

# GAMING BILL, 2014

## Arrangement of Sections

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### Section

<b>PART I – PRELIMINARY</b>	<b>4</b>
1. Short title and commencement.....	4
2. Interpretation.....	4
<b>PART II – THE GAMING BOARD FOR THE BAHAMAS</b>	<b>17</b>
3. Continuation of the Gaming Board for The Bahamas.....	17
4. Composition of Board.....	18
5. Eligibility for appointment as member or employee of the Board.....	18
6. Disqualification for appointment as member or employee of the Board.....	19
7. Term and termination of Office.....	19
8. Staff of the Board.....	20
9. Powers and functions of the Board.....	21
10. Delegation of powers.....	21
11. Special powers of entry, seizure and enquiry.....	22
12. Conflict of interests and public trust.....	24
13. Disclosure.....	24
14. Remuneration and allowances.....	24
15. Confidentiality.....	25
16. Meetings of the Board.....	27
17. Minutes.....	28
18. Funds of the Board.....	28
19. Audit of accounts.....	29
20. Hearings and investigations.....	30
21. Witnesses and evidence.....	32
<b>PART III – LICENCES AND GOVERNING PRINCIPLES</b>	<b>33</b>
22. No right to licence.....	33
23. Kinds of licences.....	33
24. Qualification for licences.....	34
25. Disqualifications for employment licences.....	34
26. Disqualification for other licences and interests in such licences.....	35
27. Licence applications.....	36
28. Objections and comments.....	36
29. Liability for costs of, and consent to, hearings and investigations.....	36
30. Consideration of applications for employment, supplier and junket operator licences.....	37

31.	Consideration of applications for other licences.....	38
32.	Consideration of applications by Minister.....	40
33.	Conditions of licences, certificates and approvals.....	41
34.	Surveillance and electronic monitoring systems.....	43
35.	Duration and renewal of licences.....	43
36.	Transfer or relocation of licence.....	44
37.	Suspension or revocation of licences.....	45
38.	New licence application and annual licence and monitoring fees.....	46

**PART IV – LICENSING AND APPROVAL 47**

---

39.	Gaming licence.....	47
40.	Proxy gaming licence.....	48
41.	Mobile gaming licence.....	48
42.	Restricted interactive gaming licence.....	48
43.	Junket operator licence and junket representatives.....	49
44.	Gaming house operator licence.....	50
45.	Gaming house premises licence.....	52
46.	Gaming house agent licence.....	53
47.	Supplier licence.....	53
48.	Key employee licence.....	55
49.	Gaming employee licence.....	57
50.	Temporary employee licence.....	58
51.	Procurement of financial interests.....	59
52.	Gaming devices.....	60
53.	Books, accounts, records and returns.....	60
54.	Approval of gaming-related contracts.....	60
55.	Contracts with gaming service providers and certificates of suitability.....	62
56.	Control of entry to licensed premises.....	63
57.	Rules for games.....	63

**PART V – LOTTERIES 63**

---

58.	National and other lotteries.....	63
59.	Charitable lotteries.....	64
60.	Private lotteries.....	65
61.	Lotteries incidental to certain entertainment events.....	67
62.	Audit of accounts.....	67
63.	Offences and penalties in relation to lotteries.....	67

**PART VI - TAXATION AND FINANCIAL ARRANGEMENTS 69**

---

64.	Imposition of gaming taxes.....	69
65.	Tax payable upon conviction.....	69

**PART VII – GENERAL PROVISIONS 69**

---

66.	Prohibitions in respect of gaming and presumptions relating thereto.....	69
67.	Prohibited conduct in relation to gaming devices.....	71

68.	Cheating and cheating devices.....	72
69.	Prohibitions in respect of gaming.....	72
70.	Methods of operation.....	73
71.	Unsuitable methods of operation.....	74
72.	Extension of credit.....	74
73.	Responsible gambling.....	74
74.	Exclusions from gaming.....	75
75.	Offences and penalties.....	77
76.	Penalties for contraventions of Act, Regulations and Rules.....	79
77.	Forfeiture.....	79
78.	Patron disputes.....	80
79.	Enforceability of gaming debts.....	81
80.	Reward for informers.....	81
81.	Regulations.....	81
82.	Rules.....	83
83.	Internal control standards.....	84
84.	Judicial review.....	85
85.	Transitional provisions.....	85
86.	Exemptions.....	93
87.	Non-application of Ch. 369.....	93
88.	Repeal.....	93

**SCHEDULE**



## GAMING BILL, 2014

### A BILL FOR AN ACT TO PROVIDE FOR THE MODERNISATION OF THE GAMING REGULATORY DISPENSATION IN THE BAHAMAS, THE CONTINUATION OF THE GAMING BOARD FOR THE BAHAMAS; THE LICENSING AND REGULATION OF GAMING ACTIVITIES AND MATTERS INCIDENTAL THERETO

Enacted by the Parliament of The Bahamas

#### PART I – PRELIMINARY

##### 1. Short title and commencement.

- (1) This Act may be cited as the Gaming Act, 2014.
- (2) This Act shall come into force on a day to be appointed by the Minister by notice published in the *Gazette* and different dates may be appointed by such a notice for the coming into force of particular sections or parts of this Act.

##### 2. Interpretation.

- (1) In this Act —
  - “**Act**” means this Act and includes the *Schedule* and any regulations or rules made or issued thereunder;
  - “**applicant**” means any person who or entity which requests the Board or any of its members, employees, appointees or delegates to exercise a power under this Act;
  - “**associate**” means—
    - (a) an employer;
    - (b) a partner in terms of a partnership agreement;

- (c) a co-shareholder of a private company or other juristic person recognised by law; or
- (d) a person to whom another person has granted or from whom another person has received a general power of attorney;

**“authorised officer”** means a person authorised under section 11;

**“bet”** or **“betting”** means an activity described in section 2(3);

**“Board”** means the Gaming Board for The Bahamas continued under section 3;

**“casino”** means physical premises from or on which —

- (a) betting on any event and pari-mutuel wagering may be offered, as authorised by a gaming licence;
- (b) gambling games are made available for play, as authorised by —
  - (i) a gaming licence;
  - (ii) a proxy gaming licence, provided that such a licence has been issued to the holder of the gaming licence authorised to operate the relevant casino; and
  - (iii) a mobile gaming licence, provided that such a licence has been issued to the holder of the gaming licence authorised to operate the relevant casino; and
- (c) an approved website is operated upon or from which specified gambling games are made available for play, via the medium of the internet, by the holder of a restricted interactive gaming licence, provided that such a licence has been issued to the holder of the gaming licence authorised to operate the relevant casino;

**“casino resort”** means a building, structure or group of buildings, including one or more buildings or hotels licensed in accordance with the provisions of the Hotels Act (*Ch. 288*) and a casino, in respect of which a licence to manage such premises had been issued on or before 1 April, 2013 or the operation of which was contemplated or permitted by the terms of Heads of Agreement entered into with the Government of The Bahamas on or before the effective date, or such further resort of a similar nature in respect of which a gaming licence may be issued after the effective date;

**“Central Bank”** means the Central Bank of The Bahamas, established under section 3 of the Central Bank of The Bahamas Act (*Ch. 351*);

**“charitable lottery”** means a lottery organised by three or more persons ordinarily resident in The Bahamas for the purposes of raising funds to be used for any religious, educational or charitable purpose, the promotion of athletic sports or games or cultural activities, or

otherwise for the promotion of the welfare of the community or any part thereof, that meets the requirements of section 59;

**“client terminal”** means any mobile device, issued to a patron by the holder of a mobile gaming licence that may be used to interact with a gaming system for the purpose of conducting mobile gaming;

**“communications technology”** means the methods used and the components employed to facilitate the transmission of information including, but not limited to, electronic communications as defined in the Electronic Communications and Transactions Act (*Ch. 337A*), and transmission and reception systems based on wire, cable, radio, microwave, light, optics, or computer data networks or any similar electronic agent;

**“consideration”** means—

- (a) money, merchandise, property, a cheque, a token, a ticket, electronic credit, credit, debit or an electronic chip, or similar object; or
- (b) any other thing, undertaking, promise, agreement or assurance, regardless of its apparent or intrinsic value, or whether it is transferred directly or indirectly;

**“control program”** means any software, source language or executable code that affects the result of a wager by determining win or loss and includes, without limitation, software, source language or executable code associated with —

- (a) random number generation process;
- (b) mapping of random numbers to game elements displayed as part of game outcome;
- (c) evaluation of the randomly selected game elements to determine win or loss;
- (d) payment of winning wagers;
- (e) game recall;
- (f) game accounting including the reporting of meter and log information to on-line slot metering system;
- (g) monetary transactions conducted with associated equipment;
- (h) software verification and authentication functions which are specifically designed and intended for use in a gaming device;
- (i) monitoring and generation of significant events; or
- (j) game operating systems that are specifically designed and intended for use in a gaming machine;

**“credit instrument”** means a representation of cash or credit used for gaming, including any instrument used for the electronic transfer of cash or credit to and from a gaming machine or gambling game, such as that commonly referred to as ticket-in, ticket-out technology;

**“designated area”** means —

- (a) the entire interior of any premises licensed under section 45; or
- (b) any area within a casino resort in which any slot machine or gaming table is available to be played; or any pari-mutuel wagering or betting on any event is available to be conducted otherwise than in the course of mobile gaming, and includes any private gaming area;

**“distribution”** or **“distribute”** means —

- (a) the sale, offering for sale, lease, offering for lease, or other form of provision or distribution of any gaming device for use or play in The Bahamas; or
- (b) the sale, offering for sale, lease, offering for lease or other form of provision or distribution of any gaming device from a location within The Bahamas;

**“distributor”** means a person or entity that distributes any gaming device;

**“domestic player”** means any person who —

- (a) is a citizen of The Bahamas and is ordinarily resident in The Bahamas;
- (b) is the holder of a permanent residence certificate or a residence permit granted under law regulating immigration;
- (c) possesses or requires a permit to engage in gainful occupation under the provisions of any laws regulating immigration, other than a person who is in the employ of the Board; or
- (d) is the spouse of any person referred to in any of the preceding paragraphs;

**“effective date”** means the date of coming into force of this Act;

**“employment licence”** means a licence referred to in section 23(1)(j) and (k);

**“event”** means any lawful event or occurrence, irrespective of the location at which it takes place, of which the outcome is —

- (a) uncertain or unknown to any person until it has occurred;
- (b) objectively verifiable once it has occurred; and

(c) unaffected by the placement of any bets thereon;

**“family member”** means a person’s—

- (a) spouse; or
- (b) child, parent, brother or sister, whether such a relationship results from birth, marriage or adoption;

**“Financial Intelligence Unit”** means the Financial Intelligence Unit established under section 3 of the Financial Intelligence Unit Act (*Ch. 367*);

**“financial interest”** means—

- (a) a right or entitlement to share in profits or revenue; or
- (b) a direct or indirect interest in the voting shares, or voting rights attached to shares of a company,

but excludes, in relation to the company or business of an applicant or licence holder —

- (i) any right or entitlement referred to in paragraph (a) and any interest referred to in paragraph (b) which accrues to or is indirectly held or acquired by shareholders in a company listed on a recognised stock exchange, by virtue of their shareholding or investment in such company;
- (ii) any entitlement to revenue accruing to a person pursuant to a contract for the supply of goods or services to a licence holder; and
- (iii) any indirect interest held through any fund or investment if the person holding such interest has no control over the investment decisions made in respect of that fund or investment;

**“gambling game”** means any activity described in section 2(5);

**“gaming”** or **“gaming activity”** means any activity described in section 2(2);

**“gaming device”** means any gaming machine, gaming platform, software or any other equipment or thing, excluding currency, playing cards and dice and mobile electronic devices, that —

- (a) is used directly in the conduct of any gaming activity; or
- (b) at the time of its manufacture, was designed to be used, in determining the result of a gaming activity; and
- (c) in respect of which standards have been prescribed under section 83(1)(c);

**“gaming house agent licence”** means a licence issued under section 46;



**“gaming house operator licence”** means a licence issued under section 44;

**“gaming house premises licence”** means a licence issued under section 45;

**“gaming licence”** means a licence issued under section 39;

**“gaming machine”** means any mechanical, electrical, video, electronic, electro-mechanical or other device, contrivance, machine or software, that —

- (a) is available to be played or operated upon payment of a consideration; and
- (b) may, as a result of playing or operating it, entitle the player or operator to a pay-out, or deliver a pay-out to the player or operator; and
- (c) without derogating from the generality of the foregoing, shall include a slot machine;

**“gaming platform”** means any software, control program or computer code used to facilitate or to conduct a gaming activity, any device containing a control program or any components of the foregoing that have no reasonable use other than to facilitate or conduct gaming;

**“gaming-related contract”** means any contract, other than a contract with a gaming service provider, or the holder of a licence issued under this Act entered into by the holder of an operator licence, other than a junket operator licence with a third party for the furnishing of any service, goods or property in respect of which such third party will receive payment, commission or any other consideration, having a value of or in excess of five hundred thousand dollars based directly or indirectly on earnings or profits from, or turnover in respect of any gaming;

**“gaming service provider”** means a company approved by the Board to conduct or manage the conduct of any gaming activity authorised by a licence referred to in section 23(1)(a), (b), (c), (d) or (f) on behalf of the holder of such licence;

**“hub”** means a facility which acts as an intermediary between a pari-mutuel facility authorised to be operated by the holder of a gaming licence and a track for the transmission of wagering data, which is responsible for generating all reports necessary for the reconciliation of payments between casinos and tracks and which performs other functions including the transmission of pictures of horse, harness or dog races and non-wagering data;

**“independent testing laboratory”** means a private laboratory that inspects, tests and certifies gaming devices against the provisions of

the prescribed standards, including, without limitation, gambling games, gaming platforms or any equipment, software, or networks used for the conduct of any gaming activity;

**“interactive gaming”** means the offering for play and playing by any person wherever located, of a gambling game made available to be played through communications technology and accessed over the internet;

**“internet”** means the interconnected system of networks that connects computers around the world using the TCP/IP and includes future versions thereof;

**“juket”** means a visit or an excursion to a casino resort by one or more persons who receive complimentary services such as transport, food and lodging as an inducement to visit the casino, which is arranged by a third party pursuant to an agreement with the holder of a gaming licence;

**“juket operator”** means any person who, for commission, a share in gambling profits or any other consideration, pursuant to an agreement with the holder of a gaming licence, plans or organises a junket referred to in section 43(1);

**“juket representative”** means any person who is employed by a junket operator to organise, promote or conduct a junket on behalf of the junket operator;

**“juket visitor”** means any person visiting a casino resort as a participant in a junket organised by a junket operator;

**“licence”** means any licence referred to in section 23;

**“licensed premises”** means any premises, whether contiguous or not, in or on which gaming or any related activity is conducted under a licence issued under this Act;

**“lottery”** means any sweepstake and any game, method, system or device whereby prizes, in the form of money or any other thing of value, are distributed or allotted in any manner depending upon or determined by chance or lot, held, drawn, exercised or managed in The Bahamas or elsewhere or upon the basis of the outcome of an event occurring in The Bahamas or elsewhere; provided that the term “lottery” shall exclude the numbers game or any other game authorised to be made available by a licence issued under this Act;

**“mandatory approval process”** means the procedures collectively described in section 31(1), 31(2) and 32, read, in relation to any provision of this Act, with any changes required by the context, for the recommendation by the Board to the Minister in respect of, and the grant or refusal by the Minister of, applications for licences or

certificates of suitability to which such process applies under this Act;

**“manufacture”** means —

- (a) to manufacture, produce, program, design, control the design of, maintain a copyright over or make modifications to a gaming device, including proprietary software or hardware;
- (b) to direct, control or assume responsibility for the methods and processes used to design, develop, program, assemble, produce, fabricate, compose and combine the components and other tangible objects of any gaming device, including proprietary software or hardware; or
- (c) to assemble, or control the assembly of, a gaming device, including proprietary software or hardware;

**“manufacturer”** means a person or entity that operates, carries on, conducts or maintains any form of manufacturing;

**“Minister”** means the Minister responsible for the administration of this Act;

**“mobile electronic device”** means any mobile electronic device on or from which a patron is able to participate in a gaming activity, including a laptop computer, mobile telephone or tablet;

**“mobile gaming”** means the placement of a bet or wager on a gambling game by a player located within a permitted area, using a client terminal or mobile electronic device;

**“mobile gaming licence”** means a licence issued under section 41;

**“numbers game”** means a game made available by the holder of a gaming house operator licence —

- (a) under which any single number or combination of numbers ranging from 000 to 999, or such other series of numbers as may be approved by the Board, may be wagered upon by a player at odds which are fixed at the time of conclusion of the wager; or
- (b) which enables a player to place a bet on the results of an official public lottery drawing or other similar event conducted anywhere in the world, in respect of which the official results are made publicly available;

**“operator licence”** means any licence referred to in section 23(1)(a), (b), (c), (d), (e) or (f);

**“pari-mutuel wagering”** means the placement or acceptance of a bet as referred to in section 2(4);

**“permitted area”** means a defined geographical area located on the licensed premises of the holder of a gaming licence, within the

borders of which mobile gaming may be conducted under a mobile gaming licence issued to the holder of such gaming licence, provided that such area shall include —

- (a) any location within the property boundaries of the casino resort;
- (b) any recreation area, including a beach or swimming pool located within such boundaries; and
- (c) any other area located within such boundaries declared to be a permitted area by the Minister in his sole discretion by notice in the *Gazette*, following receipt of an application by the holder of a mobile gaming licence,

but shall exclude parking garages or parking areas;

**“permitted foreign jurisdiction”** means a jurisdiction outside of The Bahamas, the laws of which do not prohibit citizens thereof from engaging in interactive gaming, utilising a gaming or wagering account established with a third party located outside such jurisdiction;

**“player”** or **“patron”** means any participant in a gaming activity, other than the holder of a licence issued under this Act;

**“premises licence”** means any licence referred to in section 23(1)(g) and (h);

**“prescribed”** means prescribed by regulation under this Act;

**“private gaming area”** means an enclosed room, facility or area within a casino resort in respect of which admission is restricted to patrons invited by the holder of a gaming licence;

**“private lottery”** means a lottery conducted in The Bahamas in accordance with section 60 —

- (a) for and by members of a social or sporting club or a society which is not connected with any form of gambling; or
- (b) for and by persons all of whom work on the same premises; or
- (c) for and by persons all of whom reside on the same premises; and
- (d) by persons each of whom—
  - (i) is one of the persons for whom the lottery is conducted; and
  - (ii) in the case of a lottery conducted for the members of a social or sporting club, has been authorised in writing by the governing body of the social or sporting club to conduct the lottery;

**“property”** means any movable, immovable, corporeal or incorporeal property of any nature;

**“proxy gaming”** means the placement of a bet or wager on a gambling game by persons who are —

(a) located on the licensed premises of the holder of a proxy gaming licence to the extent that such persons are not precluded from participation in proxy gaming by any other law; or

(b) citizens of permitted foreign jurisdictions, using any communications technology or device, including the internet or intranet, wireless, wire or cable, radio, light, optics, microwave, smartphone or mobile device, or computer data network, communicated to and accepted by a licensed employee of the holder of a proxy gaming licence or its approved gaming service provider;

**“proxy gaming licence”** means a licence issued under section 40;

**“recognised stock exchange”** means a registered securities exchange or a recognised foreign securities exchange as defined in the Securities Industry Act (*No. 10 of 2011*);

**“restricted interactive gaming licence”** means a licence issued under section 42;

**“rules”** means any rules made by the Board under section 82;

**“significant control”** means, in relation to an independent testing laboratory, a person or entity that owns or controls thirty per centum or more of any class of the issued voting shares or securities in such independent testing laboratory;

**“slot machine”** means any mechanical, electrical, video, electronic or other device, contrivance or machine used in connection with a gambling game which, upon insertion of money, a token or a similar object therein, or upon payment, whether directly or indirectly, by or on behalf of a player of any consideration whatsoever that is required, is available to be played or operated and the playing or operation of which, whether by reason of the skill of the player or operator or the application of the element of chance or both, may deliver to the person playing or operating the machine cash, tickets, receipts or tokens to be exchanged for cash or merchandise or anything of value whatsoever, other than unredeemable free games, or may entitle such person to receive such cash, tokens, merchandise or thing of value, whether the pay-off is made automatically from the machine or in any other manner whatsoever; provided that notwithstanding the above, for the

purposes of any offence created by this Act, a “slot machine” shall include any machine, apparatus or device which —

- (a) has the capacity to provide as a prize, reward or consideration for successfully playing the game concerned, more than one coin, token or other consideration sufficient in value to enable the player, by inserting or in any manner procuring the insertion into such machine or the registration thereby of such coins, tokens or other consideration, to play more than one further game, or the opportunity to play more than ten further games immediately without the insertion of another coin, token or other consideration;
- (b) offers a game, the outcome of which is determined or displayed by way of reels, whether mechanical or video-generated, or is operated on any similar principle;
- (c) is an incomplete machine, device or apparatus which was previously a slot machine, but has been subsequently modified, or which is, or was intended to be made into a slot machine, including but not limited to any such machine, device or apparatus to which there is affixed an identification plate bearing the manufacturer’s serial number;
- (d) has been declared by the Minister by notice in the *Gazette*, to be a slot machine; or
- (e) is an electronic version of a table game;

**“social gaming”** means any form of gaming, other than gaming involving or requiring the use of any gaming device, excluding cards or dice, which takes place —

- (a) on a domestic occasion in a private dwelling;
- (b) in a hostel, hall of residence, or similar establishment which is not carried on for the purposes of any trade or business, where the players consist exclusively or mainly of persons who are residents or inmates of that establishment; or
- (c) on premises which belong to a college or other educational institution for persons over compulsory school age, which are provided exclusively or mainly for persons who are fellows or members of, or tutors or students at, that institution, and the players consist exclusively or mainly of such persons,

provided that no person directly or indirectly receives any fee, percentage of winnings, or additional payment for conducting the gaming activity, other than participating as a player;

