

No. 2 of 2007.
Gaming Control Act 2007.

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AN ACT

entitled

Gaming Control Act 2007,

Being an Act to provide for the control of all forms of gaming including lotteries, games and wagers, gaming machines and casinos and for their operation, and for related purposes,

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister

PART I. – PRELIMINARY.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

(1) This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (Qualified Rights) of the *Constitution* namely –

- (a) the right to freedom from arbitrary search and entry conferred by Section 44; and
- (b) the right to freedom of expression and publication conferred by Section 46; and
- (c) the right to peacefully assemble and associate and to form or belong to, or not to belong to, political parties, industrial organizations or other association conferred by Section 47; and
- (d) the right to freedom of choice of employment in any calling for which a person has the qualifications (if any) lawfully required conferred by Section 48; and
- (e) the right to privacy conferred by Section 49; and
- (f) the right to freedom of information conferred by Section 51,

of the *Constitution* is a law that is made (pursuant to Section 38 of the *Constitution*), taking account of the National Goals and Directive Principles and Basic Social Obligations, in particular the National Goals and Directive Principles entitled –

- (g) national sovereignty and self reliance; and
- (h) natural resources and environment,

for the purposes of giving effect to the public interest in public order and public welfare.

(2) For the purposes of Section 41 of the *Organic Law on Provincial Governments and Local-level Governments*, it is hereby declared that this Act relates to a matter of national interest.

2. OBJECTS.

The objects of this Act are: –

- (a) to promote probity and integrity in gaming; and
- (b) to maintain the probity and integrity of persons engaged in gaming in the country; and
- (c) to promote fairness, integrity and efficiency in the operations of persons engaged in gaming in the county; and
- (d) to reduce any adverse social impact of gaming; and
- (e) to promote a balance contribution by the gaming industry to general community benefit and amenity.

3. INTERPRETATION.

In this Act, unless the contrary intention appears –

“approved game” means a game approved by the Board under this Act;

“approved gaming machine” means a device that –

- (a) has been designed and manufactured by a person approved by the Board; and
- (b) has been designed and manufactured in accordance with standards approved by the Board; and
- (c) is approved by the Board or is within a class of gaming machine approved by the Board; and
- (d) has not been prescribed as having ceased to be an approved gaming machine;

“authorised gaming machine”, in relation to a site, means a gaming machine that is the subject of a permit in force under this Act;

“Board” means the National Gaming Control Board established by Section 7;

“body corporate” means: –

- (a) a company under the *Companies Act 1997*; or
- (b) an incorporated association under the *Associations Incorporation Act 1966*; or
- (c) any other body corporate under any other Act or law;

“casino” means premises, or part of premises, defined as a casino for the time being under this Act.

“casino employee” means an employee (whether or not of a casino operator) having functions in or in relation to a casino;

“casino inspector” means a person appointed by the Board to be a casino inspector under Section 94;

“casino licence” means a licence issued under this Act and is in force to operate a casino;

“casino operator” means a person who is the holder of a casino licence;

“casino operation” means the operation of a casino;

- “**Chairman**” means the Chairman of the Board appointed under Section 11;
- “**Chief Executive**” means the Chief Executive appointed under Section 28;
- “**chips**” means any tokens used instead of money for the purpose of gaming in a casino;
- “**close associate**” has the meaning given under Section 48;
- “**Commissioner General**” means the Commissioner General of Internal Revenue appointed under Section 6 of the *Income Tax Act 1959*;
- “**Community Benefit Fund**” means the Community Benefit Fund established under Section 163(6);
- “**employ**” includes engage under a contract for services;
- “**exclusion order**” means a written order made under this Act prohibiting a person from entering, or remaining in, a casino;
- “**game**” means a game of chance or a game that is partly a game of chance and partly a game requiring skill;
- “**gaming or gaming activity**” means all forms of gaming regulated under this Act and includes games declared under Sections 4 and 5;
- “**gaming equipment**” means any device or thing (including chips) used, or capable of being used, for or in connection with gaming;
- “**gaming machine**” means –
- (a) a device that is designed –
 - (i) for the playing of game of chance or a game of that is partly a game of chance and partly a game requiring skill; and
 - (ii) for paying out money or tokens or for registering a right to an amount of money or money’s worth to be paid; or
 - (b) and linkage equipment;
- “**gaming machine inspector**” means a gaming machine inspector appointed under Section 168;
- “**gaming machine operator or holder of a gaming machine operator’s licence**” means the holder of a gaming machine operator’s licence;
- “**gaming machine technician’s licence**” means a gaming machine technician’s licence granted under Section 142;
- “**gaming operation**” means the operation of an approved game;
- “**gaming operator**” means the operator of an approved game;
- “**game rules**”, in relation to a particular game in a casino, means –
- (a) the rules of the game approved by an order under this Act or, if the game is a keno game, the keno rules for the game within the meaning of the provisions of this Act; and
 - (b) the non-monetary prize for the game set out under this Act;

“linkage equipment” means any machine or system by means of which two or more approved gaming machines are connected so that each gaming machine contributes to the registration of a right to claim a pooled amount of money or money’s worth;

“licence” means a licence under this Act and includes –

- (a) a casino licence; or
- (b) a gaming machine operator’s licence; or
- (c) a gaming machine technician’s licence;

“licensee” means a holder of a licence under this Act;

“lottery” means a scheme for distributing prizes by lot or chance;

“member”, unless the context otherwise require, means a member of the Board appointed under Section 11;

“officer of the Board” includes –

- (a) a member of the Board; and
- (b) a staff of the Board; and
- (c) a casino inspector or gaming machine inspector;

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

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

“overseas lottery or gaming product” means a lottery or other form of gaming that is operated or played in another country but which is made available whether it is so made available by way of or through agents in the country or by way or through the internet;

“permit”, in relation to gaming machines, means a permit granted under Section 123 and includes a special permit;

“permit holder or holder of a permit” means a club, hotel, motel, tavern or other premises as are considered appropriate by the Board for the purposes of gaming machines in respect of which a permit granted under this Act is in force authorizing the permit holder –

- (a) to keep an authorized gaming machine on specified premises; and
- (b) to operate a gaming machine so kept;

“person” includes any natural person or persons, partnership, organization or body corporate;

“place” includes –

- (a) any place, whether in or out of an enclosed or partially enclosed building, vessel or premises, on land or water and whether private property or otherwise; and
- (b) a vehicle;

“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 manner or by any other means;

“Registrar” means the Registrar of Gaming;

“site” means the premises of a club, hotel, motel, tavern or such other premises as are considered appropriate by the Board for the purpose of gaming machines;

“site owner” means the licensee of specified premises of a club, hotel, motel, or tavern or the owner of such other specified premises as are considered appropriate by the Board for the purposes of gaming machines;

“special employee”, in relation to a Casino, means a person who –

- (a) is employed or working in a casino in a managerial capacity or who is authorized to make decisions, involving the exercise of his discretion, that regulate operations in a casino; or
- (b) is employed or working in a casino in any capacity relating to the following activities: –
 - (i) the conduct of gaming or approved betting competitions;
 - (ii) the movement of money or chips about the casino;
 - (iii) the exchange of money or chips to patrons in the casino;
 - (iv) the counting of money or chips in the casino;
 - (v) the security and surveillance of the casino;
 - (vi) the operation, maintenance, construction, or repair of gaming equipment or totalizators;
 - (vii) any other activity relating to operations in the casino that is specified by the Board for the purposes of this definition by notice in writing given to the casino operator;

“special permit” means a permit granted under Section 123 to one or more organizations or bodies established for social, literary, political, cultural, sporting or athletic purposes or for any other lawful purpose;

“special permit holder or holder of a special permit” means the person to whom a special permit is granted under Section 123 authorizing the holder –

- (a) to keep an approved gaming machine at a defined place; and
- (b) to operate such a gaming machine so kept;

“this Act” includes the Regulations.

4. AUTHORIZED GAMES.

(1) A game authorized by or under this Act is a lawful game.

(2) It is declared that –

- (a) a casino established under Part III; and
- (b) a gaming machine operated under Part IV; and
- (c) a lottery or overseas lottery or gaming product approved under Part VI; and
- (d) any other game approved under this Act or regulations made under it,

is lawful.

(3) The provisions of Sections 233 and 234 of the *Criminal Code Act 1974* do not apply to a game authorized by or under this Act.

5. UNLAWFUL GAMES.

(1) A game that is not authorized by this Act is an unlawful game.

(2) Without limiting the generality of Subsection (1), unless played as part of an approved game under Section 4, an unlawful game includes –

- (a) any of the games known as or called “fan-tan”, “fan-tan-troy”, “troy”, “pak-a-pu”, “two-up”, “heading them”, “sin-ki-loo”, “tray-bit-peter”, “Yankee grab”, “hazard”, “pitch-and-toss”, “banker”, “red-and-white”, “roulette”, “baccarat”, “crown and anchor”, “ace of hearts”, “ins-and-outs”, “mina dina”, “back-gammon”, “laki”, “satu” and “kuk”; and
- (b) a game played for money or money’s worth with cards, dice, balls, slot machines, counters or other instruments or implements ordinarily used in gaming; and
- (c) horse race machine or slot machines or other machines of a similar nature; and
- (d) a game in which –
 - (i) a bank is kept by one or more of the players exclusively of the others; and
 - (ii) the chances are not alike favourable to all the players, including among the players the banker or other person by whom the game is managed or against whom the other players stake, play or bet; and
- (e) a game declared under Subsection (3) to be an unlawful game.

(3) For the purposes of this section, the Head of State, acting on the advice of the Minister, may, by notice in the National Gazette, declare any game to be an unlawful game.

6. MORATORIUM ON ISSUE OF PERMITS, ETC.,.

(1) The Head of State, acting on the advice of the Minister, may, by notice in the National Gazette, declare a period of moratorium during which –

- (a) no casino licences; or
- (b) no casino employee’s licences; or
- (c) no permits; or
- (d) no operator’s licences; or
- (e) no gaming machine technician’s licences,

shall be issued under this Act.

(2) A declaration under Subsection (1) shall specify the period during which the moratorium shall apply.

(3) During a period of moratorium declared under Subsection (1), no permits or licenses of the type specified in the declaration shall be issued and no application for such permits or licenses shall be accepted, notwithstanding any provision of this Act to the contrary.

(4) A declaration under Subsection (1) does not prevent the renewal of permits or licences issued before the commencement of the period of moratorium.

PART II. – ADMINISTRATION.***Division 1. – National Gaming Control Board.*****7. ESTABLISHMENT, ETC., OF THE NATIONAL GAMING CONTROL BOARD.**

(1) The National Gaming Control Board is hereby established.

(2) The Board –

(a) is a body corporate; and

(b) shall have a common seal; and

(c) is capable of acquiring, holding and disposing of real and personal property; and

(d) may sue and be sued in its corporate name.

(3) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Board affixed to a document and shall presume that it was duly affixed.

8. NATIONAL EXECUTIVE COUNCIL MAY GIVE DIRECTIONS TO MINISTER AND BOARD.

(1) Subject to this section, the National Executive Council may give written directions to the Minister and the Board on policies relating to any gaming activity and the Minister and the Board shall give effect to such directions.

(2) The Minister may, after consultation with the Board, give directions and furnish guidelines to the Board as to how the Board is to exercise any of its functions under this Act but only if the Minister is of the opinion that the direction or guideline –

(a) is necessary or desirable to protect the integrity or apparent integrity of a gaming activity; or

(b) is otherwise in the public interest.

(3) Directions and guidelines issued under this section are not to relate to –

(a) the determination of an application for any licence, permit or other authority under this Act; or

(b) any of the Board's functions relating to disciplinary actions against licensees and permit holders or disciplinary action against employees and associates.

(4) The Board is, in the exercise of its functions, subject to the directions and guidelines given or furnished under this section.

(5) Directions and guidelines under this section shall be in writing.

(6) When the Minister gives a direction or furnishes a guideline under this section, the Minister shall as soon as practicable cause a copy of the instrument containing the direction or guideline to be published in the National Gazette.

(7) Subsections (2) and (3) do not apply to directions as to the requirements for casino, gaming machines in casinos and directions the Minister gives to the Board to invite expressions of interest as provided for in Section 43.

9. FUNCTIONS, ETC., OF THE BOARD.

(1) The Board has the following general functions: –

(a) such functions as are necessary or convenient to enable it to achieve its objects; and

(b) such other functions as are conferred or imposed on it by or under this Act or any other law.

(2) Without limiting its general functions, the Board has the following specific functions: –

(a) in relation to a casino –

(i) at the direction of the Minister, to invite expression of interest for the establishment and operation of casinos and applications for casino licences and to consider and determine those applications;

(ii) to keep under constant review all matters connected with casinos and the activities of casino operators, persons associated with casino operators, and persons who are in a position to exercise direct or indirect control over the casino operators or persons associated with casino operators;

(iii) to approve the games to be played in a casino and the rules under which such games are played;

(iv) to approve gaming equipment for use in a casino;

(v) to directly supervise and inspect the operations of a casino and the conduct of gaming in a casino;

(vi) to approve the operating times of a casino;

(b) in relation to gaming machines, to consider applications for, and where appropriate grant, permits and licences under this Act and otherwise to control the operation of gaming machines as specified in this Act and any other law;

(c) to consider and determine applications for other licences, permits and other authorizations under this Act;

(d) to do such things as it considers necessary or desirable for the proper regulation and control, in the interests of the public, of gaming;

(e) to investigate and make recommendations to the Minister on matters relating to the administration or operation of this Act;

(f) to undertake research and investigations into matters relating to gaming control, including the probity and financial security of organizations and persons involved in the business of gaming;

(g) to liaise with other gaming control agencies on matters relating to the administration, operation or control of gaming;

(h) to monitor the implementation of guidelines for gaming control;

(i) to review and determine complaints relating to the administration of gaming control;

(j) to undertake research into the problems associated with gambling activities including the social and economic impact of gambling on individuals, families and the communities at large; and

(k) to promote community awareness and education in respect of problem gaming and the provision of counselling, rehabilitation and support services for problem gamblers and their families; and

(l) to advise the Minister on matters relating to gaming control.

(3) The Board shall consider the following principles when performing its functions conferred by this Act: –

(a) minimum regulatory intervention by government;

(b) maximum cooperation between industry and government;

(c) performance-based risk management controls;

(d) proactive and competitive industry positioning;

(e) long term viability of the gaming industry; and

- (f) a balance approach to problem gambling.

10. POWERS OF THE BOARD.

(1) The Board has power to do all things necessary or convenient to be done for or in connection with, or incidental to, the performance of its functions under this or any other Act.

(2) Without limiting its powers, the Board has the following specific powers in relation to all forms of gaming permitted under this Act: –

- (a) ensuring that the management and operation of all forms of gaming remain free from criminal influence or exploitation;
- (b) ensuring that all forms of gaming is conducted honestly; and
- (c) containing and controlling the potential of all forms of gaming to cause harm to the public interest and to individuals and families.

11. MEMBERSHIP OF THE BOARD.

(1) The Board shall consist of the following members: –

- (a) six non *ex officio* members comprising –
 - (i) the Chairman; and
 - (ii) one member nominated by the Papua New Guinea Council of Churches; and
 - (iii) one member representing the industry nominated by the Minister; and
 - (iv) one member nominated by the Papua New Guinea Chamber of Commerce; and
 - (v) one member nominated by the National Council of Women; and
 - (vi) one member nominated by the Trade Union Congress; and
- (b) the Departmental Head of the Department responsible for finance, *ex officio*, or is nominee;
- (c) the Departmental Head of the Department responsible for justice matters, *ex officio*, or his nominee;
- (d) the Departmental Head of the Department responsible for planning and monitoring matters, *ex officio*, or his nominee; and
- (e) the Departmental Head of the Department responsible for social welfare, *ex officio*, or his nominee.

(2) The member referred to in Subsection (1)(a) –

- (a) shall be appointed in accordance with the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*; and
- (b) shall be appointed for a term not exceeding three years; and
- (c) shall be entitled to the appropriate fees and allowances under the *Boards (Fees and Allowances) Act 1955*; and
- (d) are eligible for re-appointment.

12. ALTERNATE MEMBERS.

(1) For each of the members appointed under Section 11(1)(a)(ii) to (vi) inclusive, an alternate member may be appointed in the same manner and on the same conditions as the member from whom he is the alternate.

(2) In the event of the inability to act of a member, the alternate has and may exercise all that member's powers, functions, duties and responsibilities and this Act applies accordingly.

(3) An alternative member may, unless the Board otherwise directs, attend all meetings of the Board but shall not, except where he is attending in the absence of the member for whom he is the alternate, take part in debate, vote on any matter or be counted towards a quorum.

13. DEPUTY CHAIRMAN.

(1) The members shall elect one of their number to be the Deputy Chairman of the Board.

(2) The Deputy Chairman shall hold office as Deputy Chairman until the expiry of the period of his term under Subsection (1), or until he ceases to be a member, whichever shall first happen.

(3) Where for any reason the Chairman is unable to act, the Deputy Chairman may exercise or perform all or any of the powers and functions of the Chairman.

14. LEAVE OF ABSENCE OF MEMBERS.

The Minister may grant leave of absence to a member on such terms and conditions as the Minister determines.

15. VACATION OF OFFICE.

(1) A member, other than an *ex officio* member, may resign his office by writing under his hand and addressed to the Minister, the resignation to take effect, if no date is specified in the letter of resignation, on acceptance by the Minister.

(2) Where a member of the Board –

- (a) becomes permanently incapable of performing his duties; or
- (b) resigns his office in accordance with Subsection (1); or
- (c) absent himself from three consecutive meetings of the Board except with the written consent of the Minister; or
- (d) fails to comply with Section 18 or with any provision of this Act; or
- (e) becomes bankrupt, or applies to take the benefit of any law for the benefit of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
- (f) is convicted of an offence punishable under a law by a term of imprisonment for one year or longer, or by death, and, as a result of the conviction, is sentenced to imprisonment or death, or is under a bond to appear for sentence if called on,

the Head of State, acting on the advice, shall terminate his appointment.

(3) The Minister may, at any time, by written notice, advise a member that he intends to recommend termination of the member's appointment on the grounds of inefficiency, incapacity or misbehaviour.

(4) Within 14 days of the receipt of a notice under Subsection (3), the member may reply in writing to the Minister, who shall consider the reply, and, where appropriate, make a recommendation for the termination of the appointment.

(5) The Head of State shall, by instrument, terminate a member on the advice of the National Executive Council given after considering a recommendation from the Minister to terminate the member.

(6) Where the member referred to in Subsection (3) does not reply in accordance with Subsection (4), the Minister may recommend to the National Executive Council to terminate the member.

16. VACANCY NOT TO AFFECT POWERS OR FUNCTIONS.

The exercise of a power or the performance of a function of the Board is not invalidated by reason only of a vacancy in the membership of the Board.

17. DECLARATION OF OFFICE.

A member shall, before entering on the duties of his office, make or subscribe before the Minister, or a person authorized by the Minister for the purpose, an oath or affirmation of office in the prescribed form.

18. DISCLOSURE OF INTERESTS.

(1) A member who has a direct or indirect interest in a matter being considered or about to be considered by the Board otherwise than a member of an incorporated company consisting of not less than 25 persons, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of the interest at a meeting of the Board.

(2) A disclosure under Subsection (1) shall be recorded in the minutes of the meeting of the Board and, unless the Minister or the Board determines otherwise, the member –

- (a) shall not be present during any deliberation of the Board with respect to that matter;
- (b) shall not take part in any decision of the Board with respect to that matter; and
- (c) shall be disregarded for the purpose of constituting a quorum of the Board for such deliberation or decision.

(3) The Board shall cause particulars of any disclosure recorded under Subsection (2) to be made available at all reasonable hours for inspection by any person on payment of such fees as the Board may, from time to time, determine.

19. CALLING OF MEETINGS.

(1) The Board shall meet as often as the business of the Board requires, and at such times and places as the Board determines, or as the Chairman directs, but in any event shall meet not less frequently than once in every three months.

(2) Where the Chairman receives a request to do so by the Minister, or by not less than three members, the Chairman shall convene a meeting of the Board within 14 days.

(3) For the purposes of Subsection (1), the Chairman shall give to every member at least 7 days' notice of the meeting.

20. MEETING OF THE BOARD.

(1) At a meeting of the Board –

- (a) the Chairman of the Deputy Chairman and four of the members form a quorum; and
- (b) the Chairman shall preside but if the Chairman is absent, the Deputy Chairman shall preside; and

- (c) if the Chairman and Deputy Chairman are absent, the members present shall appoint a Chairman for that meeting from amongst their own number; and
 - (d) matters arising shall be decided by a majority of the votes of the members present and voting; and
 - (e) the person presiding has a deliberative and, in the event of any equality of votes on any matter, also a casting vote.
- (2) The Board shall cause minutes of its meetings to be recorded and kept.
- (3) Subject to this Act, the procedures of the Board are as determined by it.

21. COMMITTEES OF THE BOARD.

(1) The Board may, from time to time, establish committees of the Board to advise it on such matters as it considers necessary.

(2) In establishing a committee under Subsection (1), the Board may –

- (a) appoint such persons (including members of the Board) as it considers necessary; and
- (b) specify the functions and procedures of the committee.

(3) A member of a committee who is not a member of the Board may receive fees and allowances under *Boards (Fees and Allowances) Act 1955*.

22. DELEGATION.

The Board may, by instrument, delegate to any member of the Board or to the Registrar all or any of its powers and functions under this Act (except this power of delegation).

23. ANNUAL REPORTS.

(1) The Board shall, by 31 March in each year, furnish to the Minister a report on the progress and performance of the Board in relation to its functions for the year ending 31 December previously.

(2) In addition to details of its finances during the year, the Board shall include the following information its report under Subsection (1): –

- (a) details of all licences and permits granted during the financial year to which the report relates (including details of the conditions subject to which the licence was granted);
- (b) details of any changes to the conditions of a licence made by the Board during that year;
- (c) details of any disciplinary action taken by the Board against any person during that year;
- (d) details of any directions given by the Minister under this Act;
- (e) a summary of the outcome of any investigation or review carried out by the Board during that year.

(3) As soon as practicable after he has received a report under Subsection (1), the Minister shall forward the report to the Speaker for presentation to the Parliament.

(4) The Board shall, at intervals of six months, provide to each Provincial Government a report on gaming activities in the province.

24. BOARD MAY HOLD INQUIRIES.

(1) For the purposes of the exercise of its functions under this Act –

(a) the Board; or
 (b) the Registrar acting by direction and under the delegation in writing of the Board,
 may arrange for the holding of inquiries in public or in private presided over by a member of the Board or by some other person appointed by the Board to preside.

(2) The person presiding at the inquiry may –

- (a) by summons under the hand of the Chairman or of the Registrar require the attendance of any witness; and
- (b) by notice in writing signed by the Chairman or by the Registrar, require the production of any book, paper or document relevant to the matter before the Board or the Registrar; and
- (c) inspect any book, paper and document produced before the Board or the Registrar and make copies of or extracts from matters therein that are relevant to the matter before the Board or the Registrar; and
- (d) examine any witness on oath or affirmation.

(3) For the purpose of Subsection (2), each member of the Board or the Registrar or other person appointed by the Board to hold an inquiry has authority to administer an oath.

(4) The person presiding at an inquiry under this section –

- (a) is not bound by the rules or practice of evidence and may inform himself on any matter in such manner as he considers appropriate; and
- (b) has the powers, authorities, protections and immunities conferred on a commissioner under the *Commissions of Inquiry Act 1951*.

(5) A person into whose conduct the Board or Registrar is proposing to inquire is entitled to be represented at the inquiry by a lawyer and to call and examine witnesses, and the Board shall give such person or his lawyer an opportunity of making to the Board such representations as are relevant to the inquiry.

(6) A person who –

- (a) having been personally served with a summons referred to in Subsection (2)(a) to attend before the Board or the Registrar, fails without lawful excuse to attend in obedience to that summons; or
- (b) being called or examined as a witness in any inquiry before the Board –
 - (i) refuses to be sworn or make an affirmation; or
 - (ii) fails to answer any question relevant to a matter in issue in the inquiry; or
 - (iii) without lawful excuse fails to produce any book, paper or document mentioned in a notice referred to in Subsection (2)(b) and personally served upon him; or
 - (iv) knowingly and wilfully makes a false statement to the Board,

is guilty of an offence.

Penalty: A fine not exceeding K5,000.00 or imprisonment for a term not exceeding twelve months, or both.

(7) It is a defence to a prosecution for an offence against this section of failing to produce a book, paper or document that the book, paper or document was not relevant to the matter the subject of the inquiry.

(8) A statement made by a person in answer to a question put to him in the course of an inquiry conducted by the Board the Register or a person authorized by the Board or Registrar is not admissible in evidence in any proceedings against the person in a court, other than proceedings for an offence arising out of the falsity of the answer.

25. SURPLUS INCOME.

In January and July of each year, the Board shall review the cost of carrying out its functions against income received for the purpose in the six months prior to the month of review, and after taking into account anticipated income and expenditure for the ensuing six months period, shall pay any funds then held and surplus to requirements in the ensuing six months, into the Community Benefit Fund Account in accordance with Section 163.

26. APPLICATION OF *PUBLIC FINANCES (MANAGEMENT) ACT 1995*.

Part VIII of the *Public Finances (Management) Act 1995* applies to and in relation to the Board.

Division 2. – Chief Executive and other staff.

27. PERSONS ENGAGED IN ADMINISTRATION OF ACT TO BE OF THE HIGHEST INTEGRITY.

(1) This section applies to the following positions: –

- (a) the Board Secretary;
- (b) an inspector;
- (c) a member of staff of the Board; and
- (d) the Registrar; and
- (e) a consultant to the Board.

(2) A person is not eligible to be appointed to, or to hold, a position to which this section applies unless the person possesses the highest standard of integrity.

(3) The question of whether a person possesses the highest standard of integrity is to be determined by –

- (a) the Chief Executive in the case of the position of member of staff of the Board, consultant to the Board or inspector; and
- (b) the Minister in any other case.

(4) For the purpose of making a determination under Subsection (2), the Chief Executive shall (in the case of proposed appointments) and may (in all other cases) cause to be carried out all such investigations and inquiries as may be necessary and, in particular, shall (in the case of proposed appointments) and may (in all other cases) obtain and consider a report from the Commissioner of Police in relation to any person being considered for appointment to the position, or the holder of the position, as the case requires.

(5) In carrying out any investigation or inquiry for the purposes of this section, the Board shall comply with such guidelines as the Board may from time to time establish in connection with the conduct of such an investigation or inquiry.

(6) For the purpose of making a report under Subsection (3), the Commissioner of Police may require the person to whom the report relates to consent to having his photograph, finger prints and palm prints taken.

