

A BILL

entitled

CASINO GAMING AMENDMENT BILL 2015

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WHEREAS it is expedient to amend the Casino Gaming Act 2014;

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

Citation

1 This Act, which amends the Casino Gaming Act 2014 (the "principal Act"), may be cited as the Casino Gaming Amendment Act 2015.

Amends section 2

2 Section 2 of the principal Act is amended—

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- (a) in the definition of “integrated resort”—
 - (i) by repealing paragraph (a) and substituting the following—

“(a) a proposed development comprising hotel, retail, dining, entertainment, recreation and other facilities of which a casino may be a part, but does not include an extension, alteration or other redevelopment of an existing tourist resort;”;
 - (ii) in paragraph (b), by deleting the words “a tourist resort” and substituting the words “an existing tourist resort”;
- (b) in the definition of “owner” by repealing paragraph (a) and substituting the following—
 - “(a) the person who holds the estate in fee simple of the designated site or proposed designated site and, in any case where such site is owned by the Government, the owner shall be the person who has entered into a Development Agreement to lease the site;”;
- (c) by inserting the following definitions in the appropriate alphabetical order—

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

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

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

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

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

Amends section 4

3 Section 4(1) of the principal Act is repealed and the following is substituted—

- “(1) Subject to section 4A, the Minister, acting on the advice of the Commission, may by order published in the Gazette—
- (a) designate, for such period as may be appropriate (the “specified period”), a parcel of land or an existing tourist resort as a site for an integrated resort;
 - (b) extend any period under paragraph (a) for such further period as may be specified in the order.”.

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Inserts section 4A

4 The principal Act is amended by inserting after section 4 the following—

“Application for designation of site

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

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

- (a) be made in such form as the Commission may from time to time approve;
- (b) be accompanied by the prescribed fee; and
- (c) contain such information and be accompanied by such plans, specifications, drawings, reports and other documents, as may be prescribed.”.

Amends section 9

5 (1) Section 9(1) of the principal Act is amended by repealing paragraph (d) and substituting the following—

“(d) to supervise casino operations and casino operators for the purpose of detecting or preventing money laundering, the financing of terrorism and the financing of the proliferation of weapons of mass destruction;”.

Amends section 12

6 Section 12(5) of the principal Act is amended by deleting the words “Consistent with its approved budget”.

Amends section 23

7 Section 23(3) of the principal Act is amended by deleting the words “six months thereafter” and substituting the words “as soon as practicable and not later than four months after the end of the financial year”.

Amends section 31

8 Section 31(2) of the principal Act is repealed and the following substituted—

“(2) Any person who contravenes subsection (1) commits an offence and shall be liable on summary conviction to a fine not exceeding \$500,000.”.

Amends section 33

9 Section 33(2) of the principal Act is amended—

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

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- “(aa) each such person is a fit and proper person to be concerned with or associated with a casino operator or the operation of a casino, in accordance with the minimum criteria that are set out in section 11A of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008;”;
- (b) in paragraph (c), by inserting after the word “structure” the words “; but, for the purposes of this Act, satisfactory ownership or corporate structure does not include a trust or similar legal arrangement”;
- (c) by inserting after subsection (2) the following—

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

Amends section 39

10 Section 39(1) of the principal Act is amended by deleting the words “The casino operator” and substituting the words “The owner of an integrated resort, on behalf of the casino operator in respect of the integrated resort.”.

Amends section 47

11 Section 47 of the principal Act is amended by inserting after subsection (2) the following—

- “(3) In this section, “serious breach”, in relation to a casino operator, means a contravention of a provision of this Act or a condition of the casino licence by the casino operator, a person in charge of the casino, an agent of the casino operator or a casino employee which, in the opinion of the Commission —
- (a) severely affects the integrity of the casino operations or the integrity of gaming in the casino or severely undermines a measure intended to safeguard individuals or society against harm from casino gaming;
 - (b) has caused or could cause significant gain of property to a person not legally entitled to it or significant loss of property to a person legally entitled to it;
 - (c) has occurred as a result of wilful intent or reckless disregard for regulatory compliance;
 - (d) has arisen from or in connection with a systemic failure or multiple failures in the management or operation of the casino; or
 - (e) is injurious to the public interest or public order. ”.

