

CHAPTER 19:01
CASINO
ARRANGEMENT OF SECTIONS

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Act 19, 1971,

Act 50, 1971,
Act 30, 1973,
Act 11, 1979,
Act 37, 1982.

An Act to provide for the licensing of casinos and the regulation and supervision thereof and to provide for matters incidental to and connected therewith.

[Date of Commencement: 14th May, 1971]

PART I
Preliminary (ss 1-2)

1. Short title

This Act may be cited as the Casino Act.

2. Interpretation

In this Act, unless the context otherwise requires-

"**Board**" means the Casino Control Board established by section 3;

"**casino**" means premises on which gaming is conducted and in respect of which a licence is in force;

"**game**" means a game of chance played for money or money's worth;

"**gaming**" means the playing of any game;

"**gaming area**" means an area in a casino specified and defined under section 8(2);

"**gaming revenue**" means the total amount of all sums received as winnings by the licensee, including any amount deducted by him for his benefit from any stake or bank in any game, less only the total of all sums paid out by him as losses in respect of games played under his licence;

"**gaming room**" means a room in the gaming area of a casino for gaming, and any adjoining room or verandah;

"**intoxicating liquor**" has the same meaning as in the Liquor Act;

"**licence**" means a licence granted under section 8 to establish and operate a casino;

"**licensee**" means the holder of a licence;

"**money's worth**" includes any counter or chip representing money or any article of value.

PART II
Casino Control Board (ss 3-7)

3. Establishment and constitution of Board

(1) There is hereby established a Board to be known as the Casino Control Board.

(2) The Board shall consist of a Chairman, who shall not be a public officer, and two other members, who shall be public officers, all of which members shall be appointed by the Minister by notice in the *Gazette*.

(3) A person shall not be qualified to be appointed a member of the Board if he-

(a) is a member of the National Assembly;

(b) has been declared insolvent or adjudged or otherwise declared bankrupt under any law in force in Botswana or elsewhere and has not been discharged, or has made a composition with his creditors and has not paid his debts in full; or

(c) has been convicted of any offence involving dishonesty.

(4) A member of the Board shall hold office for such period, not exceeding three years, as may be specified in the notice appointing him and on the expiration of such period shall be eligible for reappointment.

(5) There shall be paid to the Chairman of the Board out of public funds such remuneration and allowances as the Minister may prescribe.

(6) A quorum for a meeting of the Board shall be two members.

(7) The Minister shall appoint a Secretary to the Board.

4. Temporary members

When the Minister is satisfied that a member of the Board is temporarily incapacitated by illness, absence or other cause from satisfactorily performing the duties of his office, the Minister may by notice in the *Gazette* appoint temporarily to act in his place a person other than a public officer, in the case of the Chairman, or a public officer, in the case of a member other than the Chairman, for such period not exceeding six months as the Minister may specify.

5. Vacation of office

(1) The Chairman or any other member may at any time resign his office by notice in writing addressed to the Minister, and on the receipt of such notice by the Minister the office of such member shall become vacant.

(2) The Minister may by instrument in writing require any member to vacate his office if, after giving such member an opportunity to be heard, the Minister is satisfied that such member-

- (a) has been absent from meetings of the Board without reasonable excuse for a period exceeding six consecutive months;
- (b) is unable to exercise the functions of his office by reason of illness, absence or other cause and has been, or is likely to be, so unable for a period exceeding six months; or
- (c) is otherwise unfit to discharge the functions of his office.

6. Filling of casual vacancies

If a member dies or otherwise vacates his office before the expiration of the period for which he was appointed the Minister may by notice in the *Gazette* appoint in his place a person other than a public officer, in the case of the Chairman, or a public officer, in the case of a member other than the Chairman, until the expiration of that period.

