

# AS TABLED IN THE HOUSE OF ASSEMBLY

A BILL

entitled

CASINO GAMING ACT 2014

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#### SCHEDULE 2

Persons to Whom Information May be Disclosed

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

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

### PART 1 PRELIMINARY

#### Citation

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

#### Interpretation

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

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“authorised person” means any person authorised to perform any function or duty under section 12(4);

“bank” means any bank licensed under the Banks and Deposit Companies Act 1999;

“barrister” means a barrister and attorney admitted and enrolled as a barrister and attorney under section 51 of the Supreme Court Act 1905;

“Bermuda Police Service” means the Bermuda Police Force referred to in section 102(1) of the Bermuda Constitution;

“cashless wagering system” means a method of wagering and accounting in which—

- (a) the validity and value of a wagering instrument or wagering credits are determined, monitored and retained by a computer operated and maintained by a casino operator which maintains a record of each transaction involving the wagering instrument or wagering credits, exclusive of the game or gaming device on which wagers are being made; or
- (b) computerised or electronic monitoring systems facilitate electronic transfers of money directly to or from a game or gaming device;

“casino” means any premises, or part of premises, within a designated site where persons may participate in one or more games approved by the Commission under section 91;

“casino employee” means an employee having functions in or in relation to a casino;

“casino licence” means a casino licence granted under section 38 that is in force;

“casino marketing arrangement” means an arrangement or marketing agreement whereby a person or a group of individuals is introduced to a casino operator by an international market agent who receives—

- (a) a commission based on the turnover of play in the casino attributable to the patron or patrons or otherwise derived from the play of the patron or patrons;
- (b) such other form of payment or rebate, monetary or otherwise, as may be prescribed;

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

“casino premises” means the casino premises referred to in section 42;

“Chairman” means the Chairman of the Commission;

“Chief Executive” means the Chief Executive of the Commission appointed under section 12 and includes any person acting in that capacity;



- “chip purchase voucher” means a voucher issued by a casino operator to a patron named in the voucher entitling the patron to be issued with chips of an equivalent value to that specified in the voucher;
- “chips” means any tokens used instead of money for the purpose of gaming and includes any voucher or other instrument that has a fixed dollar wagering value;
- “Commission” means the Bermuda Casino Gaming Commission established under section 6;
- “company” has the same meaning given in section 2(1) of the Companies Act 1981;
- “Council” means the Problem Gaming Council established under section 147;
- “court” means Magistrates’ Court;
- “designated site” means any parcel or parcels of land or any building or part thereof and the land on which it stands designated by the Minister under section 4 as a site on which a casino may be located;
- “Development Agreement” means an agreement in writing by a company to lease a designated site to a person (referred to hereinafter as the “lessee”) for the development of an integrated resort thereon by the lessee on the terms and conditions stated in the agreement, and includes any supplemental agreement or other document amplifying or modifying those terms and conditions;
- “disciplinary action” means disciplinary action that may be taken in respect of a casino operator under Part 3, or a special employee under Part 5;
- “electronic monitoring system” means any electronic or computer or communications system or device that is so designed that it may be used, or adapted, to send or receive data from gaming equipment in relation to the security, accounting or operation of gaming equipment;
- “electronic table game” means a gaming machine used for the purpose of playing a game traditionally played at tables, and includes any electronic device through which bets may be placed on a game played at a table;
- “employ” includes engage under a contract for services;
- “excluded person” means a person who is the subject of an exclusion order;
- “exclusion order” means an order under Part 6, or a family exclusion order under Part 10, barring a person from entering or remaining on the casino premises;
- “game” means a game of chance or a game that is partly a game of chance and partly a game requiring skill;
- “gaming equipment” means an electronic, electrical, or mechanical contrivance or machine or any device or thing (including chips) used, or capable of being used, for or in connection with gaming and includes—
- (a) a gaming machine;

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

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

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

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

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

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

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

“integrated resort ” means—

- (a) a development comprising hotel, retail, dining, entertainment, recreation and other facilities of which a casino may be a part;
- (b) a tourist resort comprising a hotel with not fewer than 200 rooms available for sleeping accommodation, retail, dining, entertainment, recreation and other facilities, and of which a casino may be a part;

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

“international market agent” means a person, other than an employee of a casino operator, a supplier of transportation or a travel agency which receives compensation for services solely on the price of the transportation or lodging arranged by the agency, who performs any function in relation to one or more casino marketing arrangements;

“international market agent licence” means a licence issued by the Commission to an international market agent under section 102;

“international market agent representative” means an individual who is employed by an international market agent to organise, promote or conduct a casino marketing arrangement on behalf of the international market agent;

“international market agent representative licence” means a licence issued by the Commission to an international market agent representative under section 102;

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

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

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

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

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

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

“member” means a member of the Commission;

“Minister” means the Minister responsible for gaming;

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

- (a) the conduct of gaming in the casino;
- (b) the management and supervision of the conduct of gaming in the casino;
- (c) money counting in, and in relation to, the casino;
- (d) accounting procedures in, and in relation to, the casino;
- (e) the use of storage areas within the casino premises; and

- (f) other matters affecting or arising out of activities in the casino;

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

- (a) the person who has entered into a Development Agreement to lease the designated site; or
- (b) the person who has entered into an operator agreement with the owner of an integrated resort to operate a casino on the designated site;

“patron” means any individual who—

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

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

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

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

“regulations” means regulations made under this Act;

“rules” means rules made under this Act;

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

“special employee” means a person, whether or not an employee of a casino operator, who—

- (a) is employed or working in a casino in a managerial capacity or who is authorised to make decisions, involving the exercise of his discretion, that regulate the operations of a casino; or
- (b) is employed or working in a casino in a supervisory capacity relating to any of the following activities—
  - (i) the conduct of gaming;
  - (ii) the movement of money or chips about the casino premises;
  - (iii) the exchange of money or chips to patrons of the casino;
  - (iv) the counting of money or chips on the casino premises;
  - (v) the security and surveillance of the casino;
  - (vi) the operation, maintenance, construction or repair of gaming equipment or systems;

- (c) is employed to perform any other activity relating to the operations of the casino that is specified by the Commission for the purposes of this definition by notice in writing given to the casino operator;

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

(2) In this Act—

- (a) a reference to a function includes a reference to a power, authority or duty; and
- (b) a reference to the exercise of a function includes, in relation to a duty, a reference to the performance of the duty.

Meaning of "associate"

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

(2) In determining whether a person is able or will be able to exercise the significant influence referred to in subsection (1), the Commission may consider all or any of the following—

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

(3) In this section—

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

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

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

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

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

#### Designated site

4 (1) For the purposes of this Act, the Minister, after consultation with the Commission, may, by order published in the Gazette—

- (a) designate any parcel of land or tourist resort as a site on which a casino may be located; and
- (b) extend any period under paragraph (a) for such further period as may be specified in the order.

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

#### Minister may revoke order for designated site in public interest

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

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

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

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

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

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

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

PART 2

BERMUDA CASINO GAMING COMMISSION

*Chapter 1 - Establishment, incorporation and constitution of Commission*

Establishment of Bermuda Casino Gaming Commission

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

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

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

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

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

Constitution of Commission

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

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

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

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

Objects of Commission

8 The principal objects of the Commission are to maintain and administer systems for the licensing, supervision and control of casinos, for the purpose of—

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

Functions and duties of Commission

9 (1) Subject to the provisions of this Act, the functions of the Commission shall be—

- (a) to receive and consider applications for a licence to operate a casino;
- (b) to investigate the suitability of applicants for licences and issue a licence where appropriate;
- (c) do all things it is authorised or required to do under this Act, including—
  - (i) supervising, regulating and inspecting the operations of casinos, the persons responsible for such operations and the conduct of gaming within the casinos;
  - (ii) ensuring that the handling, collection, disbursement and counting of money within casino premises is supervised;
  - (iii) detecting offences committed within casino premises or in relation to casinos;
  - (iv) receiving and investigating complaints from casino patrons concerning the conduct of gaming in the casino;
  - (v) investigating the suitability of applicants for licences;
  - (vi) checking casino records as required;
  - (vii) inspecting, testing and approving gaming equipment and chips used in casinos; and
  - (viii) preparing and giving to the Minister such reports concerning the operation of casinos and the conduct of gaming in them as the Commission thinks fit or as the Minister may request;



- (d) to assist with the detection and prevention of financial crime in relation to casinos;
- (e) in accordance with any statutory provision in that behalf, to manage exchange control matters and regulate transactions, in accordance with law, as required to comply with such provisions in casinos;
- (f) to make decisions regarding disciplinary action with respect to casino operators and special employees;
- (g) to perform such other functions as are conferred or imposed on the Commission by or under this Act or any other enactment.

(2) The Commission, in the course of its general responsibilities for the supervision, regulation and inspection of casinos shall have regard to the need for casinos to be alert to the risk that they may be used in connection with financial crime and to the consequent need to have appropriate arrangements in place to monitor and control its incidence.

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

#### Powers of Commission

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

- (2) Without prejudice to the generality of subsection (1), the Commission may—
- (a) conduct such investigations for grant of licences or compliance with licence conditions as may be necessary for enforcing this Act;
  - (b) require any person to furnish such returns and information as may be necessary for implementing the provisions of this Act;
  - (c) issue or approve codes of practice relating to casino operations;
  - (d) publish educational materials or carry out research or other educational activities relating to casino gaming, or to support (financially or otherwise) the carrying out by others of such activities or the provision by others of information or advice;
  - (e) enter into such contracts as may be necessary or expedient for the purpose of performing its functions or discharging its duties;
  - (f) acquire and hold property, both movable and immovable, and to sell, lease, or otherwise dispose of the property only in so far as the Commission considers necessary or expedient for the provision or future provision of business premises for the Commission or of any other requirement incidental to the performance of its functions under this Act;

- (g) make provision for pensions, allowances or other benefits for employees or former employees of the Commission; and
- (h) make provision for the specialised training of any employee of the Commission and, in that connection, to offer scholarships to intending trainees or otherwise pay for the cost of the training and all expenditure incidental thereto.

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

#### Appointment of committees and delegation of powers

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

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

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

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

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

#### *Chapter 3 - Provisions relating to staff and inspectors*

#### Appointment of Chief Executive and other employees, etc.

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

(2) The Chief Executive shall—

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

(3) If the Chief Executive is temporarily absent from Bermuda or temporarily incapacitated by reason of illness or for any other reason temporarily unable to discharge

his duties, another person may be appointed by the Commission to act in the place of the Chief Executive during any such period of absence from duty.

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

(5) Consistent with its approved budget, the Commission shall establish the remuneration, terms and conditions of employment of each member of the staff.

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

#### Functions of inspectors

13 The functions of an inspector are as follows—

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

#### Powers of inspectors

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

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

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

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

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

#### Power to require names and addresses

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

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

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

Seizure and forfeiture of equipment, etc.

- 16 (1) An inspector may seize and retain for a period not exceeding five days—
- (a) any thing that the inspector reasonably suspects is gaming equipment that is not authorised under this Act to be on the casino premises; or
  - (b) any article or thing relating to gaming the use or possession of which is unlawful.
- (2) An inspector may apply to a court within 10 days of the seizure of the item or upon completion of the investigation by an inspector in relation to any item seized under subsection (1) (whichever is the earlier) for an order that the item seized under that subsection be forfeited to the Commission.
- (3) The standard of proof required under this section shall be the balance of probabilities.
- (4) The court may, on such application, extend the time period referred to in subsection (2) as it considers appropriate to permit the inspector to complete the investigation.
- (5) On an application under subsection (2), the court—
- (a) shall give the person from whom an article or thing has been seized the opportunity to be heard and
  - (b) may, if satisfied that the item is a thing or article set out in subsection (1) (a) or (b), order that the item be forfeited to the Commission;
  - (c) if it is not satisfied as to the matters referred to in paragraph (b), order the return of the item to the person from whom it was seized.
- (6) Any item forfeited under this section shall be disposed of in accordance with any direction of the court.

#### *Chapter 4 - Financial provisions*

Funds and property of Commission

- 17 The funds and property of the Commission shall consist of—
- (a) such sums as may be appropriated by the Legislature;
  - (b) all fees, fines, composition sums and financial penalties paid under this Act;
  - (c) all moneys paid to the Commission for the purposes of the Commission;
  - (d) all moneys received by the Commission by way of charges and fees for services rendered by the Commission to any person;
  - (e) all moneys, dividends, royalties, interest or income received from any transaction made pursuant to the powers conferred on the Commission under this Act or any other enactment;

- (f) all other moneys and property lawfully received by the Commission for the purposes of the Commission; and
- (g) all accumulations of income derived from any such property or money.

Financial year

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

Moneys recovered or collected by Commission

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

Bank account

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

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

Application of moneys

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

Accounts and records

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

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

Audit of accounts

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

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

(3) The Commission shall, six months thereafter, prepare and submit the financial statements in respect of that year to the auditor who shall audit and report on them.

(4) The auditor shall in his report state—

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

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

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

#### Powers of auditor

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

(2) The auditor or any person authorised by him may make copies of, or take extracts from, any such accounting or other records.

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

(4) Any person who—

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

commits an offence and shall be liable on summary conviction to a fine not exceeding \$2,880.

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

25 (1) The Commission shall, as soon as its accounts and financial statements have been audited in accordance with the provisions of this Act, send to the Minister a copy of

the audited financial statements, signed by the Chairman, together with a copy of the auditor's report.

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

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

#### *Chapter 5 - General*

##### *Annual report*

26 (1) The Commission shall, as soon as practicable after the end of each financial year and not later than six months thereafter, cause to be prepared and transmitted to the Minister a report dealing generally with the activities of the Commission during the preceding financial year and containing such information relating to the proceedings and policy of the Commission as the Minister may, from time to time, direct.

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

##### *Symbol or representation of Commission*

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

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

### PART 3

#### LICENSING OF CASINOS

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

##### *Three casinos only*

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

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



Licensed casinos declared lawful

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

- (a) to conduct a game or use gaming equipment in a casino operated by or on behalf of a casino operator; and
- (b) to—
  - (i) play an authorised game in a casino; and
  - (ii) use approved gaming equipment or chips in the conduct and playing of an authorised game in the casino.

(2) The provisions of any other law shall not, unless it is expressly stated to the contrary, apply to the conduct and playing of a game and the use of gaming equipment when the game is conducted and the gaming equipment is provided in a casino by or on behalf of the casino operator.

Enforceability of gaming contracts

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

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

*Chapter 2 - Application for casino licence*

Operating casino without casino licence prohibited

31 (1) No person shall operate a casino without a valid casino licence.