**“society”** includes any club, institution, organisation or association of persons, and any separate branch or section of such a club, institution, organisation or association;

**“spouse”** means any one of two adults living together either through lawful wedlock or in a common law relationship as husband and wife;

**“supplier licence”** means a licence issued under section 47;

**“table game”** means any game played in a casino at or on a gaming table with playing cards, dice or any gaming device other than a slot machine;

**“TCP/IP”** means the Transmission Control Protocol Internet Protocol used by an information system to connect to the internet;

**“temporary employment licence”** means any licence issued under section 50;

**“track”** means a horse racing, harness racing or dog racing track which is equipped to include external pari-mutuel wagers in its pool and which has been approved by the Board;

**“Treasurer”** means the Treasurer of the Commonwealth of The Bahamas;

**“unredeemable free game”** means an opportunity, won by successfully playing a game, to play a further game without the payment of any consideration normally required to play such game, which cannot be redeemed by, distributed or transferred to the person who has won such opportunity or any other person for any other purpose than to use such opportunity without interruption to continue playing the type of game in respect of which the opportunity was won, on the same machine, device or apparatus as that on which the opportunity was won, and which excludes an opportunity which can, in any manner, be converted into money, property, cheques, credit, prizes, eligibility for other prizes or anything of value;

**“valid documentary proof”** means —

- (a) for the purposes of verifying the identity of an individual, a valid passport, drivers licence, voters card, national identity card or such other identification document bearing a photographic likeness of an individual as is reasonably capable of establishing the identity of that individual; and
- (b) for the purposes of verifying the place of residence of an individual, a document issued by an independent source, including but not limited to a utility bill, addressed to that individual at his place of residence and dated no more than three months prior to the date of verification thereof, which can reasonably be expected to achieve verification of that individual's place of residence;

**“winnings”** means any money, prize or other thing of value accruing to a player as a result of having successfully played a gambling game or

- having correctly predicted the result of the event in respect of which a bet was placed.
- (2) An activity is a gaming activity if it involves —
- (a) placing or accepting a bet or wager under subsection (3);
  - (b) placing or accepting a pari-mutuel wager, under subsection (4); or
  - (c) making available for play, or playing a gambling game as referred to in subsection (5).
- (3) A person places or accepts a bet or wager when such person —
- (a) being a player, stakes money or anything of value with the holder of an operator licence on any event; or
  - (b) being the holder of a gaming licence —
    - (i) accepts a stake of money or anything of value on a bet on any event from a player; or
    - (ii) accepts a stake of money or anything of value on a bet on any event with another holder of a gaming licence or any other person licensed by any other jurisdiction to engage in betting;
  - (c) stakes or accepts a stake of money or anything of value on any event with one or more other persons; or
  - (d) expressly or implicitly undertakes, promises or agrees to do anything referred to in paragraph (a), (b) or (c).
- (4) A person places or accepts a pari-mutuel wager when that person stakes or accepts a stake of money or anything of value on the outcome of an event or combination of events by means of—
- (a) a system in which the total amount staked, after deductions provided for by law or by agreement, is divided among the persons who made winning bets in proportion to the amount staked by each of them in respect of a winning bet; or
  - (b) any scheme, form or system of betting, whether mechanically operated or not, that is operated on similar principles.
- (5) A game is a gambling game if—
- (a) it meets the following criteria—
    - (i) it is played upon payment of any consideration, with the chance that the person playing the game might become entitled to, or receive a pay-out; and
    - (ii) the result of the game might be determined by the skill of the player, the element of chance, or both; or
  - (b) it is a bet or wager under subsections (3) or (4), that is placed in relation to an activity meeting the criteria in paragraph (a).



- (6) Subject to subsection (7), a pay-out is any money, merchandise, property, cheque, credit, electronic credit, debit, token, ticket or anything else of value won by a player—
  - (a) whether as a result of the skill of the player or operator, the application of the element of chance, or both; and
  - (b) regardless of how the pay-out is made.
- (7) Neither of the following is a pay-out —
  - (a) an opportunity to play a further game; or
  - (b) a prize given to a participant or team of participants in a sporting event in respect of the participant's or team's performance in that event.
- (8) The result of a game—
  - (a) is an opportunity to play a further game if the player is afforded the opportunity to continue without interruption playing the type of game—
    - (i) in respect of which the opportunity was won; and
    - (ii) on the machine on which the opportunity was won;
  - (b) is not an opportunity to play a further game if the opportunity can in any manner, whether directly or indirectly, be —
    - (i) distributed or transferred to the person who has won such an opportunity or to any other person; or
    - (ii) converted into money, property, a cheque, credit or any other thing of value.

## **PART II – THE GAMING BOARD FOR THE BAHAMAS**

### **3. Continuation of the Gaming Board for The Bahamas.**

- (1) The Gaming Board for The Bahamas, established under the Lotteries and Gaming Act (*Ch. 387*), is continued under this Act, subject to section 82(9).
- (2) The Board is a body corporate with perpetual succession and a common seal, having the right and capacity to conduct and participate in legal proceedings and to conduct its business in its own name.
- (3) The main object of the Board shall be to —
  - (a) grant or refuse or recommend the grant or refusal of licences and certificates of suitability and activities incidental thereto; and
  - (b) to regulate all licensed gaming and activities incidental thereto in The Bahamas, subject to this Act.

- (4) Notwithstanding anything to the contrary in this Act, the Minister may exercise and perform the powers and functions of the Board in the absence of a duly constituted Board.

#### **4. Composition of Board.**

- (1) The Board shall consist of four members appointed by the Minister in accordance with the prescribed procedure.
- (2) The members of the Board shall be eligible persons who have appropriate knowledge or experience.
- (3) The Minister shall designate one of the members as Chairperson.
- (4) Before being appointed a member of the Board, a candidate shall submit to the Minister an affidavit in which such candidate declares that he —
- (a) is eligible for such appointment; and
  - (b) is not disqualified from such appointment.
- (5) The Minister may at any time call for proof to his satisfaction of the continued eligibility of any member or prospective member of the Board, or to undertake or cause to be undertaken any investigation or enquiry in that regard.

#### **5. Eligibility for appointment as member or employee of the Board.**

- (1) In order to be eligible for appointment as a member of the Board a person shall—
- (a) be a natural person;
  - (b) have attained the age of twenty-five years;
  - (c) be a citizen of and ordinarily resident in The Bahamas;
  - (d) be a fit and proper person as referred to in section 24(a)(i);
  - (e) be of good financial standing; and
  - (f) not be disqualified under section 6.
- (2) In order to be eligible for appointment as an employee of the Board a person shall—
- (a) be a natural person;
  - (b) have attained the age of eighteen years;
  - (c) be a fit and proper person as referred to in section 24(a)(i);
  - (d) be of good financial standing; and
  - (e) not be disqualified under section 6.

**6. Disqualification for appointment as member or employee of the Board.**

The following persons shall be disqualified from being appointed, acting or continuing to act as members or employees of the Board—

- (a) anyone who has at any time been convicted of an offence under this Act or any similar law;
- (b) anyone who at any time, and at any place, has been convicted of theft, fraud, forgery, perjury, bribery or corruption, or any offence of which dishonesty is an element;
- (c) anyone who is subject to any legal disability, including, but not limited to, mental incapacity or insolvency;
- (d) anyone who has at any time been removed from any office of trust as a result of misconduct or dishonesty; or
- (e) anyone who, whether personally or through his spouse, family member, or associate—
  - (i) has or acquires a direct or an indirect financial interest in any gaming business or establishment; or
  - (ii) has any interest in any business or enterprise that may conflict or interfere with the proper performance of his duties as a member or an employee of the Board or in any licence issued under this Act.

**7. Term and termination of Office.**

- (1) A member of the Board shall —
  - (a) hold office for such period, not exceeding four years, as the Minister may determine at the time of his appointment to the Board; and
  - (b) be eligible for reappointment at the termination of his term of office.
- (2) A vacancy in the office of a member of the Board shall immediately occur when—
  - (a) such member dies;
  - (b) such member's written resignation is received by the Minister;
  - (c) such member becomes disqualified from remaining a member of the Board;
  - (d) such member is absent from two consecutive meetings of the Board without the prior written leave of the Chairperson;
  - (e) such member's term of office has expired; or

- (f) such member's term of office is terminated by the Minister; provided that a member's term of office may be terminated only if the Minister considers this to be in the public interest or in the interests of the proper administration of this Act.
- (3) In the event of any vacancy referred to by paragraphs (a) to (d) or (f) of subsection (2), the unexpired portion of the term of office of the member concerned shall be deemed to have lapsed.
- (4) In the event of a vacancy referred to in this section, the Minister shall appoint a new member to the Board.

## **8. Staff of the Board.**

- (1) Subject to section 4, the Board shall, in the performance of its functions under this Act, be assisted by—
  - (a) a suitably qualified and experienced person, who shall be appointed by the Board, with the concurrence of the Minister, as Secretary to the Board, for the purpose of assisting the Board in the performance of all financial, administrative and clerical responsibilities pertaining to the functions of the Board and who shall in respect thereof —
    - (i) be accountable, in the first instance to the Board; and
    - (ii) be a principal accounting officer, as specified in section 22 of the Financial Administration and Audit Act (*No. 26 of 2010*);
  - (b) a Deputy Secretary, who in the absence of the Secretary, shall perform all the functions of the Secretary; and
  - (c) such other staff as may be necessary to enable the Board to perform its functions.
- (2) The staff of the Board shall—
  - (a) subject to subsection (1)(a), be appointed by the Board on such terms and conditions as it may determine and shall be remunerated by the Board, provided that such remuneration shall be fixed by the Board in consultation with the Minister; and
  - (b) perform their functions and duties subject to the direction and control of the Board.
- (3) The Board may, in the performance of the functions referred to in subsection (1), be assisted by duly appointed —
  - (a) members of the Royal Bahamas Police Force;
  - (b) personnel of other government departments; or
  - (c) such other persons or bodies wheresoever located, as are able to advise or assist the Board in the exercise of its regulatory functions.

- (4) Any person referred to in subsection (3) shall, in the performance of his functions under this Act, be deemed to be an employee of the Board for the purposes of section 15.

## **9. Powers and functions of the Board.**

The powers and functions of the Board shall be —

- (a) to invite applications for licences under this Act or to accept such applications without such invitation;
- (b) to determine the manner and format in which applications for licences under this Act shall be completed and submitted;
- (c) to grant, renew, refuse and where applicable approve the transfer or removal of, suspend or revoke employment licences, junket operator licences and supplier licences and, subject to the provisions of this Act, certificates of suitability;
- (d) to recommend to the Minister the grant, renewal, transfer, removal, suspension or revocation of operator licences other than junket operator licences and, subject to the provisions of this Act, certificates of suitability;
- (e) to impose, amend, suspend or rescind conditions in respect of employment licences, junket operator licences and supplier licences and, subject to the provisions of this Act, certificates of suitability at any time;
- (f) at any time, to recommend to the Minister the imposition, amendment or rescission of the conditions in respect of operator licences other than junket operator licences and, subject to the provisions of this Act, certificates of suitability;
- (g) to delegate its powers in accordance with section 10;
- (h) to establish committees for the performance of any function conferred on the Board under this Act; provided that no such Committee shall consist of fewer than two members of the Board; and
- (i) generally to exercise the powers and perform the functions and duties specified in this Act and assigned to it by any other law.

## **10. Delegation of powers.**

- (1) Subject to subsection (4), any power or function which the Board may exercise or perform under this Act may be delegated to any of its members or employees, subject to such terms, conditions or restrictions as the Board may determine, whereupon such power or function may be exercised or performed by the delegate on behalf of the Board.
- (2) The Board shall not be divested of any power delegated by it.

- (3) Any person aggrieved by a decision taken under a delegated power or function shall have a right of appeal to the Board against such decision in the manner and within the time prescribed.
- (4) The Board shall not delegate any of the powers set forth in section 9(b), (c), (d), (e), (f) or (h).

#### **11. Special powers of entry, seizure and enquiry.**

- (1) In addition to any other powers provided for in this Act, the Board shall have the special powers set out in this section.
- (2) The powers conferred by this section shall be exercised —
  - (a) by any member of the Board;
  - (b) by any employee of the Board authorised thereto by the Board (hereinafter referred to as an "authorised officer");
  - (c) by any member of the Royal Bahamas Police Force (hereinafter referred to as a "police officer"); and
  - (d) only for the purposes of this Act.
- (3) The Secretary of the Board shall issue to every person authorised under subsection (2)(b) a certificate of authorisation, and in the exercise of his powers and the performance of his duties the authorised officer shall on demand produce such certificate.
- (4) The powers conferred by this section shall be at any time without a warrant to enter any licensed premises and —
  - (a) to inspect those premises;
  - (b) to examine, or make copies of or take extracts from, any document found in or upon those premises which refers or is suspected to refer to gaming or any activities incidental thereto, and request from the owner or person in charge of those premises or from any person in whose possession or charge that document is, an explanation of any entry therein;
  - (c) to obtain any information or data which refers or is suspected to refer to gaming or any activities incidental thereto stored on computer or any other electronic medium, by personally accessing and operating such computer or electronic medium or by requesting a competent person on the premises to access and operate the computer or electronic medium to produce a document or record, in any readable form, reflecting any such information or data;
  - (d) to examine any article or other object found in or upon those premises which is used, or suspected to be used, for or in connection with gaming or any activities incidental thereto, and to request from the owner or person in charge of those premises or any

- person in whose possession or charge that article or object is, information in regard thereto;
- (e) to remove, with the consent of the licence holder and against the issue of a receipt, any article, document or object referred to in paragraphs (b), (c) or (d), if such article, document or object appears to provide or to be able to provide proof of a contravention of a provision of this Act, or if he wishes to retain it for further examination or for safe custody; provided that a person from whose possession or charge any document has been taken shall, as long as it is in the possession or charge of the person referred to in subsection (2), upon request be allowed, at his own expense and under the supervision of the latter person, to make copies thereof or to take extracts therefrom at any reasonable time; and
  - (f) to question any person found on those premises.
- (5) Any person referred to in subsection (2)(b) or (c) may, in the company of a police officer, authorised by a warrant and subject to the provisions of any other law—
- (a) enter premises in or on which any article, document or other object connected with or reasonably suspected to be connected with gaming or any activities incidental thereto is, or is reasonably suspected to be, or in or on which it is reasonably suspected that any of the provisions of this Act are being contravened, or which are occupied or used, or reasonably suspected to be occupied or used for the purposes of gaming or any activities incidental thereto;
  - (b) in respect of those premises, seize any article, document or object referred to in subsection (4) and do everything set out in subsection (4), which shall apply, with the necessary changes; and
  - (c) inspect any account of any person at any bank or other financial institution which may afford evidence of the commission of an offence under this Act.
- (6) No evidence regarding any questions or answers referred to in subsection (4) shall be admissible in any subsequent criminal proceedings against a person from whom information under that subsection is acquired if the answer will incriminate him, except in criminal proceedings where the person concerned stands trial on charge of an offence referred to in subsection (7).
- (7) Any person who—
- (a) obstructs or hinders a person referred to in subsection (2) in the performance of his functions under this section;
  - (b) when asked by a person referred to in subsection (2) for an explanation or information relating to a matter within his

knowledge, gives an explanation or information which is false or misleading, knowing it to be false or misleading; or

- (c) falsely represents himself to be a person referred to in subsection (2),

commits an offence.

## **12. Conflict of interests and public trust.**

- (1) A member or an employee of the Board or their family member shall not directly or indirectly receive from any person anything of value that may conflict or interfere with the proper performance of such member's or such employee's duties.
- (2) Save as provided in this Act, a member or an employee of the Board and his spouse shall not participate in any gaming activity in The Bahamas or at any casino in respect of which a gaming licence is in force under this Act.
- (3) Any contravention by a member or an employee of the Board or his spouse of the provisions of this section shall be deemed to be a disqualification under section 6 of this Act.

## **13. Disclosure.**

- (1) A member or an employee of the Board shall immediately make a disclosure to the Board if —
  - (a) he, or his family member holds or acquires any direct or indirect financial interest in any gaming business or establishment;
  - (b) he, or his family member has or acquires any interest in any business or enterprise that may conflict or interfere with the proper performance of his duties as a member or an employee of the Board, or in any licence issued under this Act; or
  - (c) he has participated in gaming, or it has come to his attention that his spouse has participated in gaming at any casino referred to in section 12(2).
- (2) The Board shall immediately notify the Minister of a disclosure, referred to in subsection (1), by a member of the Board.

## **14. Remuneration and allowances.**

Members of the Board shall be appointed on such terms and conditions and be paid such remuneration and allowances as may be determined by the Minister.



## **15. Confidentiality.**

- (1) Subject to subsections (2) and (3), the Board or any officer, employee, agent or adviser of the Board or any other person or body referred to in section 20(3), who discloses any information relating to —
  - (a) the affairs of the Board;
  - (b) any application made to the Board;
  - (c) the affairs of a licence holder; or
  - (d) the affairs of a customer or client of a licence holder,that the Board or such person or body has acquired in the course of its or his duties or in the exercise of its or his functions under this or any other law, commits an offence and is liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding three years.
- (2) Subsection (1) shall not apply to a disclosure —
  - (a) lawfully required or permitted by any court of competent jurisdiction within The Bahamas;
  - (b) for the purpose of assisting the Board to exercise any functions conferred on it by this Act, by any other Act or by regulations made thereunder;
  - (c) in respect of the affairs of a licence holder or of a customer or client of a licence holder, with the consent of the licence holder, customer or client, as the case may be, which consent has been voluntarily given;
  - (d) where the information disclosed is or has been made available to the public from any other source;
  - (e) where the information disclosed is in a manner that does not enable the identity of any licence holder or of any customer or client of the licence holder to which the information relates to be ascertained;
  - (f) to a person with a view to the institution of, or for the purpose of —
    - (i) criminal proceedings;
    - (ii) disciplinary proceedings, whether within or outside The Bahamas, relating to the exercise by a counsel and attorney, auditor, accountant, valuer or actuary of his professional duties;
    - (iii) disciplinary proceedings relating to the discharge by a public officer, or a member or employee of the Board of his duties; or
  - (g) in any legal proceedings in connection with —
    - (i) the winding-up or dissolution of a licence holder; or

- (ii) the appointment or duties of a receiver of a licence holder.
- (3) Subject to subsection (6), the Board may disclose to any overseas regulatory authority information necessary to enable that authority to exercise regulatory functions including the conduct of civil or administrative investigations and proceedings to enforce laws, regulations and rules administered by that authority.
- (4) In deciding whether or not to exercise its power under subsection (3), the Board may take into account —
  - (a) whether the inquiries relate to the possible breach of a law or the requirement which has no close parallel in The Bahamas or involve the assertion of a jurisdiction not recognised by The Bahamas; and
  - (b) the seriousness of the matter to which the inquiries relate and the importance to the inquiries of the information sought in The Bahamas.
- (5) The Board may decline to exercise its powers under subsection (3) unless the overseas regulatory authority undertakes to make such contribution towards the cost of the exercise as the Board considers appropriate.
- (6) Nothing in subsection (3) authorises a disclosure by the Board unless —
  - (a) the Board has satisfied itself that the intended recipient authority is subject to adequate legal restrictions on further disclosures which shall include the provision of an undertaking of confidentiality; or
  - (b) the Board has been given an undertaking by the recipient authority not to disclose the information provided without the consent of the Board;
  - (c) the Board is satisfied that the assistance requested by the overseas regulatory authority is required for the purpose of the overseas regulatory authority's regulatory functions including the conduct of civil or administrative investigations or proceedings to enforce laws, regulations and rules administered by that authority; and
  - (d) the Board is satisfied that information provided following the exercise of its power under subsection (3) will not be used in criminal proceedings against the person providing the information.
- (7) Where in the opinion of the Board it appears necessary in relation to any request for assistance received from an overseas regulatory authority to invoke the jurisdiction of a Stipendiary and Circuit Magistrate in obtaining information requested by the overseas regulatory authority, the Registrar shall immediately notify the Attorney-General with particulars of the request, and shall send the Attorney-General copies of all documents relating to the request, and the Attorney-General shall be entitled, in a manner analogous to *amicus curiae*, to appear or take part in

any proceedings in The Bahamas, or in any appeal from such proceedings, arising directly or indirectly from any such request.

- (8) The Board may cooperate with any other regulatory authority in The Bahamas, including, by sharing information that it has acquired in the course of its duties or in the exercise of its functions under this or any other law where it considers such cooperation or information may be relevant to the functions of such other regulatory authority or as a necessary part of a framework for consolidated supervision, oversight or regulation of the financial services sector.
- (9) In this section “overseas regulatory authority” means an authority which, in a country or territory outside The Bahamas, exercises functions corresponding to any functions of the Board.