7. Functions of Board

It shall be the function of the Board-

- (a) to regulate and control the development of casinos;
- (b) with the approval of the Minister, to define areas in which casinos may be established and operated;
- (c) to receive and consider applications for licences, to verify information contained therein or submitted therewith, and to issue or refuse licences;
- (d) to receive, consider and decide upon applications for transfer of licences;
- (e) to ensure that such sums of money as may be due to the Government by licensees are duly paid and accounted for;
- (f) to ensure that licensees maintain the casinos in respect of which they are licensed to the required standard;
- (g) for any of its members, or to authorize any person to enter and inspect a casino at such times and in such manner as it may deem necessary in order to ascertain whether the terms and conditions of a licence are being observed;
- (h) to consult such persons having technical or expert knowledge of matters to be considered by the Board as it may consider necessary; and
- (i) to do all things necessary or convenient for the purpose of carrying out its functions.

PART III

Licensing and Operation of Casinos (ss 8-20)

8. Licence

(1) The Board may grant and issue to a person a licence to establish and operate a casino if that person-

- (a) satisfies the Board that he will be the occupier of the whole of the casino, with such security of tenure as the Board may deem adequate, and that he intends to manage the operation of the whole of the facilities of the casino;
- (b) satisfies the Board that he is a person of integrity or in a case of a company that it is

- directed by persons of integrity;
- (c) satisfies the Board that he has adequate financial means available to establish and operate a casino of a high standard;
- (d) satisfies the Board by plans and specifications submitted to it that the casino will be of a high standard of amenity, appearance and comfort;
- (e) undertakes if the said plans and specifications are approved by the Board, to commence, carry on and complete within 15 months, or such longer period as the Board may in its discretion fix, any works necessary to bring the casino into accord therewith;
- (f) deposits with the Accountant-General such security as the Board may consider adequate for the meeting of any obligations which he may incur to persons gaming in the casino; and
- (g) being a body corporate, is a company or an external company within the meaning of the Companies Act.

(2) A licence shall specify and define the area in the casino where gaming may be conducted.

(3) The Board may attach conditions to a licence-

- (a) relating to the games to be played in any gaming room;
- (b) relating to the method of operation of any game;
- (c) relating to the operation of any hotel forming part of the casino;
- (d) for the purpose of ensuring that the operation of the casino does not detract from the natural beauty or the amenities of any place near the casino;
- (e) for the purpose of ensuring that the operation of the casino accords with decency, dignity, good taste and honesty;
- (f) requiring the submission to the Board of such reports and returns relating to the operation of the casino as the Board may from time to time require;
- (g) relating to the days and hours when gaming may be carried on at the casino;
- (h) relating to any other matter which in the opinion of the Board requires to be regulated.

(4) Where the Board is of the opinion that it is necessary or expedient to do so for the better attainment of the objects and purposes of this Act, it may, by written notice served on a licensee, from time to time vary the conditions attached to his licence.

(5) Subject to the provisions of this Act, a licence shall be valid for 10 years commencing on the date of the grant of the licence but may be renewed on such terms and conditions as the Board may deem fit.

(6) The Board when granting and issuing a licence under the provisions of subsection (1) may, with the approval of the Minister, provide in such licence that such licence shall confer exclusive authority on the licensee to establish and operate a casino within any area specified in the licence, and when the Board has so provided it shall, so long as such licence remains in force, grant and issue a licence in respect of such area to no person other than the said licensee.

9. No alterations to casino premises without Board's approval

No additions, alterations or improvements to the premises of a casino, including the addition or alteration of advertisements, signs and hoardings on the premises, shall be effected without prior written approval thereof having been obtained from the Board on written application made to it accompanied by a proper plan and specification of such proposed additions, alterations or improvements.

10. Revocation or surrender of licence

(1) The Board, subject to the approval of the Minister, may at any time revoke a licence or may refuse to renew it if-

- (a) it has been ascertained that any information given to the Board by the licensee for the purpose of obtaining the grant of the licence was, at the time when the information was