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

(3) The court before which a person is convicted of an offence under this section shall, in addition to imposing on that person any other punishment, order the payment by him of a sum which is equal to his gross gaming revenue for the period that the offence was committed, and any such payment ordered shall be recoverable as a fine.

Application for casino licence

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

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

- (a) made to the Commission in a form approved by the Commission;
- (b) accompanied by the prescribed application fee which shall be non-refundable;

- (c) accompanied by such documents and information as may be required by the Commission as regards that licence application.

Matters to be considered in determining applications

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

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

- (a) each such person is of good repute, having regard to character, honesty and integrity;
- (b) each such person is of sound and stable financial background;
- (c) in the case of an applicant that is not a natural person, the applicant has, or has arranged, a satisfactory ownership or corporate structure;
- (d) the applicant has or is able to obtain financial resources that are adequate to ensure the financial viability of the proposed casino and the services of persons who have sufficient experience in the management and operations of a casino;
- (e) the applicant has sufficient business ability to establish and maintain a successful casino;
- (f) any of those persons has any business association with any person, body or association who or which, in the opinion of the Commission, is not of good repute having regard to character, honesty and integrity or has undesirable or unsatisfactory financial resources;
- (g) each director, partner, trustee, executive officer and secretary and any other officer or person determined by the Commission to be associated or connected with the ownership, administration or management of the operations or business of the applicant is a suitable person to act in that capacity;
- (h) any person proposed to be engaged or appointed to manage or operate the casino is a suitable person to act in that capacity;
- (i) the applicant is a suitable person to develop, maintain and promote the integrated resort (of which the casino is a part) as a compelling tourist destination which meets prevailing market demand and industry standards and contributes to the tourism industry in Bermuda; and
- (j) any other matter that may be prescribed.

Commission to form opinion on integrated resort

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

- (a) the visitor appeal of the casino;

- (b) the comparability of the casino or any part thereof to similar attractions or facilities internationally or to the prevailing industry standards in respect of each such attraction or facility;
  - (c) the degree to which the casino or any attraction or facility therein meets the prevailing market demand in respect of the integrated resort, attraction or facility; and
  - (d) the contribution of the casino to the tourism industry in Bermuda.
- (2) In formulating its opinion on the matters in subsection (1) in relation to any casino, the Commission shall call for and consider the views of the applicant for the casino licence and any party to the Development Agreement concerning that casino and may also do all or any of the following—
- (a) request the applicant for the casino licence to furnish one or more of the following—
    - (i) revenue and other financial information on the integrated resort, including itemised information about each attraction in the casino;
    - (ii) the reinvestment plans or maintenance plans for any part of the integrated resort;
    - (iii) any survey carried out about a performance indicator for any aspect of the integrated resort;
    - (iv) such other documents or information relating to the integrated resort as the evaluation panel may consider necessary;
  - (b) enter any part of the integrated resort and inspect it;
  - (c) call for and consider the views of persons with the necessary experience or expertise;
  - (d) assess the quality of the integrated resort, or any part thereof, against such performance indicators and standards, and using such methodology, as may be prescribed.
- (3) The Commission shall, upon the conclusion of its evaluation—
- (a) give its opinion on the matters in subsection (1); and
  - (b) state, in its opinion, when the next evaluation should be carried out.
- (4) The Minister may make regulations generally for the carrying out of or giving effect to the purposes of this section, and may prescribe anything required or permitted to be prescribed under this section.

#### Investigation of application

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

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

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

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

Commission may require further information, etc.

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

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

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

Updating of application

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

- (2) If—
- (a) the Commission requires information (including information in any records) from a person referred to in section 36 whose association with the

applicant is in the opinion of the Commission relevant to the application;  
and

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

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

(3) Any person who fails to comply with subsection (1) or (2) commits an offence and shall be liable on summary conviction to a fine not exceeding \$2,880.

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

### *Chapter 3 - Grant or refusal etc. of casino licence*

#### Grant or refusal of casino licence

38 (1) The Commission shall determine an application for a casino licence by either granting or refusing the application and shall notify the applicant in writing of its decision.

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

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

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

#### Casino licence fee

39 (1) A casino operator shall pay to the Commission a casino licence fee of such amount, at such times and in such manner as may be prescribed.

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

#### Renewal of casino licence

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

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

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

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

#### Amendment of conditions

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

(2) An amendment may be proposed—

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

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

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

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

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

#### Commission to define casino premises

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

(2) The Commission may, from time to time, redefine the boundaries of the casino premises, within the designated site for which the casino licence is granted, as the Commission thinks fit and may do so of its own motion or on the application of the casino operator.

(3) An application for the redefining of the boundaries of the casino premises shall be accompanied by the prescribed fee.

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

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

Duration of casino licence

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

Mortgage, etc., of casino licence

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

(2) Transfer of a casino licence is not permitted.

*Chapter 4 - Disciplinary action against casino operator*

Disciplinary action against casino operator

45 In this Act, unless the context otherwise requires—

“appropriate” means effective, proportionate and dissuasive; and

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

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

Grounds for disciplinary action: casino operator

46 The following are grounds for disciplinary action in respect of a casino operator—

- (a) that the casino licence was improperly obtained in that, at the time the casino licence was granted or renewed, there were grounds for refusing it;
- (b) that the casino operator, a person in charge of the casino, an agent of the casino operator or a casino employee has contravened a provision of this Act or a condition of the casino licence;
- (c) that the casino premises are, for specified reasons, no longer suitable for the conduct of casino operations;
- (d) the casino operator is, for specified reasons, in the opinion of the Commission no longer a suitable person to hold the casino licence having regard to the matters in section 35(2);
- (e) the casino operator has failed to comply with a direction under section 58(6) within the time referred to in that subsection to terminate an association with an associate;
- (f) the casino operator has failed to provide information that it is required by this Act to provide or has provided information knowing it to be false or misleading or reckless as to whether it is so.

Penalty pursuant to disciplinary action

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

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

Procedure to be followed as regards disciplinary action

- 48 (1) The powers and functions of the Commission in relation to disciplinary action in respect of a casino operator shall be to—

- (a) appoint one of its members to conduct inquiries into and investigations of complaints, in accordance with the Rules, that there may be grounds for disciplinary action against a casino operator, to determine whether a prima facie case requiring discipline has been made out against the casino operator complained against;
- (b) where the member who conducts the inquiry determines that a prima facie case for disciplinary action has been made out he shall refer the complaint to be heard by the Commission, but the member who investigated the complaint may not sit to hear the complaint;
- (c) pursuant to the hearing, take such informal or formal disciplinary action set out in section 45 against the casino operator as the Commission thinks fit.

(2) Where, pursuant to a preliminary investigation, the Commission decides to conduct a hearing, the Commission shall—

- (a) within 14 days after its decision, serve a notice on the casino operator concerned specifying the alleged ground of disciplinary action;
- (b) give the casino operator the opportunity to be heard.

(3) The standard of proof required in proceedings before a disciplinary tribunal shall be the same as that required in criminal proceedings.

(4) For the purpose of conducting a hearing, the Commission shall have all the powers of a court of summary jurisdiction in relation to the summoning of witnesses, their examination on oath or otherwise and to compelling the production of any document or thing relevant to the subject matter of the proceedings.



(5) A decision of the Commission shall be reached by a majority of the members conducting the hearing.

(6) In deciding whether a casino operator has failed to comply with a requirement of this Act or the regulations made hereunder, the Commission shall consider whether the casino operator followed any relevant guidance or code of practice which was at the time—

- (a) issued by the Commission;
- (b) approved by the Commission; and
- (c) published to the casino operator.

#### Surrender of casino licence

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

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

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

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

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

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

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

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

(6) A manager—

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

(e) may employ such staff as may be required to operate the casino.

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

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

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

#### Appeals

51 A casino operator who is aggrieved by any decision regarding the operator's licence, or any disciplinary action imposed on him by the Commission, may, within 21 days after such disciplinary action is so imposed, appeal to the Supreme Court against such decision.

### PART 4

#### SUPERVISION AND CONTROL OF CASINO OPERATORS

##### *Chapter 1 - Directions, investigations, etc.*

#### Directions to casino operator

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

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

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

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

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

(6) Where a casino operator has been subject to disciplinary action under subsection (5) (referred to in this section as the first disciplinary action) and continues to

fail to comply with the direction of the Commission, such failure shall constitute a fresh ground of disciplinary action for every day or part thereof that the failure continues after the first disciplinary action.

General investigations

53 (1) The Commission may investigate a casino from time to time and at any time that the Commission thinks it desirable to do so and, if it is directed to do so by the Minister, shall investigate the casino.

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

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

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

Regular investigations of casino operator's suitability, etc.

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

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

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

Casino operator to provide information

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

- (a) to provide the Commission or an authorised person, in accordance with directions in the notice, with such information relevant to the casino

operator or that association or to the casino, or with such information as the Commission requires, as is specified in the notice;

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

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

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

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

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

#### Change in situation of casino operator

56 (1) In this section—

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

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

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

(2) A casino operator shall—

- (a) take all reasonable steps to ensure that a major change in the situation existing in relation to the casino operator which is within the casino

operator's power to prevent occurring does not occur except with the prior approval in writing of the Commission;

- (b) where paragraph (a) does not apply, notify the Commission in writing of any major change in the situation existing in relation to the casino operator within 3 days after the casino operator becomes aware of the change; and
- (c) notify the Commission in writing of any minor change in the situation existing in relation to the casino operator within 14 days after becoming aware that the change has occurred.

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

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

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

the casino operator shall be deemed to have complied with subsection (2) (a) if such application is made or such notice is given, as the case may be; or

- (b) in any other case, the Commission shall inquire into the change to determine whether it is satisfied that the person is a suitable person to be associated with the management of a casino having regard to the matters in section 33(2) and if it is not so satisfied, shall take such action as it considers appropriate under this Act.

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

#### Change in situation of associate

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

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

#### On-going monitoring of associates and others

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

- (a) an associate, or a person likely to become an associate, of a casino operator; or
  - (b) any person, body or association having a business association with a person referred to in paragraph (a).
- (2) A casino operator shall notify the Commission in writing that a person is likely to become an associate within ten business days after the casino operator becomes aware of the likelihood.
- (3) If the Commission, having regard to the relevant matters referred to in section 33(2), determines that an associate is unsuitable to be concerned in or associated with the business of the casino operator, the Commission may, by notice in writing, request the casino operator to terminate the association with the associate.
- (4) If the Commission determines that an associate of a casino operator has engaged or is engaging in conduct that, in the Commission's opinion, is unacceptable for a person who is concerned in or associated with the ownership, management or operation of the business of the casino operator, the Commission may—
  - (a) issue a written warning to the casino operator that the conduct is unacceptable; or
  - (b) give written notice to the casino operator requiring the operator to give a written undertaking to the Commission, within the period specified in the notice, that he will address the concerns regarding the conduct of the business with the associate.
- (5) If the casino operator fails to give an undertaking required under subsection (4)(b) or breaches an undertaking given under that subsection, the Commission may give the casino operator written notice requesting the casino operator to terminate, within 14 days or a longer period agreed with the Commission, the association with the associate.
- (6) If the association is not terminated within 14 days from the date of the notice referred to in subsection (3) or (5) or any longer period agreed with the Commission, the Commission may, by notice in writing, direct the casino operator to take all reasonable steps to terminate the association and the casino operator shall comply with the direction within 14 days or any longer period agreed with the Commission.
- (7) The Commission may—
  - (a) require an associate or a person likely to become an associate to consent to having his photograph, palm prints and finger prints taken; and
  - (b) send a copy of such photograph, palm prints and finger prints and any supporting documents to the Commissioner of Police.
- (8) The Commissioner must ensure that information or other matters collected under this section shall be maintained as confidential information, not to be used for any other purpose than the purpose provided in this section.
- (9) Any casino operator who fails to comply with subsection (2) or (6) shall be liable to disciplinary action.

*Chapter 2 - Contracts*

Application and interpretation of this Chapter

59 (1) In this Chapter—

“controlled contract”, in relation to a casino operator, means—

- (a) a contract that relates wholly or partly to the supply of goods or services for the operations of the casino or to any other matter that is prescribed as a controlled matter for the purposes of this definition;
- (b) a contract above a prescribed value; or
- (c) any class of contract prescribed as a controlled contract for the purposes of this definition,  
but does not include a contract that relates solely to—
  - (i) the construction of the casino premises;
  - (ii) any other class of matter prescribed as not being controlled matter for the purposes of this definition;
  - (iii) a class of contract of a kind approved under subsection (2); or
  - (iv) any other class of contract prescribed as not being a controlled contract for the purposes of this definition;

“notifiable contract” means a contract of a class or type prescribed as a notifiable contract for the purposes of this Chapter but does not include a controlled contract;

“supply of goods or services” includes the supply of intangible goods, assets and intellectual property rights.

(2) Regulations may specify that they apply to contracts generally or to the classes of contracts specified in the regulations.

Requirements for controlled contracts

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

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

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

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

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

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

#### Notifiable contracts

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

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

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

#### Suspension of contracts

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

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

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

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



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

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

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

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

#### Effect of suspension of contract

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

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

#### No effect to be given to suspended contract

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

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

## PART 5

### SPECIAL EMPLOYEES

#### *Chapter 1 - Interpretation and licensing*

#### Interpretation of this Part

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

#### Special employees to be licensed

66 (1) A person shall not exercise in or in relation to a casino any of the functions of a special employee except in accordance with the authority conferred on the person by a special employee licence.

(2) Every licensee shall exercise the functions specified in his special employee licence in accordance with the provisions of this Act and the conditions of the special employee licence.

(3) A casino operator shall not—

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

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

(4) Any person who contravenes subsection (1) commits an offence.

#### Application for special employee licence

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

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

(2) If the applicant is a natural person, the Commission may—

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

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

(4) An application for a special employee licence may not be made by a person who is under 18 years of age or is a person within a class of persons prescribed as being ineligible to apply for a special employee licence.

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

#### Direction to apply for special employee licence

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

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

#### Updating of application for special employee licence

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

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

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

Commission may require further information

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

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

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

Investigation and determination of application

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

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

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

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

Conditions of special employee licence

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

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

#### Identification

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

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

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

#### Provisional licences

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

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

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

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

#### Duration of special employee licence

75 A special employee licence remains in force for a period of five years unless any of the following happens first—

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

#### Renewal of special employee licence

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

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

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

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

Loss, etc., of special employee licence

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

### *Chapter 2 - Disciplinary Action against special employees*

Interpretation

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

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

Disciplinary action against special employee: grounds

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

- (a) that the special employee licence was improperly obtained in that, when it was granted, there were grounds for refusing it;
- (b) that the licensee has been convicted—
  - (i) of an offence under this Act;
  - (ii) of an indictable offence arising out of or in connection with the employment of the licensee under this Act; or
  - (iii) whether in Bermuda or elsewhere, for an offence involving dishonesty or moral turpitude;
- (c) that the licensee has contravened a provision of this Act or a condition of his special employee licence;
- (d) that the licensee has failed to provide information that he is required by this Act to provide or has provided information knowing it to be false or misleading or reckless as to whether it is so;
- (e) that for any reason, the licensee is, in the opinion of the Commission, no longer a suitable person to hold a special employee licence, having regard to the matters in section 71(1);

- (f) the special employee has failed to provide information that it is required pursuant to section 70(1) or elsewhere in this Act to provide or has provided information knowing it to be false or misleading or reckless as to whether it is so.

