributions are made to a special prize pool;

“licence or approval” means any licence, approval or permit granted under this Act;

“linked jackpot arrangement” means an arrangement or inter-casino linked system whereby two or more gaming machines are linked to a device that—

- (a) records, from time to time, an amount which, in the event of a jackpot or other result being obtained on one of those machines, may be payable, or part of which may be payable, as winnings;
- (b) for the purpose of recording the amount referred to in paragraph (a), receives data from each gaming machine to which the device is linked; and
- (c) is not capable of affecting the outcome of a game on a gaming machine to which the device is linked;

“linked jackpot equipment” means any jackpot meter, payout display, linking equipment, computer equipment, programming or other device (other than a gaming machine) forming, or capable of forming, part of a linked jackpot arrangement;

“lottery” includes any scheme, method or device, other than a game, whereby prizes, whether money prizes or other prizes, are allotted or distributed by lot or chance, to or among the persons participating in the lottery;

“match play coupon” means a coupon issued by a casino operator to a patron which, when presented by the patron together with chips in any wager, augments the patron's wager according to a ratio, percentage or value specified in the coupon;

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“member” means a member of the Commission;

“Minister” means the Minister of Finance;

“money laundering” has the meaning given in section 7 of the Proceeds of Crime Act 1997;

“operations”, in relation to a casino, means—

- (a) the conduct of gaming in the casino;
- (b) the management and supervision of the conduct of gaming in the casino;
- (c) money counting in, and in relation to, the casino;
- (d) accounting procedures in, and in relation to, the casino;
- (e) the use of storage areas within the casino premises; and
- (f) other matters affecting or arising out of activities in the casino;

“owner”, in relation to a designated site, means—

- (a) the person who holds the estate in fee simple of the designated site or proposed designated site and, in any case where such site is owned by the Government, the owner shall be the person who has entered into a Development Agreement to lease the site; or
- (b) the person who has entered into an operator agreement with the owner of an integrated resort to operate a casino on the designated site;

“patron” means any individual who—

- (a) opens a patron account with a casino operator; or
- (b) is involved in a cash transaction with a casino operator within its casino premises, whether or not that person participates in gaming in the casino;

“patron account” means an account to the credit of a patron for purposes of gaming in a casino whether it is a credit account, a cheque cashing account, a deposit account or any other account opened by or on behalf of a patron with a casino operator;

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

“prescribed” means prescribed by regulations or rules as the case may be;

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

“record” includes any book, account, document, paper or other source of information compiled, recorded or stored in written form, or on microfilm, or by electronic process, or in any other matter or by any other means;

“regulations” means regulations made under this Act;

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“room” means a bedroom in an existing tourist resort that is available for paying guests throughout a year;

“rules” means rules made under this Act;

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

“share” includes stock except where a distinction between stock and shares is express or implied;

“special employee” means a person required to hold a special employee licence in accordance with Part 5;

“special employee licence” means a special employee licence issued by the Commission under Part 5.

“staff member”, in relation to a gaming operator, means—

- (a) an employee of the gaming operator; or
- (b) another individual who performs functions that are part of the normal operations of the relevant gaming premises, including such ancillary functions as catering and cleaning, whether or not the person is directly employed by the gaming operator;

“terrorist financing” has the meaning given in section 2 of the Anti-Terrorism (Financial and Other Measures) Act 2004;

“ticket” includes, in relation to any lottery or proposed lottery, any document evidencing the claim of a person to participate in the chances of the lottery;

“wager” means, according to context—

- (a) to make an agreement with one or more persons to pay money or money’s worth to one or more of the other persons on the basis of the result of a game, lottery or other uncertain event, whether or not a stake or participation fee is required;
- (b) such an agreement; or
- (c) the amount of money or money’s worth to be staked or paid by a particular person under such an agreement;

“winnings”, in relation to a party to a wager, means the money or money’s worth to be paid to, or retained by, that party as a result of the wager.

(2) In this Act—

- (a) a reference to a function includes a reference to a power, authority or duty; and

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- (b) a reference to the exercise of a function includes, in relation to a duty, a reference to the performance of the duty.

[Section 2 subsection (1) "integrated resort" and "owner" amended and "existing tourist resort", "Financial Intelligence Agency", "money laundering", "room" and "terrorist financing" inserted by 2015 : 35 s. 2 effective 6 November 2015; "Development Agreement" amended, "special employee" deleted and substituted and "foreign casino regulatory body", "General Administrative Documents", "guidelines", "immediate family" and "information" inserted by 2016 : 48 s. 2 effective 12 January 2017; "authorised game", "betting", "eGaming", "eGaming zone", "gaming area" and "physical gaming" inserted by 2016 : 48 s. 16 effective 12 January 2017; "provisional casino licence" inserted by 2016 : 48 s. 18 effective 12 January 2017; compliance committee" inserted by 2016 : 48 s. 29 effective 12 January 2017; "casino marketing arrangement" amended and "international market agent", "international market agent licence", "international market agent representative" and "international market agent representative licence" deleted by 2016 : 48 s. 49 effective 12 January 2017; "exclusion order" deleted and substituted and "compulsory exclusion order", "family-exclusion order" and "self-exclusion order" inserted by 2016 : 48 s. 51 effective 12 January 2017; Section 2 subsection (1) definitions "betting", "cashless wagering system", "disciplinary action", "eGaming zone", "gaming equipment" and "gaming machine" amended by 2019 : 42 s. 2 effective 26 November 2019; Section 2 subsection (1) definitions "associate", "exempt conduct", "gaming legislation", "gaming premises", "gaming service", "ground for disciplinary action", "intoxicating liquor", "licence or approval", "lottery", "staff member", "ticket", "wager" and "winnings" inserted by 2021 : 23 s. 5 effective 1 August 2021; Section 2 subsection (1) definitions "betting", "Commission", "e-Gaming", "foreign casino regulatory body" and "gaming equipment" amended by 2021 : 23 s. 5 effective 1 August 2021; Section 2 subsection (1) definitions "cashless wagering system" and "game" repealed and substituted by 2021 : 23 s. 5 effective 1 August 2021; Section 2 subsection (1) definitions "casino employee" and "gaming area" repealed, and "gaming" inserted by 2021 : 23 s. 5 effective 1 August 2021; Section 2 subsection (1) definition "Minister" deleted and substituted by 2023 : 15 s. 2 effective 31 March 2023]

Meaning of "associate"

3 (1) In this section, a reference to the "operator" is a reference to a person who is an applicant for, or the holder of, a licence under this Act.

(1A) For the purposes of this Act, a person is an "associate" of, or associated with, the operator if, in the opinion of the Commission, the person is able or will be able to exercise an influence over or with respect to the management or operation of the business of the operator to which the licence relates ("the business").

(2) In determining whether a person is able or will be able to exercise such an influence, the Commission may consider all or any of the following—

- (a) whether the person holds or will hold any relevant financial interest in the business;
- (b) whether the person is or will be entitled to exercise any relevant power (whether in his own right or on behalf of any other person) in the business;
- (c) whether the person holds or will hold any relevant position (whether in his own right or on behalf of any other person) in the business;
- (d) the degree of direct or indirect influence that the person has in the management or operation of the business;

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- (e) where the operator holds or is applying for a casino licence, whether the person has any interest, directly or indirectly, in the designated site or the integrated resort;
- (f) any other matter that the Commission considers relevant.

(3) In this section—

“relevant financial interest”, in relation to a business, means—

- (a) any share of five per cent or greater than five per cent in the capital of the business;
- (b) any entitlement to receive any income derived from the business; or
- (c) any contribution to the capital of the business, whether by a loan or otherwise;

“relevant position”, in relation to a business, means the position of director or manager, or other executive position, however that position is designated;

“relevant power” means any power, whether exercisable by voting or otherwise and whether exercisable alone or in association with others—

- (a) to participate in any directorial, managerial or executive decision; or
- (b) to elect or appoint any person to any relevant position.

[Section 3 subsections (1) and (2) amended by 2016 : 48 s. 3 effective 12 January 2017; Section 3 subsections (1) and (2) repealed and substituted, and subsection (1A) inserted by 2021 : 23 s. 6 effective 1 August 2021]

Designated site

4 (1) Subject to section 4A, the Minister, acting on the advice of the Commission, may by order published in the Gazette—

- (a) designate, for such period as may be appropriate (the “specified period”), a parcel of land or an existing tourist resort as a site for an integrated resort;
- (b) extend any period under paragraph (a) for such further period as may be specified in the order.

(2) An order made by the Minister under subsection (1) is subject to the affirmative resolution procedure.

[Section 4 subsection (1) repealed and substituted by 2015 : 35 s. 3 effective 6 November 2015]

Application for designation of site

4A (1) The owner of land or of an existing tourist resort who wishes to have it designated under section 4 shall make an application to the Minister for that purpose.

(2) An application under subsection (1) shall—

- (a) be made in such form as the Commission may from time to time approve;

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- (b) be accompanied by the prescribed fee which shall be payable to the Commission and shall be non-refundable; and
- (c) contain such information and be accompanied by such plans, specifications, drawings, reports and other documents, as may be prescribed.

[Section 4A inserted by 2015 : 35 s. 4 effective 6 November 2015; subsection (2)(b) amended by 2016 : 48 s. 4 effective 12 January 2017]

Minister may revoke order for designated site in public interest

5 (1) Notwithstanding any other provision of this Act, if it appears to the Minister to be necessary in the public interest to do so, the Minister may, after consultation with the Commission—

- (a) revoke any order made under section 4(1); and
- (b) give such directions to the Commission or the casino operator concerned as are necessary to give effect to the revocation of the order.

(2) The Commission shall give effect to any direction given by the Minister under subsection (1).

(3) Where the Minister has revoked an order under subsection (1)(a), any casino licence granted for a casino on the site to which that order relates shall be deemed to be cancelled.

(4) Fair compensation for any economic loss caused to the casino operator concerned by reason of the revocation of the order under or pursuant to this section shall be paid.

(5) If the amount of compensation that may be payable under subsection (4) is disputed by the casino operator, the dispute shall be referred to arbitration, and parties shall be deemed as having submitted the dispute to arbitration to be decided in accordance with Bermuda law.

(6) If any doubt arises as to whether any act done under this section was in the public interest, a certificate signed by the Minister shall be conclusive evidence of the matters stated therein.

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);

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- (c) a provisional casino licence is granted under section 32A, but the Commission refuses to grant a casino licence to the provisional licensee.

[Section 5A inserted by 2016 : 48 s. 5 effective 12 January 2017]

PART 2

BERMUDA GAMING COMMISSION

Chapter 1 - Establishment, incorporation and constitution of Commission

Establishment of Bermuda Gaming Commission

6 (1) There shall be established a Commission to be known as the “Bermuda Gaming Commission” which shall have such powers and perform such functions as are assigned to it by this Act or any other Act and the Regulations made thereunder.

(2) The Commission shall be a body corporate having perpetual succession and a common seal and, subject to this Act, shall have power to acquire, hold and dispose of movable and immovable property of whatever kind and to enter into contracts and to do all things necessary for the purpose of its functions.

(3) The Commission may sue and be sued in its corporate name and may for all purposes be described by that name.

(4) The seal of the Commission shall be authenticated by the signature of the Chairman and one other director authorised to act in that behalf and shall be judicially and officially noticed.

(5) All documents, other than those required by law to be under seal, made by, and all decisions of, the Commission may be signified under the hand of the Chairman or any officer authorised to act in that behalf.

[Section 6 heading and subsection (1) amended by 2021 : 23 s. 7 effective 1 August 2021]

Constitution of Commission

7 (1) The Commission shall consist of the following five members who shall be appointed by the Minister—

- (a) a Chairman who shall be a barrister with not fewer than five years post-qualification experience;
- (b) four other members including—
 - (i) one person who shall be a public accountant registered or deemed to be registered under the Chartered Professional Accountants of Bermuda Act 1973;
 - (ii) one person who shall have a background in law enforcement or anti-money laundering or anti-terrorist financing or compliance issues;

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(iii) one person who shall have a background in the tourism or hospitality industry.

(2) Schedule 1 shall have effect with respect to the Commission, its members and its proceedings.

Chapter 2 - Objects, functions, duties and powers of Commission

Objects of Commission

8 (1) The principal objects of the Commission are to maintain and administer systems for the licensing, supervision and control of gaming in Bermuda, for the purpose of—

- (a) ensuring that the management and operation of casinos, bookmaker services and other businesses that offer gaming is carried out by persons who are suitable, and remains free from criminal influence or exploitation;
- (b) ensuring that gaming offered by such businesses is conducted honestly; and
- (c) containing and controlling the potential of gaming to cause harm to minors, vulnerable persons and society at large;
- (d) performing such functions as may be necessary or expedient to fulfil such principal objects.

(2) The Minister may, from time to time after consultation with the Commission, give to the Commission in writing such general directions as appear to the Minister to be necessary in the public interest, and the Commission shall act in accordance with such directions.

[Section 8 amended by 2017 : 45 s. 2 effective 20 December 2017; Section 8 amended by 2021 : 23 s. 8 effective 1 August 2021]

Functions and duties of Commission

9 (1) The functions of the Commission shall be—

- (a) to administer the gaming legislation, and perform the functions conferred or imposed on the Commission under the gaming legislation, in a manner that best ensures that the objects of the Commission are achieved;
- (b) to supervise casino operations and casino operators for the purpose of detecting or preventing money laundering, the financing of terrorism and the financing of the proliferation of weapons of mass destruction; and
- (c) to perform such other functions as are conferred or imposed on the Commission by or under any other enactment.

(2) The Commission, in the course of its general responsibilities for the supervision, regulation and inspection of gaming businesses shall have regard to the

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need for them to be alert to the risk that their operations may be used in connection with financial crime and to the consequent need to have appropriate arrangements in place to monitor and control its incidence.

(3) Nothing in this section shall be construed as imposing on the Commission, directly or indirectly, any form of duty or liability enforceable by proceedings before any court to which it would not otherwise be subject.

[Section 9 subsection (1)(d) repealed and substituted by 2015 : 35 s. 5 effective 6 November 2015; subsection (1)(aa) inserted by 2016 : 48 s. 6 effective 12 January 2017; Section 9 subsection (1) repealed and substituted, and subsection (2) amended by 2021 : 23 s. 9 effective 1 August 2021]

Powers of Commission

10 (1) Subject to the provisions of this Act, the Commission may carry on such activities as appear to the Commission to be advantageous, necessary or expedient in connection with its objects, the performance of its functions and the discharge of its duties under this Act, the Regulations or any other law.

(2) Without prejudice to the generality of subsection (1), the Commission may—

- (a) conduct such investigations for grant of licences or compliance with licence conditions as may be necessary for enforcing this Act;
- (b) require any person to furnish such returns and information as may be necessary for implementing the provisions of this Act;
- (c) issue or approve codes of practice relating to casino operations or other activities performed under a licence or approval under this Act;
- (d) publish educational materials or carry out research or other educational activities relating to gaming, or to support (financially or otherwise) the carrying out by others of such activities or the provision by others of information or advice;
- (e) enter into such contracts as may be necessary or expedient for the purpose of performing its functions or discharging its duties;
- (f) acquire and hold property, both movable and immovable, and to sell, lease, or otherwise dispose of the property only in so far as the Commission considers necessary or expedient for the provision or future provision of business premises for the Commission or of any other requirement incidental to the performance of its functions under this Act;
- (g) make provision for pensions, allowances or other benefits for employees or former employees of the Commission; and
- (h) make provision for the specialised training of any employee of the Commission and, in that connection, to offer scholarships to intending trainees or otherwise pay for the cost of the training and all expenditure incidental thereto.

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(3) The Commission shall furnish the Minister information with respect to its property and activities in such manner and at such times as the Minister may, from time to time, require.

[Section 10 subsection (2) amended by 2021 : 23 s. 10 effective 1 August 2021]

Appointment of committees and delegation of powers

11 (1) The Commission may appoint from amongst its own members or from other persons who are not members such number of committees as it thinks fit for purposes which, in the opinion of the Commission, would be better regulated and managed by means of such committees.

(2) The Commission may, subject to such conditions or restrictions as it thinks fit, delegate to any such committee appointed under subsection (1) or to the Chairman or Chief Executive or to any other member, officer or employee of the Commission, any of the functions or powers of the Commission under this Act or any other enactment, except—

- (a) the power of delegation conferred by this section; and
- (b) the power to make any codes or issue any guidance.

(3) Any function or power delegated under subsection (2) to any committee or person may be performed or exercised by the committee or person to whom it has been delegated in the name and on behalf of the Commission.

(4) No delegation under this section shall prevent the performance or exercise of any function or power by the Commission.

Chapter 3 - Provisions relating to staff and inspectors

Appointment of Chief Executive and other employees, etc.

12 (1) The Commission shall, with the approval of the Minister, appoint a Chief Executive on such terms and conditions as the Commission may determine.

(2) The Chief Executive shall—

- (a) be known by such designation as the Commission may determine;
- (b) be responsible to the Commission for the proper administration and management of the functions and affairs of the Commission in accordance with the policy laid down by the Commission.

(3) If the Chief Executive is temporarily absent from Bermuda or temporarily incapacitated by reason of illness or for any other reason temporarily unable to discharge his duties, another person may be appointed by the Commission to act in the place of the Chief Executive during any such period of absence from duty.

(4) The Commission may, from time to time, appoint and employ on such terms and conditions as the Commission may determine such officers, employees, inspectors and agents (“staff”) as may be necessary for the effective performance of its functions and discharge of its duties.

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(5) The Commission shall establish the remuneration, terms and conditions of employment of each member of the staff.

(6) The Commission may, from time to time, authorise any person to perform any function or duty under this Act.

[Section 12 subsection (5) amended by 2015 : 35 s. 6 effective 6 November 2015]

Functions of inspectors

13 The functions of an inspector are as follows—

- (a) for the purpose of ascertaining whether or not the holder of a licence or approval is complying with the provisions of the gaming legislation, the conditions of the licence or approval and any direction issued by the Commission under the gaming legislation—
 - (i) to monitor the activities of the holder of the licence or approval;
 - (ii) to inspect any gaming premises;
 - (iii) to monitor any casino operations or other gaming operations; and
 - (iv) to examine gaming equipment used on gaming premises and records kept in relation to such gaming operations;
- (b) to monitor the handling and counting of money on gaming premises;
- (c) to assist in any other manner, where necessary, in the detection of offences committed against the gaming legislation;
- (d) to receive and investigate complaints from patrons relating to the conduct of gaming;
- (e) to report to the Commission regarding casino operations and other activities performed under, or purportedly under, a licence or approval; and
- (f) to perform any other functions as are conferred on inspectors under the gaming legislation.

[Section 13 amended by 2021 : 23 s. 11 effective 1 August 2021]

Powers of inspectors

14 (1) An inspector may do any one or more of the following—

- (a) require any person in possession of, or having control of, any machinery, equipment, record or other thing relating to the operations of a casino to produce the machinery, equipment, record or other thing for inspection and to answer questions or provide information relating to the machinery, equipment, record or other thing;
- (b) inspect any machinery, equipment, record or other thing referred to in paragraph (a) and take copies of, extracts from, or notes relating to, such record;

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- (c) if the inspector considers it necessary to do so for the purpose of obtaining evidence of the contravention of any provision of this Act, seize any machinery, equipment, record or other thing;
- (d) stop any game conducted in a casino;
- (e) by written notice require—
 - (i) the holder of any casino licence, special employee licence, or other authorisation or approval under this Act;
 - (ii) an employee of a person referred to in sub-paragraph (i); or
 - (iii) any other person associated with operations or their management in premises the inspector is authorised to enter,
to attend before the inspector at a specified time and place and to answer questions, or to provide information within a reasonable period specified in the notice, with respect to any activity regulated by this Act;
- (f) examine and test any machinery, equipment or other thing referred to in paragraph (a) and order the person in charge of it to withdraw it from use if it is unsatisfactory for use;
- (g) investigate any complaint from a patron of a casino relating to the conduct of any activity regulated by this Act;
- (h) any other thing authorised by this Act to be done by an inspector.

(2) If an inspector seizes any thing under this section, it may be retained by the inspector until the completion of any proceedings (including proceedings on appeal) in which it may be evidence but, in the case of records, the person from whom the records were seized shall be permitted to inspect and make copies of the records.

(3) Subsection (2) ceases to have effect in relation to things seized if, on the application of a person aggrieved by the seizure, the court in which proceedings referred to in that subsection are instituted so orders.

[Section 14 subsection (1)(e) amended by 2016 : 48 s. 49 effective 12 January 2017]

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.

[Section 14A inserted by 2016 : 48 s. 7 effective 12 January 2017]

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Power to require names and addresses

15 (1) An inspector who exercises a right of entry to casino premises under section 110 or a police officer under a search warrant may require a person on the premises to state the person's full name and residential address.

(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.

(3) Any person who fails to comply with a requirement made under subsection (1) commits an offence.

