

**ACT 721**  
**GAMING ACT, 2006**

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### ACT 721 GAMING ACT, 20061(1)

**AN ACT to revise and consolidate the laws relating to casinos and other gaming activities other than lottery and to provide generally for ancillary matters concerning the gaming industry.**

## PART I

### *Gaming and Betting*

#### *The Gaming Commission*

#### **1. Application**

This Act does not apply to National Lotto.

#### **2. Establishment of the Gaming Commission**

(1) There is established by this Act a Gaming Commission.

(3) The Commission is a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

(4) The Commission, for the discharge of its functions may acquire and hold any movable or immovable property and enter into a contract or other transaction.

(5) Where there is hindrance to the acquisition of property the property may be acquired for the Commission under the State Property and Contracts Act, 1960 (C.A. 6) or the State Lands Act, 1962 (Act 125) and the costs shall be borne by the Commission.

#### **3. Object and functions of the Commission**

(1) The object of the Commission is to regulate, control, monitor and supervise the operation of games of chance in the country.

(2) To achieve the object, the Commission shall

- (a) make proposals for the formulation of policies on games of chance in the country;
- (b) license companies that want to operate casinos and any other game of chance;
- (c) serve as an advisory body to Government on betting activities in the country;
- (d) receive complaints from companies and the public on matters pertaining to games of chance;
- (e) monitor and secure the implementation of laws on casinos and any other game of chance;
- (f) determine the minimum bankroll and ensure that licence holders keep and maintain the minimum bankroll provided for under section 23; and
- (g) perform any other functions related to games of chance that the Minister for the Interior may determine.

#### **4. Governing body of the Commission**

The governing body of the Commission is a board consisting of

- (a) the chairperson,
- (b) one representative of each of the following;
  - (i) the Ministry of Finance and Economic Planning,

- (ii) the Police Service not below the rank of Assistant Commissioner,
  - (iii) the Ministry of Local Government and Rural Development,
  - (iv) the Ministry of the Interior,
  - (v) the Ministry of Tourism, and
  - (vi) the Revenue Agencies Governing Board,
- (c) the Games Commissioner appointed under section 65, and
- (d) three other persons nominated by the President.

(2) The Members of the Board including the chairperson shall be appointed by the President in accordance with article 70 of the Constitution.

## **5. Tenure of office of members**

(1) A member of the Board, shall hold office for a term not exceeding four years and is eligible for re-appointment but shall not be appointed to the Board for more than two terms in succession.

(2) A member may at any time resign from office in writing addressed to the President through the Minister.

(3) A member, other than the Games Commissioner, who is absent from three consecutive meetings of the Board without sufficient cause ceases to be a member of the Board.

(4) The President may by letter addressed to a member revoke the appointment of that member.

## **6. Meetings of the Board**

(1) The Board shall meet at least once every three months for the dispatch of business at the times and in the places that the Board may determine.

(2) The chairperson may convene a special meeting of the Board and shall upon the request of not less than one-third of the members convene a special meeting of the Board.

(3) The chairperson shall preside at meetings of the Board and in the absence of the chairperson a member of the Board elected by the members present from among their number shall preside.

(4) The quorum for a meeting of the Board is five members and includes the Games Commissioner.

(5) Matters before the Board shall be determined by a majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.

(6) The Board may co-opt a person to attend its meetings as an advisor but a person co-opted is not entitled to vote on a matter for decision at the meeting.

(7) The validity of the proceedings of the Board shall not be affected by a vacancy among its members or by a defect in the appointment or qualification of a member.

(8) Except as otherwise provided for in this section, the Board shall regulate its own proceedings in consultation with the Minister responsible for Finance.

## **7. Disclosure of interest**

(1) A member of the Board who has an interest in a matter for consideration by the Board shall disclose in writing the nature of that interest and is disqualified from participating in the deliberations of

the Board in respect of that matter.

(2) A member of the Board who contravenes subsection (1) ceases to be a member.

## **8. Establishment of committees of the Board**

The Board may establish a committee consisting of members of the Board or non-members or both to perform a function of the Board.

## **9. Regional and District Offices**

The Commission may have Regional and District Offices.

## **10. Allowances**

A member of the Board, a member of a committee of the Board and a person co-opted to any meeting of the Board shall be paid allowances that the Minister may determine in consultation with the Minister responsible for Finance.

## **11. Filling of vacancies**

(1) The chairperson of the Board shall through the Minister notify the President of vacancies that occur in the membership of the Board within one month of the occurrence.

(2) The President on being notified of a vacancy shall request the appropriate body to nominate another person for appointment.

(3) Where the vacant position is that of the chairperson, the Minister shall notify the President who shall in consultation with the Council of State appoint a new chairperson.

## **12. Directions of the Minister**

The Minister may give to the Board directives on matters of policy and the Board shall comply.

