

THE CASINO GAMING ACT

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THE CASINO GAMING ACT

Act
11 of 2010.

[3rd June, 2010.]

PART I. *Preliminary*

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

Short title.

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

Inter-
pretation.

“Appeals Tribunal” means the tribunal established under section 63;

“applicant” means a person who makes an application for a licence, authorization or approval under this Act and reference to an application shall be construed accordingly;

“appointed day” means in relation to—

(a) this Act, the date of commencement of this Act; and

(b) a particular provision of this Act, the date of commencement of that provision;

“approved developer” means the developer of an approved integrated resort development;

“approved integrated resort development” means an integrated resort development declared by the Minister under section 9(1) to be an approved integrated resort development;

“associate” in relation to a casino operator or an applicant has the meaning specified in subsection (2);

“associated hotel rooms” means hotel rooms which pursuant to an order under section 9, shall be available for occupancy during the operation of the casino;

“authorized person” means any person appointed as such by the Commission under section 44;

“casino” means any premises, part of any premises, or a

facility, in or on which casino gaming business is conducted;

“casino gaming” means the playing of games prescribed by the Commission under section 72(1)(a);

“casino gaming licence” means a licence for the operation of a casino granted by the Commission under section 18(1)(a);

“casino operator” means the holder of a casino gaming licence or a temporary casino gaming licence;

“chairman” means the chairman of the Commission;

“Chief Executive Officer” means the Chief Executive Officer of the Commission, appointed under paragraph 16(1) of the First Schedule;

First
Schedule.

“Commission” means the Casino Gaming Commission established by section 5;

“contract” includes any kind of agreement or arrangement;

“controlled contract” in relation to a casino operator—

(a) means—

(i) a contract that relates wholly or partly to the supply of goods or services for the operations of the casino or to any other matter that is prescribed as a controlled matter for the purposes of this definition;

(ii) a contract above a prescribed value; or

(iii) any class of contract prescribed as a controlled contract for the purposes of this definition; but

(b) does not include a contract that relates solely to—

(i) the construction of the casino;

- (ii) any other class of matter prescribed as not being a controlled matter for the purposes of this definition; and
- (iii) a class of contract of a kind approved by the Commission;

“disciplinary action” shall be construed in relation to—

- (a) a casino operator, in accordance with section 27; and
- (b) the holder of a personal licence, in accordance with section 36;

“electronic” in relation to technology, means having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities and references to carrying out any act “electronically” shall be construed similarly;

“electronic monitoring system” means any electronic or computer or communications system or device that is so designed that it may be used or adapted to send or receive data from gaming equipment in relation to the security, accounting or operating of gaming equipment;

“exclusive geographical area” means an area specified in an order made under section 9 within which, subject to section 4, the Commission shall not grant a casino gaming licence to a person other than the approved developer, or his nominee;

“exclusivity period” means, with respect to an order made under section 9, the specified period for which the Commission shall not, within the relevant exclusive geographical area, grant a casino gaming licence or a temporary casino gaming licence to a person, other than the approved developer or his nominee;

“exclusivity status” shall be construed in accordance with section 12;

“functions” includes powers and duties;

“game” means a game of chance or a game that is partly a game of chance and partly a game requiring skill;

“gaming” means the playing of a game for winnings in money or money’s worth;

“gaming equipment” includes—

- (a) a gaming machine;
- (b) linked jackpot equipment;
- (c) an electronic monitoring system used in connection with any machine, equipment, device, thing or part mentioned in paragraph (a), (b), (d), (e) or (f);
- (d) a computer programme or software used in connection with any machine, equipment, system, part, device or thing mentioned in paragraph (a), (b), (c), (e) or (f);
- (e) a part of, or a replacement part for, any machine, equipment or system mentioned in paragraph (a), (b), (c) or (d); and
- (f) any device or thing (including chips) used, or capable of being used, for or in connection with gaming;

“gaming machine” means any device, whether wholly or partly mechanically or electronically operated, designated by the Commission for use for gaming which, as a result of making a bet on the device, winnings may become payable;

“gross profit” shall be construed in accordance with section 61(2);

“gross profit tax” shall be construed in accordance with section 61;

“hotel” means any building, or group of buildings within the same precinct, containing hotel rooms and facilities for meals and other amenities for the accommodation of

transient guests for reward;

“hotel room” means a furnished bedroom which is used for the accommodation of transient guests for reward and includes such a room in a habitation, such as a villa or cottage, whether detached or semi-detached from like habitations, and which habitation is within the precincts of a single complex operated as a unit;

“inspector” means a person appointed as an inspector under section 44;

“integrated resort development” means a development consisting of a mix of various tourism amenities and facilities in the same precinct including, but not limited to, hotels, hotel rooms, villas, casinos, attractions, sporting facilities, entertainment facilities, service centres and shopping centres;

“licensee” means the holder of a licence granted under this Act;

“Minister” means the Minister responsible for finance;

“nominee” means a company nominated by an approved developer to carry out the operations of a casino in the relevant approved integrated resort development;

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

- (a) the conduct of gaming in the casino;
- (b) the management and supervision of the conduct of gaming in the casino;
- (c) the counting of money in the casino;
- (d) the accounting procedures of, and in relation to, the casino;
- (e) the use of storage areas within the casino;
and
- (f) any other matter affecting or arising from activities in the casino;

“personal licence” means a licence granted pursuant to section 31(4);

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

“specified offence” means an offence specified in the Second Schedule;

“specified office” means an office of employment in a casino in relation to which the holder—

(a) is in a position of management or is authorized to make decisions involving the exercise of his discretion concerning the operation of a casino; or

(b) has functions relating to any of the following activities—

(i) the conduct of gaming;

(ii) the movement of money or chips in the casino;

(iii) the exchange of money or chips between patrons of the casino;

(iv) the counting of money or chips on the premises of the casino;

(v) the security and surveillance of the casino;

(vi) the operation, maintenance, construction or repair of gaming equipment;

(vii) the supervision of any of the activities listed in paragraphs (i) to (vi);

(viii) any other function of an office of employment relating to the operation of the casino that is specified by the

Commission for the purposes of this definition by notice, in writing, to the casino operator as a specified office;

“specified site” means the site, as specified in an order made under section 9, on which a proposed integrated resort development is to be located;

“sports betting” means the making of a wager on the outcome of a sporting event;

“temporary casino gaming licence” means a licence granted pursuant to section 26;

“winnings” or “payouts” means the aggregate amount due and payable to a patron by a casino operator.

(2) A person is an associate of a casino operator or of an applicant for a casino gaming licence if the person—

(a) holds or will hold any relevant financial interest, or is or will be entitled to exercise any relevant power (whether on his own behalf or on behalf of any other person) in the casino business of the casino operator or in the case of an applicant, and by virtue of that interest or power, is able or will be able to exercise significant influence over or with respect to the operation of that casino business; or

(b) holds or will hold any relevant position, whether on his own behalf or on behalf of any other person, in the casino business of the casino operator or applicant,

and for the purposes of this subsection—

“relevant financial interest” means, in relation to a casino business, five *per cent* or more of the voting capital of the business;

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

“relevant power” means any power, whether exercisable by

voting or otherwise, and whether exercisable alone or in association with others—

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

Objects of Act.

3. The objects of this Act are to—

- (a) establish a regulatory scheme for the conduct of casino gaming in Jamaica;
- (b) encourage the establishment of a number of substantial integrated resort developments by licensing the carrying on of casino gaming as part of a mix of various tourism amenities and facilities available to guests of hotels in such developments;
- (c) ensure that casino gaming is conducted in a fair and open manner;
- (d) ensure that casino gaming is regulated efficiently and effectively;
- (e) prevent casino gaming from being a source of crime or disorder or being used to support crime; and
- (f) protect children and other vulnerable persons from exploitation due to casino gaming.

Powers of Betting, Gaming and Lotteries Commission not affected.

4. Nothing in this Act shall be construed as limiting the powers conferred on the Betting, Gaming and Lotteries Commission established under section 4 of the Betting, Gaming and Lotteries Act, to grant licences and permits in accordance with that Act within an exclusive geographical area.

PART II. *Casino Gaming Commission*

Establishment of Casino Gaming Commission.

5.—(1) There is hereby established a body to be called the Casino Gaming Commission.

(2) The Commission shall be a body corporate to which the provisions of section 28 of the Interpretation Act shall apply.

(3) The provisions of the First Schedule shall have effect as to the constitution and operation of the Commission and otherwise in relation thereto. First Schedule.

6. The functions of the Commission shall be to— Functions of Commission.

- (a) regulate and control casino gaming in Jamaica;
- (b) approve systems of controls for, and administrative and accounting procedures in, casinos in order to ensure integrity and fairness in casino gaming;
- (c) conduct investigations into the operation of casinos and the holders of specified offices;
- (d) institute measures and controls to—
 - (i) protect the vulnerable, including children, from any harm or exploitation arising from casino gaming;
 - (ii) limit opportunities for crime or any disorder associated with casinos; and
 - (iii) facilitate responsible casino gaming; and
 - (iv) prevent money laundering and the financing of terrorist activities in relation to casino gaming;
- (e) advise the Minister on matters of general policy relating to casino gaming in Jamaica; and
- (f) carry out such other functions pertaining to casino gaming as may be assigned to it by or under this Act or any other enactment.—

7.—(1) The Minister may, after consultation with the chairman, give to the Commission directions of a general character as to the policy to be followed in the exercise or discharge of its functions in relation to any matter appearing to him to concern the public interest; and the Commission shall give effect to any such directions. Policy directions.

(2) The Commission shall—

- (a) furnish to the Minister such information as he may require with respect to the property and activities of the Commission; and
- (b) afford to the Minister facilities for verifying such information in such manner and at such times as he may reasonably require.

Delegation
of functions.

8.—(1) The Commission may, subject to the approval of the Minister, delegate any of its functions under this Act (other than the power of delegation or the power to make regulations) to any member, officer, employee or agent of the Commission.

(2) Every delegation under subsection (1) is revocable by the Commission, and the delegation of a function shall not preclude the performance of that function by the Commission.

(3) Any person to whom a delegation is made under this section shall furnish to the Commission, from time to time, such information as the Commission may require with respect to the exercise of any of the functions so delegated.

PART III. *Approved Integrated Resort Development*

Declaration
of approved
integrated
resort
development.

9.—(1) Subject to the provisions of this Act, the Minister may, by order, declare an integrated resort development to be an approved integrated resort development.

(2) The Minister shall ensure that during the specified period the number of orders under subsection (1) in operation at any particular time shall be not more than three, or such other number as the Minister may by order, subject to affirmative resolution, determine.

(3) The Minister shall not make an order under subsection (1) unless he is satisfied as to the following matters, namely that—

- (a) the integrated resort development, when completed, will be comprised of one or more hotels providing in the aggregate at least two thousand associated hotel rooms,

excluding hotel rooms already in existence or under construction prior to the making of an application under section 10;

- (b) not less than one thousand associated hotel rooms in the integrated resort development will be available for occupancy prior to the date of commencement of the operation of any casino in the development;
- (c) the enterprise relating to the integrated resort development is likely to be successful having regard to—
 - (i) the manner in which it is proposed to be operated;
 - (ii) the availability of adequate financing for its establishment, operation and maintenance; and
 - (iii) the economic effects of its operations;
- (d) there is no ground, in the public interest, to refuse to make the order.

(4) An order made by the Minister under subsection (1) shall specify—

- (a) the site of the integrated resort development;
- (b) the date on or by which construction and operation of one or more of the hotels will commence; and
- (c) where the Minister has determined, pursuant to section 12(1), that the developer shall be granted exclusivity status, the exclusivity period and the exclusive geographical area; and
- (d) such terms and conditions as the Minister thinks fit.