## **16. Meetings of the Board.**

- (1) The Board shall meet at least six times in every year in the manner and on such dates and at such times and places as the Chairperson may determine.
- (2) The Chairperson of the Board may at any time convene a special meeting of the Board at such time and place as he may determine.
- (3) The procedure at a meeting of the Board shall, in so far as it has not been prescribed, be determined by the Chairperson.
- (4) The quorum for a meeting of the Board shall be three members.
- (5) A decision of the Board shall be taken by a majority of the votes of the members present at a meeting of the Board, and in the event of an equality of votes on any matter, the Chairperson shall have a casting vote in addition to a deliberative vote.
- (6) No decision of the Board shall be invalid merely by reason of a vacancy on the Board or the fact that any person who is not entitled to sit as a member of the Board sat as such a member when the decision was taken; provided that the decision was taken by the required majority of the members of the Board then present and entitled to sit as members of the Board.
- (7) Save as provided in subsection (8), all meetings of the Board shall be open to the public; provided that the Chairperson may direct that any person whose presence in his opinion is not desirable at the meeting concerned may be excluded there from.
- (8) The Board may hold meetings which are not open to the public in connection with any of the following matters—
  - (a) investigations into matters concerning private information in respect of any applicant for a licence or licence holder;

- (b) possible or alleged criminal violations, regardless of whether such meetings are held with gaming officials of other states or countries, the Attorney-General or members of the Royal Bahamas Police Force, other police organisations or services or any law enforcement agency; or
  - (c) when considering any application or deliberating on any hearing or investigation.
- (9) Meetings of the Board and of all committees of the Board may be held by means of such telephone, electronic or other communication facility as permits all persons participating in the meeting to communicate with each other simultaneously and instantaneously.
- (10) A resolution in writing signed by all members of the Board shall be as valid and effectual as if passed at a Board meeting duly convened and held.
- (11) Any resolution referred to in subsection (10) may consist of several documents in like form, each signed by one or more of such Board members.

## **17. Minutes.**

- (1) The proceedings of the Board shall be recorded in such manner as the Chairperson may determine and shall, in the event of a vote, reflect each member's vote.
- (2) Minutes shall be kept of meetings of the Board which are open to the public and shall be retained at the offices of the Board.
- (3) Any person may obtain copies of the minutes referred to in subsection (2) against such payment as the Board may from time to time determine.
- (4) Separate minutes of meetings which are not open to the public shall be kept and retained in like manner.
- (5) The minutes of any meeting which was not open to the public and any document containing any advice, report, comment or recommendation by or to the Board in connection with anything done at such a meeting shall not be disclosed other than to the persons and in the circumstances provided for in section 15.

## **18. Funds of the Board.**

- (1) The funds of the Board shall consist of —
  - (a) money appropriated by Parliament for that purpose;
  - (b) any amounts payable to the Board under this Act; and
  - (c) other money lawfully paid to and for the benefit of the Board.

- (2) The Board shall, within the period and in the manner referred to in the Financial Administration and Audit Act (*No. 26 of 2010*), in each year submit a budget for the following year to the responsible Member for approval by the responsible Member.
- (3) The Board may in any financial year make requests for additional funds to the responsible Member for inclusion in the supplementary estimates in accordance with the applicable legislation.
- (4) Subject to compliance with all applicable legislation, any revenue of the Board which exceeds the Board's total budget for a particular financial year by more than ten per centum shall be paid into the Consolidated Fund; provided that all surplus revenue received by the Board under subsection (1)(a) shall, within six months of the end of the financial year concerned, be deposited into the Consolidated Fund.

**19. Audit of accounts.**

- (1) The provisions of the Financial Administration and Audit Act (*No. 26 of 2010*), shall apply, with the necessary changes, to the financial control and accounts of the Board.
- (2) The financial year of the Board shall begin on 1 July of each year and end on 30 June of the immediately following year.
- (3) The Secretary shall cause such accounting and related records to be kept as are necessary to fairly present the state of affairs and activities of the Board and to explain its transactions and financial position.
- (4) The Board shall, in respect of every financial year, cause annual financial statements to be prepared, audited and submitted in accordance with the provisions of the Financial Administration and Audit Act (*No. 26 of 2010*).
- (5) The annual financial statements referred to in subsection (4) shall consist of—
  - (a) a balance sheet dealing with the state of affairs of the Board;
  - (b) an income statement;
  - (c) a cash-flow statement;
  - (d) notes to the financial statements; and
  - (e) a report by the members of the Board referred to in subsection (10).
- (6) The annual financial statements of the Board shall be accompanied by a report of the auditors.
- (7) The annual financial statements referred to in subsection (4) shall, in conformity with generally accepted accounting practice, fairly present the state of affairs of the Board and its activities and its financial position at the end of the financial year concerned.

- (8) The annual financial statements of the Board shall by means of figures and a descriptive report explain any other matters and information material to the affairs of the Board.
- (9) The Minister shall lay the annual financial statements of the Board submitted to him under subsection (4) before Parliament within fifteen days after receipt thereof, if Parliament is then in session or, if it is not then in session, within fifteen days after the commencement of its next ensuing session.
- (10) The members of the Board shall, as part of the Board's annual financial statements, submit to the Minister a report with regard to the state of affairs, the activities and the financial position of the Board and the degree to which its objects have been attained and shall also—
  - (a) set out the functions and objectives of the Board as determined by law or otherwise;
  - (b) include relevant information regarding the activities of the Board with regard to new gaming developments, changes in the policies of the Board, the state of the gambling industry in The Bahamas, significant hearings and disciplinary actions undertaken by the Board and any other matters of significance which the members of the Board consider relevant to an appreciation of the functions and activities of the Board;
  - (c) indicate the amount of money, if any, received from Parliament, and
  - (d) furnish details of any significant event which has occurred between the end of the financial year and the date of their report.
- (11) The accounts of the Board shall be audited by the Auditor-General.
- (12) The Minister may, when he considers it necessary to do so, direct any person to hold an enquiry into the work, accounts and financial position of the Board.
- (13) Where an enquiry is held under subsection (12), any member of the Board or any member of the staff of the Board shall, upon being requested to do so by the person holding the enquiry, furnish such information within his knowledge with regard to the affairs of the Board and produce such books of accounts or documents in his custody as that person may require.

## **20. Hearings and investigations.**

- (1) The Board may conduct or cause to be conducted—
  - (a) subject to subsection (2), hearings in respect of —
    - (i) an application for a licence under this Act;
    - (ii) the suspension or revocation of a licence issued under this Act;

- (iii) any contravention or alleged contravention of, or any failure or alleged failure to comply with, any provision of this Act on any licensed premises or by the holder of any licence issued under this Act; and
    - (iv) any other matter in respect of which a hearing is authorised or contemplated by this Act;
  - (b) subject to subsections (3), (4) and (5), investigations pertaining to the probity, integrity, character, reputation, prior conduct, habits, associations, financial standing and ability, criminal record, competence, experience and suitability of—
    - (i) any applicant for a licence or certificate of suitability;
    - (ii) any person having or wishing to procure a financial interest in a licence or certificate of suitability issued under this Act; or
    - (iii) any licence holder, if it is of the opinion that this is necessary for the protection of public health, safety, morals or good order or for the achievement of the objectives of this Act.
- (2) The Board shall conduct a hearing in respect of an application for a gaming licence.
- (3) In respect of any licence which authorises, whether in whole or in part, the conduct of interactive gaming in any form by the licence holder, the Board shall be assisted, to such extent as the Minister may direct, in the investigation contemplated in subsection (1)(b)(i) and (ii), by—
  - (a) the Central Bank, which, for the purposes of such investigation, may liaise with any banking or financial institution;
  - (b) the Financial Intelligence Unit, which, for the purposes of such investigation, may liaise with any body having similar objects;
  - (c) the Royal Bahamas Police Force, which, for the purposes of such investigation, may liaise with any body having similar objects; and
  - (d) any other person or body who or which, in the reasonable opinion of the Minister, has the competence and the capacity to assist the Board in such investigation.
- (4) In respect of any licence which authorises, whether in whole or in part, the conduct of interactive gaming by the licence holder, the Board may be assisted in any investigation referred to in subsection (1)(b)(iii) by any of the persons or bodies referred to in subsections (3) and (4) if such assistance is, in the view of the Board or the Minister, reasonably required, with due regard to the purpose of such investigation.
- (5) The Board shall provide no less than fourteen days' notice of the date, time and place of any hearing to be conducted by it under this section to —

- (a) the applicant, licence or certificate holder to whom the hearing pertains; and
  - (b) in the case of an application for a licence, any person who has objected to the application, as referred to in section 28.
- (6) Any person referred to in subsection (5)(a) or (b) shall have the right to be heard at any hearing conducted under this section.

## **21. Witnesses and evidence.**

- (1) For the purposes of any hearing or investigation, the Board may in writing summon any person who is or may be able to furnish information in relation to a particular matter to appear before it —
- (a) to give evidence; or
  - (b) to produce any book, document or thing which is in his possession or under his control and which relates or may relate to a matter to be considered at such hearing or investigation.
- (2) A person who has received a summons under subsection (1) shall personally appear before the Board on the date and at the time and place set out in the summons; provided that if such a person is not competent so to appear, any person who by law is competent to act on his behalf or any person authorised thereto by the Board may so appear on his behalf.
- (3) Every person summoned under subsection (1) shall be bound to obey the summons, and any person who, having been duly summoned to attend a hearing or an investigation of the Board, without sufficient cause fails to attend personally or by representative as set out in the proviso to subsection (2) at the time and place specified in the summons or to remain in attendance until excused by the chairperson from further attendance, commits an offence.
- (4) The provisions of subsection (3) shall apply with the necessary changes to any corporate body, organisation or institution.
- (5) The Board may require from any person testifying at a hearing or investigation to give evidence on oath or affirmation, and the presiding person may administer the oath or accept an affirmation from any such person.
- (6) The law relating to privilege applicable to a person giving evidence or producing any book, document or thing before a court of law shall apply in relation to —
- (a) the examination of any such person or the production of any book, document or thing at a hearing or investigation which is conducted under this Act; and
  - (b) the submission or disclosure of any document or information to the Board pursuant to an application made under this Act.



- (7) Any person may be required to answer any question put to him at a hearing or investigation which is not open to the public, notwithstanding that the answer might tend to incriminate him, but the answer may not thereafter be used in evidence against such person in a court of law, save on a charge of which giving false evidence is an element.
- (8) Any person who appears before the Board at a hearing or investigation, whether as a party or a witness, shall be entitled to be represented by his legal representative.
- (9) Any person who is the subject of a hearing conducted by the Board shall have the right to request that such hearing not be open to the public.
- (10) Any person giving evidence at any hearing conducted by the Board or producing any document, book or thing at such hearing shall have the right to request that such evidence, document, book or thing shall be kept confidential and shall not be disclosed to any person other than the Board and any other party to the hearing.
- (11) The Board may in its discretion grant any request made under subsections (8) or (9).

## **PART III – LICENCES AND GOVERNING PRINCIPLES**

### **22. No right to licence.**

- (1) No person shall have any right to be awarded any licence referred to in this Act.
- (2) All licences issued under this Act are contingent on the ongoing suitability for licensing of the persons to whom or to which they are issued.

### **23. Kinds of licences.**

- (1) The licences under this Act shall be—
  - (a) gaming licences;
  - (b) proxy gaming licences;
  - (c) mobile gaming licences;
  - (d) restricted interactive gaming licences;
  - (e) junket operator licences;
  - (f) gaming house operator licences;
  - (g) gaming house premises licences;
  - (h) gaming house agent licences;
  - (i) supplier licences;
  - (j) key employee licences; and

- (k) gaming employee licences.
- (2) An employment licence may be issued as a temporary licence, subject to compliance with the provisions of section 50.

#### **24. Qualification for licences.**

In order to qualify for a licence—

- (a) a natural person shall—
  - (i) be a fit and proper person whose character, integrity, honesty, prior conduct, regard for the law, reputation, habits and associations do not pose a threat to the health, safety, morals, good order and general welfare of the inhabitants of The Bahamas and to the provisions and policy of this Act; and
  - (ii) not be disqualified under section 25 of this Act; and
- (b) a company shall—
  - (i) in the case of an applicant for any operator licence, other than a junket operator licence, be incorporated or registered under the relevant laws of The Bahamas;
  - (ii) in the case of an applicant for a junket operator licence referred to in section 23(1)(e) or a supplier licence referred to in section 23(1)(i), be incorporated under the relevant laws of The Bahamas or another foreign law, provided that the provisions of section 171(1)(b) and 172 of the Companies Act (*Ch. 308*) shall not apply to any company which is —
    - (aa) an applicant for a supplier licence referred to in section 23(1)(j);
    - (bb) an applicant for a junket operator licence referred to in section 23(1)(e); or
    - (cc) any holder of a licence referred to in subparagraphs (aa) or (bb);
  - (iii) in the case of a gaming licence, have proven expertise in the management and operation of casinos in a regulated environment, or demonstrable access to such expertise;
  - (iv) be of good financial standing and have adequate means to undertake and sustain the activity for which the licence is required; and
  - (v) with the necessary changes, comply with paragraph (a).

#### **25. Disqualifications for employment licences.**

- (1) A person may not hold an employment licence, if that person—
  - (a) does not comply with the requirements of section 24(a)(i);

- (b) is subject to any legal disability, including, without limitation, mental incapacity or insolvency;
  - (c) is a member of the Board, a member of the Cabinet, or is a family member of such person;
  - (d) is an employee of the Board, or a family member of such person; provided that the Board may condone such disqualification, where it exists in respect of a family member, if it is satisfied that no material conflict of interest will arise by reason of such employment;
  - (e) is under the age of 18 years;
  - (f) is listed on the register of excluded persons referred to in section 74;
  - (g) has ever been removed from an office of trust on account of misconduct relating to fraud or the misappropriation of money; or
  - (h) has been convicted during the previous ten years, in The Bahamas or elsewhere, of any contravention of this Act or any similar law, or any offence of which corruption or dishonesty is an element, unless the person has been pardoned in respect of such offence.
- (2) A person may not hold a gaming employee licence, if that person —
- (a) does not comply with the requirements of section 24(a)(i), or
  - (b) is a person referred to in subsection (1)(c), (d), (e), (f) or (h).

**26. Disqualification for other licences and interests in such licences.**

- (1) This section does not apply to an employment licence.
- (2) A person may not hold a licence referred to in section 23(1)(a), (b), (c), (d) or (f), or a financial interest of five per centum or more in the holder of such a licence, if that person —
  - (a) is a person referred to in section 25(1)(a), (c), (e), (f), (g) or (h); or
  - (b) is a family member, other than a brother or sister, of a person who is a member or employee of the Board.
- (3) Subject to compliance with sections 31(3), (4), (5) and (6), the Board must recommend to the Minister the refusal of any licence contemplated in this Act if, after conducting the investigations contemplated by this Act, it has reason to believe that —
  - (a) the applicant, any person who holds a financial interest in the applicant, or any manager of the business concerned is a family member, other than a brother or sister, of a person who is a member or employee of the Board; or
  - (b) the applicant or any person who holds a financial interest of five per centum or more in the applicant is disqualified from holding an

interest in a licence holder or the business to which a licence relates, under subsection (2).

## **27. Licence applications.**

- (1) Any application for the grant or renewal of a licence shall—
  - (a) be lodged with the Secretary in the manner and form determined by the Board, accompanied by the documents and information determined by the Board;
  - (b) be accompanied by the prescribed application fee or annual licence and monitoring fees, as the case may be, which shall not be refundable; and
  - (c) be invalid in the event of non-compliance with the foregoing in any respect.
- (2) Within seven days of receipt of any valid application for the grant of a licence other than an employment licence, the Secretary shall cause a notice of the application to be published, in such format and containing such particulars as may be prescribed.
- (3) The applicant shall be liable for and pay to the Secretary any reasonable costs incurred in connection with the publication of any notice referred to in subsection (2).

## **28. Objections and comments.**

Any person who wishes to object or comment on any application made for a licence under this Act, other than an employment licence, may do so by giving written notice thereof to the Board and setting out the grounds of the objection or comment in the prescribed manner.

## **29. Liability for costs of, and consent to, hearings and investigations.**

- (1) Subject to subsection (4), any person who submits an application under this Act, and any holder of a licence or certificate of suitability who or which is the subject of a hearing or an investigation under this Act shall be liable for and pay to the Board in the prescribed manner all costs reasonably incurred by or on behalf of the Board and any other person or body referred to in section 20(3) in conducting any such hearing or investigation.
- (2) By submitting an application for a licence referred to in section 23, or for a certificate of suitability or approval referred to in this Act, the applicant consents that the Board or any member or authorised officer thereof, and, where applicable, any other person or body referred to in section 20(3), may —

- (a) conduct any hearing or investigation pertaining to the integrity, character, reputation, prior conduct, habits, associations, financial standing and ability, criminal record, competence, experience and suitability —
    - (i) of the applicant or, subsequent to the grant of the licence, certificate of suitability or approval, the applicant in its capacity as a licence holder and certificate holder or approved person; and
    - (ii) of any director, officer, partner or shareholder holding a financial interest of five per centum or more or thirty per centum or more, as the case may be, in an applicant or licence holder, where the applicant is a legal person;
  - (b) disclose any document or information submitted as part of or together with an application to any person in connection with such hearing or investigation; and
  - (c) subject to sections 15(4) and (5), obtain from and disclose to any law enforcement or regulatory authority or body anywhere in the world information of and concerning the applicant for purposes of any hearing or investigation.
- (3) Except as otherwise provided by this Act or any other law, any disclosure made to the Board in accordance with this Act or the regulations is privileged and —
- (a) no damages are recoverable in any civil action arising from such disclosure; and
  - (b) any privilege which under any law in force within or outside The Bahamas, subsists in relation to information provided to the Board, shall not be waived or lost due to the disclosure of such information to the Board.
- (4) The power of the Board to recover costs under this section relates only to such costs as are incurred in respect of any hearing or investigation which is reasonably required to ensure that an applicant or licence holder qualifies, or continues to qualify, for the relevant licence, as the case may be, and does not extend to such costs as may be incurred by the Board in the evaluation of any application submitted or any other matter in respect of which a hearing or investigation is provided for by this Act.

**30. Consideration of applications for employment, supplier and junket operator licences.**

- (1) The Board shall not grant an application for an employment licence, supplier licence or a junket operator licence unless it is satisfied that —

- (a) the applicant has, in the application form submitted to the Board, made full and frank disclosure of all matters required therein or otherwise prescribed;
  - (b) the award of the licence is not against the public interest and is in accordance with the policy and objectives of this Act; and
  - (c) the applicant qualifies under section 24 and is not disqualified under sections 25 or 26.
- (2) The Board may, at any stage of the application process, call for such proof as it may reasonably require to satisfy itself that the applicant qualifies for the licence under section 24 and is not disqualified under section 25 or 26.
- (3) After consideration of an application for a licence referred to in this section and, if applicable, any objections thereto or any hearing or investigation performed in connection therewith, the Board may—
- (a) grant the application, subject to such conditions as it may deem necessary or appropriate; or
  - (b) refuse the application.

### **31. Consideration of applications for other licences.**

- (1) After consideration of an application for an operator licence, other than a junket operator licence or a premises licence, any hearing conducted or investigation performed in connection therewith, and, if applicable, any objections thereto, the Board must, subject to compliance with subsection (3), make a recommendation to the Minister either —
- (a) to grant the application, subject to such conditions as the Board may recommend and the Minister may deem necessary or appropriate; or
  - (b) to refuse the application.
- (2) Any recommendation placed before the Minister under subsection (1) shall set forth —
- (a) identifying particulars of the applicant;
  - (b) the nature of the licence applied for;
  - (c) the nature of, and the findings made in respect of, any objections or comments submitted under section 28;
  - (d) the nature and outcome of any investigation performed, and, where applicable, any hearing conducted, in relation to the application, with specific reference to the requirements of subsection (7);
  - (e) where applicable, any procedures followed under subsection (3) and the outcome thereof;

- (f) in the event that the award of the licence to the applicant is recommended, the conditions to which the licence should, in the view of the Board, be subject; and
  - (g) the reasons for the recommendation made by the Board.
- (3) If, after consideration of an application for a licence referred to in this section, the Board is of the view that —
- (a) the applicant is or may be disqualified for the licence applied for; or
  - (b) any of the requirements of subsection (7) have not been met, the Board shall, by written notice to the applicant, setting forth the nature of the concern identified, invite the applicant to make written representations to the Board in relation thereto, within such reasonable period as the Board may stipulate, but which shall not exceed one calendar month, and shall suspend its final consideration of the application pending receipt of such representations.
- (4) If an applicant on which a notice referred to in subsection (3) has been served submits written representations within the period stipulated by the Board, after consideration of such representations, the Board —
- (a) may conduct such further investigation into the matter as may reasonably be required;
  - (b) may hold a hearing regarding the matter, if such a hearing is reasonably required;
  - (c) may, without conducting any further investigation or hearing, give consideration to the application; or
  - (d) must consider the outcome of any further investigation performed under paragraph (a), or any hearing conducted under paragraph (b), or the representations made by the applicant, as the case may be, prior to making a recommendation to the Minister.
- (5) For the purposes of subsection (4), a further investigation referred to in paragraph (a) or a hearing referred to in paragraph (b) shall be “reasonably required” if there is a reasonable prospect that such further investigation or hearing will elicit material evidence, not already at the disposal of the Board, having a direct bearing on whether —
- (a) the applicant qualifies for the licence applied for under section 24, or is or may be disqualified under sections 25 or 26; or
  - (b) the application complies with the requirements of subsection (7).
- (6) If an applicant on which a notice referred to in subsection (3) has been served fails to submit written representations within the period stipulated by the Board —

- (a) the applicant will be deemed to have elected neither to contest nor to address the merits or potential impact of any concern identified in the notice; and
  - (b) the Board shall forthwith consider the application, and transmit its recommendation in respect thereof to the Minister, without reverting to the applicant.
- (7) The Board shall not recommend the approval by the Minister of an application for a licence, unless it is satisfied that —
- (a) the funding of the business for which the licence is required is provided by a reputable person, body or institution;
  - (b) where applicable, the premises in question are or will on completion be suitable for the purpose for which they will be used under the licence;
  - (c) the applicant has, in the application form submitted to the Board, made full and frank disclosure of all matters required therein or otherwise prescribed;
  - (d) the grant of the licence is not against the public interest and is in accordance with the policy and objectives of this Act; and
  - (e) the applicant qualifies under section 24 and is not disqualified under section 26.