### *Licence*

## **13. Requirement of licence**

Except as otherwise provided in this Act, a person shall not operate a game of chance if that person is not

- (a) a limited liability company, and
- (b) licensed by the Board to operate a specified game of chance.

## **14. Conditions for a licence**

(1) A person qualifies for the grant of a licence if that person

- (a) has an identifiable office,
- (b) has a service mark or logo registered with the Registrar of Companies,
- (c) has the required minimum stated capital under section 22 and has agreed to maintain the amount of cash or cash equivalents determined by the Commission under section 23,

- (d) has submitted a criminal clearance certificate in respect of all the directors of the company,
  - (e) agrees to permit the Commission to have access to the records of its bank accounts and other financial records,
  - (f) has submitted a tax clearance certificate,
  - (g) is partly or wholly Ghanaian owned, and
  - (h) agrees to provide any other information that may be required by the Commission.
- (2) The Commission shall not grant a licence if any of the directors of the applicant company has
- (a) been adjudged insolvent or bankrupt and has not been discharged,
  - (b) made an assessment or an arrangement or composition with creditors which has not been rescinded or set aside; or
  - (c) been convicted by a court or tribunal of an offence involving fraud or dishonesty and an appeal against the conviction has not been brought or having been brought was withdrawn or dismissed.

### **15. Application for a licence**

- (1) An application for a licence to operate a game of chance shall be made to the Commission.
- (2) The application shall be made in the form contained in the First Schedule.

### **16. Grant of licence and licence fee**

(1) The Commission shall within twelve months after the receipt of the application, grant a licence to the applicant if it is satisfied that the applicant has

- (a) satisfied the conditions required for a licence, and
- (b) paid the licence fee.

(2) The licence fee is two per cent of the minimum stated capital of the company.

(3) Despite subsection (2) the Board may require the applicant to pay the cost of any investigation that is necessary for the grant of the licence.

(4) Where the Board refuses to grant a licence to the applicant, the Board shall inform the applicant in writing of its decision and the reasons for the decision within seven days after making that decision.

(5) An applicant who is refused a licence by the Board may petition the Minister for redress and if the applicant is not satisfied with the decision of the Minister, the applicant may seek redress in court.

### **17. Publication of licence**

The Commission shall cause to be published in the *Gazette* and any other newspaper of national circulation that the Commission determines, the names of licensed companies and the types of game of chance for which they are licensed.

### **18. Register of licences**

The Commission shall keep and maintain a register of licences which shall contain details of licences granted.

## **19. Non-transferability of licence**

(1) A person shall not transfer a licence granted by the Commission to another person.

(2) A person who transfers a licence granted by the Commission commits an offence and is liable on summary conviction to a fine of not less than five hundred penalty units or a term of imprisonment of not less than two years or both.

## **20. Conditions for revocation of licence**

The Commission may revoke a licence where

- (a) a company is in breach of this Act or another enactment relating to gaming in Ghana;
- (b) an ex-convict whose conviction is less than ten years is appointed as a director of the company;
- (c) a company is unable to maintain the amount of cash or cash equivalents required under section 23;
- (d) a company ceases to engage in the gaming business continuously for six months;
- (e) a company fails to utilise its licence within six months after the grant of the licence; or
- (f) in any criminal proceedings the High Court recommends to the Board that the licence should be revoked.

## **21. Renewal of licence**

(1) A licence to operate a game of chance is renewable annually.

(2) The fee for the renewal of a licence is one percent of the minimum stated capital.

## **22. Capital requirements for carrying on a game of chance business**

Except as otherwise provided in this Act, a person shall not carry on a business of game of chance in Ghana unless that person has and maintains at all times while carrying on the business, a paid-up share capital determined by the Board.

## **23. Minimum bankroll requirement**

(1) Every holder of a licence for a game of chance shall maintain in its accounts, cash or cash equivalents

- (a) in a proportion to its paid-up capital and the financial level of its operations, and
- (b) in a manner,

that the Board determines is sufficient to protect the patrons of the licence holder against defaults in the payment of gaming debts owed by that licence holder.

(2) The Board may review the amounts and the manner for maintaining the amounts where necessary.

(3) A licence holder whose cash or cash equivalents fall below the amounts determined by the Commission shall within twenty-four hours after the shortfall give notice to the Commission in writing or in electronic form of the shortfall and shall in the notice state the steps it is taking to rectify the deficiency.

(4) If within seventy-two hours after giving the Commission notice of a shortfall the licence holder has not made good the shortfall, the Board shall suspend the operations of the licence holder, conduct an investigation into the licence holder's operations and require the licence holder to take certain actions within a period specified by the Commission.

#### **24. Penalty for non-compliance with bankroll requirements**

A licence holder who

- (a) persistently fails to maintain any amount of cash or cash equivalent determined under section 23;
- (b) fails to give notice of a shortfall in the amount of cash or cash equivalent required under section 23 (3); or
- (c) fails to take the action that the Board requires it to take within the time specified under section 23 (4),

is liable to a pecuniary penalty not exceeding the cedi equivalent of US\$ 20,000 or revocation of its licence whichever the Commission determines to be appropriate.