(5) In this section, “specified period” means the period of twelve years commencing from the date of operation of the order under subsection (1) that declares the first integrated resort development to be an approved integrated resort development.

Application
for approved
integrated
resort
development.

10. An application for the declaration of an approved integrated resort development under section 9 shall—

- (a) be made in such form as may be prescribed;
- (b) be accompanied by the prescribed fees; and
- (c) contain such information and be accompanied by such plans, specifications, drawings, reports and other documents, as may be prescribed.

Minister may
amend order.

11.—(1) An approved developer may, in writing, apply to the Minister for an amendment of an order under section 9.

(2) Where the Minister is satisfied that there has been failure to commence—

- (a) the construction of the approved integrated resort development; or
- (b) construction or operation of one or more of the hotels within the approved integrated resort development, in accordance with the order made under section 9,

the Minister may, by notice in writing, require the approved developer to establish, to the satisfaction of the Minister, and within such period as the notice shall specify that—

- (i) such failure is due to circumstances beyond the control of the approved developer; and
- (ii) there is a reasonable prospect of commencing the construction or operation, as the case may be, within a reasonable time.

(3) Where the Minister is satisfied that in respect of any approved integrated resort development—

- (a) any representations made in or in connection with the application for approval of the development as an approved integrated resort development is false in any material particular, made with intent to deceive or otherwise not made in good faith and, that such representations substantially influenced the decision

to declare the development to be an approved development; or

- (b) a material term or condition specified in the order has been breached and has not been remedied within a reasonable time,

the Minister may by notice in writing, require the approved developer to show cause, to the satisfaction of the Minister, within such period as the notice shall specify, why the order by which the development was declared to be an approved integrated resort development, should not be amended or revoked.

(4) Where the Minister is not satisfied with the explanation of the approved developer in response to a notice under subsection (2) or (3), as the case may be, the Minister, if he thinks it expedient so to do, may amend or revoke the order under section 9.

(5) Where exclusivity status has been granted under section 12, an amendment to the order under section 9 may—

- (a) be in respect of the terms of exclusivity, including the specified period;
- (b) revoke the grant of exclusivity status.

(6) Where, pursuant to subsection (4), the Minister has revoked an order made under section 9, any casino gaming licence or temporary casino gaming licence granted for a casino on the specified site shall be deemed revoked with effect from the date of revocation of the order.

12.—(1) The Minister may, in respect of an approved integrated resort development, determine that for a period specified in an order made under section 9, the approved developer shall be granted exclusivity status, that is to say, the approved developer or his nominee shall be the only person to whom a casino gaming licence or a temporary casino gaming licence shall be granted in the exclusive geographical area specified in section 9.

Exclusivity
for casino
gaming
business.

(2) Exclusivity status subject to such terms and conditions as may be specified by the Minister shall be for a period of not less than twelve years starting with the date of commencement of the order made under section 9.

PART IV. *Casino Gaming Licence*

Restriction
on operating
casino.

13.—(1) Subject to subsection (2) and section 26, a person shall not operate a casino, except in accordance with the provisions of this Act, any regulations made hereunder and a casino gaming licence.

(2) Every person who contravenes subsection (1), commits an offence and shall be liable on conviction on indictment in a Circuit Court to—

(a) in the case of an individual, a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment; or

(b) in the case of a body corporate, a fine.

(3) In this section—

“Jamaican waters” means the inland waters and—

(a) internal water;

(b) archipelagic waters; and

(c) territorial sea,

as defined in the Maritime Areas Act, and such other waters as may be prescribed under any enactment to be Jamaican waters;

“ship” includes every description of vessel used in navigation.

Application
for casino
gaming
licence.

14.—(1) Every approved developer who, or a company nominated by the approved developer that, is desirous of operating a casino in an integrated resort development shall apply in the prescribed form and manner to the Commission for a casino gaming licence or temporary casino gaming licence.

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

- (a) accompanied by proof that the proposed casino operator is a company duly incorporated under the laws of Jamaica;
- (b) accompanied by the prescribed application fee which shall not be refundable; and
- (c) accompanied by such other documents and information as may be required by the Commission under section 17.

(3) The Commission may refuse to consider an application which does not comply with the requirements of subsection (2).

15.—(1) Upon an application made in accordance with section 14, the Commission shall grant to the applicant, a casino gaming licence, if the Commission is satisfied that—

Matters to be determined by the Commission on application.

- (a) the applicant, and each associate of the applicant (hereinafter called an “associate”), is a fit and proper person to be concerned in or associated with the management or operation of a casino;
- (b) the proposed casino to which the application relates will be within an approved integrated resort development; and
- (c) the applicant, or any associate, has not been convicted of a specified offence.

(2) In determining whether an applicant or any associate is a fit and proper person to be concerned in or associated with the management or operation of a casino, the Commission shall consider whether—

- (a) the applicant or the associate is of good repute, having regard to his character, honesty and integrity;
- (b) the applicant or the associate, as the case may be, is of sound and stable financial background;
- (c) the applicant has, or has arranged, a satisfactory ownership structure;
- (d) the applicant holds or is able to obtain—

- (i) financial resources that are adequate to ensure the financial viability of the proposed casino; and
 - (ii) the services of persons who have sufficient experience in the operation of a casino;
- (e) the applicant has sufficient business ability to operate a successful casino;
- (f) the applicant or the associate, as the case may be, has any business association with any person, body or association who or which, in the opinion of the Commission, is not of good repute having regard to character, honesty and integrity or has undesirable or unsatisfactory financial resources;
- (g) each director, partner, trustee, executive officer, secretary and any other officer or person determined by the Commission to be associated or connected with the ownership, administration or management of the operations or business of the applicant is a suitable person to act in that capacity;
- (h) any person proposed to be engaged or appointed to manage or operate the casino is a suitable person to act in that capacity; and
- (i) any other matter that may be prescribed will be fulfilled.

16.—(1) On receiving an application for a casino gaming licence, the Commission shall carry out or cause to be carried out all such investigations and enquiries as it considers necessary to enable it to consider the application. Investigation
re application.

(2) The Commissioner of Police or any member of the Jamaica Constabulary Force or the Island Special Constabulary Force so authorized by the Commissioner of Police, shall inquire into and report to the Commission on such matters concerning the application as the Commission requests.

(3) Where an investigation under this section is conducted by the Commission, the Commission may charge the

applicant such fees as are necessary for the recovery of its expenditure, having regard to the nature of the investigation and the effort required in its conduct.

17.—(1) The Commission may, by notice in writing, require an applicant for a casino gaming licence, to do any one or more of the following—

Commission may require further information, etc.

- (a) provide, in accordance with directions in the notice, any information, that is relevant to the investigation in relation to the application and so specified in the notice;
- (b) produce, in accordance with directions in the notice, any records relevant to the investigation of the application, that are specified in the notice and permit examination of the records, the taking of extracts from them and the making of copies of them;
- (c) authorize a person described in the notice to comply with a specified requirement of the kind referred to in paragraph (a) or (b); or
- (d) furnish to the Commission any authority and consent that the Commission requires for the purpose of enabling the Commission to obtain from other persons information (including financial and other confidential information) concerning the applicant and associates of the applicant.

(2) If a requirement made under subsection (1) is not complied with, the Commission may refuse to consider the application for a casino gaming licence.

18.—(1) Subject to the provisions of this Act, the Commission may—

Casino gaming licence, annual licence fee.

- (a) grant a casino gaming licence; or
- (b) refuse to grant a casino gaming licence.

(2) Where the Commission refuses to grant a licence under subsection (1), it shall so inform the applicant in writing stating the reasons therefor.

(3) Where the Commission has approved the grant of a licence under subsection (1), a prescribed annual licence fee shall be payable to the Commission by the licensee—

- (a) firstly, on approval of the grant of the licence; and
- (b) thereafter annually, while the licence remains in force, on or before the anniversary date of the grant of the licence.

(4) The grant of a licence under subsection (1) shall authorize the licensee to provide facilities for the conduct or playing of—

- (a) games prescribed under section 72 (1)(a);
- (b) other games, including games conducted by the use of machines, as approved by the Commission;
- (c) sports betting or other forms of wagering under rules prescribed by the Commission and otherwise as approved by the Commission.

Commence-
ment,
duration,
surrender and
lapse of
licence.

19.—(1) A casino gaming licence shall take effect upon approval by the Commission of the grant thereof and on payment of the initial annual licence fee.

(2) A casino gaming licence shall subject to the provisions of this Act, be valid for an indefinite period.

(3) Without prejudice to the provisions of section 25(1), a casino operator may surrender the casino gaming licence where the operator gives the Commission at least twelve months notice in writing of the date that it wishes to cease to operate, and the licence shall cease to have effect upon the expiry of such notice.

(4) Every casino operator shall, within seven days of the cessation or lapse of the casino gaming licence, deliver the expired licence to the Commission.

(5) A casino operator who fails to deliver the licence within the time stipulated under subsection (3), commits an offence and shall be liable on conviction on indictment in a

Circuit Court to a fine.

(6) Notwithstanding subsections (2) and (3), a casino gaming licence shall lapse where the casino operator—

- (a) fails to pay the initial annual licence fee within thirty days of the grant of the licence;
- (b) does not commence operation within the period specified in the licence;
- (c) suspends operation for more than ninety days other than by reason of *force majeure* or a suspension order of the Commission; or
- (d) goes into liquidation, by reason of, (i) a resolution being passed for its voluntary winding-up or, (ii) upon the hearing of a petition for its compulsory winding up, a court granting a winding-up order.

20.—(1) Subject to subsection (2), the Commission may review a casino gaming licence where

Review of
casino
gaming
licence.

- (a) it suspects that a breach of any condition of the licence, this Act or any regulations made hereunder, or any other enactment, has been committed by the casino operator; or
- (b) it appears appropriate to the Commission to do so, having regard to—
 - (i) any notice of a relevant event given to the Commission by the casino operator; or
 - (ii) the time which has passed since the grant of the licence or the last review.

(2) The Commission shall review every casino gaming licence every five calendar years from the date of the grant thereof.

(3) Subject to the provisions of this Act, where the findings of the review so warrant, the Commission shall, after completion of the review, take disciplinary action pursuant to section 27.

(4) Where a review under this section is conducted by the Commission, the Commission may charge the applicant such fees as are necessary for the recovery of its expenditure, having regard to the nature of the review and the effort required in its conduct.

(5) In subsection (1)(b)(i), "relevant event" means one or more of the events specified in paragraph 1 of the Third Schedule.

Third
Schedule.

Licence not
transferable.

21. A casino gaming licence is not transferable.

Conditions of
licence.

22.—(1) Every casino gaming licence shall be subject to the conditions specified in the Third Schedule.

Third
Schedule.

(2) The Commission may suspend a casino gaming licence for administrative purposes (and not as an imposition of a disciplinary penalty) where,

(a) it is in its opinion necessary to facilitate the conduct of a review of the licence;

(b) it is in its opinion necessary to prevent the continuation of—

(i) a breach of this Act or any regulations made hereunder; or

(ii) a condition of a licence or authorization granted or given under this Act;

(c) a petition has been filed for the compulsory winding up of the licensee.

Variation of
licence on
application
by casino
operator.

23. A casino operator may apply to the Commission in the prescribed manner and on payment of the prescribed fees, for a variation of the terms of its casino gaming licence stating clearly the reasons therefor and the Commission may, upon considering the application, vary the terms of the licence or refuse to do so.

Amendment
of licence by
Commission.