Procedure to be followed as regards disciplinary action concerning special employee  
80 (1) The powers and functions of the Commission in relation to disciplinary action in respect of a special employee shall be to—

- (a) appoint one of its members to conduct inquiries into and investigations of complaints that there may be grounds for disciplinary action against a special employee in accordance with the Rules, to determine whether a prima facie case of improper conduct has been made out against the special employee complained against;
- (b) take such informal or formal disciplinary action in accordance with the Rules after investigating such a complaint, where the Committee determines that a prima facie case has been made out against a special employee complained against;
- (c) the member who conducted the inquiry shall make any necessary administrative arrangements, in accordance with the Rules, for the presentation of a complaint before other members of the Commission, where formal measures are taken by the Commission in respect of a complaint.

(2) Where the member who conducts the enquiry determines that a prima facie case for disciplinary action has been made out and disciplinary action is appropriate, he shall, refer the complaint to the Commission.

(3) The standard of proof required in proceedings before a disciplinary tribunal shall be the same as that required in criminal proceedings.

(4) For the purpose of conducting a hearing, the Commission shall have all the powers of a court of summary jurisdiction in relation to the summoning of witnesses, their examination on oath or otherwise and to compelling the production of any document or thing relevant to the subject matter of the proceedings.

(5) A decision of the Commission may be reached by a majority of the members of that tribunal.

(6) The member of the Commission who has participated in the preliminary investigation of disciplinary action against a special employee is prevented by that reason from considering whether disciplinary action should be taken against that casino operator.

(7) In deciding whether a special employee has failed to comply with a requirement of this Act or the regulations made hereunder, the Commission shall consider whether the employee followed any relevant guidance or code of practice which was at the time—

- (a) issued by the Commission;
- (b) approved by the Commission; and

- (c) given to the special employee.

Disciplinary action against special employee: penalty

81 (1) The Commission may impose a financial penalty in accordance with this Chapter of such amount not exceeding \$10,000 for each ground of disciplinary action as it considers appropriate on a special employee who fails to comply with any requirement of this Act or regulations made hereunder that attracts disciplinary action.

(2) The Commission may, pursuant to a hearing, impose any of the following penalties on a special employee against whom a ground for disciplinary action is made out—

- (a) the service of a written notice on the licensee censuring him for any action specified in the notice;
- (b) suspension of the special employee licence for a specified period;
- (c) cancellation of the special employee licence;
- (d) cancellation of the special employee licence and disqualification from obtaining or applying for a special employee licence under this Part for a specified period.

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

Suspension of licence pending disciplinary action

82 (1) In any case where—

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

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

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



Effect, etc., of suspension

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

Return of special employee licence on suspension or cancellation

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

(2) Any person who fails to comply with subsection (1) commits an offence and shall be liable on summary conviction to a fine not exceeding \$2,880.

Termination of employment on cancellation of special employee licence

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

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

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

Casino operator to provide information relating to employees

86 (1) A casino operator—

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

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

Special employees to provide information, etc., to Commission

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

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

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

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

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

Change in situation of licensee

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

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

Appeals

89 A special employee who is aggrieved by any decision regarding his special employee licence, or any disciplinary action imposed by the Commission under this Act, may, within 21 days after such disciplinary action is so imposed, appeal to the Supreme Court against such decision.

PART 6  
CASINO OPERATIONS

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

Casino layout to comply with prescribed requirements

- 90 (1) A casino operator shall, in relation to its casino—
- (a) ensure that the casino layout of the casino complies with such requirements as may be prescribed; and
  - (b) notify the Commission before making any changes to the casino layout.
- (2) Any casino operator which contravenes subsection (1) shall be liable to disciplinary action.

Approval of games and rules for games

- 91 (1) The Commission may—
- (a) by a notice in writing issued to a casino operator, approve the games that may be played in the casino of the casino operator, the mode of play and the rules for those games; and
  - (b) publish the list of games, mode of play and rules for those games approved for the time being for each casino on the official website of the Commission.
- (2) The Commission may, under subsection (1), give approvals that differ according to differences in time, place or circumstances.
- (3) A casino operator shall not permit a game to be conducted or played in a casino unless—
- (a) the game has been approved by the Commission under subsection (1);
  - (b) the game is conducted or played in accordance with the mode of play and rules of the game approved by the Commission; and
  - (c) the game is conducted or played on behalf of the casino operator by a licensed special employee.
- (4) A person shall not conduct a game in a casino or permit a game conducted by him to be played in a casino, unless—
- (a) the game has been approved by the Commission under subsection (1); and
  - (b) the game is conducted or played in accordance with the mode of play and rules of the game approved by the Commission.
- (5) Any casino operator who contravenes subsection (3) shall be liable to disciplinary action.
- (6) Any person who contravenes subsection (4)—

- (a) shall be liable to disciplinary action, in the case of a licensed special employee; or
- (b) commits an offence and is liable on conviction to a fine not exceeding \$200,000, in any other case.

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

#### Directions as to games not to be played

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

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

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

#### Approval of gaming equipment

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

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

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

- (a) the possession is for the purposes of an investigation under this section; or
- (b) the equipment is identifiable in a manner approved by the Commission and is in a casino with the approval of the Commission or the circumstances of its possession are such as have been approved by the Commission generally or in a particular case.

#### Gaming machines in casinos

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

- (a) the gaming machine has been obtained from an approved gaming vendor;
- (b) the gaming machine is approved, or one of a class of gaming machines approved by the Commission, and complies with such technical standards and other requirements as may be prescribed;

- (c) where the gaming machines are required to be tested and certified, the testing has been carried out by an approved test service provider approved by the Commission as a gaming vendor under section 95; and
- (d) the number of gaming machines available for gaming in the casino does not exceed such number as the Commission may determine.

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

#### Approval of gaming vendors

95 (1) Any person who intends to—

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

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

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

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

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

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

#### Simulated gaming

96 (1) A casino operator may conduct gaming on a simulated basis only if all of the following conditions are satisfied—

- (a) the simulated gaming is for the purpose of training casino employees, testing gaming equipment or gaming procedures or demonstrating the conduct and playing of games;
- (b) the casino operator has notified the Commission in writing at least seven days before the commencement of the simulated gaming;
- (c) no cash or chips are used in the course of the simulated gaming;
- (d) no winnings in money or money's worth are kept by any person as a result of any game played in the course of the simulated gaming.

(2) In a case where any of the conditions in subsection (1) cannot be satisfied at any simulated gaming to be conducted by a casino operator, the casino operator shall not conduct that simulated gaming unless—

- (a) it has obtained the prior written approval of the Commission; and
- (b) the simulated gaming is conducted in accordance with such conditions as the Commission may impose in its approval.

(3) Despite the provisions of any other law, the possession and use of gaming equipment as authorised by subsection (1) or (2) is lawful.

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

#### *Chapter 2 - Gaming measures*

##### **Linked jackpot arrangement unlawful without approval**

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

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

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

(3) Any casino operator or a licensed special employee who contravenes subsection (1) shall be liable to disciplinary action.

(4) In deciding whether a special employee has failed to comply with a requirement of this Act or regulations, the Commission shall consider whether the employee followed any relevant guidance or code of practice which was at the time—

- (a) issued by the Commission;
- (b) approved by the Commission; and
- (c) published to the special employee.

##### **Assistance to patrons**

98 (1) A casino operator shall—

- (a) display a notice in accordance with the directions of the Commission informing patrons where a copy of the rules for games under section 91 may be inspected;
- (b) display prominently in the casino—
  - (i) the advice or information concerning those rules, the mode of payment of winning wagers and the payout odds of each winning wager; and

- (ii) such other advice or information to the player as the Commission directs; and
  - (c) display prominently at each gaming table or location related to the playing of a game, a sign indicating the permissible minimum and maximum wagers pertaining to the game played there.
- (2) A casino operator shall allow a patron to inspect a copy of the rules for games on request.
- (3) Any casino operator who fails to comply with subsection (1) or (2) shall be liable to disciplinary action.

Operation of security equipment, etc.

- 99 (1) A casino operator shall ensure that all casino installations, equipment and procedures for security and safety purposes are used, operated and applied in accordance with the directions of the Commission.
- (2) Any casino operator who fails to comply with subsection (1) shall be liable to disciplinary action.

Credit, etc.

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

- (a) accept a wager made otherwise than by means of money or chips;
  - (b) lend money or any valuable thing;
  - (c) provide money or chips as part of a transaction involving a credit card; or
  - (d) extend any other form of credit.
- (2) A casino operator may establish for a person a casino deposit account to which is to be credited the amount of any deposit to the account comprising any one or more of the following:—
  - (a) money;
  - (b) a cheque payable to the casino operator;
  - (c) chips.
- (3) The casino operator may issue to a person who establishes a deposit account and debit to the account chip purchase vouchers, cheques, chips or money, not exceeding in total value the amount standing to the credit of the account at the time of issue of the vouchers, cheques, chips or money.

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

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

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

(6) The casino operator—

- (a) shall, within the time specified by the Commission by notice in writing given to the casino operator for the purposes of this subsection, deposit with an authorised bank a cheque accepted by the casino operator under this section; and
- (b) shall not agree to the redemption of such a cheque for the purpose of avoiding compliance with paragraph (a).

(7) Any—

- (a) casino operator which contravenes subsection (1) or (6);
- (b) licensed special employee or licensed international market agent representative who contravenes subsection (1); or
- (c) licensed international market agent which or who contravenes subsection (1),

shall be liable to disciplinary action.

(8) Every casino operator shall be liable for every act, omission, neglect or default of any agent of the casino operator or casino employee under this section, as fully and effectually as if the act, omission, neglect or default were done or committed by the casino operator.

(9) Every licensed international market agent shall be liable for every act, omission, neglect or default of any agent or employee of the licensed international market agent under this section, as fully and effectually as if the act, omission, neglect or default were done or committed by the licensed international market agent.

(10) Nothing in subsection (8) or (9) shall affect any liability of the agent of the casino operator, casino employee or agent or employee of the licensed international market agent by the operation of any other law.

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



- (a) is drawn on an account of any bank for a specific amount payable on demand; and
- (b) is dated but not post-dated.

Automatic teller machines prohibited within casino premises

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

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

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

Persons required to be licensed as international market agent or international market agent representative

102 (1) Subject to subsection (3), no person shall perform any of the functions of an international market agent unless that person holds a valid licence granted by the Commission to be an international market agent or an international market agent representative.

(2) The functions of an international market agent are any of the following—

- (a) organising or conducting a casino marketing arrangement;
- (b) giving chips on credit to any patron participating in a casino marketing arrangement;
- (c) such other function related to a casino marketing arrangement as may be specified in the regulations made under section 103.

(3) Regulations made under section 103 may specify any persons or class of persons who are not required to be licensed as an international market agent or an international market agent representative.

(4) If, in the opinion of the Commission—

- (a) any person, by reason of his remuneration or function in relation to any casino marketing arrangement, is performing a function of an international market agent or an international market agent representative; or
- (b) the commission or other payment received by any person forms part of a series of such commission or other payments that may reasonably be considered to have been arranged for the purpose of avoiding the requirement to be licensed as an international market agent or an international market agent representative,

the Commission may, by a notice in writing given to the person, require that person to apply for the appropriate licence within the period specified in the notice.

(5) Any person who contravenes subsection (1) commits an offence and shall on summary conviction be liable to a fine not exceeding \$25,000 or to a term of imprisonment not exceeding 12 months or to both such fine and imprisonment.

(6) Any casino operator which allows the organisation or conduct of, or is a party to, any casino marketing arrangement with an unlicensed international market agent shall be liable to disciplinary action.

(7) The Commission may give a direction to a casino operator to cease any further business association with—

- (a) an unlicensed international market agent; or
- (b) a person who failed to comply with a notice requiring him to apply for a licence under subsection (4), from such date as may be specified in the direction,

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

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

103 (1) An application to be licensed as an international market agent or an international market agent representative shall be made in the form and manner prescribed and shall be accompanied by—

- (a) such fee as may be prescribed; and
- (b) such documents and information as may be prescribed.

(2) The Commission may grant an international market agent licence or international market agent representative licence if, and only if, it is satisfied that the criteria specified in the regulations made under this section are met.

(3) The Commission may give a written direction to a casino operator or a licensed international market agent, or to both, that relates to the organisation or conduct of a casino marketing arrangement, including a direction as to the maximum commission or other payment which may be paid by any casino operator to a licensed international market agent for organising or conducting the casino marketing arrangement.

(4) Any casino operator or licensed international market agent which or who fails to comply with any direction under subsection (3) shall be liable to disciplinary action.

(5) The Minister may, after consultation with the Commission, make regulations for or with respect to—

- (a) regulating or prohibiting the organisation and conduct of casino marketing arrangements;
- (b) the licensing of international market agents and international market agent representatives;

- (c) the obligations of licensed international market agents in relation to patrons participating in a casino marketing arrangement; and
  - (d) the obligations of casino operators in relation to international market agents and patrons participating in a casino marketing arrangement.
- (6) Without prejudice to the generality of subsection (5), the regulations may —
  - (a) impose restrictions on who may be eligible to organise or conduct a casino marketing arrangement;
  - (b) prescribe the procedure for the application for any licence;
  - (c) prescribe the fees to be charged;
  - (d) require the international market agent or the casino operator concerned to give the Commission advance notice of a casino marketing arrangement and to furnish to the Commission detailed information concerning the conduct of and the arrangements for any casino marketing arrangement;
  - (e) require any contract or other agreement that relates to the organisation or conduct of a casino marketing arrangement to be in a form, and to contain provisions, approved by the Commission;
  - (f) require the international market agent or the casino operator concerned to give specified information concerning a casino marketing arrangement to patrons participating in the casino marketing arrangement;
  - (g) require the international market agent or the casino operator concerned to give the Commission advance notice of, and such specified information as the Commission may require about, any casino marketing arrangement, including the patrons participating in the casino marketing arrangement;
  - (h) require the international market agent to establish and implement a system of internal controls in accordance with prescribed requirements;
  - (i) prescribe anti-money-laundering requirements;
  - (j) regulate the conduct of licensed international market agents and licensed international market agent representatives and provide for disciplinary action against them, including a financial penalty not exceeding —
    - (i) \$400,000 against any licensed international market agent; and
    - (ii) \$10,000 against any licensed international market agent representative; and
  - (k) provide that any contravention of any provision of the regulations shall be an offence punishable on summary conviction with a fine not exceeding \$100,000 or with imprisonment for a term not exceeding 12 months or with both.