(7) If a person fails to co-operate with an investigation or inquiry under Subsection (4) in relation to a position to which this section applies –

- (a) in the case of a candidate for appointment to such a position, the person is not eligible to be appointed to the position; and
- (b) in the case of the holder of such a position, that person is liable to be removed from the position.

(8) For the purpose of Subsection (7), a person fails to co-operate with an investigation or inquiry under Subsection (4) if –

- (a) the person refuses or fails to comply with a request for information for the purpose of the investigation or inquiry; or
- (b) the person refuses or fails to comply with a request for information from the Commissioner of Police in relation to the preparation of a report under Subsection (6); or
- (c) the person refuses or fails to comply with a request for consent under Subsection (6).

(9) No compensation is payable to any person as a consequence of the holder of a position to which this section applies being removed from the position under Subsection (7).

(10) In relation only to casino operations under Part III, a person is not eligible to be appointed to, or to hold, a position to which this section applies if –

- (a) the person is, or was at any time during the previous four years, an employee of a person who is the holder of, or a close associate of the holder of, a casino licence or a party to a controlled contract (as defined in Part III) with the holder of a casino licence; or
- (b) the person has, or had at any time during the previous four years, directly or indirectly had any business or financial association with, or any business or financial interest in any matter in conjunction with, a person who is the holder of, or a close associate of the holder of, a casino licence or a party to a controlled contract with the holder of a casino licence.

(11) In Subsection (10), “casino licence” includes any licence or other form of authorization that authorizes its holder to conduct casino style gaming in any place.

(12) In the case of the position of casino inspector, member of staff of the Board or consultant to the Board, the Board may waive the operation of Subsection (10) in a particular case.

28. CHIEF EXECUTIVE.

(1) There shall be a Chief Executive of the Board who –

- (a) shall be appointed in accordance with the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*; and
- (b) shall be appointed for a period of five years; and
- (c) subject to the *Salaries and Conditions Monitoring Committee Act 1988*, shall be employed on terms and conditions as are determined by the Minister; and
- (d) is eligible for reappointment.

(2) The Chief Executive –

- (a) shall manage the affairs of the Board; and
- (b) has such other functions as are determined by the Board.

(3) The terms and conditions of employment of the Chief Executive shall be contained in a written contract which shall be signed by the Chairman on behalf of the Board and by the Chief Executive.

29. REGISTRAR OF GAMING.

The Chief Executive is the Registrar of Gaming.

30. FUNCTIONS OF THE REGISTRAR.

The Registrar shall carry out and perform the functions and duties required of him under this Act or by the Board.

31. BOARD SECRETARY.

(1) Subject to Subsection (2), the Board shall, by notice in the National Gazette, appointed a suitably qualified person to be the Board Secretary.

(2) Before making appointments under Subsection (1), the Board shall –

- (a) determine the qualifications and experience required for the office of Secretary; and
- (b) determine, subject to the *Salaries and Conditions Monitoring Committee Act 1988*, the terms and conditions of employment of the office; and
- (c) advertise the office –
 - (i) on at least two occasions in a newspaper circulating nationally; and
 - (ii) in such other manner (if any) as the Board considers to be necessary or desirable.

(3) The terms and conditions of employment of the Board Secretary shall be contained in a written contract of employment which shall be signed by the Chief Secretary on behalf of the Board and by the Board Secretary.

(4) The functions of the Board Secretary are –

- (a) to perform secretarial services on behalf of the Board; and
- (b) to keep register of documents authenticated; and
- (c) to perform such other functions and duties as determined by the Board or the Chief Executive.

32. STAFF.

(1) The Chief Executive may –

- (a) employ such staff as may be required to enable the Board to exercise its functions; and
- (b) arrange for the use of the services of any staff (by secondment or otherwise) or facilities of a government department, an administrative office or public or local authority; and
- (c) arrange for one or more police officers to be made available to perform services for the Board; and
- (d) subject to Subsection (5), engage such consultants as are necessary for the purposes of the Board.

(2) In this Act, a reference to a member of the staff of the Board is a reference to –

- (a) a person who is employed under Subsection (1)(a); or

(b) a person whose services are used under Subsection (1)(b).

(3) The provisions of this Act relating to the requirement for persons engaged in the administration of this Act to be of the highest integrity applies to the position of member of staff of the Board and to a consultant to the Board.

(4) The tenure of office and salary and terms and conditions of employment of a person appointed under this section are, subject to the *Salaries and Conditions Monitoring Committee Act 1988*; as determined by the Chief Executive.

(5) The Chief Executive may, from time to time, within the limit of funds available for the purpose appoint as a consultant or consultants on any matter in relation to its functions, such person or persons possessing appropriate expertise in relation to the consultancy and, subject to approval of the Minister, on such terms and conditions as determined by the Chief Executive.

33. PUBLIC SERVICE RIGHTS.

Where an officer or employee of the Public Service is appointed to be Registrar or a member of the staff, his service as Registrar or as a member of the staff shall be counted as service in the Public Service for the purpose of determining his rights (if any) in respect of –

- (a) leave of absence on grounds of illness; or
- (b) furlough or pay instead of furlough (including pay to dependants on the deaths of the officer).

Division 3. – Registers.

34. REGISTER OF CASINO LICENCES.

(1) The Registrar shall establish and maintain a Register of Casino Licences.

(2) The Registrar shall enter in the Register of Casino Licences the particulars of the issue, renewal, suspension, cancellation and such other particulars as the Board directs of each casino licence granted under this Act.

(3) The Registrar shall, at reasonable times –

- (a) make available the Register of Casino Licences for inspection on payment of the prescribed fee; and
- (b) allow copies of entries in the Register of Casino Licences to be made on payment of the prescribed fee.

35. REGISTRAR OF CASINO INSPECTORS.

(1) The Registrar shall establish and maintain a Register of Casino Inspectors.

(2) The Registrar shall enter in the Register of Casino Inspectors the particulars of each person appointed as a casino inspector under Section 94.

(3) The Registrar shall, at reasonable times –

- (a) make available the Register of Casino Inspectors for inspection on payment of the prescribed fee; and
- (b) allow copies of entries in the Register of Casino Inspectors to be made on payment of the prescribed fee.

36. REGISTER OF CASINO EMPLOYEES.

(1) The Registrar shall establish and maintain a Register of Casino Employees if the Board requires all or a class of employees employed in a casino to be licensed under Section 68.

(2) The Registrar shall enter in the Register of Casino Employees the particulars of each person licensed as a casino employee.

(3) The Registrar shall, at reasonable times –

- (a) make available the Register of Casino Employees for inspection on payment of the prescribed fee; and
- (b) allow copies of entries in the Register of Casino Employees to be made on payment of the prescribed fee.

37. REGISTER OF GAMING MACHINE PERMITS AND GAMING MACHINE OPERATOR'S LICENCES.

(1) The Registrar shall establish and maintain a Register of Gaming Machine Permits and Gaming Machine Operator's Licences.

(2) The Registrar shall enter in the Register of Gaming Machine Permits and Gaming Machine Operator's Licences the particulars of the issue, renewal, suspension, cancellation and such other particulars as the Board directs of each permit, special permit and licence granted under this Act.

(3) The Registrar shall at reasonable times –

- (a) make available the Register of Gaming Machine Permits and Gaming Machine Operator's Licences for inspection on payment of the prescribed fee; and
- (b) allow copies of entries in the Register of Gaming Machine Permits and Gaming Machine Operator's Licences to be made on payment of the prescribed fee.

38. REGISTER OF GAMING MACHINE TECHNICIAN'S LICENCES.

(1) The Registrar shall establish and maintain a Register of Gaming Machine Technician's Licences.

(2) The Registrar shall enter in the Register of Gaming Machine Technician's Licence the particulars of each person licensed as a gaming machine technician under Section 139.

(3) The Registrar shall, at reasonable times –

- (a) make available the Register of Gaming Machine Technician's Licences for inspection on payment of the prescribed fee; and
- (b) allow copies of entries in the Register of Gaming Machine Technician's Licences to be made on payment of the prescribed fee.

PART III. – CASINOS.***Division 1. – General.*****39. OBJECTS OF THIS PART.**

(1) The primary objects of this Part are –

- (a) to ensure that the management and operation of a casino remain free from criminal influence or exploitation; and
- (b) to ensure that gaming in a casino is conducted fairly and honestly; and
- (c) to contain and control the potential of a casino to cause harm to the public interest and to individuals and families.

(2) All persons having functions under this Part are required to have due regard to the objects referred to in Subsection (1) when exercising those functions.

40. NUMBER OF CASINO LICENCES.

(1) The National Executive Council, on the recommendation of the Minister, may determine the number of casino licences that may be in force under this Act at any particular time but there shall not be more than one licence for the first ten years after the coming into operation of this Act.

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

41. MINISTERIAL DIRECTIONS AS TO REQUIREMENTS FOR CASINO.

(1) The Minister may from time to time give a direction in writing to the Board as to any of the following matters: –

- (a) the permissible location for a casino;
- (b) the required size and style of a casino;
- (c) the development required to take place in conjunction with the establishment of a casino including the requirement for a hotel or other complex of which a casino is to form part;
- (d) any other prescribed matter concerning the establishment of a casino.

(2) Before giving a direction under Subsection (1), the Minister shall call for a report on matter from the Board.

(3) Where the Minister issues a direction under Subsection (1), he may vary or revoke it by a further direction in writing to the Board.

(4) The Board shall exercise its functions under this Act in respect of the grant of a casino licence, the conduct of negotiations and the entering into of agreements in a manner that is consistent with the directions of the Minister under this section.

42. GAMING MACHINES IN CASINOS.

(1) Before directing the Board to invite expressions of interest under this Act as provided in Section 43, the Minister shall establish an inquiry into the likely effect of the availability of gaming machines in a casino on the operations and viability of the holders of permits granted under Part IV in relation to gaming machines.

(2) The Minister may, on the receipt of a report following an inquiry under Subsection (1), and acting on the recommendations contained in the report, give a direction in writing to the Board as to whether or not and to what extent (if any) gaming machines are to be available in a casino.

(3) The Board shall exercise its functions so as to give effect to a direction by the Minister under this section.

(4) The provisions of Part IV of this Act apply to the use and operation of any gaming machines established and operated in a casino.

43. BOARD MAY INVITE EXPRESSIONS OF INTEREST.

(1) At the direction of the Minister, the Board shall publicly invite expressions of interest for the establishment and operation of a casino.

(2) An invitation under Subsection (1) –

(a) shall provide information concerning the requirements for the establishment and operation of the proposed casino; and

(b) shall be in terms that are consistent with any applicable directions given by the Minister under Section 41; and

(c) shall contain such other matters that the Board considers relevant.

(3) The Board may charge a fee for any expression of interest made under this section.

44. BOARD MAY CONDUCT NEGOTIATIONS AND ENTER INTO AGREEMENTS.

(1) With the approval of the Minister, the Board may conduct negotiations and enter into agreements on behalf of the State for or in connection with the establishment and operation of a casino and any development of which a casino or proposed casino forms part.

(2) An agreement made under this section may contain only terms not inconsistent with this Act that are approved by the Minister on the recommendation of the Board.

(3) An agreement made under this section may provide that all or specified obligations imposed by the agreement are to be considered to be conditions of the relevant casino licence and such a provision has effect accordingly.

(4) An assignment or encumbrance of the rights and obligations conferred or imposed by an agreement made under this section is void unless the Minister, on the recommendation of the Board, consents to the assignment or encumbrance and any conditions subject to which the consent is given are complied with.

(5) The Minister may, on the recommendation of the Board, vary or revoke a consent given under Subsection (4).

Division 2. – Casino licence.

45. APPLICATION FOR CASINO LICENCE.

(1) At the direction of the Minister, the Board shall publicly invite applications for a casino licence.

(2) The invitation shall be in terms that are consistent with any applicable directions of the Minister.

(3) A person is not entitled to make an application for a casino licence unless –

- (a) it is in relation to an invitation under Subsection (1); and
- (b) it conforms materially with the terms of the invitation.

(4) Unless the Board otherwise permits in a particular case, an application shall comply with the following requirements: –

- (a) it is made in a form approved by the Board;
- (b) it is accompanied by such prescribed application fee; and
- (c) it contains or is accompanied by such information as the application form requires and such further or additional information as the Board may request.

(5) The Board may, at its discretion, refund the whole or any part of an application fee if the application is not successful.

46. MATTERS TO BE CONSIDERED IN DETERMINING APPLICATIONS.

In considering an application for a casino licence, the Board is to have regard to the following matters: –

- (a) the requirements of this Act concerning the suitability of the applicant and close associates of the applicant;
- (b) the standard and nature of the proposed casino, and the facilities to be provided in, or in conjunction with, the proposed casino;
- (c) the likely impact of the use of the premises concerned as a casino on tourism, employment and economic development generally in the place or region in which the premises are located;
- (d) the expertise of the applicant, having regard to the obligations of the holder of a casino licence under this Act; and
- (e) such other matters as the Board considers relevant.

47. SUITABILITY OF APPLICANT AND CLOSE ASSOCIATES OF APPLICANT.

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

(2) For the purposes of Subsection (1), the Board shall consider whether –

- (a) each of those persons is of good repute, having regard to character, honesty and integrity; and
- (b) each of those persons is of sound and stable financial background; and
- (c) in the case of an applicant that is not a natural person, it has or has arranged a satisfactory ownership, trust or corporate structure; and
- (d) the applicant has or is able to obtain financial resources that are both suitable and adequate for ensuring the financial viability of the proposed casino; and
- (e) the applicant has or is able to obtain the services of persons who have sufficient experience in the management and operation of a casino; and
- (f) the applicant has sufficient business ability to establish and maintain a viable and profitable casino business; and
- (g) any of those persons has any business association with any person, body or association who, in the opinion of the Board, is not of good repute having regard to

character, honesty and integrity or has undesirable or unsatisfactory financial sources; and

- (h) each director, partner, trustee, executive officer and secretary and any other officer or person determined by the Board to be associated or connected with the ownership, administration or management of the operations or business of the applicant or a close associate of the applicant is a suitable person to act in that capacity.

48. MEANING OF “CLOSE ASSOCIATE”.

(1) For the purpose of this Act, a person is a close associate of an applicant for, or the holder of, a casino licence of the person –

- (a) holds or will hold any relevant financial interest, or is or will be entitled to exercise any relevant power (whether in his own right or on behalf of any other person), in the casino business of the licensed applicant or holder, by virtue of that interest or power is or will be able (in the opinion of the Board) to exercise a significant influence over or with respect to the management or operation of the casino business; or
- (b) holds or will hold any relevant position, whether in his own right or on behalf of any other person, in the casino business of the licensed applicant or holder; and
- (c) without limiting the generality of Paragraphs (a) and (b), includes –
- (i) the husband or spouse; or
 - (ii) a parent or grandparent, son, daughter or grandchild, brother or sister and includes a person who has the same relationship by affinity; or
 - (iii) a partner; or
 - (iv) a body corporate of which the person is an executive officer; or
 - (v) where the person is a body corporate – an executive officer of the body corporate; or
 - (vi) an employee or employer.

(2) In this section –

“**relevant financial interest**” means –

- (a) any share in the capital of the business; or
- (b) any entitlement to receive any income derived from the business, whether the entitlement arises at law or in equity or otherwise;

“**relevant position**” means the position of director, manager, and other executive positions and secretary, however those positions are 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.

49. INVESTIGATION OF APPLICATIONS.

(1) On receiving an application for a casino licence, the Board shall carry out all such investigations and inquiries as it considers necessary for the proper assessment of the application.

(2) In particular, the Board shall, for the purpose of Subsection (1) –

- (a) require any person it is investigating in relation to the person's suitability to be concerned in or associated with the management or operation of a casino to consent to having his photograph, finger prints and palm prints taken; and
- (b) refer to the Commissioner of Police details of the persons the Board is investigating, copies of any photographs, finger prints and palm prints taken and any supporting information that the Board considers appropriate for referral to the Commissioner of Police.

(3) The Commissioner of Police is to inquire into and report to the Board on such matters concerning the application as the Board may request.

(4) The Board may refuse to consider an application for a casino licence while, in relation to that application, any person from whom it requires a photograph, finger prints or palm prints refuses to allow his photograph, finger prints or palm prints to be taken.

50. BOARD MAY RESOURCE FURTHER INFORMATION, ETC.,

(1) The Board may, by notice in writing, require a person who is an applicant for a casino licence or who, in the opinion of the Board, has some association or connection with the applicant that is relevant to the application to do any one or more of the following things: –

- (a) to provide, in accordance with directions in the notice, such information, verified by statutory declaration, 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 making of copies of them;
- (c) to authorize a person described in the notice to comply with a specified requirement of the kind referred to in Paragraphs (a) or (b); and
- (d) to furnish to the Board such authorities and consents as the Board directs for the purpose of enabling the Board to obtain information (including financial and other confidential information) from other persons concerning the person and his associates or relations.

(2) If a requirement specified Subsection (1) is not complied with, the Board may refuse to consider the application concerned.

(3) A person who complies with a requirement of a notice under this section and provides to the Board information requested does not on that account incur a liability to another person.

51. COST OF INVESTIGATIONS TO BE PAID BY APPLICANT.

(1) The reasonable costs incurred by the Board in investigating and inquiring into an application for a casino licence shall be paid to the Board by the applicant, unless the Board determines otherwise in a particular case.

(2) The Board may require part or full payment in advance of the amount it estimates will be payable by the applicant and may refuse to deal with the application until the required payment is made.

(3) Investigation and inquiry costs may include travelling expenses.

(4) It is a condition of a casino licence granted to an applicant that any amount payable by the applicant to cover costs of investigations is paid.

52. UPDATING OF APPLICATIONS.

(1) If a change occurs in the information provided in or in connection with an application for a casino licence before the application is determined, the applicant shall as soon as possible give the Board written particulars of the change verified by statutory declaration.

(2) A person, who fails to provide the information under Subsection (1), is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

(3) Particulars of any change given by the applicant under Subsection (1) shall be considered as forming part of the original application for the purposes of the application.

(4) The requirement in this section does not apply to a change in information if the Board has notified the applicant in writing that the Board does not require particulars of any change in the information concerned or does not require particulars of the type of change concerned.

53. DETERMINATION OF APPLICATIONS.

(1) The Board shall determine an application and may –

- (a) reject the application; or
- (b) grant a casino licence to the applicant.

(2) A casino licence granted under Subsection (1) –

- (a) is subject to such conditions as the Board determines and are specified on the licence; and
- (b) is subject to such prescribed licence fee.

(3) Where an application for a licence is rejected under Subsection (2), the Board is not required to give reasons for its decision to reject the application.

(4) A decision of the Board under this section is not subject to appeal.

54. BOARD TO DEFINE CASINO PREMISES.

(1) The boundaries of a casino are to be defined initially by being specified in the casino licence and may be redefined by the Board for time to time as the Board thinks fit.

(2) A redefining of the boundaries of a casino may be done of the Board's own motion or on the application of the licensee.

(3) The redefining of the boundaries of a casino takes effect when the Board gives written notice of it to the casino operator or on such later date as the notice may specify.

55. DURATION OF CASINO LICENCE.

A casino licence shall be for a period of ten years from the date on which it was granted and remains in force unless it is sooner cancelled or surrendered under this Act.

56. NO PROPERTY RIGHT IN CASINO LICENCE.

A casino licence confers no right of property and is not capable of being assigned or mortgage, charged or encumbered in any manner.

57. CONDITIONS OF CASINO LICENCE.

(1) The conditions of a casino licence (whether as originally imposed or as amended) may relate to any matter for which provision is made by this Act but shall not be inconsistent with a provision of this Act.

(2) The conditions of a casino licence may be amended by being substituted, varied, revoked or added to.

(3) An amendment may be proposed –

(a) by the licensee by requesting the Board in writing to make the amendment; or

(b) by the Board by giving notice in writing of the proposed amendment to the licensee and giving the licensee at least 14 days to make submissions to the Board concerning the proposed amendment.

(4) The Board shall consider any submissions made by the licensee and decide whether to make the proposed amendment, either with or without changes from that originally proposed.

(5) The Board shall notify the licensee of any amendment it makes to the licence such amendment to take effect when notice of the decision is given to the licensee or on such other date as is specified in the notice.

Division 3. – Surrender of casino licence.

58. SURRENDER OF CASINO LICENCE.

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

(2) The surrender takes effect only if the Board consents to the surrender.

59. APPOINTMENT OF MANAGER IF CASINO LICENCE SUSPENDED, CANCELLED OR SURRENDERED.

(1) Where a casino licence is suspended, cancelled or surrendered, the Board may, if it is satisfied that it is in the public interest to do so, by instrument in writing, appoint a person to be the manager of the casino for the purpose of this section.

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

(3) The manager shall be appointed on such terms and conditions as the Board determines.

(4) The manager –

(a) is to be considered to be the holder of a casino licence granted on the same terms and subject to the same conditions as the suspended, cancelled or surrendered licence (as in force immediately before the suspension, cancellation or surrender) with such modifications as the Board may direct; and

(b) is to assume full control of and responsibility for the business of the casino operator in respect of the casino; and

(c) is to conduct or cause to be conducted casino operations in accordance with this Act; and

(d) has, in connection with the conduct of those operations, all the functions of the operator.

(5) Regulations may make provision for or with respect to the functions of the manager of a casino appointed under this section.

(6) 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) no payment of net earnings is to be made to the holder of the suspended, cancelled or surrendered casino licence without the prior approval of the Board;
- (b) the former operator is entitled to a fair rate of return out of net earnings (if any) on any property of the former operator retained by the manager; and
- (c) the Board may in its discretion direct that all or any part of net earnings (other than that to which the former operator is entitled under Paragraph (b) is to be paid into the Community Benefit Fund, with any balance to be paid to the former operator.

Division 4. – Supervision and control of casino operators.

60. DIRECTIONS TO OPERATOR.

(1) Subject to this section, the Board may give a casino operator a written direction that relates to the conduct, supervision or control of operations in the casino.

(2) It is a condition of a casino licence that the casino operator shall comply with a direction given under Subsection (1) as soon as it takes effect.

(3) A direction issued under Subsection (1) takes effect when the direction is given to the casino operator or on such other date as is specified in the direction.

(4) 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.

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

61. GENERAL INVESTIGATIONS.

(1) The Board may investigate a casino from time to time and at any time that the Board thinks it desirable or when directed to do so by the Minister.

(2) The investigation may relate to (but is not limited to) any of the following matters: –

- (a) the casino and operations in the casino;
- (b) the casino operator or a person who, in the opinion of the Board, is an associate of the casino operator;
- (c) a person or persons who in the opinion of the Board could affect the exercise of functions in or in relation to the casino; or
- (d) a person or persons who, in the opinion of the Board, 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.

(3) The Board may make a report to the Minister on the results of such an investigation if it thinks it desirable to do so and shall make such a report if the investigation was made at the direction of the Minister.

(4) The Board may take such actions under this Act as it considers appropriate as a result of the investigation under this section.

62. REGULAR INVESTIGATION OF OPERATOR'S SUITABILITY.

(1) Not later than two years after the grant of a casino licence, and thereafter at intervals not exceeding two years, the Board shall investigate and form an opinion as to whether or not –

- (a) the casino operator is a suitable person to continue to operate a casino business under the casino licence and this Act; and
- (b) it is in the public interest that the casino licence should continue in force.

(2) The Board shall report its findings and opinion to the Minister, giving reasons for its opinion, and may take whatever action under this Act it considers appropriate in the light of its findings.

63. OPERATOR AND ASSOCIATES MAY BE REQUIRED TO PROVIDE INFORMATION.

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

- (a) to provide the Board or a specified officer of the Board, in accordance with such directions as are contained in the notice, with such information relevant to the operator or that association or to the casino; or
- (b) to produce to the Board or a specified officer of the Board, in accordance with such directions as are contained in the notice, such records relevant to the operator or that association or to the casino, 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 Board or a specified officer of the Board for examination in relation to any matters relevant to the operator or that association or to the casino, and to answer questions relating to those matters.

(2) A person who complies with a requirement to provide information does not on that account incur a liability to another person.

(3) If the records are produced under this section, the Board or a specified officer of the Board to whom they are produced may retain possession of the records for such period as may reasonably be permit examination of the records, the taking of extracts from them and making of copies of them.

(4) At any reasonable times during the period for which records are retained, the Board or a specified officer of the Board 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 Board or the officer of the Board.

64. FAILURE TO PROVIDE INFORMATION.

(1) A person, who fails without reasonable excuse to comply with a requirement of a notice under Section 63 by not providing the information required, is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

(2) A person is not excused from complying with a notice requiring him to provide information under Subsection (1) on the ground that compliance might tend to incriminate him.

(3) If a person claims in writing to the Board, before complying with notice given under this section, that compliance might tend to incriminate him, information provided in compliance

with the notice is not admissible in criminal proceedings against the person except proceedings for the offence of providing false or misleading information in purported compliance with the notice.

65. CHANGE IN STATE OF AFFAIRS OF OPERATOR.

(1) In this section –

“**major change**” in the state of affairs existing in relation to a casino operator means –

- (a) any change in that state of affairs which results in a person becoming a close associate of the casino operator; or
- (b) any other change in that state of affairs which is of a class or description considered by the Board as major;

“**minor change**” in the state of affairs existing in relation to a casino operator means any change in that state of affairs that is considered by the Board as a minor change.

(2) It is a condition of a casino licence that the casino operator shall –

- (a) ensure that a major change in the state of affairs existing in relation to the operator which is within the operator’s power to prevent does not occur except with the prior approval in writing of the Board; and
- (b) notify the Board in writing of the likelihood of any major change in the state of affairs existing in relation to the operator to which Paragraph (a) does not apply as soon as practicable after the operator becomes aware of the likelihood of the change; and
- (c) notify the Board in writing of any major change in the state of affairs existing in relation to the operator to which Paragraphs (a) and (b) do not apply within three days after becoming aware that the change has occurred; and
- (d) notify the Board in writing of any minor change in the state of affairs existing in relation to the operator within fourteen days after becoming aware that the change has occurred.

(3) If a major change for which the approval of the Board is sought under this section involves a person becoming a close associate of a casino operator, the Board shall not grant approval unless it is satisfied that the person is a suitable person to be associated with the management of a casino.

(4) An application for approval under Subsection (3) shall be considered and dealt with in the same way as if the approval was an application for a casino licence.

(5) If a major change is proposed or has occurred involving a person becoming a close associate of a casino operator and the approval of the Board to the change is not required –

- (a) the Board shall inquire into the change to determine whether it is satisfied that the person is a suitable person to be associated with management of a casino; and
- (b) if it is not so satisfied, to take such action as it considers appropriate.

66. COST OF INVESTIGATIONS INTO CERTAIN MAJOR CHANGES.

(1) The provisions of this section apply to a major change referred to in Section 65 that is proposed or has occurred and that involves a person becoming a close associate of a casino operator.