24. The Commission may, after a review of a casino gaming licence and the performance of the relevant casino operator, amend the terms of the licence, subject to the casino operator being given an opportunity to be heard by the Commission

concerning the proposed amendments.

25.—(1) Within thirty days of a change in control of a casino operator, the casino operator shall either surrender its casino gaming licence or apply to the Commission, in writing, in the prescribed manner and on payment of the prescribed fee for a continuation of the licence.

Change in control of casino operator.

(2) The Commission may revoke a casino gaming licence where there is failure of the casino operator to carry out the requirements of subsection (1) within the time referred to in that subsection.

(3) The Commission, after considering an application for continuation of a licence, may either—

- (a) grant a continuation of the licence, with or without amendment of its terms; or
- (b) refuse a continuation of the licence and revoke the licence.

(4) The provisions of sections 15, 16 and 17 shall apply to an application for continuation of a casino gaming licence, with such modification as may be necessary, as they apply in relation to an application for a casino gaming licence under section 14.

(5) For the purposes of this section, a person shall be treated as having control of a casino operator where—

- (a) the person holds over fifty *per cent* of the voting shares of the casino operator;
- (b) the person, together with persons with whom he acts in concert hold over fifty *per cent* of the voting shares of the casino operator;
- (c) the person or persons with whom he acts in concert, have an agreement with the holders of over fifty *per cent* of the voting shares that those holders are obliged to exercise voting rights in accordance with his wishes; or
- (d) the person or persons with whom he acts in concert are

able to influence the operations of the casino operator in any other substantial way.

Temporary
casino
gaming
licence.

26.—(1) An approved developer or his nominee may apply in writing to the Minister, in the prescribed manner, for the issue of an authorization pursuant to subsection (2).

(2) The Minister may, upon considering an application under subsection (1), if he thinks fit and subject to such conditions as he may specify, issue an authorization in writing to the Commission to consider an application for a temporary casino gaming licence from an approved developer or his nominee.

(3) An approved developer or his nominee, in respect of whom an authorization has been issued by the Minister pursuant to subsection (2), may apply to the Commission for the grant of a temporary casino gaming licence.

(4) Subject to the provisions of this section, if the Commission is satisfied that the applicant for a temporary casino gaming licence, and every associate of the applicant, is a fit and proper person to be concerned in or associated with the management and operation of a casino, the Commission may grant to the applicant a temporary casino gaming licence subject to such conditions as the Commission deem necessary.

(5) In determining whether the applicant or any associate of the applicant is a fit and proper person for the purposes of this section, the Commission shall consider, *mutatis mutandis* in respect of the applicant and its associates, the matters specified in section 15(2).

(6) Subject to the provisions of this section, and save and except for sections 15(1)(b), 19(2) and paragraphs 4 and 5 of the Third Schedule, the provisions of this Part and Parts V and VI shall apply to—

Third
Schedule.

- (a) a temporary casino gaming licence as they apply to a casino gaming licence granted under section 18;
- (b) a casino operator holding a temporary casino gaming licence as they apply to a casino operator holding a

casino gaming licence granted under section 18; and

- (c) the applicant for a temporary casino gaming licence as they apply to an applicant for a licence granted under section 18;

(7) A temporary casino gaming licence shall be for a term not exceeding three years.

(8) Where the Minister has revoked an order made under section 9, any temporary casino gaming licence granted consequent upon such an order shall be deemed to be cancelled from the date of the revocation of the order.

(9) Where a temporary casino gaming licence is granted under this section, the proposed casino operator shall pay, to the Collector of Taxes, a non-refundable advance casino levy, equivalent to the aggregate of gross profit tax as estimated by the Minister for the period of the temporary casino gaming licence.

(10) The advance casino levy payable under subsection (9) shall be paid before the casino operator commences casino operations and the casino operator shall provide proof of payment to the Commission.

(11) The levy imposed under subsection (9) shall—

- (a) be payable to the Collector of Taxes within seven days of the grant of the licence; and
- (b) not be refundable on account of—
- (i) cessation, lapse, cancellation or revocation of the licence;
 - (ii) the aggregate of actual gross profit tax for the period of the licence being less than the levy; or
 - (iii) any other event or circumstance:

Provided that in the assessment of liability to actual gross profit tax the casino operator shall be entitled, on account of an equivalent amount of such levy paid, to a credit against its

liability for actual gross profit tax becoming due, from time to time, during the period the licence is in force.

(12) Where the amount of advance casino levy paid pursuant to subsection (9) is less than the amount for which the casino operator is liable on account of actual gross profit tax, the casino operator shall pay the difference to the Collector of Taxes.

Disciplinary
actions.

27.—(1) In this Part—

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

- (a) the issuing to the casino operator of a letter of warning, admonishment, censure or reprimand;
- (b) the revocation or suspension of a casino gaming licence; or
- (c) the variation of the terms of a casino gaming licence;

“grounds for disciplinary action”, in relation to a casino operator, includes any of the following, namely that—

- (a) the casino gaming licence was improperly obtained, since, at the time the licence was granted there were grounds for refusing to grant the licence;
- (b) the casino operator, a person in charge of the casino, an agent of the casino operator or a casino employee has contravened—
 - (i) this Act or any regulations made or directions given hereunder;
 - (ii) any Act or any regulations relating to money laundering or the financing of terrorist activities; or
 - (iii) a term or condition of the casino

gaming licence;

- (c) the casino premises are, for specified reasons attributable to the casino operator no longer suitable for the conduct of casino operations;
- (d) the casino operator is, for specified reasons attributable to the casino operator, considered no longer a fit and proper person to hold the casino gaming licence having regard to the matters set out in section 15(2);
- (e) the casino operator has failed to comply with a direction under section 42(7) within the time referred to in that subsection, to terminate an association with an associate;
- (f) the Commission is satisfied that the licence was obtained as a result of any false or fraudulent representation or in consequence of any incorrect information which is material; or
- (g) there has been a change in the ownership or control of the casino operator, and—
 - (i) the casino operator fails within thirty days of the change, to surrender the casino gaming licence or apply for a continuation of the said licence; or
 - (ii) the Commission refuses an application for continuation of the licence; or
- (h) the annual licence fee is not paid within fourteen days of the due date.

(2) In deciding whether disciplinary action should be taken or what disciplinary action should be taken, against a casino operator, the Commission shall consider the following—

- (a) whether disciplinary action has previously been taken against the operator;
- (b) the seriousness of the grounds for disciplinary action;

- (c) the likelihood of further disciplinary action needing to be taken against the operator; and
- (d) any other relevant matter.

(3) If the Commission is satisfied that a ground for disciplinary action exists, or may exist, in relation to a casino operator, it shall serve a notice in writing on the casino operator affording the casino operator an opportunity to show cause, within fourteen days of the date of service, why the proposed disciplinary action should not be taken.

(4) The casino operator may, within the fourteen days allowed by the notice in subsection (3), make submissions to the Commission as to why disciplinary action should not be taken, and the Commission shall consider any submission so made.

(5) The Commission may, after considering any such submission, take such disciplinary action as it considers appropriate and shall notify the casino operator in writing of the disciplinary action.

(6) A letter of warning, admonishment, censure or reprimand from the Commission may—

- (a) warn, admonish, censure or reprimand the casino operator in respect of any matter connected with the operations of the casino; and
- (b) include a direction to the casino operator to rectify within a specified time any matter giving rise to the letter of warning, admonishment, censure or reprimand.

(7) Where any direction given under subsection (6) is not complied with within the specified time, the Commission may act in accordance with subsection (5).

(8) A member of the Commission who has participated in the consideration of disciplinary action against a casino operator is not, by that reason alone, prevented from considering whether further disciplinary action should be taken against a casino operator.

28.—(1) Any premises licenced for the purposes of this Act by the Commission shall be managed by the casino operator in

Management
of licensed
premises.

accordance with the terms and conditions specified in the licence.

(2) In the case of a breach of any of the terms and conditions in a licence or of any regulations made under this Act the casino operator shall be liable to disciplinary action under section 27:

29.—(1) Without prejudice to any other right to refuse a person admission to a casino or to expel a person from a casino, the casino operator or any servant or agent of the casino operator may refuse to admit to, or may expel from any casino, any person who is drunk, violent, quarrelsome or disorderly, or whose presence on the casino premises would subject the casino operator or any servant or agent of the casino operator to a penalty under this Act.

Refusal of entry to and expulsion of persons from premises.

(2) Where any person who, by virtue of subsection (1), is liable to be expelled from a casino, and when requested by the casino operator, any servant or agent of the casino operator or any constable to leave the casino premises, fails to leave, the person commits an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding twenty thousand dollars and in default of payment thereof to imprisonment for a term not exceeding ten days.

(3) Any constable may, at the request of the casino operator or any servant or agent of the casino operator, assist in the expulsion from a casino premises any person who the constable has reasonable cause to believe is liable to be expelled therefrom under subsection (1).

PART V. *Personal Licence for Employment in Casino*

30.—(1) No person shall be employed in a specified office in a casino unless he is the holder of a personal licence granted under section 31(4) by the Commission.

Restriction on employment in specified office without personal licence.

(2) A casino operator who employs any person in contravention of subsection (1) commits an offence and shall be liable on conviction on indictment in a Circuit Court to a

fine.

Application
for personal
licence.

31.—(1) Every person who is desirous of being employed in a specified office in a casino shall apply to the Commission in the prescribed manner for a personal licence and the application shall be accompanied by the prescribed application fee.

(2) Upon receipt of an application under subsection (1), the Commission may carry out or cause to be carried out such investigations in connection with the application as it considers necessary.

(3) Where the Commission thinks it necessary, it may require an applicant for a personal licence to furnish such additional information or document as it may specify.

(4) The Commission may—

- (a) if it is satisfied that the applicant is a fit and proper person, grant a personal licence; or
- (b) refuse to grant a personal licence on any of the grounds set out in subsection (6).

(5) A personal licence shall be subject to such terms and conditions as may be specified therein.

(6) The Commission may refuse to grant a personal licence—

- (a) where an application contains or is based on a false or misleading representation or information which is false in a material particular;
- (b) where the applicant—
 - (i) is under the age of eighteen years;
 - (ii) is an undischarged bankrupt; or
 - (iii) has been convicted of a specified offence;
- (c) if, in the opinion of the Commission, the applicant is not a fit and proper person to be granted a personal licence.

(7) Where the Commission refuses to grant a personal

licence, it shall so inform the applicant in writing.

(8) In determining whether an applicant for personal licence is a fit and proper person, the Commission shall, after taking into account any submissions made by the applicant within the time allowed, make an assessment of the—

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

(9) A prescribed annual licence fee shall be paid by the holder of a personal licence—

- (a) firstly, within fourteen days after the grant of the personal licence; and
- (b) thereafter, where the licence remains in force, on or before the anniversary of the grant of the licence.

32.—(1) A personal licence shall not be transferable and, subject to subsection (2) and section 36, shall be valid for an indefinite period.

Non-transferability and validity of personal licence.

(2) Notwithstanding subsection (1)—

- (a) the holder of a personal licence may surrender the licence;
- (b) the personal licence shall lapse where—
 - (i) the initial annual fee is not paid within thirty days of the grant of the licence or any subsequent annual fee is not paid on or before the anniversary date of the grant of the licence; or
 - (ii) the holder of the personal licence dies.

33.—(1) The Commission may, pending a decision concerning an application for a personal licence, grant a provisional

Provisional personal licences.

personal licence to the applicant.

(2) A provisional personal licence shall be subject to such conditions and restrictions as the Commission may notify to an applicant when it issues the provisional personal licence.

(3) A provisional personal licence may be revoked by the Commission at any time and shall cease to have effect upon the revocation or refusal of the application for a personal licence.

