

CASINOS AND GAMBLING HOUSES ACT 32 Of 1994

[Government Gazette: 1 December 1994 No. 983.] [Date of Commencement: 2
December 1994.]

ACT

To make provision for the licensing supervision and control of casinos and gambling houses; to provide for the establishment of a Casino Board; and to provide for matters connected therewith and incidental thereto.

ARRANGEMENT OF SECTIONS

PRELIMINARY

Section

- 1 Interpretation

CHAPTER 1

CASINO BOARD

- 2 Establishment of Casino Board
- 3 Functions of the board
- 4 Constitution of board
- 5 Persons disqualified from being members of the board
- 6 Tenure of office
- 7 Remuneration
- 8 Vacation of office and filling of vacancies
- 9 Meetings of board
- 10 Members with interest may not take part in proceedings
- 11 Secrecy

CHAPTER II

CASINOS AND GAMBLING HOUSES

Licences

- 12 Types of licences
- 13 Persons to whom casino licences may be granted
- 14 Persons to whom gambling house licences may be granted
- 15 Restrictions upon grant of licences
- 16 Applications for grant, transfer or removal of licences
- 17 Procedure for applications
- 18 Report of inspector
- 19 Objections
- 20 Consideration of applications by board
- 21 Minister to decide on applications
- 22 Issue of licences and certificates
- 23 Duration of licence
- 24 Withdrawal or suspension of licence

Employees of casinos

- 25 Certain casino employees to be approved
- 26 Application for certificate of approval
- 27 Consideration of application for certificate of approval
- 28 Refusal of application for certificate of approval
- 29 Issue of certificate of approval
- 30 Register of certificates of approval
- 31 Duration of certificate of approval
- 32 Suspension or withdrawal of certificate of approval
- 33 Commencement of duties pending issue of certificate of approval
- 34 Restrictions applicable to certain employees

Duties of and restrictions applicable to licence holders

- 35 Granting of credit for gambling prohibited

- 36 Assistance to customers in relation to rules of games
- 37 Control and prohibition of entry into casino or gambling house
- 38 Sharing in profits by persons other than licence holder
- 39 Furnishing of particulars of bank account
- 40 Keeping of books, accounts and records
- 41 Levies on income of casinos and gambling houses

Inspectors

- 42 Appointment of inspectors
- 43 Powers of inspectors

Offences

- 44 Offence regarding unauthorized conducting of casino or gambling house
- 45 Offence regarding unlawful conducting of games
- 46 Offence regarding playing of games
- 47 Offences regarding minors in casinos and gambling houses
- 48 Offences regarding inspectors

CHAPTER III

GENERAL PROVISIONS

- 49 Enquiries by board
- 50 Forfeiture
- 51 Withdrawal of licence by court
- 52 Delegation of powers
- 53 Taxing of prizes
- 54 Regulations
- 55 Application of Gambling Act, 1965
- 56 Short title and commencement

BE IT ENACTED by the Parliament of the Republic of Namibia, as follows:-

PRELIMINARY

1 Interpretation

In this Act, unless the context otherwise indicates-

"accommodation establishment" means any premises registered as an accommodation establishment under the Accommodation Establishments and Tourism Ordinance, 1973 (Ordinance 20 of 1973), but excluding any premises of a safari undertaking so registered;

"board" means the Casino Board established by section 2;

"bookmaking business" means any business carried on for the purpose of receiving or negotiating bets on the result of any event or contingency;

[“bookmaking business” inserted by s 1 (a) of Act 12 of 1995.]

"casino", in relation to licensed premises, means any room in or any part of such premises in which games are conducted and played or gambling machines are kept and played;

"casino licence" means a licence issued in terms of section 22;

"certificate of approval" means a certificate of approval issued under section 29;

"gambling" means any form of gambling, including any game or the casting of any lot in which luck is an element and by which any prize may be won, whether or not any element of knowledge or skill is included in the process of determining the winner;

"gambling house", in relation to licensed premises, means any room in or any part of such premises in which gambling machines are kept and played;

"gambling house licence" means a gambling house licence issued under section 22;

"gambling machine" means a machine for playing a game of chance, being a game which requires no action by any player other the actuation or manipulation of the machine;

"game" means any game of chance for stakes played with playing cards, dice or any mechanical device by which any prize may be won;

"inspector" means a person appointed as such under section 42;

"licence" means a casino licence or a gambling house licence;

"licensed premises" means any premises in or on which the keeping of a casino or gambling house, as the case may be, is authorized under a licence;

[“licensed premises” substituted by s. 1 (b) of Act 12 of 1995.]

"Minister" means the Minister of Environment and Tourism;

"Ministry" means the Ministry of Environment and Tourism;

"officer" means any person in the employment of the Public Service;

"prescribe" means prescribed by regulation, and "prescribed" shall have a corresponding meaning;

"person" includes any body corporate or association of persons;

"prize" means any prize or benefit or anything of value which is offered to be won including any movable or immovable property and any cash prize;

[“prize” substituted by s. 1 (c) of Act 12 of 1995.]