(2) The reasonable costs incurred by the Board in –

- (a) investigating and inquiring into an application for an approval in relation to a major change; or
- (b) inquiring into a major change to which this section applies, where such an approval is not required,

are payable to the Board, unless the Board determines otherwise in a particular case.

(3) The costs are so payable –

- (a) by the casino operator, except in so far as Paragraph (b) applies; or
- (b) by the person who would become or has become a close associate of the casino operator, to the extent that the Board is of the opinion that the casino operator is not responsible for the major change.

(4) The costs payable under this section may include travelling expenses.

(5) In the case of an application for approval under Section 65, the Board may require part or full payment in advance of the amount of costs it estimates will be payable to the Board by the applicant and may refuse to deal with the application until the required payment is made.

(6) It is a condition of a casino licence that any amount payable under this section by the holder of the licence is paid.

67. CONTRACTS.

(1) In this section –

“**contract**” includes any kind of agreement or arrangement;

“**controlled contract**” means a contract that relates wholly or partly to the supply of goods or services to a casino or to any other matter that is prescribed as a controlled matter for the purposes of this definition, but does not include –

- (a) a contract that relates solely to the construction of a casino or to the alteration of premises used or to be used as a casino; or
- (b) a contract or a class that is considered by the Board as exempt from this definition;

(2) A casino operator shall not enter into, or become a party, to a controlled contract, or the variation of a controlled contract without the approval of the Board, and the Board may, on the receipt of an application from the casino operator for approval under this section –

- (a) investigate a proposed contract; and
- (b) require any party to a controlled contract or an associate to give information concerning the controlled contract; and
- (c) approve or reject the controlled contract or variation of a controlled contract.

(3) Where the Board rejects a contract or variation of a controlled contract under Subsection (2), the casino operator shall not enter into the controlled contract or variation of a controlled contract.

(4) The Board may require the provisions of this section to be extended to a person who the Board considers has some association or connection with a casino operator that is relevant to the operation or management of the casino.

(5) Regulations may make further provisions to give effect to the provisions made in this section including prescribing offences for breach of any provisions so made.

68. LICENSING OF CASINO EMPLOYEES.

(1) The Board may require all or a class of employees employed in a casino to be licence to perform specified functions in a casino.

(2) Regulations may provide for the licensing of employees and make provisions on any of the following: –

- (a) the issuing of forms of identification;
- (b) the displaying of identification at times while exercise their functions;
- (c) the procedures for application for a licence under this section;
- (d) the empowering of the Board to direct a person employed or associated with a casino to apply for a licence under this section;
- (e) requiring the updating of application for a licence;
- (f) requiring an applicant to provide further information on an application for a licence;
- (g) the empowering of the Board to conduct investigations and provide procedures for investigation of applications;
- (h) requiring that costs of investigations to be paid by an applicant and for recovery of such costs;
- (i) the granting of provisional licenses pending investigation of applications for licence under this section;
- (j) the determination of applications;
- (k) the contents of a licence granted;
- (l) the conditions attached to a licence;
- (m) the defining of the period of a licence under this section;
- (n) the renewal of a licence under this section;
- (o) the variation of a licence under this section;
- (p) requiring a licence to advice the Board on change in circumstances;
- (q) the replacement of lost licences;
- (r) the disciplinary procedures including suspension, termination and appeals;
- (s) the requirements for training of licensed employees; and
- (t) the offences for non –compliance.

Division 5. – Casino Operations.**69. CASINO LAYOUT TO BE AS APPROVED BY BOARD..**

(1) It is a condition of a casino licence that gaming is not to be conducted in a casino unless the facilities provided in relation to the conduct and monitoring of operations in the casino are in accordance with plans, diagrams and specifications that are for the time being approved by the Board under this section.

(2) The Board may approve plans, diagrams and specifications indicating the following:-

- (a) the situation within the casino of gaming tables and gaming equipment, counting rooms, cages and other facilities provided for operations in the casino;
- (b) the manner in which a closed circuit television system operates within the casino, if any, including details of the positions and field of coverage of the cameras and viewing screens and the height of the cameras above the gaming;
- (c) the position and description of a catwalk surveillance system, if any, for the direct visual monitoring of operations in the casino; and

- (d) the communication facilities provided for persons monitoring operations in the casino, whether by means of the closed circuit television system or the catwalk surveillance system, or otherwise.

(3) The Board may amend an approval under this section by giving not less than fourteen days written notice of the amendment to the casino operator or such lesser period of notice as the operator agrees to accept in a particular case.

70. APPROVAL OF GAMES AND RULES FOR GAMES.

(1) The Board may, by order published in the National Gazette, approve the games that may be played in a casino and the rules for those games.

(2) It is a condition of a casino licence that the casino operator shall not permit a game to be conducted or played in a casino unless –

- (a) there is an order in force under this section approving the game; and
 (b) the game is conducted or played in accordance with –
 (i) the rules of the game approved by such an order; or
 (ii) if the game is a keno game, the keno rules for the game.

(3) 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) there is an order in force under this section approving the game; and
 (b) the game is conducted or played in accordance with –
 (i) the rules of the game approved by such an order; or
 (ii) if the game is a keno game, the keno rules for the game.

(4) A person who contravenes Subsection (3) is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

(5) If the rules of a game approved by an order under Subsection (1) or, in the case of a keno game, the keno rules for the game, specifically permit wagers to be paid by a non –monetary prize, the rules of the game shall include the following rules:-

- (a) the casino operator shall give a person who wins a non –monetary prize the choice to be paid money to the value of the non –monetary prize instead; and
 (b) a non –monetary prize shall not consist of or include any of the following:-
 (i) tobacco in any form; or
 (ii) a firearm, or ammunition, within the meaning of the *Firearms Act 1978*; or
 (iii) a prohibited weapon; or
 (iv) more than 20 litres of liquor; or
 (v) any item or services as prescribed.

(6) In this section, “**keno game**” means a game of keno approved by the Minister and “**keno rules**” for a keno game means the rules as approved by the Minister.

71. DIRECTIONS AS TO GAMES TO BE AVAILABLE.

(1) The Board may give a direction in writing to a casino operator concerning any one or more of the following: –

- (a) the particular games that are or are not to be available to be played in the casino;

- (b) the minimum number of any particular game that is to be available to be played in the casino; and
- (c) the maximum number of any particular game that is to be available to be played in the casino.

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

(3) It is a condition of a casino licence that the casino operator is to comply with any direction for the time being in force under this section.

(4) Before giving or amending a direction under this section, the Board shall give the casino operator a reasonable opportunity to make representations to the Board on the proposed direction or amendment and shall consider any representations made by the casino operator.

72. APPROVAL OF GAMING EQUIPMENT.

(1) The Board may approve of 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 impose conditions on any such approval.

(2) An approval is to be in writing and may be revoked by the Board by notice in writing to the casino operator.

(3) The Board may investigate or authorize 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 the person seeking the approval.

(4) Regulations may be made for or with respect to the manufacture or supply of gaming equipment for use in a casino.

(5) Notwithstanding 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 Board and it is in a casino with the approval of the Board or the circumstances of its possession are such as have been approved by the Board generally or in a particular case.

73. UNSATISFACTORY GAMING EQUIPMENT.

(1) The Board may direct a casino operator to rectify to its satisfaction, or to destroy, gaming equipment that it has directed the operator to cease to have available for use on the ground that it is unsatisfactory.

(2) It is a condition of a casino licence that the casino operator shall forthwith comply with a direction under Subsection (1).

74. CONDUCT OF GAMING.

(1) It is a condition of a casino licence that the following requirements are complied with in the casino: –

- (a) gaming equipment shall not be used for gaming in the casino unless there is an approval in force under this Part for the use in the casino of that equipment or of

the class or description of equipment concerned, and it is used in accordance with any conditions to which the approval is subject;

- (b) all playing cards dealt in the course of gaming in the casino are to be dealt from a card shoe or any other device approved by the Board for the purpose;
- (c) chips for gaming in the casino shall not be issued unless the chips are paid for in money to the value of the chips or by chip purchase voucher that, on payment of the amount shown on the voucher, was issued by or on behalf of the power;
- (d) gaming wagers shall not be placed in the casino otherwise than by means chips unless the game rules require or provide for the placing of wagers in money;
- (e) all wages won in the course of gaming in the casino shall be paid in full without deduction of any commission or levy other than a commission or levy provided for in the game rules;
- (f) all wages won in the course of gaming in the casino are to be paid in chips unless the regulations or the game rules specifically permit payment by cash, cheque or non –monetary prize;
- (g) a person who is at or in the vicinity of a casino and is an agent of the casino operator or a casino employee shall not induce patrons to enter the casino or take part in gaming in the casino;
- (h) a person shall not be required to pay any deposit, charge, commission or levy (whether directly or indirectly and whether or not it is claimed to be refundable) to enter the casino or, except as may be provided by the game rules or as may be approved by the Board, to take part in gaming in the casino; and
- (i) during the times the casino is open to the public for gaming, the requirements of Subsection (2) are complied with in relation to the exchange and redemption of chips and chip purchase vouchers issued by the casino operator,

and the casino operator shall be deemed to have contravened a condition of a licence if he has not complied with a requirement as specified.

(2) The requirements for the exchange and redemption of chips and chip purchase vouchers are;

- (a) chip purchase vouchers shall be exchanged for chips at the request of the patron;
- (b) chips shall be exchanged for other chips at the request of the patron;
- (c) chips or chip purchase vouchers shall be redeemed for a cheque at the request of the patron (if the patron requests a cheque), or wholly or partly for money (with a cheque for any balance) if the patron so requests and the casino operator concurs;
- (d) a cheque in payment for redeemed chips or chip purchase vouchers shall be made payable to the patron and drawn on a bank; and
- (e) any exchange or redemption of chips or chip purchase vouchers shall be for their full value without any deduction.

75. TIMES OF OPERATION OF CASINO.

(1) It is a condition of a casino licence that the casino shall be open the public for gaming in accordance with this Act on such days and at such times as are for the time being directed by the Board by order in writing served on the casino operator.

(2) It is a condition of a casino licence that the casino shall be closed to the public –

- (a) on days and at times that are not days or times specified in a direction for the time being in force under this section; and

(b) on days or at times specified in such a direction as days on which, or times at which the opening of the casino to the public is prohibited.

(3) Before giving or varying a direction under this section, the Board shall to consider any representations made by the casino operator to the hours and days to be specified in the direction.

76. ASSISTANCE TO PATRONS.

(1) It is a condition of a casino licence that the casino operator shall ensure that –

(a) at the request of a casino patron, a copy of the game rules for any particular game is made available for inspection by the patron; and

(b) there is prominently displayed in the casino such advice or information concerning game rules mode of payment of winning wagers, the odds of winning for each wager and such other advice or information to the player as may be directed by the Board; and

(c) at the request of a casino patron, a brochure summarizing the game rules in respect of a game played in the casino (in accordance with the text approved by the Board) is provided to the patron; and

(d) there is prominently displayed 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; and

(e) a minimum wager indicated in respect of a game at a table or location is not changed to a higher minimum unless a sign indicating the new minimum and the proposed time of change is displayed at the table or location at least 20 minutes before the change.

(2) The Board may, by instrument in writing, exempt a casino operator from compliance with Subsection (1), Paragraphs (d) and (e) in respect of any particular game played in the casino and may grant the exemption subject to conditions.

77. OPERATIONS OF SECURITY EQUIPMENT, ETC.,.

Where the Board requires a casino to install and operate security and safety system, it is a condition of a casino licence that the casino operator shall ensure that all casino installations, devices, equipment and procedures for security and safety purposes are used, operated and applied at all relevant times for the preservation and maintenance of those purposes.

78. CREDIT PROHIBITED.

(1) A casino operator shall not, and an agent of the operator or a casino employee shall not, in connection with any gaming in a casino –

(a) accept a wager made otherwise than by means of money or chips; or

(b) lend money, chips or any other valuable thing; or

(c) provide money or chips as part of a transaction involving a credit card or a debit card; or

(d) extend any other form of credit; or

(e) except with approval of the Board, wholly or partly release or discharge a debt.

(2) It is a condition of a casino licence that the casino operator shall not contravene Subsection (1) and shall not cause permit, suffer or allow an agent of the operator or a casino employee to contravene Subsection (1).

(3) It is a condition of a casino licence that a bank automatic teller machine for cash withdrawal or any like device is not to be installed within the boundaries of the casino.

(4) This section does not limit the use of cheque and deposit account as stipulated in Section 79.

79. CHEQUES AND DEPOSIT ACCOUNTS.

(1) In this section, “**cheque**” has the same meaning as in the *Bills of Exchange Act 1951*, but does not include a traveller’s cheque or a cheque that is undated or post –dated.

(2) A casino operator may establish for a person a deposit account to which is to be credited the amount of any deposit to the account comprising –

- (a) money; or
- (b) a cheque payable to the operator; or
- (c) a traveller’s cheque.

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

(4) A casino operator may, in exchange of a cheque payable to the operator or a traveller’s cheque, issue to a person chip purchase vouchers of a value equivalent to the amount of the cheque or traveller’s cheque.

(5) A cheque accepted by casino operator may, by agreement with the 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) a cheque payable to the operator;
- (c) chip purchase vouchers; or
- (d) chips.

(6) For the purposes only of Subsection (4), electronic funds transfer of an amount to an account operated by the casino operator is taken to be payment of that amount in money to the operator.

(7) It is a condition of a casino licence that the casino operator –

- (a) shall not accept a cheque from a person if a cheque previously accepted by the operator from the person has not been met on presentation (unless the amount of the cheque not met was subsequently paid to the operator); and
- (b) shall bank a cheque accepted by the operator under this section within three working days;
- (c) shall not agree to the redemption of a cheque accepted by the operator for the purpose of avoiding compliance with Paragraph (b).

(8) The operator or his assigns may bring an action to recover money on a cheque or other instrument given in payment for chip purchase vouchers, or a credit to a deposit account.

80. JUNKETS AND INDUCEMENTS.

(1) Regulations may make provision for or with respect to regulating or prohibiting –

- (a) the promotion and conduct of junkets involving a casino; or
- (b) the offering to persons of inducements to take part in gambling at a casino; or
- (c) the offering to persons of inducements to apply for review of exclusion orders.

(2) In particular, regulations may –

- (a) impose restrictions on who may organize or promote a junket or offer inducements; and
- (b) require the organizer or promoter of a junket, or a casino operator, to give the Board advance notice of the junket and to furnish to the Board detailed information concerning the conduct of and the arrangement for the conduct of any junket; and
- (c) require any contract or other agreement that relates to the conduct of a junket or the offer of an inducement to be in a form and contain provisions approved or by the Board; and
- (d) require the organizer or promoter of a junket, or a casino operator, to give specified information concerning the conduct of the junket to participants in the junket.

(3) For the purposes of this section, “**junket**” means any arrangement for the promotion of gaming in a casino by groups of people involving arrangements for the provision of transportation, accommodation, food, drink and entertainment for participants in the arrangements, some or all of which are paid for by the casino operator or are otherwise provided on a complimentary basis.

81. RIGHT OF ENTRY TO CASINO.

(1) A person enters and remains in a casino only by licence of the casino operator, except with respect to inspectors and members of the police force as provided by this section and Section 82.

(2) A casino inspector may enter, and remain in, a casino, or any part of a casino, pursuant to the functions conferred or imposed on him by this Act.

82. POLICE POWERS OF ENTRY TO CASINO.

(1) For the purpose of the discharge of the duties of members of the police force, any part of a casino to which the public has access is to be regarded as a public place.

(2) A member of the police force may, on being authorized by the Board or a casino inspector to do so, enter any part of a casino to which the public does not have access and may remain there for the purpose of discharging his duties as a member of the police force.

(3) An authorization referred to in Subsection (2) may be given by the Board in a particular case or generally and may be given so as to operate on a specified occasion or throughout a specified period.

(4) The Board or a casino inspector giving an authorization under this section to a member of the police force shall inform the casino operator or the person for the time being in charge of the casino as soon as practicable.

(5) Nothing in this section and Section 81 affects any power a member of the police force has by any other law to enter any part of a casino.

83. EXCLUSION OF PERSONS FROM CASINO.

(1) The Board or a casino operator or the person for the time being in charge of the casino may, by order given to a person verbally or in writing, prohibit the person from entering or remaining in a casino.

(2) If a person is given such a verbal order and the person requires the order to be given in writing, the verbal order is suspended while the order is put in writing (but only if the person remains available in the casino to be given the written order).

(3) The Board or a casino operator may give a written order under this section to a person, on the person's voluntary application, prohibiting the person from entering or remaining in a casino.

(4) Application made under Subsection (3) shall be in writing and the person's signature on it shall be witnessed in a manner determined by the Board.

(5) It is a condition of a casino licence that the casino operator shall, as soon as practicable after a written order is given to a person under this section by the operator or by the person for the time being in charge of the casino, cause notice of the order to be given to the Board.

(6) This section does not authorize the exclusion from a casino of any person acting in the person's capacity as a casino inspector or other authorized person, or as a member of the police force.

84. REVIEW OF EXCLUSION ORDER.

(1) A person who is given an exclusion order may apply to the Board within 28 days after the order is given for a review of the order unless the order was given by the Board or at the direction of the Commissioner of Police.

(2) An application for review shall be made in writing and shall specify the grounds on which it is made.

(3) The Board may make such inquiries as it thinks fit into the question of whether or not the exclusion order should be overruled.

(4) If the exclusion order was given on the voluntary application of the person to whom it applies, the inquiries made by the Board are, if possible, to include inquiries made of the witness to the application.

(5) On consideration of the grounds specified in the application for review and the results of its inquiries, the Board may overrule the exclusion order or allow it to stand and shall communicate its decision to the applicant in writing.

(6) The regulations may make provision for or with respect to matters to be taken into consideration by the Board in making its decision with respect to an application for review of an exclusion order.

(7) If the decision of the Board is to overrule the exclusion order, the decision operates to revoke the order but does not prejudice the right of a casino operator or person for the time being in charge of a casino, acting in good faith, to give a further exclusion order to the person affected.

(8) An application for review of an exclusion order does not stay or otherwise affect the operation of the order pending the Board's decision on the application.

85. COMMISSIONER OF POLICE MAY DIRECT THAT PERSON BE EXCLUDED FROM CASINO AND CASINO PRECINCT.

(1) The Commissioner of Police may direct a casino operator in writing to exclude a person from a casino by giving the person or causing the person to be given an exclusion order, and it is a condition of the casino licence that the operator shall comply with the direction.

(2) The Commissioner of Police may give such a direction in anticipation of the person entering a casino.

(3) Where practicable, the Commissioner of Police may make available to the casino operator a photograph of the person who is the subject of the direction and may give the person notice of the direction.

(4) The regulations may declare that the whole or a specified part of specified premises is to be considered to form part of a casino for the purposes of this section (to be known as the “casino precinct”) and, on that declaration, this section has effect accordingly in respect of the premises.

(5) A declaration made under Subsection (4) is to apply only to premises that both –

(a) form part of or are in the immediate vicinity of the building or complex of which the casino forms part; and

(b) are under the control or management of the casino operator.

(6) A direction may be given in relation to all or any of the premises comprised in the casino.

(7) If a decision is given under this section in relation to the whole or any part of the casino precinct, a reference in Section 83 to a casino includes a reference to so much of the casino precinct as is the subject of the direction, but only in connection with an exclusion order made or to be made in conformity with direction.

(8) In this section, “premises” includes any place, vehicle or vessel.

86. DURATION AND REVOCATION OF EXCLUSION ORDERS.

(1) An exclusion order remains in force in respect of a person unless and until it is revoked by the person who gave the order.

(2) An exclusion order given by a person for the time being in charge of a casino may be revoked by any other person who is for the time being in charge of the casino or by the casino operator.

(3) An exclusion order given at the direction of the Commissioner of Police shall not be revoked except with the written approval of the Commissioner of Police.

(4) When an exclusion order is revoked by a casino operator or by the person for the time being in charge of a casino, the casino operator shall give notice of the revocation to the Board as soon as practicable after it occurs.

(5) A casino operator who contravenes Subsection (4) is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

(6) Regulations may make provision for or with respect to matters to be taken into consideration by the person who gave an exclusion order before the person decides to revoke the order.

87. LIST OF EXCLUDED PERSONS.

(1) It is a condition of a casino licence that the casino operator shall, at the commencement of business on each day that gaming is conducted in the casino –

- (a) prepare a list of names bearing the date of that day; or
- (b) add the date of that day to the list of names for the preceding day, being the names of persons who are the subject of exclusion orders for the casino of which the operator is or was aware.

(2) It is a condition of a casino licence that the casino operator shall –

- (a) on each day that gaming is conducted in the casino, as soon as practicable after the commencement of business, provide an inspector on duty in the casino with a copy of the list referred to in Subsection (1) that bears the date of the day; and
- (b) notify an inspector on duty in the casino of the making, or the revocation, of an exclusion order of which the operator becomes aware during that day.

(3) A person shall not provide any part of a list prepared under Subsection (1), Paragraph (a) or any information contained in the list, to any person except –

- (a) the casino operator; or
- (b) a casino employee; or
- (c) a casino inspector; or
- (d) the Board; or
- (e) the Commissioner of Police; or
- (f) a person approved by the Board for the purpose; or
- (g) a person subject to an exclusion order (but only information relating to that person may be provided); or
- (h) a prescribed person or authority.

(4) A person who contravenes a provision of this section is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

88. EXCLUDED PERSON NOT TO ENTER CASINO.

(1) A person the subject of an exclusion order, who enters or remains in a casino to which the order relates, is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

(2) A court that finds a person guilty of an offence against this section may, if satisfied (after into account any evidence that the court thinks it proper to consider) that the person has a problem arising from the person's gambling activities, postpone its decision as to the imposition of a penalty on condition that the person agrees to undergo such gambling counselling, for each a period not exceeding twelve months, as is specified by the court.

(3) A court that positions its decision as to the imposition of a penalty for a period under the Subsection (2) shall make its decision –

- (a) as soon as practicable after the end of the period; or
- (b) if, during the period the person concerned advises the court that he does not intend to continue to undergo the gambling counselling, as soon as practicable after receiving that advice; or
- (c) if, during the period the court is satisfied that person has failed to undergo the gambling counselling, as soon as practicable after being so satisfied.

(4) In making its decision under Subsection (3), the court shall take into consideration whether the person concerned has undergone the gambling counselling as agreed.

(5) In this section, “**gambling counselling**” means counselling that a court considers would be beneficial in assisting a person to avoid any financial, social or other harm that the court is satisfied has arisen or is likely to arise from the person’s gambling activities.

89. REMOVAL OF EXCLUDED PERSON FROM CASINO.

(1) This section applies to the following persons in a casino:-

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

(2) A person to whom Subsection (1) applies shall, as soon as practicable after it becomes known to him that a person the subject of an exclusion order (including an exclusion order given on the voluntary application of a person) is in the casino, notify an inspector, and then remove or cause to remove, the person from the casino.

(3) A person who contravenes Subsection (1) is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

(4) It is lawful for a person to whom Subsection (1) applies, using no more force than is reasonable in the circumstances, to prevent a person the subject of an exclusion order from entering the casino or to remove or cause to remove, the person from the casino.

90. GAMBLING IN CASINO BY CERTAIN PERSONS PROHIBITED.

(1) An officer of the Board shall not gamble in a casino except to the extent that it is necessary to do so in the exercise of his functions under this Act.

(2) If a person is a special employee in a casino, he shall not –

- (a) gamble in the casino; or
- (b) solicit or accept any gratuity, consideration or other benefit from a patron in the casino.

(3) Where a person ceases to be an officer of the Board, he shall not gamble in a casino during the period of twelve months following the date on which he ceases to be an officer.

(4) A person, who contravenes Subsection (3), is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

91. CHEATING.

(1) A person shall not, in a casino –

- (a) obtain or attempt to obtain any benefit for himself or another person; or
- (b) induce or attempt to induce a person to deliver, give or credit any benefit to him or another person; or
- (c) cause, or attempt to cause, a detriment, whether financial or otherwise, to another person, by the dishonest use of –
- (d) any trick, device, sleight of hand or representation; or
- (e) any scheme or practice; or
- (f) any object or gaming equipment; or
- (g) an instrument or article of a type normally used in connection with gaming, or appearing to be of a type normally used in connection with gaming.

(2) A person who obtains a benefit from –

- (a) playing a game in a casino in contravention of the game rules; or
- (b) an error or oversight in the condition of the game,

although the benefit was not originally obtained with any dishonest intent, shall not dishonestly retain the benefit.

(3) A person shall not, in a casino, 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 unless the casino operator approves of its use.

(4) A person shall not, in a casino or on premises of which a casino forms part, use or have in his possession –

- (a) chips that he knows are bogus, counterfeit or stolen; or
- (b) cards, dice or coins that he knows have been marked, loaded or tampered with; or
- (c) any equipment, device or thing that permits or facilities cheating or stealing.

(5) Subsection (4) does not prohibit the possession in a casino of any thing referred to in Paragraphs (a) or (b) of that subsection by a person in charge of the casino, an agent of the casino operator, a casino employee, an inspector or a police officer, if that thing has been seized by any of those persons from another person for use as evidence in proceedings for an offence.

(6) A person, who contravenes Subsections (1), (2), (3) or (4), is guilty of an offence.

Penalty: A fine not exceeding K5,000.00 or imprisonment not exceeding two years, or both.

(7) If, on a prosecution of a person for an offence under Subsection (1), the court is not satisfied that the person is guilty of an offence under that subsection but the court is satisfied that the person is guilty of an offence under Subsection (2), the court may convict the person of the latter offence.

(8) In this section “**benefit**” includes any money, chips, prize, advantage, valuable consideration or security.

92. DETENTIONS OF SUSPECTED PERSON.

(1) An inspector who suspends on reasonable grounds that a person in a casino has contravened, is contravening or is attempting to contravene, a provision of this Act or any other Act may detain the suspected person in a suitable place in or near the casino until the arrival at the place of detention of a member of the police force.

(2) A person who is –

- (a) for the time being in charge of a casino; or

- (b) an agent of the casino operator; or
- (c) a casino employee,

who suspects on reasonable grounds that a person in the casino has contravened, is contravening or is attempting to contravene the provisions of this Act by cheating may detain the suspected person in a suitable place in or near the casino until the arrival at the place of detention of a member of the police force.

- (3) A person may not be denied under this section unless –
 - (a) no more force is used than is proper in the circumstances; and
 - (b) the person detained is informed of the reasons for the detention; and
 - (c) the person affecting the detention immediately notifies a police officer of the detention and reasons for the detention; and
 - (d) the person detained is detained for no longer than is reasonable to enable a member of the police force to attend.

Division 6. – Casino Inspectors.