[Section 15 subsection (2) deleted and substituted and subsection (2A) inserted by 2016 : 48 s. 8 effective 12 January 2017]

Seizure and forfeiture of equipment, etc.

16 (1) An inspector may seize and retain for a period not exceeding thirty days—

- (a) any thing that the inspector reasonably suspects is gaming equipment that is not authorised under this Act to be on the casino premises; or
- (b) any article or thing relating to gaming the use or possession of which is unlawful.

(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.

(3) The standard of proof required under this section shall be the balance of probabilities.

(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.

(5) On an application under subsection (2), the court—

- (a) shall give the person from whom an article or thing has been seized the opportunity to be heard;

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- (b) may, if satisfied that the item is a thing or article set out in subsection (1)(a) or (b), order that the item be forfeited to the Commission or such other order as appropriate in all the circumstances;
- (c) if it is not satisfied as to the matters referred to in paragraph (b), order the return of the item to the person from whom it was seized.

(6) Any item forfeited under this section shall be disposed of in accordance with any direction of the court.

[Section 16 subsections (1) and (5) amended and subsections (2) and (4) deleted and substituted by 2016 : 48 s. 9 effective 12 January 2017]

Chapter 4 - Financial provisions

Funds and property of Commission

17 The funds and property of the Commission shall consist of—

- (a) such sums as may be appropriated by the Legislature;
- (b) all fees and financial penalties paid under the gaming legislation;
- (c) all moneys paid to the Commission for the purposes of the Commission;
- (d) all moneys received by the Commission by way of charges and fees for services rendered by the Commission to any person;
- (e) all moneys, dividends, royalties, interest or income received from any transaction made pursuant to the powers conferred on the Commission under this Act or any other enactment;
- (f) all other moneys and property lawfully received by the Commission for the purposes of the Commission; and
- (g) all accumulations of income derived from any such property or money.

[Section 17(b) repealed and substituted by 2016 : 48 s. 10 effective 12 January 2017; Section 17(b) amended by 2021 : 23 s. 12 effective 1 August 2021]

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 and approval of the Minister.

[Section 17A inserted by 2016 : 48 s. 11 effective 12 January 2017; Section 17A subsection (2) repealed and substituted by 2023 : 15 s. 5 effective 31 March 2023]

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Financial year

18 The financial year of the Commission shall begin on 1st April of each year and end on 31st March of the succeeding year.

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—
- (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 Minister may require, for the upcoming financial year.
- (4) The Minister shall—
- (a) consider the documents submitted under subsection (3) and any other information submitted by the Commission;
 - (b) after taking into account and having due regard to such representations made by the Commission, make any modifications to the proposed budget that the Minister 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.

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(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.

(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.

[Section 18A inserted by 2016 : 48 s. 12 effective 12 January 2017; Section 18A amended by 2023 : 15 s. 5 effective 31 March 2023]

Moneys recovered or collected by Commission

19 Except where otherwise provided, all moneys recovered and charges, fees, and financial penalties collected by the Commission under this Act shall be paid into and form part of the moneys of the Commission.

[Section 19 amended by 2016 : 48 s. 13 effective 12 January 2017]

Bank account

20 (1) The Commission shall open and maintain an account with such bank as the Commission thinks fit.

(2) Every such account shall be operated by such members of the Commission as may, from time to time, be authorised in that behalf by the Commission.

Application of moneys

21 The moneys of the Commission shall be applied only in payment or discharge of the expenses, obligations and liabilities of the Commission and in making any payment that the Commission is authorised or required to make.

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Accounts and records

22 The Commission shall keep proper accounts and records of its transactions and affairs and shall do all things necessary to ensure that—

- (a) all payments out of its moneys are correctly made and properly authorised; and
- (b) adequate control is maintained over the assets of, or in the custody of, the Commission and over the expenditure incurred by the Commission.

Audit of accounts

23 (1) The accounts of the Commission shall be audited by the Auditor-General or such other auditor as may be appointed annually by the Auditor-General.

(2) A person shall not be qualified for appointment as an auditor under subsection (1) unless he is a public accountant who is registered or deemed to be registered under the Chartered Professional Accountants of Bermuda Act 1973.

(3) The Commission shall, as soon as practicable and not later than four months after the end of the financial year, prepare and submit the financial statements in respect of that year to the auditor who shall audit and report on them.

(4) The auditor shall in his report state—

- (a) whether the financial statements show fairly the financial transactions and the state of affairs of the Commission;
- (b) whether proper accounting and other records have been kept, including records of all assets of the Commission whether purchased, donated or otherwise;
- (c) whether the receipts, expenditure and investment of moneys and the acquisition and disposal of assets by the Commission during the financial year were in accordance with the provisions of this Act; and
- (d) such other matters arising from the audit as he considers necessary.

(5) The auditor shall, as soon as practicable after the accounts have been submitted for audit, send a report of his audit to the Commission.

(6) The auditor shall submit such periodical and special reports to the Minister and to the Commission as may appear to him to be necessary or as the Minister or the Commission may require.

[Section 23 subsection (3) amended by 2015 : 35 s. 7 effective 6 November 2015]

Powers of auditor

24 (1) The auditor or any person authorised by him shall be entitled at all reasonable times to full and free access to all accounting and other records directly, relating, to the financial transactions of the Commission.

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(2) The auditor or any person authorised by him may make copies of, or take extracts from, any such accounting or other records directly relating to the financial transactions of the Commission.

(3) The auditor or any person authorised by him may require any person to furnish him with such information in the possession of that person or to which that person has access directly relating to the financial transactions of the Commission as the auditor or the person authorised by him considers necessary for the performance of his functions under this Act.

(4) Any person who—

- (a) refuses or fails, without reasonable cause, to allow the auditor or any person authorised by the auditor access to any accounting and other records directly relating to the financial transactions of the Commission in his custody or power;
- (b) refuses or fails, without reasonable cause, to give information possessed by him as and when required by the auditor or person authorised by the auditor pursuant to this section; or
- (c) hinders, obstructs or delays the auditor or any person authorised by the auditor in the performance of his functions,

commits an offence and shall be liable on summary conviction to a fine not exceeding \$10,000.

[Section 24 subsections (1) - (4) amended by 2016 : 48 s. 14 effective 12 January 2017; Section 24 subsection (4) amended by 2021 : 23 s. 13 effective 1 August 2021]

Presentation of financial statements and auditor's report to the Legislature

25 (1) The Commission shall, as soon as its accounts and financial statements have been audited in accordance with the provisions of this Act, send to the Minister a copy of the audited financial statements, signed by the Chairman, together with a copy of the auditor's report.

(2) Where the Auditor-General is not the auditor of the Commission, a copy of the audited financial statements and any report made by the auditor shall be forwarded to the Auditor-General at the same time they are submitted to the Commission.

(3) The Minister shall, as soon as practicable, cause a copy of the audited financial statements and of the auditor's report referred to in subsection (1) to be laid before each House of the Legislature.

Chapter 5 - General

Annual report

26 (1) The Commission shall, as soon as practicable after the end of each financial year and not later than six months thereafter, cause to be prepared and transmitted to the Minister a report dealing generally with the activities of the Commission during the

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preceding financial year and containing such information relating to the proceedings and policy of the Commission as the Minister may, from time to time, direct.

(2) The Minister shall, as soon as practicable, cause a copy of every such report to be laid before each House of the Legislature.

Symbol or representation of Commission

27 (1) The Commission shall have the exclusive right, subject to compliance with relevant laws, to the use of such symbol or representation as the Commission may select or devise and thereafter display or exhibit such symbol or representation in connection with its activities or affairs.

(2) Any person who uses a symbol or representation identical with that of the Commission, or which so resembles the Commission's symbol or representation as to deceive or cause confusion, or to be likely to deceive or to cause confusion, commits an offence and shall be liable on conviction to a fine not exceeding \$5,000 or to imprisonment for a term not exceeding 6 months or to both.

PART 3

LICENSING OF CASINOS

Chapter 1 - Number of casinos, licensed casinos lawful, enforceability of contracts relating to gaming

Three casinos only

28 (1) The Commission shall ensure that there are not more than three casino licences in force under this Act at any time.

(2) A casino licence shall apply to one casino only.

(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).

[Section 28 subsection (3) inserted by 2016 : 48 s. 15 effective 12 January 2017]

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;

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- (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 2021 shall not apply to any casino operator.

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

[Section 29 repealed and substituted by 2016 : 48 s. 16 effective 12 January 2017; Section 29 subsection (3) amended by 2021 : 23 Sch. 1 & s. 30 effective 1 August 2021]

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) *[Repealed by 2021 : 23 s. 30]*

[Section 29A inserted by 2016 : 48 s. 16 effective 12 January 2017; Section 29A subsection (4) repealed by 2021 : 23 Sch. 1 & s. 30 effective 1 August 2021]

Enforceability of gaming contracts

30 (1) The fact that a contract relates to gaming in a casino shall not prevent its enforcement.

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(2) Subsection (1) is without prejudice to any rule of law preventing the enforcement of a contract on the grounds of unlawfulness (other than a rule relating specifically to gaming).

[Section 30 subsection (2) amended by 2021 : 23 Sch. 1 & s. 30 effective 1 August 2021]

Chapter 2 - Application for casino licence

Operating casino without casino licence prohibited

31 *[Repealed by 2021 : 23 s. 14]*

[Section 31 repealed by 2021 : 23 s. 14 effective 1 August 2021]

Application for casino licence

32 (1) An application for a casino licence may be made to the Commission only by the owner of a designated site on which a casino is intended to be located or, with the approval of the Commission, by a person nominated by that owner.

(2) Every application for a casino licence shall be—

- (a) made to the Commission in a form approved by the Commission;
- (b) accompanied by the prescribed application fee which shall be non-refundable;
- (c) accompanied by such documents and information as may be required by the Commission as regards that licence application.

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

[Section 32 subsection (3) inserted by 2016 : 48 s. 17 effective 12 January 2017]

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.

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

[Section 32A inserted by 2016 : 48 s. 18 effective 12 January 2017]

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.

[Section 32B inserted by 2016 : 48 s. 18 effective 12 January 2017]

Matters to be considered in determining applications

33 (1) The Commission shall not grant an application for a casino licence unless the Commission is satisfied that the applicant, and each associate of the applicant, is a suitable person to be concerned in or associated with the management and operation of a casino.

(2) In particular, the Commission shall consider whether—

- (a) each such person is of good repute, having regard to character, honesty and integrity;

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- (aa) each such person is a fit and proper person to be concerned with or associated with a casino operator or the operation of a casino, in accordance with the minimum criteria that are set out in section 11A of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008;
- (b) each such person is of sound and stable financial background;
- (c) the applicant has, or has arranged, a satisfactory ownership or corporate structure; but, for the purposes of this Act, satisfactory ownership or corporate structure does not include a trust or similar legal arrangement;
- (d) the applicant has or is able to obtain financial resources that are adequate to ensure the financial viability of the proposed casino and the services of persons who have sufficient experience in the management and operations of a casino;
- (e) the applicant has sufficient business ability to establish and maintain a successful casino;
- (f) any of those persons has any business association with any person, who or which, in the opinion of the Commission, is not of good repute having regard to character, honesty and integrity or has undesirable or unsatisfactory financial resources;
- (g) each director, partner, trustee, executive officer and secretary and any other officer or person determined by the Commission to be associated or connected with the ownership, administration or management of the operations or business of the applicant is a suitable person to act in that capacity;
- (h) any person proposed to be engaged or appointed to manage or operate the casino is a suitable person to act in that capacity;
- (i) the applicant is a suitable person to develop, maintain and promote the integrated resort (of which the casino is a part) as a compelling tourist destination which meets prevailing market demand and industry standards and contributes to the tourism industry in Bermuda; and
- (j) any other matter that may be prescribed.

(3) Section 11A(2) and (3) of, and Schedule 2 to, the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 apply with the necessary modifications for the purpose of determining who is a fit and proper person for the purposes of this section, as they apply for the purposes of that Act.

[Section 33 subsection (2) amended and subsection (3) inserted by 2015 : 35 s. 9 effective 6 November 2015; subsection (2) amended by 2016 : 48 s. 19 effective 12 January 2017; subsection (2)(c) amended by 2019 : 42 s. 3 effective 26 November 2019]

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Commission to form opinion on integrated resort

34 (1) The Commission may evaluate the following, in relation to any proposed casino—

- (a) the visitor appeal of the casino;
- (b) the comparability of the casino or any part thereof to similar attractions or facilities internationally or to the prevailing industry standards in respect of each such attraction or facility;
- (c) the degree to which the casino or any attraction or facility therein meets the prevailing market demand in respect of the integrated resort, attraction or facility; and
- (d) the contribution of the casino to the tourism industry in Bermuda.

(2) In formulating its opinion on the matters in subsection (1) in relation to any casino, the Commission shall call for and consider the views of the applicant for the casino licence and any party to the Development Agreement concerning that casino and may also do all or any of the following—

- (a) request the applicant for the casino licence to furnish one or more of the following—
 - (i) revenue and other financial information on the integrated resort, including itemised information about each attraction in the casino;
 - (ii) the reinvestment plans or maintenance plans for any part of the integrated resort;
 - (iii) any survey carried out about a performance indicator for any aspect of the integrated resort;
 - (iv) such other documents or information relating to the integrated resort as the evaluation panel may consider necessary;
 - (b) enter any part of the integrated resort and inspect it;
 - (c) call for and consider the views of persons with the necessary experience or expertise;
 - (d) assess the quality of the integrated resort, or any part thereof, against such performance indicators and standards, and using such methodology, as may be prescribed.
- (3) The Commission shall, upon the conclusion of its evaluation—
- (a) give its opinion on the matters in subsection (1); and
 - (b) state, in its opinion, when the next evaluation should be carried out.

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(4) The Minister may make regulations generally for the carrying out of or giving effect to the purposes of this section, and may prescribe anything required or permitted to be prescribed under this section.

[Section 34 subsection (1) amended by 2016 : 48 s. 20 effective 12 January 2017]

Investigation of application

35 (1) On receiving an application for a casino licence, the Commission shall cause to be carried out all such investigations and inquiries as it considers necessary to enable it to consider the application properly.

(2) In particular, the Commission may—

- (a) require any person it is investigating in relation to the person's suitability to be concerned in or associated with the management or operations of a casino to consent to having his photograph, finger prints and palm prints taken; and
- (b) send a copy of the application and of any such photograph, finger prints and palm prints taken under paragraph (a) and any supporting documentation to the Commissioner of Police,

but the Commissioner must ensure that information or other matters collected under this section shall be maintained as confidential information, not to be used for any other purpose than the purpose provided in this section.

(3) The Commission may refuse to consider an application for a casino licence if any person from whom it requires a photograph, finger prints or palm prints under this section refuses to allow his photograph, finger prints or palm prints to be taken.

Commission may require further information, etc.

36 (1) The Commission may, by notice in writing, require a person who is an applicant for a casino licence or a person whose association with the applicant is, in the opinion of the Commission, relevant to the application to do any one or more of the following—

- (a) to provide, in accordance with directions in the notice, any information that is relevant to the investigation of the application and is specified in the notice;
- (b) to produce, in accordance with directions in the notice, any records relevant to the investigation of the application that are specified in the notice and to permit examination of the records, the taking of extracts from them and the making of copies of them;
- (c) to furnish to the Commission any authorisations and consents from other persons that the Commission directs for the purpose of enabling the Commission to obtain information (including financial and other confidential information) concerning the person and his associates .

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(2) If a requirement made under this section is not complied with, the Commission may refuse to consider the application concerned.

Updating of application

37 (1) If a change occurs in the information provided in or in connection with an application for a casino licence (including in any documents lodged with the application) before the application is granted or refused, the applicant shall, without delay, give the Commission written particulars of the change.

(2) If—

(a) the Commission requires information (including information in any records) from a person referred to in section 36 whose association with the applicant is in the opinion of the Commission relevant to the application; and

(b) a change occurs in the information provided before the application is granted or refused,

that person shall, without delay, give the Commission written particulars of the change.

(3) Any person who fails to comply with subsection (1) or (2) commits an offence and shall be liable on summary conviction to a fine not exceeding \$10,000.

(4) When particulars of the change are given, those particulars shall then be considered to have formed part of the original application for the purposes of the application of subsection (1) or (2) to any further change in the information provided.

[Section 37 subsection (3) amended by 2021 : 23 s. 15 effective 1 August 2021]

Chapter 3 - Grant or refusal etc. of casino licence

Grant or refusal of casino licence

38 (1) Upon the granting of a provisional casino 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.

(2) A casino licence may be granted subject to such conditions as the Commission thinks fit.

(3) Without limiting the matters to which conditions may relate, the conditions of a casino licence may relate to any matter for which provision is made by this Act but shall not be inconsistent with a provision of this Act.

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(4) If an application is granted, the casino licence is granted for the term, subject to the conditions, and for the location specified in the licence.

(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.

[Section 38 subsection (1) deleted and substituted and subsections (5) and (6) inserted by 2016 : 48 s. 21 effective 12 January 2017; Section 38 subsection (1) amended by 2021 : 23 Sch. 1 & s. 30 effective 1 August 2021]

Casino licence fee

39 (1) The owner of an integrated resort, on behalf of the casino operator in respect of the integrated resort, shall pay to the Commission a casino licence fee of such amount, at such times and in such manner as may be prescribed.

(2) Notwithstanding section 43, the casino licence shall lapse if any part of the casino licence fee payable is not paid within the time prescribed for the payment thereof.

[Section 39 subsection (1) amended by 2015 : 35 s. 10 effective 6 November 2015]

Renewal of casino licence

40 (1) An application for the renewal of a casino licence shall be—

- (a) made to the Commission in the form specified by the Commission not later than six months before the date of expiry of the casino licence;
- (b) accompanied by the prescribed application fee for renewal; and
- (c) accompanied by such documents and information as may be required by the Commission as regards that licence.

(2) If an application to renew a casino licence is submitted to the Commission less than six months before the date of expiry of the casino licence, the application must, in addition to the renewal fee, be accompanied by the prescribed late application fee.

(3) Sections 32 to 38 shall apply, with the necessary modifications and subject to this section, to an application and an applicant for the renewal of a casino licence as they apply to an application and an applicant for the grant of a casino licence.

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Amendment of conditions

41 (1) The conditions of a casino licence may be amended in accordance with this section.

(2) An amendment may be proposed—

- (a) by the casino operator by requesting the Commission in writing to make the amendment; or
- (b) by the Commission by giving notice in writing of the proposed amendment to the casino operator.

(3) The Commission shall allow the casino operator such period as it may specify to make submissions to the Commission concerning any proposed amendment (whether proposed by the Commission or the casino operator) and shall consider the submissions made.

(4) The Commission shall then decide whether to make the proposed amendment, either with or without changes from that originally proposed, and shall notify the casino operator of its decision.

(5) Any amendment that the Commission decides upon takes effect when notice of the decision is given to the casino operator or on any later date that may be specified in the notice.

(5A) A request made by the casino operator under subsection (2)(a) shall be accompanied by the prescribed fee.

(6) In this section, "amendment" includes the variation or revocation of any condition or the addition of a new condition.

[Section 41 subsection (5A) inserted by 2019 : 42 s. 4 effective 26 November 2019]

Commission to define casino premises

42 (1) The boundaries of any casino premises, as at the time when a casino licence is granted, shall be defined by the casino licence within the designated site for which the casino licence is granted.

(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—
 - (i) gaming areas within the boundaries of the casino premises; and
 - (ii) eGaming zones within the boundaries of the designated site,

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

(3) An application for the redefining of the boundaries of the casino premises, the gaming areas or the gaming zones shall be accompanied by the prescribed fee.

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(4) The defining or redefining of the boundaries of casino premises, the gaming areas or the gaming zones takes effect when the Commission gives written notice of it to the casino operator concerned or on any later date specified in the notice.

(5) Anywhere within 300 metres of casino premises shall be an increased penalty zone for the purposes of section 322A of the Criminal Code Act 1907 and section 27A of the Misuse of Drugs Act 1972.

[Section 42 subsection (2) deleted and substituted and subsections (3) and (4) amended by 2016 : 48 s. 22 effective 12 January 2017; subsection (2)(b) repealed and substituted by 2019 : 42 s. 5 effective 26 November 2019]

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.

[Section 43 repealed and replaced by 2016 : 48 s. 23 effective 12 January 2017]

Mortgage, etc., of casino licence

44 (1) A casino operator shall not mortgage, charge or otherwise encumber the casino licence except with the prior approval in writing of the Commission.

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(2) Transfer of a casino licence is not permitted without the written permission of the Commission.