#### **25. Dishonoured cheques**

(1) If a cheque issued to a winner of a game of chance for the payment of the win is dishonoured, the winner shall immediately inform the licence holder who issued the cheque that the cheque has been dishonoured and the licence holder shall within twenty-four hours

- (a) inform the Board in writing or by electronic means copied to the winner of the dishonoured cheque, and
- (b) pay the winner the sum due by banker's draft or cash, whichever is appropriate.

(2) Where a licence holder fails

- (a) to inform the Commission of the dishonoured cheque for the payment of a win, or
- (b) to pay the winner the sum due within the time specified in subsection (1),

the winner may within seven days after the expiration of the twenty-four hours, give notice in writing to the Commission and the Commission shall ensure the payment of the win by the licence holder within forty-eight hours, if that is possible, and impose sanctions that it considers appropriate under section 24.

#### **26. Records**

(1) A licensed company shall keep records of its operations as prescribed by the Commission and any other law.

(2) The company shall make its records available for inspection by an authorised officer of the Commission and any financial intelligence unit established by law.

#### **27. Inspectors and power of entry**

(1) The Board may appoint inspectors to perform its functions under this Act.

(2) An inspector authorised by the Board may enter premises or a place used or suspected to be used for a game of chance at a reasonable time to investigate activities there and make a report to the Board.

(3) The authorised inspector may inspect

- (a) the licence, books and machines for the game of chance,
- (b) the premises and facilities in the premises, and
- (c) any other thing which is relevant to the investigation.

(4) The inspector shall produce the inspector's authorisation at the request of the person responsible for the game of chance.

(5) A police officer not below the rank of Assistant Superintendent may enter premises if that officer has reasonable cause to believe that an offence with respect to this Act has been or is being committed on the premises.

(6) The Board may order the seizure of a machine used for a game of chance or the temporary closure of a licensed company in the presence of a police officer, if it considers it in the public interest to do so.

### *Miscellaneous Games of Chance*

#### **28. Games of chance incidental to certain entertainment**

(1) A game of chance promoted as an incident of a bazaar, sale of work, fete or other entertainment of a similar character whether limited to one day or extending over two or more days is lawful and does not require a licence if the conditions specified in subsection (3) are observed in connection with the promotion and conduct of the game.

(2) Where a condition under subsection (3) is broken, the game becomes an unlawful game and a person concerned with the promotion or the conduct of the game commits an offence and is liable on summary conviction to a fine of not more than one thousand penalty units or a term of imprisonment of not more than three years or both unless that person proves that there was no ground for knowing that the game had become unlawful.

(3) The conditions referred to in subsections (1) and (2) are that

- (a) the prizes in the game are not money prizes,
- (b) the total value of the prizes does not exceed five hundred million cedis,
- (c) the whole proceeds of the entertainment including the proceeds of the game after deducting
  - (i) the expenses for prizes, in connection with the game; and
  - (ii) the expenses incurred in printing tickets for the game,are to be used for a charitable or sporting purpose,

(d) the facilities offered to participate in the game are not the only or a substantial inducement to a person to attend the entertainment, and

(e) the result of the game is to be declared only on the premises on which the entertainment takes place and during the progress of the entertainment.

(4) No part of the proceeds of a game under this section shall be used for private gain.

(5) The same promoter shall not promote more than one game of chance for the same purpose within a period of three months under this section.

## 29. Game of chance by a society

(1) A society may promote a game of chance if the sale of tickets by the society is confined to

- (a) members of the society and the society is established and conducted for purposes other than for gaming or betting,
- (b) persons who work on the same premises, or
- (c) persons who reside on the same premises,

and if the promoter of the game is authorised in writing by the governing board of the society for that purpose.

(2) In this section, “**society**” includes a club, institution, organisation or other association of individuals called by any name and each local affiliated branch or section of a society is to be regarded as a separate distinct society.

(3) A game under this section does not require a licence if the following conditions are observed in connection with the promotion and conduct of the game:

- (a) the whole proceeds, after deducting expenses incurred for printing and stationery, is devoted to
  - (i) the provision of prizes for purchasers of tickets, or
  - (ii) in the case of a game promoted for the members of a society, either to the provision of prizes or to purposes of the society or partly to the provision of prizes and partly to purposes of the society;
- (b) the only matter exhibited, published or distributed in respect of the game is
  - (i) a notice exhibited on the premises of the society for whose members it is promoted, or on the premises on which the persons for whom it is promoted work or reside, and
  - (ii) an announcement or advertisement contained in the tickets;
- (c) the price of each ticket is the same, and the price of a ticket is stated on the ticket;
- (d) a ticket bears on the face of it,
  - (i) the names and addresses of each of the promoters,
  - (ii) a statement of the persons to whom the sale is restricted, and
  - (iii) a statement that a prize won in the game shall not be paid or delivered by the promoters to any person other than the persons to whom the winning ticket was sold;
- (e) a prize won is paid or delivered only in accordance with the statements in paragraph (d);
- (f) the promoters issue or allot tickets
  - (i) only through sale,
  - (ii) upon receipt of the price which is stated on the ticket, and
  - (iii) no money or valuable thing received by a promoter is returned in any circumstances other than those specified in paragraph (g);
- (g) money or any valuable thing received by a promoter in respect of the sale of a ticket may be returned to the purchaser