93. MEANING OF “GAMING EQUIPMENT AND RECORDS”.

In this Division, a reference to gaming equipment or records is a reference to gaming equipment or records related to operation of a casino or otherwise relevant to the administration of this Act.

94. APPOINTMENT AND CONTROL, ETC., OF CASINO INSPECTORS.

(1) The Board may, by notice in the National Gazette, appoint persons to be casino inspectors for the purposes of this Act.

(2) A casino inspector is, in the exercise of his functions as a casino inspector, subject to the direction and control of the Board.

(3) The requirements of this Act requiring persons involved in the administration of this Act to be of the highest integrity applies to the position of casino inspector.

95. IDENTIFICATION OF CASINO INSPECTORS.

(1) A casino inspector is not authorized to exercise the functions of a casino inspector unless he is in possession of an identification card issued by the Board.

(2) A casino inspector who –

- (a) proposes to exercise his functions under this Act; and
- (b) fails on demand to produce his identification card,

is not authorized to exercise his functions as an inspector in relation to the person making the demand.

96. RIGHTS OF CASINO INSPECTORS ON CASINO PREMISES.

(1) A casino inspector may at any time enter and remain on the premises of a casino for the purpose of doing any one or more of the following things: –

- (a) observing any of the operations of the casino;
- (b) ascertaining whether the operation of the casino is being properly conducted, supervised and managed;

- (c) ascertaining whether the provisions of this Act are being complied with; and
- (d) in any other respect, exercising his functions under this Act.

(2) A casino inspector who enters a casino under Subsection (1) is not authorized to remain in the casino if, on the request of the casino operator or a casino employee, the casino inspector does not show his identity card to the operator or employee.

97. FUNCTIONS OF CASINO INSPECTORS.

A casino inspector has the following functions: –

- (a) to monitor operations in a casino and to inspect the gaming equipment used in a casino for the purpose of ascertaining whether or not the casino operator is complying with the provisions of this Act, the conditions of the casino licence and any directions given by the Board under this Act;
- (b) to monitor the handling and counting of money in a casino;
- (c) to assist in any other manner, where necessary, in the detection of offences committed against this Act in a casino;
- (d) to receive and investigate complaints, in accordance with the provisions of Section 98, from casino patrons relating to the conduct of gaming in a casino;
- (e) such other functions as may be conferred or imposed on casino inspectors by or under this Act or any other Act or as are determined by the Board from time to time.

98. CASINO INSPECTORS TO INVESTIGATE COMPLAINTS.

(1) On receiving a complaint from a patron relating to the conduct of gaming in a casino, a casino inspector shall forthwith investigate the complaint with due diligence.

(2) The casino inspector shall inform the casino operator of the substance of the complaint and give the operator a reasonable opportunity to make a response to it.

(3) If, as a result of the investigation, the casino inspector is satisfied that –

- (a) the conduct of any game in a casino has contravened any condition of the casino licence, any game rules or any direction given by the Board under this Act; or
- (b) there has been any other contravention of a provision of this Act,

the casino inspector shall report the matter to the Board in writing.

(4) The casino inspector shall give or send a copy of his report to the casino operator and shall inform the complainant of the results of the investigation of the complaint and of any action taken or to be taken as a consequence of it.

99. POWERS OF CASINO INSPECTORS.

(1) A casino inspector may do any one or more of the following:-

- (a) require any person in possession of, or having control of, any gaming equipment or records to produce the equipment or records for inspection and to answer questions or provide information relating to the equipment or records;
- (b) inspect any gaming equipment or records and take copies of, extracts from, or notes relating to, any records;
- (c) seize any gaming equipment or records if the casino inspector consider it necessary to do so for the purpose of obtaining evidence of the commission of an offence;

- (d) with the prior approval in writing of the Board, enter any premises or place other than a casino in which the inspector suspects on reasonable grounds that there is gaming equipment or records if the casino inspector does so with the consent of the occupier or in accordance with a search warrant issued under Section 100;
- (e) in a casino or a place entered under Paragraph (d), search for, seize and remove and retain any gaming equipment or records that the casino inspector considers will afford evidence of the commission of an offence reasonably suspected by the casino inspector;
- (f) by notice in writing require the operator, an employee or any other person associated with operations in a casino or their management, to attend before the casino inspector at a specified time and place and answer questions, or provide information, with respect to operations in a casino;
- (g) examine and test any gaming equipment in a casino and order the person in charge of a casino to withdraw unsatisfactory gaming equipment from use in the casino or to destroy unsatisfactory chips; and
- (h) call to his aid a member of the police force if he is obstructed, or believes on reasonable grounds that he will be obstructed, in the exercise of his functions.

(2) Gaming equipment or records seized by a casino inspector under this section may be retained by him until the completion of any proceedings (including proceedings on appeal) in which they may be used in evidence but only if, in the case of records, the person from whom the records were seized is provided, within a reasonable time after the seizure, with a copy of the records certified by a casino inspector as a true copy.

(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.

(4) A copy of records provided under Subsection (2) is, as evidence, of equal validity to the records of which it is certified to be a copy.

(5) A person is not required by this section to answer a question that might incriminate him.

(6) A member of the public force has, while acting in aid of a casino inspector, the functions of a casino inspector.

100. INSPECTOR MAY APPLY FOR SEARCH WARRANT.

A casino inspector may apply to a Magistrate for the issue of a search warrant under Section 256 if he believes on reasonable grounds that gaming equipment or records are on any premises and that –

- (a) in relation to those articles, an offence under this Part has been, is being, or is likely to be, committed; or
- (b) those articles may be evidence of an offence under this Act.

101. OFFENCES RELATING TO OBSTRUCTION, ETC., OF CASINO INSPECTORS.

(1) A person, who –

- (a) assaults, obstructs, hinders, threatens, abuses, insults or intimidates a casino inspector, or a member of the police force acting in aid of a casino inspector, when

- the casino inspector is exercising or attempting to exercise his functions as a casino inspector; or
- (b) fails to produce for inspection any gaming equipment or records in the possession, or under the control, of the person when required so to do by a casino inspector in the exercise of his functions as a casino inspector; or
 - (c) fails without reasonable excuse to attend before a casino inspector and answer questions or supply information when required so to do by the casino inspector in the exercise of his functions as a casino inspector; or
 - (d) except with the permission of a casino inspector, takes any gaming equipment or records seized, impounded or retained under the authority of this Act; or
 - (e) when directed by a casino inspector, in the exercise of his functions as a casino inspector, fails to destroy any chips considered by the casino inspector to be unsatisfactory for use; or
 - (f) when directed by a casino⁹ inspector in the exercise for his functions as a casino inspector, fails to cease to have available for use any gaming equipment considered by the casino inspector to be unsatisfactory for use; or
 - (g) provides to a casino inspector (whether in answer to a question asked by the casino inspector or otherwise) information which the person knows is false or misleading in a material particular; or
 - (h) prevents, directly or indirectly, a person from attending before a casino inspector, producing to a casino inspector any gaming equipment or records or answering any question asked by or supplying any information to a casino inspector when that person is required to do so under this Act,

is guilty of an offence.

Penalty: A fine not exceeding K5,000.00 or imprisonment not exceeding two years, or both.

(2) A person, who –

- (a) fails to provide his full name and residential address when requested to do so; or
- (b) in purported compliance with the requirement, states a name or address that is false,

when a casino inspector requests the information in the performance of his functions under this Act, is guilty of an offence.

Penalty: A fine not exceeding K5,000.00 or imprisonment not exceeding two years, or both.

(3) A casino inspector is not authorized to require a person in a casino to state his full name or residential address unless the casino inspector –

- (a) suspects on reasonable grounds that the person is committing or has committed an offence; and
- (b) has informed the person, at the time of stating the requirement, that it is an offence to fail to comply with requirement.

(4) A casino inspector who suspects on reasonable grounds that a person has stated a name or residential address that is false may request the person to provide reasonable proof of the person's identity.

Division 7. – Casino duty and community benefit levy.

102. DEFINITIONS.

In this Division –

“**casino duty**” means a casino duty imposed under this Division;

“**community benefit levy**” means a community benefit levy imposed under this Division.

103. DETERMINATION OF FEES, ETC., BY HEAD OF STATE.

(1) Subject to this section, the Head of State, acting on advice, may, by notice in the National Gazette determine any fee, charge, levy or other payment, that a holder of a casino licence shall make –

(a) to the Board; or

(b) in relation to the locality of the casino, to the relevant Provincial Government.

(2) The rate, timing, manner of payment and on any other matter as is necessary or desirable to give proper and full effect to the imposition and collection of a fee, charge, levy or other payment determined under this section are as prescribed.

(3) A determination made under this section shall be in addition to the casino duty provided under Section 104 and the community benefit levy and gaming levy provided under Section 105.

(4) A determination made under Subsection (1) may be varied from time to time by the Head of State, acting on advice.

(5) In advising the Head of State under this section, the National Executive Council shall act on the recommendation of the Board.

104. CASINO DUTY.

(1) A casino duty shall be paid to the Internal Revenue Commission in respect of each casino licence.

(2) The rate of casino duty payable under Subsection (1) shall be 20% of the taxable profit for each calendar month or such other amount as fixed by the Head of State, acting on advice, by notice in the National Gazette, payable within 14 days of the end of that month.

(3) In fixing the amount of casino duty under Subsection (2), the National Executive Council shall act on the recommendations of the Board.

(4) A casino duty fixed under this section may be paid in monthly, quarterly or other periodic instalments in accordance with Section 106.

105. COMMUNITY BENEFIT LEVY AND GAMING LEVY.

(1) A casino community benefit levy and a gaming levy shall be paid to the Board in respect of each casino licence.

(2) The rates of levy payable under Subsection (1) are: –

(a) the community benefit levy shall be 5% of the taxable gross profit for each calendar month; and

(b) the gaming levy shall be 5% of the taxable gross profit for each calendar month, or such other amount as fixed by the Head of State, acting on advice, by notice in the National Gazette, payable within 14 days of the end of that month.

(3) In fixing the amount of the casino community benefit levy under Subsection (2), the National Executive Council shall act on the recommendation of the Board.

(4) The process and procedures that are necessary and desirable to enable the collection of the levy under this section are as prescribed.

106. CASINO OPERATOR LIABLE FOR PAYMENTS.

(1) A casino operator is liable for payment of any duty, levy or interest payable under this Part.

(2) The Board may require and the casino operator shall, by the twentieth day of each month, in respect of gaming activities conducted by him during the preceding month calculate –

- (a) the gross revenue; and
- (b) net operating revenue,

and shall pay –

- (c) to the Internal Revenue Commission the casino duty; and
- (d) to the Board the community benefit levy.

(3) In making the payment under Subsection (2), the casino operator shall also forward with every payment a return setting out the particulars of the payment.

(4) The payments required under Subsection (2) become due on the date a casino operator receives notice of a demand for payment.

(5) Where an amount payable under Subsection (2) remains unpaid after the expiration of the period provided for payment in the notice of demand –

- (a) the Commissioner General in the case of a demand for payment of casino duty; or
- (b) the Board in the case of a demand for payment of community benefit levy, in the discretion of the Commission General or the Board, as the case may be, require the casino operator to pay interest on the amount payable at a rate not exceeding 3%.

(6) Any duty, levy or interest payable under this Division may be recovered by the Internal Revenue Commission or by the Board, as the case may be, in a court of competent jurisdiction as a debt due to the State.

(7) Regulations may make provision for or with respect to the effect of suspension of a casino licence on any liability of a casino licence on any liability of a casino licence holder under this Division.

107. PAYMENT BY BOARD OF COMMUNITY BENEFIT LEVY.

From all payments made to the Board under this Division, the Board under this Division, the Board shall retain such percentage of the funds paid to it under Section 105 as approved by the Minister to cover its operation expenses and shall pay the balance to the Community Benefit Fund established under Section 163.

*Division 8. – Casino accounting and internal controls.***108. APPROVED SYSTEM OF CONTROLS AND PROCEDURES TO BE IMPLEMENTED.**

(1) A casino operator shall not conduct operations in the casino unless the Board has approved in writing of a system of internal controls and administrative and accounting procedures for the casino.

(2) An approval under Subsection (1) takes effect when notice of it is given in writing to the casino operator concerned or on such other date as is specified in the notice.

(3) It is a condition of a casino licence that the casino operator shall ensure that the system approved for the time being under this section for the casino is implemented.

(4) A system approved for a casino under this section may contain different internal controls, or different administrative or accounting procedures, for different parts of the casino.

109. CONTENT OF APPROVED SYSTEM.

(1) A system of internal controls and administrative and accounting procedures approved for the purpose of Section 108 may include (but is not limited to) details of the following: –

- (a) accounting controls and procedures, including the standardization of forms, and the definition of terms, to be used in operations in the casino;
- (b) procedures, forms and, where appropriate, formulas for or with respect to the following: –
 - (i) hold percentages and their calculation;
 - (ii) revenue drop;
 - (iii) expense and overhead schedules;
 - (iv) complimentary services;
 - (v) salary arrangements;
 - (vi) personnel practices;
 - (vii) junkets;
 - (viii) cash equivalent transactions;
- (c) job descriptions and the system of organizing personnel and chain of command authority so as to establish diversity of responsibility among employees engaged in operations in the casino and identification of primary and secondary supervisory positions for areas of responsibility, which areas shall not be so extensive as to be impractical for an individual to supervise effectively;
- (d) procedures for the conduct and playing of games;
- (e) procedures and standards for the security of gaming machines and for the payment and recording of gaming machine prizes;
- (f) procedures within a cashier's cage for the receipt, storage and disbursement of chips and cash, the cashing of cheques, the redemption of chips and the recording of all transactions pertaining to gaming operations;
- (g) procedures for the collection and security of money at the gaming tables and other places in the casino where games are conducted;
- (h) procedures and forms for the transfer of chips to and from the gaming tables and other places in the casino where games are conducted and from and to a cashier's cage;

- (i) procedures for the transfer of money from the gaming tables and other places in the casino where games are conducted to other areas of the casino for counting;
- (j) procedures and forms for the transfer of money or chips from and to a gaming area;
- (k) procedures and security for the counting and recording of revenue;
- (l) procedures and security for the transfer of money from the casino to a bank and from a bank to the casino;
- (m) procedures for the security, storage and recording of chips utilized in the gaming operations in the casino;
- (n) procedures and standards for the maintenance, security and storage of gaming equipment;
- (o) procedures for the payment and recording of winnings associated with games where the winnings are paid by cash, cheque or in a non –monetary form (other than chips);
- (p) procedures for the issue of chip purchase vouchers and the recording of transactions in connection therewith;
- (q) procedures for the cashing of cheques and recording of transactions by cheque;
- (r) procedures for the establishment and use of deposit accounts;
- (s) procedures for the use and maintenance of security and surveillance facilities, including catwalk systems and closed circuit television systems;
- (t) procedures governing the utilization of security personnel within the casino;
- (u) procedures for the control of keys used or for se in operations in the casino.

(2) For the purposes of an approval under this section, controls and procedures may be described narratively or represented diagrammatically, or by a combination of both methods.

110. BANKING.

(1) The Board may require a casino operator to –

- (a) keep and maintain separate accounts, as approved by the Board, at a bank for use for all banking transactions arising under this Part in relation to the operator; and
- (b) from time to time provide the Board, as required by the Board, and in a form approved by the Board, with a written authority addressed to that bank authorizing the bank to comply with any requirements of a casino inspector exercising the powers conferred by this section.

(2) A casino operator shall comply with a requirement of the Board made under Subsection (1) and such requirement constitutes a condition of the casino licence.

(3) A casino inspector may, by notice in writing, require the manager or other principle officer of a bank referred to in Subsection (1) to provide a casino inspector with a statement of such an account and such other particulars relating to the account as may be specified in the notice, and a person of whom such a requirement is made shall comply with it.

(4) A person, who refuses to provide to a casino inspector a statement of an account required under Subsection (3), is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

(5) A casino inspector may not exercise the powers conferred by this section without the prior written approval of the Board.

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

111. ACCOUNTS TO BE KEPT.

(1) It is a condition of a casino licence that the casino operator shall keep such accountants records as correctly record and explain the transactions and financial position of the operations of the casino.

(2) The accounting records shall be kept in such 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 conveniently and properly audited.

112. STATEMENTS OF ACCOUNTS.

It is a condition of a casino licence that the casino operator shall, by 31 March each year, submit to the Board financial year preceding, including –

- (a) trading accounts, where applicable, for the financial year; and
- (b) profit and loss accounts for the financial year; and
- (c) a balance –sheet as at the end of the financial year,

that give a true and fair view of the financial operations of the casino operator in relation to the casino.

113. BOOKS, ETC., TO BE KEPT ON CASINO PREMISES.

(1) It is a condition of a casino licence that the casino operator shall ensure that all books, records and documents relating to the operations of the casino are –

- (a) kept at the casino; and
- (b) retained for not less than five years after the completion of the transactions to which they relate.

(2) The Board 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, books, records or documents and may grant such an exemption subject to conditions.

114. AUDIT.

(1) It is a condition of a casino licence that the casino operator shall, as soon as practicable after the end of the financial year determined for the casino by the Board, cause the books, accounts and accounts and financial statements of the operator in relation to the casino to be audited by a person approved by the Board to audit the accounting records of the operator.

(2) It is a condition of a casino licence that the casino operator shall cause the auditor's report to be lodged with the Board within four months after the end of the financial year to which the report relates.

115. SUBMISSION OF REPORTS.

(1) It is a condition of a casino licence that the casino operator shall submit to the Board reports relating to the operations of the casino.

(2) The reports are to be submitted at such times, and are to contain such information, as is specified by order in writing given to the operator by the Board from time to time.

116. DIVISION OF ACT MAY BE EXTENDED TO ASSOCIATES OF CASINO OPERATOR.

(1) The Board may, by notice in writing to a person whom the Board considers has some association or connection with a casino operator that is relevant to the operator or management of the casino, direct that this Division of the Act is to apply to the person.

(2) A direction given under Subsection (1) operates to apply this Division to the person in the same way as it applies to a casino operator.

117. RESTRICTIONS ON EMPLOYMENT OF BOARD OFFICIALS WITH CASINO OPERATORS, ETC.,.

(1) An officer of the Board shall not be an employee, in any capacity, of a casino operator, a close associate of a casino operator or a casino contractor.

(2) A member of the Board shall not have any business or financial association with, or any business or financial interest in any matter in conjunction with, a casino operator, a close associate of a casino operator or a casino contractor.

(3) An officer of the Board who has, directly or indirectly, any business or financial association with or any business or financial interest in any matter in conjunction with a casino operator, a close associate of a casino operator or a casino contractor shall –

- (a) forthwith notify the Board of the association or interest; and
- (b) if directed to do so by the Board, terminate the association or relinquish the interest within the time specified by the Board.

(4) A casino operator, a close associate of a casino operator or a casino contractor shall not –

- (a) employ an officer of the Board in any capacity; or
- (b) have, directly or indirectly, any business or financial association with or any business or financial interest in any matter in conjunction with an officer of the Board.

(5) A casino operator, a close associate of a casino operator or a casino contractor shall not –

- (a) employ in any capacity another person who was an officer of the Board during the previous four years; or
- (b) have, directly or indirectly, any business or financial association with or any business or financial interest in any matter in conjunction with another person who was an officer of the Board during the previous four years.

(6) Within four years after ceasing to be an officer of the Board, a person shall not –

- (a) solicit or accept employment from, or be an employee of, a casino operator, a close associate of a casino operator or a casino contractor; or
- (b) have, directly or indirectly, any business or financial association with or any business or financial interest in any matter in conjunction with a casino operator, a close associate of a casino operator or a casino contractor.

(7) A person, who contravenes a provision of this section, is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

(8) In this section, “**casino contractor**” means a person who is a party to a controlled contract with a casino operator or a person who is the subject of a notice issued by the Board under this Act extending the requirements of this Act to associates of a casino operator.

118. CONDUCT IN CASINO.

(1) A casino operator who –

- (a) permits intoxication within the gaming area of the casino; or
- (b) permits any indecent, violent or quarrelsome conduct within the gaming area of the casino; or
- (c) permits an intoxicated person to gamble in the casino,

is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

(2) A member of the staff of a casino who –

- (a) sells or supplies liquor to an intoxicated person who is in the gaming area of the casino; or
- (b) permits an intoxicated person to gamble in the casino,

is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

(3) If a person within the gaming area of a casino is intoxicated, the casino operator is taken to have permitted intoxication within the gaming area unless it is proved that the casino operator took all reasonable steps to prevent intoxication within the gaming area.

119. DESTRUCTION OF FINGER PRINTS, ETC.,

(1) Any finger print or palm print obtained by the Board under this Act and any copies of them shall be destroyed by the Board as soon as the Board has no further use for them.

(2) The Board is to be considered to have no further use for them when –

- (a) they were obtained in connection with an application for a licence under this Act and the application is refused; or
- (b) the licence in connection with which they were obtained is cancelled or surrendered (but is to be considered to have further use for them whenever the licence is in force).

(3) A person who in connection with an application for a licence under this Act has possession of finger prints or palm prints obtained by or on behalf of the Board under this Act, or copies of them, shall deliver them to the Board, in accordance with the directions of the Board, so as to enable the Board to comply with Subsection (1).

(4) A person, who fails to comply with the requirements of Subsection (3), is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

PART IV. – GAMING MACHINES.***Division 1. – Permits.*****120. BOARD MAY ISSUE PERMITS.**

The Board may, in accordance with this Act –

- (a) grant to a site owner, in respect of a specified site, a permit authorizing that site owner –
 - (i) to keep an authorized gaming machine or authorized gaming machines on that site; and
 - (ii) to operate such a gaming machine or gaming machines so kept, in accordance with the terms and conditions of such permit and of this Act and while such permit remains in force; and
- (b) grant to the Secretary of, or other person nominated for the purpose by, an organization or body established for social, political, literary, cultural or sporting purposes, in respect of a specified site, a special permit authorizing that person –
 - (i) to keep an approved gaming machine or approved gaming machines for a period not exceeding one week on that site; and
 - (ii) to operate such a gaming machine or gaming machines so kept, in accordance with the terms and conditions of such special permit and of this Act while such special permit remains in force; and
- (c) grant to a site owner a permit authorizing that site owner to dispose of an authorized gaming machine or gaming machines in accordance with the terms and conditions of such permit and of this Act while such permit remains in force.

121. APPLICATION FOR A PERMIT.

(1) A site owner may make application to the Board for a permit –

- (a) to keep an approved gaming machine or approved gaming machines on the site of which he is owner and to operate such machine or machines; or
- (b) to dispose of a gaming machine.

(2) The Secretary of, or other person nominated for the purpose by, an organization or body established for social, political, literary, cultural or sporting purposes may make application to the Board on behalf of that organization or body for a special permit to keep an approved gaming machine or approved gaming machines at a specified site for a period not exceeding one week and to operate such gaming machine or gaming machines.

(3) An application under Subsections (1) or (2) –

- (a) shall be lodged with the Registrar; and
- (b) shall be in the prescribed form; and
- (c) shall be accompanied by the prescribed application fee; and
- (d) in the case of an application under Subsection (1) Paragraph (a) or Subsection (2) shall be accompanied by particulars of –
 - (i) the site in respect of which the permit is sought; and
 - (ii) the approved gaming machine or approved gaming machines; and
- (e) in the case of an application under Subsection (1), Paragraph (b) shall include particular of the gaming machine to be disposed of; and

- (f) in the case of an application under Subsection (2) be accompanied by particulars of the organization or body on whose behalf the application is made; and
- (g) shall be accompanied by such other particulars as are prescribed or as the Board may require.

122. PROCEDURE FOLLOWING LODGEMENT OF APPLICATION.

Where an application has been made under Section 121, the procedure specified in Division 4 of this Part for the advertisement of the application, for the making of objections to the application, for the consideration and determination of any objections and for the hearing of the application shall be followed.

123. GRANT OF PERMIT OR SPECIAL PERMIT.

(1) On the completion of the procedure specified in Division 4 of this Part in respect of an application under Section 121, where the Board considers –

- (a) that the applicant and the site are suitable for the operation of the machines specified in the application; and
- (b) that the applicant is a fit and proper person of good fame and character; and
- (c) that any person financially, beneficially or otherwise concerned in the application is of good fame and character; and
- (d) as to any other matters the Board considers material to the application,

the Board may grant a permit or special permit or special permit, as the case may be, in the prescribed form to the applicant.

(2) Notwithstanding the number and type of gaming machines sought by an applicant, the Board may, having regard to the size and layout of the premises in respect of which the permit or special permit was sought, and such other matters as are relevant, determine the number and the type of gaming machines in respect of which a permit or special permit shall be granted.

124. DISPLAY OF PERMIT.

(1) A permit issued under this division shall be prominently displayed by the holder of the permit in the site to which the permit relates.

(2) A special permit issued under this division shall be prominently displayed by the holder of the special permit in the site to which the special permit relates.

125. EXPIRATION OF PERMIT.

(1) Unless sooner terminated in accordance with this Act, a permit issued under this division expires at the expiration of a period of 12 months from the date of grant of the permit.

(2) Unless sooner terminated in accordance with this Act a special permit issued under this division expires on the expiration date specified on the special permit.

126. VARIATION OF PERMIT.

(1) A holder of a permit issued under this division may, during the currency of the permit, make application to the Board for variation of the permit in respect of –

- (a) the holder of the permit; or

(b) the premises in respect of which the permit was granted; or

(c) the number and type of machines authorized.

(2) An application under Subsection (1) –

(a) shall be made to the Registrar; and

(b) shall be made in the prescribed form; and

(c) shall be accompanied by the prescribed application fee; and

(d) shall contain such particulars as are prescribed or as the Board requires.

(3) The procedures specified in Division 4 of this Part shall apply to an application under this section.

(4) In considering an application under this section, the Board may take into account –

(a) the conduct of the permit holder; and

(b) the operation of gaming machines at the site; and

(c) the performance of gaming machines at the site; and

(d) any proposed changes to the premises,

and may vary the permit in accordance with the application or subject to such modifications or conditions as the Board determines.

(5) A variation under this section shall be for the unexpired period of the permit.

127. RENEWAL OF PERMIT.

(1) A permit holder may, not less than 40 days before the expiration of the permit, or of any renewal thereof, make application to the Board for renewal of the permit.

(2) An application under Subsection (1) –

(a) shall be made to the Registrar; and

(b) shall be made in the prescribed form; and

(c) shall be accompanied by the prescribed application fee.

(3) The procedure specified in Division 4 of this Part shall apply to an application under this section.

(4) In considering an application under this section, the Board may, before making a determination, take into account –

(a) the conduct of the permit holder; and

(b) the operation of gaming machines at the site; and

(c) the performance of gaming machines at the site,

and may issue of a new permit for a further period of twelve months.