"retail liquor business" means any business carried on for the sale and supply of intoxicating liquor, whether for on-consumption or off-consumption, under any licence or other authority granted under any law regulating the sale and supply of intoxicating liquor;

"this Act" includes any regulations made thereunder.

CHAPTER II

CASINO BOARD

2 Establishment of Casino Board

There is hereby established a board to be known as the Casino Board.

3 Functions of the board

The functions of the board shall be-

- (a) to make recommendations to the Minister in relation to any power or function which the Minister is in terms of this Act required or authorized to exercise on a recommendation of the board; and
- (b) to advise the Minister in relation to-
 - (i) any matter in connection with the regulation and control of casinos and gambling houses;
 - (ii) regulations to be made under this Act; and
 - (iii) any matter which the Minister may refer to the board for its advice.

4 Constitution of board

(1) The members of the board shall be appointed by the Minister and shall consist of-

- (a) one person who shall be the chairperson of the board, and who shall not be an officer;
- (b) one officer of the Ministry;
- (c) one officer of the Ministry of Health and Social Services designated by the Minister of Health and Social Services; and
- (d) one officer of the Ministry of Finance designated by the Minister of Finance.

(2) The Minister shall, with due regard to subsection (1), appoint for every member a person to be his or her alternate, and an alternate member so appointed shall act in the place of the member in respect of whom he or she has been appointed during such member's absence or his or her inability to act as a member of the board.

(3) The board may from time to time, with the consent of the Minister, appoint not more than three persons with specialised knowledge relating to the conducting of casinos or gambling houses, or any other matter which has to be considered by the board, to advise the board in the exercise of its powers and duties, for such period as the board may determine.

(4) The Permanent Secretary: Environment and Tourism shall designate an officer in the Ministry to act as secretary to the board.

5 Persons disqualified from being members of the board

No person shall be appointed as a member or an alternate member of the board if such

person-

- (a) is under the age of 21 years;
- (b) has, at any time during the period of 10 years preceding his or her appointment, served a sentence of imprisonment of more than 12 months for any offence without having been given the option of a fine in respect of such offence;
- (c) has at any time been found guilty of an offence of which dishonesty is an element; or
- (d) is an unrehabilitated insolvent.

6 Tenure of office

(1) Subject to section 8, the chairperson of the board shall hold office for such period, not exceeding three years, as the Minister may determine at the time of his or her appointment, and may be re-appointed upon expiry of his or her term of office.

(2) An officer appointed as a member of the board shall hold office until his or her appointment is revoked by the Minister.

7 Remuneration

The chairperson of the board and the person appointed as his or her alternate and an adviser appointed under section 4 (3), except if such adviser is an officer, shall receive such remuneration and allowances as the Minister may determine with the concurrence of the Minister of Finance.

8 Vacation of office and filling of vacancies

(1) The office of the chairperson of the board shall become vacant if he or she-

- (a) by written notice to the Minister resigns that office;
- (b) has been absent from more than three consecutive meetings of the board without its leave;

- (c) becomes subject to any disqualification referred to in paragraphs (b), (c) or (d) of section 5; or
- (d) is removed from office in the public interest by the Minister after consultation with the other members of the board.

(2) If a member or an alternate member of the board dies or if the office of the chairperson becomes vacant in terms of subsection (1), the Minister may, in accordance with the provisions of section 4 (1) and subject to section 5, appoint another person to fill such vacancy for the remaining term of office of the member whose office has become vacant.

9 Meetings of board

(1) Meetings of the board shall be held at such times and places as the chairperson of the board determines, but he or she shall convene a meeting of the board if the Minister so directs.

(2) A quorum for a meeting of the board shall be three members.

(3) If the chairperson is absent from a meeting of the board, the alternate of the chairperson shall preside at that meeting and if he or she is also absent, the members present shall elect one of their number to preside at such meeting.

(4) Any meeting of the board convened for the purposes of hearing representations or objections in relation to any application made in terms of this Act shall be open to the public, but the member presiding at such meeting may direct any person whose presence is in his or her opinion not desirable at that meeting to leave the meeting.

(5) The decision of a majority of the members of the board present at a meeting of the board shall constitute a decision of the board and, in the event of an equality of votes on any matter, the person presiding at the meeting shall have a casting vote in addition to his or her deliberative vote.

(6) No resolution passed by or decision of the board shall be invalid merely by reason of a vacancy in the board or the fact that any person who is not entitled to sit as a member of the board, sat as such a member when the resolution was passed or decision was taken, if the resolution was passed or decision was taken by the required majority of the members of the board then present and entitled to sit as members.

(7) The procedure to be followed at a meeting of the board shall, in so far as it has not been prescribed, be determined by the chairperson of the board.

(8) The secretary of the board shall keep accurate minutes of the proceedings at meetings of the board.

10 Members with interest may not take part in proceedings

A member of the board, or the alternate of a member when acting in the place of a member, shall not take part in the consideration of any application which the board is in terms of this Act required to consider, if he or she or his or her spouse or child-

- (a) has or will have any direct or indirect interest in the accommodation establishment or retail liquor business or bookmaking business in respect of which the application is made;

[Para. (a) substituted by s. 2 of Act 12 of 1995.]