### **32. Consideration of applications by Minister.**

- (1) On receipt of a recommendation by the Board in relation to any application referred to in section 31, the Minister shall consider the recommendation, and may —
- (a) resolve to award the licence applied for, subject to such conditions as the Minister may deem necessary or appropriate, with due regard to the provisions of subsection (3) and section 33;
  - (b) resolve to refuse the licence applied for; or
  - (c) request further information from the Board or any other person or body involved in the investigation of the application regarding any aspect of the application, pending the final consideration thereof.
- (2) If, after final consideration of an application, the Minister resolves to approve such application, the Minister shall notify the Board in writing of —
- (a) the decision taken regarding the application; and
  - (b) the conditions to be imposed on the licence, and the Board shall forthwith notify the applicant accordingly.
- (3) An applicant in receipt of a notification referred to in subsection (2) shall, within two weeks of the date of receipt thereof, be entitled to make



representations to the Minister regarding any conditions referred to in subsection (2)(b).

- (4) The Minister shall, after considering any representations made under subsection (3), advise the Board in writing as to the conditions to which the licence shall be subject.
- (5) Upon conclusion of the procedures referred to in subsections (3) and (4), where applicable, or if the applicant fails to make the representations referred to in subsection (3), the Board shall cause the licence, and the conditions to which such licence is subject, to be issued to the applicant.
- (6) If, after final consideration of an application, the Minister resolves to refuse such application, the Minister shall notify the Board and the applicant in writing of—
  - (a) the refusal of the application; and
  - (b) the reasons for such refusal.

### **33. Conditions of licences, certificates and approvals.**

- (1) Any licence or certificate issued and any approval required to be applied for under this Act, may be issued subject to conditions, including conditions—
  - (a) relating to the method of playing any game authorised by a licence;
  - (b) for the purpose of ensuring decency, dignity and honesty in the playing of any game authorised by the licence;
  - (c) relating to any gaming device, equipment or systems to be used in the conduct of licensed gaming operations;
  - (d) requiring the keeping of books, accounts, records and other information relating to any business or activity provided for in this Act;
  - (e) relating to the premises in or on which gaming takes place, including the development and the utilisation thereof;
  - (f) requiring submission to the Board of reports and returns relating to gaming activities;
  - (g) relating to access control;
  - (h) detailing any restrictions or special conditions subject to which any licence, certificate or approval applied for and granted under this Act shall be valid;
  - (i) requiring compliance by licence holders with undertakings made in their licence applications;
  - (j) in respect of licences applied for and granted in response to an invitation issued by the Board, requiring monetary contributions by licence holders towards —

- (i) corporate social investment initiatives in The Bahamas;
  - (ii) any body established for the purpose of promoting tourism in The Bahamas;
  - (iii) the provision of infrastructure or the implementation of initiatives —
    - (aa) to promote, sustain or further develop educational facilities or opportunities in The Bahamas;
    - (bb) for the benefit of charitable or social causes in The Bahamas;
    - (cc) to support or further develop health care facilities in The Bahamas;
    - (dd) to enhance or improve the public parks, beaches, botanical gardens and green spaces throughout The Bahamas;
    - (ee) to promote sports, arts and culture in The Bahamas; and
  - (iv) any other measure, project or initiative aimed at improving the general well being of the community;
  - (k) requiring a monetary contribution by licence holders towards the establishment of a coordinated programme to promote responsible gaming in The Bahamas, making provision for —
    - (i) public education regarding the phenomenon of problem gaming;
    - (ii) accessible counseling facilities for persons affected by problem gaming;
    - (iii) appropriate treatment interventions for persons affected by problem gaming; and
    - (iv) the conduct of research regarding the impact of legalised gaming and the prevalence of problem gaming in The Bahamas;
  - (l) necessary or expedient to impose in the interest of the proper conduct of gaming or activities incidental thereto.
- (2) The Board may at any time suspend, withdraw or amend any condition imposed under subsection (1) provided that it shall cause a written notice delivered to the holder of the licence or certificate, which shall —
- (a) stipulate the condition proposed to be suspended, withdrawn or amended;
  - (b) state the reasons for the proposed suspension, withdrawal or amendment; and

- (c) provide the licence or certificate holder with a period of fourteen days to make representations to the Board regarding the proposed suspension, withdrawal or amendment,

and provided further that, where the powers referred to in this subsection are proposed to be exercised in respect of any operator licence, other than a junket operator licence, or any premises licence, the mandatory approval process shall apply.

- (3) The Board may at any time impose additional conditions, including financial conditions, on a licence or certificate, where it deems such conditions to be necessary to achieve the objects of this Act; provided that the procedure referred to in subsection (2) shall apply, with the necessary changes.

### **34. Surveillance and electronic monitoring systems.**

- (1) A licence referred to in section 23(1)(a) and (f), may require the licence holder —
  - (a) to install, maintain and operate a surveillance system approved by the Board; and
  - (b) to link any gaming device, associated system or accounting system to a central electronic monitoring system approved by the Board, including a system for continuous on-line real-time recording, monitoring and control of such significant gaming transactions as may be determined by the Board.
- (2) For the purposes of this section, "electronic monitoring system" means an electronic or computer or communications system or device that is so designed that it may be used or adapted to send or receive data concerned with gaming.
- (3) The installation and operation of a surveillance system with audio capability in accordance with the requirements of this Act, shall not constitute an offence under the Listening Devices Act (*Ch. 90*).

### **35. Duration and renewal of licences.**

- (1) A licence other than a temporary licence shall, subject to general compliance with the provisions of this Act and the conditions under which it was granted —
  - (a) subsist indefinitely; and
  - (b) be renewed annually by the Board on production of the licence for the preceding year and on payment of the prescribed annual licence and monitoring fees.
- (2) If a licence is not renewed on or before the date of expiry thereof, the licence shall lapse and the licence holder —

- (a) shall cease the activities authorised by the licence; and
  - (b) may apply to the Board for a new licence in accordance with section 27.
- (3) The onus shall be upon the licence holder to apply for renewal of its licence by making written application to the Board for such renewal no less than three calendar months prior to the date of expiry of the licence currently held by such licence holder.

### **36. Transfer or relocation of licence.**

- (1) If the holder of —
- (a) an operator licence, other than a junket operator licence; or
  - (b) a supplier licence, desires to transfer such licence to another person, such licence holder and such other person must make a joint application to the Board for such transfer in the manner determined by the Board;
  - (c) a gaming licence, desires to relocate the gaming activities authorised under such licence, from the licensed premises to any other premises, whether permanently or temporarily, such licence holder must make application to the Board for such relocation in the manner determined by the Board; or
  - (d) an employment licence, desires to perform the activities authorised by the licence on licensed premises other than those specified in his licence,
- such licence holder must make application to the Board for such transfer in the manner determined by the Board.
- (2) Any application under subsection (1)(a) and (c) shall be —
- (a) accompanied by the prescribed non-refundable application fee; and
  - (b) administered by the Board, and approved or refused by the Minister, in accordance with the mandatory approval process.
- (3) The provisions of sections 24, 26 to 29 and 31 to 32 shall apply, with the necessary changes, to an application under subsection (1)(a) and (c).
- (4) An application under subsection (1)(b) and (d) shall be administered and granted or refused by the Board.
- (5) The provisions of —
- (a) sections 24 and 26 to 29 shall apply, with the necessary changes, to an application under subsection (1)(b); and
  - (b) sections 24, 25, 27, 29 and 30 shall apply, with the necessary changes, to an application under subsection (1)(d).

- (6) A licence holder shall not sell or alienate or permanently cease to operate the entire business authorised by its licence without providing the Board with thirty days prior notice of its intention to do so.
- (7) Any licence holder which has provided the Board with the notice referred to in subsection (6) shall, before permanently ceasing the operation of its business, ensure that all sums owing to the Board, the Government of The Bahamas and to any other person in consequence of a gaming debt, are duly settled.

### **37. Suspension or revocation of licences.**

- (1) The Board may at any time suspend for such period as the Board may determine or revoke in whole or in part any licence from such date as the Board may determine, if—
  - (a) any information furnished by the applicant for the grant, renewal or amendment of the licence, at the time when such information was furnished, was false in any material respect or was subject to any material omission;
  - (b) the licence holder becomes disqualified from holding a licence under this Act;
  - (c) the licence holder has failed to comply with any provision of this Act, the Financial Transactions Reporting Act (*Ch. 368*), the Financial Transactions Reporting Regulations (*Ch. 368*), the Proceeds of Crime Act (*Ch. 93*) or any condition of the licence and has not complied with such provision or condition within such period as the Board may allow after delivery of a written notice by the Board to the licence holder requiring such failure to be remedied within a specified period;
  - (d) the licence holder fails to pay any amount required or prescribed by or under this Act within the period stipulated for such purpose;
  - (e) the licence holder is no longer a fit and proper person to be the holder of the licence in question;
  - (f) the licence holder conducts gaming or allows gaming to be conducted in a manner which is detrimental to the public health, safety, morals, good order or general welfare of the inhabitants of The Bahamas;
  - (g) the licence holder or any person acting on his behalf or in his employ uses a gaming device or permits the playing of any game on a gaming device —
    - (i) supplied by or acquired from a person not licensed under section 47; or —

- (ii) which does not comply with the prescribed standards, otherwise than where such non-compliance occurs as a result of a software or game malfunction in the ordinary course of business; or
  - (h) the holder of a licence wilfully or persistently uses or tolerates methods of operation deemed unsuitable by the Board.
- (2) The Board may at any time reinstate any licence suspended under subsection (1), but shall not do so unless the reason for the suspension has ceased to exist.
- (3) The Board shall, prior to the proposed suspension or revocation of a licence, by written notice inform the licence holder of the reasons for the proposed suspension or revocation and invite the licence holder to submit to the Board, within fourteen days written reasons why the licence should not be suspended or revoked.
- (4) The mandatory approval process shall apply to any power exercised under this section in respect of any licence other than an employment licence, a supplier licence or a junket operator licence.
- (5) While a licence is suspended, the holder thereof shall not, to the extent of the suspension, for the period of suspension be authorised to permit, undertake, participate or engage in any of the activities authorised thereby or specified therein.
- (6) Notwithstanding the suspension or revocation of a licence, no fees, taxes, duties or other monies paid in respect thereof or any application made in respect thereof shall be refunded.
- (7) The holder of any licence which has been suspended or revoked shall, on receipt of a notification thereof by or on behalf of the Board, within seven days deliver such licence to the offices of the Board.
- (8) Any person who fails to comply with the provisions of subsection (5) commits an offence.

### **38. New licence application and annual licence and monitoring fees.**

- (1) The prescribed new licence application fees shall be paid by every applicant for a licence on submission of a new licence application; provided that —
  - (a) in the case of employment licences required in respect of —
    - (i) the employees of the holder of an operator licence; or
    - (ii) persons employed on licensed premises on which gaming is made available by the holder of a gaming house operator licence,
  - (b) in the case of premises licences,

the holder of the relevant operator licence shall be liable for the payment of such fees.

- (2) The prescribed annual licence and monitoring fees shall be paid by a licence holder upon issue of the licence and thereafter annually upon renewal thereof.
- (3) No fee contemplated by this section shall be refundable.

## **PART IV – LICENSING AND APPROVAL**

### **39. Gaming licence.**

- (1) A gaming licence shall —
  - (a) relate to both the premises and the operator specified in the licence; and
  - (b) only be issued to a company referred to in section 24(b)(i).
- (2) A gaming licence shall authorise, subject to any conditions to which it may be subject —
  - (a) the operation of a casino and the playing in or on designated areas of the casino resort, or such various separate parts of such premises as are specified in the licence, including private gaming areas approved by the Board in the prescribed manner, of any gambling game, including, but not limited to —
    - (i) gambling games played on traditional or electronic gaming tables and slot machines;
    - (ii) any gaming device, operated for any consideration, for the play of poker, blackjack, any other card or table game, or keno or any simulation or variation of any of the foregoing, including, but not limited to, any game in which numerals, numbers, or any pictures, representations, or symbols are used as an equivalent or substitute for cards in the conduct of such game;
  - (b) the placing and acceptance of bets on any event;
  - (c) the conduct of pari-mutuel wagering through a hub, provided that —
    - (i) the licence holder simultaneously transmits the pictures of the races on which wagers are accepted; and
    - (ii) wagering may be accepted only into pools offered in relation to races held on tracks which have been approved in writing by the Board; and
  - (d) the arrangement, organization and operation of junkets.

**40. Proxy gaming licence.**

- (1) A proxy gaming licence may be applied for only by and issued only to the holder of a gaming licence and only in respect of the casino resort managed by it.
- (2) A proxy gaming licence shall authorise —
  - (a) the operation and conduct of proxy gaming on or from the casino resort managed by the holder of the relevant gaming licence; and
  - (b) the participation in proxy gaming by the patrons of such licence holder referred to in section 2, in respect of whom proxy wagering accounts have been established.
- (3) The holder of a gaming licence may not offer proxy gaming in any form in any part of the casino resort managed by it, unless authorised thereto by a proxy gaming licence.

**41. Mobile gaming licence.**

- (1) A mobile gaming licence may be applied for only by and issued only to the holder of a gaming licence.
- (2) A mobile gaming licence shall relate to both the operator and the premises specified in the licence.
- (3) A mobile gaming licence shall authorise the conduct of mobile gaming within any permitted area of the casino resort.

**42. Restricted interactive gaming licence.**

- (1) A restricted interactive gaming licence may be applied for only by and issued only to the holder of a gaming licence.
- (2) A restricted interactive gaming licence shall relate to both the operator and the premises specified in the licence.
- (3) A restricted interactive gaming licence shall authorise the conduct of interactive gaming transactions between a licence holder referred to in this section and —
  - (a) citizens of permitted foreign jurisdictions; and
  - (b) persons located on the licensed premises of the holder of a restricted interactive gaming licence, to the extent that such persons are not precluded from participation in such gaming by any other law,  
from a website established, maintained and operated by the licence holder in The Bahamas.
- (4) The holder of a restricted interactive gaming licence shall conduct the operations authorised by the licence only from a website —



- (a) located, operated, managed and maintained in The Bahamas;
  - (b) which conforms with all the prescribed requirements; and
  - (c) which is approved by the Board.
- (5) The holder of a gaming licence may not offer any form of interactive gaming from any website operated and managed in The Bahamas, unless authorised thereto by a restricted interactive gaming licence.

**43. Junket operator licence and junket representatives.**

- (1) A junket operator licence is required by every person, other than a junket representative, who is directly or indirectly involved in the planning, organisation or operation of a junket for or on behalf of the holder of a gaming licence, where such junket involves —
- (a) a visit to the casino resort of the holder of the gaming licence, of twenty or more junket visitors, of whom at least one such junket visitor is issued with credit for participation in gaming activities to be engaged in during the junket; and
  - (b) transport, food, accommodation and entertainment of an aggregate value of in excess of one hundred thousand dollars, or such higher value as may be prescribed from time to time, calculated on the basis of the retail price normally charged in respect of such goods and services.
- (2) A junket operator licence shall authorise, subject to any conditions which may be imposed on such licence, the holder of the licence —
- (a) to enter into agreements with the holder of a gaming licence authorising the provision of services to the casino, including —
    - (i) arranging, from within or outside The Bahamas, complimentary transport, food, lodging or similar benefits for junket visitors;
    - (ii) issuing credit to junket visitors for the purposes of participation in any gaming activities authorised by the relevant gaming licence during the junket; and
    - (iii) enforcing and collecting gaming debts incurred by a junket visitor during the course of a junket and owing to the holder of the gaming licence; and
  - (b) to receive any form of consideration for its services.
- (3) A junket representative must submit to the Board an application for approval and a certificate of suitability in the format required by the Board, accompanied by the prescribed non-refundable application fee.
- (4) The provisions of —

- (a) sections 24 to 30 shall apply, where applicable and with the necessary changes, to any application referred to in subsection (1); and
  - (b) sections 24, 25 and 27 to 30 shall apply, with the necessary changes, to any application referred to in subsection (3).
- (5) The Board shall not grant an application for approval under subsections (1) or (3) where the person making the application is disqualified to hold a licence under this Act.
- (6) The Board shall issue a certificate of suitability to any person approved under subsection (3), which shall be —
- (a) subject to such conditions as may be imposed in respect thereof;
  - (b) annually renewable, subject to payment of the prescribed annual renewal fee and to the provisions of section 35; and
  - (c) subject to the provisions of section 48(10) and (11).

#### **44. Gaming house operator licence.**

- (1) A gaming house operator licence —
- (a) shall relate to the operator specified in the licence;
  - (b) shall be issued only to a company referred to in section 24(b)(i), which is wholly owned by citizens of The Bahamas who are ordinarily resident in The Bahamas; and
  - (c) may be applied for only in response to a formal invitation to apply for such licences issued by the Board and advertised in the prescribed manner in the Gazette.
- (2) A gaming house operator licence shall authorise the conduct, on premises licensed under section 45, or over the medium of the internet, of —
- (a) interactive gaming transactions, from a website established, maintained and operated by the licence holder in The Bahamas, including betting on the numbers game over the medium of the internet, between the holder of a gaming house operator licence and a domestic player only; provided that —
    - (i) an appropriately secured betting account has been established by the licence holder in the name of the domestic player on a face-to-face basis, in such a manner that the licence holder has first verified, with reference to valid documentary proof, that the account holder is a domestic player and is not otherwise legally precluded from participation in gaming under this Act; and
    - (ii) the betting account operated by the domestic player has a credit balance; and

- (iii) no gaming or betting transaction may be entered into which would cause the balance in the betting account of a domestic player to drop below zero;
  - (b) over-the-counter, account-based betting on the numbers game, between the holder of a gaming house operator licence and a domestic player only; provided that —
    - (i) an appropriately secured betting account has been established by the licence holder in the name of the domestic player on a face-to-face basis, in such a manner that the licence holder has first verified, with reference to valid documentary proof, that the account holder is a domestic player and is not otherwise legally precluded from participation in gaming under this Act; and
    - (ii) the betting account operated by the domestic player has a credit balance; and
    - (iii) no gaming or betting transaction may be entered into which would cause the balance in the betting account of a domestic player to drop below zero;
  - (c) over-the-counter cash betting transactions on the numbers game, between the holder of a gaming house operator licence and a domestic player only; provided that the licence holder has first verified, with reference to valid documentary proof, that the player in question is a domestic player and is not otherwise legally precluded from participation in gaming under this Act; and
  - (d) the conduct, on premises licensed under section 46 —
    - (i) of cash betting transactions only;
    - (ii) on the numbers game only; and
    - (iii) with domestic players only.
- (3) The holder of a gaming house operator licence shall conduct all gaming and betting transactions in accordance with the Exchange Control Regulations (*Ch. 360*).
- (4) The Minister may make regulations —
  - (a) specifying the maximum number of gaming house operator licences which may be granted in The Bahamas;
  - (b) with respect to the invitation and application process pertaining to gaming house operator licences;
  - (c) prescribing the minimum criteria with which an application for a gaming house operator licence shall be required to comply; and
  - (d) prescribing the technical requirements to be complied with for the purposes of the activities authorised by a gaming house operator licence, including —

- (i) the hardware, software and other gaming-related equipment to be utilised by the holder of a gaming house operator licence; and
- (ii) the applicability of any requirements referred to in section 34 to the holder of a gaming house operator licence;
- (e) prescribing the measures to be taken by the holder of a gaming house operator licence to ensure that its licensed operations are accessible to domestic players only;
- (f) prescribing the procedures for the opening, maintenance, management, security, monitoring, suspension and closure of player betting accounts;
- (g) prescribing the internal control standards to be developed by the holder of a gaming house operator licence; and
- (h) prescribing the gaming taxes, application fees and annual licensing and monitoring fees payable in respect of gaming house operator licences.

#### **45. Gaming house premises licence.**

- (1) A gaming house premises licence —
  - (a) shall relate to the premises in respect of which it is issued; and
  - (b) may be applied for only in response to a formal invitation to apply for such licences issued by the Board and advertised in the prescribed manner in the Gazette.
- (2) A gaming house premises licence shall authorise the conduct by the holder of a gaming house operator licence of the activities referred to in section 44(2)(a) - (c) on the premises in respect of which the licence has been issued.
- (3) All gaming and betting transactions entered into on premises in respect of which a gaming house premises licence has been granted shall be conducted in accordance with the Exchange Control Regulations (*Ch. 360*).
- (4) The Minister may make regulations —
  - (a) prescribing the criteria to be taken into account by the Board in considering applications for gaming house premises licences, including —
    - (i) the proximity of the proposed premises to educational institutions, places of religious worship, residential areas and other similarly licensed premises;
    - (ii) any minimum criteria with which an application for a gaming house premises licence shall be required to comply;

- (b) with respect to the invitation and application process pertaining to gaming house premises licences;
- (c) prescribing the measures to be taken by the holder of a gaming house operator licence to ensure that the operations conducted on licensed gaming house premises are accessible to domestic players only; and
- (d) prescribing the application fees and annual licensing and monitoring fees payable in respect of gaming house premises licences.

**46. Gaming house agent licence.**

- (1) A gaming house agent licence shall relate to the premises in respect of which it is issued.
- (2) A gaming house agent licence shall authorise the conduct of the activities referred to in section 44(2)(d) on the premises in respect of which the licence has been issued.
- (3) All gaming and betting transactions entered into on premises in respect of which a gaming house agent licence has been granted shall be conducted in accordance with the Exchange Control Regulations (*Ch. 360*).
- (4) The Minister may make regulations —
  - (a) with respect to any aspect of the agreement entered into between the holder of a gaming house operator licence and the owner of the premises in respect of which a gaming house agent licence is applied for or issued, including the commission payable to such owner;
  - (b) prescribing the application process in respect of gaming house agent licences;
  - (c) prescribing the measures to be taken by the holder of a gaming house operator licence to ensure that the operations authorised by a gaming house agent licence are accessible to domestic players only; and
  - (d) prescribing the application fees and annual licensing and monitoring fees payable in respect of gaming house agent licences.