Variation or amendment of personal licence.

34.—(1) The holder of a personal licence may apply to the Commission in the prescribed form for a variation or amendment of the licence.

(2) An application under subsection (1) shall be accompanied by the prescribed fee and such additional document or information as the Commission may require.

(3) The Commission may, in relation to an application under subsection (1), vary or amend the personal licence and any conditions specified therein.

Review of personal licence.

35.—(1) The Commission shall review a personal licence where it—

- (a) suspects that the holder of the licence has breached a condition of the licence, a provision of this Act or of any regulations made hereunder; or
- (b) considers it appropriate so to do.

(2) The Commission may suspend the licence if in its opinion it is necessary to facilitate a review of the licence or prevent the continuation of a suspected breach of a term or condition of the licence or of this Act or any regulation made under this Act.

Disciplinary action in respect of personal licence.

36.—(1) In this Part—

“disciplinary action”, in relation to the holder of a personal licence, means one or more of the following—

- (a) the issuing of a letter of warning, admonishment, censure or reprimand;

- (b) the suspension of a personal licence for a specified period;
- (c) the variation of the terms of the personal licence;
- (d) the revocation of the personal licence;
- (e) the revocation and disqualification from obtaining or applying for a personal licence for a specified period;

“ground for disciplinary action”, in relation to a holder of a personal licence, means any of the following grounds, namely that—

- (a) the personal licence was improperly obtained, since, at the time the licence was granted, there were grounds for refusing it;
- (b) the holder of the personal licence has contravened a provision of this Act, or any regulations hereunder;
- (c) the holder of the personal licence has contravened a condition of the licence;
- (d) the licensee has failed to provide information that he is required by or under this Act to provide or has provided information knowing it to be false or misleading;
- (e) the holder of the personal licence has—
 - (i) become bankrupt or has been convicted of a specified offence;
 - (ii) applied to take the benefit of any law relating to bankrupt or insolvent debtors;
 - (iii) compounded with his creditors or made an assignment of his remuneration for their benefit; and
- (f) for any other reason, the holder of a personal licence is considered by the Commission not to

be a fit and proper person to hold such a licence.

(2) Where the Commission proposes to take disciplinary action against the holder of a personal licence, it shall serve on the holder, a written notice giving him an opportunity to show cause, within fourteen days of the date of service, why disciplinary action should not be taken on any of the grounds for disciplinary action specified in the notice.

(3) The holder of a personal licence may, within the period allowed by the notice in subsection (2), make submissions to the Commission as to why disciplinary action should not be taken against him and the Commission shall consider any submission so made.

(4) Upon receipt of a submission under subsection (3), the Commission may take such disciplinary action as it considers appropriate and any disciplinary action so taken shall be notified in writing to the holder of the personal licence.

Termination
of employ-
ment
and cancella-
tion of
personal
licence.

37.—(1) Where a casino operator receives written notice from the Commission that a personal licence has been revoked or has otherwise ceased to be in force, the casino operator shall, within twenty-four hours after receiving the notice in the case of an employee, terminate the employment that constitutes the exercise of the functions of the holder of a personal licence or cause it to be terminated.

(2) A termination of employment in accordance with this section may be effected despite any other Act or any law, award, collective or other agreement and the Commission shall not incur any legal liability because of such a termination.

(3) Any casino operator that fails to comply with subsection (1) shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one million dollars; however where pursuant to section 68, a director or other individual is also proceeded against, he shall be liable in default of payment to imprisonment for a term not exceeding twelve months.

Casino Operations

38.—(1) The Commission may give to a casino operator written directions relating to the conduct, supervision or control of operations in the casino and the casino operator shall comply with such directions. Direction to casino operator.

(2) Any directions given under subsection (1) shall take effect when such directions are delivered to the casino operator or at such later date as may be specified in the directions.

(3) The power conferred upon the Commission by this section shall include the power to give a direction to a casino operator to adopt, vary, cease or refrain from any practice in respect of the conduct of casino operations.

(4) Every direction given under this section shall not be inconsistent with any provision of this Act, any regulations made hereunder or the conditions of the casino gaming licence.

(5) Any casino operator that fails to comply with a direction given under this section shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one million dollars; however where pursuant to section 68, a director or other individual is also proceeded against, he shall be liable in default of payment to imprisonment for a term not exceeding twelve months.

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

- (a) provide the Commission, an inspector or an authorized person, in accordance with directions in the notice, with such information relevant to the casino operator, that association or the casino, or with such information as the Commission requires, and specified in the notice;
- (b) produce to the Commission, an inspector or an authorized person, in accordance with the directions in the notice, such records relevant to the casino operator,

that association or the casino, or to matters specified by the Commission, as are specified in the notice and to permit examination of those records, the taking of extracts from them and the making of copies of them; or

- (c) attend before the Commission, an inspector or an authorized person for examination in relation to any matters relevant to the casino operator, that association or the casino, or to matters specified by the Commission, and to answer questions relating to those matters.

(2) Where records are produced under this section, the Commission, an inspector or any authorized person to whom they are produced may retain possession of the records for such period as may reasonably be necessary for an investigation to be carried out.

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

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

(5) Any person (other than a casino operator) who fails to comply with a requirement in a notice under this section commits an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding two million dollars and in default of payment, to imprisonment for a term not exceeding twelve months.

40.—(1) A casino operator shall—

- (a) take all reasonable steps to ensure that a major change in the financial circumstances of a casino operator which is within the casino operator's power to control

Change in
circumstances
of casino
operator.

does not occur except with the prior approval in writing, of the Commission;

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

(2) Sections 15, 16 and 17 shall apply *mutatis mutandis* in relation to an application for approval under this section.

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

(a) in a case which also requires—

- (i) notice of a contract, to be given under section 50; or
- (ii) an application for a personal licence, made under section 31,

the casino operator shall be deemed to have complied with subsection (1)(a) if such application is made or such notice is given, as the case may be; or

- (b) in any other case, the Commission shall inquire into the change to determine whether it is satisfied that the person is a fit and proper person to be concerned in or associated with the management or operations of a casino having regard to the matters set out in section 15(2) and, if it is not so satisfied, shall take such action under section 42 as it considers appropriate.

(4) Any casino operator that fails to comply with subsection (1) shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one million dollars; however where pursuant to section 68, a director or other

individual is also proceeded against, he shall be liable in default of payment to imprisonment for a term not exceeding twelve months.

(5) In this section—

“major change”, in the circumstance of a casino operator means—

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

“minor change”, in the circumstances of a casino operator, means any change in circumstances that are prescribed as a minor change for the purposes of this section.

Change in
circumstances
of associate.

41.—(1) Where a change mentioned in section 40 takes place in relation to an associate, the associate shall notify the Commission in writing of the change within fourteen days after it occurs.

(2) Any associate of a casino operator who fails to comply with subsection (1) commits an offence and shall be liable on summary conviction in a Resident Magistrate’s Court to a fine not exceeding one million dollars and in default of payment thereof to imprisonment for a term not exceeding six months.

On-going
monitoring
of associates
and other
persons.

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

- (a) an associate, or a person likely to become an associate, of a casino operator; or
- (b) any person, body or association having a business association with a person referred to in paragraph (a).

(2) A casino operator shall notify the Commission in writing that a person is likely to become an associate, as soon as practicable after the casino operator becomes aware of that likelihood.

(3) Where the Commission, having regard to the matters referred to in subsection (4), determines that an associate is not a fit and proper person to be concerned or associated with the business of the casino operator, the Commission may, by notice in writing, require the associate to terminate the association with the casino operator.

(4) In determining whether an associate is a fit and proper person, for the purposes of subsection (3), the Commission shall consider whether the associate—

- (a) is of good repute, having regard to his character, honesty and integrity;
- (b) is of sound and stable financial background; and
- (c) has any business association with any person, body or association who or which, in the opinion of the Commission, is not of good repute having regard to his character, honesty and integrity or has undesirable or unsatisfactory financial resources.

(5) Where the Commission determines that an associate of a casino operator has engaged or is engaging in conduct that, in the Commission's opinion, is unacceptable for a person who is concerned in or associated with the ownership, management or operation of the business of the casino operator, the Commission may—

- (a) issue a written warning to the associate that the conduct is unacceptable; or
- (b) give written notice to the associate requiring the associate to give a written undertaking to the Commission, within the period specified in the notice, regarding the future conduct of the associate.

(6) Where the associate fails to give an undertaking required under subsection (5)(b) or breaches an undertaking

given under that subsection, the Commission may give the associate written notice requiring the associate to terminate, within fourteen days or a longer period agreed with the Commission, the association with the casino operator.

(7) Where the association is not terminated within fourteen days from the date of the notice referred to in subsection (3) or (6) or within such longer period as may be agreed with the Commission, the Commission may, by notice in writing, direct the casino operator to take all reasonable steps to terminate the association and the casino operator shall comply with the direction within fourteen days or such longer period as may be agreed with the Commission.

(8) The Commission may—

- (a) require an associate or a person likely to become an associate to consent to having his photograph, fingerprints and palm prints taken; and
- (b) send a copy of such photograph, fingerprints and palm prints and any supporting documents to the Commissioner of Police.

(9) Any casino operator that fails to comply with subsection (1) shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one million dollars; however where pursuant to section 68, a director or other individual is also proceeded against, he shall be liable in default of payment to imprisonment for a term not exceeding twelve months.

43.—(1) A person under the age of eighteen years shall not be admitted to, or be allowed to remain on, the premises of a casino for the purpose of using the available facilities for gaming therein.

(2) A person who is—

- (a) not gambling on his own account; or
- (b) not present in person in the approved integrated resort development within which the casino is located.

Restriction
on use of
casino
facilities for
gaming.

shall not use facilities for gaming made available pursuant to a casino gaming licence.

(3) A person who contravenes the provisions of subsection (1) or (2) commits an offence and shall be liable on conviction on indictment in a Circuit Court, to a fine and, in default of payment thereof, to imprisonment for a term not exceeding six months.

(4) No person shall be guilty of an offence under subsection (1) if he proves to the satisfaction of the court that when the person under the age of eighteen years was admitted to, or allowed to remain on the premises, the person took all reasonable steps to ascertain that the person was at least eighteen years old and reasonably believed that the person was over the age of eighteen years.

Inspection and Enforcement

44.—(1) The Commission may, from time to time appoint, as authorized persons and inspectors for the purposes of this Act, public officers or other persons who, by training and experience, are, in its opinion, qualified to be so appointed.

Appointment and functions of inspectors and authorized persons.

(2) The functions of an authorized person or inspector shall include—

- (a) keeping such records, as may be specified in relation to casino operation;
- (b) reporting generally to the Commission at such times and in such manner as the Commission may determine; and
- (c) performing such other functions as may be prescribed or as may be authorized by the Commission for the purposes of this Act.

45.—(1) The Commission shall issue each inspector and authorized person with an identification card.

Commission to issue identification card.

(2) The inspector or authorized person shall, on entering any place for the purpose of carrying into effect any of the functions specified in section 46, produce the identification card to the casino operator or other person in charge of the casino.

Certain powers of inspector and authorized person.

46.—(1) An inspector or authorized person shall have the power to—

- (a) enter at all reasonable times any premises in order to ensure compliance with—
 - (i) the provisions of this Act or any regulations made hereunder; or
 - (ii) any condition subject to which a licence, authorization or approval is granted;
- (b) enter at all reasonable times any premises specified in a casino gaming licence and inspect any accounts, book, document, records, article or thing to which any casino gaming relates and any gaming equipment; and
- (c) require the production of records and accounts which are required to be kept by the casino operator under the provisions of this Act or any regulations made hereunder.