- (b) is the owner or lessor or mortgagee of any premises in relation to which the application is made, or is a director, member, partner, employee or agent of such owner, lessor or mortgagee;
- (c) is a director, member or partner of, or is otherwise associated with, any person objecting to the application.

11 Secrecy

(1) No member or alternate member of the board or an inspector or any other person who, in the performance of his or her functions under this Act, acquired any information in relation to the business or affairs of a licence holder or any other person, shall disclose such information to any person, except-

- (a) for the purpose of the performance of his or her functions under this Act; or
- (b) when required to do so by a court of law or under any law.

(2) Any person who contravenes the provisions of subsection (1), shall be guilty of an offence and on conviction be liable to a fine not exceeding N\$ 2 000 or to imprisonment for a period not exceeding 6 months.

CHAPTER II

CASINOS AND GAMBLING HOUSES

Licences

12 Types of licences

Subject to the provisions of this Act, the Minister may grant-

- (a) a casino licence to any person who in terms of section 13 qualifies for such a licence; or
- (b) a gambling house licence to any person who in terms of section 14 qualifies for such a licence.

13 Persons to whom casino licences may be granted

(1) A casino licence shall not be granted to any person other than a person who conducts an accommodation establishment which-

- (a) in the case of an accommodation establishment situated in the local authority area of Windhoek, has, in accordance with the provisions of the Accommodation Establishments and Tourism Ordinance, 1973 (Ordinance 20 of 1973), been allocated a grading of at least four stars and has at least 100 rooms available for the accommodation of guests; or
- (b) in the case of an accommodation establishment situated elsewhere in Namibia, has in accordance with the provisions of that Ordinance, been

allocated a grading of at least three stars and has at least 50 rooms available for the accommodation of guests.

(2) A casino licence shall authorise the playing in or on the premises of the accommodation establishment in respect of which such licence has been granted, or such part of such premises as is specified in the licence, of any prescribed games.

14 Persons to whom gambling house licences may be granted

(1) A gambling house licence shall not be granted to any person other than a person who-

- (a) conducts an accommodation establishment; or
- (b) carries on a retail liquor business; or
- (c) carries on a bookmaking business.

(2) A gambling house licence shall authorise the keeping in or on the premises of the accommodation establishment, retail liquor business or bookmaking business concerned, or such part of such premises as is specified in the licence, of prescribed gambling machines, but not exceeding the number stipulated in the licence.

[S. 14 substituted by s. 3 of Act 12 of 1995.]

15 Restrictions upon grant of licences

No casino licence or gambling house licence shall be granted to any person who-

- (a) is under the age of 21 years;
- (b) is an unrehabilitated insolvent;
- (c) has at any time during the period of 10 years preceding his or her application served a sentence of imprisonment for a period longer than 12 months for any offence without having been given the option of a fine in respect of such offence unless the Minister upon recommendation by the board, rules that such offence was of a nature which does not imply that he or she is an unsuitable person to hold a licence;
- (d) has been convicted of an offence under this Act and, within a period of 5 years after that conviction, has again been convicted for an offence under this Act;
- (e) is an officer;
- (f) is the spouse, parent or child of any person referred to in paragraph (b), (c), or (d); or
- (g) is a body corporate or an association of persons of which any director, member or partner is disqualified in terms of paragraph (a), (b), (c), (d), (e) or (f).

[Para. (g) substituted by s. 4 of Act 12 of 1995.]

16 Applications or grant transfer or removal of licences

(1) Any person who desires to obtain a casino licence or a gambling house licence and who is not disqualified by virtue of the provisions of section 13, 14 or 15 may make application to the Minister for the grant of such a licence.

(2) If the holder of a casino licence or a gambling house licence desires to transfer such licence to another person such holder and such other person may make a joint application to the Minister for such transfer.

(3) The holder of a casino licence or a gambling house licence who desires to remove such licence from the licensed premises to any other premises, whether permanently or temporarily, may make application to the Minister for the removal of such licence.

17 Procedure for applications

(1) Every application in terms of section 16 shall-

- (a) be in the prescribed form; and
- (b) be accompanied by the prescribed documents and information and proof of the payment of the prescribed application fee,

and shall be submitted to the secretary of the board.

(2) Upon receipt of any application in terms of subsection (1), the secretary of the board shall forthwith-

- (a) cause a notice to be published in the *Gazette* and a newspaper circulating in the area in which the premises in question are situated; and
- (b) in the case of an application for the grant or removal of a licence, deliver to an inspector a copy of the application for the purposes of section 18.

(3) The applicant shall pay to the secretary of the board any expenses incurred in connection with the publication of the notice in accordance with subsection (2).

18 Report of inspector

(1) An inspector shall in respect of every application for the grant or removal of any licence report in writing to the board whether the premises of the accommodation establishment or retail liquor business or bookmaking business to which the application relates-

- (a) are in good repair and in all respects suitable for the proper conducting of a casino or gambling house; or
- (b) if such accommodation establishment or retail liquor business or bookmaking business has not yet been erected, equipped or completed, would upon completion thereof, in accordance with the plans thereof, be suitable in all respects for the proper conducting of a casino or gambling house.

