

**THE CASINO ACT, 1971**

**No. 19**



**of 1971**

**ARRANGEMENT OF SECTIONS**

**PART I**

**PRELIMINARY**

**SECTION**

1. Short title
2. Interpretation

**PART II**

**CASINO CONTROL BOARD**

3. Establishment and constitution of Board
4. Temporary members
5. Vacation of office
6. Filling of casual vacancies
7. Functions of Board
8. Powers of Board

**PART III**

**LICENSING AND OPERATION OF CASINOS**

9. Licence
10. No alterations to casino premises without Board's approval
11. Revocation or surrender of licence
12. Revocation of licence following conviction
13. Appeals
14. Operation of casino
15. Right of certain police officers to enter a casino
16. Prohibition of certain persons from entering casino premises
17. Prohibition of gaming by certain persons

18. Citizens to participate in games only on cash basis
19. Sale, etc. of intoxicating liquor
20. Non-application of certain laws
21. Advertising

#### **PART IV**

##### **FISCAL**

22. Licence fees
23. Licence levy
24. Payments to be made to Board
25. Licence fees and licence levy to be deductible expenses.

#### **PART V**

##### **MISCELLANEOUS**

26. Auditing and inspections
27. Minister to appoint assistant to Board
28. Board's accounts and audit thereof
29. Annual report by Board
30. Power of Minister to give directions
31. Restriction on use of word "Casino"
32. Non-liability of Government
33. Penalties
34. Jurisdiction of magistrates
35. Regulations

**AN ACT TO PROVIDE FOR THE LICENSING OF CASINOS  
AND THE REGULATION AND SUPERVISION THEREOF  
AND TO PROVIDE FOR MATTERS INCIDENTAL TO AND  
CONNECTED WITH THE FOREGOING.**

*Date of Assent* : 5.5.1971

*Date of Commencement* : 14.5.1971

ENACTED by the Parliament of Botswana.

#### **PART I**

##### **PRELIMINARY**

Short title  
Inter-  
pretation.

1. This Act may be cited as the Casino Act, 1971.
2. In this Act, unless the context otherwise requires —  
"Board" means the Casino Control Board established by section 3;  
"casino" means premises on which gaming is conducted and in respect of which a licence is in force;

- “deemed gaming expenses” means a sum representing expenses of the licensee in respect of any gaming room in the casino determined annually by the Board;
- “game” means a game of chance played for money or money’s worth;
- “gaming” means the playing of any game;
- “gaming area” means an area in a casino specified and defined under section 9(2);
- “gaming revenue” means the total amount of all sums received as winnings by the licensee, including any amount deducted by him for his benefit from any stake or bank in any game, less only the total of all sums paid out by him as losses in respect of games played under his licence;
- “gaming room” means a room in the gaming area of a casino for gaming, and any adjoining room or verandah;
- “intoxicating liquor” has the same meaning as in the Liquor Proclamation, 1960;
- “licence” means a licence under section 9 to establish and operate a casino;
- “licensee” means the holder of a licence;
- “money’s worth” includes any counter or chip representing money or any article of value;
- “net gaming revenue” means gaming revenue less deemed gaming expenses.

## **PART II**

### **CASINO CONTROL BOARD**

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

Establishment and constitution of Board

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

(3) A person shall be disqualified from being appointed or being a member of the Board if he —

- (a) is a member of the National Assembly;
- (b) has been declared insolvent or adjudged or otherwise declared bankrupt under any law in force in Botswana or elsewhere and has not been discharged, or has made a

composition with his creditors and has not paid his debts in full; or

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

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

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

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

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

Temporary  
members

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

Vacation of  
office

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

(2) The office of a member shall become vacant if —

(a) he ceases to be qualified in terms of section 3(2) or becomes disqualified in terms of section 3(3);

(b) he is required to vacate his office under subsection (3).

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

(a) has been absent from meetings of the Board without reasonable excuse for a period exceeding six consecutive months; or

(b) is unable to exercise the functions of his office by reason of illness, absence or other cause and has been, or is likely to be, so unable for a period exceeding six months; or

(c) is otherwise unfit to discharge the functions of his office.

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

Filling of  
casual  
vacancies

**7.** It shall be the function of the Board --

Functions of  
Board

- (a) to regulate and control the development of casinos;
- (b) with the approval of the Minister, to define areas in which casinos may be established and operated;
- (c) to receive and consider applications for licences, to verify information contained therein or submitted therewith, and to issue or refuse licences;
- (d) to receive, consider and decide upon applications for transfer of licences;
- (e) to ensure that such sums of money as may be due to the Government by licensees are duly paid and accounted for;
- (f) to ensure that licensees maintain the casinos in respect of which they are licensed to the required standard.