- (i) if it was not received by the promoter on or before the advertised closing date, or
- (ii) if a closing date is not advertised, before the selection of the winning ticket, and
- (iii) if the ticket in respect of which the money or valuable consideration was received, was not included among the tickets from which the winning ticket was selected.

(4) If any of the conditions specified in subsection (3) is broken, the game becomes an unlawful game and

- (a) each of the promoters of the game, and
- (b) where the person by whom the condition is broken is not one of the promoters, that person,

commits an offence and is liable on summary conviction to a fine of not more than one thousand penalty units or imprisonment for a term of not more than three years or both.

(5) It is a defence for a person charged only by reason of being a promoter to prove that the person was not in a position to know that the game had become unlawful.

### **30. Tickets and other documents**

For the purpose of sections 28 and 29,

- (a) “**ticket**” includes, in relation to a game or proposed game, a document which is evidence of the claim of a person to participate in the chances of the game, and
- (b) documents or other matters are distributed if they are distributed to persons whether within or outside the country.

### **31. Forfeiture**

Where a person is convicted of an offence under sections 28 and 29 the court may order forfeiture of money collected by or on behalf of that person on the sale of tickets and of any instrument or thing used in the game in connection with which the offence was committed.

## *Conditions for Gaming and Betting*

### **32. Gaming and betting subject to Act**

A person shall not carry out gaming and betting except in accordance with this Act.

### **33. Unlawful gaming**

(1) Gaming is unlawful if by reason of the nature of the game, the chances of all the players, including the banker are not equal.

(2) Gaming is lawful if no stake is hazarded by the players with the promoter or banker other than a charge for the right to take part in the game and if

- (a) only one charge is made in respect of the day on which the game is played,
- (b) the charge is the same for all the players, and
- (c) the promoter does not derive personal profit from the promotion of the game.

(3) A person who takes part in, or promotes or provides facilities for unlawful gaming commits an

offence and is liable on summary conviction to a fine of not more than five hundred penalty units or a term of imprisonment of not more than two years or both.

### **34. Gaming in public**

A person who

- (a) carries on gaming or bets in a public place, or
- (b) plays a game or pretended game of chance at a table or with a card, coin, token or other article used as an instrument or means of betting or gaming,

which is not approved for betting and gaming by the Board, commits an offence and is liable on summary conviction to a fine of not more than five hundred penalty units or a term of imprisonment of not more than two years or both.

### **35. Gaming houses**

(1) An owner or occupier of a house or a person who has the use of a house, room or place who

- (a) opens, keeps or uses it as a gaming house,
- (b) knowingly permits it to be opened, kept or used by another person for gaming, or
- (c) cares for or manages or in any manner assists in conducting the business of a house, room or place opened, kept or used for gaming,

without the approval of the Board, commits an offence and is liable on summary conviction to a fine of not more than five hundred penalty units or a term of imprisonment of not more than two years or both.

(2) A person, other than a person mentioned in subsection (1), found in an unapproved gaming house shall be considered to be there for the purpose of playing a game of chance for money or moneys worth and that person commits an offence and is liable on summary conviction to a fine of not more than two hundred and fifty penalty units or a term of imprisonment of not more than twelve months.

### **36. Betting houses**

(1) A house, room or place is called a betting house if

- (a) bets are made in the house, room or place between persons who go there and
  - (i) the owner, occupier, or keeper of the place or a person using the place,
  - (ii) a person employed or acting for or on behalf of the owner, occupier or keeper, or the person who uses the place, or
  - (iii) a person who is responsible for its management or in any manner conducting the business of the place; or
- (b) money or other property is paid or received in that house, room or place by or on behalf of the owner, occupier or keeper, or the person who uses the place
  - (i) for an assurance, undertaking, promise, or agreement, express or implied, to pay or give money or other property on an event or contingency of or relating to a horse race, or other race, fight, game, sport or exercise, or
  - (ii) to secure the payment or giving by some other person of money or other property on an event or contingency relating to a horse race or other race, fight, game, sport or

exercise.

(2) The owner or occupier of a house, room or place who without approval of the Commission, knowingly and wilfully permits it to be opened, kept or used as a betting house by another person or a person who manages or assists in conducting the business of a betting house which has not been approved by the Commission, commits an offence and is liable on summary conviction to fine of not more than five hundred penalty units or imprisonment for a term of not more than two years or both.