[Sub-s. (1) substituted by s. 5 of Act 12 of 1995.]

(2) An inspector shall further call to the attention of the board any matter which, in his or her opinion, should be taken into account in the consideration of the application.

19 Objections

(1) Any person who desires to object to any application made in terms of section 16, may, not later than 21 days after the publication in the *Gazette* of the relevant notice in accordance with section 17 (2), lodge with the secretary of the board in writing an objection in the prescribed manner.

(2) The secretary of the board shall notify the applicant forthwith of-

- (a) any objection lodged with the board in terms of subsection (1); or
- (b) any matter or fact whatsoever which may, in the opinion of the board, constitute a ground for an objection against the applicant's application,

and invite the applicant to reply to such objection, if he or she so chooses, within a period of 14 days of the date of the notification.

20 Consideration of applications by board

(1) Every application in terms of section 16 shall be considered by the board at a meeting of the board.

(2) The applicant and any person who has lodged an objection to the application may appear before the board and be heard, either personally or through his or her legal representative.

(3) After the consideration of an application by the board the secretary of the board shall submit to the Minister-

- (a) the application together with all documents and information which accompanied the application;
- (b) the report of an inspector referred to in section 18;
- (c) a copy of the minutes of the proceedings at the meeting of the board; and
- (d) the recommendation of the board.

21 Minister to decide on applications

The Minister shall decide on every application made in terms of section 16 and may, after consideration of the application and all documents and information submitted to him or her in terms of section 20 (3), grant or refuse such an application.

21A Temporary suspension of granting of gambling house licences

(1) Notwithstanding the other provisions of this Act relating to applications for, and the grant and issue of, gambling house licences, no application for such a licence shall, with effect from the date of commencement of the Casinos and Gambling Houses Amendment Act, 1996, but subject to subsection (2), be received or entertained by the Minister.

(2) The provisions of subsection (1) shall expire on a date to be fixed by the Minister by notice in the *Gazette*.

(3) Subsection (1) shall not be construed as effecting the consideration of any application for the grant of a gambling house licence which has been duly submitted in terms of this Act before the date of commencement of the Casinos and Gambling Houses Amendment Act, 1996.

[S. 21A inserted by s. 1 of Act 28 of 1996.]

22 Issue of licences and certificates

(1) Where the Minister has granted an application, under section 21, the applicant concerned shall, not later than 30 days after the date on which such application has been granted by the Minister, or such longer period as the Minister in a particular case may approve, pay to the secretary of the board the appropriate fee prescribed in respect of the issue, transfer or removal of the licence concerned, failing which the grant of such application shall lapse: Provided that in relation to any application so granted by the Minister before the commencement of the Casinos and Gambling Houses Amendment Act, 1995, the period of 30 days shall be calculated from the date of commencement of that Act.

(2) Subject to subsection (1), the secretary of the board shall, upon payment to him or her of the prescribed fee-

- (a) in the case of the grant of a licence, issue to the applicant the licence in question;
- (b) in the case of a transfer of a licence, issue to the transferee concerned a certificate to the effect that the licence in question has been transferred to him or her; or
- (c) in the case of the removal of a licence, issue to the licence holder concerned a certificate to the effect that the licence in question is of effect with respect to the new premises."

[S. 22 substituted by s. 6 of Act 12 of 1995.]

23 Duration of licence

(1) Any licence issued in terms of section 22 shall be valid until the date on which-

- (a) the holder thereof surrenders it in writing to the Minister;
- (b) it is withdrawn by the Minister under section 24 or by a court of law under section 51.

(2) Where a licence is suspended under section 24 the holder of such licence shall not exercise any right or privilege conferred by such licence during the period of suspension.

24 Withdrawal or suspension of licence

(1) The Minister may, on the recommendation of the board, suspend, for such period as the Minister may determine or withdraw from such date as the Minister may determine, any licence, if-

- (a) the licence holder contravenes any provision of this Act;
- (b) the licence holder or any person acting on his or her behalf-
 - (i) furnished information in or in connection with his or her application for the grant, transfer or removal of such licence knowing it to be false or not knowing or believing it to be true; or
 - (ii) failed to comply with any provision of this Act or any prescribed term or condition within a reasonable period after he or she had been ordered by the Minister to do so;
- (c) the licence holder has, without the prior written consent of the Minister, failed to conduct the casino or gambling house of which he or she is the licence holder, for a period of at least three consecutive months;
- (d) the licence holder fails to pay any amount prescribed in terms of this Act within the prescribed period;
- (e) the licence holder fails to pay out forthwith any prize won in the casino or gambling house; or
- (f) the licence holder is convicted of any offence under this Act.

(2) The Minister shall not under subsection (1) suspend or withdraw any licence without giving the licence holder concerned an opportunity of being heard personally or by such licence holder's agent.