- given, false in a material particular;
- (b) the licensee has, without reasonable excuse, failed to comply with a term or condition of the licence or a requirement or prohibition of this Act applicable to the licensee;
- (c) the licensee is convicted of an offence against a law relating to gaming, betting or lotteries;
- (d) the licensee is twice convicted within 12 months under the Liquor Act, as read with section 18(4), of the offence of permitting drunkenness or violent or riotous conduct within a gaming room forming part of the casino;
- (e) the licensee or, in the case of a company, the managing director or other officer managing the company-
 - (i) has been convicted in a court in Botswana or elsewhere of an offence involving dishonesty and sentenced to imprisonment without the option of a fine; and
 - (ii) has not received a free pardon in respect of the offence;
- (f) the licensee ceases, without the consent of the Board-
 - (i) to be the occupier of the whole of the casino; or
 - (ii) to manage the operation of the whole of the facilities of the casino;
- (g) the casino, or part thereof, ceases to carry on business in accordance with this Act; or
- (h) the Government establishes in any civil proceedings that the licensee has in any respect breached any agreement to which the Government and the licensee are parties which concerns the casino referred to in the licence or matters relating to such casino.

(2) When any licence is revoked or the renewal of any licence is refused in accordance with subsection (1) the Board shall give reasons for the revocation or refusal.

(3) A licensee may surrender his licence on such conditions as the Board, with the approval of the Minister, may stipulate.

11. Revocation of licence following conviction

(1) When a licensee or, if the licensee is a company, the managing director or other officer managing the company-

- (a) has been convicted of an offence relating to the operation of the casino and sentenced to imprisonment without the option of a fine; and
- (b) has not received a free pardon in respect of the offence,

the Commissioner of Police, or any other police officer deputed by him for the purpose, may petition the Board to revoke the licence.

(2) The petition shall be heard at a special meeting of the Board-

- (a) of which the Board shall give the petitioner and the licensee notice; and
- (b) at which either party may be present or represented.

(3) On the hearing of the petition the Board may, if good cause is shown why the licence should be revoked, decide to revoke the licence.

(4) The Board may, with the approval of the Minister, act upon a decision made in pursuance of subsection (3).

12. Appeals

(1) A person aggrieved by-

- (a) the revocation of a licence; or
- (b) the refusal of the Board to renew a licence,

may within 30 days appeal to the High Court in accordance with the rules of that court.

(2) The High Court, on such appeal, having heard such evidence as the parties may adduce, shall make such order as justice may require.

(3) When a licence is revoked-

- (a) the licence shall be deemed to remain in force during the period within which an appeal may be brought under this section; and
- (b) after such an appeal has been brought, a judge of the court may suspend the

revocation until the determination or abandonment of the appeal.

13. Operation of casino

(1) A licensee shall-

- (a) ensure that the operation of his casino accords with decency, dignity, good taste and honesty;
- (b) in accordance with the conditions of his licence permit and organize the playing of games with cards, dice or mechanical contrivances or devices (including roulette) for money or money's worth;
- (c) subject to the requirements of this Act, provide refreshments to suit the personal needs of the visitors to the casino;
- (d) operate the casino, including any hotel forming part thereof, in accordance with the conditions of his licence; and
- (e) generally operate the casino in accordance with this Act.

(2) The licensee shall make rules relating to the method of playing games, which rules shall be subject to the approval of the Board.

14. Right of certain police officers to enter casino

(1) A police officer of the rank of Inspector or above may at any time, without a search warrant, enter a casino for the purpose of preventing or detecting the commission of an offence, or of investigating the conduct of persons therein.

(2) Any police officer entering a casino in pursuance of subsection (1) shall submit a written report on his visit to the casino to the Commissioner of Police who shall within 14 days of receiving such report give written notice of such entry to the Board.

(3) A person who, by himself or by a person in his employ or acting with his consent, fails to admit a police officer who, in pursuance of subsection (1), demands entry into the premises of a casino shall be guilty of an offence and liable to a fine not exceeding P100 or to imprisonment for a term not exceeding three months, or to both.

15. Prohibition of certain persons from entering casino premises

(1) Where a court convicting a person of an offence is of opinion that by reason of the nature of the offence or the circumstances under which it was committed it is undesirable in the interests of public order, morality or fair play that such person should be permitted to enter any casino or any part or parts thereof, the court may issue a written order prohibiting him from entering such casino, or the part or parts thereof specified in the order for a period to be stated in the order.