### **37. Cheating in gaming**

A person who

- (a) in promoting or assisting in promoting a game,
- (b) in acting as banker of those who play, or
- (c) in playing at, or in betting on an event, a game, sport, pastime or exercise,

cheats or wins from another person or causes or procures a person to win from another person anything through fraud or defrauding by false pretences, commits an offence and is liable on summary conviction to a fine of not less than two hundred penalty units or a term of imprisonment of not more than three years or both.

#### *Agreement by Way of Gaming or Betting*

### **38. Gaming and betting agreements void**

- (1) An agreement in respect of gaming or betting is void.
- (2) For the purpose of this section an agreement
  - (a) to pay a sum of money or to deliver a valuable thing alleged to have been won on a bet or by gaming;
  - (b) by which two or more persons deposit a sum of money or valuable thing with a person in order to earn a prize based on the result of
    - (i) an event on which a bet has been placed, or
    - (ii) a game; or
  - (c) by a person to indemnify an agent for any liability incurred by the agent in respect of an agreement concerning gaming or betting,

is an agreement in respect of betting or gaming.

(3) This section does not prevent a person to claim the return of a sum of money or valuable thing which that person may have deposited with another person before that other person has paid or delivered the valuable thing in accordance with the instructions of the depositor.

(4) For the purpose of this section, an agreement to subscribe for or contribute towards a prize, whether in money or otherwise, to be awarded to the winner of a lawful game is not an agreement in respect of betting or gaming.

### **39. Security in respect of gaming and betting**

A security given by a person in respect of anything won by a lawful game, bet or lottery shall be

considered to have been given without consideration, and a security given by a person in respect of anything won by an unlawful game or lottery shall be considered to have been given for unlawful consideration.

#### **40. Loans for gaming or betting**

(1) An agreement by which a person lends money to another person and security given in respect of that loan shall not be void because the loan is used or is required to be used for gaming or betting or participating in a lottery or for discharging a debt whether valid or not, incurred through gaming or betting or participating in a lottery.

(2) This section does not apply to an agreement by which a person knowingly lends money for an unlawful purpose.

## **PART II**

### *Gambling Machines*

#### **41. Importation of gambling machines**

(1) A person other than the National Lottery Authority shall not import a gambling machine into the country without the prior written consent of the Board.

(2) An application for consent shall be made in the form contained in the First Schedule and shall be accompanied by a fee of ₪500,000 or a higher fee determined by the Board with the approval of the Minister.

(3) The consent shall be in addition to the requirements of any other law relating to importation.

#### **42. Control of sales and hire**

(1) A person shall not sell, let, hire or in any way dispose of a gambling machine or an interest in a gambling machine to any other person without the prior written consent of the Board.

(2) An application for consent under this section shall be made in the form contained in the Second Schedule.

#### **43. Licensing of gambling machines**

(1) A person other than the National Lottery Authority shall not install or operate a gambling machine except in accordance with a licence granted by the Board under this Act.

(2) An application for a licence under this section shall be made by the owner of the gambling machine in the form contained in the Third Schedule and shall be accompanied by a fee of the cedi equivalent of US\$1000 or a fee determined by the Board with prior approval of the Minister.

(3) A separate application shall be submitted in respect of each machine.

(4) A licence granted under this section is not transferable and does not authorise a person other than the person named in the licence to install or operate the gambling machine.

#### **44. Duration of licence**

(1) A licence granted under section 43 is valid for twelve months from the date of issue and may be

renewed on payment of an annual fee of €3 million or a fee determined by the Board with the prior approval of the Minister.

(2) On the expiry of a licence granted under section 43, the licensee shall within seven days surrender the licence to the Board.

#### **45. Conditions of a licence**

(1) A licence granted under section 43 is subject to the terms and conditions that the Board may specify in the licence.

(2) The Board may in writing revoke or add to the terms or conditions of a licence as the Board considers appropriate.

#### **46. Revocation of gambling machine licence**

The Board may revoke a licence granted under section 43 if

- (a) the Board is satisfied that the licensee has contravened or failed to comply with the terms or conditions of the licence or a requirement of this Act,
- (b) the Board is satisfied that it is in the public interest to do so; or
- (c) the licensee is convicted of an offence in relation to a gambling machine.

#### **47. Restriction on use of machine**

A person shall not install or operate a gambling machine except at a place approved for that purpose by the Board.

#### **48. Children prohibited**

A person responsible for a gambling machine shall not permit a child to use the gambling machine or to enter a place where the gambling machine is operated.

#### **49. Forfeiture of unlicensed machines**

A gambling machine which is in the country at the commencement of this Act shall be forfeited to the State unless within twenty-eight days from the commencement, the owner of the machine applies for a licence under section 43 and pays the specified licence fee.

#### **50. Forfeiture of illegally imported machine**

A gambling machine which is illegally imported into the country whether before or after the commencement of this Act shall be forfeited to the State.