(3) The Minister may at any time on the recommendation of the board revoke any order of suspension issued in terms of subsection (1) if the reasons for such suspension have been remedied to his or her satisfaction.

Employees of casinos

25 Certain casino employees to be approved

(1) Subject to section 33-

- (a) no holder of a casino licence shall engage any other person to render any service in connection with the operation of any game or any activity in relation to gambling in a casino unless such person is the holder of a certificate of approval issued in terms of section 29; and
- (b) no person shall allow that he or she be engaged to render any service in connection with the operation of any game or any activity in relation to gambling in a casino, unless he or she holds such a certificate of approval.

(2) Any person who contravenes a provision of subsection (1) shall be guilty of an offence and on conviction be liable to a fine not exceeding N\$5 000 or to imprisonment for a period not exceeding 6 months or to both such fine and such imprisonment.

26 Application for certificate of approval

(1) An application for a certificate of approval shall be made to the Minister through the secretary of the board in the prescribed form and shall be accompanied by-

- (a) a complete set of fingerprints of the applicant taken in the prescribed manner;
- (b) such documents or particulars as may be prescribed;
- (c) a receipt in proof that the prescribed fees have been paid.

(2) An application in terms of subsection (1) shall be referred by the secretary of the board to the board for the purpose of making a recommendation to the Minister on the application.

27 Consideration of application for certificate of approval

(1) The Minister shall decide on any application in terms of section 26 for a certificate of approval and shall, in considering such an application, have due regard to-

- (a) the character, reputation and financial background of the applicant;
- (b) any offences for which the applicant has been convicted and of which dishonesty is an element; and
- (c) any other matter which may be relevant to establish whether the applicant is a suitable person to be employed in a casino.

(2) If the Minister is satisfied that the applicant is a suitable person to be employed in a casino, the Minister shall grant the application.

28 Refusal of application for certificate of approval

(1) The Minister shall not refuse an application for a certificate of approval without giving the applicant the opportunity of being heard or presenting evidence.

(2) If the Minister refuses an application for a certificate of approval, the secretary of the board shall forthwith notify the applicant of the Minister's decision and of the reasons furnished by the Minister for such decision.

29 Issue of certificate of approval

Where the Minister grants an application for a certificate of approval the secretary of the board shall issue to the applicant a certificate in the prescribed form.

30 Register of certificates of approval

The secretary of the board shall keep a register in which he or she shall enter the name and prescribed particulars of each person to whom a certificate of approval has been issued under section 29.

31 Duration of certificate of approval

A certificate of approval shall lapse-

- (a) if the holder thereof, by written notice accompanied by the certificate, surrenders the certificate to the Minister;
- (b) if the certificate is withdrawn by the Minister under section 32;
- (c) upon the expiry of a period of 12 months after the holder of the certificate ceases to be employed in a casino.

32 Suspension or withdrawal of certificate of approval

(1) Subject to subsection (2), the Minister may, if the board so recommends, suspend, for such period, not exceeding 6 months, as the Minister may determine or withdraw, from such date as the Minister may determine, any certificate of approval, if-

- (a) the holder of the certificate has in or in connection with his or her application for such certificate furnished information which is false or erroneous in a material respect;
- (b) since the issue of the certificate of approval, the holder of the certificate has been convicted of an offence under this Act or of any other offence reflecting on his or her suitability to be employed in a casino;
- (c) the holder has acted in contravention of the provisions of section 34.

(2) The board shall not for the purposes of subsection (1) make a recommendation for the suspension or withdrawal of a certificate of approval, and the Minister shall not suspend or withdraw such a certificate, unless the holder of the certificate has, by notice of not less than 15 days, been given an opportunity of being heard by the board and of presenting evidence to it.

(3) The Minister may at any time revoke the suspension of a certificate of approval if the Minister is satisfied that the reasons for which the suspension was imposed have been remedied and that it would be just to revoke the suspension.

33 Commencement of duties pending issue of certificate of approval

Notwithstanding the provisions of section 25, where an application for a certificate has been made and the Minister is of the opinion that-

- (a) a decision in relation to the application may not be made for some time;
- (b) the operation of the casino will be seriously prejudiced or disadvantaged by the delay in the employment of the applicant; and
- (c) the commencement of the employment of the applicant will not prejudice the integrity of the operation of the casino,

the Minister may grant permission to the applicant to commence work in the casino before the determination of the application, subject to such terms, conditions and restrictions as the Minister considers appropriate in the particular case.

34 Restrictions applicable to certain employees

(1) No person who is required to hold a certificate of approval in terms of section 25 shall in a casino in which he or she is employed or with which he or she is associated-

- (a) wager at any game; or
- (b) solicit any tip, gratuity, consideration, or other benefit from any player or customer in that casino.

(2) Any person who contravenes any provision of subsection (1) shall be guilty of an offence and on conviction be liable to a fine not exceeding N\$5 000 or to imprisonment for a period not exceeding 6 months.

Duties of and restrictions applicable to licence holders

35 Restrictions applicable to certain employees

No holder of a casino licence or a gambling house licence or employee of such a licence holder shall extend any credit in any form to any person in connection with or for the purpose of gambling.