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

[Section 44 subsection (2) amended and subsection (3) inserted by 2016 : 48 s. 24 effective 12 January 2017]

Chapter 4 - Disciplinary action against casino operator

Disciplinary action against casino operator

45 (1) In this Act, unless the context otherwise requires—

“appropriate” means effective, proportionate and dissuasive; and

“disciplinary action”, in relation to a casino operator, means one or more of the following—

- (a) the cancellation or suspension of a casino licence;
- (b) the issuing of a letter of censure;
- (c) the variation of the terms of a casino licence;
- (d) the imposition of a financial penalty for each ground of disciplinary action.

(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.

[Section 45 amended and subsection (2) inserted by 2016 : 48 s. 25 effective 12 January 2017]

Grounds for disciplinary action: casino operator

46 (1) The following are grounds for disciplinary action in respect of a casino operator that—

- (a) the casino licence was improperly obtained in that, at the time the casino licence was granted or renewed, there were grounds for refusing it;
- (b) the casino operator or its agent has contravened—
 - (i) a provision of this Act or an instrument made under this Act;
 - (ii) a direction by the Commission made under this Act or under an instrument made under this Act; or
 - (iii) a condition of the casino licence;
- (c) the casino premises are, for specified reasons, no longer suitable for the conduct of casino operations;

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- (d) the casino operator is, for specified reasons, in the opinion of the Commission no longer a suitable person to hold the casino licence having regard to the matters in section 35(2);
- (e) the casino operator has failed to comply with a direction under section 58(6) within the time referred to in that subsection to terminate an association with an associate;
- (f) the casino operator has failed to provide information that it is required by this Act to provide or has provided information knowing it to be false or misleading or reckless as to whether it is so.

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

(3) In this section, an agent of the casino operator includes any person who performs functions that are part of the normal operation of the casino, including such ancillary functions as catering and cleaning, whether or not the person is directly employed by the casino operator.

[Section 46 amended and subsections (2) and (3) inserted by 2016 : 48 s. 26 effective 12 January 2017; subsection (1)(b) and subsection (3) repealed and substituted by 2019 : 42 s. 6 effective 26 November 2019]

Penalty pursuant to disciplinary action

47 (A1) The Commission may take appropriate disciplinary action against a casino operator if it is satisfied that a ground for disciplinary action has been proved.

- (1) The Commission, for each ground of disciplinary action that is proved, may—
 - (a) where the ground relates to a serious breach, impose on a casino operator a financial penalty of a sum not exceeding 10 per cent of the annual gross gaming revenue of the casino operator for the financial year immediately preceding the date the financial penalty is imposed, as ascertained from the casino operator's latest audited accounts; or
 - (b) in respect of any other ground, impose on a casino operator a financial penalty of a sum not exceeding \$1 million.

(2) The Commission shall not impose a penalty where there are reasonable grounds for it to be satisfied that the casino operator took all reasonable steps and exercised all due diligence to ensure that the requirement would be complied with.

(3) In this section, “serious breach”, in relation to a casino operator, means a contravention of a provision of this Act or a condition of the casino licence by the casino operator, a person in charge of the casino, an agent of the casino operator or a staff member which, in the opinion of the Commission —

- (a) severely affects the integrity of the casino operations or the integrity of gaming in the casino or severely undermines a measure intended to safeguard individuals or society against harm from casino gaming;

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- (b) has caused or could cause significant gain of property to a person not legally entitled to it or significant loss of property to a person legally entitled to it;
- (c) has occurred as a result of wilful intent or reckless disregard for regulatory compliance;
- (d) has arisen from or in connection with a systemic failure or multiple failures in the management or operation of the casino; or
- (e) is injurious to the public interest or public order.

[Section 47 subsection (3) inserted by 2015 : 35 s. 11 effective 6 November 2015; Section 47 subsection (A1) inserted by 2019 : 42 s. 7 effective 26 November 2019; Section 47 subsection (3) amended by 2021 : 23 Sch. 1 & s. 30 effective 1 August 2021]

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;
- (ba) the powers of the Commission to investigate matters in relation to disciplinary action and provide for variation or suspension of a casino licence during an investigation;
- (c) the establishment, conduct, procedure (including any fees) and powers of a tribunal for the hearing of any appeal against any disciplinary decision; and
- (d) the regulation of disciplinary action against a casino operator generally.

[Section 48 repealed and replaced by 2016 : 48 s. 27 effective 12 January 2017; Section 48 paragraph (ba) inserted by 2019 : 42 s. 8 effective 26 November 2019]

Surrender of casino licence

49 (1) A casino operator may surrender the casino licence by giving notice in writing to the Commission.

(2) The surrender takes effect on the date agreed by the Commission.

Appointment of temporary manager if casino licence cancelled, surrendered or suspended

50 (1) If a casino licence is cancelled, surrendered or suspended, the Commission may appoint a temporary manager of the casino for the purposes of this section.

(2) In appointing a person to be a manager, the Commission shall have regard to the suitability of the person.

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(3) A manager is appointed on such terms and conditions as the Commission thinks fit.

(4) The appointment of a manager of a casino may be terminated at any time by the Commission and is terminated by the grant of another casino licence in respect of the casino.

(5) If the appointment of the manager is terminated, the manager ceases to be deemed to be the holder of a casino licence.

(6) A manager—

- (a) is deemed to be the holder of a casino licence on the same terms as those on which the casino operator held the licence before its cancellation, suspension or surrender, subject to such modifications as the Commission determines;
- (b) assumes full control of and responsibility for the business of the casino operator in respect of the casino and may retain for use in the casino any property of the casino operator;
- (c) shall conduct, or cause to be conducted, casino operations in accordance with this Act;
- (d) has, in connection with the conduct of those operations, all the functions of the casino operator; and
- (e) may employ such staff as may be required to operate the casino.

(7) Regulations made under this Act may make provision for or with respect to the appointment and functions of a manager appointed under this section.

(8) The following provisions have effect in respect of the net earnings of a casino while operations in the casino are being conducted by a manager under this section—

- (a) subject to paragraph (b), no payment of net earnings is to be made to the former casino operator without the prior approval of the Commission;
- (b) the former casino operator is entitled to a fair rate of return out of net earnings (if any) on any property of the former casino operator retained by the manager;
- (c) the Commission may direct that all or any part of net earnings (other than that referred to in paragraph (b)) shall be paid to the Commission, with any balance to be paid to the former casino operator.

Appeals

51 A casino operator aggrieved by a decision of the Commission regarding the operator's licence may appeal to the court against that decision.

[Section 51 repealed and replaced by 2016 : 48 s. 28 effective 12 January 2017; Section 51 repealed and replaced by 2021 : 23 s. 16 effective 1 August 2021]

PART 4
SUPERVISION AND CONTROL OF CASINO OPERATORS

Chapter 1 - Directions, investigations, etc.

Directions to casino operator

52 (1) The Commission may give to a casino operator a written direction that relates to the conduct, supervision or control of casino operations, whether within the casino premises or elsewhere, and the casino operator shall comply with the direction as soon as it takes effect.

(2) The direction takes effect when the direction is given to the casino operator or on a later date specified in the direction.

(3) The power conferred by this section includes a power to give a direction to a casino operator to adopt, vary, cease or refrain from any practice in respect of the conduct of casino operations, whether within the casino premises or elsewhere.

(4) A direction under this section shall not be inconsistent with this Act or the conditions of the casino licence.

(5) Any casino operator who fails to comply with a direction under this section shall be liable to disciplinary action.

(6) Where a casino operator has been subject to disciplinary action under subsection (5) (referred to in this section as the first disciplinary action) and continues to fail to comply with the direction of the Commission, such failure shall constitute a fresh ground of disciplinary action for every day or part thereof that the failure continues after the first disciplinary action.

Compliance Committee

52A (1) Every casino operator shall 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.

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(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.

[Section 52A inserted by 2016 : 48 s. 29 effective 12 January 2017; Section 52A subsection (1) amended by 2019 : 42 s. 9 effective 26 November 2019]

General investigations

53 (1) The Commission may investigate a casino from time to time and at any time that the Commission thinks it desirable to do so.

(2) The investigation may include (but is not limited to) an investigation of any or all of the following—

- (a) the casino and operations in the casino;
- (b) the casino operator or a person who, in the opinion of the Commission, is an associate of the casino operator;
- (c) any person who, in the opinion of the Commission, could affect the exercise of functions in or in relation to the casino;
- (d) any person who, in the opinion of the Commission, could be in a position to exercise direct or indirect control over the casino operator, or an associate of the casino operator, in relation to functions in or in relation to the casino;
- (e) any person, having a business association with the casino operator or with an associate of the casino operator.

(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.

(3) The Commission may make a report to the Minister on the results of such an investigation if it thinks it desirable to do so.

[Section 53 subsections (1) - (3) amended and subsections (2A) - (2C) inserted by 2016 : 48 s. 30 effective 12 January 2017]

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Regular investigations of casino operator's suitability, etc.

54 The Commission may, at such intervals as it may determine, investigate whether or not—

- (a) the casino operator is a suitable person to continue to hold the casino licence; and
- (b) the casino licence should continue in force,

and shall take whatever action the Commission considers appropriate in the light of its findings.

Casino operator to provide information

55 (1) The Commission may, by notice in writing, require a casino operator or a person who was a casino operator or a person who, in the opinion of the Commission, is or was directly or indirectly associated with the casino operator—

- (a) to provide the Commission or an authorised person, in accordance with directions in the notice, with such information relevant to the casino operator or that association or to the casino, or with such information as the Commission requires, as is specified in the notice;
- (b) to produce to the Commission or an authorised person, in accordance with the directions in the notice, such records relevant to the casino operator or that association or to the casino, or to matters specified by the Commission, as are specified in the notice and to permit examination of those records, the taking of extracts from them and the making of copies of them; or
- (c) to attend before the Commission or an authorised person for examination in relation to any matters relevant to the casino operator or that association or to the casino, or to matters specified by the Commission, and to answer questions relating to those matters.

(2) If records are produced under this section, the Commission or authorised person to whom they are produced may retain possession of the records for such period as may reasonably be necessary for investigations to be carried out.

(3) At any reasonable time during the period for which records are retained, the Commission or authorised person shall permit inspection of the records by a person who would be entitled to inspect them if they were not in the possession of the Commission or an authorised person.

(4) A person who complies with a requirement of a notice under this section does not on that account incur a liability to another person.

(5) Any casino operator who fails to comply with a requirement of a notice under this section shall be liable to disciplinary action.

Change in situation of casino operator

56 (1) In this section—

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“major change”, in the situation existing in relation to a casino operator, means—

- (a) any change which results in a person becoming an associate of the casino operator;
- (b) any change in the person engaged or appointed to manage or operate the casino; or
- (c) any other change which is of a class or description prescribed as major for the purposes of this section;

“minor change”, in the situation existing in relation to a casino operator, means any change in that situation that is prescribed as a minor change for the purposes of this section.

(2) A casino operator shall—

- (a) take all reasonable steps to ensure that a major change in the situation existing in relation to the casino operator which is within the casino operator's power to prevent occurring does not occur except with the prior approval in writing of the Commission;
- (b) where paragraph (a) does not apply, notify the Commission in writing of any major change in the situation existing in relation to the casino operator within 3 days after the casino operator becomes aware of the change; and
- (c) notify the Commission in writing of any minor change in the situation existing in relation to the casino operator within 14 days after becoming aware that the change has occurred.

(3) Sections 35 and 36 apply to and in respect of an application for approval under this section in the same manner that they apply to and in respect of an application for a casino licence.

(4) If a major change is proposed or has occurred involving a person becoming an associate of a casino operator—

- (a) in a case which also requires—
 - (i) notice of a controlled contract to be given under section 60; or
 - (ii) notice of a notifiable contract to be given under section 61; or
 - (iii) an application for a special employee licence to be made under section 66,

the casino operator shall be deemed to have complied with subsection (2)

- (a) if such application is made or such notice is given, as the case may be; or
- (b) in any other case, the Commission shall inquire into the change to determine whether it is satisfied that the person is a suitable person to be associated with the management of a casino having regard to the

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matters in section 33(2) and if it is not so satisfied, shall take such action as it considers appropriate under this Act.

(5) Any casino operator who fails to comply with subsection (2) shall be liable to disciplinary action.

Change in situation of associate

57 (1) Where a change of a kind specified by the Commission in writing takes place in the situation existing in relation to the associate of the casino operator, the casino operator shall notify the Commission in writing of the change within 14 days after it takes place.

(2) Any casino operator who fails to comply with subsection (1) shall be liable for disciplinary action.

On-going monitoring of associates and others

58 (1) The Commission may, from time to time, investigate—

- (a) an associate, or a person likely to become an associate, of a casino operator; or
- (b) any person, having a business association with a person referred to in paragraph (a).

(2) A casino operator shall notify the Commission in writing that a person is likely to become an associate within ten business days after the casino operator becomes aware of the likelihood.

(3) If the Commission, having regard to the relevant matters referred to in section 33(2), determines that an associate is unsuitable to be concerned in or associated with the business of the casino operator, the Commission may, by notice in writing, request the casino operator to terminate the association with the associate.

(4) If the Commission determines that an associate of a casino operator has engaged or is engaging in conduct that, in the Commission's opinion, is unacceptable for a person who is concerned in or associated with the ownership, management or operation of the business of the casino operator, the Commission may—

- (a) issue a written warning to the casino operator that the conduct is unacceptable; or
- (b) give written notice to the casino operator requiring the operator to give a written undertaking to the Commission, within the period specified in the notice, that he will address the concerns regarding the conduct of the business with the associate.

(5) If the casino operator fails to give an undertaking required under subsection (4)(b) or breaches an undertaking given under that subsection, the Commission may give the casino operator written notice requesting the casino operator to terminate, within 14 days or a longer period agreed with the Commission, the association with the associate.

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(6) If the association is not terminated within 14 days from the date of the notice referred to in subsection (3) or (5) or any longer period agreed with the Commission, the Commission may, by notice in writing, direct the casino operator to take all reasonable steps to terminate the association and the casino operator shall comply with the direction within 14 days or any longer period agreed with the Commission.

(7) The Commission may—

- (a) require an associate or a person likely to become an associate to consent to having his photograph, palm prints and finger prints taken; and
- (b) send a copy of such photograph, palm prints and finger prints and any supporting documents to the Commissioner of Police.

(8) The Commissioner must ensure that information or other matters collected under this section shall be maintained as confidential information, not to be used for any other purpose than the purpose provided in this section.

(9) Any casino operator who fails to comply with subsection (2) or (6) shall be liable to disciplinary action.

[Section 58 subsection (1)(b) amended by 2016 : 48 s. 31 effective 12 January 2017]

Chapter 2 - Contracts

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;

“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.

[Section 59 repealed and replaced by 2016 : 48 s. 32 effective 12 January 2017]

Requirements for controlled contracts

60 (1) A casino operator shall not enter into or be a party to, or to the variation of, a contract that is a controlled contract in relation to that casino operator unless—

- (a) the casino operator has given notice in writing to the Commission of the details of the proposed contract or variation at least 28 days (or such shorter period as the Commission may allow in any particular case) before entering into or becoming a party to it, and the Commission has notified the casino operator that it has no objections to the proposed contract or variation; or
- (b) the casino operator reports the entering into or variation of the contract in such other form and manner as the Commission has required by prior

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notice in writing given to the casino operator in lieu of the obligation in paragraph (a).

(2) If the Commission notifies the casino operator that it requires further time to conduct its investigations, the casino operator shall not enter into the contract until the Commission notifies the casino operator that it has no objections to the proposed contract or variation.

(3) If the Commission notifies the casino operator that it objects to the proposed contract, the casino operator shall not enter into the contract.

(4) The Commission may object to a proposed contract if, having regard to the circumstances, including the suitability of each party to the contract, it considers that the contract will affect the credibility, integrity and stability of casino operations.

(5) Any casino operator which contravenes subsection (1), (2) or (3) shall be liable to disciplinary action.

(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.

[Section 60 subsection (6) inserted by 2016 : 48 s. 33 effective 12 January 2017]

Notifiable contracts

61 (1) A casino operator which enters into or becomes a party to, or to the variation of, a contract that is a notifiable contract in relation to that casino operator shall—

- (a) within 14 days after entering into the notifiable contract or the variation, as the case may be, give notice in writing to the Commission of that fact and brief particulars of the contract or variation, in such form and manner as may be prescribed; or
- (b) report the entering into or variation of the contract in such other form and manner as the Commission has required by prior notice in writing given to the casino operator in lieu of the obligation in paragraph (a).

(2) A casino operator which contravenes subsection (1) shall be liable to disciplinary action.

Suspension of contracts

62 (1) The Commission may, where it considers that the continuance of the contract affects the credibility, integrity and stability of casino operations, serve on a casino operator a notice in writing specifying the grounds and affording the operator an opportunity to show cause, within 14 days or such longer period as the Commission may allow on application by any party to the contract, why the contract should not be suspended by the operator for reasons specified in the notice.

(2) Before the Commission requires the suspension of a contract, the Commission shall give the casino operator an opportunity to be heard.

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(3) The Commission may, in the event of any immediate threat to the credibility, integrity and stability of casino operations, by a notice in writing served on a casino operator, direct the operator to suspend further performance of the contract from the date the notice is served until a determination is made by the Commission as to whether the contract should be terminated.

(4) The casino operator, or party, may, within the period specified in the notice in subsection (1), arrange with the Commission for the making of submissions as to why the contract should not be terminated.

(5) After considering any submissions so made, the Commission may, by notice in writing served on the casino operator, require the contract to be terminated within a time specified in the notice.

(6) If the contract is not terminated as required by the notice under subsection (5), the casino operator may be liable to disciplinary action.

(7) No compensation for economic loss shall be payable by the Commission in respect of any contract which is suspended by a casino operator pursuant to this section, whether or not such contract is terminated under this section.

(8) A casino operator, or party, aggrieved by a decision of the Commission under this section may appeal to the court against that decision.

Effect of suspension of contract

63 If a contract is suspended, terminated or deemed to be terminated—

- (a) the suspension or termination does not affect a right acquired, or a liability incurred, before that suspension or termination by a person who was a party to the contract;
- (b) no liability for breach of contract is incurred by a person who was a party to the contract by reason only of that suspension or termination; and
- (c) the Commission does not incur any liability by reason of that suspension or termination.

No effect to be given to suspended contract

64 (1) A party to a contract suspended, terminated or deemed to be terminated shall not give any effect to any part of the contract during the period of suspension or upon the termination of the contract, as the case may be.

(2) Any casino operator who contravenes subsection (1) shall be liable to disciplinary action.

PART 5
SPECIAL EMPLOYEES

Chapter 1 - Interpretation and licensing

Interpretation of this Part

65 In this Part, "licensee" means the holder of a special employee licence.

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 a staff member 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—

- (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.

[Section 66 repealed and replaced by 2016 : 48 s. 34 effective 12 January 2017; Section 66 subsection (1)(c) amended by 2021 : 23 Sch. 1 & s. 30 effective 1 August 2021]

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Application for special employee licence

67 (1) An application for a special employee licence shall be in a form approved by the Commission, shall be lodged with the Commission and shall be accompanied by—

- (a) the prescribed fee;
- (b) such documents as may be specified in the application form and such other document as may be required by the Commission; and
- (c) a certificate, in such form and manner as may be prescribed by the casino operator who employs or is proposing to employ the applicant as to the competence of the applicant to exercise the functions specified in the certificate.

(2) The Commission may—

- (a) require the applicant to consent to have taken his photograph, palm prints and finger prints; and
- (b) send a copy of such photograph, palm prints and finger prints and any supporting documents to the Commissioner of Police for purposes of this Act and no other purpose.

(3) The Commissioner of Police or any police officer authorised by the Commissioner or police shall inquire into and report to the Commission on such matters concerning the application for a special employee licence as the Commission requests.

(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.

(5) If a requirement under this section is not complied with, the Commission may refuse to consider the application concerned.

[Section 67 subsection (1)(c) amended and subsection (4) deleted and substituted by 2016 : 48 s. 35 effective 12 January 2017; Section 67 subsection (2) amended by 2019 : 42 s. 10 effective 26 November 2019]

Direction to apply for special employee licence

68 (1) For the purposes of this section, a person has a special relationship with a casino operator if, in the opinion of the Commission—

- (a) the person is associated with the casino operator or is a staff member, and has the power to exercise a significant influence over or with respect to operations in the casino; or
- (b) the person is associated with the casino operator or is a staff member, and the person, by reason of his remuneration or commission in relation to the operations in the casino, should be licensed as a special employee.

(2) The Commission may by notice in writing given to a person who has a special relationship with a casino—

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- (a) direct that the association or employment that constitutes the special relationship is to be regarded as the exercise by the person of the functions of a special employee; and
 - (b) require the person to apply for the appropriate special employee licence within a specified period of not less than seven days.
- (3) The association or employment specified in the notice shall, for the purposes of this Part, be regarded as the exercise by the person of the functions of a special employee as soon as—
- (a) the period allowed by the direction for the making of an application for the appropriate special employee licence expires with no application having been made; or
 - (b) if the application is made within that period, the application is determined.
- (4) If this section results in a person who has a special relationship with a casino operator contravening section 66—
- (a) the Commission shall notify that person and the casino operator of that fact; and
 - (b) the person and the casino operator are each guilty of contravening that section if the association or employment that constitutes the contravention is not terminated within 24 hours, or such longer period as the Commission may allow, after that notice is given.