(2) An inspector or authorized person may during the course of an inspection under subsection (1)(b) seize and remove any gaming equipment or article which the inspector or authorized officer reasonably believes is being used in contravention of any provision of this Act or regulations made hereunder for examination outside of the specified premises.

(3) Any gaming equipment or article seized under subsection (2) shall be returned to the casino operator as soon as practicable, and in any case shall not be retained for a longer period than two months or, if within that period court proceedings have been brought in respect of the seizure, longer than the conclusion of those proceedings, so however, the gaming equipment or article so seized, may by order of the Court be forfeited pursuant to section 47.

Forfeiture of abandoned gaming equipment or article.

47.—(1) On the application of the Commission before a Resident Magistrate's Court having jurisdiction where a gaming equipment or article is seized pursuant to section 46, the Resident Magistrate may order the forfeiture of the gaming equipment or article if the Resident Magistrate is satisfied that the seized gaming equipment or article has been abandoned.

(2) Where the Commission proposes to apply for forfeiture of any gaming equipment or article seized under subsection (1), it shall give to the casino operator, notice of the seizure of the gaming equipment or article and the intention, after the expiration of thirty days from the date of the notice, to apply for forfeiture thereof and of the grounds therefor:

Provided that notice shall not be required to be given under this subsection if the seizure was made in the presence of the casino operator or any employee or agent of the casino operator.

(3) Without prejudice to any other form of service the notification may, for the purposes of subsection (2), be made by publication in a daily newspaper printed and circulating in Jamaica.

(4) The casino operator having a claim to any gaming equipment or article seized under section 46 may appear before the Court on the hearing of the application and show cause why an order for forfeiture should not be made.

(5) Where, on the hearing of an application pursuant to subsection (1) for forfeiture of a gaming equipment or article the casino operator does not appear before the Court to show cause why an order for forfeiture should not be made, the Court shall presume that the gaming equipment or article has been abandoned.

(6) If, upon the application of any person prejudiced by an order made by the Court under subsection (1) the Court is satisfied that it is just to revoke such order, the Court—

- (a) may revoke that order upon such terms and conditions as it deems appropriate; and
- (b) without prejudice to the generality of the foregoing, shall require that person, to pay in respect of storage, maintenance, administrative expenses, security and insurance of the gaming equipment or article such charges as shall be charged by the Commission and approved by the Court, not exceeding one and a half times the value as determined by the Court, of the gaming machine or article.

(7) An application to the Court under subsection (6) for the revocation of an order shall be made within thirty days of the date of the order or within such greater time, not exceeding six months, after the date of the order as the Court may allow.

Temporary Management of Casino

Temporary
management
of casino
business by
Commission.
Fourth
Schedule.

48.—(1) Where any of the circumstances specified in subsection (2) exist in relation to a casino business, the Commission may assume temporary management of the casino in accordance with the Fourth Schedule.

(2) The circumstances referred to in subsection (1) are, where—

(a) the Commission suspects that there is a breach of any—

(i) condition subject to which the casino gaming licence is granted; or

(ii) provision of this Act or of any regulations made hereunder;

(b) the Commission has suspended or revoked the casino gaming licence;

(c) a casino operator fails to terminate an association with, or the employment of, the holder of a personal licence as directed by the Commission and the Commission is of the view that the continuation of that association or that employment, as the case may be, constitutes a threat to the integrity of the operations of the casino;

(d) there is a proposed surrender of the licence;

(e) a petition has been filed for compulsory winding-up of the casino operator; and

(f) a receiver of the casino operator or casino has been appointed.

(3) Where the Commission exercises the power to take temporary management of a casino, the Commission shall appoint a temporary manager.

(4) A temporary manager appointed under subsection (3) is deemed—

- (a) to be the licensee, on the same terms as those on which the casino operator held the licence immediately before the appointment of the temporary manager or, as the case may be, the revocation, suspension or surrender of the licence, subject to such modifications as the Commission may determine;
- (b) to assume full control of and responsibility for the business of the casino operator in respect of the casino and may retain for use in the casino any property of the casino operator;
- (c) to have conducted, or caused to be conducted, casino operations in accordance with this Act;
- (d) in connection with the conduct of those operations, to have assumed all the functions of the casino operator; and
- (e) to have power to employ such staff as may be required to operate the casino.

(5) Where the appointment of the temporary manager is terminated, the temporary manager ceases to be deemed to be the licensee and the powers conferred on him by subsection (4) shall cease.

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

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

net earnings (other than those referred to in paragraph (b)) shall be paid to the former casino operator.

PART VI. *Controlled Contracts*

Controlled
contracts.

49.—(1) The Commission may, by notice in writing to the casino operator, approve any contract with any person for the supply of goods or services specified in the notice as a contract to which this Part shall apply.

(2) The Commission may, by notice in writing to the casino operator, exempt the casino operator from any of the requirements or provisions of this Part that are specified in the notice in relation to a contract, if the Commission is satisfied that the system of internal controls and administrative and accounting procedures approved by the Commission, in relation to the casino operator, adequately provide for compliance with this Part.

(3) The notice under subsection (1) may specify that it applies to contracts generally or to the classes of contracts specified in the notice.

Requirements
for con-
trolled
contracts.

50.—(1) A casino operator shall not enter into, be a party to or vary a contract that is a controlled contract in relation to that casino operator unless—

- (a) the casino operator has given notice, in writing, to the Commission of the details of the proposed contract or variation thereof, at least twenty-eight days (or such shorter period approved by the Commission in a particular case or in respect of a particular class of contract) before entering into or becoming a party to it; and
- (b) the Commission has not, within that period, given notice in writing to the casino operator that the Commission objects to the proposed contract or requires further time, the further time to be specified in the notice, to conduct its investigations.

(2) Where the Commission notifies the casino operator that it requires further time to conduct its investigations, the

casino operator shall not enter into the contract until the expiration of the period specified in the notice.

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

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

(5) Any person who contravenes the provisions of subsection (1), (2) or (3) commits an offence and shall be liable on conviction on indictment in a Circuit Court to—

(a) in the case of an individual, a fine or to imprisonment for a term not exceeding five years or to both such fine and imprisonment; or

(b) in the case of a body corporate, a fine.

51. The Commission may, by notice in writing, require any party to a controlled contract to provide such information as the Commission may require, and section 39 shall apply to that party in the same manner as it applies to a casino operator.

Parties to contract to provide information.

52.—(1) The Commission may serve on each party to a controlled contract, notice in writing affording the party an opportunity to show cause within fourteen days, why the contract should not be terminated on the ground that, for reasons specified in the notice, the continuance of the contract affects the credibility, integrity and stability of casino operations.

Notice to show cause why controlled contract should not be terminated.

(2) The parties to the controlled contract may, within the period specified in the notice arrange with the Commission for the making of submissions as to why the contract should not be terminated.

(3) After considering any submissions so made, the Commission may, by notice in writing served on each party to the contract, require the contract to be terminated within the

time specified in the notice.

(4) Where the contract is not terminated as required by the notice, it is deemed to be terminated by this Act upon expiry of the period specified in the notice.

Effect of
termination of
controlled
contract.

53. Where a controlled contract is terminated or deemed to be terminated in accordance with section 52—

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

No effect to
be given
to termi-
nated
contract.

54.—(1) A party to a contract terminated or deemed to be terminated in accordance with section 52, shall not give effect to any part of the contract.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable on conviction on indictment in a Circuit Court to a fine.

Approved Games, Gaming Rules and Gaming Equipment

Approval of
games and
rules for
games.

55.—(1) The Commission may, by order published in the *Gazette*, approve the games that may be played in a casino, the mode of play and the rules for those games.

(2) Approvals given under subsection (1), may differ according to differences in time, place or circumstance.

(3) A casino operator shall not permit a game to be conducted or played in a casino, unless—

- (a) there is an order in force under this section approving the game;
- (b) the game is conducted or played in accordance with

the mode of play and rules of the game approved by such an order; and

(c) the game is conducted or played on behalf of the casino operator by the holder of a personal licence.

(4) A person shall not conduct a game in a casino or permit a game conducted by him to be played in a casino, unless—

(a) there is an order in force under this section approving the game; and

(b) the game is conducted or played in accordance with the mode of play and rules of the game approved by such an order.

(5) Any person who contravenes subsection (3) or (4) commits an offence and shall be liable on conviction on indictment in a Circuit Court to a fine.

(6) It is a complete defence to prosecution of the holder of a personal licence or other person, as the case may be, for contravention of subsection (4) that the contravention was permitted by the casino operator.

56.—(1) The Commission may—

(a) give directions in writing to a casino operator concerning the particular games that may not be played in the casino;

(b) amend any direction given under paragraph (a) by a further direction, in writing, to the casino operator.

Directions as to games not to be played.

(2) A direction given under subsection (1) shall be deemed to be a condition of a casino gaming licence and the casino operator shall comply with any direction for the time being in force under this section.

57.—(1) The Commission may—

(a) investigate or authorize the investigation of gaming equipment, for the purpose of determining whether the equipment is suitable to be approved for use in a casino; and

Approval of gaming equipment.

(b) require the cost of such an investigation to be paid by a person seeking the approval.

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

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

(a) the possession is for the purposes of an investigation under this Act or regulations made hereunder or proceedings in court; or

(b) the equipment is identifiable in a manner approved by the Commission and is in a casino with the approval of the Commission or the circumstances of its possession are such as have been approved by the Commission generally or in a particular case.

(4) This section does not apply to any gaming equipment that is a gaming machine.

Licensing
of gaming
machine.

58.—(1) A casino operator shall not operate a gaming machine unless a licence under this section has been granted in respect of such gaming machine.

(2) An application for a licence under this section shall be made to the Commission in the prescribed form and on payment of the prescribed fees.

(3) A licence granted under this section shall—

(a) be in such form as the Commission may prescribe;

(b) be subject to such terms and conditions as may be specified therein; and

(c) remain in force for a period of twelve months from the date thereof and may be renewed annually, on payment of the prescribed fee.

(4) Where the Commission grants a licence under this

section and affixes a seal or any other device of like nature to any gaming machine to which such licence relates, and the seal or other device is broken or removed without the consent of the Commission, the Commission may cause an investigation to be held and if the casino operator is found responsible for the removal or breaking, the casino operator shall be liable on conviction in a Circuit Court to a fine, however where pursuant to section 68, a director or other individual is also proceeded against, he shall be liable in default of payment to imprisonment for a term not exceeding twenty-four months.

59.—(1) It is a condition of a casino gaming licence that any gaming machine intended for use in a casino shall be obtained from manufacturers and suppliers approved by the Commission. Gaming machines in casinos.

(2) A casino operator shall not enter into any contract with a supplier of gaming machines unless such a supplier is approved by the Commission.

(3) A casino operator who enters into a contract or any arrangement for gaming machines with a supplier who is not approved by the Commission, commits an offence and shall be liable on conviction on indictment in a Circuit Court to a fine, however where pursuant to section 68, a director or other individual is also proceeded against, he shall be liable in default of payment to imprisonment for a term not exceeding twenty-four months.

60.—(1) A casino operator may conduct gaming on a simulated basis for the purpose of training employees, testing gaming equipment and gaming procedures, and demonstrating the conduct and playing of games, but only if— Simulated gaming.

- (a) the casino operator has the approval of the Commission to do so;
- (b) no cash on chip is used without the approval of the Commission; and
- (c) the number of gaming machines available for simulated gaming in the casino does not exceed the number determined by the Commission.

(2) A casino operator who contravenes subsection (1) commits an offence and shall be liable on conviction on indictment in a Circuit Court to a fine.

PART VII. *Gross Profit Tax*

Payment of
gross profit
tax.