#### **51. Forfeiture of machine of which owner cannot be found**

(1) Where the ownership of a gambling machine is uncertain, unknown or cannot be determined, the Board may order an inspector or police officer to seize the machine.

(2) A seized gambling machine shall be forfeited to the State, unless within thirty days of the seizure it is claimed by a person who establishes to the satisfaction of the Board that person is the owner of the machine.

## **52. Seizure in case of suspected offence**

Where it is suspected that an offence has been committed in relation to a gambling machine, the Board may order an inspector or a police officer to seize the machine.

## **53. Disposal of seized and forfeited machines**

(1) A gambling machine which is seized under sections 51 and 52 shall be kept in the custody of the police until the Board otherwise directs.

(2) A gambling machine which is forfeited under this Act may be seized by an inspector or a police officer at any time and at any place and shall be delivered immediately to the Commission.

(3) A gambling machine which is forfeited under this Act shall be disposed of in a manner that the Board directs.

## **54. Further powers of the Board**

(1) The Board may at any time order a person to remove a gambling machine from a place which the Games Commissioner considers to be unsuitable for the operation of the machine.

(2) Where the Board refuses to grant a licence for a gambling machine under section 43, the Board may order a person to remove the machine, deliver and place it in the custody of the police.

(3) A gambling machine in police custody under subsection (2) shall be kept by the police until the owner of the machine disposes of the machine to a person approved by the Board under section 42 or until the Board otherwise directs.

## **55. Defective machine not to be used**

(1) A person shall not operate or permit another person to use a defective gambling machine.

(2) Where a gambling machine becomes defective, the person in charge of the operation of that machine shall immediately seal the slot or other apparatus for the insertion of money into the machine in a manner that prevents the use of the machine by a member of the public.

(3) For the purpose of this section, a gambling machine is defective if

- (a) it fails to pay prize money,
- (b) it fails to pay the correct amount of prize money,
- (c) its operations fail to comply with a requirement in Regulations made under this Act, or
- (d) its normal operations are impaired in any other manner.

## **56. Offences in relation to gambling machines**

(1) A person who

- (a) imports a gambling machine without the written consent of the Board;
- (b) sells, lets on hire or in any way disposes of a gambling machine or an interest in a gambling machine without the written consent of the Board;
- (c) installs or operates a gambling machine without the licence required under section 43;

- (d) contravenes or fails to comply with any of the terms or conditions of a licence granted under section 43;
- (e) obstructs or frustrates lawful seizure of a gambling machine under this Act;
- (f) fails to comply with an order of the Board given under section 54;
- (g) operates or permits another person to use a defective gambling machine contrary to section 55; or
- (h) wilfully alters a gambling machine to render it defective within the meaning of section 55 (3),

commits an offence and is liable on summary conviction to a fine of not more than one thousand penalty units or a term of imprisonment of not more than three years or both.

(2) A person who permits a child to use a gambling machine or to enter a place in which a gambling machine is used commits an offence and is liable on summary conviction to a fine of not more than two hundred and fifty penalty units or a term of imprisonment of not more than twelve months or both.

(3) A child who uses a gambling machine, or enters a place in which a gambling machine is used, commits an offence and is liable on summary conviction by a juvenile court to a fine of not more than one hundred penalty units or a custodial sentence that the court determines.

## **57. Exemptions**

The Board may grant an exemption in writing from any provision of this Act in respect of a gambling machine operated by a private association or club where the Board is satisfied that the machine is used only by the members of that association or club and that the application of a provision of this Act might cause hardship.

## **PART III**

### *Casino*

## **58. Casino to operate as a club**

- (1) A casino shall be licensed under section 16 and shall operate as a club.
- (2) The rules of the club may provide for permanent and temporary membership and shall be submitted by the licensee for approval by the Board.
- (3) The following persons are not eligible for membership of the club:
  - (a) a child;
  - (b) a member of the judiciary including a person in any way serving in a judicial capacity;
  - (c) a member of the Armed Forces;
  - (d) a member of the Public Service, including the Police Service and service with a regional administration or district assembly.

## **59. Powers of the Board in relation to casino**

The Board may impose additional terms and conditions in respect of the application for grant of

licence for a casino under section 16 that the Board considers appropriate.

#### **60. Display of licence**

(1) A notice that a casino is licensed under this Act shall be prominently displayed in the casino.

(2) The notice shall include reference to the games of chance authorised under the licence, the maximum percentage of commission to be deducted in play and the odds to be paid as appropriate.

#### **61. Restriction**

A person or body of persons shall not use the word “casino” in conjunction or as part of that person’s or that body’s name without the prior written consent of the Board.

#### **62. Offences in relation to casino**

A person who

- (a) operates a casino without the licence required under this Act;
- (b) contravenes a term or condition of a licence granted under this Act;
- (c) admits a person declared by section 58 (3) to be ineligible for membership as a member;
- (d) fails to display a notice as required by section 60 (1), or fails to display in the notice the particulars required by section 60 (2);
- (e) obstructs a person lawfully authorised to inspect a casino under section 27; or
- (f) uses the word “casino” as part of a business name without the written consent of the Board,

commits an offence and is liable on summary conviction to a fine of not more than one thousand penalty units or imprisonment for a term of not more than three years or both.