128. REMOVAL OF GAMING MACHINE ON EXPIRATION, ETC., OF PERMIT.

(1) Where –

(a) a permit issued to a site owner has expired and the permit has not been renewed; or

(b) a permit has been cancelled under Section 129,

the site owner shall take all reasonable steps to arrange, in conjunction with the relevant operator for the removal from the premises, within fourteen days from the date of expiration of the permit or cancellation of the permit, as the case may be, or within such further period as the operator approves in writing, of the gaming machines in respect of which the permit was granted.

(2) A site owner, who fails to comply with Subsection (1), is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

129. SUSPENSION OR CANCELLATION OF PERMIT.

(1) Where –

(a) the Board considers that –

- (i) a permit or a renewal of a permit was obtained by fraud, dishonesty or misrepresentation; or
- (ii) a gaming machine was acquired, installed, operated or used contrary to this Act; or
- (iii) premises in respect of which a permit was issued are not maintained to a suitable standard; or
- (iv) the action is otherwise warranted; or

(b) a permit holder has been convicted of an offence against this Act,

the Board may by order suspend the relevant permit for such period as the Board thinks fit or until the Board by a further order terminate the suspension or cancels the permit.

(2) Before making an order under Subsection (1) to suspend or cancel a permit, the Board shall give written notification to the holder of the permit of its intention to suspend or cancel the permit.

(3) A written notification under Subsection (2) shall –

- (a) state the reasons for the proposed suspension or cancellation; and
- (b) require the holder of the permit, if he wishes so to do, to make written representations to the Board on the matter within seven days of the receipt by him of the notification.

(4) The Board shall consider any representations made under Subsection (3)(b) and may suspend or cancel the permit.

Division 2. – Gaming Machine Operator’s Licences.

130. GRANT OF GAMING MACHINE OPERATOR’S LICENCES.

(1) The Board may grant to a corporate person a gaming machine operator’s licence authorizing that corporate person, subject to this Act and to any conditions to which the licence is subject –

- (a) to import approved gaming machines; and
- (b) to supply approved gaming machines; and
- (c) to acquire, own and possess gaming machines; and
- (d) to service, repair and maintain gaming machines; and
- (e) to install and operate gaming machines in premises in respect of which a permit or special permit is in force.

(2) The authority conferred by a gaming machine operator’s licence on a corporation extends to a director or secretary of that operation.

(3) The Board shall be deemed to be the holder of an operator’s licence and may –

- (a) import approved gaming machines; and
- (b) supply approved gaming machines; and
- (c) acquire, own and possess gaming machines; and

- (d) service, repair and maintain gaming machines; and
- (e) install and operate gaming machines in premises in respect of which a permit or special permit is in force; and
- (f) delegate to, or engage, a corporation to service, repair and maintain gaming machines; and
- (g) sell, lease or hire gaming machines to a site owner who is the holder of a permit granted under Section 123.

(4) The Board shall ensure that not more than four gaming machine operator's licences are in force at any one time.

131. APPLICATION FOR A GAMING MACHINE OPERATOR'S LICENCE.

(1) Subject to Subsection (2), a person may make application to the Board for a gaming machine operator's licence.

(2) An application for a gaming machine operator's licence may not be made by –

- (a) a person other than a corporation; or
- (b) a corporation that is not incorporated in Papua New Guinea; or
- (c) a person disqualified from holding a gaming machine operator's licence; or
- (d) a person who is the holder of a suspended gaming machine operator's licence; or
- (e) a person who is the holder of a current gaming machine operator's licence.

(3) An application under Subsection (1) –

- (a) shall be lodged with Registrar; and
- (b) shall be in the prescribed form; and
- (c) shall be accompanied by the prescribed application fee; and
- (d) shall be accompanied by such other particulars as may be prescribed or as the Board may require.

132. PROCEDURE FOLLOWING LODGEMENT OF APPLICATION.

Where an application has been made under Section 131, the procedure specified in Division 4 of this Part for the advertisement of the application, for the consideration and determination of any objections and for the hearing of the application shall be followed.

133. GRANT OF GAMING MACHINE OPERATOR'S LICENCE.

On the completion of the procedure specified in Division 4 of this Part in respect of an application under Section 131, where the Board considers that the applicant –

- (a) has the financial and other resources; and
- (b) has available the necessary experience and expertise, to fulfil the functions authorized by a gaming machine operator's licence, the Board may grant a gaming machine operator's licence to the applicant.

134. EXPIRATION OF GAMING MACHINE OPERATOR'S LICENCE.

Unless sooner terminated in accordance with this Act, a gaming machine operator's licence expires at the expiration of a period of three years from the date of grant of the licence.

135. VARIATION OF GAMING MACHINE OPERATOR'S LICENCE NOT PERMITTED, ETC.,

- (1) A variation of a gaming machine operator's licence is not permitted.
- (2) A gaming machine operator's licence is not transferable.

136. RENEWAL OF GAMING MACHINE OPERATOR'S LICENCE.

(1) The holder of a gaming machine operator's licence may, not less than 40 days before the expiration of the licence, or of any renewal thereof, make application to the Board for renewal of the licence.

(2) An application under Subsection (1) –

- (a) shall be made to the Registrar; and
- (b) shall be made in the prescribed form; and
- (c) shall be accompanied by the prescribed application fee.

(3) The procedure specified in Division 4 of this Part shall apply to an application under this section.

(4) In considering an application under this section the Board may, before making a determination, take into account the performance of the applicant in relation to the gaming machine operator's licence renewal of which is sought, and may renew the gaming machine operator's licence for a period of three years.

137. SUSPENSION OR CANCELLATION OF GAMING MACHINE OPERATOR'S LICENCE.

(1) Where –

- (a) the Board considers that –
 - (i) a gaming machine operator's licence or a renewal of a gaming machine operator's licence was obtained by fraud, dishonesty or misrepresentation; or
 - (ii) the action is otherwise warranted; or
- (b) the holder of a gaming machine operator's licence has been convicted of an offence against this Act,

the Board may, by order, suspend the gaming machine operator's licence for such period as the Board thinks fit or until the Board by a further order terminate the suspension or cancels the gaming machine operator's licence.

(2) Before making an order under subsection (1) to suspend or cancel a gaming machine operator's licence, the Board shall give written notification to the holder of the gaming machine operator's licence of its intention to suspend or cancel the gaming machine operator's licence.

(3) A written notification under Subsection (2) shall –

- (a) state the reasons for the proposed suspension or cancellation; and
- (b) require the holder of the gaming machine operator's licence, if he wishes to do so, to make written representations to the Board on the matter within seven days of the receipt by him of the notification.

(4) The Board shall consider any representations made under Subsection (3)(b) and may thereafter suspend or cancel the gaming machine operator's licence.

138. HOLDER OF A GAMING MACHINE OPERATOR'S LICENCE TO KEEP RECORDS.

(1) A holder of a gaming machine operator's licence shall keep and maintain accurate written records at the premises in respect of which a permit was granted –

- (a) in respect of each gaming machine installed and operated by him within the premises; and
- (b) in a form approved by the Board; and
- (c) in such a manner as to allow for proper and convenient inspection and audit.

(2) A holder of a gaming machine operator's licence shall make available to the Board or to the Registrar or to a gaming machine inspector any records kept under Subsection (1).

(3) The records required to be kept under this section shall be as prescribed.

(4) A holder of a gaming machine operator's licence, who fails to comply with a provision of this section, is guilty of an offence.

Penalty: A fine not less than K10,000.00 in respect of each gaming machine in respect of which an offence was committed.

Division 3. – Gaming Machine Technician's Licences.**139. GAMING MACHINE TECHNICIAN'S LICENCE.**

The Board may, in accordance with this Act, grant to a person a gaming machine technician's licence authorizing that person, subject to this Act and any condition to which the licence is subject, to service, repair and maintain gaming machines.

140. APPLICATION FOR GAMING MACHINE TECHNICIAN'S LICENCE..

(1) Subject to Subsection (1), a person may make application to the Board for a gaming machine technician's licence.

(2) An application under Subsection (1) shall not be made by –

- (a) a person under than a natural person; or
- (b) a person who has not attained the age of 18 years; or
- (c) a person disqualified from holding a gaming machine technician's licence; or
- (d) a person who is the holder of a suspended gaming machine technician's licence; or
- (e) a person who is not employed by a person holding an operator's licence.

(3) An application under Subsection (1) –

- (a) shall be lodged with the Registrar; and
- (b) shall be in the prescribed form; and
- (c) shall be accompanied by the prescribed application fee; and
- (d) shall contain particulars of the applicant's qualifications and experience and such other particulars as may be prescribed or as the Board may require.

141. PROCEDURE FOLLOWING LODGEMENT OF APPLICATION..

Where an application has been made under Section 140, the procedure specified in Division 4 of this Part for the advertisement of the application, for the making of objections of the application, for the consideration and determination of any objections and for the hearing of the application shall be followed.

142. GRANT OF GAMING MACHINE TECHNICIAN'S LICENCE.

On the completion of the procedure specified in Division 4 of this Part in respect of an application made under Section 140, where the Board considers –

- (a) that the applicant is a fit and proper person of good fame and character; and
- (b) that the applicant has the necessary expertise including any prescribed qualification; and
- (c) that the applicant satisfies any other matters the Board considers material to the application,

the Board may grant a gaming machine technician's licence in the prescribed form to the applicant.

143. PRODUCTION OF GAMING MACHINE TECHNICIAN'S LICENCE.

The holder of a gaming machine technician's licence shall produce such licence for inspection when requested so to do by –

- (a) a permit holder; or
- (b) the holder of a gaming machine operator's licence; or
- (c) an authorized person, as that phrase is defined in Section 167; or
- (d) the Registrar; or
- (e) a member of the Board.

144. EXPIRATION OF GAMING MACHINE TECHNICIAN'S LICENCE.

Unless sooner terminated in accordance with this Act, a gaming machine technician's licence expires at the expiration of a period of three years from the date of grant of the licence.

145. VARIATION OF GAMING MACHINE TECHNICIAN'S LICENCE NOT PERMITTED, ETC.,

- (1) A variation of a gaming machine technician's licence is not permitted.
- (2) A gaming machine technician's licence is not transferable.

146. RENEWAL OF GAMING MACHINE TECHNICIAN'S LICENCE.

(1) The holder of a gaming machine technician's licence may, not less than 40 days before the expiration of the licence, or of any renewal thereof, make application to the Board for renewal of the licence.

(2) An application under Subsection (1) –

- (a) shall be made to the Registrar; and
- (b) shall be made on the prescribed form; and
- (c) shall be accompanied by the prescribed application fee.

(3) The procedure specified under Division 4 of this Part shall apply to an application under this section.

(4) In considering an application under this section, the Board may, before making a determination, take into account the performance of the applicant in relation to the gaming machine technician's licence, renewal of which is sought, and may renew the gaming machine technician's licence for a period of three years.

147. BOARD MAY SUSPEND OR CANCEL GAMING MACHINE TECHNICIAN'S LICENCE.

(1) Where –

- (a) the Board considers that –
 - (i) a gaming machine technician's licence or a renewal of a gaming machine technician's licence was obtained by fraud, dishonesty or misrepresentation; or
 - (ii) the action is otherwise warranted; or
- (b) the holder of a gaming machine technician's licence has been convicted of an offence against this Act,

the Board may, by order, suspend the relevant gaming machine technician's licence for such period as the Board thinks fit or until the Board by a further order terminates the suspension or cancels the gaming machine technician's licence.

(2) Before making an order under Subsection (1) to suspend or cancel a gaming machine's licence, the Board shall give written notification to the holder of the gaming machine technician's licence of its intention to suspend or cancel the gaming machine technician's licence.

(3) A written notification under Subsection (2) shall –

- (a) state the reasons for the proposed suspension or cancellation; and
- (b) require the holder of the gaming machine technician's licence, if he wishes to do so, to make written representations to the Board on the matter within seven days of the receipt by him of the notification.

(4) The Board shall consider any representations made under Subsection (3)(b) and thereafter may suspend or cancel the gaming machine technician's licence.

148. PROCEDURE FOR APPEALS.

(1) In this section, “**permit**” includes a special permit and “**licence**” includes a gaming machine operator's licence and a gaming machine technician's licence.

(2) Where the Board makes a decision or order –

- (a) refusing an application under this Part for a permit or licence or for a renewal of a permit or licence or for a variation of a permit or licence; or
- (b) suspending or cancelling a permit or licence; or
- (c) refusing to permit an applicant for a permit to install and use on the premises the type or the number of gaming machines requested,

the Board shall give to the applicant a statement in writing of the reasons for the decision or order, and the applicant may, within 30 days after the date on which a statement of the reasons for the decision or order are so given, appeal to the Minister.

(3) The Minister shall have jurisdiction to hear and determine an appeal under Subsection (2) and may –

- (a) review the decision or order appealed against and the reasons therefore; and
- (b) having regard to the matters which he considers relevant, confirm, vary or reverse the decision or order.

(4) Where, under Subsection (3)(b), the Minister varies or reverses a decisions or order of the Board, the Board shall, as soon as practicable, give effect to that decision as if it were a decision of the Board.

Division 4. – Procedure in respect of applications.**149. APPLICATIONS TO BE ADVERTISED.**

- (1) The Registrar shall, within seven days of the receipt of an application for –
- (a) a permit under Section 121 or any variation or renewal thereof; or
 - (b) a special permit under Section 121; or
 - (c) a gaming machine operator's licence under Section 131; or
 - (d) a gaming machine technician's licence under Section 140,
- cause notice of the application to be published in –
- (e) the National Gazette; and
 - (f) a newspaper published in and circulating generally throughout the country.
- (2) A notice under Subsection (1) shall –
- (a) be in the prescribed form; and
 - (b) contain the prescribed particulars; and
 - (c) require any person wishing to object to the application in accordance with this Division, to lodge a written objection with the Registrar in accordance with this Part within seven days of the day of publication of the notice under Subsection (1)(e) or (f), whichever is the later date; and
 - (d) specify the date of the hearing of the application by the Board, being a date not less than 14 days after the date of application of the notice under Subsection (1)(e) or (f), whichever is the later date.

150. PERSONS WHO MAY OBJECT.

- (1) An objection to the granting of an application referred to in Section 149 may be taken by –
- (a) the Commissioner of Police; or
 - (b) any other person with leaves of the Board, within the period specified in Section 149(2)(c).
- (2) An objection may not be taken by a person referred to in Subsection (1)(b) unless it is accompanied by an affidavit by the objector stating –
- (a) whether the objector has any direct or indirect pecuniary interest in the refusal of the application or any expectation of such an interest; and
 - (b) whether any person other than the objector is interested in the lodging of the objection and, if so –
 - (i) the name of such person; and
 - (ii) where such a person is a proprietary company, the names of the directors and shareholders.

151. GROUNDS OF OBJECTION.

- (1) An objection to the grant of an application referred to in Section 149 may be taken on one or more the following grounds:-
- (a) that the applicant is not a fit and proper person to be the holder of a licence or permit;
 - (b) except in the case of an application for a gaming machine technician's licence, that a person directly or indirectly interested in the application or in the business, or the

profits of the business, to be carried on under the licence or permit if the application is granted is not a fit and proper person to be so interested; or

(c) that the applicant is closely associated with a specified person and, by reason of that association, is not a fit and proper person to be in holder of a licence or permit, and, where any such objection is taken, the onus is on the applicant to rebut the objection.

(2) In addition to, or instead of, a ground specified in Subsection (1), objection to the grant of an application for a licence or permit or special permit may be taken on one or more of the following grounds:-

- (a) that, during the period of 12 months that last preceded the making of the application, the applicant was convicted of carrying on an activity without being the holder of a licence or permit required for the lawful carrying on of that activity;
- (b) that a licence or permit or special permit held by the applicant was cancelled during that period of 12 months; or
- (c) that, for other reasons specified in the objection (not being reasons based on the unsuitability of a person for any purpose) it would not be in the public interest to grant the application.

152. TAKING OF OBJECTION.

(1) An objection under Section 151 may be taken only by a written notice of objection that –

- (a) is signed by each objector and specifies, in each case, the address of the objector; and
- (b) where the objection is based on the unsuitability of a person for any purpose, specifies the reasons why the objector considers that the person is not a fit and proper for that purpose.

(2) Except as provided by Subsection (3), an objection may not be heard and determined unless a copy of the notice of objection has been given to the applicant by the Registrar and the Board at least seven days before the hearing of the application.

(3) The Board may, in a proper case and subject to compliance with any conditions imposed by the Board hear and determine an objection to the grant of an application taken at the hearing of the application subject to the hearing being adjourned for such period of not less than seven days as the Board shall think fit.

153. HEARING.

(1) The Board shall, on the date specified under Section 149(2)(d), or on such later date as the Board may determine, consider the application and any objections made to the application.

(2) The procedures at a hearing under this section shall be as determined by the Board, having regard to the principles of natural justice.

154. DISCRETIONARY POWERS OF BOARD.

(1) Notwithstanding that an objection to the grant of an application for a licence or permit or special permit has not been taken or, if taken, has not been made out, the Board may refuse an application referred to in Section 149(1) if it finds, after Subsection (2) has been complied with, that reasons exist upon which an objection could have been grounded and made out.

(2) A finding under Subsection (1) may be made only if –

- (a) the applicant has been made aware of the reasons for the possibility of such a finding; and
- (b) the applicant has been given an opportunity to make submissions, and adduce evidence, related to those reasons; and
- (c) those reasons are, or include, the reasons for the finding.

(3) Notwithstanding a finding by the Board that an objection to the grant of an application for a licence or permit on a ground other than a ground based on unsuitability or the public interest has been made out, the Board as a discretion to grant the application.

155. APPEAL.

(1) A person aggrieved by a decision of the Board made under this Division may appeal to the National Court on a question of law.

(2) On the determination of an appeal under Subsection (1), the National Court may –

- (a) reject the appeal; or
- (b) remit the matter to the Board for a rehearing; or
- (c) make such other order in relation to the appeal as it thinks fit.

(3) An appeal under Subsection (1) shall be made in accordance with the rules of the National Court.

Division 5. – Conditions, issue and duration of licence, permits and special permits.

156. CONDITIONS OF LICENCE OR PERMITS OR SPECIAL PERMITS.

(1) The Board may –

- (a) on the hearing of an application for the grant of a licence, permit or special permit under this Part –on its own motion or on the application of a party to the hearing or the Commissioner of Police; or
- (b) at any other time, in relation to an existing licence, permit or special permit granted under this Part –on application of the Commissioner of Police,

impose a condition not inconsistent with this Act the prior compliance with which –

- (c) in the case of a grant of a licence, permit or special permit –the grant shall not take effect; and
- (d) in the case of an existing licence, permit or special permit –suspension or cancellation of the licence, permit or special permit.

(2) A licence, permit or special permit granted under this Part is subject to –

- (a) the prescribed conditions; and
- (b) a condition imposed under Subsection (1); and
- (c) a condition imposed by the Board on the hearing of a complaint under Section 188; and
- (d) any other condition the National Court is authorized by this Act to impose, whether or not the condition is endorsed on the licence, permit or special permit.

(3) A holder of a licence, permit or special permit granted under this Part, who fails to comply with a condition to which a licence, permit or special permit is subject, is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

(4) The Board may vary or revoke a condition (other than a prescribed conditions) of a licence, permit or special permit granted under this Part –

- (a) at any time on the application of the holder of the licence, permit or special permit or the Commissioner of Police; or
- (b) at any time of its own motion, whether or not on the hearing of any matter relating to the licence, permit or special permit.

157. ISSUE OF LICENCE OR PERMIT OR SPECIAL PERMIT.

(1) Where the Board grants any application for a licence, permit or special permits granted under this Part, the licence, permit or special permit shall not be issued unless –

- (a) the prescribed fee for the grant of the licence, permit or special permit has been paid; and
- (b) any condition, without prior compliance with which the grant does not have effect, has been complied with.

(2) The Board may defer the issue of a licence, permit or special permit granted under this Part –

- (a) until the expiration of the period within which an appeal against the adjudication granting the licence, permit or special permit may be made or the expiration of the period of one month that next succeeds the adjudication, whichever is the later; and
- (b) where an appeal is lodged –until the appeal is heard and determined or otherwise disposed of,

and may at any time terminate such a deferral.

(3) A grant of an application for a licence, permit or special permit under this Part does not have effect while the issue of the licence, permit or special permit is prohibited by, or deferred under, this section.

158. DURATION OF LICENCE OR PERMIT OR SPECIAL PERMIT.

Subject to this Act, except during any period of suspension, a licence or permit remains in force until –

- (a) its expiration; or
- (b) its surrender in writing is accepted by the Board; or
- (c) it is sooner cancelled.

Division 6. – Licence fees and periodic statements.

159. PERIODIC LICENCE FEE.

(1) A fee is payable to the Board for a licence granted under this Part while the licence is in force or under suspension and is so payable in respect of each period prescribed for the purpose of this section.

(2) Regulations may be made prescribing –

- (a) the amounts for licence fees; and
- (b) the times for payments of licence fees; and

- (c) the payment of those fees by instalments; and
- (d) penalties for late payment of those fees or instalments; and
- (e) the suspension or cancellation of a licence.

160. PERIODIC PROVISION OF INFORMATION BY THE HOLDER OF A LICENCE.

(1) A holder of a licence under this Part shall, in respect of a prescribed period or part of a prescribed period, lodge with the Board not later than 30 days after the end of the prescribed period, a return –

- (a) in a form approved by the Board; and
- (b) containing the prescribed information; and
- (c) accompanied by the prescribed documents; and
- (d) signed –
 - (i) where the holder is a corporation – by at least two directors of the corporation; or
 - (ii) in any other case – by the licence.

(2) A person, who makes a false or misleading statement in a return under Subsection (1), is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

Division 7. – Profit from gaming machines.

161. DEFINITIONS.

In this Division –

“**betting tax**” means the betting tax due and payable under Section 163(4)(c) and 164;

“**cancelled credits payment**” means payment of an amount by way of redemption of the value of the credits appearing on the machine’s credit meter at the time which were accumulated by a gaming machine player in the course of play;

“**gross profit**” means the excess of revenue over payments;

“**jackpot payment**” means payment of an amount to which a gaming machine player is entitled –

- (a) for the achievement by the player, at the end of a play, of a combination of symbols that is designated, in the original design of the machine or in a subsequent modification approved by the Board, as a jackpot combination; or
- (b) on the happening of any other event or contingency which the Board, by instrument in writing, approves as being a due occasion of a jackpot payment for the purposes of this definition;

“**payouts**” means cancelled credit payments, jackpot payments, refills and short pays;

“**profit**” means gross profit less betting tax paid or due and payable under Section 163(4)(c) and 164;

“**relevant operator**” in relation to a permit holder, means the holder of the operator’s licence supplying and maintaining the gaming machines in respect of which the permit is granted;

“**relevant permit holder**” in relation to an operator, means the holder of a permit in respect of a site on which the operator has installed and operates gaming machines;

“**revenue**” from a gaming machine means money invested by players of a machine in order to play a machine;

“**taxable gross profit**” means the total gross profit paid or payable to the gaming machine operator in respect of a month, less any amounts that have been included as taxable gross profits in a previous month.

“**turnover**” means the value of accumulated money played, staked or bet on a gaming machine.

162. AMOUNT RETURNABLE IN PRIZES.

A gaming machine shall not be installed or operated unless, according to the design of the machine and the game implemented therein, the amount calculated to be statistically or theoretically returnable to players in prizes in not less than 85% of turnover.

163. DISTRIBUTION OF PROFITS.

(1) A gaming machine permit holder, and where a gaming machine operator receives the gross profit, that operator, shall on each banking day bank the gross profit derived from operating gaming machines during the previous day (or during the previous non –banking day or days) on each site on which he operates gaming machines under this Act (other than gaming machines the subject of a special permit) in a bank account or bank accounts approved by the Board for the purpose.

(2) A gaming machine operator shall monitor the banking obligations of all relevant permits holders pursuant to Subsection (1) and where a permit holder has not banked for three consecutive banking days, the operator shall request the Board to disable the gaming machines at that site in accordance with Section 172(4).

(3) From the account or accounts referred to in Subsection (1), a gaming machine operator shall make the payments prescribed by Subsection (4).

(4) The holder of a gaming machine operator’s licence or permit, as the case may be, shall, by the fifteenth day of the month following, make payments of the gross profits –

- (a) derived from operating gaming machines during the previous month; or
- (b) deemed pursuant to Subsection 5 to have been so derived,

as follows: –

- (c) 46% of the gross profits as betting tax in accordance with Section 164;
- (d) 14% of the gross profits into the “**Community Benefit Fund Account**” operated in accordance with Subsection (6); and
- (e) 5% of the gross profits to the Board; and
- (f) 10% of the gross profits to be retained by him if he is the holder of the gaming machine operator’s licence, or, if he is not the holder of the operator’s licence but is

the gaming machine permit holder, then he shall pay that amount to the relevant holder of the gaming machine operator's licence; and

- (g) 25% of the gross profits to be retained by him if he is the gaming machine permit holder, or, if he is not the permit holder but is the holder of the gaming operator's licence, then he shall pay that amount to the relevant permit holder.

(5) Where a gaming machine operator has not complied with the provisions of Subsection (2), the amount of profit derived from operating gaming machines calculated in accordance with the provisions of Subsection (4) shall be deemed to include the amount of profit reported by the monitoring and control system in respect of the relevant site.

(6) For the purposes of this Act and in particular Subsection (4)(d) –

- (a) the Board shall establish a fund to be called the “**Community Benefit Fund**” and shall open a trust account to be called the “**Community Benefit Fund Account**” in which the payments under Subsection (4)(d) shall be made; and
- (b) the “**Community Benefit Fund Account**” shall be managed and operated –
- (i) by a board of trustees comprised of the Chairman and such other additional trustees not exceeding four members appointed by the Minister by notice in the National Gazette; and
- (ii) in accordance with the terms of a trust deed that is settled by the Board.

(7) A person, who varies the percentage of profits payable to a permit holder under Subsection (4), is guilty of an offence.

Penalty: A fine not exceeding K50,000.00 or imprisonment for a term not exceeding five years, or both.

(8) A person who –

- (a) requests or demands a share any profits from the operation of a gaming machine; or
- (b) requests or demands payment or part payment by way of commission or allowance from or upon any profits from the operation of a gaming machine;
- (c) shares any profits from the operation of a gaming machine; or
- (d) makes any payment or part payment by way of commission or allowance from or upon any profits from the operation of a gaming machine,

otherwise than as provided by this section, is guilty of an offence.

Penalty: A fine not exceeding K50,000.00 or imprisonment for a term not exceeding five years, or both.

(9) The provisions of Subsections (1) and (4) are deemed to be a condition of a gaming machine permit in force under this Part.