[Section 68 subsection (1) amended by 2021 : 23 Sch. 1 & s. 30 effective 1 August 2021]

Updating of application for special employee licence

69 (1) If a change occurs in the information provided in or in connection with an application for a special employee licence (including in any documents lodged with the application) before the application is granted or refused, the applicant shall, without delay, give the Commission written particulars of the change in the form approved by the Commission.

(2) When particulars of the change are given, those particulars are then to be considered to have formed part of the original application, for the purposes of the operation of subsection (1) in relation to any further change in the information provided.

(3) Any person who fails to comply with subsection (1) commits an offence.

Commission may require further information

70 (1) The Commission may, by notice in writing, require a person who is an applicant for a special employee licence to do any one or more of the following—

- (a) to provide, in accordance with directions in the notice, such information as is relevant to the investigation of the application and is specified in the notice;

- (b) to produce, in accordance with directions in the notice, such records relevant to investigation of the application as are specified in the notice and to permit examination of the records, the taking of extracts from them and the making of copies of them;
- (c) to authorise a person described in the notice to comply with a specified requirement of the kind referred to in paragraph (a) or (b);
- (d) to furnish to the Commission such authorisations and consents as the Commission directs for the purpose of enabling the Commission to obtain information (including financial and other confidential information) concerning the person and his associates.

(2) If a requirement made under this section is not complied with, the Commission may refuse to consider the application concerned.

Investigation and determination of application

71 (1) The Commission shall investigate and consider each application for a special employee licence, taking into account any submissions made by the applicant within the time allowed, and shall make an assessment of—

- (a) the integrity, responsibility, personal background and financial stability of the applicant;
- (b) the general reputation of the applicant having regard to character, honesty and integrity;
- (c) the suitability of the applicant to perform the type of work proposed to be performed by the applicant as a licensee; and
- (d) any other matter relevant to the application.

(2) The Commission shall determine the application by either issuing a special employee licence to the applicant or refusing the application and shall notify the applicant in writing accordingly.

(3) The Commission is not required to give reasons for the decision but may give reasons if it thinks fit.

Conditions of special employee licence

72 (1) A special employee licence is subject to any condition imposed by the Commission and notified to the licensee on the issue of the special employee licence or during its currency.

(2) A condition of a special employee licence may be varied or revoked by the Commission subject to the special employee being given the opportunity to be heard before a decision is made with respect to such variation or revocation of conditions of the licensee.

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Identification

73 (1) Subject to subsection (2), a special employee shall at all times while on duty in the casino wear identification of a kind approved by the Commission in such manner as to be visible to other persons within the casino premises.

(2) The Commission may exempt a person or class of persons from the requirements of subsection (1).

(3) A special employee who, not being exempted under subsection (2), fails to comply with subsection (1) commits an offence.

Provisional licences

74 (1) The Commission may, pending a decision on an application for a licence, grant the applicant a provisional licence.

(2) A provisional licence is subject to any conditions or restrictions of which the provisional licensee is notified by the Commission when issuing the licence.

(3) A provisional licence may be cancelled by the Commission at any time and, unless sooner surrendered or cancelled, ceases to have effect on the approval or refusal of the provisional licensee's application for a licence.

(4) This Part applies to a provisional licence in the same way as it applies to a licence to the extent that it is consistent with this section.

Duration of special employee licence

75 A special employee licence remains in force for such period as may be determined by the Commission unless any of the following happens first—

- (a) the special employee licence is cancelled;
- (b) the licensee, by notice in writing, surrenders the special employee licence to the Commission; or
- (c) the expiration of such period as is specified in the special employee licence.

[Section 75 amended by 2016 : 48 s. 36 effective 12 January 2017]

Renewal of special employee licence

76 (1) A licensee may apply to the Commission for renewal of his special employee licence, in which case the current special employee licence continues in force until the new licence is issued or its issue is refused.

(2) An application for renewal of a licence shall be made not later than two months before the expiry of the licence.

(3) An application for renewal of a special employee licence shall be made in a form approved by the Commission and shall be accompanied by the prescribed fee.

(4) If an application to renew a casino licence is submitted to the Commission less than two months before the date of expiry of the special employee licence, the

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application must, in addition to the renewal fee, be accompanied by the prescribed late application fee.

Loss, etc., of special employee licence

77 If the Commission is satisfied that a special employee licence has been lost, destroyed or damaged, the Commission may, on payment of the prescribed fee, issue a replacement special employee licence.

Chapter 2 - Disciplinary Action against special employees

Interpretation

78 (1) In this Act, disciplinary action that may be imposed in relation to a special employee, means one or more of the following—

- (a) the service of a written notice on the licensee censuring him for any action specified in the notice;
- (b) suspension of the special employee licence for a specified period;
- (c) cancellation of the special employee licence;
- (d) the imposition of a financial penalty specified in section 81;
- (e) variation of the conditions of the special employee licence.

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

[Section 78 amended and subsection (2) inserted by 2016 : 48 s. 37 effective 12 January 2017; Section 78 subsection (1)(e) inserted by 2019 : 42 s. 11 effective 26 November 2019]

Disciplinary action against special employee: grounds

79 (1) The grounds for disciplinary action, in relation to a special employee, are any of the following—

- (a) that the special employee licence was improperly obtained in that, when it was granted, there were grounds for refusing it;
- (b) that the licensee has been convicted—
 - (i) of an offence under this Act;
 - (ii) of an indictable offence arising out of or in connection with the employment of the licensee under this Act; or
 - (iii) whether in Bermuda or elsewhere, for an offence involving dishonesty or moral turpitude;
- (c) that the licensee has contravened—
 - (i) a provision of this Act or an instrument made under this Act;

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- (ii) a direction by the Commission made under this Act or under an instrument made under this Act; or
- (iii) a condition of the licence;
- (d) that the licensee has failed to provide information that he is required by this Act to provide or has provided information knowing it to be false or misleading or reckless as to whether it is so;
- (e) that for any reason, the licensee is, in the opinion of the Commission, no longer a suitable person to hold a special employee licence, having regard to the matters in section 71(1);
- (f) the special employee has failed to provide information that it is required pursuant to section 70(1) or elsewhere in this Act to provide or has provided information knowing it to be false or misleading or reckless as to whether it is so.

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

[Section 79 amended and subsection (2) inserted by 2016 : 48 s. 38 effective 12 January 2017; Section 79 subsection (1)(c) repealed and substituted by 2019 : 42 s. 12 effective 26 November 2019]

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.

[Section 80 repealed and replaced by 2016 : 48 s. 39 effective 12 January 2017]

Disciplinary action against special employee: penalty

81 (1) The Commission may take appropriate disciplinary action against a special employee if it is satisfied that a ground for disciplinary action has been proved.

(2) The Commission may impose a financial penalty not exceeding \$10,000 for each ground of disciplinary action.

(2A) *[Repealed by 2019 : 42 s. 13]*

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(3) For the purposes of this section; “appropriate” means effective, proportionate and dissuasive.

[Section 81 subsection (2) amended and subsection (2A) inserted by 2016 : 48 s. 40 effective 12 January 2017; Section 81 amended by 2019 : 42 s. 13 effective 26 November 2019]

Suspension of licence pending disciplinary action

82 (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;
- (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.

(2) The suspension under subsection (1) shall take effect notwithstanding that any representation is made.

[Section 82 subsection (1) deleted and substituted by 2016 : 48 s. 41 effective 12 January 2017]

Effect, etc., of suspension

83 During any period of suspension of a special employee licence, the licensee is deemed not to be the holder of a special employee licence.

Return of special employee licence on suspension or cancellation

84 (1) If a special employee licence is suspended or cancelled, the licensee shall return the licence to the Commission immediately after the suspension or cancellation.

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(2) Any person who fails to comply with subsection (1) commits an offence and shall be liable on summary conviction to a fine not exceeding \$10,000.

[Section 84 subsection (2) amended by 2021 : 23 s. 17 effective 1 August 2021]

Termination of employment on cancellation of special employee licence

85 (1) If a casino operator receives written notice from the Commission that a special employee licence has been cancelled under section 81 or has otherwise ceased to be in force, the casino operator shall, within 24 hours after receiving the notice—

- (a) in the case of an associate of the casino operator, terminate the association that constitutes the exercise of the functions of a special employee; or
- (b) in the case of an employee, terminate the employment that constitutes the exercise of the functions of a special employee or cause it to be terminated.

(2) A termination of employment in accordance with this section shall be effected in accordance with any other Act or any law, award or industrial or other agreement relating to employment; but the Commission does not incur any liability because of such a termination.

Casino operator to provide information relating to employees

86 (1) A casino operator—

- (a) within seven days (or such other period as the Commission may, on the application of the casino operator, allow in any particular case) after a licensed special employee commences to have functions in or in relation to the casino, shall notify the Commission, in a form approved by the Commission, of the commencement of the exercise of those functions;
- (b) not less than once each year, on a date specified by the Commission, shall submit to the Commission, in a form approved by the Commission, a list of the licensed special employees having functions in or in relation to the casino;
- (c) not later than seven days (or such other period as the Commission may, on the application of the casino operator, allow in any particular case) after a licensed special employee ceases to have functions in or in relation to the casino, shall notify the Commission, in a form approved by the Commission, of the cessation of the exercise of those functions; and
- (d) when requested by the Commission to do so, shall submit to the Commission a list of non-licensed employees in or in relation to the casino.

(2) Any casino operator who fails to comply with subsection (1) shall be liable to disciplinary action.

Special employees to provide information, etc., to Commission

87 (1) The Commission may, by notice in writing, require a licensee to do all or any of the following—

- (a) provide, in accordance with directions in the notice, such information relevant to the holding of the special employee licence as is specified in the notice;
- (b) produce, in accordance with directions in the notice, such records relevant to the holding of the special employee licence as are specified in the notice and to permit examination of the records and the making of copies of the records;
- (c) furnish to the Commission such authorisations and consents as the Commission directs for the purpose of enabling the Commission to obtain information (including financial and other confidential information) concerning the licensee from other persons.

(2) The Commission is not entitled to require a special employee to produce information or produce any document or record—

- (a) consisting of or including items subject to legal privilege; or
- (b) in breach of any enactment or rule of law relating to confidentiality or any rule of practice relating to client confidentiality.

(3) Any licensee who fails to comply with a notice under subsection (1) shall be liable to disciplinary action under this Part.

Change in situation of licensee

88 (1) Where a change of a kind specified by the Commission in writing given to a licensee takes place in the situation existing in relation to the licensee, the licensee shall notify the Commission in writing of the change within 14 days after it takes place.

(2) Any licensee who fails to comply with subsection (1) shall be liable to disciplinary action.

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.

[Section 89 repealed and substituted by 2016 : 48 s. 42 effective 12 January 2017]

PART 6
CASINO OPERATIONS

Chapter 1 - Casino layout, games, gaming machines, etc.

Casino layout to comply with prescribed requirements

90 (1) A casino operator shall ensure that the layout of the casino complies with such requirements as may be prescribed.

(2) Any casino operator which contravenes subsection (1) shall be liable to disciplinary action.

[Section 90 subsection (1) deleted and substituted by 2016 : 48 s. 43 effective 12 January 2017]

Approval of games and rules for games

91 (1) The Commission may—

(a) by a notice in writing approve the games that shall be played in the casino of the casino operator, the mode of play and the rules for those games; and

(b) publish the list of games, mode of play and rules for those games approved for the time being for each casino on the official website of the Commission.

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

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

(a) differ according to differences in time, place or circumstances;

(b) are conditional.

(3) A casino operator shall not permit a game to be conducted or played in a casino unless—

(a) the game has been approved by the Commission under subsection (1);

(b) the game is conducted or played in accordance with the mode of play and rules of the game approved by the Commission; and

(c) the game is conducted or played on behalf of the casino operator by a licensed special employee.

(4) A person shall not conduct a game in a casino or permit a game conducted by him to be played in a casino, unless—

(a) the game has been approved by the Commission under subsection (1); and

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(b) the game is conducted or played in accordance with the mode of play and rules of the game approved by the Commission.

(5) Any casino operator who contravenes subsection (3) shall be liable to disciplinary action.

(6) Any person who contravenes subsection (4)—

(a) shall be liable to disciplinary action, in the case of a licensed special employee; or

(b) commits an offence and is liable on conviction to a fine not exceeding \$200,000, in any other case.

(7) It is a defence to disciplinary action or prosecution for a contravention of subsection (4) if the special employee or other person, as the case may be, establishes that the contravention was permitted by the casino operator.

[Section 91 subsection (1)(a) amended, subsection (1A) inserted and subsection (2) deleted and substituted by 2016 : 48 s. 44 effective 12 January 2017; Section 91 subsections (1) and (1A) amended by 2021 : 23 s. 18 effective 1 August 2021]

Directions as to games not to be played

92 (1) The Commission may give a direction in writing to a casino operator concerning the particular games that may not be played in the casino.

(2) The Commission may amend any such direction by a further direction in writing to the casino operator.

(3) Any casino operator which fails to comply with any direction for the time being in force under this section shall be liable to disciplinary action.

Approval of gaming equipment

93 (1) The Commission may investigate or authorise the investigation of gaming equipment for the purpose of determining whether the equipment is suitable to be approved for use in a casino and may require the cost of such an investigation to be paid by a person seeking the approval.

(2) The Commission may approve gaming equipment for use in a casino and, for that purpose, may approve particular equipment or may approve equipment of a specified class or description and may make the approval subject to conditions.

(3) Despite the provisions of any other law, the possession of gaming equipment is lawful if—

(a) the possession is for the purposes of an investigation under this section; or

(b) the equipment is identifiable in a manner approved by the Commission and is in a casino with the approval of the Commission or the circumstances of its possession are such as have been approved by the Commission generally or in a particular case.

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Gaming machines in casinos

94 (1) A casino operator shall not use, or allow to be used, any gaming machine in its casino unless—

- (a) the gaming machine has been obtained from an approved gaming vendor;
- (b) the gaming machine is approved, or one of a class of gaming machines approved by the Commission, and complies with such technical standards and other requirements as may be prescribed;
- (c) where the gaming machines are required to be tested and certified, the testing has been carried out by an approved test service provider approved by the Commission as a gaming vendor under section 95; and
- (d) the number of gaming machines available for gaming in the casino does not exceed such number as the Commission may determine.

(2) Any casino operator which contravenes subsection (1) shall be liable to disciplinary action.

Approval of gaming vendors

95 (1) Any person who intends to—

- (a) manufacture or supply any gaming machine for use in any casino; or
- (b) supply any testing services in relation to any gaming equipment or cashless wagering systems,

may apply, in accordance with subsection (2), to the Commission to be an approved gaming vendor.

(2) An application to be an approved gaming vendor shall be made to the Commission—

- (a) in the form and manner prescribed; and
- (b) be accompanied by such fees and documents or other information as may be prescribed.

(3) The Commission may, if it is satisfied that the applicant is suitable after carrying out such investigations as may be necessary, approve the applicant as an approved gaming vendor, subject to the payment of such fee as may be prescribed and such other conditions as the Commission may impose.

(4) The Commission shall maintain an approved list of approved gaming vendors which it may publish on its official website from time to time.

Simulated gaming

96 *[Repealed by 2016 : 48 s. 45.]*

[Section 96 repealed by 2016 : 48 s. 45 effective 12 January 2017]

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Chapter 2 - Gaming measures

Linked jackpot arrangement unlawful without approval

97 (1) A person shall not, without the approval of the Commission, install or cause to be installed any linked jackpot arrangement.

(2) The Commission may approve any linked jackpot arrangement—

- (a) between a casino in Bermuda and any place outside Bermuda;
- (b) between one casino in Bermuda and any other casino in Bermuda;
- (c) that is not prohibited by regulations made under this Act.

(3) Any casino operator who contravenes subsection (1) shall be liable to disciplinary action.

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

[Section 97 subsections (2)(b) and (3) amended and subsection (4) deleted and substituted by 2016 : 48 s. 46 effective 12 January 2017]

Assistance to patrons

98 (1) A casino operator shall—

- (a) display a notice in accordance with the directions of the Commission informing patrons where a copy of the rules for games under section 91 may be inspected;
- (b) display prominently in the casino—
 - (i) the advice or information concerning those rules, the mode of payment of winning wagers and the payout odds of each winning wager; and
 - (ii) such other advice or information to the player as the Commission directs; and
- (c) display prominently at each gaming table or location related to the playing of a game, a sign indicating the permissible minimum and maximum wagers pertaining to the game played there.

(2) A casino operator shall allow a patron to inspect a copy of the rules for games on request.

(3) Any casino operator who fails to comply with subsection (1) or (2) shall be liable to disciplinary action.

Operation of security equipment, etc.

99 (1) A casino operator shall ensure that all casino installations, equipment and procedures for security and safety purposes are used, operated and applied in accordance with the directions of the Commission.

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(2) Any casino operator who fails to comply with subsection (1) shall be liable to disciplinary action.

Credit, etc.

100 (1) Except to the extent that this section or regulations relating to credit allow, no casino operator, agent of a casino operator, special employee or staff member, in connection with any gaming in the casino shall—

- (a) accept a wager made otherwise than by means of money or chips;
- (b) lend money or any valuable thing;
- (c) *[repealed]*
- (d) extend any other form of credit.

(2) A casino operator may establish for a person a casino deposit account to which is to be credited the amount of any deposit to the account comprising any one or more of the following—

- (a) money;
- (b) a cheque payable to the casino operator;
- (c) chips.

(3) The casino operator may issue to a person who establishes a deposit account and debit to the account chip purchase vouchers, cheques, chips or money, not exceeding in total value the amount standing to the credit of the account at the time of issue of the vouchers, cheques, chips or money.

(4) The casino operator may, in exchange for a cheque payable to the casino operator, issue to a person chip purchase vouchers of a value equivalent to the amount of the cheque.

(5) A cheque accepted by the casino operator may, by agreement with the casino operator, be redeemed in exchange for the equivalent in value to the amount of the cheque of any one or more of the following—

- (a) money;
- (b) cheque payable to the casino operator;
- (c) chip purchase vouchers;
- (d) chips.

(6) The casino operator—

- (a) shall, within the time specified by the Commission by notice in writing given to the casino operator for the purposes of this subsection, deposit with an authorised bank a cheque accepted by the casino operator under this section; and

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(b) shall not agree to the redemption of such a cheque for the purpose of avoiding compliance with paragraph (a).

(7) Any—

(a) casino operator which contravenes subsection (1) or (6); or

(b) licensed special employee who contravenes subsection (1),

shall be liable to disciplinary action.

(8) In this section, "cheque" means a cheque that—

(a) is drawn on an account of any bank for a specific amount payable on demand; and

(b) is dated but not post-dated.

[Section 100 subsection (1)(c) repealed by 2015 : 35 s. 12 effective 6 November 2015; subsection (7) deleted and substituted, subsections (8), (9) and (10) deleted and subsection (11) renumbered as subsection (8) by 2016 : 48 s. 47 effective 12 January 2017; subsection (1) amended by 2016 : 48 s. 49 effective 12 January 2017; Section 100 subsection (1) amended by 2021 : 23 Sch. 1 & s. 30 effective 1 August 2021]

Automatic teller machines prohibited within casino premises

101 (1) A casino operator shall not provide or allow another person to provide any automatic teller machine within the boundaries of the gaming area.

(2) Any casino operator who contravenes subsection (1) shall be liable to disciplinary action.

(3) In this section, "automatic teller machine" has the meaning given to it in regulation 2 of the Bermuda Monetary Authority (Financial Institutions) (Control) Regulations 1994.

[Section 101 subsection (1) amended by 2016 : 48 s. 48 effective 12 January 2017]

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.

(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

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and any casino operator who fails to comply with such direction shall be liable to disciplinary action.

[Section 102 repealed and substituted by 2016 : 48 s. 49 effective 12 January 2017]

Supervision and control of international market agents and international market agent representatives

103 *[Repealed by 2016 : 48 s. 49.]*

[Section 103 repealed by 2016 : 48 s. 49 effective 12 January 2017]

Commission may suspend or cancel international market agent licence or international market agent representative licence in public interest

104 *[Repealed by 2016 : 48 s. 49.]*

[Section 104 repealed by 2016 : 48 s. 49 effective 12 January 2017]

Chapter 3 - Disputes between casino operator and patron

Resolution of dispute as to winnings, losses or manner in which game conducted

105 (1) Where a casino operator and a patron of the casino are unable to resolve to the satisfaction of the patron any dispute as to alleged winnings, alleged losses or the manner in which a game is conducted, and the amount in dispute is not less than \$500, the casino operator shall—

- (a) immediately notify an inspector of the dispute; and
- (b) inform the patron of his right to request that an inspector conduct an investigation into the dispute.