#### *General Offences and Penalties in relation to a Licence*

#### **63. Operation of game of chance without licence**

(1) A person who operates a game of chance at a club which is not a casino without a valid licence to do so commits an offence and is liable on summary conviction to a fine of not less than one thousand penalty units or imprisonment for a term of not less than three years or both.

(2) Where an offence is committed under subsection (1), or under section 61 by a company each director of the company is liable to the penalty provided in that subsection unless the director proves that the offence was committed without the director’s consent or connivance and that the director exercised due diligence to prevent the commission of the offence as the director ought to have exercised having regard to the nature of the functions of the director and the circumstances.

#### **64. Broadcast and publication of game results**

(1) A company that operates a game under sections 28 and 29 shall not publish or broadcast or cause to be published or broadcast the results of the game without the authorisation of the Board.

(2) A company that contravenes subsection (1) commits an offence and each director of the company is deemed to have committed the offence and is liable on summary conviction to a fine of not more than two hundred and fifty penalty units or a term of imprisonment of not more than twelve months or both

unless the director proves that the offence was committed without the director's consent or connivance and that the director exercised due diligence to prevent the commission of the offence that the director ought to have exercised having regard to the nature of the functions of the director and the circumstances.

*Administration, Finance and Miscellaneous Matters*

**65. Games Commissioner**

(1) The President shall, in accordance with article 195 of the Constitution appoint a chief executive of the Gaming Commission who shall be known as the Games Commissioner.

(2) The Games Commissioner shall

- (a) subject to the direction of the Board on matters of policy, be responsible for the day to day administration of the office of the Gaming Commission, and
- (b) perform other functions determined by the Board.

(3) The Games Commissioner shall hold office on the terms and conditions specified in the letter of appointment.

**66. Secretary of the Board**

The Commission shall have an officer to be designated as secretary to the Board who shall perform functions directed by the Board.

**67. Appointment of other staff**

(1) The Commission shall have other officers and staff that are necessary for the proper and effective performance of its functions.

(2) The President shall in accordance with article 195 of the Constitution appoint the other officers and staff of the Commission.

(3) Other public officers may be transferred or seconded to the Board or may otherwise give assistance to it.

(4) The Commission may engage the services of advisers on the recommendations of the Board.

**68. Funds of the Board**

The funds of the Commission include

- (a) moneys provided by Parliament, and
- (b) subject to section 6 (3) of the Financial Administration Act, 2003 (Act 654), fees and charges accruing to the Commission in the performance of its functions under this Act.

**69. Accounts and audit**

(1) The Commission shall keep books of account and proper records in relation to them in the form approved by the Auditor-General.

(2) The Board shall submit the accounts of the Commission to the Auditor-General for audit within three months after the end of the financial year.

(3) The Auditor-General shall, not later than three months after the receipt of the accounts, audit the accounts and forward a copy of the audit report to the Minister.

(4) In addition to the annual audit, technical audits may be conducted on selective basis by the Auditor-General or an auditor appointed by the Auditor-General.

## **70. Annual report**

(1) The Board shall within one month after the receipt of the audit report, submit an annual report to the Minister covering the activities and the operations of the Board for the year to which the report relates.

(2) The annual report shall include the report of the Auditor-General.

(3) The Minister shall within two months after the receipt of the annual report submit the report to Parliament with a statement that the Minister considers necessary.

## **71. Regulations**

The Minister may, on the advice of the Board, by legislative instrument make Regulations to

- (a) amend the minimum capital requirement of a company that intends to operate a game of chance;
- (b) amend the procedure for the determination of the minimum bankroll;
- (c) provide rules for the conduct of a game of chance;
- (d) provide for premises suitable for the operation of a game of chance;
- (e) stipulate records to be kept by a company operating a game of chance; and
- (f) provide generally for the effective implementation of this Act.

## **72. Interpretation**

In this Act, unless the context otherwise requires,

“**authorised**” means empowered by an enactment or where appropriate by the Board;

“**banker**” in relation to a game means the banker or other person by whom the game is managed or against whom the players stake, play or bet;

“**betting**” means an arrangement to risk money or another valuable thing on event which has a doubtful result;

“**Board**” means the Gaming Board established under section 4;

“**casino**” means a building or part of a building to which members of the public authorised by the licensee have access for the purpose among other things of playing specified games of chance;

“**child**” means a person under the age of eighteen years;

“**Court**” means court of competent jurisdiction;

“**game**” means game of chance;

“**game of chance**” includes a game other than lotto in which participants, in anticipation of winning a reward on the results of the game which depend on luck and which cannot be determined

before the end of the game, pay money for the right to participate in the game;