(10) Regulations may prescribe penalties for late payment of amounts to be paid under this section.

(11) Any amount due to be paid by the operator or permit holder pursuant to this section is recoverable by the Board as a debt.

164. BETTING TAX.

(1) A betting tax of 46% is payable by an operator on the amount of the taxable gross profit (other than on the first K2,500.00 of gross profit derived by each site) and the operator shall no later than the seventh day of each month pay the qualifying site owner a direct rebate of the

amount of betting tax that would have been payable under this subsection on that amount of exempt gross profit.

(2) The betting tax imposed by Subsection (1) is a debt due and payable by an operator to the State and shall, in respect of total taxable gross profit each month, be paid by the operator to the Commissioner General within fourteen days after the end of that month or within such further time as the Commissioner General allows.

(3) An operator shall send to the Commissioner General with every amount of betting tax payable by him a return, in such form as the Commissioner General requires, setting out particulars of the gross profit and betting tax payable by the operator in respect of that month.

(4) Where the Commissioner General is of the opinion that the amount of betting tax payable by an operator in respect of any month has been understated or cannot be correctly determined, the Commissioner General may make an assessment of the amount that he considers is the correct amount of betting tax for that month and the amount so assessed shall, unless the contrary is proved, be deemed to be the amount of betting tax payable by the operator in respect of that month.

(5) The Commissioner General shall, within seven days immediately after making an assessment under this section, send to the operator by post, notice of the assessment, but this section shall not be construed as deferring the date on which any amount of betting tax becomes due and payable.

(6) Part V of the *Income Tax Act 1959* shall, with the necessary modifications, apply to and in relation to an assessment of betting tax under this section as if that assessment was an assessment of income tax under that Act by the Commissioner General.

(7) Where any amount of betting tax remains unpaid after the expiration of the time provided for payment under this section, additional tax of 20% of the amount unpaid shall be due and payable to the State.

(8) An amount of additional tax under this section shall be deemed to be betting tax due and payable by the operator in respect of the week to which the unpaid tax relates.

(9) In addition to any additional tax imposed by Subsection (7), where any betting tax remains unpaid after the time provided for its payment under this section, further additional betting tax is due and payable at the rate of 20% per annum on the amount unpaid, computed from such date as the Commissioner General determines, not being a date before the date on which the betting tax was originally due and payable.

(10) The Commissioner General may, in any case, for reasons that he thinks sufficient, remit the further additional betting tax or any part of that betting tax.

165. POWERS OF COMMISSIONER GENERAL IN RELATION TO BETTING TAX.

(1) The Commissioner General or a person authorized by him for the purpose shall at all times have full and free access to all buildings, places, books, documents, other papers and electronic storage devices for the purpose of obtaining information relating to the determination of the gross profit of and the liability to pay betting tax under this section by an operator and may make extracts from or copies of any such books, papers or electronically stored information.

(2) The Commissioner General may, by written notice, require an operator –

(a) to furnish him with such information as he may require; and

(b) to attend and give evidence before him (or before a person authorized by him for the purpose), concerning the operation of the gaming machines and the amount of gross profit of those machines and may require him to produce books, documents and other papers in his custody, or under his control relating to those matters.

(3) The Commissioner General may require the information or evidence referred to in Subsection (2)(a) to be given under oath, orally or in writing and for that purpose he, or the person authorized by him, may administer an oath.

(4) A gaming machine operator required to attend and give evidence under this section shall be paid such reasonable expenses as the Commissioner General determines.

166. OFFENCES IN RELATION TO BETTING TAX.

(1) An operator, who –

(a) fails or neglects to lodge; or

(b) makes a false or misleading statement in,

a return to be lodged with the Commissioner General under Section 164, is guilty of an offence.

Penalty: A fine not exceeding K10,000.00

Default penalty: A fine not exceeding K2,000.00.

(2) In addition to any penalty imposed by the court under Subsection (1) in respect of a false or misleading statement in a return, the court may order the person convicted to pay to the Commissioner General a sum not exceeding double the amount of betting tax that would have been avoided if the statement in the return had been accepted as correct.

(3) On the conviction of a person under Subsection (1), the court may order him to furnish the return or corrected return as the case may be, within the time specified in the order and a person who does not comply with such an order, is guilty of an offence.

Penalty: A fine not exceeding K10,000.00.

(4) An operator who fails –

(a) to keep complete and proper books in respect of his carrying on the business of operator; or

(b) to enter and keep entered in the books specified in Paragraph (a) a full and accurate record of all gaming machine transactions relating to the machines controlled by him; or

(c) to retain the books specified in Paragraph (a) for such period as is prescribed; or

(d) to produce the books specified in Paragraph (a) when required to do so by the Commissioner General or a person authorized by him for the purpose and to allow the books and all entries in the books to be inspected,

is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

(5) A person, who hinders or obstructs the Commissioner General or a person authorized by the Commissioner General under this section, or a member of the Public Force in the carrying out, exercise or performance of any of his functions, duties and powers under this section, is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

Division 8. – Gaming machine inspection.

167. INTERPRETATION.

In this part –

“**authorized person**” means –

- (a) a gaming machine inspector appointed under Section 168; or
- (b) the Commissioner of Police, or a commissioned officer of police authorized in writing by the Commissioner of Police; or
- (c) a person appointed by the Board as an authorized officer for the purposes of this Division;

“**relevant matter**” means a matter relating to the import, supply, sale, servicing, possession, keeping or operation of a gaming machines.

168. GAMING MACHINE INSPECTORS.

(1) The Board may, by notice in the National Gazette, appoint such persons as it thinks fit to be gaming machine inspectors for the purposes of this Act.

(2) A gaming machine inspector shall perform such duties as are required by this Act or such duties as the Board or the Registrar directs.

(3) The Board shall cause a gaming machine inspector to be issued with an identification card and, where a person proposing to exercise the functions of a gaming machine inspector under this Act fails to produce on demand his identification card, that person is not authorized to exercise those functions in relation to the person making the demand.

169. POWERS OF AUTHORIZED PERSONS.

(1) An authorized person may, at any reasonable hour of the day or night, enter any part of premises where the holder of a gaming machine operator’s licence carries on business or is employed, or any part of the premises of a holder of a permit.

(2) Where an authorized person enters premises in accordance with this section, the authorized person may –

- (a) inspect, take account of, check, test and make notes relating to, gaming machines; and
- (b) require a person having access to records relating to relevant matters to produce the records for examination; and
- (c) make copies of, or take extracts from, records relating to relevant matters; and
- (d) ask a holder of a gaming machine operator’s licence, or a director of a gaming machine licence that is a corporation, or any employee of a holder of a permit or site owner, to answer questions relating to relevant matters; and
- (e) for the purposes of further examination, take possession of, and remove, a gaming machine or a record relating to relevant matters.

(3) A gaming machine removed under Subsection (2) shall be returned to the holder of the permit or the relevant operator if the Board so directs on the application of the holder of the permit or the relevant operator made not earlier than fourteen days after the removal of the gaming machine.

(4) Where a holder of a gaming machine operator's licence or a holder of a permit reasonably claims that a record removed under Subsection (2) is necessary for the proper conduct of the business of the holder of the gaming machine operator's licence or permit, the record shall not be retained beyond the end of the day that next succeeds the day of its removal unless the operator or holder of the permit is first provided with a certified copy of the record and, where such a copy is provided, it is for all purposes of equal validity to the original.

170. REMOVAL OF GAMING MACHINE.

(1) An authorized person who enter premises in accordance with Section 169 may take possession of, and remove, a gaming machine that the authorized person suspects on reasonable grounds –

- (a) is in the possession of a person in contravention of this Act; or
- (b) is not an authorized gaming machine

(2) Where a gaming machine removed under Subsection (1) is not returned within fourteen days, the provisions of Subsections (3) and (4) apply in relation to the gaming machine in the same way as they apply in relation to a gaming machine seized under a search warrant.

171. POWERS OF GAMING MACHINE INSPECTOR IN RELATION TO GAMING MACHINE.

(1) A game machine inspector may require a holder of a permit to do all or any of the following: –

- (a) withdraw from operation a gaming machine that, in the opinion of the gaming machine inspector, is not operating properly;
- (b) refrain from making available for operation a gaming machine withdrawn under Paragraph (a) until, in the opinion of a gaming machine inspector, it is operating properly;
- (c) refrain from making a gaming machine available for operation except in accordance with such controls as are specified by the gaming machine inspector in relation to the gaming machine;
- (d) deliver to the Board, in writing in the English language and within such time as is specified by the gaming machine inspector, such particulars relating to a gaming machine kept by the holder of the permit as are so specified; and
- (e) refrain from making available for operation a gaming machine indicated by the gaming machine inspector until it has been fitted with a device approved by the Board for the purposes of the secure keeping and operation of the gaming machine.

(2) A holder of a permit, who fails to comply with a requirement under Subsection (1), is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

(3) A person, who –

- (a) wilfully delays or obstructs an authorized person in the exercise of powers conferred by this section; or
- (b) being a holder of a gaming machine operator's licence or an employee of a holder of a gaming machine operator's licence, refuses to permit or refuses to assist the exercise of those powers,

is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

172. MONITORING OF GAMING MACHINES.

(1) A gaming machine permit holder and a gaming machine operator shall have each gaming machine they operate at a site electronically connected to a central monitoring and control system approved by the Board, by such means as the Board stipulates.

(2) A gaming machine operator shall apply to the Board by the fifteenth day of each month, in respect of the previous month, the prescribed cost of monitoring each machine required to be connected to the central monitoring and control system.

(3) The Board may, by notice in the National Gazette, prescribe the cost of monitoring each machine and the proportion in which the gaming machine operator and the gaming machine permit holder shall be liable for the cost, and until prescribed, the cost shall be K100,00 per month per machine of which K60.00 is payable by the permit holder and K40.00 by the operator.

(4) The Board may utilize the monitoring and control system to disable gaming machines at a site if it receives a report from a gaming machine operator that the relevant permit holder is in breach of its obligations under Section 163 or, in the opinion of the Board, the permit holder is in breach of any of the provisions of this Part.

Division 9. – Offences relating to gaming machines.

173. KEEPING, ACQUISITION AND DISPOSAL OF GAMING MACHINES.

A person who –

- (a) keeps a gaming machine that is not an authorized gaming machine; or
- (b) acquires a gaming machine from any person other than the holder of an operator's licence and without complying with any conditions imposed by the Board in relation to the acquisition of the gaming machine; or
- (c) disposes of a gaming machine to a person other than the holder of an operator's licence and without complying with any conditions imposed by the Board in relation to the disposal of the gaming machine,

is guilty of an offence.

Penalty: A fine not less than K3,000.00 for every gaming machine in respect of which an offence has been committed.

174. OPERATION OF GAMING MACHINE DURING SUSPENSION OF PERMIT.

Where –

- (a) a permit has been suspended under Section 129; and

(b) during the period of suspension, a person plays any gaming machine to which the permit relates on the premises in respect of which the permit was granted, the holder of the permit is guilty of an offence.

Penalty: A fine not less than K3,000.00 in respect of each gaming machine played.

175. APPLICATION FOR PERMIT RELATING TO A SITE WHILE ANOTHER PERMIT STILL IN FORCE.

A holder of a permit, or a person on behalf of a permit holder, who applies for, or holds, a permit relating to a site while an existing permit for the site is in force, is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

176. KEEPING OF OLD GAMING MACHINE.

A holder of a permit, who keeps a gaming machine after the expiration of the prescribed period that next succeeds the date of manufacture of the machine, is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

177. OPERATION OF DEFECTIVE GAMING MACHINES.

(1) A holder of a permit, who permits the operation of a gaming machine that does not function properly, is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

(2) It is a defence to a prosecution for an offence under Subsection (1) if it is proved –

- (a) that the operation of the gaming machine was for testing or maintenance purpose; or
- (b) that the holder of the permit or other person for the time being in charge of the site –
 - (i) had taken all reasonable precautions to ensure that the gaming machine was functioning properly; and
 - (ii) at the time of the alleged offence did not know, and had no reason to know, that the gaming machine was not functioning properly.

178. UNLAWFUL INTERFERENCE WITH GAMING MACHINE.

(1) A person on the premises of a site, who, without reasonable cause (proof of which lies on the person) –

- (a) has in his possession an article made or adapted, or intended by the person to be used, for interfering with the normal operation of a gaming machine; or
- (b) interferes, or attempts to interfere, with the normal operation of a gaming machine; or
- (c) interferes, or attempts to interfere, with any component or part of a gaming machine; or

(d) obtains, or attempts to obtain, possession of any key, machine or thing which is designed or intended for use in connection with a gaming machine,
is guilty of an offence.

Penalty: A fine not exceeding K50,000.00 or imprisonment for a term not exceeding three years, or both.

(2) For the purposes Subsection (1), but without limiting its operation –

- (a) the reference to the premises of a site includes a reference to a car parking area under the control of the site, its owner or governing body; and
- (b) a reference to interfering with the normal operation of a gaming machine includes a reference to maliciously damaging the gaming machine or inserting, or causing to be inserted, in the gaming machine anything other than an object of the kind intended for use in operating the machine.

179. UNAUTHORIZED POSSESSION OF GAMING MACHINE BY SITE OWNER.

Except to the extent that may be otherwise prescribed, a person, who is in possession of a gaming machine that is not an authorized gaming machine, is guilty of an offence.

Penalty: as mentioned below

- (a) in the case of a natural person, a fine not exceeding K20,000.00 or imprisonment for a term not exceeding three years, or both; and
- (b) in the case of a company or body corporate, a fine not exceeding K50,000.00.

180. OFFENCES BY UNLICENSED PERSONS.

(1) Subject to this section, a person who –

- (a) manufactures, imports or supplies a gaming machine otherwise than in accordance with the authority conferred on the person by an operator's licence; or
- (b) services, repairs or maintains a gaming machine otherwise than in accordance with the authority conferred on the person or company by a gaming machine technician's licence,

is guilty of an offence.

Penalty: as mentioned below

- (a) in the case of a natural person, a fine not exceeding K20,000.00 or imprisonment for a term not exceeding three years, or both; and
- (b) in the case of a body corporate, a fine not exceeding K50,000.00.

(2) In the case of the supply of a gaming machine, Subsection (1)(a) does not apply to a site owner if the site owner returns a gaming machine to the holder of an operator's licence.

(3) Subsection (1)(b) does not apply to a site owner or an employee of a site owner, if the person, in the course of his duties, corrects, or attempts to correct, a minor malfunction of a gaming machine.

181. RESTRICTIONS ON SUPPLY OF GAMING MACHINES.

(1) Except with the approval of the Board and subject to such conditions as may be imposed by the Board when giving the approval, the holder of an operator's licence who supplies an approved gaming machine by way of sale, is guilty of an offence.

Penalty: A fine not exceeding K50,000.00 or imprisonment for a term not exceeding three years, or both.

(2) A site owner, who acquires or offers to acquire, an approved gaming machine from a person who is not the holder of an operator's licence, is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding twelve months, or both.

182. SALE OF OLD GAMING MACHINES.

The holder of an operator's licence, who supplies to a site owner an approved gaming machine that was manufactured before the commencement of the prescribed period that last preceded the date of supply, is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding two years, or both.

183. ILLEGAL POSSESSION OF GAMING MACHINES.

A person, other than –

- (a) the holder of an operator's licence; or
- (b) the holder of a gaming machine technician's licence; or
- (c) a gaming machine inspector; or
- (d) an authorized common carrier; or
- (e) the holder of a permit, who is in possession of a gaming machine,

is guilty of an offence.

Penalty: as mention below

- (a) in the case of a natural person, a fine not exceeding K20,000.00 or imprisonment for a term not exceeding three years, or both; and
- (b) in the case of a body corporate, a fine of not exceeding K50,000.00.

184. POWERS OF BOARD TO SEIZE AND DESTROY UNAUTHORIZED GAMING MACHINES.

(1) Where, in the opinion of the Board a person is in possession or in control of a gaming machine that is not an authorized gaming machine, the Board may seize and destroy the unauthorized gaming machine.

(2) In the exercise of its powers under Subsection (1), the Board is not liable for any liability for any loss suffered by a person where the Board acts in good faith.

(3) A person who –

- (a) wilfully delays or obstructs a person authorized by the Board; or

(b) being the holder of a licence or, being an employee of the holder of a licence, refuses to permit or to assist a person authorized by the Board, in the exercise of the powers conferred by this section, is guilty of an offence.

Penalty: A fine of not exceeding K20,000.00 or imprisonment for a term not exceeding twelve months, or both.

PART V. – DISCIPLINARY ACTION.**185. DEFINITIONS.**

In this Part, unless the contrary intention appears –

“**authorized complaint**” means a complaint that is made in accordance with Section 186;

“**licence**” includes a casino licence, gaming machine operator’s licence, a gaming machine technician’s licence, a gaming machine permit and a gaming machine special permit;

“**licence**” means the holder of a casino licence, gaming machine operator’s licence, gaming machine technician’s licence, gaming machine permit or a gaming machine special permit and includes a former licensee and a former permit holder.

186. AUTHORIZED COMPLAINTS.

(1) A complaint in relation to a licensee is an authorized complaint if it is made in writing addressed to the Board and lodged with Registrar, by –

- (a) the Commissioner of Police; or
- (b) a casino inspector in relation to a matter concerning a casino; or
- (c) a gaming machine inspector; or
- (d) a gaming machine operator; or
- (e) a gaming machine site owner; or
- (f) a person authorized by the regulations to make the complaint,

and specifies as its grounds one or more of the grounds referred to in Subsection (2).

(2) The grounds upon which an authorized complaint may be made are:-

- (a) that the licence was improperly obtained in that, at the time the licence was granted, there were grounds for declining to grant it;
- (b) that the licensee has, while holding the licence, been convicted –
 - (i) of an offence against this Act; or
 - (ii) of an offence prescribed for the purposes of this subsection;
- (c) that the licensee has, while holding the licence, failed to comply with a specified condition of the licence or failed to comply with a specified order or direction of the Board;
- (d) that the licensee has failed to make due payment of a fee, or of a penalty for late payment for a fee, in accordance with this Act;
- (e) that the licensee is not a suitable person to be holder of the licence;
- (f) that the licensee is associated with a specified person and the association results in the licensee not being a suitable person to be the holder of the licence;
- (g) that the licence has not been exercised in the public interest; or
- (h) that the continuation of the licence is not in the public interest.

187. DUTIES OF BOARD ON RECEIPT OF AUTHORIZED COMPLAINT.

(1) Where an authorized complaint is lodged with the Registrar, he shall advise the Board and the Board may summon the licensee to whom the complaint relates to appear before the Board to answer the complaint and show cause why disciplinary action should not be taken under Section 188.

(2) A summons under Subsection (1) –

- (a) shall specify the grounds of the complaint upon which the summons was issued; and
- (b) where a ground of the complaint is based on the unsuitability of a person for any purpose or based on the public interest – shall specify the reasons given by the complainant for making the complaint on that ground; and
- (c) shall be served on the licensee personally or in any other prescribed manner; and
- (d) shall specify a date, being a date not less than seven days after the date of service of the summons under Paragraph (c), on which the Board shall consider the authorized complaint; and
- (e) shall be under the hand of the Chairman.

(3) A failure to comply with a condition of a licence shall not be the subject of both an authorized complaint and proceedings for an offence.

188. DISCIPLINARY POWERS OF BOARD.

(1) Subject to this section, where, in relation to a summons under Section 187 –

- (a) a licence appears in response to the summons; or
- (b) a licensee fails to appear in response to the summons,

the Board shall proceed to hear and determine the matter of the complaint to which the summons relates and, if it is satisfied that the ground upon which the authorized complaint was made has been made out, may do any one or more of the following: –

- (c) reprimand the licence;
- (d) impose a condition to which the licence is to be subject, or revoke or vary a condition to which the licence is subject;
- (e) suspend the licence for such period, not exceeding 6 months, as the Board thinks fit;
- (f) cancel the licence; or
- (g) disqualify the licence from holding a licence for such period, not exceeding three years, as the Board thinks fit.

(2) Where, under Subsection (1), the Board hears and determines the matter of an authorized complaint made by the Commissioner of Police, the Board may, in its discretion, order –

- (a) that the licence against whom the complaint was made pay the complaint's reasonable costs and expenses incurred in making the complaint, or a specified part of those costs and expenses; or
- (b) that the complainant pay to the licensee the licensee's reasonable costs and expenses incurred in answering the complaint, or a specified part of those costs and expenses.

(3) As an alternative to imposing a penalty under Subsection (1), the Board may direct the licensee in writing to take specified action within a specified time to rectify the matter which constitutes the grounds for disciplinary action and, if the licensee fails to take the specified action within the time specified, the Board may proceed to impose the penalty under this section.

(4) A pecuniary penalty that has been imposed on a licensee may be recovered by the Board on behalf of the State in a court of competent jurisdiction as a debt due to the State.

189. DISCIPLINARY BODY.

The Board may, by instrument in writing –

- (a) establish a disciplinary body to exercise some or all of its powers under this Part;
- (b) appoint such number of persons (including members of the Board) as it deems fit to be members of the disciplinary body.

190. EFFECT OF SUSPENSION OF LICENCE.

(1) While a licence is suspended under this Part and during the period of suspension, and gaming on the premises to which the licence relates and any gaming activity under the licence is unlawful but licence is deemed to be in force for all other purposes.

(2) The Board may, at any time, terminate or reduce a period of suspension of a licence.

PART VI. – BOOKMAKING.*Division 1. – Preliminary.***191. INTERPRETATION.**

In this, unless the contrary intention appears –

“**betting ticket**” means a betting ticket referred to in Section 208;

“**betting premises licence**” means a licence issued under Section 203;

“**bookmaker**” includes a licensed bookmaker;

“**bookmaker’s licence**” means a licence to conduct the business of a licensed bookmaker issued under Section 195;

“**credit bet**” means a bet made where the amount wagered by the bettor is not paid to the licensed bookmaker when the bet is made;

“**employee of a licensed bookmaker**” means a person employed by a licensed bookmaker to assist him in the business of bookmaking;

“**licence**” means a licence issued under this Part;

“**licensed bookmaker**” means a bookmaker licensed under this Part;

“**licensed premises**” means premises used for the purpose of betting and in respect of which a licensed bookmaker holds a licence under Section 203, and includes in respect of a licensed bookmaker any racecourse within 30 km of the premises in respect of which he is otherwise licensed and in respect of which the club or association controlling racing on that racecourse is licensed;

“**person**” includes a club or association whether corporate or unincorporated;

“**premises**” includes any building, part of a building racecourse or part of a racecourse, vehicle and any land on which the building or the racecourse is situated;

“**race**” includes contest or trial.

192. APPLICATION..

The provisions of other Part VII of this Act do not apply to a licensed bookmaker or to licensed premises, in relation to the conduct of the business of a licensed bookmaker.

193. RESTRICTIONS ON BETTING..

This Part does not authorize a licensed bookmaker to accept a bet, or a person to make a bet with a licensed bookmaker, except –

- (a) on an event in the program of a race meeting held in the country or in a State or Territory of Australia; or
- (b) on a boxing or wrestling about held in any place; or
- (c) on any other event as determined by the Board by notice in the National Gazette.

*Division 2. – Licensing of Bookmakers.***194. APPLICATION FOR BOOKMAKER'S LICENCES.**

(1) A person may apply to the Board for a licence under this Part to conduct the business of a licensed bookmaker.

(2) An application under this section shall be –

- (a) made in the prescribed form; and
- (b) accompanied by the prescribed application fee; and
- (c) in respect of premises licensed by the Board for the conduct of the business of a bookmaker; and
- (d) accompanied by such evidence as the Board requires of the applicant's financial ability to carry on the business of a licensed bookmaker and of his character,

and shall state that the application is made –

- (e) on behalf of the applicant and for his sole benefit; or
- (f) on behalf of and for the benefit of himself and other persons –
 - (i) whose names and addresses; and
 - (ii) the extent of whose interest in the business in respect of which the application is made,
 shall also be set out in the application.

195. BOARD MAY GRANT BOOKMAKER'S LICENCES.

(1) On the Receipt of an application under Section 194, the Board may grant or refuse an application for a bookmaker's licence.

(2) A bookmaker's licence is subject to such conditions (if any) as are specified in the licence and permits the licensed bookmaker specified in the licence to carry on the business of bookmaking –

- (a) at the licensed premises specified in the licence; and
- (b) with the approval of the turf club or turf association concerned, at any racecourse within 30 km of the situation of the premises specified in the licence on any day on which a race meeting is being held.

(3) Where a licence is granted to a person who has applied for the licence on behalf of and for the benefit of himself and other persons, the licence shall contain an endorsement of the names and addresses of the persons other than the licensed bookmaker in respect of whom and for whose benefit the licence is granted.

(4) Where a licence is endorsed under Subsection (3), a person whose name is not endorsed on the licence who, without the approval of the Board, acquires or holds any interest in or derives any benefit from the business carried on by the licensed bookmaker, is guilty of an offence.

Penalty: A fine of not less than K1,000.00 and not exceeding K10,000.00.

196. RESTRICTION ON NUMBER OF BOOKMAKER'S LICENCES.

The Board may, where for any reason it considers it necessary to do so, by notice in the National Gazette, limit the number of bookmaker's licences that may be issued to persons whose

betting premises or proposed betting premises are situated in the area or areas specified in the notice.

197. BOARD MAY GRANT SOLE RIGHTS TO A BOOKMAKER.

(1) Notwithstanding any other provisions of this Part, the Board may, where it is of the opinion that it is desirable to do so in the national interest, grant to a person or to a group of persons the exclusive right to operate, on such terms and conditions as the Board determines, as a bookmaker for the whole or any part of the country.

(2) A person or group of persons to whom an exclusive right has been granted under Subsection (1) remains subject to all the provisions of this Part.

198. ANNUAL FEES.

The fee payable for a bookmaker's licence and for each renewal of a bookmaker's licence is K40,000.00.

199. DEPOSITS BY LICENSED BOOKMAKERS.

(1) It is a condition of a licence issued under Section 195 that the licensed bookmaker will at all times during the currency of the licence maintain with the Board –

- (a) a deposit of K50,000.00; and
- (b) a bank guarantee of K100,000.00 in a form approved by the Board.

(2) Any money deposited under Subsection (1)(a) remains the property of the licensed bookmaker but any interest arising out of the investment of the money by the Board shall be retained by the Board.

(3) Any money or guarantee referred to in Subsection (1) –

- (a) is security for the discharge of the liabilities of the licensed bookmaker of all bets accepted by him that are winning bets; and
- (b) is not applicable in the discharge of any other liabilities of the bookmaker until those first – mentioned liabilities have been discharged or otherwise provided for to the satisfaction of the Board.