36 Assistance to customers in relation to rules of games

The holder of a licence shall-

- (a) at the request of any customer make available for examination a copy of the rules of gambling in respect of any particular game or gambling machine;
- (b) display prominently within the casino or gambling house such advice or information concerning gambling rules, mode of payment of winning wagers, the odds of winning for each wager, and such other advice or information to the players as may be prescribed; and
- (c) display at each gambling table or other location related to the playing of a game a sign indicating the permissible minimum and maximum wagers pertaining to the game played at the table or location.

37 Control and prohibition of entry into casino or gambling house

(1) The fact that a casino or gambling house is licensed under this Act shall not entitle any person to enter or to remain on the premises thereof against the wish of the holder of the licence and, subject to any right conferred by or under any law, any person shall leave such premises when required to do so by or on behalf of the holder of the licence.

(2) No person under the age of 18 years shall enter or be allowed by a holder of a licence or any other person who acts on the licence holder's behalf to enter any casino or gambling house.

38 Sharing in profits by persons other than licence holder

(1) No holder of a licence shall without the written authority of the Minister, granted on recommendation of the board, allow any other person in effect to control the casino or gambling house to which his or her licence relates or to become a partner therein or to share in the profits thereof.

(2) An application for the Minister's authority under subsection (1) shall be made in the prescribed manner.

39 Furnishing of particulars of bank account

(1) Whenever required to do so by the Minister or the board, the holder of a licence shall in writing notify the Minister or the board, as the case may be, of the banking institution and the office or branch office thereof with which he or she has opened or holds an account pertaining to the casino or gambling house and furnish the Minister or board with a bank statement or other sufficient evidence of the state of the account and any other particulars required by the Minister or the board.

(2) If the holder of a licence fails to provide or provides an insufficient statement in terms of subsection (1) the Minister or the board, as the case may be, may in writing direct the manager of any office or branch with which the said account has been opened or is held, to furnish the Minister or the board with a bank statement or other sufficient evidence of the state of the account and any other particulars required by the Minister or the board.

40 Keeping of books accounts and records

The holder of a licence shall keep such books, accounts and records as may be prescribed or specified in the licence.

41 Levies on income of casinos and gambling houses

(1) Subject to subsection (2), every holder of a casino licence and every holder of a gambling house licence shall be liable to pay, for the benefit of the State Revenue Fund, a levy on income as may be prescribed which such holder derives from the conduct of the casino or gambling house concerned and which levy shall be calculated on such basis and at such rate as may be prescribed and be payable in the manner and before the date as prescribed.

(2) Where any person has under section 38 been granted authority in effect to control a casino or gambling house of any licence holder or to become a partner therein or to share in the profits thereof, such person shall, together with the licence holder concerned, be jointly and severally liable for the payment of the levy referred to in subsection (1).

[S. 41 substituted by s. 7 of Act 12 of 1995.]

Inspectors

42 Appointment of inspectors

(1) The Minister may designate any person in the employment of the Public Service as an inspector for the purposes of this Act.

(2) An inspector shall be furnished with a certificate signed by the Minister stating that he or she has been designated as an inspector for the purposes of this Act.

(3) An inspector performing any function under this Act shall on demand of any person affected by the performance of such function exhibit to that person the certificate furnished to him or her in terms of subsection (2).

43 Powers of inspectors

(1) In order to ascertain whether the provisions of this Act or any terms, conditions or restrictions imposed under this Act have been or are being complied with, or in order to obtain evidence in connection with any suspected contravention of or non-compliance with any such provision, term, condition or restriction, an inspector may-

(a) at all reasonable times enter upon and inspect any licensed premises or any other premises on which it is suspected-

- (i) a casino or a gambling house is being conducted without the authority of a licence;
- (ii) persons are being allowed to play or participate in any game or to play any gambling machine; or
- (iii) any gambling machine or any equipment, device, object, book, record, note or other document used or capable of being used in connection with the conducting of a casino or gambling house is being kept by any person,

and, after having informed the person who is then in charge of the premises of the purpose of his or her visit, make such investigation and enquiry as he or she may think necessary;

(b) in any premises referred to in paragraph (a)-

- (i) require the production of any licence, certificate of approval or any written permission or authorization that any person is required to hold under this Act;
- (ii) put to any person present therein such questions as he or she may deem necessary and inspect any activities in connection with the conducting of a casino or gambling house;
- (iii) examine or inspect any gambling machine, equipment, device, object, book, record, note or document referred to in paragraph (a) and make copies of or extracts from any such book, record, note or document;

(c) request any person in charge of any premises referred to in paragraph (a)-

- (i) to point out any equipment, device or object referred to in that paragraph which is in his or her possession or custody or under his or her control;
- (ii) to produce for the purpose of examination or of making copies or extracts, all books, records, notes or other documents referred to in that paragraph which are in his or her possession or custody or under his or her control;

- (iii) to provide any information in connection with anything which has been pointed out or produced in terms of subparagraph (i) or (ii);
- (d) seize and remove any gambling machine, equipment, device, object, book, record, note or other document referred to in that paragraph which in his or her opinion may furnish proof of a contravention of any provision of this Act or leave it on the premises concerned after marking it for the purposes of identification.