(2) Any person against whom an order has been made under subsection (1) may apply to the High Court for the review of such order.

(3) Where a court makes an order under subsection (1) the clerk of the court shall as soon as practicable cause a copy of the order to be delivered to the licensee of any casino named in the order.

(4) A person who contravenes an order made under this section, or aids and abets or permits such a contravention, shall be guilty of an offence and liable to a fine not exceeding P100 or to imprisonment for a term not exceeding three months, or to both.

16. Prohibition of gaming by certain persons

(1) A person who-

- (a) is a member or employee of the Board or is in any way concerned in the management, regulation, supervision, control or administration of a casino, or is in any way employed in or about a casino; and
- (b) participates in the playing of a game in the gaming area of the casino, except in so far as he may be required to do so by the nature of his employment in conducting the game so as to enable other persons to play at the game,

shall be guilty of an offence.

(2) A person under the age of 18 years who in any casino-

- (a) plays or takes part in any game; or
 - (b) enters the gaming area of a casino,
- shall be guilty of an offence.

(3) Any licensee or servant of a licensee who permits a person under the age of 18 years, or any parent or guardian of a person under the age of 18 years who permits such person to-

- (a) play or take part in any game in the gaming area of a casino; or
 - (b) enter or remain in the gaming area of a casino which is open for play,
- shall be guilty of an offence:

Provided that it shall be a defence to any charge under this subsection that the accused neither knew nor had reasonable cause to suspect that the person concerned was under the age of 18 years.

17. Persons to participate in games only on cash basis

(1) No person shall participate in any game in a casino, and no licensee or servant of a licensee shall permit any person to participate in any game in a casino, except on a cash basis.

(2) For the purposes of this section-

"cash" includes travellers' cheques and credit cards but excludes personal cheques and other forms of credit.

(3) Any person who contravenes subsection (1) shall be guilty of an offence.

18. Sale, etc. of intoxicating liquor

(1) Notwithstanding anything contained in the Liquor Act, or any other law it shall not be necessary for a licensee to obtain, in respect of the casino, or any part thereof, a licence under that Act or other law for the sale, supply or consumption of intoxicating liquor or other refreshments in accordance with this section.

(2) A licensee may at any time when a gaming room is lawfully open for play, sell or supply in that room intoxicating liquor and other refreshments for consumption in that room (including any adjoining room or verandah).

(3) Intoxicating liquor may be sold, supplied and consumed in parts of the casino, other than the gaming rooms, during the hours permitted by or under the Liquor Act, for the sale of liquor under an hotel liquor licence but may not be sold or supplied for consumption off the casino.

(4) Except as is otherwise provided in this section, such provisions of the Liquor Act, as apply to premises licensed under that Act (including the grant of privileges for an extension of hours in the case of an hotel liquor licence) shall also apply, *mutatis mutandis*, to a casino.

19. Non-application of certain laws

(1) Notwithstanding anything contained in the Trade Act, a licensee may carry on the trade or business of selling any goods by retail in such part of a casino as is specified in the licence without being required to hold a general trading licence or small general trading licence in terms of that Act.

(2) None of the provisions of sections 19 to 22 of the Lotteries and Betting Act or section 179(c) of the Penal Code and nothing contained in any law relating specially to lotteries or games of chance shall apply in respect of a casino.

20. Advertising

Subject to any regulations made under this Act, it shall be lawful to advertise a casino and the games to be played therein.

PART IV **Fiscal (ss 21-23)**

21. Licence levy

(1) A licensee shall pay in respect of every month during which his licence subsists a levy of such percentage of his gaming revenue for that month as may be determined by the Board.

(2) The levy prescribed by subsection (1) shall be paid not later than 10 days immediately after the expiry of the month in respect of which the levy is payable.

(3) A licensee shall submit to the Board, together with every levy payment made under this section, a certificate under the hand of the person appointed in accordance with section 25(1) certifying that, in the opinion of that person, the amount of the levy payable has been fairly and accurately calculated.

22. Payments to be made to Board

All payments required in terms of section 21 shall be made to the Board and paid by it into the Consolidated Fund.