(2) A patron who wishes to request an inspector to conduct an investigation into the dispute shall, not later than seven days after the date he is informed under subsection (1) of his right, make the request to an inspector in such form as the Commission may specify.

(3) An inspector may refuse to consider any patron's request under subsection (2) for investigation that is incomplete or is made after the period specified in subsection (2), unless the inspector is satisfied that there were good reasons for the incompleteness or delay.

(4) An inspector who receives a request for investigation into a dispute under subsection (2) shall conduct such investigations as he thinks necessary and, where the dispute relates to alleged winnings or alleged losses shall determine whether payment should be made.

(5) Failure of a casino operator to notify an inspector or inform the patron as provided in subsection (1) is grounds for disciplinary action.

[Section 105 subsection (1) amended by 2016 : 48 s. 50 effective 12 January 2017]

Reconsideration of inspector's decision

106 (1) Any party aggrieved by the decision of an inspector may, in the prescribed manner and within the prescribed time, apply for review of the decision to the Commission to reconsider the decision of the inspector.

(2) The review shall set forth the basis of the request for reconsideration.

(3) If no application for review for reconsideration is made within the time prescribed, the decision of the inspector shall be deemed final and is not subject to reconsideration by the Commission.

(4) The Commission may, in relation to this provision and generally, regulate its own procedure.

(5) After considering the matter before it, the Commission may confirm, vary or reverse the inspector's decision.

(6) The decision by the Commission shall be in writing and shall be served on the casino operator and the patron concerned.

Payment of claim after decision

107 (1) Except as otherwise allowed by the Commission, the person ordered to make payment to the other party shall do so within 30 days of—

(a) the decision of the inspector under section 105; or

(b) where an appeal was made under section 108, the decision of the Court under that section.

(2) Failure of a casino operator to pay within the time specified in subsection (1) is grounds for disciplinary action.

Appeal to Court

108 A person who is aggrieved by a decision made against him by the Commission under section 106 may, within 30 days of being notified of the decision, appeal to the court.

Chapter 4 - Entry to, exclusion from, casino premises

Right of entry to casino premises

109 (1) Except as provided by this Act, a person enters and remains on any casino premises only by the licence of the casino operator.

(2) Without limiting subsection (1), a casino operator, or person so authorised by or on behalf of the casino operator, may refuse to allow a person to enter or remain in the casino unless the person satisfies the official of his or her age by showing valid documentary evidence.

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Entry of inspector to casino premises

110 (1) An inspector may, at any time, enter and remain on any casino premises for the purposes of exercising his functions as an inspector under this Act, including but not limited to—

- (a) observing any of the operations of the casino;
- (b) ascertaining whether the operations of the casino are being properly conducted, supervised and managed;
- (c) ascertaining whether the provisions of this Act or regulations are being complied with; and
- (d) in any other respect, exercising his functions under this Act.

(2) An inspector who enters premises under this section is not authorised to remain on the premises if, on the request of the occupier of the premises, the inspector does not show to the occupier his identification card issued for the purposes of this Act.

Entry of police officer, etc., to casino premises

111 (1) A police officer may, at any time, enter and be in any part of the casino if the police officer—

- (a) is of or above the rank of sergeant;
- (b) is authorised to do so by another police officer of or above the rank of sergeant; or
- (c) is asked to do so by a casino operator or person so authorised by the operator.

(2) This section does not affect the power of a police officer under any law to enter and be in the casino for the purpose of discharging his duty as a police officer.

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—

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- (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.

[Section 111A inserted by 2016 : 48 s. 51 effective 12 January 2017]

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.

(3A) A self-exclusion order made by the Commission shall apply to all casinos in Bermuda unless otherwise specified in the Order.

(3B) A self-exclusion order made by a casino operator may only relate to the premises of, or the business conducted by, the casino operator making the 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.

[Section 112 deleted and substituted by 2016 : 48 s. 51 effective 12 January 2017; Section 112 subsections (3A) and (3B) inserted by 2019 : 42 s. 14 effective 26 November 2019]

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.

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(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 regulations made under this section.

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

[Section 113 deleted and substituted by 2016 : 48 s. 51 effective 12 January 2017; Section 113 subsections (6) and (7) amended by 2019 : 42 s. 15 effective 26 November 2019]

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 six months.

(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.

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

[Section 114 deleted and substituted by 2016 : 48 s. 51 effective 12 January 2017; Section 114 subsection (5) amended by 2019 : 42 s. 16 effective 26 November 2019; Section 114 subsection (2) amended by 2021 : 23 s. 19 effective 1 August 2021]

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.

[Section 115 deleted and substituted by 2016 : 48 s. 51 effective 12 January 2017]

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 gaming 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.

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(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.

[Section 116 subsection (2) amended by 2015 : 35 s. 13 effective 6 November 2015; section deleted and substituted by 2016 : 48 s. 51 effective 12 January 2017; Section 116 subsection (2)(b) amended by 2021 : 23 Sch. 1 & s. 30 effective 1 August 2021]

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 to which the exclusion order applies.

(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.

[Section 117 deleted and substituted by 2016 : 48 s. 51 effective 12 January 2017; Section 117 subsection (1) amended by 2019 : 42 s. 17 effective 26 November 2019]

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.

[Section 118 deleted and substituted by 2016 : 48 s. 51 effective 12 January 2017]

Removal of excluded persons from casino premises

119 (1) This section applies to the following persons on any casino premises—

- (a) the person for the time being in charge of the casino;
- (b) an agent of the casino operator;
- (c) a special employee.

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(d) *[repealed]*

(2) A person to whom this section applies who knows that an excluded person is about to enter or is on the casino premises shall—

- (a) notify an inspector as soon as practicable; and
- (b) using no more force than is reasonably necessary, and if necessary with the assistance of a police officer—
 - (i) prevent the excluded person from entering the casino premises; or
 - (ii) remove such a person from the casino premises or cause such a person to be removed, with the assistance of a police officer, from the casino premises.

(3) A casino operator or special employee who fails to comply with subsection (2) shall be liable to disciplinary action.

[Section 119 subsection (1)(d) repealed by 2016 : 48 s. 49 effective 12 January 2017]

Forfeiture of winnings

120 (1) This section applies to any person who is for the time being an excluded person under this Act.

(2) If a person to whom this section applies enters or remains on any casino premises in contravention of this Act, all winnings (excluding winnings from linked jackpots which shall be dealt with in accordance with subsection (9)) paid or payable to the person in respect of gaming on gaming machines or playing any game approved under this Act in the casino are forfeited to the Commission.

(3) If winnings referred to in subsection (2) comprise or include a non-monetary prize, the casino operator shall pay the value of that prize to the Commission.

(4) In determining the value of a non-monetary prize for the purposes of subsection (3), any amount of goods and services tax payable in respect of the supply to which the prize relates is to be taken into account.

(5) The amount of winnings to be forfeited under this section shall be investigated and determined by an inspector.

(6) Where an inspector investigating the amount of winnings under subsection (5) reasonably believes that the winnings of a person to whom this section applies are in that person's clothing or personal effects—

- (a) a police officer may search the clothing, baggage or other personal effects of that person, and seize any money or chips found in his clothing, baggage or personal effects, as the case may be; and
- (b) the inspector may apply any money or chips so found towards the payment of the amount of winnings determined under subsection (5) to be forfeited, and the surplus, if any, shall be returned to that person.

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(7) Nothing in subsection (6) shall authorise any inspector to remove, or require a person to remove, any of the person's clothing, and a search of a person's clothing being worn by the person may only be done by a police officer of the same sex as the person.

(8) A person who is aggrieved by a decision made under this section may appeal to the court in respect of same.

(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 Council.

[Section 120 subsections (2) and (3) amended and subsections (9) and (10) inserted by 2016 : 48 s. 52 effective 12 January 2017; Section 120 subsection (10) amended by 2021 : 23 Sch. 1 & s. 30 effective 1 August 2021]

Chapter 5 - Prohibited acts within casino premises

Conduct within casino premises

121 (1) A casino operator shall take all appropriate steps to ensure that the following acts are not committed by its employees, patrons or other persons within the casino premises—

- (a) illegal gaming activities;
- (b) unlicensed moneylending or related activities;
- (c) drunken, disorderly or riotous behaviour;
- (d) *[repealed]*
- (e) unlawful acts under the Misuse of Drugs Act 1972;
- (f) soliciting for the purpose of prostitution or for any other immoral purpose;
- (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.

(2) Any casino operator who fails to comply with subsection (1) shall be liable to disciplinary action.

[Section 121 subsection (1)(d) repealed by 2016 : 48 s. 49 effective 12 January 2017; subsections (1)(g) and (1)(h) inserted by 2016 : 48 s. 53 effective 12 January 2017]

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Gaming and betting by staff of casino

121A (1) The Commission may give directions prohibiting a staff member of a casino operator, a class of such staff members, or an immediate member of the family of such a staff member from playing casino games or betting with the casino operator.

(2) A staff member or immediate family member who contravenes a direction given by the Commission pursuant to subsection (1) commits an offence.

[Section 121A inserted by 2016 : 48 s. 54 effective 12 January 2017; Section 121A repealed and replaced by 2021 : 23 s. 20 effective 1 August 2021]

PART 7 MINORS

Interpretation of this Part

122 In this Part—

“acceptable proof of age” for a person means documentation that might reasonably be accepted as applying to the person and as proving that the person is at least 18 years of age;

“child” means a minor who is under the age of 16 years;

“minor” means a person who is below the age of 18 years;

“young person” means a minor who is between the age of 16 years and 18 years.

Minors not to enter gaming area

123 (1) A minor shall not enter or remain in a gaming area, or take part in any gaming.

(2) Any minor who contravenes subsection (1) commits an offence.

[Section 123 heading and subsection (1) amended by 2016 : 48 s. 55 effective 12 January 2017]

Casino operator to bar minors from gaming area

124 (1) A casino operator shall not permit a minor to enter or remain in a gaming area.

(2) If a minor is in a gaming area, the casino operator shall immediately remove the minor from the gaming area.

(3) Any casino operator who contravenes subsection (1) or (2) shall be liable to disciplinary action.

(4) It is lawful for the person for the time being in charge of a casino, an agent of the casino operator or a staff member to request a security guard or police officer to remove the minor or cause the minor to be removed from the gaming area or casino premises, using no more force than is reasonably necessary.

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(5) It is a defence to disciplinary action for a contravention of subsection (1) or (2) if it is proved that before the minor entered the casino premises or while the minor was in a gaming area, the casino operator—

- (a) took all reasonable steps, including requiring production of valid documentary proof of age in order to determine the person's age;
- (b) reasonably believed that the person was not a minor.

[Section 124 heading and subsections (1), (2), (4) and (5) amended by 2016 : 48 s. 55 effective 12 January 2017; Section 124 subsection (4) amended by 2021 : 23 Sch. 1 & s. 30 effective 1 August 2021]

Entry of minors to be prevented

125 (1) If a casino operator or a staff member is aware that a person who appears to be a minor is attempting to enter the gaming area, the casino operator or staff member shall refuse the person entry to the gaming area.

(2) The casino operator or staff member is not required to refuse the person entry if there is produced to the casino operator or staff member acceptable proof of age for the person.

(3) Any person who contravenes subsection (1) shall be liable to disciplinary action, in the case of a casino operator or a licensed special employee.

[Section 125 subsection (1) amended by 2016 : 48 s. 55 effective 12 January 2017; Section 125 amended by 2021 : 23 Sch. 1 & s. 30 effective 1 August 2021]

Proof of age may be required

126 (1) The person for the time being in charge of a casino, an agent of the casino operator, a staff member, an inspector or a police officer may if he has reasonable cause to suspect that a person who appears to be a minor is in a gaming area—

- (a) require the person to state his correct age, name and address and provide documentary evidence thereof; and
- (b) if it is suspected on reasonable grounds that the age, name or address given in response to the requirement is false, require the person to produce evidence of its correctness.

(2) A person who—

- (a) fails to comply with a requirement under subsection (1)(a); or
- (b) without reasonable cause, fails to comply with a requirement under subsection (1)(b),

commits an offence.

[Section 126 subsection (1) amended by 2016 : 48 s. 55 effective 12 January 2017; Section 126 subsection (1) amended by 2021 : 23 Sch. 1 & s. 30 effective 1 August 2021]

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Minor using false evidence of age

127 A minor who uses any evidence purporting to be evidence of his age in order to obtain entry to or remain in any gaming area, being evidence which is false in relation to the minor, commits an offence.

[Section 127 amended by 2016 : 48 s. 55 effective 12 January 2017]

Notices to be displayed

128 (1) The Commission may, by written direction given to a casino operator, require a notice or notices to be displayed within the gaming area with respect to the exclusion from the gaming area of persons under the age of 18 years.

(2) The direction may impose requirements as to the form, position and matter to be displayed on any such notice.

(3) A casino operator is liable to disciplinary action if such a direction is not complied with in relation to the casino.

[Section 128 subsection (1) amended by 2016 : 48 s. 55 effective 12 January 2017]

Penalty for Part 7 offences

129 Where a person commits an offence against this Part, he shall be liable on summary conviction to a fine not exceeding \$10,000.

[Section 129 repealed and replaced by 2021 : 23 s. 21 effective 1 August 2021]

PART 8

CASINO INTERNAL CONTROLS

Approved system of controls to be implemented

130 (1) A casino operator shall establish and implement a system of internal controls for the casino operations which satisfies the prescribed internal controls requirements.

(2) The Commission may require a casino operator to submit any part of the casino operator's system of internal controls for approval by the Commission.

(3) Any approved internal controls shall remain in force until amended or substituted with the approval of the Commission.

(4) The casino operator shall ensure that the system of internal controls or part thereof approved for the time being under this section for the casino is implemented.

(5) Any casino operator who fails to comply with subsection (1) or (4) shall be liable to disciplinary action.

Banking

131 (1) A casino operator shall keep and maintain separate accounts, as approved by the Commission, at a bank for use for all banking transactions arising under this Act in relation to the casino operator.

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(2) A casino operator shall from time to time provide the Commission, as required, and in a form approved by the Commission, with a written authority addressed to the bank referred to in subsection (1) authorising the bank to comply with any requirements of an inspector exercising the powers conferred by this section.

(3) Any casino operator who fails to comply with subsection (1) shall be liable to disciplinary action.

Customer due diligence measures to combat money laundering and terrorism financing

132 *[Repealed by 2015 : 35 s. 14]*

[Section 132 repealed by 2015 : 35 s. 14 effective 6 November 2015. These matters are dealt with in other legislation.]

Currency Transaction Reports

132A (1) A casino operator shall maintain a record of all single transactions in which a patron either provides to or removes from the casino an amount of \$10,000 or more, irrespective of whether such amount is made up of cash, wire transfers, cheque or other negotiable instrument or a combination of these.

(2) A record maintained in accordance with subsection (1) shall be verified by the casino operator and shall include the following information—

- (a) the name of the patron;
- (b) the residential address of the patron, or in the case of a patron not resident in Bermuda—
 - (i) his temporary Bermuda address; and
 - (ii) his overseas residential address; and
- (c) the date of birth of the patron.

(3) A series of related transactions in any 24-hour period or the aggregate of transactions for any one patron in any 24-hour period shall be a single transaction for the purpose of subsection (1) and the casino operator shall set out in his casino's internal controls the 24-hour period that shall be applicable to his casino.

(4) For the purpose of recording transactions over a 24-hour period in accordance with subsection (3), a casino operator shall begin monitoring and recording the transactions of any patron who has received from or provided to the casino operator \$3,000, and shall continue such monitoring and recording until the end of the 24-hour period.

(5) A record generated in accordance with subsection (1) shall be disclosed to the Financial Intelligence Agency and any casino operator who does not disclose in accordance with this section shall be liable to disciplinary action.

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(6) The Minister, in consultation with the Minister responsible for justice, may make regulations governing currency transaction reports.

[Section 132A inserted by 2017 : 35 s. 6 effective 3 November 2017]

Accounts to be kept

133 (1) A casino operator shall keep such accounting records that correctly record and explain the transactions and financial position of the operations of the casino.

(2) The accounting records shall be kept in such a manner as will enable true and fair financial statements and accounts to be prepared from time to time and the financial statements and accounts to be properly audited.

(3) Any casino operator who fails to comply with subsection (1) or (2) shall be liable to disciplinary action.

Statement of accounts

134 (1) A casino operator shall, as soon as practicable after the end of its financial year, prepare financial statements and accounts, including—

- (a) a profit and loss statement or statement of comprehensive income (or its equivalent) for the financial year; and
- (b) a statement of its financial position (or its equivalent) as at the end of the financial year that gives a true and fair view of the financial operations of the casino operator in relation to the casino; and
- (c) any other statement, document, information or schedule required by the Commission.

(2) Any casino operator who fails to comply with subsection (1) shall be liable to disciplinary action.

[Section 134 subsection (1)(c) inserted by 2016 : 48 s. 56 effective 12 January 2017]

Assessment by Commission

135 (1) Notwithstanding any other provisions of this Act, if the Commission has reason to believe that any amount of fees has been incorrectly computed by a licensee or when any licensee fails in any month to submit to the Commission a statement in accordance with section 142, the Commission may assess the amount of fees, if any, payable by the licensee as may, in the circumstances, appear proper to the Commission under the provisions of this Act.

(2) Where any fees are assessed by the Commission in accordance with this section, the Commission shall give notice in writing to the licensee stating the amount so assessed and such amount of fees shall be due and payable by the licensee within such period following the date of such notice as the Commission may, in the notice, direct.

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(3) A licensee may appeal within thirty days of the date of such notice to the Magistrates' Court.

[Section 135 amended by 2015 : 35 s. 15 effective 6 November 2015; Section 135 subsection (1) amended by 2021 : 23 Sch. 1 & s. 30 effective 1 August 2021]

Keeping of records

136 (1) A casino operator shall ensure that all records relating to the operations of the casino are—

- (a) kept at a location and in a manner approved by the Commission;
- (b) retained for not less than seven years after the completion of the transactions to which they relate, or such shorter period as the Commission may, on the application of the casino operator in any particular case, allow; and
- (c) available for inspection by an inspector at any time during that period.

(2) The casino operator shall ensure that all records relating to the operations of the casino are kept in such a manner as to permit a reconstruction of individual transactions (including the amount and type of currency involved, if any) so as to provide, if necessary, evidence for prosecution of an offence.

(3) The Commission may, by instrument in writing, grant an exemption to a casino operator from all or specified requirements of this section in respect of all or specified, or specified classes of documents and may grant such an exemption subject to conditions.

(4) Any casino operator who fails to comply with subsection (1) or (2) shall be liable to disciplinary action.

Audit

137 (1) A casino operator shall, as soon as practicable after the end of its financial year, cause the books, accounts and financial statements of the casino operator in relation to the casino to be audited by a person who is registered or deemed to be registered as an accountant under the Chartered Professional Accountants of Bermuda Act 1973 and approved by the Commission to audit the accounting records of the casino operator.

(2) An auditor shall not be approved by the Commission as an auditor for a casino operator unless he is able to comply with such conditions in relation to the discharge of his duties as may be determined by the Commission.

(3) The Commission may impose such additional duties on an auditor in relation to his audit of a casino operator as the Commission considers necessary, the costs of which shall be borne by the casino operator.

(4) The casino operator shall cause the auditor's report, the financial statements referred to in section 134(1)(a) and (b) and any additional information or report requested by the Commission to be lodged with the Commission within 4 months after the end of

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the financial year to which the report, financial statements and additional information or report, if any, relate.

(5) Any casino operator who fails to comply with subsection (1) or (4) shall be liable to disciplinary action.

Special audit

138 (1) The Commission may, at any time by a notice in writing—

(a) require a casino operator to appoint a special auditor to review or investigate the casino operator's affairs and report his findings to the Commission; and

(b) specify the terms of reference for the special audit referred to in paragraph (a) and the time within which it must be completed.

(2) A casino operator to whom a notice under subsection (1) is directed shall engage, at its own expense, a public accountant approved by the Commission to be the special auditor to conduct the special audit in accordance with the terms of reference and within the time specified in the notice.

(3) The special auditor engaged under subsection (2) shall submit his report, all relevant supporting documents and such other information or report as the Commission may require in relation to the special audit, to the Commission not later than 60 days after the conclusion of the special audit or within such other period as the Commission may specify in any particular case.

(4) Any casino operator which fails to comply with subsection (2) shall be liable to disciplinary action.

(5) In this section, "public accountant" means a person who is registered or deemed to be registered as an accountant under the Chartered Professional Accountants of Bermuda Act 1973.

Submission of reports

139 (1) A casino operator shall submit to the Commission reports relating to the operations of the casino.

(2) The reports are to be submitted at the times, and are to contain the information, that is specified by notice in writing given to the casino operator by the Commission from time to time.