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

104 (1) Notwithstanding any provision of this Act or the regulations made under section 103, in any case where it appears to be necessary to the Commission to prevent any threat to the security of the public or of casino operations, the Commission may, subject to the person being given the opportunity to be heard—

- (a) suspend the licensed international market agent or licensed international market agent representative concerned, pending the conclusion of any investigation or disciplinary proceedings against that licensed international market agent or licensed international market agent representative; or
  - (b) if the Commission thinks it necessary in the public interest that the licensed international market agent or licensed international market agent representative concerned should immediately cease to perform any function in relation to any casino marketing arrangement, cancel the licence of that international market agent or international market agent representative.
- (2) Any—
- (a) international market agent who is aggrieved by any suspension or cancellation of his or its international market agent licence under subsection (1); or
  - (b) international market agent representative who is aggrieved by any suspension or cancellation of his international market agent representative licence under subsection (1),

may, within 21 days after the licence is suspended or cancelled, appeal to the Supreme Court.

(3) If the licence of any international market agent is suspended or cancelled under this section, the licence of every international market agent representative employed by that international market agent shall also be suspended for the same period or cancelled, as the case may be.

### *Chapter 3 - Disputes between casino operator and patron*

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

105 (1) Where a casino operator and a patron of the casino are unable to resolve to the satisfaction of the patron any dispute as to alleged winnings, alleged losses or the manner in which a game is conducted, the casino operator shall—

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

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

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

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

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

#### Reconsideration of inspector's decision

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

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

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

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

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

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

#### Payment of claim after decision

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

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

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

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

Appeal to Court

108 A person who is aggrieved by a decision made against him by the Commission under section 107 may, within 30 days of being notified of the decision, appeal to the court.

*Chapter 4 - Entry to, exclusion from, casino premises*

Right of entry to casino premises

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

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

Entry of inspector to casino premises

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

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

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

Entry of police officer, etc., to casino premises

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

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

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

Exclusion orders by casino operator

- 112 (1) A casino operator may make an exclusion order in relation to a person—
- (a) at the request of that person; or
  - (b) if the casino operator believes, on reasonable grounds, that the person—
    - (i) is affecting the orderly functioning of the operations of the casino;
    - (ii) appears to be cheating, or attempting to cheat, in the casino;
    - (iii) the casino operator is otherwise satisfied that the making of the order is appropriate in the circumstances.
- (2) A voluntary request by a person under subsection (1)—
- (a) shall be in writing and
  - (b) signed by the requestor in the presence of a person authorised by the casino operator to witness such a request.
- (3) As soon as practicable after a casino operator gives an exclusion order under this Part, the casino operator shall notify the Commission of that order.
- (4) An exclusion order made by a casino operator may only relate to premises of, or the business conducted by, that casino operator.
- (5) An appeal against an order made under this section may be made to the Commission.

Exclusion orders by Commission

- 113 (1) The Commission may make, or confirm or vary an exclusion order made by a casino operator, in respect of a person—
- (a) at the request of that person;
  - (b) if there is a reasonable apprehension that the person may suffer harm, or may cause serious harm to family members, because of problem gambling;
  - (c) if the Commission is satisfied as to any of the matters set out in section 112(1); or
  - (d) the Commission is satisfied that the making of the order is appropriate in the circumstances.
- (2) An appeal against an order made under this section may be made to the court.

Duration of exclusion orders

- 114 (1) Subject to this section, an exclusion order made under this Part remains in force in respect of a person unless and until it lapses or is revoked by the person who gave the order or on appeal.
- (2) An exclusion order remains in force during the period specified in the order, being—

- (a) in the case of an order made by the Commission, a period of not more than one year from the date on which the order is made; or
  - (b) in any other case, a period of three months from the date on which the order is made.
- (3) An exclusion order made at the request of the excluded person may specify a minimum period (being not more than six months) during which the order must remain in force.
- (4) If a casino operator makes an exclusion order or receives a request to make an exclusion order, the casino operator shall—
  - (a) make a record of the order or request in a manner and containing the particulars required by the Commission; and
  - (b) within seven days after making the order or making a decision to refuse the request, notify the Commission of the order or decision in a manner, and containing the particulars, required by the Commission.
- (5) A person who has been given an exclusion order under this section and is aggrieved thereby may appeal to the court.

#### Variation or revocation of exclusion order

115 The Commission may make an order varying or revoking an exclusion order under this Part at any time; provided that, in a case where the order was made by the casino operator or Commission at the request of the excluded person, the order may not be revoked, or be varied so as to limit in any way its application, unless it has been in force for the minimum period set out in the exclusion order.

#### List of persons excluded by casino operator

- 116 (1) The Commission may, from time to time, require a casino operator to furnish a list of persons excluded from the casino premises by the casino operator.
- (2) The Commission shall keep and maintain a written record containing—
    - (a) the prescribed particulars in respect of—
      - (i) exclusion orders; and
      - (ii) requests for exclusion orders that are refused;
    - (b) any other information that, in the opinion of the Commission, is relevant to exclusion of persons from gambling activities or casinos.
  - (3) Information referred to in subsection (2) shall be treated as confidential information and may only be disclosed for the purposes of this Act.
  - (4) A person who discloses information contrary to subsection (3) commits an offence against this Act.
  - (5) The entry of a person's name in the record of excluded persons is, unless the contrary is proved, evidence that he is an excluded person.



Excluded person not to enter casino premises

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

(2) Any person who is subject to an exclusion order made under this Part who contravenes the order commits an summary offence and is liable on summary conviction to a fine not exceeding \$2,500.

Casino operator to bar excluded persons from casino premises

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

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

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

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

Removal of excluded persons from casino premises

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

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

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

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

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

Forfeiture of winnings

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

(2) If a person to whom this section applies enters or remains on any casino premises in contravention of this Act, all winnings (including linked jackpots) paid or payable to the person in respect of gaming on gaming machines or playing any game approved under this Act in the casino are forfeited to the Consolidated Fund.

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

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

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

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

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

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

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

*Chapter 5 - Prohibited acts within casino premises*

Conduct within casino premises

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

- (a) illegal gaming activities;
- (b) unlicensed moneylending or related activities;
- (c) drunken, disorderly or riotous behaviour;

- (d) activities related to the organisation or conduct of casino marketing arrangements by persons who are neither licensed international market agents nor licensed international market agent representatives;
  - (e) unlawful acts under the Misuse of Drugs Act 1972;
  - (f) soliciting for the purpose of prostitution or for any other immoral purpose.
- (2) Any casino operator who fails to comply with subsection (1) shall be liable to disciplinary action.

## PART 7 MINORS

### Interpretation of this Part

122 In this Part—

- “acceptable proof of age” for a person means documentation that might reasonably be accepted as applying to the person and as proving that the person is at least 18 years of age;
- “child” means a minor who is under the age of 16 years;
- “minor” means a person who is below the age of 18 years;
- “young person” means a minor who is between the age of 16 years and 18 years.

### Minors not to enter casino premises

- 123 (1) A minor shall not enter or remain, or take part in any gaming, on any casino premises.
- (2) Any minor who contravenes subsection (1) commits an offence.

### Casino operator to bar minors from casino premises

- 124 (1) A casino operator shall not permit a minor to enter or remain on the casino premises.
- (2) If a minor is on the casino premises, the casino operator shall immediately notify an inspector who shall forthwith notify the appropriate authority.
- (3) Any casino operator who contravenes subsection (1) or (2) shall be liable to disciplinary action.
- (4) It is lawful for the person for the time being in charge of a casino, an agent of the casino operator or a casino employee to request a security guard or police officer to remove the minor or cause the minor to be removed from the casino premises, using no more force than is reasonably necessary.
- (5) It is a defence to disciplinary action for a contravention of subsection (1) or (2) if it is proved that before the minor entered the casino premises or while the minor was on the casino premises, the casino operator—

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

Entry of minors to be prevented

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

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

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

Proof of age may be required

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

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

(2) A person who—

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

commits an offence.

Minor using false evidence of age

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

Notices to be displayed

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

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

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

Penalty

129 (1) Where the minor is a child, he may only be prosecuted before a Family Court, and where the child is convicted before that court, the court may impose the following penalties with respect to the child as hereinafter provided and in no other way—

- (a) the court may make an order for the absolute discharge of the child;
  - (b) the court may make an order for the conditional discharge of the child;
  - (c) the court may impose a fine, not exceeding \$168.
- (2) Where the minor is a young person, the Family Court may impose on him, —
- (a) any penalty set out in subsection (1) (a) or (b) that may be imposed on a child by that court;
  - (b) a fine not exceeding \$2,880; or
  - (c) such community based sentence, as the Court sees fit.

PART 8

CASINO INTERNAL CONTROLS

Approved system of controls to be implemented

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

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

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

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

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

Banking

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

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

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

Customer due diligence measures to combat money laundering and terrorism financing

132 (1) A casino operator shall, in the following circumstances, perform such customer due diligence measures to detect or prevent money laundering and the financing of terrorism as may be set out in regulations made under this Act—

- (a) when the casino operator opens a patron account;
- (b) when the casino operator enters into a cash transaction with a patron involving \$10,000 or more in a single transaction;
- (c) when the casino operator receives a sum of \$5,000 or more in a single transaction to be deposited in a patron account;
- (d) when the casino operator has a reasonable suspicion that a patron is engaged in any money laundering or terrorism financing activity;
- (e) if the casino operator has doubts about the veracity or adequacy of any information previously obtained about a patron;
- (f) when carrying out such other activities, or under such other circumstance, as may be prescribed.

(2) A casino operator shall not proceed with the opening of any casino patron account or with any transaction for any patron account, or with any cash transaction or deposit, as the case may be—

- (a) if the casino operator is unable to complete the applicable customer due diligence measures for any reason;
- (b) if the patron in question is unable or unwilling to provide any information requested by the casino operator, or decides to withdraw the application for the opening of the patron account or withdraw the cash transaction or deposit when requested to provide information; or
- (c) under such other circumstances as may be prescribed.

(3) A casino operator shall keep all records obtained through the customer due diligence measures taken under subsection (1), including (but not limited to) all copies or records of any identification document, accounts and business correspondence, as well as the results of any analysis undertaken.

(4) Regulations made under this Act relating to money laundering or terrorist financing may provide for penalties for breach or contravention thereof.

(5) A casino operator shall have regard to such customer due diligence measures as may be set out in the Proceeds of Crime Act 1997, the Anti-Terrorism (Financial and Other Measures) Act 2004 and any regulations made thereunder.

Accounts to be kept

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

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

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

Statement of accounts

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

- (a) a profit and loss statement or statement of comprehensive income (or its equivalent) for the financial year; and
- (b) a statement of its financial position (or its equivalent) as at the end of the financial year that gives a true and fair view of the financial operations of the casino operator in relation to the casino.

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

Assessment by Commission

135 (1) Notwithstanding any other provisions of this Act, if the Minister has reason to believe that any amount of fees has been incorrectly computed by a licensee or when any licensee fails in any month to submit to the Minister a statement in accordance with section 133, the Minister may assess the amount of fees, if any, payable by the licensee as may, in the circumstances, appear proper to the Minister under the provisions of this Act.

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

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

Keeping of records

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

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

(c) available for inspection by an inspector at any time during that period.

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

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

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

#### Audit

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

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

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

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

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

#### Special audit

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

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

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

(2) A casino operator to whom a notice under subsection (1) is directed shall engage, at its own expense, a public accountant approved by the Commission to be the



special auditor to conduct the special audit in accordance with the terms of reference and within the time specified in the notice.

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

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

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

#### Submission of reports

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

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

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

### PART 9

#### CASINO TAX

##### Payment of casino tax

140 (1) A casino operator shall deliver to the Commission, for payment to the Tax Commissioner, a casino tax in accordance with the Miscellaneous Taxes Act 1976 in relation to the time during which the casino operator holds a casino licence.

(2) The amount of casino tax payable under subsection (1) shall be such percentage of the gross gaming revenue for the month from any player as shall be prescribed under the Miscellaneous Taxes (Rates) Act 1980.

##### Meaning of "gross gaming revenue"

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

##### Monthly tax returns

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

General Reserve

143 (1) The Commission shall establish and maintain a General Reserve to which, subject to subsection (2), there shall be transferred at the end of each year an amount representing the net profit or from which there shall be deducted an amount representing the net loss of the Commission after taking into account the expenses of its operation and after provision has been made for bad and doubtful debts, depreciation in assets and other contingencies.

(2) Transfers to the General Reserve pursuant to subsection (1) shall be made in the manner following—

- (a) so long as that Reserve amounts to less than ten per cent of the demand liabilities of the Commission at the end of the year in which any net profit was earned the whole of such net profit shall be transferred to that Reserve;
- (b) so long as that Reserve is equal to or exceeds ten per cent, but is less than 15 per cent of such liabilities, there shall be transferred to that Reserve one half of the net profit or such smaller amount as will make the Reserve equal to 15 per cent of the said liabilities;
- (c) where that Reserve is equal to or exceeds 15 per cent of the said liabilities, further transfers may be made with the agreement of the Minister.

(3) Where any net profit remains after provision is made pursuant to subsections (1) and (2) the Commission may, with the approval of the Minister, apply any portion thereof for the purpose of subscribing the paid up capital of the Commission and the remainder of such net profit shall be transferred to the Consolidated Fund.

(4) If in any year the Commission should make a net loss which exceeds the amount of the General Reserve at the end of that year, a sum equivalent to the amount by which such net loss exceeds that Reserve shall be paid to the Commission from the Consolidated Fund.

(5) For the purposes of subsection (2), “demand liabilities” does not include demand deposits placed with the Commission which consist of public funds.

Casino tax: regulations

144 (1) The Minister, after consultation with the Minister of Finance, may make regulations—

- (a) prescribing the returns, declarations, statements or forms to be submitted by a casino operator to the Commission relating to casino tax, and the time and manner of such submissions;
- (b) prescribing the time and manner of payment of the casino tax;
- (c) prescribing the records to be kept by a casino operator to determine the gross gaming revenue from players (or otherwise) for each month;
- (d) prescribing the treatment of losses, including the carrying forward or set-off of losses, in respect of gross gaming revenue;

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

#### Responsibility of Tax Commissioner

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

(2) The Tax Commissioner, with the approval of the Minister of Finance may, in writing, authorise the Commission to assist with respect to audits of equipment or other functions relating to the casino tax payable by a casino operator pursuant to the provisions of this Act.