(2) When performing any function in terms of subsection (1), an inspector may be accompanied by and avail himself or herself of the services of an assistant or interpreter or any member of the Namibian Police Force.

Offences

44 Offence regarding unlicensed gambling

Any person who in or on any premises carries on or allows to be carried on gambling by means of any game or, for the purposes of gambling, keeps or allows to be kept any machines, without such person being-

- (a) the holder of an appropriate licence in respect of such premises; or
- (b) an employee of a person who is the holder of an appropriate licence in respect of such premises,

shall be guilty of an offence and on conviction be liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment.

[S. 44 substituted by s. 8 of Act 12 of 1995.]

45 Offence regarding unlawful conducting of games

Any person who-

- (a) in any casino or gambling house-
 - (i) conducts any game or keeps any gambling machine which is not permitted under this act; or
 - (ii) conducts any prescribed game otherwise than in accordance with the rules of such game; or
- (b) in a gambling house keeps gambling machines in excess of the numbers specified in the licence issued in respect of such gambling house,

shall be guilty of an offence and on conviction be liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment.

[S. 45 substituted by s. 9 of Act 12 of 1995.]

46 Offence regarding playing of games

Any person who knowingly makes use of any counterfeit chip or contravenes the rules of any game or interferes in any way with any gambling machine or any other device used for gambling with the intention of obtaining any pecuniary advantage, directly or indirectly, whether for himself or herself or any other person, shall be guilty of an offence and on conviction be liable to a fine not exceeding N\$50 000 or to imprisonment for a period not exceeding 3 years or to both such fine and such imprisonment.

47 Offences regarding minors in casinos and gambling houses

(1) Any person under the age of 18 years who is found in any casino or gambling house shall be guilty of an offence and on conviction be liable to a fine not exceeding N\$ 5 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(2) Any person being the holder of a casino licence or a gambling house licence or an employee or agent of the holder of such a licence, who allows any person under the age of 18 years to enter or remain in any casino or gambling house shall be guilty of an offence and on conviction be liable to a fine not exceeding N\$ 10 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment, unless he or she satisfies the court that-

- (a) he or she on reasonable grounds believed that the person to whom the charge relates has attained the age of 18 years; or
- (b) as soon as he or she became aware of the presence of such person in the casino or gambling house, reasonable steps were taken to remove such person therefrom.

(3) Any person who makes any false representation to the holder of a casino licence or gambling house licence or any employee or agent of such licence holder to the effect that he or she has attained the age of 18 years with the intention of being permitted to enter any casino or gambling house or to remain therein, shall be guilty of an offence and on conviction liable to a fine not exceeding N\$5 000 or to imprisonment for a period not exceeding 6 months or to both such fine and such imprisonment.

48 Offences regarding inspectors

Any person who-

- (a) falsely represents himself or herself to be an inspector;
- (b) wilfully obstructs, hinders or delays any inspector or any person lawfully accompanying an inspector in the performance of his or her functions under this Act;
- (c) without the consent in writing of an inspector, removes from the place where it has been left by the inspector, or tampers with, destroys or makes alterations to anything seized by such inspector in the performance of his or her functions; or

- (d) refuses or fails to comply to the best of his or her ability with any request of an inspector under section 43,

shall be guilty of an offence and on conviction be liable to a fine not exceeding N\$20 000 or to imprisonment for a period not exceeding 2 years or to both such fine and such imprisonment.

CHAPTER III

General provisions

49 Enquiries by board

(1) The board may, in accordance with the provisions of this section, conduct an enquiry into any matter falling within the scope of its functions.

(2) For the purpose of any enquiry in terms of subsection (1) the board may, by registered letter signed by its chairperson or secretary, summon any person to appear before the board-

- (a) to give evidence in connection with any matter; or
- (b) to produce any book, document or thing,

which may, in the opinion of the board, be relevant to the subject-matter of the enquiry.

(3) The board may call and examine any person present at the enquiry, whether or not he or she has been summoned to attend under subsection (2), and may inspect and retain for a reasonable period any book, document or thing, the production of which was required under that subsection.

(4) The law relating to privilege as applicable to a person subpoenaed to give evidence or to produce any book, document or thing before a court of law shall apply in relation to the examination of any such person or the production of any book, document or thing under subsection (2) or (3).

(5) The board may require from any person appearing before the board at an enquiry in terms of subsection (1) to give his or her evidence on oath or affirmation, and the member of the board presiding at the enquiry may administer the oath or accept an affirmation from any such person.

(6) Any person who has been summoned to appear before the board at any such enquiry shall be entitled to receive such witness fees as would have been payable to him or her had he or she been summoned to attend at a criminal trial in the High Court of Namibia held at the place where the enquiry was held.