(4) Any money or security referred to in Subsection (1) shall not be returned to the licensed bookmaker after the date on which he ceases to be a licensed bookmaker unless the Board is satisfied that the liabilities of the bookmaker in relation to all bets accepted by him which are winning bets have been discharged or otherwise provided for.

200. CANCELLATION OF BOOKMAKER'S LICENCES.

(1) The Board may at any time cancel a bookmaker's licence where it is satisfied that the licensed bookmaker –

- (a) has committed an offence against this Part or has failed to perform a duty that he is required to perform under this Part; or
- (b) has failed to pay, within three days after having been required by the Board to do so, any bets accepted by him that are winning bets; or
- (c) has entered into an arrangement with any person under which that person derives or is entitled to derive any benefit or advantage from the business carried on by the bookmaker, unless –

- (i) that other person is a person whose name is endorsed on the licence in accordance with Section 195(3); or
- (ii) the arrangement has been approved by the Board; or
- (d) is not a fit and proper person to continue to hold a licence; or
- (e) has failed to comply with a condition of his licence.

(2) Where a court, under a power conferred on it under this Part, orders that a licensed bookmaker deliver up his licence to the Board for cancellation, the Board shall cancel it.

(3) Where the Board cancels the licence of a bookmaker, the Board shall enquire whether all bets accepted by the bookmaker that the winning bets have paid by him, and –

- (a) if it is satisfied that all such bets have been paid – shall release the security that it holds under Section 199 to the bookmaker; or
- (b) in any other case – shall realize that security and, out of the proceeds, pay, in the prescribed manner, all such unpaid winning bets and return the balance (if any) to the person or persons entitled to it.

201. RENEWAL OF BOOKMAKER'S LICENCES.

(1) A bookmaker's licence granted under this Part remains in force for 12 months and may be renewed by the Board from time to time for a further period of 12 months.

(2) A renewal of a licence under this section may be on the same conditions as the original licence or, if the Board so determines, on different conditions.

(3) The Board may refuse to renew a licence for any of the reasons specified in Section 200(1).

202. APPEAL.

(1) Where the Board –

- (a) refuses to grant; or
- (b) cancels; or
- (c) refuses to renew,

a bookmaker's licence, the Board shall give written notice of the refusal or cancellation, as the case may be, to the applicant and the applicant may appeal to the Head of State.

(2) An appeal under subsection (1) shall –

- (a) be in writing; and
- (b) state the grounds of the appeal; and
- (c) be lodged with, or served by post, on the Secretary to the National Executive Council within 14 days after the notice of refusal is received by the applicant.

(3) The Head of State, acting on advice, after considering –

- (a) the grounds specified in the notice of appeal; and
- (b) the application; and
- (c) all information furnished in support of the application,

and after making such further enquiries as are necessary, may –

- (d) dismiss the appeal; or
- (e) uphold the appeal and direct the Board to grant, restore or renew the licence as the case may be.

(4) A decision of the Head of State, acting on advice, under Subsection (3) is final.

Division 3. – Betting premises.**203. LICENSING OF BETTING PREMISES.**

(1) A person may apply to the Board for a betting premises licence in respect of premises to be used to conduct the business of a licensed bookmaker.

(2) An application under this section shall be –

- (a) made in the prescribed form; and
- (b) accompanied by the prescribed application fee; and
- (c) accompanied by such information as are required by the Board.

204. BOARD MAY GRANT BETTING PREMISES LICENCES.

(1) On the receipt of an application under Section 203, the Board may grant or refuse an application for a betting premises licence.

(2) A betting premises licence granted under Subsection (1)

- (a) shall be in the prescribed form; and
- (b) is subject to such conditions as are specified in it.

205. CANCELLATION OF BETTING PREMISES LICENCES.

(1) The Board may at any time cancel a betting premises licence where it is satisfied that –

- (a) the holder of the betting premises licence has committed an offence against this Part or has failed to perform a duty that he is required to perform under this Part; or
- (b) the premises under the betting premises licence is being used for purposes other than the business of a licensed bookmaker; or
- (c) the holder of the betting premises licence is not a fit and proper person to continue to hold a licence; or
- (d) the holder of the betting premises licence has failed to comply with a condition of his licence.

(2) Where a court, under a power conferred on it under this Part, orders that the holder of the betting premises licence deliver up his licence to the Board for cancellation, the Board shall cancel it.

206. RENEWAL OF BETTING PREMISES LICENCES.

(1) A betting premises licence granted under this Part remains in force for 12 months and may be renewed by the Board from time to time for a further period of 12 months.

(2) A renewal of a licence under this section may be on the same conditions as the original licence or, if the Board so determines, on different conditions.

(3) The Board may refuse to renew a licence for any of the reasons specified in Section 205(1).

207. APPEAL.

(1) Where the Board –

- (a) refuses to grant; or
- (b) cancels; or

(c) refuses to renew,
a betting premises licence, the Board shall give written notice of the refusal or cancellation, as the case may be, to the applicant and the applicant may appeal to the Head of State.

(2) An appeal under Subsection (1) shall –

(a) be in writing; and

(b) state the grounds of the appeal; and

(c) be lodged with, or served by post, on the Secretary to the National Executive Council within 14 days after the notice of refusal is received by the applicant.

(3) The Head of State, acting on advice, after considering –

(a) the grounds specified in the notice of appeal; and

(b) the application; and

(c) all information furnished in support of the application,

and after making such further enquiries as are necessary, may –

(d) dismiss the appeal; or

(e) uphold the appeal and direct the Board to grant, restore or renew the licence as the case may be.

(4) A decision of the Head of State, acting on advice, under Subsection (3) is final.

Division 4. – Turnover tax.

Subdivision 1. – Betting Records.

208. BETTING TICKETS TO BE PURCHASED FROM COMMISSIONER GENERAL..

(1) The Commissioner General shall give printed and available for sale to licensed bookmakers at the prescribed price, betting tickets in such form as the Commissioner General thinks fit.

(2) All betting tickets issued or used by a bookmaker shall be purchased from the Commissioner General.

(3) A bookmaker, who issues or uses a betting ticket other than a ticket purchased from the Commissioner General, is guilty of an offence.

Penalty: A fine not less than K2,000.00 and not exceeding K5,000.00.

209. RECORD OF BETS.

(1) A bookmaker shall record each bet made with him (including a credit bet) on a separate betting ticket and in such other manner as prescribed.

(2) A bookmaker who accepts a bet and who does not immediately make out a betting ticket for the full amount of that bet and record the bet in such other manner as is prescribed, is guilty of an offence.

Penalty: A fine of not less than K2,000.00 and not exceeding K5,000.00.

(3) Unless a court recording a conviction under Subsection (2) is satisfied that the offence was committed through inadvertence, it shall order the bookmaker to deliver up his licence (if any) to the Board for cancellation.

*Subdivision 2. – Turnover tax.***210. INTERPRETATION OF SUBDIVISION B.**

In this Subdivision, “week” means a period of seven days commencing on a Sunday and ending on and including the next following Saturday.

211. IMPOSITION OF TAX.

(1) Subject to Subsection (2), a turnover tax of 4% –

(a) is payable by every bookmaker on the gross amount of every bet made with him, whether or not payment for that bet has been received;

(b) is payable to Consolidated Revenue in accordance with Section 212.

(2) For the purposes of Subsection (1), in calculating the amount of a bet made with a licensed bookmaker, the gross amount of that bet shall be reduced by the amount of the bet that is genuinely laid off by that licensed bookmaker with any other licensed bookmaker.

212. COLLECTION OF TAX.

(1) The turnover tax imposed by Section 211 is a debt due and payable by the bookmaker to the State and shall, in respect of all bets made with the bookmaker during a week, be paid by him to the Commissioner General on or before the first Tuesday after the end of that week or within such other time as the Commissioner General allows.

(2) It is sufficient compliance with Subsection (1) if the bookmaker posts to the Commissioner General, within the time referred to in that subsection, the amount of the turnover tax, together with the documents referred to in Section 213, as a correctly addressed pre-paid letter, and the posting of that letter shall be deemed to be payment of the turnover tax contained in it, for the purpose of Section 215(1) and 216(1).

213. FORM OF RETURN.

A bookmaker shall send to the Commissioner General with every amount of turnover tax payable by him –

(a) a return, in such form as the Commissioner General requires, setting out the prescribed particulars; and

(b) a duplicate of each betting ticket issued or used in respect of the week to which the turnover tax relates.

214. COMMISSIONER GENERAL MAY ISSUE ASSESSMENTS.

(1) Where by reason of a bookmaker –

(a) failing to keep a proper record of bets made with him; or

(b) failing to lodge a return or a proper return in respect of any week; or

(c) lodging a return that is incomplete or is inaccurate in a material particular,

the Commissioner General is of the opinion that the amount of turnover tax payable by a bookmaker in respect of any week has been understated or cannot be correctly determined, the Commissioner General may make an assessment of the amount that he considers is the correct amount of tax in respect of that week and the amount so assessed shall, unless the contrary is

proved, be deemed to be the amount of turnover tax payable by the bookmaker in respect of that week.

(2) The Commissioner General shall within seven days immediately after making an assessment under this section send to the bookmaker, by post, a notice of the assessment, but this section shall not be construed as deferring the date on which any amount of turnover tax becomes due and payable.

(3) Part of the Section 6 of the *Income Tax Act 1959* shall, with the necessary modifications, apply to and in relation to an assessment of turnover tax under this section as if that assessment was an assessment of income tax made under that Act by the Commissioner General.

215. PENALTY FOR LATE PAYMENT.

(1) Where any amount of turnover tax remains unpaid after the expiration of the time provided for its payment under this Part, penalty tax of 10% of the amount paid shall be due and payable to the State.

(2) An amount of penalty tax payable under this section shall be deemed to be turnover tax due and payable by the bookmaker in respect of the week to which the unpaid tax relates.

216. ADDITIONAL TAX.

(1) In addition to any penalty tax imposed by Section 215, if any turnover tax remains unpaid after the time provided for its payment under this Part, additional turnover tax is due and payable at the rate of 20% per annum on the amount unpaid computed from such date as the Commissioner General determines, not being a date before the date on which the turnover tax was originally due and payable.

(2) The Commissioner General may, in any case, for reasons that he thinks sufficient, remit the additional turnover tax or any part of that turnover tax.

217. ACCESS TO BOOKS.

The Commissioner General or a person authorized by him for the purpose shall at all times have full and free access to all buildings, places, books, documents and other papers for the purpose of obtaining information relating to the determination of the turnover of, and the liability to pay turnover tax under this Part by, a bookmaker, and may make extracts from, or copies of, any such books, documents or papers.

218. COMMISSIONER GENERAL MAY OBTAIN INFORMATION.

(1) The Commissioner General may, by written notice, require a bookmaker –

(a) to furnish him with such information as he may require; and

(b) to attend and give evidence before him (or before a person authorized by him for the purpose),

concerning bets made by or with that bookmaker or any other bookmaker, and may require him to produce books, documents and other papers in his custody or under his control relating to those bets.

(2) The Commissioner General may require the information or evidence referred to in Subsection (1) to be given on oath, orally or in writing, and for that purpose he, or the person so authorized by him, may administer an oath.

(3) A bookmaker required to attend and give evidence under this section shall be paid such reasonable expenses as the Commissioner General determines.

Division 5. – Offences.

219. OFFENCES RELATING TO TURNOVER TAX.

(1) A bookmaker who –

- (a) fails or neglects to lodge; or
- (b) makes a false or misleading statement in,

a return required to be lodged with the Commissioner General under Division 4 of this Part, is guilty of an offence.

Penalty: A fine not less than K1,000.00 and not exceeding K5,000.00.

Default penalty: A fine not exceeding K100.00.

(2) In addition to any penalty imposed by the court under Subsection (1) in respect of a false or misleading statement in a return, the court may order the person convicted to pay to the Commissioner General a sum not exceeding double the amount of turnover tax that would have been avoided if the statement in the return had been accepted as correct.

(3) On the conviction of a person for an offence under Subsection (1), the court may order him to furnish the return or a corrected return, as the case may be, within the time specified in the order, and a person who does not comply with such an order is guilty of an offence.

Penalty: A fine of not less than K1,000.00 and not exceeding K5,000.00.

220. LICENSED BOOKMAKERS NOT TO DO CERTAIN THINGS.

(1) A licensed bookmaker who, except with the approval of the Board –

- (a) enters into a partnership with respect to the betting business carried on under his licence with a person whose name is not endorsed on his license; or
- (b) makes an arrangement or enters into an agreement with a person by which that person becomes entitled to a share in the profits of that business; or
- (c) borrows money except from a bank in the country for the use in that business; or
- (d) lays off any bet with a person unless that person is a licensed bookmaker,

is guilty of an offence.

Penalty: A fine of not less than K1,500.00 and not exceeding K5,000.00.

(2) An approval of the Board given under Subsection (1) may be given generally with respect to all transactions of a type specified in the approval or specified in the approval or specially with respect to a particular transaction.

221. BOOKMAKERS TO COMPLY WITH PART VI.

A licensed bookmaker or an employee of a licensed bookmaker, who accepts a bet, unless he complies with the provisions of this Part which are applicable to him, is guilty of an offence.

Penalty: A fine not less than K1,000.00 and not exceeding K5,000.00.

222. RESTRICTION ON BETTING.

(1) A person, who places a bet with, or offers to place a bet with, a person other than a licensed bookmaker or an employee of a licensed bookmaker, is guilty of an offence.

(2) A person, other than a licensed bookmaker or an employee of a licensed bookmaker, who accepts a bet, or offers to accept a bet, from a person, is guilty of an offence.

(3) A person, who contravenes Subsections (1) or (2), is guilty of an offence.

Penalty: A fine of not less than K1,500.00 and not exceeding K5,000.00.

223. OFF-COURSE BETTING ON RACE DAYS.

(1) Subject to Subsection (2), a licensed bookmaker whose premises are situated within 30 km of a racecourse at which race meetings are conducted by a recognized turf club or association, who accepts, or permits the acceptance or, any bet other than a telephone credit bet at his licensed premises outside the racecourse on any day on which a race meeting is being conducted at that racecourse, is guilty of an offence.

Penalty: A fine not less than K1,000.00 and not exceeding K5,000.00.

(2) Subsection (1) does not apply to a licensed bookmaker who –

- (a) being so licensed, also carries on the business of bookmaking at the racecourse on the day on which the race meeting is being conducted; or
- (b) except with the written approval of the Board, is refused right of entry to the racecourse for the purpose of carrying on the business of bookmaker on the day on which a race meeting is being conducted; or
- (c) by reason of the withholding of approval or the turf club or turf association concerned, does not have a licence to carry on the business of bookmaking at the racecourse at which the race meeting is being conducted.

224. PERSONS UNDER 18 YEARS NOT PERMITTED TO ENTER LICENSED PREMISES.

(1) A licensed bookmaker who, without lawful excuse, permits a person under the age of 18 years to enter or remain on his licensed premises, is guilty of an offence.

Penalty: A fine not less than K500.00 and not exceeding K2,000.00.

(2) A person under the age of 18 years who, without lawful excuse, enters any licensed premises, is guilty of an offence.

Penalty: A fine of not less than K300.00 and not exceeding K1,000.00.

(3) Subsections (1) and (2) do not apply to persons under 18 years of age entering or remaining on any racecourse.

225. DRINKING NOT PERMITTED ON LICENSED PREMISES.

(1) A licensed bookmaker, who sells or supplies or permits the sale, supply or consumption of alcoholic liquor on his licensed premises, is guilty of an offence.

Penalty: A fine of not less than K1,000.00 and not exceeding K5,000.00.

(2) A person, who purchases, obtains or consumes alcoholic liquor on licensed premises, is guilty of an offence.

Penalty: A fine not less than K1,000.00 and not exceeding K5,000.00.

(3) This section does not apply to the sale, supply or consumption of alcoholic liquor on premises situated on a racecourse that are licensed under the *Liquor (Licensing) Act 1963*.

226. OTHER OFFENCES BY LICENSED BOOKMAKERS.

A licensed bookmaker or an employee of a licensed bookmaker who –

- (a) issues or delivers to a person in respect of a bet a betting ticket previously used in respect of some other bet; or
 - (b) has in his possession for a longer period than is necessary to enable him to record it in his books of account and destroy it, a betting ticket that has been used and issued to a better; or
 - (c) procures a person to make on his behalf or on behalf of another licensed bookmaker a bet which if made by the licensed bookmaker himself would be contrary to any of the provision of this Part; or
 - (d) fails to enter to keep recorded every bet made or accepted by him,
- is guilty of an offence.

Penalty: A fine of not less than K1,000.00 and not exceeding K5,000.00.

227. BOOKMAKERS TO KEEP PROPER BOOKS.

A bookmaker, who fails –

- (a) to keep complete and proper books in respect of his carrying on the business of a bookmaker; and
 - (b) to enter and deep recorded in the books specified in Paragraph (a) a full and accurate account of all betting transactions entered into by him; and
 - (c) to retain the books specified in Paragraph (a) for such period as is prescribed; and
 - (d) to produce the books specified in Paragraph (a) when requested to do so by the Board or Commissioner General or a person authorized by the Board or Commissioner General for the purpose an to allow the books and all entries in the books to be inspected,
- is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

Division 6. – Miscellaneous.

228. LEGAL PROCEEDINGS IN RESPECT OF BETS.

(1) Subject to this section, a person shall not take any proceeding for the recovery of, or with respect to or arising out of, any bet.

(2) Where a dispute occurs between a licensed bookmaker an any person with respect to –

- (a) whether or not a bet has been made or accepted; or
- (b) the amount of a bet; or

- (c) the odds at which a bet has been made or accepted; or
- (d) the odds at which a winning bet is paid,

the dispute –

- (e) shall be referred by the licensed bookmaker; and
- (f) may be referred by the other party to the dispute,

to the Board who shall, by instrument, appoint an arbitrator to determine the dispute.

(3) Where a dispute has been referred to an arbitrator under this section, the arbitrator may –

- (a) summon the parties to the dispute to appear and give evidence before him; and
- (b) take evidence from any person relating to the dispute; and
- (c) require a party to the dispute to produce any books accounts, tickets or other documents or papers which, in the opinion of the arbitrator, ought to be examined in order in to determine the dispute.

(4) The arbitrator shall hear and determine all disputes referred to him under this section.

(5) Where a party to a dispute who has been summoned to attend before the arbitrator fails, without reasonable excuse, to attend before the arbitrator, the arbitrator shall determine the dispute in favour of the other party.

(6) The determination by the arbitrator of a dispute referred to him under this section shall be final and no legal proceedings shall be taken with respect to any moneys due or alleged to be due under the bet or arising out of, or in connection with the bet.

(7) In determining a dispute under this section, the arbitrator is not a judicial body and is not bound by any law or technical rule of procedure or evidence but may inform himself of the facts necessary to determine the dispute in any manner that he thinks fit.

(8) This section does not prevent any legal proceeding being taken on a cheque, promissory note bill of exchange.

229. APPLICATION OF SECTION 6 OF THE *MERCANTILE ACT 1953* .

Section 6 of the *Mercantile Act 1953* does not apply –

- (a) to the consideration or any part of the consideration for any bill, note, cheque or mortgage, drawn, accepted, made, given, granted or executed; or
- (b) to the reimbursement or repayment of money knowingly lent or advanced,

for the purpose of betting or wagering under this Part.

230. LIABILITY OF EMPLOYEE OF BOOKMAKER.

(1) Where an employee of a licensed bookmaker by any act or omission related to the business of the licensed bookmaker as a licensed bookmaker commits an offence against this Part, the licensed bookmaker and the employer and the employee are jointly and severally liable in respect of the offence.

(2) In a prosecution of a licensed bookmaker for an offence against this Part with respect to an act or omission of his employee, it is not a defence –

- (a) that the defendant had no knowledge of the act or omission of the employee; or
- (b) that it was not the intention of the defendant that the employee should do the act or make the omission.

231. OBSTRUCTION.

A person, who hinders or obstructs the Board, the Commissioner General or a person authorized by the Board or Commissioner General under this Part or a member of the Police Force in the carrying out, exercise or performance of any of his functions, duties and powers under this Part, is guilty of an offence.

Penalty: A fine not less than K1,500.00 and not exceeding K5,000.00.

232. FALSE OF MISLEADING INFORMATION IN APPLICATION, ETC.,.

A person, who, in an application, return or other document made or furnished under this Part, makes any statement which is false or misleading in a material particular, is guilty of an offence.

Penalty: A fine of not less than K1,000.00 and not exceeding K5,000.00 and in addition the court recording the conviction shall, if the person convicted is a licensed bookmaker, order the person convicted to deliver up his licence to the Board for cancellation.

233. BETS MADE BY TELEPHONE, ETC.,.

For the purpose of this Part, any bet made by post, or by telephone, or by other indirect communication with a licensed bookmaker at his license premises shall be deemed to be made in those premises.

PART VII. – LOTTERIES, OVERSEAS LOTTERY AND GAMING PRODUCTS.*Division 1. – Authorized Lotteries.***234. DEFINITIONS.**

In this Part –

“authorized lottery” means a lottery authorized by and conducted in accordance with this Act and includes –

- (a) a lottery conducted on horse races, sport or other event whether in Papua New Guinea or abroad; or
- (b) the provision of totalizator betting services on horse races, sport or other event whether in Papua New Guinea or abroad by the use of, without limitation –
 - (i) an instrument or contrivance usually or commonly known as a totalizator; or
 - (ii) a scheme for the subscription and distribution of moneys in a manner similar to that by which moneys are subscribed and distributed by means of a totalizator; or
- (c) wagers on a sporting event (other than a horse – race); or
- (d) lotteries (including overseas lottery or gaming products) including –
 - (i) scratch lotteries; and
 - (ii) trade lotteries; and
 - (iii) mail order lotteries, approved by the Board under this Part; or
- (e) overseas based gambling facilities by or through the internet approved by the Board under this Part; or
- (f) any other lottery as determined by the Minister by notice in the National Gazette;

“lottery” means any lottery, and includes –

- (a) a game of chance (including a game such as draw lottery or bingo) in which –
 - (i) persons choose or are allocated numbers; and
 - (ii) certain numbers are subsequently selected at random as prize-winning numbers; and
 - (iii) prizes are distributed to persons holding the prize-winning numbers; or
- (b) a game of chance (including a game such as instant lottery) in which –
 - (i) certain numbers are designated as prize winning numbers; and
 - (ii) persons are allocated numbers that have previously been selected at random; and

(iii) prizes are distributed to persons holding the prize-winning numbers;
or

(c) a game of chance (including a game such as lotto, keno or powerball) in which choose or attempt to forecast, from designated numbers, fewer numbers to be drawn on a random basis; or

(d) any football pool in which persons choose or attempt to forecast, from designated numbers, fewer numbers that represent the outcome of football matches;

“place” includes –

(a) any place, whether in or out of an enclosed or partially enclosed building, vessel or premises, on land or water and whether private property or otherwise; and

(b) a vehicle.

235. BOARD MAY APPROVE LOTTERIES.

(1) A person may apply to the Board together with such application fee as is prescribed, for approval to conduct an authorized lottery.

(2) On the receipt of an application under Subsection (1), the Board may, by written instrument, approve the conduct of an authorized lottery.

(3) Subject to Subsection (4), the Board may delegate to a provincial administration, an urban authority or other rural or municipal authority the power to approve the conduct by any person of an authorized lottery.

(4) A provincial administration, an urban authority or a rural or municipal authority shall not have the power to grant in an approval under Subsection (3) for a prior in excess of three months at any time.

(5) A person affected by a grant or refusal of approval under Subsection (1) may appeal –

(a) in the case of the grant or refusal of approval by the Board – to the Minister; or

(b) in the case of the grant or refusal of approval by a delegated authority referred to in Subsection (3) – to the Board;

(6) The decision on an appeal under Subsection (5) is final.

236. OVERSEAS LOTTERY PRODUCTS AND INTERNET GAMBLING.

(1) Subject to this section, a person may apply to the Board, together with such application fee as is prescribed, for approval to conduct an overseas lottery or gaming product including lottery and gaming by means of the internet.

(2) An overseas lottery or gaming product approved under this section shall comply with such conditions as are prescribed.

(3) Subject to Subsection (4), the Board may enter into any agreement or arrangements with any person to offer an overseas lottery or gaming product but subject to conditions as are prescribed in accordance with Subsection (2).

(4) An agreement or arrangement made under Subsection (3) is effective only after it is approved by the Minister.

*Division 2. – Offences in relation to lotteries.***237. OFFENCES IN RELATION TO LOTTERIES.**

Subject to this Part, a person who –

- (a) establishes, commences, is a partner in, manages, conducts or assists in managing or conducting, a lottery; or
- (b) sells or dispose of, or endeavours to sell or dispose of, a ticket or other means by which permissions or authority is gained or given to a person to throw for, or to complete or have an interest in, a lottery; or
- (c) prints, publishes or exhibits, or causes to be printed, published or exhibited, a ticket, change or share for, in or of a lottery, or an advertisement, sign or other notice –
 - (i) of or relating to the drawing or intended drawing of a lottery; or
 - (ii) of or for the sale of a ticket, chance or share for, of or in a lottery; or
 - (iii) concerning or relating to lotteries in general or a particular lottery or a ticket, chance or share for, of or in a lottery; or
- (d) accepts money in respect to the sale or distribution of a ticket in a lottery; or
- (e) uses premises or causes or permits premises of which he or she is the occupier to be used in connection with the conduct of a lottery; or
- (f) invites a person to participate in, or sends to a person for distribution an advertisement concerning, or sends to a person for sale or distribution a ticket in a lottery, that is not an authorized lottery, is guilty of an offence.

Penalty: (i) in the case of a natural person, a fine not exceeding K5,000.00 or imprisonment for a term not exceeding 12 months, or both; and

(ii) in the case of a company or body corporate, a fine not exceeding K10,000.00.

*Division 3. – Betting tax.***238. TAX ON WATERS ON APPROVED LOTTERIES.**

(1) Regulations may provide for the imposition of betting tax on authorized lotteries and for the distribution of the gross takings.

(2) Betting tax shall not be imposed on a lottery, totalizator or scheme under this Part where, of the gross taking –

- (a) not less than one – third is expended for a social, charitable, education, religious or other purpose approved by the Board or an authority authorized by the Board under Section 235(3); and
 - (b) the balance is distributed as prize – money.
- (3) Regulations may prescribe offences for default in payment of betting tax.

(4) Any amount payable to the Board or the State in pursuance of any betting tax distribution is recoverable by the State from the person using or conducting the lottery, totalizator or scheme as a debt.

PART VIII. – GAMING AND WAGERING.

Division 1. – Ticket dispensing machines and games in the nature of lotteries.

239. INTERPRETATION.

For purpose of this Part –

“**approved association**” means an association, club or similar body approved by the Board for purposes of this Part;

“**ticket dispensing machine**” means a machine or device which dispenses tickets or from which tickets may be obtained.