## PART 10

### PROBLEM GAMING COUNCIL

#### *Chapter 1 - Interpretation*

#### Interpretation of this Part

146 In this Part, unless the context otherwise requires—

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

“chairman” means the chairman of the Council;

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

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

- (a) a spouse of the respondent;

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

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

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

### *Chapter 2 - Establishment and functions of Problem Gaming Council*

#### Establishment of Council

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

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

#### Functions of Council

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

- (a) to do all the things it is authorised or required to do under this Part; and
- (b) to appoint a panel of assessors to decide on applications for the exclusion of persons from casino premises to be made; and
- (c) publish educational materials or carry out research or other educational activities relating to casino gaming, or to support (financially or otherwise) the carrying out by others of such activities or the provision by others of information or advice.

(2) The Council may appoint a secretary to the Council and such other officers as may be required to enable the Council to carry out its functions under this Part.

(3) Every summons and notice issued under the hand of the secretary to the Council to any person shall be deemed to be issued by the Council.

(4) The Council may, subject to the provisions of this Part, regulate its own procedure.

(5) The Council shall not transact any business unless a quorum is present.

(6) The chairman, if present, shall preside at all meetings of the Council.

(7) Where the office of chairman is vacant or the chairman for any reason is unable to attend a meeting, such other member as the members present shall elect shall preside at the meeting.

(8) The Council may appoint from among its own members such number of committees as it thinks fit, and may, subject to such conditions or restrictions as it may impose, delegate to any such committee any of the functions or powers of the Council under this Part, except the power of delegation conferred by this subsection.

(9) Any function or power delegated under subsection (8) to any committee may be performed or exercised by the committee to whom it has been delegated in the name and on behalf of the Council.

(10) No delegation under subsection (8) shall prevent the performance or exercise of any function or power by the Council.

#### Validity of Council's actions

149 (1) The Council may, subject to section 148(5), transact its business notwithstanding any vacancy among its members.

(2) The proceedings or any decision of the Council shall be valid notwithstanding any defect in the appointment of its members or that some person who was not entitled to do so took part in its proceedings.

### *Chapter 3 - Family exclusion orders*

#### Grounds for making a family exclusion order

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

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

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

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

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

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

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

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

#### Dismissal of complaints or deferral of consideration

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

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

#### Committee of Assessors for making family exclusion orders

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

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

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

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

#### Committee to hear and determine applications for family exclusion orders

153 (1) A Committee shall—

- (a) hear and determine in accordance with this Part all complaints for family exclusion orders referred to the Committee;

- (b) give the person complained against the opportunity to be heard before it determines any complaint for a family exclusion order in respect of him.
- (2) Sitings of a Committee shall be held at such places and times as the chairman of the Committee may determine.
- (3) A Committee shall have the power to—
  - (a) summon any person whom it may consider able to give evidence to attend at the hearing of an application; and examine such person as a witness;
  - (b) require any person to furnish such information or produce such document, record or article in the possession or under control of that person as the Committee considers relevant for the purposes of the proceedings; and
  - (c) inspect, keep or make copies of such record, document or article.
- (4) Every person examined as a witness by or before a Committee or required to furnish any information or produce any document, record or article by a Committee shall, subject to the conditions set out in subsection (5), be legally bound to state the truth and to produce such records, documents or articles as the Committee may require for the purposes of carrying out its functions and duties under this Part.
- (5) The conditions referred to in subsection (4) are that the Committee is not entitled to require a person to produce information or produce any document, record or article requested by the Committee—
  - (a) consisting of or including items subject to legal privilege; or
  - (b) in breach of any enactment or rule of law relating to confidentiality of medical information or any rule of practice relating to client confidentiality.
- (6) A statement made by a person in compliance with a requirement imposed by this section may not be used in evidence against him in criminal proceedings.
- (7) Subsection (6) does not apply on a prosecution for perjury.
- (8) In proceedings under this Part, a Committee is to decide questions of fact on the balance of probabilities.
- (9) A Committee shall not be bound by the strict rules of evidence and shall determine the conduct of its proceedings.
- (10) At any meeting of a Committee under this Part—
  - (a) three members of the Committee shall be personally present to constitute a quorum; and
  - (b) any question arising at the meeting of the Committee shall be determined by a majority of votes of the members present and, in the case of an equality of votes, the chairman of the Committee shall have a casting vote.
- (11) A person who is aggrieved by a decision in relation to a family exclusion order or provisional family exclusion order under this Part may appeal to the court in respect of the decision.

Complaints

- 154 (1) A complaint may be made to the Council.
- (2) A complaint under subsection (1) shall be made in writing in the form approved from time to time by the Council.
- (3) A complaint may be made by—
- (a) a family member of the respondent adversely affected by the respondent's problem gambling; or
  - (b) any other person on behalf of a person referred to in paragraph (a).
- (4) The complainant shall inform the Council of any other proceedings brought by the complainant against the respondent that are either determined or pending.
- (5) On the making of a complaint, the Council may exercise any powers vested in the Council for the purposes of proceedings before the Council.

Application by or on behalf of person under 18 years

- 155 A complaint that could otherwise be made by a person under this Part may, if the person is below the age of 18 years, be made—
- (a) by the person, with the permission of the Council, if the person is at least 16 years of age; or
  - (b) on behalf of the person by—
    - (i) a parent or guardian of the person; or
    - (ii) with the permission of the Council, any other family member or other relative of the person who satisfies the Council that he has a proper interest in the welfare of the child and with whom the child normally or regularly resides.

Application on behalf of incapacitated applicant

- 156 Where a person is unable to make an application (whether by reason of physical or mental infirmity or for any other reason), the application may be made on his behalf—
- (a) with the permission of the Council, by any family member or other relative of the person; or
  - (b) by any person appointed by the Minister.

Terms of family exclusion order

- 157 (1) A family exclusion order shall specify the period during which it is in force.
- (2) Without limiting the matters that may be the subject of a family exclusion order, an order may do one or more of the following—
- (a) refer the respondent to participate in a programme of counselling, rehabilitation or special education or any combination of these;



- (b) bar the respondent from entering or remaining, on any casino premises;
- (c) require the respondent to close any deposit account in a casino;
- (d) require a casino operator to close any deposit account of the respondent with the casino.

Provisional family exclusion order

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

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

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

- (a) the date of the conclusion of the hearing to which the respondent is summoned or, if the hearing is adjourned, the conclusion of the adjourned hearing;
- (b) the 28th day after the date of the making of the provisional family exclusion order, or such later date as the Committee may determine in any particular case.

Making family exclusion order in respondent's absence

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

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

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

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

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

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

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

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

#### Conduct of proceedings

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

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

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

#### Variation or revocation of family exclusion order, by Council

161 (1) The Council may confirm, vary or revoke—

- (a) a family exclusion order made on by—
  - (i) a complaint by a family member for whose benefit the family exclusion order was made; or
  - (ii) an application by the respondent; or
- (b) an exclusion order on an application by the respondent.

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

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

- (a) require the respondent to undergo an assessment of harm caused by gambling, including a clinical assessment if necessary, by a suitably qualified person appointed by the Council for this purpose;
  - (b) require any person to furnish such information or produce such document or record in the possession or under the control of that person as the Council considers relevant to its determination; and
  - (c) inspect, keep or make copies of such document or record.
- (4) The Council shall, before confirming, varying or revoking an order under this section, allow the respondent and, in the case of a family exclusion order, a family member for whose benefit the order was made, a reasonable opportunity to be heard on the matter.
- (5) The members of the Council who sit as a committee to hear and determine the complaint for a family exclusion order shall not sit to hear and determine an application to vary or revoke such order.

#### Service of family exclusion order

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

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

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

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

#### List of excluded persons

163 (1) The Council shall establish, maintain and regularly update a list of excluded persons which sets out the names and particulars of every person (referred to collectively in this section as excluded persons under this Part) who, for the time being is excluded from any casino premises by a family exclusion order or a provisional family exclusion order or by selfexclusion.

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

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

- (a) the Commission;

- (b) the Commissioner of Police; and
  - (c) every casino operator.
- (4) Subsection (5) applies in the following circumstances—
- (a) the cessation, revocation or setting aside of any family exclusion order or provisional family exclusion order made against any person whose name is on the list of excluded persons; or
  - (b) the cessation of any exclusion order.
- (5) Where the circumstances in subsection (4) are satisfied, the Council shall—
- (a) remove the name and particulars of the person from the list of excluded persons; and
  - (b) notify the persons referred to in subsection (3) of the removal.
- (6) Without prejudice to subsection (4) and (5), the Council may, from time to time, vary or update the list of excluded persons—
- (a) to correct any clerical or other error in the names or particulars therein;
  - (b) to add the names and particulars of new persons to the list; or
  - (c) to update any of the names or particulars therein in order that they remain sufficient to identify any excluded person,
- and the Council shall notify the persons referred to in subsection (3)(a), (b) and (c) of those variations and updates.
- (7) It shall be a defence to any disciplinary action against a casino operator for permitting an excluded person under this Part to enter or remain on the casino premises if it is proved that—
- (a) before the person entered the casino premises or while the person was on the casino premises, there was produced to the casino operator or to its agent or employee acceptable documentary proof of the person's identity; and
  - (b) at that time, the person named in the acceptable documentary proof and particulars were not on the list of excluded persons furnished by the Council to the casino operator.
- (8) It shall be lawful for the person for the time being in charge of a casino, an agent of the casino operator or a casino employee to refuse entry to, or remove or cause to be removed from the casino premises using no more force than is reasonably necessary, any person whose name and particulars are at that time on the list of excluded persons furnished or notified by the Council to the casino operator.

Secrecy of proceedings of Council

- 164 (1) The proceedings of the Council shall be secret.

(2) No member of a Committee shall disclose or divulge to any person, other than—

- (a) the Minister;
- (b) any member or officer of the Council; or
- (c) any officer of the Commission,

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

#### Rules

165 (1) The Minister may make such rules as may be necessary or expedient to give effect to the provisions and purposes of this Part and for the due administration thereof.

(2) Without prejudice to subsection (1), the Minister may make rules to prescribe—

- (a) the procedure for the conduct of any proceedings by the Council;
- (b) the procedure for the conduct of any proceedings by a Committee;
- (c) the forms necessary for the administration of this Part; and
- (d) any fees for an application and other charges for the purposes of this Part.

### PART 11

#### CASINO ADVERTISING

##### Casino advertising and promotions

166 (1) Subject to subsection (2), no person shall carry out any advertising or promotional activities relating to a casino except with the approval of the Commission and in accordance with regulations made for such purpose.

(2) Regulations made for the purposes of this section may—

- (a) specify the types of advertising and promotional activities for which approval is required; and
- (b) specify the persons or class of persons who shall be required to comply with this section.

##### Penalty

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

PART 12  
GENERAL OFFENCES

Prohibited items

168 (1) A person shall not use any device for the purpose of enabling the person or some other person to count or otherwise record cards dealt in the course of gaming in the casino.

(2) A person shall not, whether in a casino or elsewhere—

- (a) use as genuine chips that he knows or has reason to believe to be counterfeit chips;
- (b) have in his possession chips that he knows or has reason to believe to be counterfeit chips, intending that the same may be used as genuine; or
- (c) sell, buy or otherwise deal in chips that he knows or has reason to believe to be counterfeit chips, intending that the same may be used as genuine.

(3) A person shall not, in any casino or within any designated site, use or have in his possession or under his control—

- (a) any device, machine, implement or other material—
  - (i) for the purpose of counterfeiting chips, or knowing or having reason to believe that the same is intended to be used for that purpose; or
  - (ii) that he knows or has reason to believe is or has been specially designed or adapted for the making of counterfeit chips;
- (b) cards, dice or coins that he knows or has reason to believe have been marked, loaded or tampered with;
- (c) any equipment, device or thing that permits or facilitates cheating or stealing; or
- (d) such other thing as may be prescribed.

(4) A person shall not, in any place outside a designated site, have in his possession or under his control any of the things in subsection (3)—

- (a) knowing or having reason to believe that the device, machine, implement or material is or has been specially designed or adapted for the making of counterfeit chips; and
- (b) with the intention that he or someone else will use the device, machine, implement or material to make counterfeit chips.

(5) Any person who contravenes subsection (1), (2) or (3) or (4) commits an offence and shall be liable on conviction on indictment to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding seven years or to both.

Unlawful interference with gaming equipment

- 169 (1) A person shall not, whether in a casino or elsewhere—
- (a) be in possession of any device made or adapted, or intended by the person to be used, for improperly interfering with gaming equipment;
  - (b) do any act or thing calculated, or likely, to improperly interfere with gaming equipment; or
  - (c) insert, or cause to be inserted, in a gaming machine any thing other than Bermuda currency or currency that is legal tender in Bermuda or a gaming token of the denomination or type displayed on the gaming machine as a gaming token to be used in order to operate or gain credit on the gaming machine.
- (2) Any person who contravenes subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding seven years or to both.
- (3) If a police officer believes on reasonable grounds that a person has committed an offence under subsection (1), the police officer may search the person for any device or thing that the police officer or inspector suspects was used in the commission of the offence.
- (4) Nothing in subsection (3) shall authorise any police officer to remove, or require a person to remove, any of the person's clothing, and a search of a person's clothing being worn by the person may only be done by a police officer of the same sex as the person.

Cheating at play

- 170 (1) A person shall not, in relation to the playing of any game in a casino, obtain or attempt to obtain any money or advantage for himself or any other person—
- (a) by a fraudulent trick, device, sleight of hand or representation;
  - (b) by a fraudulent scheme or practice;
  - (c) by the fraudulent use of gaming equipment or any other thing; or
  - (d) by placing a bet in a game after the result of the game is known.
- (2) Any person who contravenes subsection (1) commits an offence and shall be liable on summary conviction to a fine not exceeding \$150,000 or to imprisonment for a term not exceeding seven years or to both.
- (3) Any person who colludes with another person to do any act in contravention of subsection (1) commits an offence and shall be liable on summary conviction to be punished with the punishment provided for the offence under subsection (2).
- (4) If a police officer or an inspector believes on reasonable grounds that a person has committed, or colluded in the commission of, an offence of contravening subsection (1), the police officer may search the person for any device, gaming equipment, implement or material that the police officer or inspector suspects was used in the commission of the offence.

(5) Nothing in subsection (4) shall authorise any police officer or inspector to remove, or require a person to remove, any of the person's clothing, and a search of a person's clothing being worn by the person may only be done by a police officer or an inspector of the same sex as the person.

Possession of chips outside designated site

171 (1) A person shall not, except in a casino, have in his possession chips.