**8.** The Board shall have power --

Powers of  
Board

- (a) by a member or members of the Board, or by any person it may authorise to represent it, to enter and inspect a casino at such times and in such manner as it may deem necessary in order to ascertain whether the terms and conditions of a licence are being observed;
- (b) to consult such persons having technical or expert knowledge of matters to be considered by the Board as it may consider necessary; and
- (c) to do all things necessary or convenient for the purpose of carrying out its functions.

### **PART III**

#### **LICENSING AND OPERATION OF CASINOS**

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

Licence

- (a) satisfies the Board that he or it, as the case may be, will be the occupier of the whole of the casino, with such security of tenure as the Board may deem adequate, and that he or

it intends to manage the operation of the whole of the facilities of the casino;

- (b) satisfies the Board that he is a person of integrity or that it is directed by persons of integrity;
  - (c) satisfies the Board that he or it has adequate financial means available to establish and operate a casino of a high standard;
  - (d) satisfies the Board by plans and specifications submitted to it that the casino will be of a high standard of amenity, appearance and comfort;
  - (e) undertakes if the said plans and specifications are approved by the Board, to commence, carry on and complete within fifteen months, or such longer period as the Board may in its discretion fix, any works necessary to bring the casino into accord therewith;
  - (f) deposits with the Accountant-General such security as the Board may consider adequate for the meeting of any obligations which he or it may incur to persons gaming in the casino; and
  - (g) being a body corporate, is a company or an external company within the meaning of the Companies Proclamation, 1959.
- (2) A licence shall specify and define the area in the casino where gaming may be conducted.
- (3) The Board may attach conditions to a licence --
- (a) relating to the games to be played in any gaming room;
  - (b) relating to the method of operation of any game;
  - (c) relating to the operation of any hotel forming part of the casino;
  - (d) for the purpose of ensuring that the operation of the casino does not detract from the natural beauty or the amenities of any place near the casino;
  - (e) for the purpose of ensuring that the operation of the casino accords with decency, dignity, good taste and honesty;
  - (f) requiring the submission to the Board of such reports and returns relating to the operation of the casino as the Board may from time to time require;
  - (g) relating to the days and hours when gaming may be carried on at the casino;

(h) relating to any other matter which in the opinion of the Board requires to be regulated.

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

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

No alterations to casino premises without Board's approval

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

Revocation or surrender of licence

- (a) it has been ascertained that any information given to the Board by the licensee for the purpose of obtaining the grant of the licence was, at the time when the information was given, false in a material particular; or
- (b) the licensee has, without reasonable excuse, failed to comply with a term or condition of the licence or a requirement or prohibition of this Act applicable to the licensee; or
- (c) the licensee is convicted of an offence against a law relating to gaming, betting or lotteries; or
- (d) the licensee is twice convicted within twelve months under the Liquor Proclamation, 1960, as read with section 19(4), of the offence of permitting drunkenness or violent or riotous conduct within a gaming room forming part of the casino; or
- (e) the licensee or, in the case of a company, the managing director or other officer managing the company
  - (i) has been convicted in a court in Botswana or elsewhere of an offence involving dishonesty and sentenced to imprisonment without the option of a fine; and
  - (ii) has not received a free pardon in respect of the offence; or
- (f) the licensee ceases, without the consent of the Board —
  - (i) to be the occupier of the whole of the casino; or

(ii) to manage the operation of the whole of the facilities of the casino; or

(g) the casino, or part thereof, ceases to carry on business in accordance with this Act.

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

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

Revocation of  
licence fol-  
lowing  
conviction

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

(a) has been convicted of an offence relating to the operation of the casino and sentenced to imprisonment without the option of a fine; and

(b) has not received a free pardon in respect of the offence; the Commissioner of Police, or any other police officer deputed by him for the purpose, may petition the Board to revoke the licence.

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

(a) of which the Board shall give the petitioner and the licensee notice; and

(b) at which either may be present or represented.

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

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

Appeals

**13.** (1) A person aggrieved by —

(a) the revocation of a licence; or

(b) the refusal of the Board to renew a licence;

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

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

(3) When a licence is revoked —

(a) the licence shall be deemed to remain in force during the

period within which an appeal may be brought under this section; and

- (b) after such an appeal has been brought, a Judge of the Court may suspend the revocation until the determination or abandonment of the appeal.

**14.** (1) The licensee shall –

Operation of  
casino

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

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

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

Right of  
certain police  
officers to  
enter casino

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

(3) A person who, by himself or by a person in his employ or acting with his consent, fails to admit a police officer who, in pursuance of subsection (1) demands entry into the premises of a casino shall be guilty of an offence and liable on conviction to a fine of one hundred rand and to imprisonment for three months.

**16.** (1) Where a court convicting a person of an offence is of opinion that by reason of the nature of the offence or the circumstances under which it was committed it is undesirable in the interests of public order, morality or fair play that such person should be permitted to enter any casino or any part or parts thereof,

Prohibition of  
certain persons  
from entering  
casino  
premises

the court may issue a written order prohibiting him from entering such casino, or the part or parts thereof specified in the order for a period to be stated in the order.