**47. Supplier licence.**

- (1) Subject to subsection (5)(a), a supplier licence is required by every person who —
  - (a) distributes any gaming device for use in The Bahamas;

- (b) in The Bahamas, maintains, alters, repairs or modifies a gaming device, other than in the manner referred to in subsection (3)(a) or (b); or
  - (c) otherwise directly supplies any gaming device to the holder of a licence issued under this Act, for use in The Bahamas.
- (2) A supplier licence shall only be issued to a company.
- (3) The provisions of subsection (1) shall not apply to the holder of a gaming licence, proxy gaming licence, mobile gaming licence, restricted interactive gaming licence, gaming house operator licence or to any other person providing services to such a licence holder or otherwise acting on its instructions or behalf, in respect of the routine maintenance, repair or alteration of any gaming device used by the holder of such licence or in respect of the sale of such device by such licence holder in accordance with this Act, provided that, for the purposes of this subsection, “routine maintenance, repair or alteration” means —
  - (a) any repair, maintenance or alteration that would not affect the manner or mode of a play or the outcome of a game; or
  - (b) the conversion or replacement of one approved component with another approved component; or the rebuilding of a previously approved gaming device with approved components.
- (4) A supplier licence shall authorise the importation, acquisition, maintenance, repair, alteration, distribution and direct supply, for use in The Bahamas, of the types of gaming devices specified in the licence.
- (5) A manufacturer of a gaming device shall not be required to hold a supplier licence by virtue only of having manufactured such device, provided that a supplier licence shall be required by any manufacturer which —
  - (a) manufactures any gaming device within The Bahamas; or
  - (b) complies with any of the requirements of subsection (1).
- (6) Notwithstanding any provision of this Act to the contrary, an applicant for a supplier licence which, on application for such licence and on payment of the prescribed application fee, produces a current, valid licence, certificate or similar approval, authorizing any of the activities required for a supplier licence under this Act, and issued by a regulatory authority situated in Nevada, New Jersey, Mississippi or Singapore, or such other regulatory authority as the Board may recognize for the purposes of this section from time to time, shall not be required to undergo any investigation referred to in this Act for the purposes of its application for such licence, but shall be deemed to qualify for a supplier licence under this Act.
- (7) The provisions of sections 24 and 26 to 30 shall apply, with the necessary changes, to an application referred to in subsection (1).

- (8) The Board shall not grant an application under subsection (1) where the person making the application is disqualified from holding a licence under this Act.

#### **48. Key employee licence.**

- (1) A key employee licence is required by every executive director or agent of, or any person in the employ of the holder of any operator licence, other than a junket operator licence issued under this Act ("the principal licence") who may exercise direct control over gaming operations or the activities authorised by the principal licence or such other person, whom the Board may identify, who may exercise control over any premises where gaming is conducted under this Act.
- (2) Notwithstanding the provisions of subsections (1) and (3), persons employed in any of the following or substantially similar positions by the holders of the licences referred to in subsection (1) shall be regarded as key employees for the purposes of this section —
  - (a) managers;
  - (b) supervisors;
  - (c) pit bosses;
  - (d) pit clerks;
  - (e) inspectors;
  - (f) surveillance personnel; and
  - (g) any other position as may be prescribed or may be considered by the Board to be that of a key employee generally or in relation to any gaming business in particular.
- (3) For the purposes of this section, "direct control over gaming operations or the activities authorised by the principal licence" means the express, implied or reasonably incidental authority to supervise, oversee, monitor or otherwise control any activity in respect of gaming operations which, in the opinion of the Board, may reasonably enable the person on whom such authority is conferred —
  - (a) to manipulate or alter the selection of criteria which determine the result of any game on which wagering is accepted;
  - (b) to engage or participate in cheating, as defined in section 65; or
  - (c) to misrepresent to any authority the tax liability of the licence holder.
- (4) If the Board considers that an employee of any licence holder referred to in subsection (1) is a key employee, it shall serve written notice to that effect upon the licence holder by whom such employee is employed.

- (5) The holder of the licence referred to in subsection (4) shall, within thirty days of receipt of a written notice referred to in subsection (4), present to the Board an application in the prescribed form for the licensing of such employee as a key employee or provide adequate proof that such employee is no longer employed by it.
- (6) An employee who is subject to application for licensing as a key employee under subsection (4) may make written representations to the Board to reconsider his status within the business concerned, and if the Board thereupon determines that the employee is not a key employee, such employee shall be permitted to withdraw his application.
- (7) In determining whether or not an employee is a key employee, the Board shall not be restricted by the job title or designation of an employee, but may consider the extent and impact of the functions and responsibilities of such employee in the gaming environment.
- (8) Save as may be provided for in this Act or prescribed, no person required by this Act to hold a key employee licence shall be employed by or assist a licence holder before he has obtained the requisite licence.
- (9) Upon application for a key employee licence the Board shall perform a full investigation to determine whether the applicant qualifies for such licence under section 24 and is not disqualified under section 25.
- (10) After the issue of a key employee licence —
  - (a) a limited probity investigation shall be performed in respect of the annual application for the renewal of such licence for each of the following two consecutive years; and
  - (b) a full probity investigation shall be performed in respect of the application for renewal of the licence after every three years.
- (11) For the purposes of subsection (10)(a), a “limited probity investigation” shall require the applicant for the renewal of the relevant licence to submit, in conjunction with its written application for the renewal of the licence, documentary evidence which —
  - (a) provides adequate proof —
    - (i) of the identity of such applicant;
    - (ii) that the applicant has not, at any time during the period of currency of his existing licence, become disqualified to hold such licence by virtue of having been convicted of any criminal offence; and
    - (iii) that the applicant has not been subjected to any disciplinary proceedings instituted by his employer at any time during the period of currency of his existing licence; and
  - (b) is accompanied by a sworn statement confirming that the applicant is not disqualified under the provisions of section 25(1).



- (12) Any person in respect of whom the Board has refused a licence under this section may, by written notice and within thirty days of the refusal of the licence, appeal to the Minister against the refusal of the licence in the manner prescribed.

**49. Gaming employee licence.**

- (1) A gaming employee licence is required by every person, excluding a key employee, who is employed by the holder of a principal licence referred to in section 48, and who is directly involved in the activities performed under the principal licence.
- (2) Notwithstanding the provisions of subsections (1) and (3), persons employed in any of the following or substantially similar positions by the holder of an operator licence shall be regarded as gaming employees for the purposes of this section —
- (a) cashiers and ticket-sellers;
  - (b) count room personnel;
  - (c) dealers and croupiers;
  - (d) machine technicians;
  - (e) security personnel; and
  - (f) such other categories of employee as may be prescribed.
- (3) For the purposes of this section, a person shall be deemed to be "directly involved in the activities performed under the principal licence" if such person has, or will have, the express, implied or reasonably incidental authority to perform any activity in respect of the gaming operations of the principal licence holder which, in the opinion of the Board, may reasonably enable the person on whom such authority is conferred —
- (a) to manipulate or alter the selection of criteria which determine the result of any game on which wagering is accepted;
  - (b) to engage or participate in cheating, as defined in section 68; or
  - (c) to misrepresent to any authority the tax liability of the licence holder.
- (4) If the Board is of the opinion that an employee of any licence holder referred to in section 45(1) is a gaming employee, it shall serve written notice to that effect upon the licence holder by whom such employee is employed.
- (5) Save as may be provided for in this Act or prescribed, no person required by this Act to hold a gaming employee licence shall be employed by or assist any licence holder before he has obtained the requisite licence.

- (6) Upon application for a gaming employee licence the Board shall perform a full investigation to determine whether the applicant qualifies for such licence under section 24 and is not disqualified under section 25.
- (7) The provisions of section 48(10) and (11) shall apply, with the necessary changes to the holder of a gaming employee licence.
- (8) Any person in respect of whom the Board has refused a licence under this section may, by written notice and within thirty days of the refusal of the licence, appeal to the Minister against the refusal of the licence in the manner prescribed.

## **50. Temporary employee licence.**

- (1) Where an application for an employment licence has been submitted, and the applicant is able to show good cause for the issue of a temporary licence pending the grant or refusal of the licence applied for, the Board may, subject to the provisions of this Act, the payment of the prescribed application fee and such conditions as it may impose, issue a temporary employee licence.
- (2) A temporary employee licence shall be valid for such period as the Board may determine.
- (3) The employer of the holder of a temporary employee licence shall pay licence and monitoring fees in respect of such licence equal to ten per centum of the annual licence and monitoring fees payable under section 38(2) for a similar licence, for each month or part thereof for which the temporary licence is issued.
- (4) For the purposes of subsection (1) “good cause” shall be deemed to have been shown when an applicant or the licence holder which proposes to employ such applicant is able to satisfy the Board that —
  - (a) the operation of the business of the licence holder will be seriously prejudiced by a delay in employing the applicant or by the interruption of his employment; and
  - (b) the commencement of the employment or the continued employment of the applicant will not prejudice the integrity and proper operation of the business of the licence holder.
- (5) The award by the Board of a temporary employee licence under subsection (1) shall not found any expectation for the grant of an employment licence.
- (6) If an application for an employment licence submitted by the holder of a temporary employee licence is refused by the Board, the licence holder who employs that person shall, upon receipt of the Board's decision, immediately cease to employ that person in any capacity in which he is required to be so licensed.

- (7) The provisions of subsection (6) shall be a condition of employment.

**51. Procurement of financial interests.**

- (1) Any person who or which proposes to procure —
- (a) a financial interest of five per centum or more in any licence holder, other than a premises licence, a supplier licence awarded to a person referred to in section 47(6) or a junket operator licence referred to in section 23(1)(e);
  - (b) a financial interest of thirty per centum or more in the holder of a junket operator licence referred to in section 23(1)(e) or a supplier licence other than a supplier licence issued to a person referred to in section 47(6); or
  - (c) such interest, as together with any interest of less than five per centum or thirty per centum already held by that person in such licence holder, as the case may be, would equal or exceed five per centum or thirty per centum of the total financial interest in such licence holder, as the case may be,

must submit to the Board an application for approval and a certificate of suitability to hold such interest in the format required by the Board, accompanied by the prescribed non-refundable application fee; provided that, notwithstanding any provision of this Act, no person who is not a Bahamian citizen ordinarily resident in The Bahamas may procure any financial interest in a gaming house operator licence.

- (2) The provisions of sections 24(a), 24(b)(v) and 26 to 30 shall apply, with the necessary changes, to any application referred to in subsection (1).
- (3) The Board shall not grant an application under subsection (1) where the person making the application is disqualified to hold a licence under this Act.
- (4) Every contract for the proposed procurement of a financial interest referred to in subsection (1) shall be directly contingent on the approval of the Board for such procurement, and shall be of no force or effect if such approval is not granted by the Board.
- (5) The provisions of this section shall not apply to the procurement of a further financial interest in a licence holder by a person who or which, prior to such further procurement, holds a financial interest of or above five per centum or thirty per centum as the case may be, in such licence holder; provided that the licence holder shall, by written notice to the Board, inform the Board of such procurement in the manner prescribed.
- (6) The Board shall issue a certificate of suitability to any person approved under this section, which shall be —
- (a) subject to such conditions as may be imposed in respect thereof;

- (b) annually renewable, subject to payment of the prescribed annual renewal fee; and
  - (c) subject to the provisions of section 48(10) and (11).
- (7) The provisions of this section shall apply, with the necessary changes, to any person who or which has, or proposes to procure, significant control over the operations of a registered independent testing laboratory other than the holder of a current, valid licence, certificate or similar approval, authorizing the holding of such interest by such person, and issued by a regulatory authority situated in Nevada, New Jersey, Mississippi or Singapore, or such other regulatory authority as the Board may recognize for the purposes of this subsection from time to time; and provided further that such person shall not be required to undergo any investigation referred to in this Act for the purposes of its application for a certificate of suitability, but shall be deemed to qualify for a certificate of suitability under this Act.

## **52. Gaming devices.**

- (1) The holder of a licence shall not use or allow any gaming to be conducted on or by means of a gaming device other than a gaming device which has been supplied by the holder of a supplier licence issued under this Act and which has been certified by an independent testing laboratory as complying with the prescribed standards.
- (2) The holder of an operator or supplier licence shall keep such records and information in respect of each gaming device as may be prescribed or required by any rule made pursuant to section 82.
- (3) The holder of a supplier licence shall not sell, alienate or supply in any manner whatsoever any gaming device, other than playing cards or dice not intended for play in a casino, to any person other than the holder of an operator licence issued under this Act.

## **53. Books, accounts, records and returns.**

The holder of a licence shall keep such books, accounts and records and furnish such returns as may be prescribed or required by any rule made pursuant to section 82.

## **54. Approval of gaming-related contracts.**

- (1) Every holder of a licence referred to in section 23(1)(a), (b), (c), (d) or (f) shall, prior to entering into any gaming-related contract with any person other than the holder of a licence or certificate of suitability issued under this Act, furnish the Board with a written submission stating —
  - (a) the nature of the proposed contract;

- (b) the value or projected value of such contract;
  - (c) the identities of all parties to such contract;
  - (d) the date of the proposed conclusion of the contract and the proposed contract period; and
  - (d) full details of any terms, conditions or similar provisions therein in terms of which the performance by the licence holder, or any aspect of such performance is directly based upon, linked to or in any respect contingent upon, turnover or profits generated by the gambling operations of such licence holder.
- (2) Within fourteen days of receipt of a submission referred to in subsection (1), the Board may require the licence holder to submit a copy of any such contract to it for approval in the manner prescribed.
- (3) In the event that the Board has not, within the fourteen day period referred to in subsection (2), required the licence holder to submit a contract referred to in subsection (1), the contract will be deemed to have been approved.
- (4) The Board may, within the fourteen day period referred to in subsection (2), revert to the licence holder, and —
- (a) may require the submission of a copy of the gaming-related contract; and
  - (b) shall within thirty days of the date of submission of such contract to it —
    - (i) approve such contract; or
    - (ii) require the third party to apply for a certificate of suitability, unless the Board, during such period, notifies the licence holder in writing that it requires a further period, which it shall stipulate and which shall be reasonable in the circumstances, to consider the matter.
- (5) A contract entered into by a licence holder in respect of which the provisions of subsection (1), and, where applicable, subsection (2), are not complied with, shall be void.
- (6) Nothing in this section shall derogate from the power of the Board —
- (a) to request that it be furnished with a copy of any gaming-related contract of the nature specified in subsection (1) entered into between a licence holder and any third party, at any time;
  - (b) to request from the licence holder or the third party such further information as it may require pertaining to the suitability of the third party; and

- (c) to require the third party to submit an application for a certificate of suitability referred to in section 55, which shall apply, with the necessary changes.

**55. Contracts with gaming service providers and certificates of suitability.**

- (1) The holder of an operator licence, other than a junket operator licence, or a supplier licence, shall not enter into a contract with a gaming service provider, unless such service provider has been approved, and has been issued with a certificate of suitability under this section.
- (2) An application for a certificate of suitability —
  - (a) shall be made jointly by the holder of the relevant operator licence and the proposed gaming service provider in such manner and form, and shall contain such particulars, as the Board shall determine; and
  - (b) must be accompanied by the prescribed application fee, provided that no such fee shall be payable in respect of an application for a certificate of suitability for a gaming service provider proposed to be utilised by —
    - (i) a person, who at the effective date, holds a gaming licence; or
    - (ii) any person to which a gaming licence referred to in paragraph (i) is transferred under this Act,in respect of any of the activities authorised by such licence.
- (3) The provisions of sections 24 and 26 to 29 shall apply, with the necessary changes, to any application referred to in subsection (1), provided that the mandatory approval process shall apply to such an application.
- (4) A certificate of suitability referred to in this section shall —
  - (a) be issued forthwith to the person to whom it is granted;
  - (b) be annually renewable, subject to payment of the prescribed annual renewal fee, provided that the provision of subsection (2)(b) shall apply, with the necessary changes, to the payment of any fee referred to in this paragraph;
  - (c) be subject to such conditions as may be imposed in respect thereof; and
  - (d) be subject to suspension or revocation under section 37, which shall apply with the necessary changes.
- (5) The existence of a contract between a licence holder and a gaming service provider to which a certificate of suitability has been granted, shall not exempt the relevant licence holder from liability from the performance of any obligation or compliance with any requirement placed on the holder of such licence by this Act.

**56. Control of entry to licensed premises.**

The holder of any gaming licence or gaming house operator licence or any employee of such a licence holder may—

- (a) refuse to admit any person, other than a member of the Board, an authorised officer or a police officer, to the licensed premises;
- (b) request any person other than a member of the Board, an authorised officer or a police officer who is in any part of the licensed premises to leave that part; and
- (c) request any police officer to remove or assist in removing from the licensed premises any person referred to in paragraphs (a) and (b).

**57. Rules for games.**

- (1) No game authorised by a gaming licence or gaming house operator licence shall be played otherwise than in accordance with the rules approved in respect thereof by the Board.
- (2) The rules of each game authorised by a licence referred to in this section shall be displayed in the manner determined by the Board, and the holder of a gaming licence or gaming house operator licence shall at the request of any player make available for examination a copy of the approved rules of any such game.
- (3) No gambling game made available for play by the holder of a licence referred to in this section shall pay out less than the minimum return to player percentage prescribed in respect of such game.

## **PART V – LOTTERIES**

**58. National and other lotteries.**

- (1) The Minister may —
  - (a) authorise the conduct of a national lottery in The Bahamas; and
  - (b) appoint a service provider which complies with section 24(b)(i), (iv) and (v) and section 26(2), which shall apply with the necessary changes, to operate the national lottery under a management contract.
- (2) The Minister may make regulations prescribing —
  - (a) the period of duration of the management contract;
  - (b) the process pertaining to the selection of the management contractor;

- (c) the minimum criteria with which the management contractor shall be required to comply;
  - (d) the technical requirements to be complied with for the purposes of the activities authorised by the management contract, including the hardware, software and other gaming-related equipment to be utilised by the management contractor;
  - (e) the terms and conditions to which the management contract shall be subject;
  - (f) the internal control standards to be developed by the management contract;
  - (g) the games authorised to be offered by the management contractor;
  - (h) the manner in which tickets for the national lottery may be sold;
  - (i) standards for the premises from which sales of tickets in relation to the national lottery may be sold;
  - (j) procedures and standards for the management and reporting of revenue generated by the conduct of the national lottery;
  - (k) the allocation of revenue generated by the conduct of the national lottery towards such good causes as may be prescribed;
  - (l) procedures relating to applications for grants and the evaluation and award or refusal thereof;
  - (m) the conditions to which grants may be made subject;
  - (n) the application fees and annual licensing and monitoring fees payable in respect of the national lottery licence; and
  - (o) any other matter in respect of which it is expedient to make regulations to ensure the efficient and effective conduct of the national lottery.
- (3) All lotteries are unlawful, other than —
- (a) the national lottery, when authorised under subsection (1);
  - (b) charitable lotteries, as set forth in section 56;
  - (c) private lotteries, as set forth in section 57;
  - (d) lotteries which are incidental to certain entertainment events, as set forth in section 61; and
  - (e) the numbers game, when offered by the holder of a gaming house operator licence.

## **59. Charitable lotteries.**

- (1) Charitable lotteries shall be lawful, provided that —
  - (a) the organisers of the lottery shall —



- (i) obtain the prior approval in writing of the Minister for organizing the lottery;
  - (ii) undertake to declare the purposes for which the proceeds of the lottery will be applied;
  - (iii) enter into a bond with the Treasurer for payment to him of fifteen per centum of the gross receipts therefrom, hereinafter described as “the duty payable on the lottery”;
  - (iv) pay to the Treasurer within fourteen days after the lottery has been conducted, the duty payable on the lottery evidenced by a statement of account duly verified by an approved accountant;
- (b) the Minister may waive or refund, in whole or in part, the duty payable on the lottery, and, subject to the provisions of paragraph (c) of this subsection, the conditions imposed by subparagraphs (iii) and (iv) of paragraph (a) of this subsection shall be construed accordingly;
- (c) where the duty payable on a lottery has been waived or refunded in whole or in part, the Minister may nevertheless, in his discretion, authorise the Treasurer to collect from the organisers of the lottery the full amount of such duty and pay over to the organisation in whose favour the lottery has been organised the amount waived or refunded.
- (2) Any organiser of a charitable lottery who fails to observe and comply with this section or section 62, or who renders a false statement of account, commits an offence and is liable on conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding twelve months.
- (3) An “approved accountant” referred to in subsection (1)(a)(iv) means, in relation to any lottery, a person (who shall not be a person connected with the conduct of the lottery) approved by the Minister for the purpose of verifying the statement of account.