(2) Any person who knowingly contravenes subsection (1) commits an offence and shall be liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding two years or to both.

Forgery and counterfeiting

172 (1) No person shall—

- (a) forge or counterfeit chips, a chip purchase voucher, a match play coupon, a licence under this Act or a special employee's form of identification; or
- (b) use as genuine a forged or counterfeit chip purchase voucher, match play coupon, licence under this Act or special employee's form of identification, knowing or having reason to believe the same to be forged or counterfeit.

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

- (a) on summary conviction to a fine of \$10,000 or to imprisonment for five years, or both; and
- (b) on conviction on indictment to a fine of \$100,000 or to imprisonment for ten years, or both.

Impersonation

173 (1) No person shall impersonate—

- (a) the holder of a special employee licence; or
- (b) an inspector; or
- (c) any other person lawfully performing functions or duties under this Act.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable on summary conviction to a fine not exceeding \$25,000 or to imprisonment for a term not exceeding 3 years or to both.

Entering casino on false pretences

174 Any person who enters any casino by pretending to be some other person, or by using another person's identification document, commits an offence and shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding three years or to both.



Refusal to provide information, etc.

175 (1) Any person who—

- (a) fails, without reasonable excuse, to produce for inspection any machinery, equipment, record or thing in the possession or under the control of the person when required to do so by an inspector or a police officer in the performance of his functions under this Act; or
- (b) fails, without reasonable excuse, to attend before an inspector or a police officer and answer questions or supply information when required to do so by the inspector or police officer in the performance of his functions under this Act,

commits an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding two years or to both.

(2) If a person is charged with an offence under subsection (1) in respect of a requirement to produce a document, it shall be a defence for him to prove that—

- (a) the document was not in his possession or under his control; and
- (b) it was not reasonably practicable for him to comply with the requirement.

Destroying or falsifying documents

176 Any person who, having been required to produce a document to the Commission, an inspector or an authorised person under this Act—

- (a) intentionally or recklessly destroys or otherwise disposes of it, falsifies it or conceals it; or
- (b) causes or permits its destruction, disposal, falsification or concealment,

commits an offence and shall be liable on conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding two years or to both.

False or misleading information

177 (1) Any person who provides information to the Commission, a police officer, an inspector or any authorised person in connection with any application to the Commission or any function or duty of the Commission, police officer, inspector or authorised person under this Act commits an offence if—

- (a) the information is false or misleading in a material particular; and
- (b) he knows that it is false or misleading in a material particular or is reckless as to whether it is so.

(2) A person who—

- (a) provides any information to another person, knowing the information to be false or misleading in a material particular; or
- (b) recklessly provides any information to another person which is false or misleading in a material particular,

knowing that the information is to be used for the purpose of providing information to the Commission, a police officer, an inspector or any authorised person in connection with any application to the Commission or any function or duty of the Commission, police officer, inspector or authorised person under this Act, commits an offence.

(3) Any person who commits an offence under subsection (1) or (2) shall be liable on summary conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding two years or to both.

Obstructing officer of Commission, etc.

178 Any person who refuses to give access to, or obstructs, hinders or delays—

- (a) any member, officer, employee or agent of the Commission authorised to act for or assist the Commission;
- (b) any inspector or person assisting an inspector; or
- (c) any authorised person,

in the discharge of his duties under this Act commits an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding two years or to both such fine or imprisonment.

Prosecution of offences

179 (1) Offences against this Act, unless otherwise provided, shall be prosecuted before a court of summary jurisdiction.

(2) Notwithstanding section 452 of the Criminal Code Act 1907, summary proceedings for an offence under this Act may be commenced at any time within three years from the time when the offence was committed.

## PART 13

### ENFORCEMENT POWERS AND PROCEEDINGS

Detention of suspected person

180 (1) A person who is—

- (a) for the time being in charge of a casino;
- (b) an agent of the casino operator; or
- (c) a casino employee,

and who suspects on reasonable grounds that a person within the casino premises is committing, attempting to commit or has committed any offence under Part 12 or under a prescribed provision of this Act may detain the suspected person in a suitable place on or near the casino premises until the arrival at the place of detention of a police officer or an inspector.

(2) A person may not be detained under this section unless—

- (a) no more force is used than may be reasonably necessary;
- (b) the person detained is informed of the reasons for the detention; and
- (c) the person effecting the detention immediately notifies a police officer or an inspector of the detention and the reasons for the detention.

Powers of enforcement

181 (1) In addition to the powers conferred on him by this Act or any other enactment, an inspector or authorised person may, for the purposes of investigating any offence or contravention of a provision of this Act which may result in disciplinary action, do all or any of the following—

- (a) require any person whom he reasonably believes to have committed that offence or contravention to furnish evidence of the person's identity;
- (b) require any person to furnish any information or produce any record, document or copy thereof in the possession of that person, and may, without fee, inspect, copy or make extracts from such record or document;
- (c) require, by order in writing, the attendance before the inspector or authorised person of any person in Bermuda who, from any information given or otherwise obtained by the inspector or authorised person, appears to be acquainted with the circumstances of the case;
- (d) examine orally any person who appears to be acquainted with the facts and circumstances of matters under this Act—
  - (i) whether before or after that person or anyone else is charged with an offence, or disciplinary proceedings are commenced, in connection with the matter; and
  - (ii) whether or not that person is to be called as a witness in any inquiry, trial or disciplinary proceedings in connection with the matter.

(2) An inspector or authorised person is not entitled to require a person to produce information or produce any document or record—

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

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

(4) Subsection (3) does not apply on a prosecution for perjury.

(5) A statement made by any person examined under this section shall—

- (a) be reduced to writing;
- (b) be read over to him;

- (c) if he does not understand English, be interpreted for him in a language that he understands; and
- (d) after correction, if necessary, be signed by him.

(6) If any person fails to attend as required by an order under subsection (1)(c), the inspector or authorised person may report such failure to a Magistrate who may thereupon issue a warrant to secure the attendance of that person as required by the order.

(7) Any person who—

- (a) wilfully mis-states or without lawful excuse refuses to give any information or produce any record, document or copy thereof required of him by an inspector or authorised person under subsection (1); or
- (b) fails to comply with a lawful demand of an inspector or authorised person in the discharge by such inspector or authorised person of his duties under this Act or any other enactment,

commits an offence and shall be liable on conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding two years or to both.

No right to compensation for cancellation, etc.

182 Subject to section 5, no right to compensation enforceable against the Commission arises in relation to the cancellation, suspension or variation of the terms of any licence or approval, or an amendment of the conditions of any licence or approval, under this Act.

Grant of licence or approval a revocable privilege

183 For the avoidance of doubt, any licence or approval granted under this Act is a revocable privilege.

Investigations of suitability

184 (1) Where the Commission is required to be satisfied that any applicant for a licence or an approval, or any other person connected to the application, is suitable or qualified for the purposes of the licence or approval, the burden of proving that suitability or qualification shall be on the applicant and each other person connected to the application, as the case may be.

(2) For the purposes of meeting any costs arising out of investigations in connection with the suitability of any person to be granted or to continue to hold a licence or an approval, the Commission may, by notice in writing, require the applicant for or the holder of any licence or approval granted under this Act to furnish to the Commission a deposit or pre-payment of such amount as may be prescribed.

Security deposit

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

purpose of meeting any financial penalty arising out of any disciplinary proceedings commenced or likely to commence against the holder of the licence or approval.

(2) The Minister may make regulations with respect to the matters set out in subsection (1).

#### Enforceable undertakings

186 (1) The Commission may accept a written undertaking given by a holder of any licence or approval granted by the Commission under this Act (referred to in this section as a licensed or approved person), in connection with any matter within the powers and functions of the Commission under this Act.

(2) Without limiting the matters to which the written undertaking may relate, the undertaking may include any of the following:

- (a) an undertaking to take specified action within a specified time;
- (b) an undertaking to refrain from taking specified action;
- (c) an undertaking to compensate a specified person a specified amount within a specified time.

(3) A licensed or approved person may vary or withdraw any written undertaking given by that person only with the permission of the Commission in writing.

(4) If the Commission is satisfied that any licensed or approved person has failed to comply with any term of the written undertaking given by that person, the Commission may apply to a court for an order under subsection (5).

(5) If the court is satisfied that any licensed or approved person has failed to comply with any term of the written undertaking given by that person, the court may make an order directing the licensed or approved person to comply with the term or terms of the undertaking, or any other order that the court considers appropriate for the purposes of this Act.

#### Information gathering for law enforcement purposes

187 (1) For the purpose of carrying out its duties and functions under this Act or obtaining information that may be of assistance to a law enforcement agency, the Commission may direct a casino operator in writing to provide the Commission with information obtained by the casino operator concerning the operations of the casino.

(2) Such direction may relate to particular information or to information generally and may relate to particular or general information concerning a specified person.

(3) The direction shall specify—

- (a) the kind of information that the casino operator is required to provide; and
- (b) the manner in which the information is to be provided.

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

(5) The Commission may, subject to regulations made under this section, make information obtained by the Commission under this section available to such law enforcement agency subject to such conditions as may be provided in the regulations.

(6) In this section, "law enforcement agency" means—

- (a) the Bermuda Police Service;
- (b) the Financial Intelligence Agency; or
- (c) any other person responsible for law enforcement.

(7) The provisions of this section are in addition to, and not in derogation of, any other enactment conferring powers on any law enforcement agency to obtain information.

#### PART 14 MISCELLANEOUS

Offences by bodies corporate, etc.

188 (1) Where an offence under this Act committed by a body corporate is proved—

- (a) to have been committed with the consent or connivance of an officer of the body corporate; or
- (b) to be attributable to any neglect on his part,

the officer as well as the body corporate commits the offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) In this section, "officer", in relation to a body corporate, means any director, member of the committee of management, Chief Executive, manager, secretary or other similar officer of the body corporate and includes any person purporting to act in any such capacity.

Preservation of secrecy

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

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

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

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

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

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

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

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

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

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

#### Co-operation between Commission and foreign casino regulatory bodies

190 (1) The Commission may, with the approval of the Minister, enter into arrangements with any foreign casino regulatory body whereby each party to the arrangements may—

- (a) furnish to the other party information in its possession if the information is required by that other party for the purpose of performance by it of any of its functions; and
- (b) provide such other assistance to the other party as will facilitate the performance by that other party of any of its functions.

(2) The Commission shall not furnish any information to a foreign casino regulatory body pursuant to such arrangements unless it requires of, and obtains from, that body an undertaking in writing by it that it will comply with terms specified in that requirement, including terms that correspond to the provisions of any other enactment concerning the disclosure of that information by the Commission.

(3) The Minister may make regulations for the purposes of this section.

(4) In this section, "foreign casino regulatory body" means a person in whom there are vested functions under the law of another country or territory with respect to the enforcement or the administration of provisions of law of that country or territory concerning casinos.

#### Protection from liability

191 (1) No liability shall be incurred by—

- (a) any member, officer, employee, consultant or agent of the Commission;
- (b) any member of the Council, any person authorised, appointed or employed to assist the Council or any member of any Committee of Assessors constituted under Part 10;
- (c) any person who is on secondment or attachment to the Commission;
- (d) any person authorised, appointed, employed or directed by the Commission to exercise the Commission's powers, perform the Commission's functions or discharge the Commission's duties or to assist the Commission in the exercise of its powers, the performance of its functions or the discharge of its duties under this Act or any other enactment; or
- (e) any member of a committee appointed by the Commission under section 11(1) or by the Council under section 152,

for anything done (including any statement made) or omitted to be done in good faith in the course of or in connection with the matters set out in subsection (2).

(2) The matters referred to in subsection (1) are as follows—

- (a) the exercise or purported exercise of any power under this Act or any other enactment;
- (b) the performance or purported performance of any function or the discharge or purported discharge of any duty under this Act or any other enactment; or
- (c) the compliance or purported compliance with this Act or any other enactment.

#### General penalty; prosecution of offences

192 (1) Any casino operator who commits an offence under this Act for which no penalty is expressly provided shall be liable on summary conviction to a fine not exceeding



\$10,000 or to imprisonment for a term not exceeding six months or to both such imprisonment or fine.

(2) Notwithstanding section 452 of the Criminal Code Act 1907, a court may try an information for an offence under this Act provided that the information was laid within the period of twelve months beginning with the date (or last date) on which the offence is alleged to have been committed.

Fines and financial penalties to be paid to Consolidated Fund

193 (1) All fines imposed under this Act or any regulations made thereunder) shall be paid to the Consolidated Fund.

(2) Any financial penalty payable by any person under this Act or any regulations made thereunder shall be paid to the Commission and recoverable by the Commission as a debt due to the Commission from that person.

(3) The person's liability to pay shall not be affected by his licence ceasing, for any reason, to be in force.

Amendment of Schedule 2

194 (1) The Minister may by order amend Schedule 2.

(2) The Minister may, in any order made under subsection (1), make such incidental, consequential or supplementary provision as may be necessary or expedient.

(3) Any order made under subsection (1) shall be subject to the negative resolution procedure.

Service of summonses and notices, etc.

195 (1) Any summons, notice, order or document required or authorised by this Act to be given to or served on any person, and any summons issued by a court against any person in connection with any offence under this Act may be served on the person —

- (a) by delivering it to the person or to some adult member or employee of his family or household at his last known place of residence;
- (b) by leaving it at his usual or last known place of residence or place of business in an envelope addressed to the person;
- (c) by sending it by registered post addressed to the person at his usual or last known place of residence or place of business; or
- (d) in the case of an incorporated company, a partnership or a body of persons—
  - (i) by delivering it to the secretary or other like officer of the company, partnership or body of persons at its registered office or principal place of business; or
  - (ii) by sending it by registered post addressed to the company, partnership or body of persons at its registered office or principal place of business.

(2) Any notice, order, document or summons sent by registered post to any person in accordance with subsection (1) shall be deemed to be duly served on the person at the time when the notice, order, document or summons, as the case may be, would in the ordinary course of post be delivered and, in proving service of the notice, order, document or summons, it shall be sufficient to prove that the envelope containing the same was properly addressed, stamped and posted by registered post.

(3) Any notice, order or document required or authorised by this Act to be served on the owner or occupier of any premises or any summons issued by a court against any such owner or occupier in connection with any offence under this Act may be served by delivering it or a true copy thereof to some adult person on the premises or, if there is no such person on the premises to whom it can with reasonable diligence be delivered, by affixing the notice, order, document or summons to some conspicuous part of the premises.

(4) Any notice, order or document required or authorised by this Act to be served on the owner or occupier of any premises or any summons issued by a court against any such owner or occupier in connection with any offence under this Act shall be deemed to be properly addressed if addressed by the description of the owner or occupier of the premises without further name or description.