61.—(1) A levy to be known as gross profit tax shall be imposed on every casino operator at a rate of ten *per cent* of the gross profit accruing to the casino operator for every month, so, however, that the House of Representatives may from time to time, by affirmative resolution, revoke, reduce, increase or alter any such levy.

(2) In this section, gross profits shall be computed by deducting X from Y where—

(a) Y is the aggregate amount staked or wagered by patrons; and

(b) X is the total amount paid out by the casino operator to patrons as winnings.

(3) The casino operator shall pay the gross profit tax to the Collector of Taxes by the 7th day of the month following the month during which the gross profit tax becomes payable.

Unclaimed
winnings.

62.—(1) Where any amount payable to a patron as winnings remains unclaimed for a period of ninety days, the—

(a) patron shall lose his entitlement to the unclaimed winnings; and

(b) casino operator shall, within seven days thereafter, pay over one-half of the uncollected winnings to the Board.

(2) The casino operator shall provide to the Commission evidence of the payment made under subsection (1).

(3) Without prejudice to any other method of recovery, any amount payable to the Board under this section may be recovered, without limit to the amount, in a Resident Magistrate's Court as a civil debt.

(4) In this section, “Board” means the Board of the Culture, Health, Arts, Sports and Early Childhood Education Fund established under section 59F of the Betting, Gaming and Lotteries Act.

PART VIII. *Appeals*

63.—(1) For the purposes of this Act, there is hereby established an Appeals Tribunal. Establishment of Appeals Tribunal.

(2) The provisions of the Fifth Schedule shall have effect as to the constitution and operation of the Appeals Tribunal and otherwise in relation thereto. Fifth Schedule.

64.—(1) A person who is aggrieved by a decision of the Commission or any other person acting in exercise of any function delegated under section 8 may appeal to the Appeals Tribunal by way of a notice of appeal within fourteen days of the date of the decision or within such longer period as the Appeals Tribunal may, in any special circumstance, allow. Appeals to the Appeals Tribunal.

(2) The notice of appeal shall set out clearly the grounds of the appeal and shall be accompanied by copies of any correspondence, document or statement relevant to the appeal.

(3) A copy of the notice of appeal together with copies of any correspondence, document or statement shall be served on the Commission.

(4) The Appeals Tribunal shall, within seven days of the receipt of a notice of appeal under subsection (1), request the Commission to furnish it, with a statement in writing setting out the reasons for its decision.

(5) The Appeals Tribunal may order that any book, paper, document or statement, relating to the appeal which is in the possession of the Commission, any other person acting in exercise of any function delegated under section 8, or the person aggrieved be produced at the hearing of the appeal.

(6) The Appeals Tribunal shall cause all parties to the appeal to be informed—

- (a) of the date of the hearing of the appeal;
- (b) that they may appear themselves or be represented by their Attorney-at-Law; and
- (c) that they may summon witnesses in their cause.

(7) On hearing an appeal under this section, the Appeals Tribunal may—

- (a) dismiss the appeal and confirm the decision of the Commission;
- (b) allow the appeal and set aside the decision;
- (c) vary the decision; or
- (d) direct that the matter be referred to the Commission.

PART IX. *Offences and Penalties*

65.—(1) A person commits an offence if he—

- (a) wilfully hinders or obstructs an authorized officer or inspector in the execution of his duties under this Act;
- (b) without lawful excuse, fails within a reasonable time to comply with any requirement of an authorized officer or inspector exercising a power conferred on him under this Act;
- (c) upon being required to disclose his true name and place of residence by an authorized officer or inspector acting in the execution of his duties under this Act—
 - (i) refuses to disclose his true name and place of residence; or
 - (ii) gives a false name or place of residence;
- (d) personates or pretends to be an authorized officer or inspector; or
- (e) assaults, threatens, intimidates, or uses threatening language or behaves in a threatening manner to any authorized officer or inspector acting in the execution of his duties under this Act.

Offence of
obstruction,
etc.

(2) A person who commits an offence is liable on conviction on indictment in a Circuit Court to a fine and, in default of payment thereof, to imprisonment for a term not exceeding six months.

66. Where the holder of a personal licence, on being required by an inspector or authorized person to produce his licence, refuses or without reasonable cause fails to do so, he commits an offence and is liable on conviction on indictment in a Circuit Court to a fine and, in default of payment thereof, to imprisonment for a term not exceeding six months.

Offence of failure to produce a licence, etc.

67. A person who—

- (a) obtains the grant or renewal of any licence or authorization from the Commission, under this Act, by wilful misrepresentation; or
 - (b) in relation to any application for such grant or renewal, wilfully or recklessly gives any false or misleading information or makes a false or misleading statement,
- Offences of making false or misleading statements.

commits an offence and is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding three million dollars; however where pursuant to section 68, a director or other individual is also proceeded against, he shall be liable in default of payment to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

68.—(1) Where an offence under this Act or any regulations made hereunder is committed by a body corporate and is proved—

Offences by bodies corporate.

- (a) to have been committed with the consent or connivance of any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in that capacity; or
- (b) to be attributable to the failure of any such director, manager, secretary or other similar officer or person to exercise all such reasonable diligence as he ought in the circumstances to have exercised to prevent the offence, having regard to the nature of his functions

and all the circumstances,

the director, manager, secretary or other similar officer or person as aforesaid, as well as the body corporate commits that offence and may be proceeded against and be punished accordingly.

(2) For the purposes of this section, a person shall be deemed to be a director of a body corporate if he occupies in relation thereto the position of a director, by whatever name called, or is a person in accordance with whose directions or instructions (being directions or instructions in a professional capacity only) the directors and the body corporate or any of them act.

Punishment
for offence
specified in
Sixth
Schedule.

69.—(1) This section applies to an offence specified in the Sixth Schedule, and such other offence as may be prescribed.

(2) Where the Commission finds a person whom he has reason to believe is committing or has committed an offence to which this section applies, the Commission may serve that person with the prescribed notice in writing offering that person the opportunity to discharge any liability for conviction of that offence by payment of a fixed penalty under this section.

(3) Where a person is served with a notice under subsection (2)—

- (a) that person shall not be liable to be convicted of that offence if the fixed penalty is paid in accordance with this section before the expiration of fifteen days following the date of the notice or such longer period as may be specified therein or before the date on which proceedings are begun, whichever is later;
- (b) proceedings shall not be taken against him for that offence until the end of the fifteen days following the date of the notice or such longer period (if any) as may have been specified therein.

(4) Payment of a fixed penalty under this section shall be made to the Collector of Taxes or to such body as the Minister may, by order, designate.

(5) In any proceedings, a certificate that payment of a fixed penalty was or was not made to the Collector of Taxes or to a body designated under subsection (4) by a date specified in the certificate shall, if the certificate purports to be signed by the proper officer of the Collector of Taxes, or of that body, be sufficient evidence of the facts stated, unless the contrary is proved.

(6) A notice under subsection (2) shall—

- (a) specify the offence alleged;
- (b) give such particulars of the offence as are necessary for giving reasonable information of the allegation; and
- (c) state—
 - (i) the period during which, by virtue of subsection (3), proceedings will not be instituted against any person for the offence; and
 - (ii) the amount of the fixed penalty.

(7) In any proceedings for an offence to which this section applies, no reference shall be made after the conviction of the accused to the giving of any notice under this section or to the payment or non-payment of a fixed penalty hereunder unless, in the course of the proceedings or in some document which is before the Court in connection with the proceedings, reference has been made by or on behalf of the accused to the giving of such notice or, as the case may be, to such payment or non-payment.

(8) The Minister may make regulations prescribing any matter incidental to the operation of this section, and in particular such regulations may prescribe—

- (a) the fixed penalty for an offence to which subsection (1) applies;
- (b) the form of notice under subsection (2) and the Collector of Taxes or the body designated under subsection (4) to whom the fixed penalty is payable;
- (c) the nature of the information to be furnished to the

Collector of Taxes along with any payment; and

- (d) the arrangements for the Collector of Taxes or the body designated under subsection (4) to furnish to the Commission, including information with regard to any payment pursuant to a notice under this section.

(9) In this section, “proceedings” means any criminal proceedings in respect of the act or omission constituting the offence specified in the notice under subsection (2), and “convicted” shall be construed in like manner.

(10) The fixed penalty for an offence specified in Column 1 of the Sixth Schedule shall be the penalty specified in relation to such offence in Column 2 of that Schedule.

PART X. *General*

70.—(1) Subject to subsections (2) and (3), every—

- (a) member of the Commission;
 (b) officer and employee of the Commission;
 (c) agent and expert retained by the Commission to assist in its investigations,

shall keep secret and confidential all information relating to—

- (i) the affairs of the Commission;
 (ii) any application made to the Commission;
 (iii) the affairs of casino operators under the Act;
 (iv) the affairs of any customer or client of a casino operator;
 (v) the affairs of an associate of a casino operator.

(2) Subsection (1) shall not apply where the disclosed information is—

- (a) required lawfully or is permitted by any Court;
 (b) necessary for assisting the Commission to exercise any functions conferred on it by this Act or any regulations made thereunder;

Sixth
Schedule.

Confiden-
tiality.

- (c) in respect of the affairs of a casino operator or a customer or client of a casino operator, with the consent of the casino operator, customer or client, as the case may be, and which consent has been voluntarily given;
- (d) available to the public;
- (e) given in a manner that does not enable the identity of any casino operator or of any customer or client of the casino operator to which the information relates to be ascertained;
- (f) made to an attorney, auditor, accountant, actuary or a valuer relating to the exercise of his personal duties with a view to the institution of, or for the purpose of—

- (i) criminal proceedings;
- (ii) disciplinary proceedings,

whether within or outside Jamaica;

- (iii) disciplinary proceedings relating to the discharge by a public officer or a member or employee of the Commission of his duties; or

- (g) in any legal proceedings in connection with—

- (i) the winding-up or dissolution of a casino operator;
- (ii) the appointment or duties of a receiver of a casino operator; or
- (iii) the appointment of a temporary manager.

(3) Subject to subsection (6), the Commission 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 Commission may take into account—

- (a) whether the inquiries of the overseas authority relate to the possible breach of a law or a requirement which has no close parallel in Jamaica or involves assertion of a jurisdiction not recognized by Jamaica; and
- (b) the seriousness of the matter to which the inquiries relate and the importance of the inquiries of the information sought in Jamaica.

(5) The Commission 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 Commission considers appropriate.

(6) Nothing in subsection (3) authorizes a disclosure by the Commission unless the Commission—

- (a) has satisfied itself that the intended recipient authority is subject to adequate legal restrictions on further disclosures which include the provision of an undertaking of confidentiality; or
- (b) has been given an undertaking by the recipient authority not to disclose the information provided without the consent of the Commission; and
- (c) is satisfied that information provided under subsection (3) will not be used in criminal proceedings against the person providing the information.

(7) Where in the opinion of the Commission it appears necessary in relation to any request for assistance received from an overseas regulatory authority to invoke the jurisdiction of a Resident Magistrate's Court or the Supreme Court in obtaining information requested by the overseas regulatory authority, the Clerk of Court or Registrar as the case may be, shall immediately notify the Attorney-General with particulars of 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 Jamaica, or in any appeal from such proceedings, arising directly or indirectly from any such request.

(8) The Commission may provide information that it has acquired in the course of its functions under this or any other enactment to any other regulatory authority in Jamaica where it considers such information may be relevant to the functions of such other regulatory authority.

(9) Any person who contravenes subsection (1), commits an offence and shall be liable on conviction on indictment in a Circuit Court to a fine and in default of payment thereof, to imprisonment for a term not exceeding two years.