## **60. Private lotteries.**

- (1) A private lottery shall not be unlawful if —
- (a) all the proceeds, after deducting only expenses incurred for printing and stationery pertaining to tickets of that lottery and notices advertising that lottery, are devoted to the provision of prizes for purchasers of tickets or chances, or, in the case of a lottery conducted for the members of a society, such proceeds are devoted —
    - (i) to the provision of prizes;

- (ii) to the purposes for which the society was established; or
    - (iii) to the provision of prizes as well as to the purposes for which the society was established;
  - (b) no written notice or advertisement of the lottery is exhibited, published or distributed other than—
    - (i) a notice thereof exhibited on the premises of the society for whose members the lottery is conducted or, as the case may be, on the premises on which the persons for whom the lottery is conducted, ordinarily work or reside; and
    - (ii) such announcement or advertisement of the lottery as is contained in the text printed on the tickets, if any;
  - (c) no person is employed for reward in any form whatsoever in connection with the conduct of the lottery;
  - (d) no ticket in the lottery is sent through the post;
  - (e) no tickets or chances shall be issued or allotted other than by way of sale and upon receipt of the full price thereof, which shall —
    - (i) be the same in respect of each ticket or chance issued;
    - (ii) be displayed on each ticket issued, or if there are no tickets, on the list of chances; and
    - (iii) under no circumstances be refunded;
  - (f) the sale of tickets in the lottery is confined —
    - (i) to the persons for whom the lottery is conducted; and
    - (ii) in the case of a lottery conducted for the members of a social or sporting club, also to any other person who is on the premises of such club at the time of sale;
  - (g) it is conducted for members of a society established and conducted for purposes not directly or indirectly connected with lotteries, gaming or betting;
  - (h) a person purchasing a ticket for a private lottery does not solely by purchasing that ticket become a member of the club or society which conducts that lottery or on whose behalf that lottery is conducted; and
  - (i) the prior approval of the Minister has been obtained for the promotion and conduct of such lottery.
- (2) For the purposes of this section each local or affiliated branch or section or branch of a society shall be regarded as a distinct society.
- (3) Any person who contravenes any provision of subsection (1) commits an offence and is liable on conviction to a fine not exceeding two hundred and fifty thousand dollars or to imprisonment for a term not exceeding twelve months.

**61. Lotteries incidental to certain entertainment events.**

- (1) A lottery conducted as an incident of an entertainment event shall not be unlawful if—
  - (a) all the proceeds of the entertainment event, including the proceeds of the lottery, after deducting —
    - (i) the expenses of the entertainment event, excluding expenses incurred in connection with the lottery;
    - (ii) the expenses incurred in printing tickets in the lottery and advertising of that lottery; and
    - (iii) such sum, if any, not exceeding the prescribed amount for any expenses incurred in purchasing prizes for the lottery, are utilized for the benefit of any deserving section of the public;
  - (b) none of the prizes in the lottery is in the form of money;
  - (c) the opportunity of participating in lotteries referred to in this section, or such opportunity together with any other opportunity of participating in lotteries or gambling, is not the only, or the only substantial inducement to persons to attend the entertainment event;
  - (d) it is conducted for members of a society established and conducted for purposes not connected with lotteries, gambling or betting; and
  - (e) it is conducted in conjunction with an entertainment event approved in writing by the Minister.
- (2) For the purposes of subsection (1) “entertainment event” means a bazaar, sale, fête, dinner, dance, sporting event or other entertainment event of a similar character.

**62. Audit of accounts.**

The accounts in respect of any lottery permitted under this Act shall at all times be open to the inspection of the Government, and the Minister may at any time appoint an auditor to examine such accounts, at the cost of the organiser of such lottery.

**63. Offences and penalties in relation to lotteries.**

- (1) Any person who—
  - (a) participates in; or
  - (b) conducts, facilitates, promotes or derives any benefit from a lottery, commits an offence, unless such lottery is or has been authorised by or under this Act or the express provisions of any other law.
- (2) Any person who—
  - (a) contravenes or fails to comply with any provision of this Act;

- (b) forges or in any other fraudulent way changes any ticket or any other document or thing pertaining to any lottery authorised by this Act;
- (c) knowingly sells or in any other way disposes of any forged ticket or any other document or thing pertaining to any lottery authorised by this Act;
- (d) with intent to defraud, alters any number or figure on any ticket or any other document or thing pertaining to any lottery authorised by this Act;
- (e) in respect of any lottery authorised by this Act, sells a ticket —
  - (i) at a price higher than that which is printed on the ticket;
  - (ii) on condition that the seller of the ticket shares in the prize in the event of a ticket sold by him being the ticket in respect of which a prize is paid;
  - (iii) on any condition not provided for in the rules of the lottery concerned;
  - (iv) on credit or with the financial assistance in any form of the seller; or
- (f) directly or indirectly pays to or receives from another money or money's worth for the purpose of participating or facilitating participation in any lottery not authorised by this Act, or for any purpose whatsoever in connection with any such lottery;
- (g) has in his possession any book, paper or other item, article or instrument of any kind bearing any name, initial, number, symbol, code or other identifying mark associated in any manner with any lottery not authorised under this Act;
- (h) determines, declares or exhibits, expressly or otherwise, the winner or winning number, name, initial, ticket, lot, figure, design, symbol, code or other result of a lottery not authorised by this Act;
- (i) without lawful excuse, is found on any premises in or on which any lottery not authorised by this Act is taking place;
- (j) permits any premises under his ownership, custody or control to be used for any purpose connected with the promotion, organization or conduct of a lottery not authorised under this Act; or
- (k) conducts, organizes, promotes, devises or manages any business operation, scheme, plan, competition, arrangement, system, game or device which directly or indirectly provides for betting, wagering, gaming or any other game of risk on any outcome of any lottery not authorised by this Act,

commits an offence and is liable on conviction to a fine of not less than one hundred thousand dollars or to imprisonment for a term not exceeding

twelve months; provided that in the case of a second or subsequent conviction, the court may impose a penalty not exceeding twice the amount of such fine.

## **PART VI - TAXATION AND FINANCIAL ARRANGEMENTS**

### **64. Imposition of gaming taxes.**

- (1) The holder of an operator licence shall pay to the Board such basic taxes and gaming taxes as may be prescribed.
- (2) The taxes referred to in subsection (1) shall be —
  - (a) at the rates or percentages or in the amounts; and
  - (b) payable in the manner and at the times, as shall be prescribed.
- (3) Unless otherwise required under this Act or as otherwise prescribed, the Secretary shall pay the taxes and levies referred to in subsection (1) into the Consolidated Fund within the period prescribed.

### **65. Tax payable upon conviction.**

Notwithstanding any other provision of this Act, a Court convicting a person of a contravention of section 66(1)(a), (b)(i) or (c), shall, where applicable, in addition to any penalties it may impose under this Act, order such person to pay the relevant duty or tax which would be due under this Act if such person were the holder of a licence.

## **PART VII – GENERAL PROVISIONS**

### **66. Prohibitions in respect of gaming and presumptions relating thereto.**

- (1) No person shall, in The Bahamas, without the appropriate licence —
  - (a) conduct or permit the conduct of, or advertise or promote, any gaming activity, other than social gaming, in or on any premises under his control or in his charge; or
  - (b) be directly or indirectly involved —
    - (i) in the operation of any gaming business or establishment;
    - (ii) in the manufacture or supply, within The Bahamas, or subject to section 47(3) in the maintenance, repair or alteration of any gaming device or slot machine or any component thereof; or

- (iii) in the importation, acquisition, distribution, marketing, leasing or selling of any gaming device; or
- (c) possess a gaming device.
- (2) Otherwise than as provided for by section 51(1) and (7), no person shall without a certificate of suitability have any direct or indirect financial interest of five per centum or more in any licence holder or gaming establishment in The Bahamas.
- (3) No person shall, without the appropriate licence or certificate of suitability, where required under this Act or without the prior approval of the Board, in any manner share directly or indirectly in the profits of any gaming.
- (4) No person other than a member of the Board, an authorised officer or a police officer acting in the performance of his duties under this Act shall play any gambling game or take part in any betting in or on, or visit, with the object of playing any gambling game or taking part in any betting, any premises which are not licensed under this Act or are not permitted to be used for the purposes of gaming under subsection (1).
- (5) The provisions of subsection (1)(c) shall not apply to the owner of any gaming devices which enter the territory of The Bahamas on any passenger ship or airplane or to the person in whose control such devices have been placed; provided that the owner or person in control of such devices, before entering the territory of The Bahamas, shall keep any gaming devices in a manner as not to be available to be played or operated by any person or to be accessible to any member of the general public while the passenger ship or airplane is in the territory of The Bahamas.
- (6) Any person supervising or directing the playing of any gambling game or conducting of any betting in or on any premises, other than licensed premises, shall be presumed to be conducting a gaming activity on such premises, unless the person shall give some satisfactory explanation as to their presence on such premises.
- (7) Any person found in possession of a mobile device which is wholly or primarily designed, equipped or configured in such a manner as to facilitate the conduct of a gaming activity, other than a client terminal operated in accordance with the provisions of this Act, shall be presumed to be engaged in a gaming activity, unless the person shall give some satisfactory explanation of the purpose for which the device was in his possession.
- (8) Any person acting as porter, doorkeeper or servant or holding any other office in or on any premises which is advertised or described in any manner or form or in any publicly accessible media as a web shop, a gaming house or under any other name which can reasonably be construed as indicating that any gaming activity is available to be engaged in on

such premises, shall be presumed to be engaged in a gaming activity, unless such person shall give some satisfactory explanation as to their presence on such premises.

- (9) Any person who contravenes the provisions of subsection (1), (3) or (4) commits an offence and is liable on conviction to a fine not exceeding ten thousand dollars or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment; provided that, in the event of a second or subsequent conviction, the court may impose a penalty not exceeding twice the amount of such fine.

**67. Prohibited conduct in relation to gaming devices.**

- (1) No person shall, without being in possession of the appropriate licence —
- (a) manufacture a gaming device in The Bahamas;
  - (b) in The Bahamas, acquire or distribute to the holder of a licence issued under this Act, any gaming device; or
  - (c) alter or otherwise modify any gaming device in a manner that—
    - (i) affects the result by determining win or loss;
    - (ii) alters or affects the normal criteria of random selection which determine the outcome of any game played on or by means of such device; and
    - (iii) it no longer complies with prescribed standards.
- (2) Subject to section 47(3), no person shall alter or modify any software or hardware used in any gaming device without being in possession of the appropriate licence and no gaming device shall be used or exposed for play in or on any licensed premises unless a certificate has been submitted to the Board, compiled by an independent testing laboratory, confirming that such gaming device complies with the prescribed standards.
- (3) No person shall —
- (a) manufacture, assemble, sell, distribute, market, rent or lease any gaming device which does not comply with the relevant standards;
  - (b) subject to section 47(3) without the appropriate licence, alter or modify any gaming device or related equipment in any manner;
  - (c) alter or modify a gaming device or related equipment in a manner which will cause such device or equipment not to comply with the prescribed standards; or
  - (d) be in possession of any gaming device or equipment, which has been modified in any manner without documentary proof, reflecting the date of such modification, that such device or equipment has been modified by a person licensed to perform such modification.

- (4) Any person who contravenes the provisions of this section commits an offence.

## **68. Cheating and cheating devices.**

- (1) No person shall—
- (a) knowingly allow anyone to conduct or carry on cheating or to operate any cheating device or provide any person with information or with a device to cheat in any game authorised by a licence;
  - (b) knowingly conduct, allow or expose for play any game played with cards or with any gaming device which have or has been marked, tampered with, placed in a condition or operated in a manner that tends to deceive players or the public, or to alter the normal random chance of the gambling game, or to determine or alter the result of the game; or
  - (c) knowingly make use of any counterfeit chip or token or contravene the rules of any game or interfere in any way with any gaming device with the intention of obtaining any direct or indirect pecuniary advantage, whether for himself or any other person.
- (2) For the purposes of this section "cheating" means—
- (a) the alteration of the selection of criteria which determine the result of a gambling game or the amount or frequency of payment in a gambling game; or
  - (b) the use of any scheme, arrangement, system or plan which the Minister may from time to time by notice in the *Gazette* declare to be cheating, and "cheat" has a corresponding meaning.

## **69. Prohibitions in respect of gaming.**

- (1) No person who is in any way concerned with the management, supervision, control or administration of the holder of an operator licence or any gaming conducted at such business shall participate in gaming at such business or at any other gaming business in The Bahamas operated by the same licence holder, save in so far as he may be required to do so in the course of his employment.
- (2) No person under the age of eighteen years shall—
- (a) enter any designated area;
  - (b) take part in any gaming or handle or operate a gaming device; or
  - (c) be entitled to enforce any gaming debt, notwithstanding the provisions of section 79.
- (3) No licence holder or employee of a licence holder shall permit any person who is under the age of eighteen years, and no parent or guardian of a



person under the age of eighteen years shall permit such person to enter or remain in any area where gaming takes place or to take part in any gaming or to handle or operate a gaming device.

- (4) Subject to subsection (6), no domestic player shall take part in any gaming or betting authorised by a licence issued under this Act, other than a gaming house operator licence, or on any premises in respect of which licences have been issued under this Act, other than premises licensed under sections 45 and 46, save in so far as he may be required to be involved in the conduct of gaming in the course of his employment.
- (5) Subject to subsection (6), no person other than a domestic player shall take part in any gaming or betting authorised by a gaming house operator licence issued under this Act, or on any premises in respect of which licences have been issued under sections 45 and 46 of this Act.
- (6) Notwithstanding the provisions of subsections (4) and (5), the Minister may make regulations permitting participation in the types of gaming contemplated in those subsections by any category or all categories of persons contemplated in those subsections, which may regulate the circumstances under which and the conditions subject to which such participation shall be permitted.

#### **70. Methods of operation.**

- (1) The holder of a licence referred to in section 23(1)(a), (b), (c), (d) and (f) shall at all times be responsible for the development, implementation and maintenance of suitable methods of operation in respect of gaming and activities incidental thereto conducted on its licensed premises.
- (2) If, as a result of any hearing or investigation or in consequence of information provided to it by an authorised officer, the Board is satisfied that any method of operation employed by the holder of an operator licence is unsuitable, it may transmit to such licence holder written notification setting forth the unsuitable method of operation and calling upon the licence holder to cease or to remedy the unsuitable method of operation.
- (3) Wilful or persistent use or toleration of methods of operation deemed unsuitable by the Board shall constitute grounds for the revocation or suspension of a licence or such other disciplinary action provided for by or prescribed under this Act as the Board may deem fit.
- (4) The Minister may make regulations declaring defined conduct as constituting an unsuitable method of operation.

**71. Unsuitable methods of operation.**

Any act or omission by the holder of a licence or its agents or employees which, in the opinion of the Board, is harmful to the public health, safety, morals, good order and general welfare of the people of The Bahamas, or which may bring discredit to the gaming industry, may be deemed by the Board to be an unsuitable method of operation, including, without derogating from the generality of the foregoing, the following acts or omissions—

- (a) on licensed premises, permitting persons who are visibly intoxicated to participate in any gaming activity;
- (b) on licensed premises, serving intoxicating beverages to any person participating in any gaming activity who is visibly intoxicated;
- (c) possessing or permitting to remain in or upon any licensed premises any cards, dice, mechanical device or any other cheating device whatsoever, the use of which is prohibited by law, without the prior written approval of the Board;
- (d) on licensed premises, operating or otherwise making use of any cheating or thieving game or device, which may have in any manner been marked, tampered with or otherwise placed in a condition, or operated in a manner, which tends to deceive the public or which tends to alter, manipulate or reverse the normal random selection of criteria determining the results of the game; and
- (e) permitting any portion of the licensed premises to be frequented or utilised for the purposes of solicitation or prostitution.

**72. Extension of credit.**

The holder of a gaming licence may extend credit or authorise a licensed junket operator to extend credit to any player for use by such player in gaming activities, in such amount and upon such terms as the gaming licensee shall determine and incorporate in its internal control standards, subject to the provisions of any regulations made under this Act.

**73. Responsible gambling.**

- (1) The holder of a licence referred to in section 23(1)(a), (b), (c), (d) or (f) shall promote responsible gaming by —
  - (a) providing training to its licensed key employees, consisting, at a minimum, of information concerning the nature and symptoms of problem gaming behaviour, assisting patrons in obtaining information about problem gaming, and information on the self-exclusion programme referred to in section 74;

- (b) ensuring that a notice informing the public of the phenomenon of compulsive or problem gaming is prominently displayed at every entrance within the premises which provides access to any specifically demarcated area where gaming takes place; and
  - (c) ensuring the display on the licensed premises of an adequate supply of pamphlets for public reference and use, providing information regarding the phenomenon of compulsive or problem gaming.
- (2) The provisions of subsection (1)(a) shall not be construed to require key employees to identify problem gamblers.

**74. Exclusions from gaming.**

- (1) Any person who wishes to be prevented from engaging in any gaming activity may apply to be registered on a list of excluded persons in the format determined by the Board.
- (2) Exclusion from gaming may be applied for in respect of periods of one year or five years, or for life.
- (3) A person may apply to a court of competent jurisdiction for an order requiring the registration as an excluded person of —
  - (a) a family member of the applicant;
  - (b) a person on whom the applicant is economically dependent in whole or in part;
  - (c) a person for whom the applicant is economically responsible in whole or in part;
  - (d) a person who is subject to an order of a competent court holding that person to be mentally unfit; or
  - (e) any other person to whom the applicant has a duty of care; andwhose behaviour manifests symptoms of addictive or compulsive gaming.
- (4) If, in the circumstances of an application under subsection (3), the court considers it reasonable and just to prevent the person concerned from engaging in any gaming activity, the court may order the registration of that person as an excluded person.
- (5) An excluded person affected by an order under subsection (4) may apply to the court that made the order at any time to set aside the order, and the court may do so if, after considering the grounds for making the original order and any new evidence before it, the court is satisfied that it is no longer reasonable and just to prevent that person from engaging in any gaming activity.
- (6) All exclusions shall —
  - (a) take effect upon submission to the holder of a gaming licence, gaming house operator licence, proxy gaming licence, mobile

- gaming licence or restricted interactive gaming licence, of a duly completed and signed application for exclusion;
- (b) be irrevocable for the period in respect of which the exclusion has been applied for; and
  - (c) lapse, where applicable, after the expiry of the period for which the exclusion was applied for.
- (7) The holder of a licence referred to in section 23(1)(a), (b), (c), (d) or (f) —
- (a) must immediately upon receipt thereof, transmit a copy of any completed exclusion application form to the Board and, notwithstanding the provisions of subsection (5), to the holders of all other operator licences of the same category issued under this Act;
  - (b) must take reasonable measures to ensure that excluded persons do not receive targeted mailings or any other promotional materials relating to gaming activities at their licensed facilities; and
  - (c) may exclude excluded persons from their properties in other jurisdictions.
- (8) The Board shall develop and maintain a register of excluded persons and shall periodically provide each holder of an operator licence issued under this Act with updated versions of such list, with due regard to the provisions of subsection (6)(c), as and when it effects changes to the contents of such list.
- (9) After a person has been placed on the exclusion list, the holder of an operator licence —
- (a) must put in place reasonable measures calculated to ensure that excluded persons are not granted access to any designated areas, but shall not be liable in a court of law if, notwithstanding the implementation of such reasonable measures, an excluded person gains access to any such designated area;
  - (b) subject to paragraph (a), must refuse to accept any wager from an excluded person;
  - (c) may remove any excluded person found to have accessed any of its designated areas; and
  - (d) may cause any excluded person found to have accessed any of its designated areas to be arrested on a charge of trespassing.
- (10) The holder of a gaming licence, gaming house operator licence, a licensed employee, or person in control of licensed premises or a gaming device, must not knowingly permit an excluded person to—
- (a) enter or remain in a designated gaming area;
  - (b) operate that gaming device; or

- (c) engage in any gaming activity within those premises.
- (11) The holder of an operator licence must not knowingly pay any winnings in respect of any gaming activity to an excluded person.
- (12) Every holder of a licence referred to in section 23(1)(a), (b), (c), (d) or (f) must —
  - (a) make available at its licensed premises, or on its approved website, as the case may be, the prescribed application form for exclusion; and
  - (b) post a notice advertising the availability of such application form, at each entrance to its licensed premises, provided that the notice required under this paragraph may be combined with the notice required under section 73(1)(b).

## **75. Offences and penalties.**

- (1) Any person who —
  - (a) knowingly or recklessly makes any false statement in any application, affidavit or return under this Act;
  - (b) in or on any licensed premises conducts any gambling game which has not been approved or otherwise than in accordance with the approved rules of such gambling game;
  - (c) hinders or obstructs any member of the Board, authorised officer or police officer whilst taking steps for the prevention or investigation of an offence under this Act;
  - (d) having been summoned to give evidence at a hearing under section 21, without reasonable cause fails —
    - (i) to attend such hearing at the time and place specified in the summons;
    - (ii) to remain in attendance until the conclusion of the hearing or until excused by the Board from further attendance; or
    - (iii) to produce any book, document or thing in his possession or custody or under his control, which he has been summoned to produce;
  - (e) having been summoned under section 21—
    - (i) without reasonable cause refuses to take the oath or to make an affirmation as a witness after he has been directed by the member of the Board presiding at a hearing to do so, or refuses to testify or, subject to the law relating to privilege applicable to a person giving evidence or producing any book, document or thing before a court of law, refuses or fails to answer fully and satisfactorily to the best of his knowledge and belief any question lawfully put to him; or

- (ii) after having taken the oath or having made an affirmation, gives false evidence before the Board at any hearing on any matter, knowing such evidence to be false or not knowing or not believing it to be true;
  - (f) without the appropriate licence or otherwise than in accordance with the provisions of this Act possesses a gaming device;
  - (g) not being the holder of a junket operator licence, organizes, conducts or derives any financial benefit from a junket referred to in section 43(1); or
  - (h) contravenes or fails to comply with, any other provision of this Act, commits an offence and on conviction, unless otherwise expressly provided elsewhere in this Act, shall be liable to a fine not exceeding twenty thousand dollars; provided that, in the event of a second or subsequent conviction, the court may impose a penalty not exceeding twice the amount of such fine.
- (2) All fines imposed by a court of law in respect of contraventions of, or failures to comply with, any provision of this Act shall accrue to the Consolidated Fund.
- (3) Whenever any person is convicted of any offence under this Act, all costs incurred by the Board or the Royal Bahamas Police Force, including any costs for the transport or storage of any gaming devices, equipment or any other thing by means of which the offence was committed or which was used in the commission of the offence or found in the possession of such person shall, in addition to any fine or penalty imposed under subsection (1), be for the account of such person, unless the Court orders otherwise.
- (4) Where an offence under this Act is proved to have been committed by a body corporate with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (5) Notwithstanding any provision of this Act, no criminal prosecution may be instituted against the holder of a licence issued under this Act, except —
- (a) with the consent of the Attorney-General; and
  - (b) in respect of a contravention of section 37(5) or the perpetration of any fraudulent method, device or scheme by a licence holder to evade liability for the payment of any tax prescribed under this Act.