(3) Any casino operator who fails to comply with subsection (1) or (2) shall be liable to disciplinary action.

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PART 9 CASINO TAX

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.

[Section 140 repealed and replaced by 2016 : 48 s. 57 effective 12 January 2017]

Meaning of “gross gaming revenue”

141 In this Act, “gross gaming revenue” means the amount wagered minus the winnings returned to players.

Monthly tax returns

142 Within 10 days after the end of each month, the casino operator must give the Commission a written return relating to the gross gaming revenue derived in the month from the operation of the casino.

General Reserve

143 The Minister 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;
- (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.

[Section 143 repealed and replaced by 2016 : 48 s. 58 effective 12 January 2017; Section 143 amended by 2023 : 15 s. 5 effective 31 March 2023]

Casino tax: regulations

144 (1) The Minister may make regulations—

- (a) prescribing the returns, declarations, statements or forms to be submitted by a casino operator to the Commission relating to casino tax, and the time and manner of such submissions;
- (b) prescribing the time and manner of payment of the casino tax;

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- (c) prescribing the records to be kept by a casino operator to determine the gross gaming revenue from players (or otherwise) for each month;
 - (d) prescribing the treatment of losses, including the carrying forward or set-off of losses, in respect of gross gaming revenue;
 - (e) prescribing the requirements for an audit of a casino operator relating to the casino tax payable by the casino operator, whether by an internal auditor or an external auditor or both;
 - (f) prescribing the obligations of a casino operator for the purposes of classifying or verifying the gross gaming revenue from premium players; and
 - (g) generally to give effect to the provisions of this Part.
- (2) Regulations made under this section may provide—
- (a) that any contravention of any provision of the regulations shall be a summary offence punishable with a fine not exceeding \$10,000 or with imprisonment for a term not exceeding twelve months or with both a fine or term of imprisonment; and
 - (b) that if any return required under this Part (including regulations made under this Part) is not made by a casino operator within the prescribed accounting period, the casino operator shall be liable to a penalty not exceeding \$10,000.

[Section 144 subsection (1) amended by 2016 : 48 s. 59 effective 12 January 2017; Section 144 subsection (1) amended by 2023 : 15 s. 5 effective 31 March 2023]

Responsibility of Tax Commissioner

145 (1) The Tax Commissioner shall be responsible generally for receiving casino tax from the Commission and shall pay into the Consolidated Fund all amounts collected in respect thereof.

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

[Section 145 subsection (2) repealed and substituted by 2016 : 48 s. 16 effective 12 January 2017]

PART 10

PROBLEM GAMING COUNCIL

Chapter 1 - Interpretation

Interpretation of this Part

146 In this Part, unless the context otherwise requires—

“chairman” means the chairman of the Council;

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“complaint” means an application for a family exclusion order;

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

“family exclusion order” means an exclusion order or a provisional family exclusion order made by the Council under this Part;

“family member”, in relation to a respondent, means—

- (a) a spouse of the respondent;
- (b) a child of the respondent;
- (c) a parent of the respondent; and
- (d) a sibling of the respondent;

“list of excluded persons” means the list of excluded persons established and maintained by the Council under section 163, as varied or updated from time to time;

“respondent” means a person against whom a family exclusion order is sought or made.

[Section 146 definition "Director" inserted by 2016 : 48 s. 60 effective 17 March 2017]

Chapter 2 - Establishment and functions of Problem Gaming Council

Establishment of Problem Gaming Council

147 (1) There shall be a Problem Gaming Council comprising a chairman and not fewer than four and not more than eight other members to be appointed by the Minister, after consultation with the Minister responsible for health.

(2) The chairman and every member of the Council shall be appointed for an initial period not exceeding two years and shall be eligible for reappointment.

(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.

[Section 147 subsections (3) and (4) inserted by 2016 : 48 s. 60 effective 17 March 2017; Section 147 heading amended by 2021 : 23 Sch. 1 & s. 30 effective 1 August 2021]

Functions of Council

148 (1) The functions of the Council shall be—

- (a) to do all the things it is authorised or required to do under the gaming legislation; and

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- (b) to appoint a panel of assessors to decide on applications for the exclusion of persons from casino premises pursuant to this part; and
 - (c) to make recommendations to the Director and upon the instructions of the Director publish educational materials or carry out research or other educational activities relating to gaming, or to support (financially or otherwise) the carrying out by others of such activities or the provision by others of information or advice; and
 - (d) to advise the Commission generally as to matters relating to problem and responsible gaming.
- (2) The Council may appoint a secretary to the Council and such other officers as may be required to enable the Council to carry out its functions under this Part.
- (3) Every summons and notice issued under the hand of the secretary to the Council to any person shall be deemed to be issued by the Council.
- (4) The Council may, subject to the provisions of this Part, regulate its own procedure.
- (5) The Council shall not transact any business unless a quorum is present.
- (6) The chairman, if present, shall preside at all meetings of the Council.
- (7) Where the office of chairman is vacant or the chairman for any reason is unable to attend a meeting, such other member as the members present shall elect shall preside at the meeting.
- (8) The Council may appoint from among its own members such number of committees as it thinks fit, and may, subject to such conditions or restrictions as it may impose, delegate to any such committee any of the functions or powers of the Council under this Part, except the power of delegation conferred by this subsection.
- (9) Any function or power delegated under subsection (8) to any committee may be performed or exercised by the committee to whom it has been delegated in the name and on behalf of the Council.
- (10) No delegation under subsection (8) shall prevent the performance or exercise of any function or power by the Council.

[Section 148 subsection (1) amended by 2016 : 48 s. 60 and 61 effective 17 March 2017; Section 148 subsection (1) amended by 2021 : 23 s. 22 effective 1 August 2021]

Validity of Council's actions

- 149 (1) The Council may, subject to section 148(5), transact its business notwithstanding any vacancy among its members.
- (2) The proceedings or any decision of the Council shall be valid notwithstanding any defect in the appointment of its members or that some person who was not entitled to do so took part in its proceedings.

Chapter 3 - Family exclusion orders

Grounds for making a family exclusion order

150 (1) On a complaint under this Part, the Problem Gaming Council may make a family exclusion order against the respondent if—

- (a) there is a reasonable apprehension that the respondent may cause serious harm to family members because of problem gambling; and
- (b) the Council is satisfied that the making of the order is reasonably appropriate in the circumstances.
- (c) the respondent has been given an opportunity to object; and
- (d) the Commission is satisfied that it would be in the best interest of the respondent and his family members to make the order.

(2) For the purposes of this Part, the respondent is to be regarded as having caused serious harm to family members because of problem gambling if the respondent—

- (a) has engaged in gambling activities irresponsibly having regard to the needs and welfare of the respondent's family members; and
- (b) has done so repeatedly over a period of not less than three months or in a particularly irresponsible manner over a lesser period.

(3) The Council may decide that there is a reasonable apprehension that the respondent may cause serious harm to family members because of problem gambling if the Council is satisfied that—

- (a) the respondent has caused such harm prior to the complaint, according to the test set out in subsection (2); and
- (b) there is reason to believe that the respondent's irresponsible gambling behaviour is likely to continue or recur.

(4) The Council may, in determining whether there is a reasonable apprehension that the respondent may cause serious harm to family members because of problem gambling, take into account events that have taken place outside Bermuda.

(5) If a respondent disputes some or all of the grounds on which a family exclusion order is sought or made but consents to the order, the Council may make or confirm the order without receiving any further submissions or evidence as regards ground (a) of subsection (1).

[Section 150 amended by 2016 : 48 s. 51 effective 12 January 2017]

Dismissal of complaints or deferral of consideration

151 (1) The Council shall, before the Council hears evidence in support of a complaint, consider whether it should, and may in an appropriate case, refer the parties to family counselling or mediation.

(2) The Council may, at any stage, dismiss a complaint if the Council is satisfied that the complaint is frivolous, vexatious, without substance or has no reasonable prospect of success.

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Committee of Assessors for making family exclusion orders

152 (1) For the purpose of hearing and determining a complaint in relation to a family exclusion order or of making a family exclusion order, the chairman of the Council shall, from time to time, constitute a Committee of Assessors consisting of—

- (a) a chairman, being a member of the Council; and
- (b) two other members selected from the panel of assessors appointed under subsection (2).

(2) For the purpose of enabling a Committee to be constituted under subsection (1), there shall be a panel of assessors, the members of which shall be appointed by the Council.

(3) Consistent with its budget, there shall be paid to the members of the panel such salaries, fees and allowances as the Council may determine.

[Section 152 subsection (1) amended by 2016 : 48 s. 51 effective 12 January 2017]

Committee to hear and determine applications for family exclusion orders

153 (1) A Committee shall—

- (a) hear and determine in accordance with this Part all complaints for family exclusion orders referred to the Committee;
- (b) give the person complained against the opportunity to be heard before it determines any complaint for a family exclusion order in respect of him.

(2) Sittings of a Committee shall be held at such places and times as the chairman of the Committee may determine.

(3) A Committee shall have the power to—

- (a) summon any person whom it may consider able to give evidence to attend at the hearing of an application; and examine such person as a witness;
- (b) require any person to furnish such information or produce such document, record or article in the possession or under control of that person as the Committee considers relevant for the purposes of the proceedings; and
- (c) inspect, keep or make copies of such record, document or article.

(4) Every person examined as a witness by or before a Committee or required to furnish any information or produce any document, record or article by a Committee shall, subject to the conditions set out in subsection (5), be legally bound to state the truth and to produce such records, documents or articles as the Committee may require for the purposes of carrying out its functions and duties under this Part.

(5) The conditions referred to in subsection (4) are that the Committee is not entitled to require a person to produce information or produce any document, record or article requested by the Committee—

- (a) consisting of or including items subject to legal privilege; or

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(b) in breach of any enactment or rule of law relating to confidentiality of medical information or any rule of practice relating to client confidentiality.

(6) A statement made by a person in compliance with a requirement imposed by this section may not be used in evidence against him in criminal proceedings.

(7) Subsection (6) does not apply on a prosecution for perjury.

(8) In proceedings under this Part, a Committee is to decide questions of fact on the balance of probabilities.

(9) A Committee shall not be bound by the strict rules of evidence and shall determine the conduct of its proceedings.

(10) At any meeting of a Committee under this Part—

(a) three members of the Committee shall be personally present to constitute a quorum; and

(b) any question arising at the meeting of the Committee shall be determined by a majority of votes of the members present and, in the case of an equality of votes, the chairman of the Committee shall have a casting vote.

(11) A person who is aggrieved by a decision in relation to a family exclusion order or provisional family exclusion order under this Part may appeal to the court in respect of the decision.

Complaints

154 (1) A complaint may be made to the Council.

(2) A complaint under subsection (1) shall be made in writing in the form approved from time to time by the Council.

(3) A complaint may be made by—

(a) a family member of the respondent adversely affected by the respondent's problem gambling; or

(b) any other person on behalf of a person referred to in paragraph (a).

(4) The complainant shall inform the Council of any other proceedings brought by the complainant against the respondent that are either determined or pending.

(5) On the making of a complaint, the Council may exercise any powers vested in the Council for the purposes of proceedings before the Council.

Application by or on behalf of person under 18 years

155 A complaint that could otherwise be made by a person under this Part may, if the person is below the age of 18 years, be made—

(a) by the person, with the permission of the Council, if the person is at least 16 years of age; or

(b) on behalf of the person by—

- (i) a parent or guardian of the person; or
- (ii) with the permission of the Council, any other family member or other relative of the person who satisfies the Council that he has a proper interest in the welfare of the child and with whom the child normally or regularly resides.

Application on behalf of incapacitated applicant

156 Where a person is unable to make an application (whether by reason of physical or mental infirmity or for any other reason), the application may be made on his behalf—

- (a) with the permission of the Council, by any family member or other relative of the person; or
- (b) by any person appointed by the Minister.

Terms of family exclusion order

157 (1) A family exclusion order shall specify the period during which it is in force.

(2) Without limiting the matters that may be the subject of a family exclusion order, an order may do one or more of the following—

- (a) refer the respondent to participate in a programme of counselling, rehabilitation or special education or any combination of these;
- (b) bar the respondent from entering or remaining on any gaming premises;
- (c) require the respondent to close any patron account with a gaming operator;
- (d) require a gaming operator to close any patron account of the respondent with the gaming operator.

[Section 157 subsection (2) amended by 2021 : 23 s. 23 effective 1 August 2021]

Provisional family exclusion order

158 (1) Where, upon a complaint for a family exclusion order, a Committee is satisfied that the respondent has caused serious harm to family members, the Committee may make a provisional family exclusion order, notwithstanding that—

- (a) a hearing has not been held to determine the application for the family exclusion order; or
- (b) a summons has not been served on the respondent to appear at the hearing.

(2) A provisional family exclusion order shall take effect on the date on which the provisional family exclusion order is served on the respondent or such later date as the Committee may specify therein, but shall cease to have effect on whichever of the following dates occurs first—

- (a) the date of the conclusion of the hearing to which the respondent is summoned or, if the hearing is adjourned, the conclusion of the adjourned hearing;

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- (b) the 10th day after the date of the making of the provisional family exclusion order.

[Section 158 subsection (2)(b) amended by 2016 : 48 s. 62 effective 12 January 2017]

Making family exclusion order in respondent's absence

159 (1) A family exclusion order may be made by the Council in the absence of the respondent if—

- (a) the respondent was served with the summons to appear at the hearing of the complaint and failed, without reasonable excuse, to appear at the time and place appointed for the hearing, or has indicated that he does not wish to attend the hearing;
- (b) the respondent was given an opportunity to object and failed to respond by the time and date specified in the notice, or has indicated that he does not wish to respond; or
- (c) no service can be effected after reasonable efforts have been made to locate the respondent who cannot be found or is outside Bermuda,

and the Council is satisfied that there are grounds for making the family exclusion order or provisional family, exclusion order.

(2) A family exclusion order shall take effect on the date of the conclusion of the hearing, or such later date as the Committee may specify, and continues in force until whichever of the following occurs first—

- (a) the family exclusion order is set aside by the Commission on the application of the respondent under subsection (3);
- (b) the family exclusion order expires;
- (c) the family exclusion order is revoked.

(3) An application to set aside any family exclusion order made by virtue of this section may be made by the respondent within the prescribed time and in the prescribed manner.

(4) A Committee may determine an application to set aside any family exclusion order by confirming, varying or setting aside the order.

(5) This section shall apply to any respondent against whom a complaint for a family exclusion order is made.

Conduct of proceedings

160 (1) The Committee shall be constituted of at least three members of the Council for the purposes of the conduct of proceedings under this Part.

(2) In proceedings under this Part, the Committee shall make decisions on the balance of probabilities.

(3) The Committee is not bound by rules of evidence but may inform itself in such manner as it thinks fit.

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Variation or revocation of family exclusion order, by Council

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

(2) An application for variation or revocation of an order may be made by the respondent only with the permission of the Council and permission is only to be granted if the Council is satisfied that there has been a substantial change in the relevant circumstances since the order was made or last varied.

(3) For the purposes of determining whether there has been a substantial change in the relevant circumstances, the Council may—

- (a) require the respondent to undergo an assessment of harm caused by gambling, including a clinical assessment if necessary, by a suitably qualified person appointed by the Council for this purpose;
- (b) require any person to furnish such information or produce such document or record in the possession or under the control of that person as the Council considers relevant to its determination; and
- (c) inspect, keep or make copies of such document or record.

(4) The Council shall, before confirming, varying or revoking an order under this section, allow the respondent and, in the case of a family exclusion order, a family member for whose benefit the order was made, a reasonable opportunity to be heard on the matter.

(5) The members of the Council who sit as a committee to hear and determine the complaint for a family exclusion order shall not sit to hear and determine an application to vary or revoke such order.

[Section 161 subsection (1) amended by 2016 : 48 s. 63 effective 12 January 2017]

Service of family exclusion order

162 (1) A family exclusion order or, provisional family exclusion order, must be served on the respondent and is not binding on the person named in the order until it has been so served.

(2) If a family exclusion order or a provisional family exclusion order is confirmed in an amended form or is varied at any time, the order in its amended or varied form must be served on the respondent and until so served—

- (a) the variation is not binding on the respondent; and
- (b) the order as in force prior to the variation continues to be binding on the respondent.

(3) As soon as practicable after a family exclusion order is made, varied or revoked, the Council shall notify the applicant of the family exclusion order of the making of the family exclusion order or the variation or revocation thereof, as the case may be.

List of excluded persons

163 (1) The Council shall establish, maintain and regularly update a list of excluded persons which sets out the names and particulars of every person (referred to collectively in this section as

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excluded persons under this Part) who, for the time being is excluded from any gaming premises, or from playing any game or betting with any gaming operator, by a family exclusion order or a provisional family exclusion order only.

(2) For the purposes of maintaining the list of excluded persons referred to in subsection (1), the Council may, by notice in writing, require a gaming operator to furnish any information or produce any document or record in the possession or under the control of the gaming operator relating to the number of visits made by any person to the gaming premises, or the amount of gaming conducted with the gaming operator.

(3) The Council shall furnish the list of excluded persons to—

- (a) the Commission;
- (b) the Commissioner of Police; and
- (c) every gaming operator.

(4) Subsection (5) applies in the following circumstances—

- (a) the cessation, revocation or setting aside of any family exclusion order or provisional family exclusion order made against any person whose name is on the list of excluded persons; or
- (b) the cessation of any exclusion order.

(5) Where the circumstances in subsection (4) are satisfied, the Council shall—

- (a) remove the name and particulars of the person from the list of excluded persons; and
- (b) notify the persons referred to in subsection (3) of the removal.

(6) Without prejudice to subsections (4) and (5), the Council may, from time to time, vary or update the list of excluded persons—

- (a) to correct any clerical or other error in the names or particulars therein;
- (b) to add the names and particulars of new persons to the list; or
- (c) to update any of the names or particulars therein in order that they remain sufficient to identify any excluded person,

and the Council shall notify the persons referred to in subsection (3)(a), (b) and (c) of those variations and updates.

(7) It shall be a defence to any disciplinary action against a gaming operator for permitting an excluded person under this Part to enter or remain on the gaming premises if it is proved that—

- (a) before the person entered the gaming premises or while the person was on the gaming premises, there was produced to the gaming operator or to its agent or employee acceptable documentary proof of the person's identity; and

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- (b) at that time, the person named in the acceptable documentary proof and particulars were not on the list of excluded persons furnished by the Council to the gaming operator.

(8) It shall be lawful for the person for the time being in charge of a gaming premises, an agent of the gaming operator or a staff member to refuse entry to, or remove or cause to be removed from the gaming premises using no more force than is reasonably necessary, any person whose name and particulars are at that time on the list of excluded persons furnished or notified by the Council to the gaming operator.

[Section 163 amended by 2021 : 23 s. 24 effective 1 August 2021; Section 163 amended by 2016 : 48 s. 51 effective 12 January 2017]

Secrecy of proceedings of Council

- 164 (1) The proceedings of the Council shall be secret.
- (2) No member of a Committee shall disclose or divulge to any person, other than—
- (a) the Minister;
 - (b) any member or officer of the Council; or
 - (c) any officer of the Commission,

any matter which has arisen at any proceedings of the Council, unless he is expressly authorised to do so by the Minister or the respondent to whom the information relates has consented to the disclosure.

Rules

- 165 (1) The Minister may make such rules as may be necessary or expedient to give effect to the provisions and purposes of this Part and for the due administration thereof.
- (2) Without prejudice to subsection (1), the Minister may make rules to prescribe—
- (a) the procedure for the conduct of any proceedings by the Council;
 - (b) the procedure for the conduct of any proceedings by a Committee;
 - (c) the forms necessary for the administration of this Part; and
 - (d) any fees for an application and other charges for the purposes of this Part.

PART 11

GAMING ADVERTISING

Casino advertising and promotions

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

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- (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.
- (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.

[Section 166 repealed and substituted by 2016 : 48 s. 65 effective 12 January 2017; Section 166 amended by 2021 : 23 Sch. 1 & s. 30 effective 1 August 2021]

Penalty

167 Where a casino operator or licensed special employee or an agent or employee of any of the above which or who, being required to comply with section 166, fails to do so, the casino operator or the special employee, as the case may be, shall be liable to disciplinary action.

PART 12
GENERAL OFFENCES

Prohibition on offering or engaging in gaming

167A (1) No person in Bermuda shall offer, make, place, receive or accept a wager with another person or persons, whether in person or by use of remote communication.

(2) No person outside Bermuda shall offer, make, place, receive or accept a wager with a person or persons in Bermuda by use of remote communication.

(3) Any person who contravenes subsection (1) or (2) commits an offence and shall be liable on summary conviction to a fine not exceeding 100,000 or to imprisonment for a term not exceeding two years, or to both.

(4) This section does not apply in respect of an action performed in accordance with a licence or approval.

(5) It is a defence to a charge for an offence under this section if it is proved that the relevant conduct was exempt conduct.