“**gaming**” means playing a game, whether of skill or chance or partly of skill and partly of chance for stakes hazarded by the players but does not include lotto;

“**horse race**” means a horse race held on a racecourse or track which the Board has given authority by notice published in the *Gazette* for the conduct of horse racing;

“**Minister**” means the Minister for the Interior;

“**prescribed**” means prescribed by regulations;

“**public place**” means an area which is generally accessible to all manner of persons;

“**stake**” includes any payment for the right to take part in a game and any other form of payment required to be made as a condition of taking part in a game, but does not include a payment made solely for facilities provided for the playing of a game;

“**totalisator**” means the contrivance for betting known as the totalisator or any other machine or instrument of betting of a similar nature, whether mechanically operated or not.

### 73. Repeals, savings and transitional provisions

(1) The following enactments are hereby repealed:

- (a) the Lotteries and Betting Act, 1960 (Act 31);
- (b) the Football Pools Authority Act, 1961 (Act 78);
- (c) the Gambling Machines Decree, 1973 (N.R.C.D. 174); and
- (d) Casino Licensing Decree, 1975 (N.R.C.D. 320).

(2) Notwithstanding the repeal of the enactments in subsection (1), any instrument, Regulations and order made under those enactments and in force immediately before the commencement of this Act shall continue to be in force until they are revoked, except that any company which has been issued a licence under any of the repealed enactments shall unless otherwise provided for in this Act apply for a renewal of the licence within sixty days after the coming into force of this Act.

(3) Subject to the provisions of this Act any existing licence which is not renewed within the stipulated sixty days in subsection (2) shall be invalid.

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## SCHEDULES

### FIRST SCHEDULE

[Section 15]

#### *Application for Consent to Import a Gambling Machine*

- 1. Full name of applicant .....
- 2. Address of applicant .....
- 3. Nationality of applicant .....
- 4. Make of machine .....
- 5. Serial No. ....

- 6. Country of origin .....
- 7. Cost of machine .....
- 8. Will the machine be imported for resale? – Yes/No.
- 9. Proposed location of machine:
  - (a) Name of premises .....
  - (b) Town or city .....
- 10. Present location of machine:
  - (a) Name of premises .....
  - (b) Town or city .....
- 11. Number of present gambling machine licence (if any)
- 12. Date of expiry of present licence

I CERTIFY that I am the true owner of the gambling machine in respect of which this application is made and that the particulars given in this application are true.

.....  
*Signature of Applicant*

..... 20.....

**SECOND SCHEDULE**

[Section 42]

*Application for Consent to Sell, Let on Hire or Otherwise Dispose of a Gambling Machine or any Interest Therein*

- 1. Full name of applicant .....
- 2. Address of applicant .....
- 3. Nationality of applicant .....
- 4. Make of machine .....
- 5. Serial No. ....
- 6. Nature of proposed transaction .....
- 7. Nature and address of proposed buyer/hirer/consignee .....
- .....
- .....
- 8. Nationality of proposed buyer/hirer/consignee .....
- 9. Present location of machine:
  - (a) Name of premises .....
  - (b) Town or city .....
- 10. Proposed location of machine:
  - (a) Name of premises .....
  - (b) Town or city .....
- 11. Number of present gambling machine licence (if any) .....
- 12. Date of expiry of present licence .....

I CERTIFY that I am the true owner of the gambling machine in respect of which this application is made and that the participants given in this application are true.

.....  
*Signature of Applicant*

**THIRD SCHEDULE**

[Section 43 (2)]

*Application for Licence to Install or Operate a Gambling Machine*

- 1. Full name of owner .....
- 2. Address of owner .....
- 3. Nationality of owner .....
- 4. Make of machine .....
- 5. Serial No. ....
- 6. Date of importation .....
- 7. Particulars of Import Licence .....
- (Attach copy)*
- 8. Country of origin .....
- 9. Cost of machine .....
- 10. Customs duty paid .....
- (State amount, quote receipt number and attach copy of receipt if available)*
- 11. Income Tax Clearance Certificate No. ....
- (Attach copy)*
- 12. Particulars of previous licence:
  - (a) Number .....
  - (b) Issued by .....
  - Fee paid  $\text{¢}$  .....
  - Date of expiry .....
- 13. Present location of machine:
  - (a) Name of premises .....
  - (b) Town or city .....
- 14. Proposed location of machine:
  - (a) Name of premises .....
  - (b) Town or city .....
- 15. Is proposed location owned by applicant? – Yes/No.
- 16. If “No”, state how location is acquired .....
- (Attach agreement or evidence of allocation of location)*
- 17. Total number of gambling machines at present owned by the applicant .....

I CERTIFY that I am the true owner of the gambling machine in respect of which this application is made and that the particulars given in this application are true.

.....  
*Signature of Applicant*

## Endnotes

### 1 (Popup - Footnote)

1. This Act was assented to on 22nd December, 2006.