**76. Penalties for contraventions of Act, Regulations and Rules.**

- (1) If the Board is satisfied, on a balance of probabilities, from evidence adduced at any hearing conducted under this Act or produced as a result of any investigation conducted pursuant to this Act, that a provision of this Act has been contravened or has not been complied with by the holder of a licence, the Board may hold such licence holder liable for such contravention and impose a penalty referred to in subsection (2).
- (2) If the Board, on the basis referred to in subsection (1), finds that any holder of a licence has contravened or has failed to comply with a provision of this Act other than the provisions of section 83(5)(a), it may, after giving the licence holder the opportunity to be heard on the matter and subject to the proviso hereto, impose on any such holder or person a penalty not exceeding twenty thousand dollars; provided that in the case of a contravention of, or non-compliance with—
  - (a) a provision of this Act (other than a regulation or a rule) for which a maximum fine has been expressly provided, the Board shall not impose a penalty in excess of that maximum fine;
  - (b) a regulation for which a maximum fine has been prescribed, the Board shall not impose a penalty which exceeds the amount of the prescribed maximum fine; or
  - (c) a rule for which a maximum fine has been prescribed, the Board shall not impose a penalty which exceeds the amount of such maximum fine.
- (3) Any licence holder in respect of whom the Board has imposed a penalty under this section may, by written notice and within thirty days of the imposition of the penalty, in the prescribed manner, appeal to the Minister against —
  - (a) the finding of the Board in respect of the relevant contravention;
  - (b) the imposition of the penalty; or
  - (c) both (a) and (b).

**77. Forfeiture.**

- (1) A Court may, upon conviction of a person for any offence under sections 63(1)(b), 63(2)(j), 63(2)(k), 64(1) and 75(1)(f), declare to be forfeited to the Crown —
  - (a) all monies, coins, cheques, bills or promissory notes or other documentation securing or evidencing an undertaking for the payment of money found in or on any unlicensed premises or on any person who was in or on such premises;
  - (b) all books, lists, cards, documents or other papers, or any instrument, machine or thing relating to or used or capable of being used in

- connection with gaming found in or on such premises or on any person who was in or on such premises; or
- (c) any property used in connection with the offence, which were seized under this Act, the Criminal Procedure Code Act (*Ch. 91*) or the Proceeds of Crime Act (*Ch. 93*) or any such property identified to the Court
- (2) The Attorney-General may apply to any court of competent jurisdiction for a civil forfeiture to the Crown of any property referred to in subsection (1).
- (3) A civil forfeiture order —
- (a) may be made if the court is satisfied, on a balance of probabilities, that an offence under subsection (1) has been committed;
  - (b) must state —
    - (i) the property to which it applies;
    - (ii) what the court considers to be the value of the property to be forfeited to the Crown; and
    - (iii) such restrictions, if any, ordered by the court regarding —
      - (aa) the fact that an application for the order, or that a civil forfeiture order, has been made;
      - (bb) the application for the order;
      - (cc) any information regarding the proceedings;
      - (dd) any evidence given, statement made or thing done during the proceedings; or
      - (ee) any other information, document or thing related to anything contemplated in this paragraph; and
  - (c) shall not be refused only because the person alleged to be responsible for the commission of the offence —
    - (i) has not been charged with such offence;
    - (ii) has not been convicted of such offence; or
    - (iii) has been acquitted of such offence.

## **78. Patron disputes.**

If a dispute arises in relation to winnings alleged to be payable to a player and cannot be resolved between the parties thereto, the dispute shall be resolved in accordance with the prescribed procedure.



**79. Enforceability of gaming debts.**

- (1) Any debt lawfully incurred by any person after the commencement of this Act in the course of gaming shall, notwithstanding the provisions of any other law or the common law, be enforceable in a court of law.
- (2) Any gaming debt lawfully incurred by the holder of an operator licence after the commencement of this Act shall, notwithstanding the provisions of any other law or the common law, be enforceable in a court of law.

**80. Reward for informers.**

The Board may, notwithstanding anything to the contrary in any other law contained, from its funds pay to any person who has furnished information leading to the successful execution of a search warrant, the seizure of gaming devices, or the arrest or conviction of any other person for a contravention of any provisions of this Act, a reward in such amount as the Board, with the concurrence of the Minister, may decide.

**81. Regulations.**

- (1) The Minister may, after consultation with the Board, make regulations, not inconsistent with the provisions of this Act, regarding —
  - (a) any matter pertaining to the Board;
  - (b) any matter pertaining to an application for a licence or certificate of suitability;
  - (c) the manufacture, transportation, supply, maintenance, transfer, sale and disposal of gaming devices;
  - (d) the management and control of licensed premises;
  - (e) the management and control of gaming, wagering or related activities;
  - (f) requirements in relation to designated gaming areas;
  - (g) internal control standards for licence holders;
  - (h) identification, record keeping and registration processes in relation to gaming devices;
  - (i) the adoption of technical or related standards with which gaming devices must comply, and against which they may be tested;
  - (j) the independent testing laboratories from which test reports in respect of gaming devices may be accepted, including requirements for the registration thereof and application and annual fees in respect of such registration;
  - (k) the nature, content, maintenance and submission of records, including, but not limited to annual financial statements, to be kept, produced or made available by the holder of a licence;

- (l) requirements for the service of documents required by any provision of this Act;
  - (m) the nature and content of, and submission to the Board of financial guarantees by persons to whom gaming licences or gaming house operator licences are issued after the effective date, in respect of —
    - (i) the delivery of a casino resort or other project; or
    - (ii) as security for the payment of fees, gaming taxes and gaming debts to patrons;
  - (n) the extension of credit by licence holders for the purposes of gaming;
  - (o) requirements for the conduct of junkets, the licensing of junket operators and the approval of junket representatives;
  - (p) measures to be taken by the holder of a licence in relation to the promotion of responsible gaming;
  - (q) procedures for the resolution of gaming disputes;
  - (r) procedures in relation to the conduct of any appeals to the Minister authorised under this Act;
  - (s) exemptions in relation to custom duties, in respect of any gaming device imported into The Bahamas and the periodic review and revision thereof;
  - (t) in respect of proxy gaming, mobile gaming, restricted interactive gaming and gaming house operator licences, requirements and procedures in relation to the application and licensing process, any gaming device, system or equipment to be used in the conduct of licensed operations and the internal controls to be implemented;
  - (u) any matter which under this Act is required or permitted to be prescribed;
  - (v) in general, any matter in respect of which it is necessary or expedient to make regulations in order to achieve the objects of this Act; and
  - (w) the fees and taxes payable under this Act, and offences and penalties in relation thereto.
- (2) Different regulations may be made under this section in respect of different kinds of licences, licences of the same kind which differ in respect of their characteristics, different categories of persons or different areas.

## **82. Rules.**

- (1) The Board may, by notice in the *Gazette* make rules not inconsistent with the provisions of this Act relating to the exercise of its powers and the performance of its functions, including —
  - (a) any matter pertaining to an application for a licence;
  - (b) the management, conduct and control of licensed premises, designated areas, and gaming operations authorised by any licence;
  - (c) rules for the playing of any gambling game or betting;
  - (d) internal control standards for licence holders;
  - (e) the books, accounts and records to be kept and returns to be furnished by the holder of a licence issued under this Act;
  - (f) the requirements for the operation, management and control of progressive jackpots;
  - (g) the extension of credit;
  - (h) any matter which, under this Act, is required or permitted to be determined by the Board; and
  - (i) in general, any matter in respect of which it is necessary or expedient to make rules in order to achieve the objects of this Act.
- (2) Any rule made under subsection (1) may, for a contravention thereof or failure to comply therewith, prescribe penalties, including a fine not exceeding ten thousand dollars.
- (3) Different rules may be made under this section in respect of different kinds of licences, licences of the same kind which differ in respect of their characteristics, different categories of persons or different areas.
- (4) Prior to making any rules under this section, the Board shall —
  - (a) provide the holders of licences issued under this Act with a copy of the proposed rules and the opportunity to make representations in respect thereof;
  - (b) provide the Minister with —
    - (i) a copy of the proposed rules, including an explanatory memorandum thereto;
    - (ii) a copy of such representations, if any, made pursuant to paragraph (a); and
    - (iii) if applicable, the responses of the Board to those representations; and
  - (c) procure the written authority of the Minister to enact any such rule.
- (5) The provisions of sections 31 and 32 of the Interpretation and General Clauses Act (*Ch. 2*) shall not apply to any rules made under this section, but instead all such rules shall be subject to the consent of the Minister

and shall come into effect on the date of publication thereof in the *Gazette*.

### **83. Internal control standards.**

- (1) Prior to commencing its licensed operations, or subject to section 85(12), as the case may be, the holder of a licence referred to in section 23(1)(a), (b), (c), (d) and (f) shall develop and submit to the Board for its approval, written internal control standards setting forth the controls to be implemented by it to ensure —
  - (a) the integrity of its gaming operation;
  - (b) that adequate controls are in place effectively to manage and minimise gaming-related risks;
  - (c) that gaming devices, documents and information are properly controlled and safeguarded;
  - (d) that uncounted drop is secured;
  - (e) that financial and other gaming-related records are accurate and reliable;
  - (f) that gaming-related transactions are performed with the necessary authorisation;
  - (g) that gaming-related transactions are recorded in sufficient detail to ensure the proper reporting of gaming revenue, taxes and other fees due;
  - (h) that appropriate measures and procedures are in place to ensure compliance with all applicable provisions of the Financial Transactions Reporting Act (*Ch. 368*), the Financial Transactions Reporting Regulations (*Ch. 368*), the Financial Intelligence Unit Act (*Ch. 367*), the Financial Intelligence (Transactions Reporting) Regulations (*Ch. 367*), and the Proceeds of Crime Act (*Ch. 93*); and
  - (i) that gaming-related functions, duties and responsibilities are appropriately segregated and performed in accordance with sound practices by competent and appropriately qualified employees.
- (2) The holder of a licence referred to in this section shall not amend its internal control standards or implement any new or revised policies, procedures or standards contained or required to be contained in its internal control standards without the prior written approval of the Board.
- (3) The holder of a licence referred to in this section shall submit amendments to its approved internal control standards in the manner and format determined by the Board.
- (4) The Board may order the holder of a licence referred to in this section to amend its internal control standards if in the opinion of the Board they do not comply with the requirements of subsection (1).

- (5) The holder of a licence referred to in this section shall —
  - (a) conduct its operations under its approved internal control standards;
  - (b) monitor compliance by its employees with its approved internal control standards;
  - (c) maintain records regarding identified breaches of its approved internal control standards;
  - (d) implement, and maintain a record of, corrective measures in respect of any breach referred to in paragraph (c); and
  - (e) submit the records referred to in paragraphs (c) and (d) to the Board at such intervals and in such format as may be required by the Board.
- (6) Where it appears to the Board, as a result of any investigation conducted, that a licence holder has failed to comply with the requirements of subsection (5)(b), (c), (d) or (e), the Board may, after giving the licence holder the opportunity to be heard on the matter, impose on any such licence holder a penalty not exceeding five thousand dollars.
- (7) Any licence holder in respect of whom the Board has imposed a penalty under this section may, by written notice and within thirty days of the imposition of the penalty and in the prescribed manner, appeal to the Minister against —
  - (a) the finding of the Board in respect of the relevant contravention;
  - (b) the imposition of the penalty; or
  - (c) both (a) and (b).

#### **84. Judicial review.**

Nothing in this Act shall be construed as preventing any person aggrieved by any decision taken by the Board in the exercise of its powers or functions under this Act, to apply to a Court of competent jurisdiction for the review of such decision in accordance with the procedures stipulated by law for this purpose.

#### **85. Transitional provisions.**

- (1) In this section —
  - “**adjusted gross revenue**” means the total amount of all bets accepted in The Bahamas and received by or accruing to a licensable business, less the total amount of all winnings paid out by a licensable business;
  - “**effective date**” means the date on which this Act, or any relevant provision of this Act, came into force under section 1(2);
  - “**licensable business**” means any business which under this Act is required to be conducted under the authority of a gaming house

operator licence and which is referred to in subsection (16) of this section;

**“repealed Act”** means the Lotteries and Gaming Act (*Ch. 387*).

- (2) A reference in this section to any section by number, is a reference to the corresponding section of—
  - (a) the repealed Act, if the number is followed by the words “of the repealed Act”; or
  - (b) this Act, in any other case.
- (3) A licence to manage a casino issued under the repealed Act, and in force immediately before the effective date, continues in force and shall be deemed to be a gaming licence issued under this Act, notwithstanding any provision of this Act to the contrary, but otherwise subject to the provisions of this Act; provided that any such licence will be deemed to expire on the 31<sup>st</sup> day of December 2014, whereupon subject to subsection (8), the fees prescribed will become due and payable in relation to the next ensuing year for which such licence shall be valid.
- (4) Any person who or which was not required to hold a licence or certificate of suitability under the repealed Act, but who is required to be licensed or to hold a certificate of suitability under this Act, shall be deemed to hold the appropriate licence or certificate; provided that any such licence or certificate will be deemed to expire on the 31<sup>st</sup> day of December following the effective date whereupon the prescribed fees will become due and payable in relation to the next ensuing year for which such licence or certificate shall be valid.
- (5) Any other right or entitlement enjoyed by, or obligation imposed on, any person under any provision of the repealed Act, that had not been spent or fulfilled immediately before the effective date must be considered to be a valid right or entitlement of, or obligation imposed on, that person under any comparable provision of this Act, as from the date that the right, entitlement or obligation first arose, subject to the provisions of this Act.
- (6) A notice given by any person to another person under any provision of the repealed Act must be considered as notice given under any comparable provision of this Act, as from the date that the notice was given under the repealed Act.
- (7) Any document that, before the effective date, had been served in accordance with the repealed Act must be regarded as having been satisfactorily served for the purposes of this Act.
- (8) Any Heads of Agreement entered into between the Government of The Bahamas and the holder of a gaming licence or its affiliate on or before the effective date, shall continue in force, provided that to the extent that there is any conflict between such Heads of Agreement and the provisions

of this Act, the provisions of the Heads of Agreement will prevail, and provided further that, upon the termination of any such Heads of Agreement, the provisions of this Act will take effect in relation to the holder of the gaming licence which is a party thereto.

- (9) A person who was a member of the Board immediately before the effective date—
  - (a) shall continue to be a member of the Board upon the coming into operation of this Act, until such date as may be determined by the Minister for the termination of his membership of the Board, if that person is no longer entitled to be a member of the Board under section 6; and
  - (b) otherwise, continues to be a member of the Board, holding the same position the person held immediately before the effective date, unless otherwise determined by the Minister, until the expiry of the term to which the person was appointed under the repealed Act, or such extended term as the Minister may on good cause determine.
- (10) A person in the employ of the Board immediately before the effective date shall remain in the employ of the Board under this Act as of the effective date, subject to further direction of the Board.
- (11) Any certificate issued to an inspector or an employee of the Board under the repealed Act and valid immediately before the effective date shall continue to be valid as a certificate of appointment as an inspector or employee, as the case may be, as if it had been issued under this Act, until it expires or is cancelled or replaced by the Board.
- (12) The provisions of the Lotteries and Gaming (Accounting and Internal Controls) Regulations (*Ch. 387*) and the Lotteries and Gaming Equipment Regulations (*Ch. 387*), made under the repealed Act, shall be deemed to constitute the internal control standards with which the holder of a gaming licence is required to comply, and to have been approved by the Board for such purpose —
  - (a) pending the submission by the holder of a gaming licence of internal control standards, which shall be effected by no later than six months of the effective date, and the approval thereof by the Board; but
  - (b) with the exception of any provisions thereof —
    - (i) in respect of which any holder of a licence has been granted any written waiver or similar written dispensation or condonation by the Board prior to the effective date; or
    - (ii) which are in material conflict with —
      - (aa) this Act or any regulations made under section 78 on or after the effective date, in which event the

provisions of the latter shall prevail to the extent of the inconsistency;

- (bb) any rules made by the Board under section 79 on or after the effective date, in which event the provisions of the latter shall prevail to the extent of the inconsistency; or
- (cc) the provisions of any internal control standards or similar documented procedures submitted by the holder of a gaming licence and approved by the Board prior to the effective date, in which event the provisions of the latter shall prevail to the extent of the inconsistency,

provided that the Regulations referred to in this subsection shall cease to be of force and effect eighteen months after the effective date;

- (13) The provisions of the Casino Games Regulations (*Ch. 387*) made under the repealed Act, shall be deemed to be the rules approved by the Board under section 54 of this Act and, unless otherwise specified, shall remain in force in respect of each game specified therein, as if approved under this Act, until such time as amended rules in respect of any such game are approved by the Board.
- (14) Notwithstanding the coming into operation of section 74, the provisions of subsections (7)(b), (7)(c), (9) and (10) thereof shall not come into force until the date of publication of a notice in the *Gazette*, confirming that the Board has established the register of excluded persons referred to in that section.
- (15) Notwithstanding any provision of this Act to the contrary, any proxy gaming licence, mobile gaming licence or restricted interactive gaming licence issued prior to 31 December 2014 shall be deemed to expire on 31 December 2014, whereupon the prescribed fees will become due and payable in relation to the next ensuing year for which such licence shall be valid.
- (16) Subject to subsection (17), and pending the award of gaming house operator and gaming house premises licences, it shall be lawful for any establishment (which, at the effective date, had been carrying on the business which shall be authorised under sections 44, 45 and 46 of this Act), to continue the operation of such business for a period commencing on the effective date and ending on such date as the Minister may specify by notice in the *Gazette* for the closure of all such businesses in The Bahamas (hereinafter referred to as “the transitional period”); provided that the owner of such business shall —
  - (a) make full and frank disclosure, by the date and in accordance with the procedure to be determined by the Minister by notice in the



Gazette or by service of a notice upon such owner, of all turnover and gross profits generated by the conduct of such business, as defined in the Business Licence Act (*No. 25 of 2010*) in respect of a period of six years prior to the effective date, or such other period as the Minister shall specify by notice in the Gazette or may advise by service of a notice upon the owner of any such business (hereinafter referred to as “the review period”);

- (b) make payment in full, within such period as the Minister may require in writing of —
  - (i) all fees payable under the Business Licence Act (*No. 25 of 2010*) in respect of that business for the review period, to the extent that any turnover or gross profits generated by the conduct of such business had not been disclosed;
  - (ii) all gaming taxes which would have been payable by that business had such business been licensed under this Act, calculated at the prescribed rate and payable at the times and in the manner prescribed, for a period commencing on 1 July 2014 and ending on the date on which the transitional period ends; provided that if the effective date is later than the date on which any liability for the payment of any gaming tax arises under this subparagraph, such gaming taxes as have become payable before the effective date shall be paid in full to the Board within seven days of the effective date and thereafter all payments of gaming taxes shall be made at the prescribed intervals; and
  - (iii) a penalty, in the amount of —
    - (aa) three hundred and fifty thousand dollars in respect of a business with a gross turnover of less than five million dollars;
    - (bb) seven hundred and fifty thousand dollars in respect of a business with a gross turnover in excess of five million dollars,  
in lieu of gaming taxes which would have been payable by that business had such business been licensed under this Act; and
  - (c) cease the operation of such business on the date on which the transitional period ends.
- (17) Any contravention of the provisions of subsection (16)(a), (b) or (c) by any business establishment permitted to operate under subsection (16) will —
  - (a) render the continued operation of such business unlawful, notwithstanding anything to the contrary in this Act; and

- (b) be grounds for the disqualification of such business for any licence provided for by this Act.
- (18) If the owner of a business referred to in subsection (16) elects to continue the operation of such business during the transitional period, he shall within fourteen days of the effective date, cause a sworn affidavit to be served on the Secretary of the Board in the prescribed manner, which shall set forth —
- (a) the name of the enterprise which operates the business referred to in subsection (16);
  - (b) the number, trading name and physical address of all premises on which such business is conducted;
  - (c) the number, trading name and physical address of all premises on which such business is proposed to continue to be operated during the transitional period;
  - (d) an acknowledgement that —
    - (i) the continued operation of such business shall be subject to full compliance by such business with the requirements of subsection (16)(a), (b) and (c);
    - (ii) the said affidavit will be placed in the possession of the Commissioner of Police, whom shall have full powers to monitor and enforce compliance with the requirements of subsection (16)(c);
    - (iii) any contravention of the provisions of subsections (16)(a), (b) or (c) by such business shall —
      - (aa) render the continued operation of the business unlawful and subject to immediate closure by the relevant authority; and
      - (bb) be grounds for the disqualification of such business for any licence provided for by this Act;
    - (iv) the provision of any false information in such affidavit shall —
      - (aa) result in the owner being liable to prosecution for an offence against this Act;
      - (bb) be grounds for the disqualification of such business and all persons having a financial interest in such business, for any licence provided for by this Act;
  - (e) confirmation that the affidavit has been personally prepared and fully reviewed for correctness by the person swearing thereto; and
  - (f) confirmation that the persons swearing thereto is aware of and is bound by the provisions of subsection (19).