[Section 167A inserted by 2021 : 23 s. 25 effective 1 August 2021]

Prohibition on offering or providing a gaming service

167B (1) No person in Bermuda shall offer or provide a gaming service, whether in person or by use of remote communication.

(2) No person outside Bermuda shall offer or provide a gaming service to persons in Bermuda by use of remote communication.

(3) Any person who contravenes subsection (1) or (2) commits an offence and shall be liable on summary conviction to a fine not exceeding \$500,000 or to imprisonment for a term not exceeding five years, or to both.

(4) This section does not apply in respect of an action performed in accordance with a licence or approval.

(5) It is a defence to a charge for an offence under this section if it is proved that the relevant conduct was exempt conduct.

(6) The court before which a person is convicted of an offence under this section shall, in addition to imposing on that person any other punishment, order the payment by him of a sum which is equal to his gross gaming revenue for the period that the offence was committed, and any such payment ordered shall be recoverable as a fine.

[Section 167B inserted by 2021 : 23 s. 25 effective 1 August 2021]

Prohibitions related to possession, sale and supply of gaming machines

167C (1) No person shall possess a gaming machine otherwise than in accordance with a licence or approval.

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(2) No person shall whether as principal or as a servant or agent, sell or supply, or offer to sell or supply, a gaming machine otherwise than in accordance with a licence or approval.

(3) For the purposes of subsection (2), a person who places a gaming machine, or causes a gaming machine to be placed, on premises which are not in his occupation shall be treated as supplying the gaming machine at the time when it is placed on those premises.

(4) Any person who contravenes subsection (1), (2) or (3) commits an offence and shall be liable—

(a) on summary conviction, to a fine not exceeding \$100,000 or imprisonment for a term not exceeding two years, or to both;

(b) on indictment, to a fine not exceeding \$250,000 or imprisonment for a term not exceeding five years, or to both.

(5) In this section—

“premises” includes any ship, boat, raft or other apparatus constructed or adapted for floating on water.

[Section 167C inserted by 2021 : 23 s. 25 effective 1 August 2021]

Prohibitions related to use of gaming machines

167D (1) No person shall use a gaming machine for gaming otherwise than in accordance with a licence or approval.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable on summary conviction to a fine not exceeding \$1,000.

(3) No person shall, on premises that the person controls, permit any other person to offer or use a gaming machine for gaming otherwise than in accordance with a licence or approval.

(4) No person acting as principal shall, otherwise than in accordance with a licence or approval—

(a) undertake for valuable consideration to maintain the mechanism of a gaming machine; or

(b) cause or permit another person to enter into such an undertaking on his behalf.

(5) Any person who contravenes subsection (3) or (4) commits an offence and shall be liable—

(a) on summary conviction, to a fine not exceeding \$100,000 or imprisonment for a term not exceeding two years, or to both;

(b) on indictment, to a fine not exceeding \$250,000 or imprisonment for a term not exceeding five years, or to both.

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(6) In this section—

“premises” includes any ship, boat, raft or other apparatus constructed or adapted for floating on water.

[Section 167D inserted by 2021 : 23 s. 25 effective 1 August 2021]

Prohibition on importation of gaming machines

167E (1) Subject to subsection (3), no person shall import, or cause to be imported, into Bermuda—

- (a) a gaming machine; or
- (b) any part or accessory for such a machine,

otherwise than in accordance with a licence or approval.

(2) Any customs officer or police officer may seize or detain any gaming machine which he has reason to believe has been imported in contravention of subsection (1).

(3) Subsection (1) shall not apply to a gaming machine that—

- (a) is on board a vessel that is berthed in Bermuda, and is not unloaded, or intended to be unloaded, in Bermuda; or
- (b) is imported into Bermuda only as a result of being on a vessel that—
 - (i) arrives at any anchorage, mooring or port in Bermuda under unavoidable circumstances owing to inclement weather or any other genuine emergency;
 - (ii) is wrecked or stranded in territorial waters, or at any anchorage, mooring or port in Bermuda; or
 - (iii) is brought from outside Bermuda as a wreck to any anchorage, mooring or port in Bermuda.

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

- (a) on summary conviction, to a fine not exceeding \$100,000 or imprisonment for a term not exceeding two years, or to both;
- (b) on indictment, to a fine not exceeding \$250,000 or imprisonment for a term not exceeding five years, or to both.

[Section 167E inserted by 2021 : 23 s. 25 effective 1 August 2021]

Forfeiture of gaming machines

167F Where a person is convicted of an offence under section 167C, 167D or 167E, the court may order any gaming machine, or part or accessory, shown to its satisfaction to relate to the offence, to be forfeited and destroyed or dealt with in such other manner as the court may order.

[Section 167F inserted by 2021 : 23 s. 25 effective 1 August 2021]

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Restrictions on use, possession, importation, sale or supply of other gaming equipment

167G The Minister may by regulation prescribe restrictions on the use, possession, importation, sale or supply by any person of gaming equipment that—

- (a) is designed, or has been configured, modified or adapted, for use in connection with gaming; and
- (b) either—
 - (i) is not normally used, or is not normally used as so configured, modified or adapted, otherwise than in connection with gaming; or
 - (ii) is intended, or offered for supply, by the person for use in connection with gaming.

[Section 167G inserted by 2021 : 23 s. 25 effective 1 August 2021]

Prohibited items

168 (1) A person shall not use any device for the purpose of enabling the person or some other person to count or otherwise record cards dealt in the course of gaming in the casino.

(2) A person shall not, whether in a casino or elsewhere—

- (a) use as genuine chips that he knows or has reason to believe to be counterfeit chips;
- (b) have in his possession chips that he knows or has reason to believe to be counterfeit chips, intending that the same may be used as genuine; or
- (c) sell, buy or otherwise deal in chips that he knows or has reason to believe to be counterfeit chips, intending that the same may be used as genuine.

(3) A person shall not, in any casino or within any designated site, use or have in his possession or under his control—

- (a) any device, machine, implement or other material—
 - (i) for the purpose of counterfeiting chips, or knowing or having reason to believe that the same is intended to be used for that purpose; or
 - (ii) that he knows or has reason to believe is or has been specially designed or adapted for the making of counterfeit chips;
- (b) cards, dice or coins that he knows or has reason to believe have been marked, loaded or tampered with;
- (c) any equipment, device or thing that permits or facilitates cheating or stealing; or
- (d) such other thing as may be prescribed.

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(4) A person shall not, in any place outside a designated site, have in his possession or under his control any of the things in subsection (3)—

- (a) knowing or having reason to believe that the device, machine, implement or material is or has been specially designed or adapted for the making of counterfeit chips; and
- (b) with the intention that he or someone else will use the device, machine, implement or material to make counterfeit chips.

(5) Any person who contravenes subsection (1), (2) or (3) or (4) commits an offence and shall be liable on conviction on indictment to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding seven years or to both.

Unlawful interference with gaming equipment

169 (1) A person shall not, whether in a casino or elsewhere—

- (a) be in possession of any device made or adapted, or intended by the person to be used, for improperly interfering with gaming equipment;
- (b) do any act or thing calculated, or likely, to improperly interfere with gaming equipment; or
- (c) insert, or cause to be inserted, in a gaming machine any thing other than Bermuda currency or currency that is legal tender in Bermuda or a gaming token of the denomination or type displayed on the gaming machine as a gaming token to be used in order to operate or gain credit on the gaming machine.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding seven years or to both.

(3) If a police officer believes on reasonable grounds that a person has committed an offence under subsection (1), the police officer may search the person for any device or thing that the police officer or inspector suspects was used in the commission of the offence.

(4) Nothing in subsection (3) shall authorise any police officer to remove, or require a person to remove, any of the person's clothing, and a search of a person's clothing being worn by the person may only be done by a police officer of the same sex as the person.

Cheating at play

170 (1) A person shall not—

- (a) cheat at gaming in a casino; or
- (b) do anything for the purpose of enabling or assisting another person to cheat at gaming in a casino.

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(1A) For the purposes of subsection (1), it is immaterial whether a person who cheats—

- (a) improves his chances of winning anything; or
- (b) wins anything.

(1B) Without prejudice to the generality of subsection (1), cheating at gaming may, in particular, consist of actual or attempted deception or interference in connection with—

- (a) the process by which gaming is conducted; or
- (b) a real or virtual game, race or other event or process to which gaming relates.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable on summary conviction to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding seven years or to both.

(3) Any person who colludes with another person to do any act in contravention of subsection (1) commits an offence and shall be liable on summary conviction to be punished with the punishment provided for the offence under subsection (2).

(4) If a police officer or an inspector believes on reasonable grounds that a person has committed, or colluded in the commission of, an offence of contravening subsection (1), the police officer may search the person for any device, gaming equipment, implement or material that the police officer or inspector suspects was used in the commission of the offence.

(5) Nothing in subsection (4) shall authorise any police officer or inspector to remove, or require a person to remove, any of the person's clothing, and a search of a person's clothing being worn by the person may only be done by a police officer or an inspector of the same sex as the person.

[Section 170 subsection (1)(d) amended by 2019 : 42 s. 18 effective 26 November 2019; Section 170 subsection (1) repealed and substituted, and subsections (1A) and (1B) inserted by 2021 : 23 s. 26 effective 1 August 2021]

Possession of chips outside designated site

171 *[Repealed by 2016 : 48 s. 66.]*

[Section 171 repealed by 2016 : 48 s. 66 effective 12 January 2017]

Forgery and counterfeiting

172 (1) No person shall—

- (a) forge or counterfeit chips, a chip purchase voucher, a match play coupon, a licence under this Act or a special employee's form of identification; or
- (b) use as genuine a forged or counterfeit chip purchase voucher, match play coupon, licence under this Act or special employee's form of

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identification, knowing or having reason to believe the same to be forged or counterfeit.

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

- (a) on summary conviction to a fine of \$10,000 or to imprisonment for five years, or both; and
- (b) on conviction on indictment to a fine of \$100,000 or to imprisonment for ten years, or both.

Impersonation

173 (1) No person shall impersonate—

- (a) the holder of a special employee licence; or
- (b) an inspector; or
- (c) any other person lawfully performing functions or duties under this Act.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable on summary conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 3 years or to both.

Entering casino on false pretences

174 Any person who enters any casino by pretending to be some other person, or by using another person's identification document, commits an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding three years or to both.

Refusal to provide information, etc.

175 (1) Any person who—

- (a) fails, without reasonable excuse, to produce for inspection any machinery, equipment, record or thing in the possession or under the control of the person when required to do so by an inspector or a police officer in the performance of his functions under this Act; or
- (b) fails, without reasonable excuse, to attend before an inspector or a police officer and answer questions or supply information when required to do so by the inspector or police officer in the performance of his functions under this Act,

commits an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding two years or to both.

(2) If a person is charged with an offence under subsection (1) in respect of a requirement to produce a document, it shall be a defence for him to prove that—

- (a) the document was not in his possession or under his control; and

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- (b) it was not reasonably practicable for him to comply with the requirement.

Destroying or falsifying documents

176 Any person who, having been required to produce a document to the Commission, an inspector or an authorised person under this Act—

- (a) intentionally or recklessly destroys or otherwise disposes of it, falsifies it or conceals it; or
- (b) causes or permits its destruction, disposal, falsification or concealment,

commits an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding two years or to both.

False or misleading information

177 (1) Any person who provides information to the Commission, a police officer, an inspector or any authorised person in connection with any application to the Commission or any function or duty of the Commission, police officer, inspector or authorised person under this Act commits an offence if—

- (a) the information is false or misleading in a material particular; and
- (b) he knows that it is false or misleading in a material particular or is reckless as to whether it is so.

(2) A person who—

- (a) provides any information to another person, knowing the information to be false or misleading in a material particular; or
- (b) recklessly provides any information to another person which is false or misleading in a material particular,

knowing that the information is to be used for the purpose of providing information to the Commission, a police officer, an inspector or any authorised person in connection with any application to the Commission or any function or duty of the Commission, police officer, inspector or authorised person under this Act, commits an offence.

(3) Any person who commits an offence under subsection (1) or (2) shall be liable on summary conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding two years or to both.

Obstructing officer of Commission, etc.

178 Any person who refuses to give access to, or obstructs, hinders or delays—

- (a) any member, officer, employee or agent of the Commission authorised to act for or assist the Commission;
- (b) any inspector or person assisting an inspector; or
- (c) any authorised person,

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in the discharge of his duties under this Act commits an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding two years or to both such fine or imprisonment.

Prosecution of offences

179 (1) Offences against this Act, unless otherwise provided, shall be prosecuted before a court of summary jurisdiction.

(2) Notwithstanding section 80 of the Criminal Jurisdiction and Procedure Act 2015, summary proceedings for an offence under this Act may be commenced at any time within three years from the time when the offence was committed.

[Section 179 subsection (2) amended by 2015 : 38 s. 91 effective 6 November 2015]

PART 12A

EXEMPT CONDUCT

Exempt private wagers

179A The offering or making of a wager is exempt conduct for this Act if—

- (a) the wager is a purely private matter and not conducted as part of any person's business;
- (b) no party or proposed party to the wager is at any time under any pressure or duress;
- (c) the amount of the wager, taking into account any other wagers between the person offering or making the wager and the other parties—
 - (i) is not disproportionate to the means of that person; and
 - (ii) is not disproportionate to the apparent means of any of the other parties; and
- (d) the wager will not result in the avoidance of any tax that would otherwise have been payable.

[Section 179A inserted by 2021 : 23 s. 27 effective 1 August 2021]

Exempt conduct in other circumstances

179B (1) The Minister may by regulation prescribe circumstances in which specified gaming activity, or specified conduct related to such activity, is exempt conduct for this Act.

(2) The Commission may, by declaration published in the Gazette, specify circumstances in which specified gaming activity, or specified conduct related to such activity, is exempt conduct for this Act for a specified period of not more than three days.

[Section 179B inserted by 2021 : 23 s. 27 effective 1 August 2021]

PART 13
ENFORCEMENT POWERS AND PROCEEDINGS

Detention of suspected person

- 180 (1) A person who is—
- (a) for the time being in charge of a casino;
 - (b) an agent of the casino operator; or
 - (c) a staff member of a casino,

and who suspects on reasonable grounds that a person within the casino premises is committing, attempting to commit or has committed any offence under Part 12 or under a prescribed provision of this Act may detain the suspected person in a suitable place on or near the casino premises until the arrival at the place of detention of a police officer or an inspector.

- (2) A person may not be detained under this section unless—
- (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 person effecting the detention immediately notifies a police officer or an inspector of the detention and the reasons for the detention.

[Section 180 subsection (1) amended by 2021 : 23 Sch. 1 & s. 30 effective 1 August 2021]

Powers of enforcement

181 (1) In addition to the powers conferred on him by this Act or any other enactment, an inspector or authorised person may, for the purposes of investigating any offence or contravention of a provision of this Act which may result in disciplinary action, do all or any of the following—

- (a) require any person whom he reasonably believes to have committed that offence or contravention to furnish evidence of the person's identity;
- (b) require any person to furnish any information or produce any record, document or copy thereof in the possession of that person, and may, without fee, inspect, copy or make extracts from such record or document;
- (c) require, by order in writing, the attendance before the inspector or authorised person of any person in Bermuda who, from any information given or otherwise obtained by the inspector or authorised person, appears to be acquainted with the circumstances of the case;
- (d) examine orally any person who appears to be acquainted with the facts and circumstances of matters under this Act—

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- (i) whether before or after that person or anyone else is charged with an offence, or disciplinary proceedings are commenced, in connection with the matter; and
 - (ii) whether or not that person is to be called as a witness in any inquiry, trial or disciplinary proceedings in connection with the matter.
- (2) An inspector or authorised person is not entitled to require a person to produce information or produce any document or record—
 - (a) consisting of or including items subject to legal privilege; or
 - (b) in breach of any enactment or rule of law relating to confidentiality or any rule of practice relating to client confidentiality.
- (3) A statement made by a person in compliance with a requirement imposed by this section may not be used in evidence against him in criminal proceedings.
- (4) Subsection (3) does not apply on a prosecution for perjury.
- (5) A statement made by any person examined under this section shall—
 - (a) be reduced to writing;
 - (b) be read over to him;
 - (c) if he does not understand English, be interpreted for him in a language that he understands; and
 - (d) after correction, if necessary, be signed by him.
- (6) If any person fails to attend as required by an order under subsection (1)(c), the inspector or authorised person may report such failure to a Magistrate who may thereupon issue a warrant to secure the attendance of that person as required by the order.
- (7) Any person who—
 - (a) wilfully mis-states or without lawful excuse refuses to give any information or produce any record, document or copy thereof required of him by an inspector or authorised person under subsection (1); or
 - (b) fails to comply with a lawful demand of an inspector or authorised person in the discharge by such inspector or authorised person of his duties under this Act or any other enactment,commits an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding two years or to both.

No right to compensation for cancellation, etc.

182 Subject to section 5, no right to compensation enforceable against the Commission arises in relation to the cancellation, suspension or variation of the terms of any licence or approval, or an amendment of the conditions of any licence or approval, under this Act.

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Grant of licence or approval a revocable privilege

183 For the avoidance of doubt, any licence or approval granted under this Act is a revocable privilege.

Investigations of suitability

184 (1) Where the Commission is required to be satisfied that any applicant for a licence or an approval, or any other person connected to the application, is suitable or qualified for the purposes of the licence or approval, the burden of proving that suitability or qualification shall be on the applicant and each other person connected to the application, as the case may be.

(2) For the purposes of meeting any costs arising out of investigations in connection with the suitability of any person to be granted or to continue to hold a licence or an approval, the Commission may, by notice in writing, require the applicant for or the holder of any licence or approval granted under this Act to furnish to the Commission a deposit or pre-payment of such amount as may be prescribed.

Security deposit

185 (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.

(2) The Minister may make regulations with respect to the matters set out in subsection (1).

[Section 185 subsection (1) repealed and substituted by 2016 : 48 s. 67 effective 12 January 2017]

Enforceable undertakings

186 (1) The Commission may accept a written undertaking given by a holder of any licence or approval granted by the Commission under this Act (referred to in this section as a licensed or approved person), in connection with any matter within the powers and functions of the Commission under this Act.

(2) Without limiting the matters to which the written undertaking may relate, the undertaking may include any of the following—

- (a) an undertaking to take specified action within a specified time;
- (b) an undertaking to refrain from taking specified action;
- (c) an undertaking to compensate a specified person a specified amount within a specified time.

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(3) A licensed or approved person may vary or withdraw any written undertaking given by that person only with the permission of the Commission in writing.

(4) If the Commission is satisfied that any licensed or approved person has failed to comply with any term of the written undertaking given by that person, the Commission may apply to a court for an order under subsection (5).

(5) If the court is satisfied that any licensed or approved person has failed to comply with any term of the written undertaking given by that person, the court may make an order directing the licensed or approved person to comply with the term or terms of the undertaking, or any other order that the court considers appropriate for the purposes of this Act.

Information gathering for law enforcement purposes

187 (1) For the purpose of carrying out its duties and functions under this Act or obtaining information that may be of assistance to a law enforcement agency, the Commission may direct a casino operator in writing to provide the Commission with information obtained by the casino operator concerning the operations of the casino.

(2) Such direction may relate to particular information or to information generally and may relate to particular or general information concerning a specified person.

(3) The direction shall specify—

- (a) the kind of information that the casino operator is required to provide; and
- (b) the manner in which the information is to be provided.

(4) Any casino operator which fails to comply with a direction under this section shall be liable to disciplinary action.

(5) The Commission may, subject to regulations made under this section, make information obtained by the Commission under this section available to such law enforcement agency subject to such conditions as may be provided in the regulations.

(6) In this section, "law enforcement agency" means—

- (a) the Bermuda Police Service;
- (b) the Financial Intelligence Agency; or
- (c) any other person responsible for law enforcement.

(7) The provisions of this section are in addition to, and not in derogation of, any other enactment conferring powers on any law enforcement agency to obtain information.

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.

[Section 187A inserted by 2016 : 48 s. 68 effective 12 January 2017]

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.

[Section 187B inserted by 2016 : 48 s. 68 effective 12 January 2017]

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.

[Section 187C inserted by 2016 : 48 s. 68 effective 12 January 2017]

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

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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.

[Section 187D inserted by 2016 : 48 s. 68 effective 12 January 2017]

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.

[Section 187E inserted by 2016 : 48 s. 68 effective 12 January 2017]

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.

[Section 187F inserted by 2016 : 48 s. 68 effective 12 January 2017]

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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.

[Section 187G inserted by 2016 : 48 s. 68 effective 12 January 2017]

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

[Section 187H inserted by 2016 : 48 s. 68 effective 12 January 2017]

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.

[Section 187I inserted by 2016 : 48 s. 68 effective 12 January 2017]

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.

[Section 187J inserted by 2016 : 48 s. 68 effective 12 January 2017]

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.