(7) Any person who-

- (a) having been summoned to give evidence at an enquiry under subsection (1), without sufficient cause fails to attend at the time and place specified in the summons, or to remain in attendance until the conclusion of the enquiry or until excused by the board from further attendance, or to produce any

book, document or thing in his or her possession or custody or under his or her control, which he or she has been summoned to produce;

- (b) having been called under subsection (3), without sufficient cause refuses to take the oath or to make an affirmation as a witness after he or she has been directed by the member of the board presiding at the enquiry to do so, or refuses to testify, or refuses or fails to answer fully and satisfactorily to the best of his or her knowledge and belief any question lawfully put to him or her; or
- (c) after having taken the oath or having made an affirmation, gives false evidence before the board at an enquiry on any matter, knowing such evidence to be false or not knowing or believing it to be true,

shall be guilty of an offence and liable on conviction to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding 6 months or to both such fine and such imprisonment.

(8) Any person who appears before the board at an enquiry, shall be entitled to be represented by his or her legal representative.

50 Forfeiture

(1) The court convicting any person of contravening any provision of this Act, may declare any machine, object or thing seized in terms of section 43 and which had been used in connection with such contravention to be forfeited to the State.

(2) Any machine, object or thing seized and forfeited in terms of this section shall be dealt with in the manner directed by the Minister.

51 Withdrawal of licence by court

Any court of law may withdraw any licence granted in terms of this Act if the holder of such licence is convicted on any offence under this Act.

51A Jurisdiction of magistrate's courts

Notwithstanding anything to the contrary contained in any law, a magistrate's court shall have jurisdiction to try any offence under this Act and to impose any penalty prescribed by this Act if the Prosecutor-General, or any officer of the Prosecutor-General's office designated by the Prosecutor-General, has personally granted written authority that the prosecution in respect of such offence may be instituted and conducted in the magistrate's court in question.

[S. 51A inserted by s. 10 of Act 12 of 1995.]

52 Delegation of powers

Except for the powers conferred by section 54, the Minister may delegate to any person employed in the service of the Ministry any power conferred upon the Minister by this Act.

53 Taxing of prizes

Notwithstanding the provisions of any other act, no prize or other benefit won or gained from any casino or gambling house authorised in terms of this Act shall be subject to any form of tax.

54 Regulations

(1) The Minister may make regulations prescribing-

- (a) the procedure to be followed at meetings of the board;
- (b) the books, accounts, records and notes which shall be kept by licence holders, the particulars to be recorded therein and the inspection thereof;
- (c) the form and manner in which any application or objection under this Act shall be made, and the documents, information or particulars which shall accompany such application;
- (d) the fees which shall be payable in respect of-
 - (i) any application;
 - (ii) the issue of any licence;
 - (iii) the transfer of any licence;
 - (iv) the removal of any licence,in terms of this Act and the period within which any of such fees are to be paid;
- (e) the annual fees payable in respect of any licence;
- (f) penalties for any late payment of fees, levies or other moneys payable in terms of this Act;
- (g) the manner in which licences shall be issued, transferred, or removed;
[Para. (g) substituted by s. 11 (1) (a) of Act 12 of 1995.]
- (gA) in relation to gambling house licences, the maximum number of gambling machines for which such a licence may be granted and issued, which number may differ according to the different types of businesses in respect of which such a licence may be granted in terms of section 14 (1);
[Para. (gA) inserted by s.11 (1) (b) of Act 12 of 1995.]
- (h) the guarantees which shall be furnished by any person to whom a licence has been granted under this Act before such licence is issued to that person;
- (i) the form of any licence or other documents to be issued in terms of this Act;

- (j) the income on which and the basis on and the rate at which the levy imposed by section 41 shall be calculated;

[Para. (j) substituted by s. 11 (1) (c) of Act 12 of 1995.]

- (k) the time when or period within which any amount payable under this Act shall be paid;
- (l) the terms and conditions applicable to any licence and to certificates of approval;
- (m) the information and advice pertaining to a game or gambling machine which shall be displayed by the holder of a licence;
- (n) the games which are permitted or not permitted to be carried on in a casino or the gambling machines which are permitted or not permitted to be kept in a casino or gambling house;
- (o) the measures to be taken by licence holders, and the conditions which they must satisfy, for the attainment and maintenance of a satisfactory standard in the conducting of a game;
- (p) any other matter which is required or permitted by this Act to be prescribed or which the Minister deems necessary or expedient to prescribe in order to achieve the objects of this Act.

(2) Any person who contravenes or fails to comply with the provisions of any regulation made under this section shall be guilty of an offence and liable on conviction to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding 6 months or to both such fine and such imprisonment.

55 Application of Gambling Act 1965

(1) The Gambling Act, 1965 (Act 51 of 1965), shall not apply in relation to any casino or gambling house licensed under this Act or any gambling in such a casino or gambling house.

(2) The provisions of subsection (2) of section 6 of the Gambling Act, 1965 shall not be affected by any provision of this Act.

56 Short title and commencement

This Act shall be called the Casinos and Gambling Houses Act, 1994, and shall come into operation on a date to be fixed by the Minister by notice in the *Gazette*.