- (19) If the owner of a business referred to in subsection (16) fails to serve the affidavit referred to in subsection (18) on the Secretary of the Board within the period stipulated, he shall be deemed to have elected not to continue the operation of any such business during the transitional period, and he shall effect the closure of every such business by no later than the fifteenth day following the effective date.
- (20) If the owner of a business referred to in subsection (16) elects to cease the operation of such business during the transitional period, he shall, within fourteen days of the effective date, cause a sworn affidavit to be served on the Secretary of the Board in the prescribed manner, which shall set forth —
- (a) the name of the enterprise which operates the business referred to in subsection (16);
  - (b) the number, trading name and physical address of all premises on which such business is conducted;
  - (c) the number, trading name and physical address of all premises on which such business will cease to operate;
  - (d) an undertaking that every such business will cease to operate by no later than the fifteenth day following the effective date;
  - (e) an acknowledgement that —
    - (i) the affidavit in question will be placed in the possession of the Commissioner of Police, whom shall have full powers to monitor and enforce compliance with the undertaking made in paragraph (d);
    - (ii) failure to effect the closure of such business by no later than the fifteenth day following the effective date shall —
      - (aa) render the continued operation of the business beyond that date unlawful and subject to immediate closure by the relevant authority; and
      - (bb) be grounds for the disqualification of such business and all persons having a financial interest in such business, for any licence provided for by this Act;
    - (iii) the provision of false information in such affidavit shall —
      - (aa) result in the owner being liable to prosecution for an offence against this Act;
      - (bb) be grounds for the disqualification of such business and all persons having a financial interest in such business, for any licence provided for by this Act; and
  - (f) confirmation that the affidavit has been personally prepared and fully reviewed for correctness by the person swearing thereto.

- (21) The owner of a business referred to in subsection (16) may elect to continue its operations on certain business premises and to cease the operation of its business on other premises, but in such an event shall comply with the provisions of both subsections (18) and (20).
- (22) In the event that the Minister fails to set a date for the closure of the businesses referred to in subsection (16) prior to the award of gaming house operator and gaming house premises licences by the Minister —
- (a) the Board shall, within two days of being informed of the decision of the Minister regarding the award of such licences, cause to be served on all the business establishments which have elected to continue the operation of their businesses under subsection (18), a written notice advising such business establishments of the decision of the Minister and requiring every business establishment in respect of which no gaming house premises licence has been awarded by the Minister, to effect the closure of such businesses within seven days of service of such written notice (hereinafter referred to as “the cessation date”);
  - (b) the business establishments in respect of which no licences have been awarded shall cease their operations on or before the cessation date;
  - (c) the transitional period shall be deemed to have ended on the cessation date; and
  - (d) the obligation to cease the operation of such businesses shall remain in force notwithstanding the institution of any proceedings for the judicial review of the decision of the Minister in respect of the award of the licences, unless the court, on application by the party seeking the review of such decision, finds that there are substantial and compelling grounds to order otherwise.
- (23) In evaluating an application for a gaming house operator licences, the Minister may forego any disqualification for licensing which may arise under the provisions of section 25(1)(h) of this Act; provided that the person in respect of whom such disqualification arises complies in all other respects for the award of such a licence under this Act.
- (24) Subject to subsections (25) and (26), any premises which in respect of which a gaming house agent licence is required under this Act, and which have remained in operation during the transitional period under subsection (18) shall be permitted to remain in operation beyond the cessation date only if —
- (a) the business establishment with which it has concluded an agreement for the offering of the numbers game on the premises has been awarded a gaming house operator licence; or

- (b) another applicant for a gaming operator licence, which has been awarded such a licence by the Minister, has undertaken, in its application for such licence, to enter into a similar agreement with the owner of such premises;
  - (c) an application for a gaming house agent licence has been submitted to the Board.
- (25) The continued operation of any business referred to in subsection (24) shall be permitted to take effect only —
- (a) after the agreement referred to in subsection (24)(b) has been concluded, if applicable;
  - (b) if the gaming-related equipment to be utilised in the conduct of such business has been tested, certified as complying with the technical specifications for such equipment and supplied to the owner of such business by the holder of the relevant gaming house operator licence.
- (26) Any business referred to in subsection (24) shall cease its operations on the cessation date if the requirements of subsection (25) have not been fulfilled, and may resume such operations only when —
- (a) such requirements have been satisfied; and
  - (b) a gaming house agent licence has been granted in respect of such premises.

**86. Exemptions.**

Notwithstanding the provisions of any law to the contrary, the Minister of Finance may from time to time make regulations increasing or decreasing, in such percentage as he may determine, or otherwise varying the rate of customs or import duty payable in respect of the importation of any gaming device into The Bahamas from time to time, and may periodically review any determination so made in such manner as may be prescribed.

**87. Non-application of Ch. 369.**

The provisions of the Financial and Corporate Services Providers Act (*Ch. 369*) shall not apply to the holders of gaming licences and junket operator licences.

**88. Repeal.**

The laws set forth in the first column of the *Schedule* are hereby repealed to the extent set forth in the second column thereof.

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**SCHEDULE**

<b>LAW</b>	<b>EXTENT OF REPEAL</b>
Lotteries and Gaming Act ( <i>Ch. 387</i> )	The whole
Casino Taxation Act ( <i>Ch. 371</i> )	The whole
Lotteries and Gaming (Pari-Mutuel Wagering) Regulations ( <i>Ch. 387</i> )	The whole, provided that such repeal shall come into effect on the date of publication of Rules made under section 82 of the Act, dealing with the subject matter covered by the relevant Regulations.
Lotteries and Gaming (Sports Book) Regulations, 1995 ( <i>Ch. 387</i> )	The whole, provided that such repeal shall come into effect on the date of publication of Rules made under section 82 of the Act, dealing with the subject matter covered by the relevant Regulations.
Lotteries and Gaming Equipment Regulations, 1993 ( <i>Ch. 387</i> )	The whole, provided that such repeal shall come into effect on the date of publication of Rules made under section 82 of the Act, dealing with the subject matter covered by the relevant Regulations.
Casino Games Regulations ( <i>Ch. 387</i> )	<p>Subject to section 85(13), to the extent of any inconsistency between any provision thereof and any provision of this Act and any Regulations made in terms thereof, and in particular, by the deletion —</p> <p>(a) from regulations 3(5)(g), 13(3)(i) and 14(3)(i) respectively, of the words “after consultation with the Gaming Board Inspector on duty at the time”;</p> <p>(b) of regulations 3(12)(h) and 3(13);</p> <p>(c) from regulation 10(3)(j), of the words “however, any Progressive Jackpot of \$25,000.00 or more shall not be paid until a Gaming Board Inspector has signed the Caribbean Stud Poker Progressive Jackpot Verification Form”;</p> <p>(d) of regulation 12(5)(d); and</p> <p>(e) from regulation 15(15)(w), of the words “and shall notify the on-duty Gaming Board Inspector as expeditiously</p>

	as possible”.
<p>Lotteries and Gaming (Accounting and Internal Controls) Regulations, 1993 (<i>Ch. 387</i>)</p>	<p>Subject to section 85(12), to the extent of any inconsistency between any provision thereof and any provision of this Act and any Regulations made in terms thereof, and in particular, by the deletion –</p> <ul style="list-style-type: none"> <li>(a) from regulation 22(4), of the words “and the Board Inspector”;</li> <li>(b) of regulation 34(3);</li> <li>(c) from regulation 34(8)(c), of the words “and the Board Inspector”;</li> <li>(d) from regulation 34(9)(a), of the words “after which the Inspector shall sign the report evidencing his presence during the count and the fact that both the Cashier and Count Team have agreed on the total amount of cash”;</li> <li>(e) of regulation 38(10);</li> <li>(f) of regulation 39(2)(f) and the consequential renumbering of paragraph (g) to “(f)”;</li> <li>(g) of regulations 40(7)(b) and 40(9);</li> <li>(h) from regulation 42(5), of the words “in the presence of an Inspector”;</li> <li>(i) from regulations 43(2)(a)(ii) and 43(2)(b)(ii), of the words “and an Inspector”;</li> <li>(j) from regulation 43(3)(a)(ii), of the words “An Inspector shall accompany the persons transporting the Drop Buckets to the Hard Count Room.”;</li> <li>(k) from regulation 43(3)(b)(ii), of the words “accompanied by an Inspector,”, and</li> <li>(l) of regulation 44(8)(g), provided that such Regulations shall cease to be of force and effect eighteen months after the effective date.</li> </ul>

## OBJECTS AND REASONS

In 1969, the Lotteries and Gaming Act (“the Act”) was passed by the Parliament of The Bahamas, and ushered in the licensing and regulation of casino gaming, under the authority of a gaming licence. The Act has been amended sporadically since the coming into operation thereof in 1969, for the most part to make provision for additional procedures and requirements, as well as to expand the range of activities authorised by a gaming licence to include sports betting and pari-mutuel wagering.

This Bill seeks to conform with international best-practice standards by putting in place stringent qualification requirements for participation in gaming and related activities. The Bill also establishes a stringent regulatory process for the licensing and regulation of the gaming industry. The stability of the regulatory environment is bolstered by effective and comprehensive law enforcement mechanisms for the identification and elimination of illegal operations as provided for in the Bill.

Part I of the Bill which contains clauses 1 and 2 sets forth information regarding the Short title and date of commencement of Act, as well as the definitions of the various terms used in the Act, which are self-explanatory in content.

Part II of the Bill which contains clauses 3 – 21. Clause 3 of the Bill provides for the continuation of the Gaming Board of The Bahamas (hereinafter “the Board”), which shall be a body corporate and will have as its main object to grant or refuse, or to recommend the grant or refusal of the various licences and certificates of suitability provided for in the Bill, and to regulate the conduct of licensed gaming operations in The Bahamas. Clause 3(4) of the Bill provides that, in circumstances where there may not be a duly constituted Board in existence, the Minister responsible for the administration of the Act (“the Minister”) may exercise and perform these powers and functions.

Clause 4 of the Bill sets forth the composition of the Board. Board members must comply with stringent qualification criteria, in light of the fact that, in the course of their duties, they will become privy to highly sensitive and confidential personal, business and financial information in relation to prospective licence holders, which the legislation requires them to keep confidential. The Minister responsible for the administration of the Act is empowered to enquire into the continued eligibility of a Board member at any time, in order to preserve the integrity of the Board. In addition, the Board is required to take decisions (or to make recommendations) involving large scale developments which entail significant capital expenditure, and its employees are vested with powers of inspection which will ultimately inform the Board’s decision-making processes.

Clause 8 of the Bill also provides for the appointment of a suitably qualified Secretary to assume overall management over the operations of its office. All staff will



be appointed by the Board, which will determine their conditions of service, while the remuneration payable in respect of such service will be set after consultation with the Minister. The Board may be assisted, in certain instances, by police officers (in respect of its law enforcement functions), the personnel of other government departments and consultants.

Clause 9 of the Bill provides for the primary powers and functions of the Board, which include power to grant, refuse, renew, approve the transfer or removal of, suspend or revoke licences, to impose licence conditions, or, in appropriate cases, to recommend any of these measures to the Minister, to delegate any of its powers and, in general, to exercise the powers conferred on it by the Act.

Clause 10 of the Bill provides for the delegation of powers and functions, which the Board may exercise.

Clause 11 of the Bill provides for powers of entry, seizure and enquiry which may be exercised by the Board, its employees and representatives of the Royal Bahamas Police Force (“authorised officers”), as may be necessary to ensure compliance with the Act. It is important to note that the only category of premises which may be entered without a warrant are premises which have been licensed under the Act.

Clauses 12 to 15 of the Bill contain provisions related to conflict of interests and public trust with respect to members of the Board, disclosure of interests of Board members; remuneration and allowances; and confidentiality with respect to information acquired by Board members in the exercise of their duties.

Clauses 16 and 17 of the Bill contain provisions pertaining to meetings of the Board, which at a minimum, are required to be held at least six times a year, as well as the minutes to be kept in respect of such meetings.

Clauses 18 and 19 of the Bill further provide for the funding of the Board, which, shall be drawn from money appropriated to it by Parliament, any amounts payable to it under the Act and any other money lawfully paid to and for the benefit of the Board. The clause contains a variety of measures designed to ensure that the Board functions in a transparent manner in accordance with sound principles of corporate governance, including the submission of budgets, auditing of the accounts of the Board and the compilation of detailed annual reports in respect of the Board's functioning.

Clauses 20 and 21 of the Bill set forth the manner in which the interrogative, investigative and related functions of the Board are to be performed, as well as giving effect to the *audi alteram partem* rule in relation to the administrative decision-making processes of the Board. The Board is empowered to hold hearings in relation to applications for licences, the suspension or revocation of licences, actual or alleged contraventions of the Act on licensed premises or by licensed persons and any other matter in respect of which the Act empowers the Board to hold a hearing.

Additionally, under clause 20 of the Bill, the Board may conduct, or to cause to be conducted (by its personnel) investigations in relation to the overall suitability of applicants for licences, persons seeking to procure a financial interest in an existing licence holder, and any licence holder (on an ongoing basis) if this is considered to be in the public interest or in the interest of the achievement of the objectives of the Act.

Clause 21 of the Bill empowers the Board to issue legally binding summonses for the appearance of persons and the production of records and related material which will assist it in making the findings and determinations required for the proper exercise of its functions.

Part III of the Bill, which contains clauses 22 - 38, provides for licenses and governing principles with the core principle being that no person shall have any right to be granted a licence under the Act, but that all licences so issued are contingent on the ongoing suitability of the persons to whom they are issued, providing the Board with the legal basis necessary for the revocation or suspension of licences, where necessary.

Part IV of the Bill, which contain clauses 39 – 57, provides a description and the qualifications of the various licences which may be granted under the Act. The various licences which the Board may grant under the Act are gaming licences, proxy gaming licences, mobile gaming licences, restricted interactive gaming licences, junket operator licences, gaming house operator licences, gaming house premises licences, gaming house agent licences, supplier licences (for the supply, repair and maintenance of gaming devices and equipment), key and gaming employee licences (in respect of the personnel of a licence holder) and temporary employment licences.

Clause 39 of the Bill provides for a gaming licence which will authorise the holder thereof to conduct casino operations, as well as to accept sports betting and pari-mutuel wagers.

Clause 40 of the Bill provides for a proxy gaming licence which will allow players on the licensed premises or from permitted foreign jurisdictions (as described below, in the context of interactive gaming) and in respect of whom a proxy wagering account has been established) to place bets with the licence holder via the medium of the internet, in such a manner that such players will communicate wagering instructions to specified employees of the licence holder on games offered by such licence holder.

Clause 41 of the Bill provides for a mobile gaming licence, which will authorise the conduct of mobile gaming (via communication devices) on games offered by the holder of a gaming licence, provided that the players are physically located within a geographically demarcated area (referred to as the “permitted area”) on the licensed premises of the holder of the gaming licence. Such a licence may be issued only to the holder of a gaming licence.

Clause 42 of the Bill provides for a restricted interactive gaming licence which will authorise the holder of such a licence (who must also be the holder of a gaming licence issued under the Act) to engage in interactive gaming. Only citizens of countries whose laws do not prohibit them from engaging in such conduct with an operator located in another jurisdiction (i.e. citizens of “permitted foreign jurisdictions”) or persons located on the licensed premises shall be allowed to engage in interactive gaming.

Clause 43 of the Bill also provides for junket operator licenses and representatives. A junket is a visit to a casino resort which is organised between the holder of a gaming licence and a third party (the “junket operator”), under which visitors (“junket visitors”) are encouraged to visit the casino by being provided with complimentary transport, accommodation, food and beverages or other forms of entertainment. In consideration for organising the junket, the junket operator receives a commission from the relevant casino operator.

Clause 44 of the Bill provides for gaming house operator licences. Such a licence will legitimize the business currently being conducted by web shop operators in The Bahamas, but a limited number of licences will be issued and the gaming activities to be made available pursuant to these licences will be available only to those persons who are currently prohibited from engaging in gaming in The Bahamas (other than persons in the employ of the Gaming Board), referred to as “domestic players”.

Clause 45 of the Bill provides for gaming house premises licences. Such a licence is intended to be issued in respect of the dedicated premises (as opposed to third party outlets) on which web shop operators in The Bahamas currently conduct their operations. The relevant clause stipulates the nature of the gaming activities which may be conducted on such premises, which are online gambling games and online betting on the numbers game, as well as over the counter betting on the numbers game, which will be available to domestic players only.

Clause 46 of the Bill provides for gaming house agent licences. These licences cover the premises on which third party agents of the current web shop operators accept cash betting on the numbers game on their business premises, pursuant to an agreement entered into with the web shop operator, and against payment of a commission. A licence of this nature will authorise the acceptance only of cash betting on the numbers game, which will be available to domestic players only.

Clause 47 of the Bill provides for supplier licenses. This licence will be required by any person who distributes, alters, modifies or manufactures any gaming device in The Bahamas or otherwise directly supplies a gaming device to the holder of a licence issued under this Act, or in The Bahamas repairs or maintains a gaming device.

Clauses 48 and 49 of the Bill provide for two additional categories of licenses, namely key employee licences and gaming employee licenses. This represents a change from existing practices, under which such persons are subjected to probity investigations on an annual basis, but are “approved” by the Board, rather than being licensed per se.

Clause 51 of the Bill sets forth procedures for the proposed procurement of financial interests in the holder of a licence granted by the Board, in order to ensure that persons acquiring threshold interests in licence holders are qualified, under the Act, to do so. The Board will issue certificates of suitability to persons found suitable to hold such interests, which are subject to application fees, as well as annual renewal, and the payment of an annual renewal fee.

Clause 54 of the Bill makes provision for the approval of gaming-related contracts of a value in excess of \$500,000.00 (in respect of which a third party contracting with a licence holder will receive remuneration based on gaming revenue). Such contractors are required to apply for a certificate of suitability. Similarly, by virtue of clause 55, if a licence holder wishes to appoint a gaming service provider to conduct any of the activities authorised by its licence on its behalf, such person must be approved, and where applicable, the mandatory approval process will apply. Applications of this nature will similarly attract application and annual renewal fees.

Part V of the Bill which contains clauses 58 - 63, describes the various forms of lottery which are legal, as well as providing for offences and penalties in the context of unlawful lotteries. Clause 58 of the Bill confirms the ongoing illegality of all lotteries other than the national lottery when authorised under section 58(1), charitable lotteries, private lotteries, lotteries which are incidental to certain entertainment events and puts an end to the illegality of the numbers game, when offered by the holder of a gaming house operator licence, as defined in the Bill.

Part VI of the Bill, which contains clauses 64 and 65, provides for the imposition of gaming taxes by way of Regulations and provides for the payment of taxes which would otherwise have been payable by a convicted person (had he been the holder of a licence) in the event of conviction on a charge of unlawful gaming.

Part VII of the Bill, which contains clauses 66 - 88, contains various prohibitions in relation to unlicensed gaming, the possession of gaming devices without a licence, the unlicensed modification of gaming devices, cheating, the participation in gaming by certain persons, including citizens of The Bahamas, persons under the legal age and other excluded persons. Part VII also sets forth the various penalties which may be imposed by the court.

Clause 66 of the Bill sets out the prohibition in respect of gaming in The Bahamas which carries a penalty of ten thousand dollars or imprisonment for a period of five years.

Clause 67 of the Bill provides for prohibited conduct in relation to gaming devices.

Clause 68 of the Bill provides for the offence of cheating.

Clause 69 of the Bill provides for the various categories of persons who are prohibited from gaming. The clause further empowers the Minister to make regulations permitting participation in certain types of gaming by any category or all categories of persons.

Clauses 70 and 71 of the Bill makes provision for certain required standards of operation, in order to ensure that The Bahamas remains a credible and sought-after gaming jurisdiction.

Clause 73 of the Bill provides for various measures to ensure that patrons are educated regarding the phenomenon of problem gaming. Clause 74 of the Bill provides for procedures for the exclusion of persons from participation in gaming, and the development and maintenance of a register of excluded persons by the Board, to be used as a reference point for licence holders for ensuring that excluded persons are precluded from participating in gaming in The Bahamas. Clauses 75 to 77 of the Bill provides for the further offences and penalties under the Bill.

Clause 78 of the Bill provides for the resolution of disputes among patrons. Clause 76 of the Bill provides for the enforcement of gaming debts. Clause 80 of the Bill provides for the payment of a reward for persons assisting with the successful arrest and conviction of persons charged with offences under this Bill.

Clause 81 of the Bill provides for Regulations to be made by the Minister. Moreover, the Board may make Rules pursuant to clause 82 of the Bill, with the concurrence of the Minister.

Clause 83 of the Bill further requires the holder of a gaming and gaming house operator licence, before commencing with its licensed operations, to develop and submit to the Board for its approval a set of internal control standards which sets forth the various procedures which the licensee and its staff must comply with in its day-to-day operations in order to ensure, to the greatest degree possible, the proper, efficient and compliant conduct of its licensed business.

Clause 85 of the Bill sets forth a number of transitional provisions, which are primarily designed to cater for the continued effective operations of gaming establishments operating in The Bahamas as at the date of commencement of the Act, notwithstanding the changes to be ushered in by the Bill, as well as to provide for a transitional period within which the activities of web shops can be regularized before the licensing process in this regard is embarked upon. This clause also confirms the ongoing applicability of any Heads of Agreement concluded prior to the effective date between the Government and the holder of a licence issued under the repealed Act, but provides further that to the extent that there is any conflict between the terms of these

agreements and the provisions of the Act, the provisions of the Heads of Agreement will prevail, but that, upon the termination thereof, the provisions of the Act will apply to the relevant licensees.

Finally, clause 86 of the Bill provides for the Minister of Finance to make regulations in respect of the customs or import duty payable in respect of the importation of any gaming device into The Bahamas.

The Schedule to the Bill sets out the provisions of any existing legislative instruments which the Bill proposes to be repealed, and the extent of the repeal.