23. Licence levy to be deductible expense

Notwithstanding anything in the Income Tax Act, any licence levy paid under this Part shall be a deductible expense for the purpose of computing taxable income.

PART V

Miscellaneous (ss 24-33)

24. Auditing and inspections

(1) A licensee shall keep such proper books of account and records of all transactions connected with the operation of the casino as the Board may require.

(2) A licensee shall appoint to audit his accounts such auditors as the Board may approve.

(3) The Board may appoint inspectors who may-

- (a) scrutinize any equipment used in connection with a casino; and
- (b) require the licensee to repair or replace such equipment as may be found to be defective.

25. Minister to appoint assistant to Board

(1) The Minister shall appoint a person to assist the Board in determining what sums of money are payable to the Government by licensees.

(2) A person appointed in terms of subsection (1) shall have power to inspect casinos and the books of licensees and such other powers as may be delegated to him by the Board.

26. Board's accounts and audit thereof

(1) The Board shall keep proper accounts of all payments made to and by it under the provisions of this Act.

(2) The accounts in respect of each year shall within four months after the end thereof, or such longer period as the Minister may allow, be audited by the Auditor-General or an accountant approved by him.

(3) The person conducting the audit shall report in respect of the accounts for each year, in addition to any other matters which he deems it pertinent to comment on, whether or not-

- (a) he has received all the information and explanations which, to the best of his knowledge and belief, were necessary for the performance of his duties as auditor;
- (b) the accounts of the Board have been properly kept; and
- (c) the Board has complied with all the financial provisions of this Act with which it is its duty to comply.

(4) The Board shall within 30 days of receiving the report of the person conducting the audit send such report and a copy of the audited accounts to the Minister.

(5) The Minister shall, within 30 days of receiving the report and a copy of the audited accounts, lay such report and accounts before the National Assembly.

27. Annual report by Board

(1) The Board shall, when sending the auditor's report and a copy of the audited accounts in respect of each year in terms of section 26(4), submit to the Minister a comprehensive report on its operations during such year.

(2) The Minister shall lay the Board's report before the National Assembly within 30 days of his receiving it.

28. Power of Minister to give directions

The Minister may, after consultation with the Board, give to the Board such directions of a general or specific character as to the exercise and performance of its powers in fulfilling its functions as are necessary as a matter of public policy and as are not inconsistent with this Act, and the Board shall give effect to any such directions.

29. Restriction on use of word "casino"

(1) A person shall not use the word "casino" as the name, or as part of the name, of trade or business premises unless those premises are a casino or part of a casino.

(2) A person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding P20, and in the case of a continuing offence to a further fine of P20 for each day on which the offence is continued after conviction.

30. Non-liability of Government

The Government shall not be liable at the suit of any person in respect of anything done or omitted by a licensee in relation to the provision or operation of a casino.

31. Penalties

Any person who contravenes any provision of this Act for which no other penalty is prescribed or who contravenes or fails to comply with any condition imposed by the Board in terms of this Act shall be guilty of an offence and liable to a fine not exceeding P1000 or to imprisonment for a term not exceeding two years, or to both.

32. Jurisdiction of magistrates

A magistrate shall have jurisdiction summarily to impose any penalty prescribed by this Act.

33. Regulations

(1) The Minister may make regulations for the better carrying out of the objects and purposes of this Act and forgiving effect to its principles and provisions, and without prejudice to the generality of the foregoing may in such regulations-

- (a) prescribe the manner in which application is to be made for a licence, the manner in which a licence is to be issued and renewed, and the form of a licence;
- (b) prescribe the manner in which the duties of the person referred to in section 25 are to be carried out and the facilities to be granted to him for that purpose;
- (c) prescribe standards of maintenance for casinos and the grounds thereof;
- (d) provide for the supervision of casinos by the Board and the police;
- (e) regulate the advertising of a casino; and
- (f) provide for the imposition and recovery of financial penalties by the Board on licensees for breaches of the terms and conditions of the licences which in the opinion of the Board do not warrant cancellation of such licences.

(2) The Minister may make different regulations applicable to different casinos or casino licences.