#### Regulations

196 (1) The Minister may make regulations for any purpose for which regulations are required to be made under this Act and generally for carrying out the purposes and provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister may make regulations for or with respect to all or any of the following matters—

- (a) the fees to be charged in respect of anything done or any services rendered by the Commission under or by virtue of this Act;
- (b) the installations, devices and equipment to be provided on casino premises for gaming, surveillance, communications and other purposes and the maintenance of the installations, devices and equipment;
- (c) the hours of operation of a casino and any temporary cessation of operation;
- (d) the provision to players of gaming machines in a casino of information relevant to gaming on gaming machines;
- (e) the adjudication of disputes between a casino operator and its patrons;
- (f) the provision of security measures;
- (g) the submission of reports by casino operators;
- (h) regulating the activities of persons who are on the casino premises in the course of their employment or prohibiting any of those activities;
- (i) the testing of operations, or of proposed operations, in a casino;

- (j) regulating the conduct of gaming and provision of credit for gaming in a casino;
  - (k) the manufacture, supply or operation of gaming equipment for use in a casino, and the provision of testing services for such gaming equipment;
  - (l) the movement, acquisition, storage, servicing, rectification or destruction of gaming equipment used or for use in a casino;
  - (m) the form of controlled contracts and notifiable contracts, the approval of the Commission in relation to specified classes of those contracts and the requirements for disclosure to the Commission of any such contracts;
  - (n) the procedure for any representations to be made against, or any request for a review of, a decision by the Commission;
  - (o) the procedure for disciplinary proceedings against any person licensed or approved by the Commission under this Act;
  - (p) the furnishing of any deposit, pre-payment, performance bond or other form of security required by the Commission under this Act, and the procedure for drawing on, forfeiting or returning any such deposit, pre-payment, performance bond or other form of security;
  - (q) the system of internal controls for casino operations;
  - (r) the setting up of and requirements for a compliance function by casino operators;
  - (s) requirements to detect or prevent money laundering and the financing of terrorism;
  - (t) additional duties of auditors of casino operators;
  - (u) any other matter or thing required or permitted to be prescribed or necessary to be prescribed to give effect to this Act.
- (3) Regulations made under this Act—
- (a) may provide that any contravention of any provision of the regulations shall be an offence punishable with a fine not exceeding \$100,000 or imprisonment for a term not exceeding three years or both such fine or imprisonment;
  - (b) may provide for such transitional, savings and other consequential, incidental and supplemental provisions as the Minister considers necessary or expedient.

(4) Regulations made under this Act shall, unless otherwise provided, be subject to the negative resolution procedure.

#### Rules

197 (1) The Minister may make such rules as may be necessary or expedient to give effect to the provisions and purposes of this Act and for the due administration thereof.

(2) Without prejudice to subsection (1), the Minister may make rules to prescribe—

- (a) the procedure for the conduct of any proceedings by the Commission or the Council;
- (b) the procedure for the conduct of any proceedings by a Committee of any of the above;
- (c) the forms necessary for the administration of this Act; and
- (d) any fees for an application and other charges for the purposes of this Act.

(3) Rules made under this section shall be subject to the negative resolution procedure.

#### Adoption of codes, standards of performance or specifications

198 (1) Any regulations made under section 196 may adopt, wholly or partially or as amended by the regulations or by reference, any code, standard of performance or specification which relates to gaming equipment, surveillance systems, internal controls, casino advertising or promotions, problem gambling or to any other matter related to casino operations that is relevant for the purposes of this Act, and which—

- (a) is issued by the Commission under section 199; or
- (b) is issued by any standards organisation or person other than the Commission (whether within or outside Bermuda) and approved by the Commission under section 199.

(2) In any proceedings under this Act, a copy of any code, standard of performance or specification adopted under subsection (1) which is certified by the Commission as a true copy thereof shall be prima facie evidence of that code, standard of performance or specification.

#### Codes, standards of performance or specifications issued or approved by Commission

199 (1) The Commission may, from time to time—

- (a) issue one or more codes, standards of performance or specifications applicable to casino operations;
- (b) approve as a code, standard of performance or specification applicable to casino operators any document prepared by a person other than the Commission if the Commission considers the document as suitable for this purpose; or
- (c) amend or revoke any code, standard of performance or specification issued under paragraph (a) or approved under paragraph (b).

(2) If any provision in any code, standard of performance or specification is inconsistent with any provision of this Act, such provision, to the extent of the inconsistency—

- (a) shall have effect subject to the provisions of this Act; or
  - (b) having regard to the provisions of this Act, shall not have effect.
- (3) Where any code, standard of performance or specification is issued, approved, amended or revoked by the Commission under subsection (1), the Commission shall—
- (a) notify each casino operator and any other person licensed or approved by the Commission who may be affected by the issuance, approval, amendment or revocation;
  - (b) specify in the notice referred to in paragraph (a) the date that the issuance, approval, amendment or revocation is to take effect; and
  - (c) ensure that, so long as the code, standard of performance or specification remains in force, copies of that code, standard of performance or specification are made available to the casino operators and any other person required to comply with the code, standard of performance or specification.
- (4) Any code, standard of performance or specification issued or approved under this section—
- (a) may be of general or specific application; and
  - (b) may specify that different provisions thereof apply to different circumstances or provide for different cases or classes of cases.
- (5) The Commission may, either generally or for such time as the Commission may specify, waive the application of any code, standard of performance or specification, or part thereof, issued or approved under this section to any casino operator or other person.
- (6) Codes issued under this section shall not be subject to the Statutory Instruments Act 1977.

#### Guidelines on compliance

200 (1) The Commission may, from time to time and with a view to enabling any person to order his affairs in compliance with the provisions of this Act, issue such guidelines as it considers appropriate for providing guidance—

- (a) in furtherance of its regulatory objectives; or
  - (b) on any matter relating to casino operations.
- (2) The failure of any person to comply with any of the provisions of a guideline issued under this section that applies to him shall not of itself render that person for that reason only liable to criminal proceedings but any such failure may, in any proceedings whether civil or criminal, be relied upon by any party to the proceedings as tending to establish or to negate any liability which is in question in the proceedings.
- (3) Guidelines issued under this section shall not be subject to the Statutory Instruments Act 1977.

## CASINO GAMING ACT 2014

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### Savings

201 (1) Nothing in this Act shall apply in relation to, or affect, a casino operated pursuant to the provisions of the Cruise Ships (Casinos) Act 2013.

(2) Nothing in this Act shall, unless it is expressly stated to the contrary, be construed as affecting any other laws.

### Consequential amendments

202 (1) The Criminal Code Act 1907 is amended in section 155 by inserting next after subsection (3)—

“(4) This section does not apply in respect of a casino operated pursuant to a valid licence granted under section 38 of the Casino Gaming Act 2014.”

(2) The Criminal Code Act 1907 is amended in section 322A by inserting next after paragraph 1(a)(iv) in the Table of Increased Penalty Zones the following—

“(iv) casino premises as defined in section 2 of the Casino Gaming Act 2014.”

(3) The Misuse of Drugs Act 1972 is amended in Schedule 4 by inserting next after paragraph 1(a)(iv) the following—

“(v) casino premises as defined in section 2 of the Casino Gaming Act 2014.”

(4) The Prohibition of Gaming Machines Act 2001 is amended in section 5 by inserting the following next after subsection (9)—

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

(5) The Minister may by Regulations repeal or amend any provision relating to gaming—

(a) in any law that is passed before this Act; or

(b) in any other instrument made under an Act before the passing of this Act,

where it appears to him that that provision is inconsistent with, or requires amendment consequentially upon or has become unnecessary in consequence of, the provisions of this Act or the Regulations.

(6) Regulations made under subsection (5) shall be subject to the negative resolution procedure.

### Commencement

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

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

SCHEDULE 1

(Section 7(2))

CONSTITUTION AND PROCEEDINGS OF COMMISSION

Appointment of Chairman and other members

- 1 (1) The Chairman and other members shall be appointed by the Minister.
- (2) The Minister may appoint the Chief Executive to be an ex-officio non-voting member of the Commission.

Tenure of office of members

- 2 (1) Subject to subparagraph (2), a member shall hold office on such conditions and for such term, as the Minister may determine.
- (2) The initial members of the Commission shall be appointed as follows—
- (a) one for a term of two years;
  - (b) one for a term of three years; and
  - (c) one for a term of four years,

and any subsequent member shall be appointed for a term of three years.

Resignation

- 3 Any member may resign from his appointment at any time by giving notice in writing to the Minister.

Chairman may delegate functions

- 4 The Chairman may, by instrument in writing, authorise any member to exercise any power or perform any function conferred on the Chairman by or under this Act.

Vacation of office

- 5 The office of a member shall be vacated if the member—
- (a) has been absent, without leave of the Commission, from three consecutive meetings of the Commission; or
  - (b) becomes in any manner disqualified from membership of the Commission.

Filling of vacancies

- 6 If a member resigns, dies or has his appointment revoked or otherwise vacates his office before the expiry of the term for which he has been appointed, the Minister may appoint another person for the unexpired period of the term of office of the member in whose place he is appointed.

Disqualification from membership

- 7 No person shall be appointed or shall continue to hold office as a member if he—



- (a) is incapable of managing himself or his affairs;
- (b) is an undischarged bankrupt or has made any arrangement or composition with his creditors; or
- (c) is convicted of an offence involving dishonesty, fraud or moral turpitude and has not received a free pardon.

Disclosure of interest by members

- 8 (1) A member who is in any way, directly or indirectly, interested in—
- (a) a transaction or project of the Commission; or
  - (b) a transaction or project involving a casino operator or an associate of a casino operator,

shall disclose the nature of his interest at the first meeting of the Commission at which he is present after the relevant facts have come to his knowledge.

(2) A disclosure under sub-paragraph (1) shall be recorded in the minutes of the meeting of the Commission and, after the disclosure, that member shall not take part in any deliberation of the Commission with respect to that transaction or project.

(3) For the purpose of determining whether there is a quorum, a member shall be treated as being present at a meeting notwithstanding that under sub-paragraph (2) he cannot vote or has withdrawn from the meeting.

Salaries, fees and allowances payable to members

9 There shall be paid to the Chairman and other members, out of the funds of the Commission, such salaries, fees and allowances as the Commission may from time to time determine.

Meetings and proceedings of Commission

- 10 (1) The Chairman shall summon meetings as often as may be required.
- (2) The quorum at every meeting of the Commission shall be one-third of the total number of members or three members, whichever is the higher.
- (3) A decision at a meeting of the Commission shall be adopted by a simple majority of the members present and voting except that in the case of an equality of votes the Chairman or member presiding shall have a casting vote in addition to his original vote.
- (4) The Chairman or in his absence the Deputy Chairman shall preside at all meetings of the Commission.
- (5) Where both the Chairman and the Deputy Chairman are absent at a meeting, such member as the members present may elect shall preside at that meeting.
- (6) Where not less than four members of the Commission request the Chairman by notice in writing signed by them to convene a meeting of the Commission for any purpose specified in the notice, the Chairman shall, within seven days from the receipt of the notice, convene a meeting for that purpose.

(7) The Commission may act notwithstanding any vacancy in its membership.

(8) Subject to the provisions of this Act, the Commission may make rules to regulate its own procedure generally, and, in particular, the holding of meetings, the notice to be given of such meetings, the proceedings thereat, the keeping of minutes and the custody, production and inspection of such minutes.

Validity of acts

11 The acts of a member shall be valid notwithstanding any defect in his appointment or qualifications.

SCHEDULE 2

(Section 189(3))

PERSONS TO WHOM INFORMATION MAY BE DISCLOSED

1. The Commission and any officer or employee of the Commission.
2. The Minister charged with the responsibility for gaming, and officers from that Ministry authorised by that Minister.
3. The Minister charged with the responsibility for tourism development (if different from the Minister referred to in paragraph 2 of this Schedule, and officers from that Ministry authorised by that Minister.
4. The Minister charged with the responsibility for workforce development and policy, and officers from that Ministry authorised by that Minister.
5. The Minister charged with the responsibility for health in relation to problem gambling, and officers from that Ministry authorised by that Minister.
6. The Problem Gaming Council, and any secretary or officer of that Council.

## CASINO GAMING BILL 2014

### EXPLANATORY MEMORANDUM

This Bill seeks to make provision for to provide for integrated resorts, to allow casino gaming, to establish a Casino Gaming Commission and to establish a Problem Gaming Council to address problem gambling, and matters incidental and connected therewith,

Clause 1 provides the title of the Bill.

Clause 2 defines certain terms that are used in the Bill.

Clause 3 provides the meaning of “associate”.

Clause 4 confers power on the Minister to designate a site on which a casino may be located for a specified period.

Clause 5 confers power on the Minister to revoke a designated site order or pursue cancellation of a casino licence if it is necessary in the public interest.

Clause 6 provides for the establishment of the Bermuda Casino Gaming Commission.

Clause 7, and Schedule 1, provide for the Constitution of the Commission.

Clause 8 sets out the objects of the Commission.

Clause 9 provides for the functions and duties of the Commission.

Clause 10 sets out the powers of the Commission.

Clause 11 provides for the appointment of committees.

Clause 12 makes provision for the appointment of a Chief Executive and other staff.

Clause 13 provides for the functions of inspectors.

Clause 14 sets out the powers of inspectors.

Clause 15 enables inspectors to require the name and address of any person in a casino.

Clause 16 enables an inspector to seize any gaming equipment on a casino premises or any item relating to gaming if he reasonably suspects it to be unauthorised by this Act.

Clause 17 provides for the funds and property of the Commission.

Clause 18 provides the financial year of the Commission as ending on 31st March.

Clause 19 provides that all moneys collected by the Commission under the Act will be paid into and form part moneys of the Commission.

Clause 20 enables the Commission to open a bank account.

Clause 21 provides how the moneys of the Commission will be applied.

Clause 22 requires the Commission to keep proper accounts and records.

Clause 23 provides that the Commission accounts must be audited by the Auditor-General or any other auditor appointed by the Auditor-General.

Clause 24 provides the powers of the Auditor.

Clause 25 requires the Commission to provide a copy of its audited accounts and financial statements to the Minister to be laid before each House of the Legislature.

Clause 26 requires the Commission to submit an annual report of the activities of the Commission to each House of the Legislature.

Clause 27 provides for the symbol of the Commission.

Clause 28 provides that the Commission must ensure that there are no more than three (3) casino licences in force in Bermuda.

Clause 29 declares that casinos duly licensed in accordance with this Act are lawful.

Clause 30 provides for the enforceability of gaming contracts, given that they are unenforceable at common law.

Clause 31 makes it unlawful to operate a casino without a licence.