(10) In this section, "overseas regulatory authority" means an authority which, in a country or territory outside Jamaica, exercises functions corresponding to any functions of the Commission.

71. Notwithstanding any rule of law, a contract arising out of or connected with a game conducted by a casino operator in accordance with a casino gaming licence granted under this Act, shall not be unenforceable by reason only that it is a gaming contract or that its enforcement would indirectly enforce a gaming contract.

Casino contract to be valid and enforceable.

72.—(1) The Commission may, with the approval of the Minister, make regulations for the purpose of giving effect to the provisions of this Act, and in particular but without prejudice to the generality of the foregoing, such regulations may contain provisions—

Regulations.

- (a) prescribing the games, the playing of which constitute casino gaming for the purposes of this Act;
- (b) for the payment of fees for the conduct of due diligence exercise in respect of licences, authorizations and approvals;
- (c) prescribing the conditions and rules in accordance with which any game is to be played or any sports betting or other wagering is to be conducted;
- (d) prescribing minimum payout ratios;
- (e) providing for the cards, tokens or other articles to be

used in casino gaming, and for the supply or the inspection by the Commission of such articles;

- (f) providing for offences of cheating, whether or not with the assistance of devices;
- (g) regulating and controlling the importation of gaming machines for use in casinos;
- (h) prescribing devices, equipment, features and capabilities of types of gaming machines to be used by casino operators;
- (i) prescribing procedures permitting the identification of gaming machines used by casino operators and the monitoring of movements and adjustments to such machines;
- (j) prescribing accounting and internal controls for casinos;
- (k) prescribing records to be kept by casino operators;
- (l) prescribing accounts to be kept by casino operators and for the audit of such accounts;
- (m) prescribing returns to be made by casino operators to the Commission;
- (n) providing for verifying and checking of the amount of the takings on any day or during any period on the specified premises, including the role of inspectors assigned by the Commission in such verifying and checking;
- (o) regulating the procedures for the granting of credit for gaming and wagering;
- (p) regulating and restricting the admission of persons onto specified premises;
- (q) regulating procedures for identifying persons using the casino operator's gaming facilities;
- (r) providing for the stationing of inspectors from the

Commission on specified premises and delimiting the functions of inspectors so stationed;

- (s) prescribing offences and the penalties (including fixed penalties), if any, to be attached thereto;
- (t) monitoring the adherence to the approved system of internal control in casinos;
- (u) providing for the maintenance, repair and modification of installed gaming machines;
- (v) in consultation with the Bureau of Standards, specifying standards with respect to the manufacture or supply of gaming equipment for use in casinos;
- (w) prescribing anything which may be or is required to be prescribed under the Act.

(2) Notwithstanding the provisions of the Interpretation Act, regulations made under subsection (1) may provide for the imposition of penalties on summary conviction in a Resident Magistrate's Court not exceeding a fine of three million dollars or imprisonment for a term not exceeding six months or both such fine and imprisonment.

(3) Regulations made under this section shall be subject to affirmative resolution.

73. The Minister may by order, subject to affirmative resolution, amend—

- (a) any of the Schedules to this Act; and
- (b) the monetary penalties imposed hereunder.

Amendment
of Schedules
and
monetary
penalties.

FIRST SCHEDULE

(Section 5(3))

PART I. *The Casino Gaming Commission*

Constitution of Commission.

1. The Commission shall consist of such number of persons, not being less than five nor more than nine, as the Minister may from time to time determine.

Appointment of members.

2. The members of the Commission shall be appointed by the Minister by instrument in writing and, subject to the provisions of this Schedule, shall hold office for such period, not exceeding five years, as the Minister may direct in the instrument.

Reappointment of members.

3. Every member of the Commission shall be eligible for reappointment.

Chairman.

4. The Minister shall appoint one of the members of the Commission to be the chairman thereof.

Acting appointments.

5. If the chairman or any other member of the Commission is absent or unable to act, the Minister may appoint any person to act in the place of such chairman or other member.

Resignation.

6.—(1) Any member of the Commission, other than the chairman, may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman and, from the date of receipt by the Minister of such instrument, that member shall cease to be a member of the Commission.

(2) The chairman may, at any time, resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of receipt by the Minister of such instrument.

Leave of absence.

7. The Minister may, on the application of any member, grant leave of absence to such member.

Revocation of appointments.

8. The Minister may, at any time, revoke the appointment of any member of the Commission if he thinks it expedient so to do.

Gazetting of appointments.

9. The names of all members of the Commission as first constituted and every change in the membership thereof shall be published in the *Gazette*.

Protection of members of the Commission.

10.—(1) No action, suit, prosecution or other proceedings shall be brought or executed personally against any member of the Commission in respect of any act done *bona fide* in pursuance or execution or purported execution of the functions of the Commission.

(2) Where any member of the Commission is exempt from liability by reason only of the provisions of this paragraph, the Commission shall be liable to the extent that it would be if the member were a servant or agent of the Commission.

11. There shall be paid from the funds of the Commission to the chairman and other members of the Commission such remuneration (whether by way of honorarium, salary or fees) and such allowances as the Minister may determine. Remuneration of members.

12. For the purposes of Chapter V of the Constitution of Jamaica, the office of chairman or member of the Commission shall not be a public office. Office of chairman or member not public office.

13.—(1) The seal of the Commission shall be kept in the custody of the chairman or of any officer of the Commission authorized by the Commission in that behalf, and shall be affixed to instruments pursuant to a resolution of the Commission and in the presence of the chairman or any other member of the Commission authorized to act in that behalf and the secretary thereof. Seal, and execution of documents.

(2) The seal of the Commission shall be authenticated by the signatures of the chairman or any other member of the Commission authorized to act in that behalf, and of the secretary or some other officer authorized by the Commission to act on the secretary's behalf.

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

14.—(1) The Commission shall meet at such times as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times and on such days as the Commission may determine. Procedure and meetings.

(2) The chairman may, at any time, call a special meeting of the Commission and shall call a special meeting within seven days of the receipt of a written requisition for that purpose addressed to him by any three members of the Commission.

(3) The chairman shall preside at all meetings of the Commission, and if the chairman is absent from a meeting, the members of the Commission present shall elect one of their number to preside at the meeting.

(4) The quorum of the Commission shall be such number as the Minister may, from time to time determine, not being less than three members of the Commission.

(5) The decisions of the Commission shall be by a majority of votes, and, in addition to an original vote, the chairman or other member presiding at the meeting shall have a casting vote in any case in which the voting is equal.

(6) Minutes of each meeting of the Commission shall be kept in proper form and shall be confirmed as soon as practicable at a subsequent meeting.

(7) Subject to the provisions of this Schedule, the Commission may regulate its own proceedings.

Disclosure of interest.

15. A member of the Commission who is directly or indirectly interested in any matter which is being dealt with by the Commission—

- (a) shall as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Commission; and
- (b) shall not take part after the disclosure in any deliberation or decision of the Commission with respect to that matter.

PART II. Staff

Appointment of officers and other employees.

16.—(1) Subject to sub-paragraphs (2) and (3), the Commission shall appoint and employ, at such remuneration and on such terms and conditions as it thinks fit, a Chief Executive Officer, a Secretary, inspectors and such other officers, employees and agents as it deems necessary for the proper carrying out of its functions.

(2) No salary in excess of the prescribed rate shall be assigned to any post without the prior approval of the Minister.

(3) No appointment shall be made to any post to which a salary in excess of the prescribed rate is assigned without the prior approval of the Minister.

(4) For the purposes of sub-paragraphs (2) and (3), the “prescribed rate” means a rate of four million dollars *per annum* or such higher rate as the Minister may, by order, prescribe.

(5) The Governor-General may, subject to such conditions as he may impose, approve the appointment of any public officer in the service of the Government to any office with the Commission, and any public officer so appointed shall, while so employed, in relation to any pension, gratuity or other allowance and in relation to any other rights as a public officer, be treated as continuing in the service of the Government.

(6) In this paragraph and paragraph 17, “Minister” means the Minister with responsibility for the public service.

Pensions, gratuities and other retiring benefits.

17. The Commission may, with the approval of the Minister—

- (a) enter into arrangements respecting schemes, whether by way of insurance policies or otherwise; and
- (b) make regulations,

for medical benefits, pensions, gratuities and other retiring benefits or disability or death benefits, relating to employees of the Commission, and such arrangements or regulations may include provisions for the grant of benefits to the dependents and the legal personal representatives of such employees.

18. The validity of any proceedings of the Commission shall not be affected by any vacancy among the members thereof or by any defect in the appointment of a member thereof.

Proceedings of Commission not affected by vacancy among members, etc.

PART III. Finance Provisions, Accounts and Reports

19.—(1) The funds and resources of the Commission shall consist of—

Funds and resources of Commission.

- (a) such sums as may, from time to time, be placed at the disposal of the Commission by Parliament;
- (b) any fee or other charge imposed under this Act or regulations made hereunder; and
- (c) all other moneys and other property which may, in any manner, become payable to or vested in the Commission, in respect of any matter incidental to its functions.

(2) The expenses of the Commission, including the remuneration of members, officers agents and employees, shall be paid out of its funds.

20. All moneys of the Commission not immediately required to be expended for the purpose of meeting any of the obligations or discharging any of its functions may be invested in such securities as may be approved either generally or specifically by the Minister, and the Commission may, with the approval of the Minister with responsibility for finance, sell all or any of such securities.

Power to invest moneys.

21.—(1) The Commission shall keep proper accounts and other records in relation to its functions and shall prepare annually a statement of accounts in a form satisfactory to the Minister and conforming to established accounting principles.

Accounts and audit.

(2) The accounts of the Commission shall be audited annually by an auditor appointed each year by the Commission, with the approval of the Minister.

(3) The members, officers and employees of the Commission shall—

- (a) grant to the auditor appointed under subsection (2) access to all books and documents of the Commission; and
- (b) give to the auditor on request, all such information as may be within their knowledge in relation to the Commission's operation.

(4) The auditor's fees and any expenses of the audit shall be paid by the Commission.

(5) The Auditor-General shall be entitled at all times to examine the

accounts of the Commission.

Recovery of debts.

22. Without prejudice to any other method of recovery, all debts due to the Commission may be recovered, without limit of amount, in a Resident Magistrate's Court as a civil debt.

Borrowing powers.

23.—(1) Subject to the provisions of sub-paragraphs (2), the Commission may borrow such sums as may be required by it for discharging any of its functions.

(2) The power of the Commission to borrow shall, as to the amount, as to the source of borrowing, and as to the terms on which the borrowing may be effected, be exercisable only with the approval of the Minister responsible for finance, and any such approval may be either general or limited to a particular borrowing or otherwise, and may be conditional or subject to conditions.

Power of Minister of finance to guarantee borrowings.

24.—(1) With the approval of the House of Representatives signified by resolution, the Minister responsible for finance may guarantee, in a manner and on such conditions as he thinks fit, the repayment of the principal and the payment of interest and charges on any authorized borrowing of the Commission.

(2) Where the Minister responsible for finance is satisfied that there has been default in the repayment of any principal moneys guaranteed under the provisions of this paragraph or in the payment of interest or charges so guaranteed, he shall direct the repayment or, as the case may be, the payment, out of the Consolidated Fund of the amount in respect of which there has been such default and any such repayment or payment shall be a charge on the Consolidated Fund.

(3) The Commission shall make to the Accountant-General, at such times and in such manner as the Minister responsible for finance may direct, payments of such amounts as may be so directed in or towards repayment of any sums issued in fulfillment of any guarantee under this paragraph and payments of interest on what is outstanding for the time being in respect of any sums so issued, at such rate as the Minister may direct; and different rates of interest may be directed as respects different sums and as respects interest for different periods.