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Amends section 100

12 Section 100(1)(c) of the principal Act is repealed.

Amends section 116

13 Section 116(2) of the principal Act is amended by deleting the word “written”.

Repeals section 132

14 Section 132 of the principal Act is repealed.

Amends section 135

15 Section 135 of the principal Act is amended by deleting “Minister” wherever it appears and substituting “Commission”.

Amends section 196

16 Section 196 of the principal Act is amended—

(a) by repealing subsection (2)(s) and substituting the following—

“(s) the designation of sites under section 4 for the purposes of this Act and fees for applications;”;

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

“(4) Regulations relating to designation of sites under section 4, and to fees, shall be subject to the affirmative resolution procedure.

(5) All other regulations made under this Act shall be subject to the negative resolution procedure.”.

Amends Schedule 1

17 Paragraph 10 of Schedule 1 to the principal Act is amended as follows—

(a) by repealing subparagraph (2) and substituting the following—

“(2) Subject to subparagraph (5), the quorum at every meeting of the Commission shall be three members.”;

(b) by repealing subparagraph (5) and substituting the following—

“(5) Where both the Chairman and the Deputy Chairman are absent from a meeting, no such meeting shall be considered to have had a quorum of members.”.

Commencement

18 (1) Sections 1, 17 and this section shall come into operation on Assent.

(2) The remaining provisions of this Act shall come into operation on such day as the Minister responsible for gaming shall appoint by Notice published in the Gazette.

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EXPLANATORY MEMORANDUM

This Bill seeks primarily to amend the Casino Gaming Act 2014 (the “Act”) to bring the Act in line with FATF standards for AML-ATF in relation to casinos, and in respect of certain administrative and other provisions.

Clause 1 provides a title for the Bill.

Clause 2 amends section 2 of the Act to clarify certain definitions and provide additional definitions for the interpretation of the Act.

Clause 3 repeals and replaces section 4(1) of the Act to require the Minister to act on the advice of the Bermuda Casino Gaming Commission (the “Commission”) when he designates land or an existing tourist resort for purposes of an integrated resort.

Clause 4 inserts a new section 4A in the Act to require an application to the Minister in order to trigger consideration of land or an existing tourist resort for the purposes of section 4.

Clause 5 amends section 9 of the Act to make it clear that the Commission is required to supervise casinos and casino operators for AML-ATF purposes.

Clause 6 amends section 12 of the Act to clarify the requirements concerning the budget of the Commission.

Clause 7 amends section 23 of the Act to specify a period for the auditing of the Commission’s accounts.

Clause 8 amends section 31 to increase the maximum fine for operating a casino without a licence to \$500,000.

Clause 9 amends section 33 of the Act to include and apply the fit and proper test that is set out in the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 for the purposes of this Act.

Clause 10 amends section 39 of the Act regarding payment of the fee for the casino licence.

Clause 11 amends section 47 of the Act to include a definition of “serious breach”.

Clause 12 amends section 100 of the Act to repeal paragraph (c) to remove the restriction on the use of credit cards in a casino.

Clause 13 amends section 116 of the Act to permit records to be kept in any form, including electronic form.

Clause 14 repeals section 132 of the Act. This section will no longer be required because the operation of casinos will be brought within Bermuda’s existing AML-ATF régime.

Clause 15 amends section 135 of the Act to refer to “Commission”.

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Clause 16 amends section 196 of the Act which relates to Regulations.

Clause 17 amends Schedule 1 to the Act to further provide for meetings of the Commission.

Clause 18 provides for the commencement of this Act.