240. CERTAIN MACHINES AND CERTAIN GAMES PROHIBITED.

Subject to this Act, a person shall not –

- (a) on premises owned or occupied by the person provide, or cause or allow to be used, a ticket dispensing machine; or
- (b) conduct, or cause or allow to be conducted, a sweepstake, calcutta, game of bingo or such other game as may declared by the Board by notice in the National Gazette for purposes of this section.

241. CONDUCT OF CALCUTTAS, SWEEPSTAKES AND BINGO.

(1) Subject to Subsection (2), an approved association may conduct –

- (a) a calcutta;
- (b) a sweepstake; or
- (c) games of bingo,

as approved by the Board.

(2) The rules for conducting a game under this section shall be as prescribed.

242. GAMES IN THE NATURE OF LOTTERIES.

(1) The Board may, by notice in the National Gazette, determine that a game is not a lottery for the purpose of Part VI.

(2) Where the Board has under Subsection (1) determined that a game is not a lottery for the purpose of Part VI, the Board may in the same notice –

- (a) declare it to be an unlawful game; or
- (b) declare that the game may be played only –
 - (i) in such place or places and on such occasions as the Board specifies in the notice; or
 - (ii) by an approved association or other person or body in accordance with a permit issued by the Board under this Part.

(3) A person shall not organise, promote or conduct a game in respect of which a declaration has been made under Subsection (2)(b) otherwise than in accordance with a notice published under this Act.

(4) A person shall not play or take part in a game in respect of which a declaration has been made under Subsection (2)(b) knowing that the game is being organised, promoted or

conducted otherwise than in accordance with a notice under Subsection (2)(b)(i) or of a permit granted under this Act.

(5) A person, who contravenes Subsection (4), is guilty of an offence.

Penalty: (i) in the case of a natural person, a fine not exceeding K5,000.00 or imprisonment for a term not exceeding 12 months, or both; and

(ii) in the case of a company or body corporate, a fine not exceeding K10,000.00.

Division 2. – Control of gaming.

243. UNLAWFUL GAMES.

(1) For the purpose of this Division –

(a) a game –

(i) which is, or is intended to be, a game of chance; or

(ii) which is, or is intended to be, a game partly of chance and partly of skill; or

(iii) which is a trick or sleight of hand,

played with an instrument of gaming, contrivance or device whereby money is or goods are gained or disposed of; or

(b) a game from which a person derives a percentage, part or share of the amount or amounts wagered, staked or played for or for which a charge is made; or

(c) a game declared under the Board under Section 242(2)(a) to be an unlawful game, is an unlawful game.

(2) The Board may in writing permit the playing of a game that is otherwise unlawful in such place or places and on such occasions as the Board specifies in the notice.

(3) A person is not guilty of an offence against this Division in respect of an unlawful game specified in –

(a) a notice under Subsection (2); or

(b) a permit granted under this Act,

where the person is playing the game in accordance with the notice or permit.

244. ORGANIZE, ETC., UNLAWFUL GAMES.

A person shall not –

(a) organise or conduct, or assist in organising or conducting, an unlawful game; or

(b) receive a percentage of an amount wagered on an unlawful game.

Penalty: (i) in the case of a natural person, a fine not exceeding K5,000.00 or imprisonment for a term not exceeding 12 months, or both; and

(ii) in the case of a company or body corporate, a fine not exceeding K10,000.00.

245. SPELLING, ETC., IN UNLAWFUL GAME.

A person shall not –

(a) give or sell a ticket; or

(b) take a ticket, in an unlawful game.

- Penalty: (i) in the case of a natural person, a fine not exceeding K5,000.00 or imprisonment for a term not exceeding 12 months, or both; and
- (ii) in the case of a company or body corporate, a fine not exceeding K10,000.00.

246. PLAYING AT UNLAWFUL GAME.

- (1) A person shall not play at or participate in an unlawful game.
- (2) A person shall not –
- (a) be present at any unlawful gaming or at the playing of an unlawful game; or
 - (b) be in a place in which any unlawful gaming is taking place, without lawful excuse (the proof of which excuse shall be upon the person); or
 - (c) bet by way of wagering or gaming on an unlawful game.
- (3) A person, who contravenes Subsections (1) or (2), is guilty of an offence.

Penalty: A fine not exceeding K5,000.00 or imprisonment for a term not exceeding 12 months, or both.

247. ADVERTISING.

A person shall not –

- (a) placard, post up or exhibit; or
- (b) permit or suffer to be placarded, posting up or exhibiting;
- (c) assist in placarding, posting up or exhibiting,

in, on or about any land or premises any information or notice or list relating directly or indirectly to an illegal lottery or an unlawful game.

Penalty: A fine not exceeding K5,000.00 or imprisonment for a term not exceeding 12 months, or both.

248. FALSE PRETENCES.

A person shall not, by fraud, fraudulent device or practice in playing with an instrument of gaming, win from a person for himself, or another person, money or a valuable thing.

Penalty: A fine not exceeding K5,000.00 or imprisonment for a term not exceeding 12 months, or both.

249. PLACE FOR UNLAWFUL GAMING.

- (1) Subject to this section, a place is used for unlawful gaming if it or a part of it –
- (a) is used for or in connection with –
 - (i) a lottery, Calcutta, sweepstake or game of bingo which is not authorised by this Act or, being authorised, is not conducted in accordance with this Act; or
 - (ii) an lawful game; or
 - (b) is opened, kept or used for the purpose of the owner, occupier or keeper of it, or a person using it, or a person procured or employed by or acting for or on behalf of the owner, occupier or keeper, or person using it, or of a person having the care or

management or in any manner conducting the business thereof, conducting or participating in unlawful gaming with persons resorting to the place.

(2) A casino is not a place used for unlawful gaming in respect of operations conducted in the casino that are permitted under this Act.

(3) A person shall not use a place for unlawful gaming, or knowingly and wilfully permit it so to be used by any other person or have the care or management of, or in any manner assist in conducting the business of, a place so used.

(4) A person shall not, without lawful excuse, enter or remain in a place used for unlawful gaming.

(5) A person, who contravenes Subsections (3) or (4), is guilty of an offence.

Penalty: A fine not exceeding K5,000.00 or imprisonment for a term not exceeding 12 months, or both.

250. EVIDENCE THAT PLACE IS USED FOR UNLAWFUL GAMING.

It is prima facie evidence that a place is used for unlawful gaming if it is proved that –

- (a) the place is kept or used for the playing therein of an unlawful game or that a bank is kept there by one or more of the players exclusive of the others; or
- (b) the changes of a game played therein are not alike favourable to all the players (including the banker or other person by whom the game is managed or against whom the other players stake, play or bet),

whether or not the place is open for the use of subscribers only.

251. PROOF OF PERSON FOUND PLAYING FOR MONEY, ETC., NOT NECESSARY.

It is not necessary in support of a complaint for gaming in, or for suffering a game or gaming in, or for keeping or using or being concerned in the management or conduct of a place for unlawful gaming, to prove that a person found playing at a game was playing for money or a valuable thing.

252. EFFECT OF DISCOVERY OF INSTRUMENTS OF GAMING.

Where a place suspected to be open, kept or used as a place for unlawful gaming is lawfully entered by a member of the Police Force or an officer of the Board, the discovery therein or on or about a person found in the place of an instrument of gaming, ticket dispensing machine or thing used in associated with playing an unlawful game is prima facie evidence that –

- (a) the place is used as a place for unlawful gaming; and
- (b) the persons found in the place where the instrument or machine was discovered were playing in that place, although no play was actually going on in the presence of the member of the Police Force officer of the Board lawfully entering.

253. EVIDENCE THAT PLACE USED FOR UNLAWFUL GAMING.

Where –

- (a) a member of the Police Force or an officer of the Board is wilfully prevented from or is obstructed or delayed in entering a place in which the Police Force or officer

of the Board has reasonable grounds for suspecting unlawful gaming is, has been or is about to be carried on or any part of that place; or

- (b) an external or internal door of, or means of access to, such place is found to be fitted or provided with a bolt, bar, chain or means or contrivance for the purpose of preventing, delaying or obstructing the entry into the place or any part of the place of a member of the Police Force or officer of the Board or for giving an alarm in case of that entry; or
- (c) such a place is found fitted or provided with a means or contrivance for concealing, removing or destroying an instrument of gaming,

it shall be prima facie evidence that the place is used for unlawful gaming and that the persons found in the place were playing an unlawful game therein.

254. EVIDENCE AS TO BE OFFENCES.

Where, on the hearing of a complaint relating to an offence against this Part, the court is of the opinion that money or a valuable thing which has to its satisfaction been provide to have been given to, or received or paid by the accused person, or given to, or received or paid by a person on the accused person's behalf, has been given, received or paid, as the case may be, in circumstances which, in the mind of the court, raise a reasonable suspicion that such money or thing was so given, received or paid in contravention of this Part, the giving, receiving or paying shall be prima facie evidence of the commission by the accused person of the offence specified in the complaint.

255. REASONABLE SUSPICION SUFFICIENT.

Where, on the hearing of a complaint against a person in relation to an offence against this Part, the evidence for the prosecution is such as to raise in the mind of the court hearing the complaint a reasonable suspicion that the person is guilty of the offence, that evidence is prima facie evidence that the person is guilty of that offence.

256. SEARCH WARRANTS.

(1) A member of the Police Force or an authorized officer of the Board may apply to a Magistrate for the issue of a search warrant to search certain premises which he believes on reasonable grounds that –

- (a) it is being used for an illegal activity under this Act; or
- (b) there are gaming equipment or records are on the premises and that –
 - (i) in relation to those articles an offence under this Act has been, is being, or is likely to be, committed; or
 - (ii) that those articles may be evidence of an offence under this Act,

and authorizing the member of the Police Force or officer of the Board named in the warrant and any assistants to enter the premises, or part of premises, specified in the warrant.

(2) It shall not be necessary in an information laid or application made for the purpose of obtaining a search warrant for the search of a under Subsection (1), or in a search warrant issued as a result of that information laid or application made, for the particular items or articles associated with the offence for which it is intended to search, or a description of such items, to be specified, and a search for any such items may be conducted by authority of the warrant.

(3) A member of the Police Force or an officer of the Board who lawfully enters a place in accordance with a search warrant issued under Subsection (1) may –

- (a) open a cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, found on or in the place; and
- (b) without warrant, search a person found on or in the place or the clothing being worn by or property in the control of the person; and
- (c) seize anything found on or in the place or in the course of the search that the member or officer reasonably believes is evidence of or associated with the offence committed on or in that place.

(4) A search warrant issued under this section ceases to have effect on the expiration of the period of one month after its issue.

(5) The provisions of the *Search Act 1977* apply to a search warrant issued under this section.

(6) The power conferred on a member of the Police Force by this section is in addition to and not in derogation of any other power conferred by law.

(7) Where the ownership of anything seized under this section cannot, at the time of seizure, be ascertained, the property seized shall be forfeited to the State and may be sold, destroyed or disposed of, as the Board thinks fit, after 90 days from the date of seizure if, within that time, it has not been possible after reasonable inquiry, to establish ownership of the property.

(8) A person found guilty of an offence relating to property seized under this section is liable to pay to the Board the reasonable costs of handling, securing, maintaining or storing the property, which costs may be assessed by the court and collected in like manner to a monetary penalty.

PART IX. – MISCELLANEOUS.***Division 1. – Interpretation.*****257. INTERPRETATION.**

In this Part –

“**licence**” includes a casino licence, gaming machine operator’s licence, a gaming machine technician’s licence; a gaming machine permit and a gaming machine special permit;

“**official**” includes a member of the Board, the Registrar or a gaming machine inspector;

“**operator**” means a casino operator or gaming machine operator.

Division 2. – Minors.**258. MINORS NOT PERMITTED TO PLAY GAMES.**

(1) An operator shall ensure that a person who has not attained the age of 18 years is not permitted to –

- (a) play a game authorized under this Act; or
- (b) enter or remain in an area designated as a gaming area under the conditions of a licence issued under this Act; or
- (c) operate a gaming equipment or machine; or
- (d) enter or remain in any area of a site which operates gaming equipment or machines.

Penalty: A fine not exceeding K10,000.00.

(2) A person who has not attained the age of 18 years shall not –

- (a) play a game authorized under this Act; or
- (b) operate a gaming equipment or machine,

after being warned by an operator or by an inspector not to enter or remain –

- (c) in an area designated as a gaming area under the terms of a licence issued under this Act; or
- (d) in any area of a site which operates gaming equipment or machines.

Penalty: A fine not exceeding K5,000.00.

Division 3. – Miscellaneous.**259. RECOVERY OF MONEY DUE TO BOARD.**

Any money due to the Board may be recovered by the Board as a debt in a court of competent jurisdiction.

260. PROSECUTION OF OFFENCES.

(1) Subject to the approval of the Public Prosecutor, the Board may prosecute any offence against this Act.

(2) A prosecution under this Act shall be made on indictment to the National Court.

(3) In any action brought under this Act by the Board or against the Board, the Court may award costs against any party or claimant other than the Board, which costs may be recovered by the Board as a debt due to the Board.

(4) Any fine or penalty or any default fine or penalty to be paid by a person as a result of an action brought by the Board is to be paid to the Board and, in addition to any other remedy, may be recovered by the Board as a debt due to the Board.

261. IMMUNITY AND NO RIGHT TO COMPENSATION FOR CANCELLATION, ETC.,.

(1) A member of the Board, a member of a committee of the Board, the Registrar or other officer or staff of the Board or Registrar is not personally liable for any act or default of himself or the Board or Registrar done or omitted to be done in good faith in the course of the operations of the Board or the functions of the Board or Registrar under this Act.

(2) No right to compensation enforceable against the Board or the State arises in relation to the cancellation, suspension or variation of the terms or conditions of a licence or permit, granted under this Act, or an amendment of the conditions of such a licence or permit under this Act.

262. FALSE OR MISLEADING INFORMATION.

(1) A person shall not –

- (a) in, or in relation to, any application made under this Act; or
- (b) in purported compliance with a requirement of a notice under this Act; or
- (c) in purporting to provide information under this Act that the person has been authorized to provide,

give information that is false or misleading in a material particular.

(2) A person, who contravenes Subsection (1), is guilty of an offence.

Penalty: A fine not exceeding K5,000.00 or imprisonment not exceeding two years, or both.

(3) It is a defence to a prosecution of a person for an offence under Subsection (2) if it is proved that, at the time the information was given, the person believed, on reasonable grounds –

- (a) in the case of false information – that the information was true; or
- (b) in the case of misleading information – that the information was not misleading.

263. FORGERY, ETC.,.

A person, who does any of the following, is guilty of an offence: –

- (a) forges or counterfeits a chip, chip purchase voucher, a licence under this Act, an inspector's form of identification or a special employee's form of identification; or
- (b) knowingly utters counterfeit chips or knowingly utters a forged or counterfeit chip, purchase voucher, a licence under this Act, inspector's form of identification or special employee's form of identification; or
- (c) personates the holder of a licence or form of identification; or
- (d) falsely represents himself to be an official under this Act; or
- (e) connives at any such forging, counterfeiting, uttering, personating or representing.

Penalty: A fine not exceeding K5,000.00 or imprisonment for a term not exceed two years, or both.

264. EVIDENCE.

In proceedings under this Act –

- (a) a document purporting to be a copy of, or extract from, a list of name current excluded persons under Section 87 on a specified day is evidence that those names were included in the list of names current under this Act on that day; and
- (b) a document purporting to be a copy of a direction, notice, order, requirement or decision given or made under this Act is evidence of the direction, notice, order, requirement or decision of which it purports to be a copy; and
- (c) a certificate purporting to be signed by a member of the Board and certifying that a particular person was or was not the holder of a particular licence under this Act on a particular day is evidence of the matter certified; and
- (d) a certificate purporting to be signed by a member of the Board and certifying as to the reasonable costs incurred by the Board in investigating and inquiring into an application for a licence is evidence of the matter certified; and
- (e) a certificate purporting to be signed by a member of the Board and certifying that at a particular time particular conditions were the conditions of a particular licence under this Act is evidence of the matter certified; and
- (f) a document purporting to be a copy of a licence under this Act is evidence of the licence of which it purports to be a copy; and
- (g) evidence that a person accepted service of a document is evidence of the authority of the person to accept service of the document.

265. OFFENCES BY BODIES CORPORATE.

(1) If a body corporate contravenes any provision of this Act, each person who is a director of the body corporate or who is concerned in the management of the body corporate is to be taken to have contravened the same provision if the person knowingly authorized or permitted the contravention.

(2) A person may be proceeded against and convicted under a provision pursuant to Subsection (1) whether or not the body corporate has been proceeded against or convicted under that provision.

(3) Nothing in this section affects any liability imposed on a body corporate for an offence committed by the body corporate against this Act.

266. FORFEITURE OF OFFENDING ARTICLES.

(1) If a person commits an offence under this Act involving the unlawful use or possession of any gaming equipment or any other article or thing, the court before which the person is convicted may order the equipment, article or thing to be forfeited to the State.

(2) The Registrar, an inspector or a police officer may seize and retain possession of any equipment, article or thing that he reasonably suspects is liable to forfeiture under this section.

267. CONFIDENTIALITY.

(1) Any information disclosed under this Act to the Minister, to a member of the Board, to the Registrar, to a member of the staff of the Board or to an inspector shall not be disclosed to any person who is not a member of the Board or the Registrar or a member of the staff of the Board or an inspector without the prior written approval of the person who provided that information, except –

- (a) to the extent that disclosure is authorized or required under this Act or any other law; or
- (b) to the extent that the person providing the information authorized its disclosure at the time or providing the information; or
- (c) to the extent necessary to enable the Registrar to publish statistical information concerning the subject matter of the functions of the Board; or
- (d) to the extent necessary to enable the Board to give advice to the Minister.

(2) A member of the Board or the Registrar or a member of the staff of the Board or an inspector who fails to comply with Subsection (1) or who uses, for his personal gain, any information disclosed under this Act, that comes to his knowledge in the course of or by reason or his membership of the Board or his employment as Registrar, a member of the staff of the Board or any inspector, is guilty of an offence.

Penalty: A fine not exceeding K5,000.00 or imprisonment for a term not exceeding two years, or both.

268. REGULATIONS.

(1) The Head of State, acting on advice, may make Regulations, not inconsistent with this Act, prescribing all matters that are required or permitted to be prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting the generality of Subsection (1), Regulations may be made prescribing –

- (a) fees and charges in respect of applications and the grant of permits, special permits and licences; and
- (b) penalties of fines not exceeding K5,000.00 or imprisonment for terms not exceeding two years for offences against the Regulations; and
- (c) in relation to a casino or premises in which gaming machines are installed –
 - (i) the area of unoccupied floor space to be provided adjacent to a machine; and
 - (ii) the level of lighting required; and
 - (iii) the provisions to be made for ventilation, frequency of air changes, provisions for removal of smoke or other polluted air; and
 - (iv) the minimum requirement for provision of beverage for customers; and
 - (v) the minimum requirement for the provision of food for customers; and
 - (vi) the provision of security; and
 - (vii) the provision of other forms of entertainment; and
 - (viii) prohibiting a class of persons from entering the premises; and
 - (ix) the hours of operation of casino or gaming machines; and
 - (x) the days when the premises shall be closed for business; and
- (d) in relation to lotteries –

- (i) the provision of lottery or totalizator services and the conditions to be complied with in relation to the use or conduct of a lottery or totalizator or in relation to wagers referred to in Part VII; and
- (ii) the furnishing of returns by persons using or conducting lotteries or totalizators, or taking wagers, referred to in Part VII, and by other persons connected with any such person; and
- (iii) imposition and rates of betting tax; and
- (iv) agreements or arrangements on overseas lottery products.

PART X. – TRANSITIONAL AND SAVINGS.**269. INTERPRETATION.**

For the purposes of this Part –

“**repealed Acts**” means the Acts repealed by Section 270;

“**former body**” means a former body established by or under the repealed Acts;

“**former Board**” means the National Gaming Control Board established by Section 3 of the *Gaming Machine Act 1993* (repealed).

270. REPEAL.

(1) The following Acts or parts thereof as are specified are repealed: –

- (a) *Bookmaking Act 1974*;
- (b) Bookmaking (Budget Provisions) Act 1992
- (c) *Criminal Code Act 1974* – Section 232, 233 and 234 only;
- (d) *Gaming Act 1959*; and
- (e) *Gaming Machine Act 1993*;
- (f) Gaming Machine (Amendment) Act 1995;
- (g) Gaming Machine (Amendment No. 2) Act 1996;
- (h) Gaming Machine (Budget Provision 1997) Act 1996;
- (i) Gaming Machine (Amendment) Act 1996;
- (j) Gaming Machine (Amendment) Act 1998;
- (k) Gaming Machine (Amendment) Act 1999;
- (l) Gaming Machine (Amendment) Act 2000;
- (m) Gaming Machine (Amendment) Act 2001;
- (n) Gaming Machine (Amendment No. 2) Act 2001;
- (o) Gaming Machine (Amendment) Act 2002;
- (p) *Summary Offences Act 1977* – Part VÉ only.

(2) Subject to this Act, the repeal effected by Subsection (1) does not –

- (a) revive anything (including a statute or any part of the underlying law) that was in force or existing immediately before the repeal took effect; or
- (b) affect the previous operations of the repealed provision or anything duly done or suffered under them; or
- (c) affect any right, privilege, obligation or liability acquired or incurred or offence committed against the repealed provisions; or
- (d) affect any investigation, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment, and any such investigation, legal proceeding or remedy may be instituted, continued or enforced, and the penalty, forfeiture or punishment may be imposed, as if the repealed provisions had continued in force.

271. SAVING OF REGULATIONS.

Regulations made under the repealed Acts, to the extent that they –

- (a) were in operation immediately before the coming into operation of this Act; and
- (b) are not inconsistent with this Act, are, on that coming into operation,

saved and continue in operation and may be amended or repealed.

272. SAVING OF LICENSE, ETC.,.

(1) Subject to Subsection (2), all licences, permits, special permits, instruments, authorizations, approvals, permits and directions made under the repealed Acts, whether national, provincial or municipal, for the carrying on of any type of game or gaming activity under the repealed Acts, to the extent that they –

- (a) were in operation immediately before the coming into operation of this Act; and
- (b) are not inconsistent with this Act,

are, on that coming into operation, saved and continue in operation until –

- (c) they expire; or
- (d) where no expiry term is provided, until the first anniversary of the coming into operation of this Act; or
- (e) are otherwise terminated according to law.

(2) If any term or condition of a licence, permit, special permit, instrument, authorization, approval or direction referred to in Subsection (1) conflict with, or is inconsistent with, any provision of this Act, the provisions of this Act shall prevail and the term or condition, to the extent of any inconsistency, shall be of no effect.

273. ACTIONS NOT TO ABATE.

Where immediately before the commencement of this Act, any action, arbitration or proceeding was pending or existing by or against a former body, it –

- (a) does not, on the commencement of this Act, abate or discontinue or in any way be affected by a provision of this Act; and
- (b) may be prosecuted, continued and enforced against or in favour of the Board as fully and effectually as if, instead of that former body, the Board had been a party to that action, arbitration or proceeding.

274. TRANSFER OF ASSETS, ETC.,.

(1) The assets of a former body (other than land held by the State), which, immediately before the coming into operation of this Act were occupied, held, owned or used by that former body, and all rights, obligations liabilities of that former body immediately before that coming into operation, are, on that coming into operation, transferred to and become the assets, rights, obligations and liabilities of the Board.

(2) The transfer to the Board of the assets, rights, obligations and liabilities to the Board under Subsection (1) is exempt from any stamp duty, fee, tax, charge or other duty payable under any Act.

275. SAVING OF CONTRACTS.

All contracts and agreements (other than contracts of employment) entered into, made with, or addressed to a former body, are, to the extent that they were, immediately before the coming into operation of this Act, binding on and of full force and effect against or in favour of the Board as fully and effectually as if, instead of that former body, the Board had been a party to them or bound by them or entitled to the benefit of them.

276. APPLICATION OF ACT.

Where an Act or other law (other than this Act) or any other document or instrument wherever made or executed, contains a reference, express or implied, to a former body, that reference, on the coming into operation of this Act, except where the context otherwise requires, is to be read and construed and have effect as a reference to the Board.

277. NO EFFECT ON PREVIOUS ACTS AND DECISIONS.

Nothing in this Act affects the validity of any act or decision done or made by a former body before the coming into operation of this Act, and every such act and decision will be taken to be valid and effectual and to have continuing effect despite anything in this Act.

278. REFERENCE TO REPEALED ACT, ETC.,.

A reference in any law or any instrument made under or in relation to a repealed Act shall, on and after coming into operation of this Act, unless the context otherwise requires, be read and construed as a reference to this Act or to the corresponding provision of this Act.

279. CONTINUATION OF BOARD.

Notwithstanding anything in this Act –

- (a) the member of the former Board; and
- (b) the Chairman of the former Board,

appointed and holding office as such immediately prior to the coming into operation of this Act, shall, on that coming into operation, continue to hold office, and may exercise the powers and functions of the Board and of the Chairman respectively under this Act as if appointed under this Act until the expiration of their terms of appointment or until the termination of their appointments according to law, whichever first occurs.

280. REGISTRAR AS CHIEF EXECUTIVE.

Notwithstanding anything in this Act, the Registrar of the former Board appointed and holding office as such immediately prior to the coming into operation of this Act, shall, on that coming into operation –

- (a) continue to hold office as Registrar; and
- (b) is the Chief Executive of the Board,

as if appointed under this Act until, irrespective of the term of his previous appointment, the expiration of the term referred to in Section 28(1)(b) computed from the coming into operation of this Act.

281. OTHER STAFF OF FORMER BOARD.

The staff of the former Board, appointed and holding office as such immediately prior to the coming into operation of this Act, shall, on that coming into operation, continue to hold office, and are deemed to hold equivalent positions under this Act, until appointments are made under this Act or until the termination of their appointments according to law, whichever first occurs.

282. REGISTERS UNDER REPEALED ACTS.

A Register established and maintained under a repealed Act shall, on the coming into operation of this Act, continue to be maintained and operated as if it was established under this Act until a similar or corresponding Register is established under this Act.

283. LIABILITY TO TAXES, DUTIES, FEES AND PAYMENTS UNDER THE REPEALED ACTS, ETC.,.

Where, immediately before the coming into operation of this Act, a person was under a repealed Act –

- (a) liable to pay any tax, duties or fees (by whatever name known); or
- (b) liable to make a payment or distribution of profits; or
- (c) liable to make returns in relation to any tax (by whatever name known),

such liability shall, notwithstanding that coming into operation, continue in existence until it is discharged in full.

Office of Legislative Counsel, PNG