Annual report and estimates.

25.—(1) The Commission shall, within four months after the end of each financial year, cause to be made and transmitted to the Minister a report dealing generally with the activities of the Commission during the preceding financial year.

(2) The Minister shall cause a copy of the report together with the annual audited statement of accounts and the Auditor-General's report thereon to be laid in the House of Representatives and the Senate.

(3) The Commission shall, in each financial year, before a date specified by the Minister, submit to the Minister for his approval, estimates

of income and expenditure for the ensuing financial year.

26. The Commission shall submit to the Minister for his approval, by the 1st day of January in each year, an operating plan for that year as to— Operating plan.

- (a) projects to be promoted or sponsored, or both, by the Commission;
- (b) the operational framework within which the Commission shall carry out its functions; and
- (c) such other matters as the Minister may require.

27. The Commission shall—

- (a) furnish the Minister with such returns, accounts and other information as he may require with respect to its activities; and Power of Minister to require returns.
- (b) afford the Minister facilities for verifying such information in such manner and at such times as he may reasonably require.

SECOND SCHEDULE

(Section 2)

Specified Offences

1. Offences under the Betting, Gaming and Lotteries Act.
2. Offences under the Casino Gaming Act.
3. Offences listed in the Second Schedule to the Proceeds of Crime Act.
4. Trafficking in persons contrary to section 4 of the Trafficking in Persons (Prevention Suppression and Punishment) Act.
5. Offences involving the evasion of tax.
6. Offences under the following sections of the Larceny Act—
 - (a) section 22—Larceny and embezzlement by clerks or servants;
 - (b) section 24—Conversion;
 - (c) section 27—Fraud by Directors;
 - (d) section 28—Fraudulently inducing persons to invest money;
 - (e) section 37—Robbery;
 - (f) section 36—Obtaining credit by fraud;
 - (g) section 39—Burglary; and
 - (h) section 42A—Extortion.

CASINO GAMING

SECOND SCHEDULE, *contd.*

(Section 2)

Specified Offences

7. Conspiracy to commit or attempting or aiding and abetting any of the aforementioned offences.
8. In the case of a jurisdiction other than Jamaica, offences under the laws of that jurisdiction which are equivalent to those mentioned in the preceding paragraphs.

THIRD SCHEDULE (Sections 20, 22 and 26)

Conditions of Casino Gaming Licence

1. The casino operator shall notify the Commission, in writing, within five days of the occurrence of any of the following events, that is to say—
 - (a) a change in control of the casino operator;
 - (b) a change in the beneficial ownership of the casino operator, any parent company of the casino operator or of any associated company within any group of companies to which the casino operator belongs, that results in a person's shareholding being or becoming, five per cent or more of the casino operator;
 - (c) the suspension, revocation or surrender, in another jurisdiction, of any licence granted or authorization to the casino operator or any of its associates to conduct gaming activities in that jurisdiction which is equivalent or similar to casino gaming under this Act;
 - (d) the conviction of the casino operator or any of its associates of a specified offence in any jurisdiction; and
 - (e) any change of circumstances which the Commission could reasonably be expected to take into account in determining whether the casino operator or any associate is or continues to be a fit and proper person to be concerned in or associated with the management and operation of a casino.
2. Every person—
 - (a) occupying a specified office which, in the opinion of the Commission, carries principal responsibility for the operation of the casino business; or

THIRD SCHEDULE, *contd.* (Sections 20, 22 and 26)

(b) appointed as a compliance officer as specified in paragraph 3, if different from the person specified in paragraph (a),

shall have a personal licence to perform the functions of that office.

3. A person occupying a specified office who, in the opinion of the Commission, is of sufficient seniority, shall be appointed as the compliance officer to report to the Commission on matters having to do with the casino operator's compliance with the conditions of the licence and this Act.

4. The approved developer shall fulfil the terms and conditions of the relevant order under section 9, including any programme for the provision of hotel rooms to be added to the proposed integrated resort development after the scheduled date of commencement of operations of a casino.

5. The casino operator shall not commence casino gaming operations prior to the receipt, by the Commission, from the Minister, of notification that he is satisfied that the—

(a) associated hotel rooms are ready for occupancy;

(b) proposed business of operating the casino is substantially in accordance with the relevant approved integrated resort development order.

6. Such other condition as may be considered necessary to ensure that the holder complies with the requirements of this Act and such other condition as the Minister deems reasonably necessary to achieve the objects of this Act.

FOURTH SCHEDULE

(Section 48)

Application to the Supreme Court for Temporary Management of Casino Business

1.—(1) For the purposes of section 48, the Commission shall serve on the casino operator a notice announcing its intention to assume temporary management of the casino from such date and time as may be specified in the notice.

(2) A copy of the notice referred to in paragraph 1 (1) shall be—

(a) sent to the Registrar of the Supreme Court;

(b) posted in a conspicuous place in the casino; and

FOURTH SCHEDULE, *contd.*

(Section 48)

(c) published in a newspaper which is circulated in Jamaica and in the *Gazette*.

(3) Upon the date and time specified in the notice referred to in paragraph 1 (1), there shall vest in the Commission full and exclusive powers of operation of the casino, including, without prejudice to the generality of the foregoing, power to—

- (a) continue or discontinue its operations;
- (b) stop or limit the payment of its obligations;
- (c) appoint any person to manage the casino on its behalf;
- (d) employ any necessary officers or other employees;
- (e) execute any instrument in the name of the casino operator;
- (f) initiate, defend and conduct in the name of the casino operator, any action or proceedings to which it may be a party.

(4) Not later than sixty days after the Commission has assumed temporary management of a casino, the Commission shall apply to the Supreme Court (furnishing full particulars of the casino's assets and liabilities) for an order confirming the vesting in the Commission of full and exclusive powers of operation of the casino, as described in sub-paragraph (3).

(5) All expenses of and incidental to the temporary management of a casino shall be paid by that casino operator in such manner as the Commission may determine.

2.—(1) A casino operator which is served with a notice under sub-paragraph (1) may, within ten days after the date of such service, appeal to the Court of Appeal which may make such order as it thinks fit.

(2) The Court of Appeal may, on sufficient cause being shown, extend the period referred to in sub-paragraph (1).

3. Where the Commission has served a notice on a casino operator under paragraph (1), it shall, within sixty days from the date specified in such notice or such longer period as a Judge of the Supreme Court may allow—

- (a) restore the casino to its operators;
- (b) present a petition to the Court under the Companies Act for the winding-up of the casino operator; or
- (c) propose a compromise or arrangement between the casino operator and its creditors under section 206 of the Companies Act or a reconstruction under section 208 of that Act.

FIFTH SCHEDULE

(Section 63)

Constitution and Procedure of Appeals Tribunal

1.—(1) The Appeals Tribunal shall consist of not less than three nor more than five members appointed by the Minister, being persons appearing to the Minister to be knowledgeable and experienced in matters relating to casino gaming, law, accounting or the hotel industry. Appointment of members.

(2) For the hearing of an appeal under this Act, the Appeals Tribunal may consist of one member sitting alone if the parties to the appeal agree.

2. If the chairman or other member of the Appeals Tribunal is absent or unable to act, the Minister may appoint another person to act temporarily as chairman or such other member. Temporary appointment.

3.—(1) Subject to the provisions of this Schedule, a member of the Appeals Tribunal shall hold office for such period, not exceeding years, as may be specified in the instrument of appointment. Tenure of office.

(2) Every member of the Appeals Tribunal shall be eligible for reappointment but no such member shall be appointed for more than six consecutive years.

(3) If any vacancy occurs in the membership of the Appeals Tribunal, the vacancy shall be filled by the making of another such appointment; however, the member so appointed shall, subject to the provisions of this Schedule, hold office for the remainder of the period for which the previous member was appointed.

(4) The Minister may, at any time, revoke the appointment of the chairman or any other member if he thinks it expedient so to do.

4.—(1) Any member of the Appeals Tribunal other than the chairman may, at any time, resign his office by instrument in writing addressed to the Minister and transmitted through the chairman and from the date of the receipt by the Minister of such instrument such member shall cease to be a member of the Appeals Tribunal. Resignation.

(2) The chairman may, at any time, resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt of such instrument by the Minister.

5. The names of the members of the Appeals Tribunal as first constituted and every change in membership thereof shall be published in the *Gazette*. Publication of membership.

6. All documents made by, and all decisions of the Appeals Tribunal may be signified under the hand of the chairman or any member of the Appeals Tribunal authorized to act in that behalf. Authentication of documents.

Procedure.

7.—(1) The Appeals Tribunal shall meet at such times as may be necessary or expedient for the transaction of business and such meetings shall be held at such places and times and on such days as the Appeals Tribunal may determine.

(2) The chairman or any other person appointed to act temporarily as chairman shall preside at meetings of the Appeals Tribunal.

(3) Subject to sub-paragraph 1(2), the decisions of the Appeals Tribunal shall be by a majority of votes of the members and, in addition to an original vote, the chairman shall have a casting vote in any case in which the voting is equal.

(4) The Appeals Tribunal, with the approval of the Minister, may make rules to regulate its own proceedings.

(5) Proper records of all proceedings of the Appeals Tribunal shall be kept.

Remuneration
of members.

8. There shall be paid to the chairman and other members of the Appeals Tribunal such remuneration (whether by way of honorarium, salary or fees) and such allowances as the Minister may determine.

Protection
of members.

9. No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Appeals Tribunal in respect of an act done *bona fide* in pursuance or execution or intended execution of the provisions of this Act.

Disclosure of
interest.

10. Any member of the Appeals Tribunal who has any interest, directly or indirectly, in any matter brought before the Appeals Tribunal shall—

(a) as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Appeals Tribunal; and

(b) not be present during the deliberations of the Appeals Tribunal on the matter or take part in the decision of the Appeals Tribunal with respect thereto.

Chairman or
member not
a public
office.

11. The office of the chairman or member of the Appeals Tribunal shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica.

SIXTH SCHEDULE

(Section 69)

Fixed Penalty Offences

<u>Section</u>	<u>Column 1</u> <u>Offences</u>	<u>Column 2</u> <u>Fine</u>
19(5)	Failure to deliver up casino gaming licence within the time specified after cessation or lapse of licence	\$50,000.00
30(2)	Failure to obtain personal licence for a person to be appointed to a specified office	\$500,000.00
37(3)	Failure to terminate employment upon revocation of personal licence	\$500,000.00
38(5)	Failure to comply with written direction given by the Commission to casino operator	\$500,000.00
39(5)	Failure to comply with written notice to provide Commission with information	\$500,000.00
40(4)	Failure to notify the Commission of any major or minor change in circumstance of the operator	\$500,000.00
42(9)	Failure to notify the Commission that a person is likely to become an associate	\$500,000.00
43(3)	Failure to prevent entry into or remove from a casino, a person under the age of eighteen years	\$500,000.00
43(3)	Failure to prevent entry into or remove from a casino, a person not gambling on his own account; or	\$500,000.00
50(5)	Failure to meet requirements for controlled contracts under subsection (1), (2) or (3)	\$500,000.00

Fixed Penalty Offences

<u>Section</u>	<u>Column 1</u> <u>Offences</u>	<u>Column 2</u> <u>Fine</u>
55(3)	Failure to have game approved by the Commission	\$1,000,000.00
55(4)	Failure to provide Commission with rules of game	\$1,000,000.00
58(4)	Breaking or removal of seal or other device of like nature from gaming machine	\$5,000,000.00
59(3)	Entering into contract for the supply and service of gaming machine with manufacturer or supplier not approved by the Commission	\$1,500,000.00