[Section 187K inserted by 2016 : 48 s. 68 effective 12 January 2017]

PART 14
MISCELLANEOUS

Offences by bodies corporate, etc.

- 188 (1) Where an offence under this Act committed by a body corporate is proved—
- (a) to have been committed with the consent or connivance of an officer of the body corporate; or
 - (b) to be attributable to any neglect on his part,

the officer as well as the body corporate commits the offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) In this section, “officer”, in relation to a body corporate, means any director, member of the committee of management, Chief Executive, manager, secretary or other similar officer of the body corporate and includes any person purporting to act in any such capacity.

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.

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(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.

[Section 189 repealed and substituted by 2016 : 48 s. 69 effective 12 January 2017]

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.

(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.

[Section 189A inserted by 2016 : 48 s. 69 effective 12 January 2017]

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.

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(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.

[Section 189B inserted by 2016 : 48 s. 69 effective 12 January 2017]

Co-operation between Commission and foreign gaming regulatory bodies

190 (1) The Commission may, with the approval of the Minister, enter into arrangements with any foreign gaming regulatory body whereby each party to the arrangements may—

- (a) furnish to the other party information in its possession if the information is required by that other party for the purpose of performance by it of any of its functions; and
- (b) provide such other assistance to the other party as will facilitate the performance by that other party of any of its functions.

(2) The Commission shall not furnish any information to a foreign gaming regulatory body pursuant to such arrangements unless it requires of, and obtains from, that body an undertaking in writing by it that it will comply with terms specified in that requirement, including terms that correspond to the provisions of any other enactment concerning the disclosure of that information by the Commission.

(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 gaming regulatory body pursuant to or pertaining to a memorandum of understanding between the Commission and that body.

(3) The Minister may make regulations for the purposes of this section.

(4) *[deleted]*

[Section 190 subsection (2A) inserted and subsection (4) deleted by 2016 : 48 s. 70 effective 12 January 2017; Section 190 amended by 2021 : 23 Sch. 1 & s. 30 effective 1 August 2021]

Protection from liability

191 (1) No liability shall be incurred by—

- (a) any member, officer, employee, consultant or agent of the Commission;
- (b) any member of the Council, any person authorised, appointed or employed to assist the Council or any member of any Committee of Assessors constituted under Part 10;
- (c) any person who is on secondment or attachment to the Commission;
- (d) any person authorised, appointed, employed or directed by the Commission to exercise the Commission's powers, perform the

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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; or

- (e) any member of a committee appointed by the Commission under section 11(1) or by the Council under section 152,

for anything done (including any statement made) or omitted to be done in good faith in the course of or in connection with the matters set out in subsection (2).

- (2) The matters referred to in subsection (1) are as follows—

- (a) the exercise or purported exercise of any power under this Act or any other enactment;
- (b) the performance or purported performance of any function or the discharge or purported discharge of any duty under this Act or any other enactment; or
- (c) the compliance or purported compliance with this Act or any other enactment.

General penalty

192 Any person who commits an offence under this Act for which no penalty is expressly provided shall be liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding six months or to both such imprisonment or fine.

[Section 192 amended by 2016 : 48 s. 71 effective 12 January 2017]

Fines and financial penalties to be paid to Consolidated Fund

193 (1) All fines imposed under this Act or any regulations made thereunder) shall be paid to the Consolidated Fund.

(2) Any financial penalty payable by any person under this Act or any regulations made thereunder shall be paid to the Commission and recoverable by the Commission as a debt due to the Commission from that person.

(3) The person's liability to pay shall not be affected by his licence ceasing, for any reason, to be in force.

Amendment of Schedule 2

194 (1) The Minister may by order amend Schedule 2.

(2) The Minister may, in any order made under subsection (1), make such incidental, consequential or supplementary provision as may be necessary or expedient.

(3) Any order made under subsection (1) shall be subject to the negative resolution procedure.

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Service of summonses and notices, etc.

195 (1) Any summons, notice, order or document required or authorised by this Act to be given to or served on any person, and any summons issued by a court against any person in connection with any offence under this Act may be served on the person—

- (a) by delivering it to the person or to some adult member or employee of his family or household at his last known place of residence;
- (b) by leaving it at his usual or last known place of residence or place of business in an envelope addressed to the person;
- (c) by sending it by registered post addressed to the person at his usual or last known place of residence or place of business; or
- (d) in the case of an incorporated company, a partnership or a body of persons—
 - (i) by delivering it to the secretary or other like officer of the company, partnership or body of persons at its registered office or principal place of business; or
 - (ii) by sending it by registered post addressed to the company, partnership or body of persons at its registered office or principal place of business.

(2) Any notice, order, document or summons sent by registered post to any person in accordance with subsection (1) shall be deemed to be duly served on the person at the time when the notice, order, document or summons, as the case may be, would in the ordinary course of post be delivered and, in proving service of the notice, order, document or summons, it shall be sufficient to prove that the envelope containing the same was properly addressed, stamped and posted by registered post.

(3) Any notice, order or document required or authorised by this Act to be served on the owner or occupier of any premises or any summons issued by a court against any such owner or occupier in connection with any offence under this Act may be served by delivering it or a true copy thereof to some adult person on the premises or, if there is no such person on the premises to whom it can with reasonable diligence be delivered, by affixing the notice, order, document or summons to some conspicuous part of the premises.

(4) Any notice, order or document required or authorised by this Act to be served on the owner or occupier of any premises or any summons issued by a court against any such owner or occupier in connection with any offence under this Act shall be deemed to be properly addressed if addressed by the description of the owner or occupier of the premises without further name or description.

Regulations

196 (1) The Minister may make regulations for any purpose for which regulations are required to be made under this Act and generally for carrying out the purposes and provisions of this Act.

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(2) Without prejudice to the generality of subsection (1), the Minister may make regulations for or with respect to all or any of the following matters—

- (a) the fees to be charged in respect of anything done or any services rendered by the Commission under or by virtue of this Act;
- (aa) the application for and the granting of any licences or approvals;
- (b) the installations, devices and equipment to be provided on casino premises for gaming, surveillance, communications and other purposes and the maintenance of the installations, devices and equipment;
- (c) the hours of operation of a casino and any temporary cessation of operation;
- (d) the provision to players of gaming machines in a casino of information relevant to gaming on gaming machines;
- (e) the adjudication of disputes between a casino operator and its patrons;
- (f) the provision of security measures in casinos;
- (g) the submission of reports by the holders of any licence or approval;
- (h) regulating the activities of staff members of casino operators or prohibiting any of those activities;
- (i) the testing of operations, or of proposed operations, in a casino;
- (j) regulating the conduct of gaming and provision of credit for gaming in a casino;
- (k) the manufacture, supply or operation of gaming equipment for use in a casino, and the provision of testing services for such gaming equipment;
- (l) the movement, acquisition, storage, servicing, rectification or destruction of gaming equipment used or for use in a casino;
- (m) the form of controlled contracts and notifiable contracts, the approval of the Commission in relation to specified classes of those contracts and the requirements for disclosure to the Commission of any such contracts;
- (n) the procedure for any representations to be made against, or any request for a review of, a decision by the Commission;
- (o) the procedure for disciplinary proceedings against any person licensed or approved by the Commission under this Act;
- (p) the furnishing of any deposit, pre-payment, performance bond or other form of security required by the Commission under this Act, and the procedure for drawing on, forfeiting or returning any such deposit, pre-payment, performance bond or other form of security;
- (q) the system of internal controls for casino operations;

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- (r) the establishment, functions and obligations of a compliance committee and all other matters relating to compliance obligations;
 - (s) the designation of sites under section 4 for the purposes of this Act and fees for applications;
 - (t) additional duties of auditors of casino operators;
 - (ta) the storage and protection of information obtained by the Commission or the Council under this Act;
 - (u) any other matter or thing required or permitted to be prescribed or necessary to be prescribed to give effect to this Act.
- (3) Regulations made under this Act—
- (a) may provide that any contravention of any provision of the regulations shall be an offence punishable with a fine not exceeding \$100,000 or imprisonment for a term not exceeding three years or both such fine or imprisonment;
 - (b) may provide for such transitional, savings and other consequential, incidental and supplemental provisions as the Minister considers necessary or expedient.
- (4) Regulations made under sections 4, 143, 144 and 199A, and regulations relating to fees, shall be subject to the affirmative resolution procedure.
- (5) All other regulations made under this Act shall be subject to the negative resolution procedure.

[Section 196 subsection (2)(s) repealed and substituted, subsection (4) repealed and substituted and subsection (5) inserted by 2015 : 35 s. 16 effective 6 November 2015; subsection (2)(r) repealed and substituted by 2016 : 48 s. 29 effective 12 January 2017; subsections (2)(aa) and (2)(ta) inserted and subsection (4) repealed and substituted by 2016 : 48 s. 72 effective 12 January 2017; Section 196 subsection (2) amended by 2021 : 23 s. 28 effective 1 August 2021; Section 196 subsection (4) amended by 2023 : 15 s. 3 effective 31 March 2023]

Rules

- 197 (1) The Minister may make such rules as may be necessary or expedient to give effect to the provisions and purposes of this Act and for the due administration thereof.
- (2) Without prejudice to subsection (1), the Minister may make rules to prescribe—
- (a) the procedure for the conduct of any proceedings by the Commission or the Council;
 - (b) the procedure for the conduct of any proceedings by a Committee of any of the above;
 - (c) the forms necessary for the administration of this Act; and

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(d) any fees for an application and other charges for the purposes of this Act.

(3) Rules made under this section shall be subject to the negative resolution procedure.

Adoption of codes, standards of performance or specifications

198 (1) Any regulations made under section 196 may adopt, wholly or partially or as amended by the regulations or by reference, any code, standard of performance or specification which relates to gaming equipment, surveillance systems, internal controls, casino or betting advertising or promotions, problem gambling or to any other matter related to casino operations that is relevant for the purposes of this Act, and which—

(a) is issued by the Commission under section 199; or

(b) is issued by any standards organisation or person other than the Commission (whether within or outside Bermuda) and approved by the Commission under section 199.

(2) In any proceedings under this Act, a copy of any code, standard of performance or specification adopted under subsection (1) which is certified by the Commission as a true copy thereof shall be prima facie evidence of that code, standard of performance or specification.

[Section 198 subsection (1) amended by 2021 : 23 Sch. 1 & s. 30 effective 1 August 2021]

Codes, standards of performance or specifications issued or approved by Commission

199 (1) The Commission may, from time to time—

(a) issue one or more codes, standards of performance or specifications applicable to casino operations;

(b) approve as a code, standard of performance or specification applicable to casino operators any document prepared by a person other than the Commission if the Commission considers the document as suitable for this purpose; or

(c) amend or revoke any code, standard of performance or specification issued under paragraph (a) or approved under paragraph (b).

(2) If any provision in any code, standard of performance or specification is inconsistent with any provision of this Act, such provision, to the extent of the inconsistency—

(a) shall have effect subject to the provisions of this Act; or

(b) having regard to the provisions of this Act, shall not have effect.

(3) Where any code, standard of performance or specification is issued, approved, amended or revoked by the Commission under subsection (1), the Commission shall—

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- (a) notify each casino operator and any other person licensed or approved by the Commission who may be affected by the issuance, approval, amendment or revocation;
 - (b) specify in the notice referred to in paragraph (a) the date that the issuance, approval, amendment or revocation is to take effect; and
 - (c) ensure that, so long as the code, standard of performance or specification remains in force, copies of that code, standard of performance or specification are made available to the casino operators and any other person required to comply with the code, standard of performance or specification.
- (4) Any code, standard of performance or specification issued or approved under this section—
- (a) may be of general or specific application; and
 - (b) may specify that different provisions thereof apply to different circumstances or provide for different cases or classes of cases.
- (5) The Commission may, either generally or for such time as the Commission may specify, waive the application of any code, standard of performance or specification, or part thereof, issued or approved under this section to any casino operator or other person.
- (6) Codes issued under this section shall not be subject to the Statutory Instruments Act 1977.

Commission's power to modify or vary a regulatory obligation

199A (1) Without prejudice to any other provision in this Act, the Commission may, subject to subsection (2) and in accordance with regulations made under subsection (3), modify or vary an obligation or requirement that is or would otherwise be imposed on a casino operator by or under this Act (referred to in this section as a “regulatory obligation”), on the application of that casino operator.

- (2) The powers of the Commission under subsection (1) shall not be exercised—
- (a) unless the Commission is satisfied—
 - (i) that compliance by the applicant casino operator with such regulatory obligation or with such regulatory obligation unmodified, is or would be unduly burdensome or would not achieve the intended purpose of the regulatory obligation; and
 - (ii) that such modification or variation would not result in undue risk to persons whose interests the regulatory obligation may be intended to protect;
 - (b) in respect of any regulatory obligation relating to anti-money laundering and anti-terrorist financing or problem and responsible gaming.

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(3) The Minister shall make regulations with respect to the Commission's power under subsection (1) and any other matters necessary to be prescribed to give effect to this section.

[Section 199A inserted by 2023 : 15 s. 4 effective 31 March 2023]

Guidelines on compliance

200 (1) The Commission may, from time to time and with a view to enabling any person to order his affairs in compliance with the provisions of the gaming legislation, issue such guidelines as it considers appropriate for providing guidance—

- (a) in furtherance of its regulatory objectives; or
- (b) on any matter relating to casino operations.

(2) The failure of any person to comply with any of the provisions of a guideline issued under this section that applies to him shall not of itself render that person for that reason only liable to criminal proceedings but any such failure may, in any proceedings whether civil or criminal, be relied upon by any party to the proceedings as tending to establish or to negate any liability which is in question in the proceedings.

(3) Guidelines issued under this section shall not be subject to the Statutory Instruments Act 1977.

[Section 200 subsection (1) amended by 2021 : 23 s. 29 effective 1 August 2021]

Savings

201 (1) Nothing in this Act shall apply in relation to, or affect, a casino operated pursuant to the provisions of the Cruise Ships (Casinos) Act 2013.

(2) Nothing in this Act shall, unless it is expressly stated to the contrary, be construed as affecting any other laws.

Consequential amendments

202 (1) The Criminal Code Act 1907 is amended in section 155 by inserting next after subsection (3)—

“(4) This section does not apply in respect of a casino operated pursuant to a valid licence granted under section 38 of the Casino Gaming Act 2014.”

(2) The Criminal Code Act 1907 is amended in section 322A by inserting next after paragraph 1(a)(iv) in the Table of Increased Penalty Zones the following—

“(v) casino premises as defined in section 2 of the Casino Gaming Act 2014.”

(3) The Misuse of Drugs Act 1972 is amended in Schedule 4 by inserting next after paragraph 1(a)(iv) the following—

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“(v) casino premises as defined in section 2 of the Casino Gaming Act 2014.”

(4) *[Repealed by 2021 : 23 s. 52]*

(5) The Minister may by Regulations repeal or amend any provision relating to gaming—

(a) in any law that is passed before this Act; or

(b) in any other instrument made under an Act before the passing of this Act,

where it appears to him that that provision is inconsistent with, or requires amendment consequentially upon or has become unnecessary in consequence of, the provisions of this Act or the Regulations.

(6) Regulations made under subsection (5) shall be subject to the negative resolution procedure.

[Section 202 subsection (4) repealed by 2021 : 23 s. 52 effective 1 August 2021]

Commencement

203 (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.

SCHEDULE 1

(Section 7(2))

CONSTITUTION AND PROCEEDINGS OF COMMISSION

Appointment of Chairman and other members

- 1 (1) The Chairman and other members shall be appointed by the Minister.
- (2) The Minister may appoint the Chief Executive to be an ex-officio non-voting member of the Commission.

Tenure of office of members

- 2 (1) Subject to subparagraph (2), a member shall hold office on such conditions and for such term, as the Minister may determine.
- (2) The initial members of the Commission shall be appointed as follows—
- (a) one for a term of two years;
 - (b) one for a term of three years; and
 - (c) one for a term of four years,

and any subsequent member shall be appointed for a term of three years.

Removal of member

2A Notwithstanding anything in paragraph 2, the Minister may at any time revoke the appointment of a member who is unable or unfit to perform his duties as a member or in such other circumstances where the member's conduct may amount to misconduct or breach of best regulatory practice, or is likely to bring the Commission or the Government into disrepute.

Resignation

3 Any member may resign from his appointment at any time by giving notice in writing to the Minister.

Chairman may delegate functions

4 The Chairman may, by instrument in writing, authorise any member to exercise any power or perform any function conferred on the Chairman by or under this Act.

Vacation of office

- 5 The office of a member shall be vacated if the member—
- (a) has been absent, without leave of the Commission, from three consecutive meetings of the Commission; or
 - (b) becomes in any manner disqualified from membership of the Commission.

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Filling of vacancies

6 If a member resigns, dies or has his appointment revoked or otherwise vacates his office before the expiry of the term for which he has been appointed, the Minister may appoint another person for the unexpired period of the term of office of the member in whose place he is appointed.

Disqualification from membership

- 7 No person shall be appointed or shall continue to hold office as a member if he—
- (a) is incapable of managing himself or his affairs;
 - (b) is an undischarged bankrupt or has made any arrangement or composition with his creditors;
 - (c) is convicted of an offence involving dishonesty, fraud or moral turpitude and has not received a free pardon; or
 - (d) is a member of the Legislature.

Disclosure of interest by members

- 8 (1) A member who is in any way, directly or indirectly, interested in—
- (a) a transaction or project of the Commission; or
 - (b) a transaction or project involving a casino operator or an associate of a casino operator,

shall disclose the nature of his interest at the first meeting of the Commission at which he is present after the relevant facts have come to his knowledge.

(2) A disclosure under sub-paragraph (1) shall be recorded in the minutes of the meeting of the Commission and, after the disclosure, that member shall not take part in any deliberation of the Commission with respect to that transaction or project.

(3) For the purpose of determining whether there is a quorum, a member shall be treated as being present at a meeting notwithstanding that under sub-paragraph (2) he cannot vote or has withdrawn from the meeting.

Salaries, fees and allowances payable to members

9 There shall be paid to the Chairman and other members, out of the funds of the Commission, such salaries, fees and allowances as the Commission may from time to time determine.

Meetings and proceedings of Commission

- 10 (1) The Chairman shall summon meetings as often as may be required.
- (2) Subject to subparagraph (5), the quorum at every meeting of the Commission shall be three members.
- (3) A decision at a meeting of the Commission shall be adopted by a simple majority of the members present and voting except that in the case of an equality of votes

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the Chairman or member presiding shall have a casting vote in addition to his original vote.

(4) The Chairman or in his absence the Deputy Chairman shall preside at all meetings of the Commission.

(5) Where both the Chairman and the Deputy Chairman are absent from a meeting, no such meeting shall be considered to have had a quorum of members.

(6) Where not less than four members of the Commission request the Chairman by notice in writing signed by them to convene a meeting of the Commission for any purpose specified in the notice, the Chairman shall, within seven days from the receipt of the notice, convene a meeting for that purpose.

(7) The Commission may act notwithstanding any vacancy in its membership.

(8) Subject to the provisions of this Act, the Commission may make rules to regulate its own procedure generally, and, in particular, the holding of meetings, the notice to be given of such meetings, the proceedings thereat, the keeping of minutes and the custody, production and inspection of such minutes.

Validity of acts

11 The acts of a member shall be valid notwithstanding any defect in his appointment or qualifications.

[Schedule 1 paragraph (10) amended by 2015 : 35 s. 17 effective 4 August 2015; Schedule 1 paragraph (2A) inserted by 2017 : 45 s. 3 effective 20 December 2017; Schedule 1 paragraphs (2A) and (7) amended by 2021 : 42 s. 2 effective 13 October 2021]

SCHEDULE 2

(Section 189A(2))

PERSONS TO WHOM INFORMATION MAY BE DISCLOSED

1. The Commission and any officer or employee of the Commission.
2. The Minister charged with the responsibility for gaming, and officers from that Ministry authorised by that Minister.
3. The Minister charged with the responsibility for tourism development (if different from the Minister referred to in paragraph 2 of this Schedule), and officers from that Ministry authorised by that Minister.
4. The Minister charged with the responsibility for workforce development and policy, and officers from that Ministry authorised by that Minister.
5. The Minister charged with the responsibility for health in relation to problem gambling, and officers from that Ministry authorised by that Minister.
6. Any foreign gaming regulatory bodies.
7. The Bermuda Police Service.
8. The Financial Intelligence Agency.

[Schedule 2 paragraph 6 deleted and substituted and paragraphs 7 and 8 inserted by 2016 : 48 s. 73 effective 12 January 2017; paragraph 6 amended by 2021 : 23 Sch. 1 & s. 30 effective 1 August 2021]

[Assent Date: 22 December 2014]

[Amended by:

2015 : 35
2015 : 38
2016 : 48
2017 : 35
2017 : 45
2019 : 42
2021 : 23
2021 : 42
2023 : 15]