Clause 32 provides for the application for a casino licence.

Clause 33 provides that the Commission must not grant a casino licence unless the applicant and associates of the applicant are suitable persons and sets out matters the Commission must take into account in making its decision.

Clause 34 requires the Commission to perform specified evaluations in connection with licence applications.

Clause 35 requires the Commission to undertake investigations necessary to enable it to properly consider an application as respects the suitability of applicants. If a person refuses, the Commission may refuse to consider the application.

Clause 36 enables the Commission to require an applicant or an associate to provide information relevant to an investigation. If a person refuses, the Commission may refuse to consider the application.

Clause 37 requires the applicant for a casino licence to notify the Commission if a change occurs in the information provided to the Commission prior to a decision being made on the licence application.

Clause 38 enables the Commission to grant or refuse to consider an application for a casino licence.

Clause 39 provides the fee for a casino licence.

Clause 40 provides for the renewal of a casino licence.

Clause 41 enables licence conditions to be amended by the Commission or by a casino operator making a request to the Commission.

Clause 42 requires the boundaries of a casino to be defined by the casino licence at the time it is granted. The Commission may redefine the boundaries from time to time.

Clause 43 provides that a casino licence remains in force for the period for which it is granted unless cancelled or surrendered.

Clause 44 prohibits a casino operator from mortgaging or otherwise encumbering the casino licence without the approval of the Commission. Transfer of a casino licence is not permitted — a new application must be submitted instead.

Clause 45 defines the terms for the interpretation of Chapter 2 which relates to disciplinary action against a casino operator.

Clause 46 specifies the grounds for disciplinary action against a casino operator.

Clause 47 specifies the penalties that may be imposed on a casino operator. This clause enables the Commission to cancel or suspend a casino licence, fine the operator up to \$1 million or issue a letter of censure.

Clause 48 specifies the procedure that must be followed where the Commission proposes to take disciplinary action against a casino operator.

Clause 49 enables a casino operator to surrender the casino licence, but only if the Commission consents.

Clause 50 provides for the appointment of a temporary manager if a licence is cancelled, surrendered or suspended.

Clause 51 provides for appeals to the Supreme Court against decisions of the Commission regarding licences.

Clause 52 enables the Commission to give directions concerning the conduct, supervision or control of operations in the casino to the casino operator.

Clause 53 provides for the Commission to initiate an investigation at any time of, and if directed to do so by the Minister to investigate, a casino.

Clause 54 requires the Commission to carry out regular investigations as to whether the casino operator remains a suitable person to hold a licence and if the licence should remain in force.

Clause 55 enables the Commission to require the casino operator, or a person associated with the operator to provide information, records or attend before the Commission.

Clause 56 requires certain changes in the casino operator's situation to be notified to the Commission, and other changes to be approved by the Commission.

Clause 57 requires a casino operator to notify the Commission of a change in the situation of any associate, of a kind of change specified by the Commission.

Clause 58 enables the Commission to carry out ongoing monitoring of associates and others connected to a casino operator.

Clause 59 sets out definitions for the interpretation of Part 4, Chapter 2 (contracts).

Clause 60 sets out requirements with respect to controlled contracts.

Clause 61 sets out requirements with respect to notifiable contracts.

Clause 62 provides for suspension of contracts.

Clause 63 specifies the effect, where a contract is suspended.

Clause 64 further provides for circumstances where a contract is suspended.

Clause 65 contains definitions used in Part 5.

Clause 66 requires persons exercising certain functions in relation to a casino to have a licence.

Clause 67 requires that an application for a special employee licence be in a form approved by the Commission and that a prescribed fee and other information accompany the application.

Clause 68 enables the Commission to require a special employee associated with a casino operator or a casino employee to apply for a licence.

Clause 69 requires the applicant for a special employee licence to notify the Commission if a change occurs in the information provided to the Commission prior to a decision being made on the licence application.

Clause 70 enables the Commission to require an applicant or an associate to provide information, records, etc. relevant to the application. If the person refuses, the Commission may refuse to consider the application.

Clause 71 requires the Commission to investigate each application for a special employee licence.

Clause 72 provides that a licence is subject to any condition imposed by the Commission and conditions may be varied or revoked by the Commission.

Clause 73 requires licensed special employees to wear identification at all times while on duty in a casino unless exempted by the Commission.

Clause 74 enables the Commission to issue a provisional licence pending a decision on an application for a special employee licence.

Clause 75 provides for duration of a special employee licence.

Clause 76 applications for a special employee licence renewal must be made in a form approved by the Commission and are subject to a prescribed fee.

Clause 77 enables the Commission to issue a replacement special employee licence, for a prescribed fee.

Clause 78 defines the terms for the interpretation of Part 5, Chapter 2 which relates to disciplinary action against a special employee.

Clause 79 specifies the grounds for disciplinary action against a special employee.

Clause 80 specifies the procedure that must be followed where the Commission proposes to take disciplinary action against a special employee.

## CASINO GAMING BILL 2014

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Clause 81 specifies the penalties that may be imposed on a special employee. This clause enables the Commission to cancel or suspend a special employee licence or issue a letter of censure.

Clause 82 enables the Commission to suspend a special employee licence pending disciplinary action.

Clause 83 provides that during a period of suspension, the licensee is deemed not to have a licence.

Clause 84 provides the return of a special employee licence to the Commission when the licence is suspended or cancelled.

Clause 85 requires the casino operator to terminate the employment of a special employee if notified by the Commission that the person's special employee licence has been terminated.

Clause 86 requires the casino operator to provide information relating to employees to the Commission.

Clause 87 requires a special employee to provide information to the Commission.

Clause 88 requires the holder of a licence to notify the Commission of a change in the situation of a licensee of a kind specified by the Commission.

Clause 89 provides for appeals.

Clause 90 provides for the casino layout to comply with whatever requirements the Commission may prescribe.

Clause 91 provides for the Commission to approve the games and rules of games to be played in a casino.

Clause 92 enables the Commission to give directions to a casino operator on the games that may not be played in a casino.

Clause 93 provides for the Commission to investigate and approve gaming equipment for use in a casino.

Clause 94 provides that a casino operator is not allowed to use a gaming machine unless it is obtained from a gaming vendor approved by the Commission.

Clause 95 provides that a person may apply to the Commission to be an approved gaming vendor.

Clause 96 provides that a casino operator may conduct gaming on a simulated basis under prescribed conditions.

Clause 97 provides that a linked jackpot arrangement is unlawful without the approval of the Commission.

Clause 98 provides for assistance to patrons.



Clause 99 enables the Commission to provide directions on all casino procedures for security and safety. A casino operator who does not comply with the directions is liable to disciplinary action.

Clause 100 makes provision regarding credit.

Clause 101 provides that no casino operator can provide an ATM within a casino.

Clause 102 provides that no person can perform the functions an international market agent or representative without a licence.

Clause 103 provides for the Commission's supervision and control of international market agents and international market agent representatives.

Clause 104 provides that the Commission may suspend or revoke the licence of an international market agent in any case to prevent a threat to the security of the public or of casino operations.

Clause 105 provides that a casino operator must notify an inspector of any dispute of winnings between the casino operator and the patron.

Clause 106 provides that any person aggrieved by a decision of the inspector may appeal to the Commission in the prescribed manner and within the prescribed time.

Clause 107 provides for payment of claim after a decision.

Clause 108 provides that a person aggrieved by a decision of the Commission may appeal to the Magistrates' Court.

Clause 109 provides that a person, except an inspector, remains in a casino only by licence of the casino operator.

Clause 110 enables an inspector to enter a casino at any time and remain on the casino premises to exercise his functions.

Clause 111 declares the power of police officers to enter a casino at any time and remain on the casino premises to exercise their functions.

Clause 112 enables a casino operator to make an exclusion order prohibiting a person from entering or remaining in a casino.

Clause 113 enables the Commission to make an exclusion order prohibiting a person from entering or remaining in a casino.

Clause 114 provides for duration of an exclusion order.

Clause 115 provides for variation of an exclusion order.

Clause 116 requires the casino operator to prepare a list of excluded persons and if required provide a copy of the list to the Commission.

Clause 117 prohibits a person who is the subject of an exclusion order from entering and remaining in a casino.

Clause 118 requires a casino operator to bar excluded persons from entering and remaining in a casino.

Clause 119 requires that a person in charge of a casino, an agent of a casino or a casino employee who knows a person who is the subject of an exclusion order is in the casino must notify an inspector to have the person removed.

Clause 120 provides that all winnings of an excluded person, a person subject to a family exclusion order or a provisional family exclusion order, or a minor shall be forfeited to the Consolidated Asset Fund.

Clause 121 provides that a casino safeguard against certain conduct within a casino premises.

Clause 122 contains definitions of terms used in Part 7.

Clause 123 prohibits a minor from entering a casino.

Clause 124 provides that a casino operator must take steps to bar entry of a minor into, and if a minor is in the casino to remove the minor from, the casino.

Clause 125 provides that a casino operator must refuse entry to minor.

Clause 126 provides that proof of age may be demanded.

Clause 127 provides that it is an offence for a minor to use false evidence of age.

Clause 128 enables the Commission to require the casino operator to display signs relating to the exclusion of any person under the age of 18.

Clause 129 sets out penalties with respect to minors who contravene the provisions of this Part.

Clause 130 requires the Commission to approve the system of internal controls.

Clause 131 contains provisions relating to bank accounts to be kept by the casino operator.

Clause 132 makes specific provision regarding AML and ATF requirements for casino operators.

Clause 133 requires a casino operator to keep proper accounts.

Clause 134 provides that a casino operator must prepare financial statements and accounts.

Clause 135 provides for an assessment by the Commission.

Clause 136 provides that a casino operator must keep all records relating to the operations of the casino and retain them for at least 7 years.

Clause 137 requires the casino operator to have the accounts audited by a person approved by the Commission.

Clause 138 enables the Commission to require a casino operator to appoint a special auditor and specify the terms for the special audit.

Clause 139 requires a casino operator to submit reports on the operations of the casino to the Commission at specified times.

Clause 140 requires the casino operator to pay a casino tax and makes provision for the tax to be prescribed.

Clause 141 defines the term “gross gaming revenue”.

Clause 142 requires a casino operator to submit monthly tax returns.

Clause 143 provides for general reserve funds.

Clause 144 enables the Minister to make regulations relating to casino tax.

Clause 145 provides the responsibility of the Tax Commissioner regarding casino tax.

Clause 146 contains definitions of terms used in Part 10.

Clause 147 establishes the Council on Problem Gaming (“the Council”).

Clause 148 provides for the functions of the Council.

Clause 149 enables the Council to conduct its business and validates its proceedings and decisions.

Clause 150 provides the grounds for the Council to make a family exclusion order.

Clause 151 empowers the Council to dismiss any frivolous or vexatious complaint for a family exclusion order.

Clause 152 provides that the chairman of the Council may constitute a Committee of Assessors (“the Committee”) for consideration of complaints for family exclusion orders.

Clause 153 requires the chairman of the Committee of Assessors to hear and determine complaints for family exclusion orders.

Clause 154 provides for complaints for a family exclusion order and how a person may apply.

Clause 155 provides for an application by or on behalf of a person under the age of 18.

Clause 156 provides for an application on behalf of an incapacitated person.

Clause 157 provides the terms of a family exclusion order.

Clause 158 enables the Committee to make a provisional family exclusion order.

Clause 159 enables the Committee to make a family exclusion order in the absence of the respondent in specified circumstances.

Clause 160 provides in respect of conduct of proceedings for family exclusion orders.

Clause 161 enables the Council to confirm, vary or revoke a family exclusion order.

Clause 162 provides for the service of a family exclusion order.

Clause 163 requires the Council to maintain a list of excluded persons naming persons excluded from a casino by a family exclusion order.

Clause 164 provides for confidentiality of proceedings of the Committee.

Clause 165 enables the Minister to make rules for the purposes of Part 10.

Clause 166 provides that any advertising and promotional activities relating to a casino require the approval of the Commission.

Clause 167 makes provision for penalties.

Clause 168 makes offences concerning prohibited items.

Clause 169 makes it an offence for a person to interfere with gaming equipment.

Clause 170 makes it an offence for cheating during the playing of any game in a casino.

Clause 171 makes it an offence for a person to be in possession of chips outside of a casino.

Clause 172 makes it an offence to forge or counterfeit chips, a chip purchase voucher, a match play coupon, any licence issued under the Act or a special employee's form of identification.

Clause 173 makes it an offence to impersonate a special employee or an inspector.

Clause 174 makes it an offence to enter a casino using another person's name or identification.

Clause 175 makes it an offence to refuse to provide information in specified circumstances.

Clause 176 makes it an offence to destroy or falsify documents required by the Commission, an inspector or an authorised person.

Clause 177 makes it an offence to provide false or misleading information to the Commission, a police officer, an inspector or an authorised person.

Clause 178 makes it an offence for a person to refuse access to, obstruct, hinder or delay the duties of persons under the Act.

Clause 179 provides for prosecution of offences.

Clause 180 provides that a person suspected of committing, or attempting to commit, or who has committed an offence may be detained at or near a casino until the arrival of a police officer.

Clause 181 provides an inspector or authorised person with certain powers of enforcement.

Clause 182 provides there is no general right of compensation from the Commission for the revocation, suspension or variation of the terms of any licence.

Clause 183 provides that any licence or approval granted under the Act is a revocable privilege.

Clause 184 enables the Commission to conduct investigations of suitability.

Clause 185 enables the Commission to require the holder of any licence or approval to provide a security deposit of such amount as required by the Commission.

## CASINO GAMING BILL 2014

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Clause 186 enables the Commission to accept a written undertaking by a holder of any licence or approval granted by the Commission.

Clause 187 enables the Commission to direct a casino operator to provide information to assist a law enforcement agency.

Clause 188 provides offences by bodies corporate.

Clause 189 provides for the preservation of confidentiality.

Clause 190 provides for cooperation with any foreign regulatory body.

Clause 191 provides for protection from liability for acts done or omitted in good faith.

Clause 192 provides a general penalty for persons guilty of an offence under the Act for which there is no penalty provided in the Act.

Clause 193 provides that all financial penalties under the Act must be paid to the Commission.

Clause 194 enables the Minister, by order, to amend Schedule 2 to the Act.

Clause 195 provides for the service of summonses and notices etc.

Clause 196 gives the Minister regulation-making power.

Clause 197 gives the Minister power to make rules.

Clause 198 provides for the adoption of codes, standards of performance or specifications.

Clause 199 provides for codes, standards of performance or specifications to be issued by the Commission.

Clause 200 provides for guidelines regarding compliance.

Clause 201 provides for savings.

Clause 202 provides for consequential amendments.

Clause 203 provides for the commencement of the Bill.