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

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

(4) A person who contravenes an order made under this section, or aids and abets or permits such a contravention, shall be guilty of an offence and liable on conviction to a fine of one hundred rand and to imprisonment for three months.

Prohibition of  
gaming by  
certain  
persons

**17.** (1) A person who —

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

shall be guilty of an offence.

(2) A person under the age of eighteen years who in any casino —

- (a) plays or takes part in any game; or
- (b) enters the gaming area of a casino;

shall be guilty of an offence.

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

- (a) play or take part in any game in the gaming area of a casino; or
- (b) enter or remain in the gaming area of a casino which is open for play;

shall be guilty of an offence:

Provided that it shall be a defence to any charge under this subsection against any licensee or servant of a licensee to prove

that the accused neither knew nor had reasonable cause to suspect that the person concerned was under the age of eighteen years.

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

Citizens to participate in games only on cash basis

(2) For the purposes of this section —  
“cash” includes travellers’ cheques and personal cheques but excludes credit cards and other forms of credit.

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

**19.** (1) Notwithstanding anything contained in the Liquor Proclamation, 1960, or any other law it shall not be necessary for a licensee to obtain, in respect of the casino, or any part thereof, a licence under that Proclamation or other law for the sale, supply or consumption of intoxicating liquor or other refreshments in accordance with this section.

Sale, etc. of intoxicating liquor

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

(3) Intoxicating liquor may be sold, supplied and consumed in parts of the casino, other than the gaming rooms, during the hours permitted by or under the Liquor Proclamation, 1960, for the sale of liquor under an hotel liquor licence but may not be sold or supplied for consumption off the casino.

(4) Save as is otherwise provided in this section, such provisions of the Liquor Proclamation, 1960, as apply to premises licensed under the Proclamation (including the grant of privileges for an extension of hours in the case of an hotel liquor licence) shall also apply, *mutatis mutandis*, to a casino.

**20.** (1) Notwithstanding anything contained in the Trading Act, 1966, a licensee may carry on the trade or business of selling any goods by retail in such part of a casino as is specified in the licence without being required to hold a general trading licence or small general trading licence in terms of that Act.

Non-application of certain laws

(2) None of the provisions of sections 172 to 174 inclusive or section 178(c) of the Penal Code and nothing contained in any

law relating specially to lotteries or games of chance shall apply in respect of a casino.

Advertising **21.** Subject to any regulations made under this Act, it shall be lawful to advertise a casino and the games to be played therein.

#### **PART IV** **FISCAL**

Licence fees **22.** (1) A licensee shall pay annual licence fees for his licence as follows —

- (a) in respect of the first year of his licence — R2,000;
- (b) in respect of the second year of his licence — R10,000;
- (c) in respect of the third year of his licence — R30,000;
- (d) in respect of the fourth and each subsequent year of his licence — R50,000:

Provided that in the event of the net gaming revenue of the casino exceeding R300,000 in any of the first three years the licensee shall pay for that year a licence fee of R50,000 instead of the fee specified in paragraph (a), (b) or (c).

(2) The fees specified in paragraph (a), (b), (c) and (d) of subsection (1) shall be paid at or before the commencement of the relevant year.

(3) When an annual licence fee of R50,000 becomes payable in terms of the proviso to subsection (1) the difference between R50,000 and the amount specified in paragraph (a), (b) or (c), as the case may be, of the said subsection in respect of the relevant year shall be paid at such time after the conclusion of such year as the Board may determine.

Licence levy **23.** (1) A licensee shall pay in respect of every year during which his licence subsists a levy on his net gaming revenue for that year in excess of R300,000 as follows —

- (a) in respect of any amount falling within the first R100,000 of such excess — thirty *per centum*;
- (b) in respect of any amount falling within the second R100,000 of such excess — fifty *per centum*;
- (c) in respect of any amount falling within the third R100,000 of such excess — sixty *per centum*;
- (d) in respect of any further excess — seventy *per centum*.

(2) The levy specified in subsection (1) shall be paid at such time after the conclusion of the relevant year as the Board may determine.

**24.** All payments required in terms of sections 22 and 23 shall be made to the Board and paid by it into the Consolidated Fund. Payments to be made to Board

**25.** Notwithstanding anything in the Income Tax (Consolidation) Proclamation, 1959, any licence fees and licence levy paid under this Part shall be a deductible expense for the purpose of computing taxable income. Licence fees and licence levy to be deductible expenses.

#### **PART V**

##### **MISCELLANEOUS**

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

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

(3) The Board may appoint inspectors who may —

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

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

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

**28.** (1) The Board shall keep proper accounts of all payments made to and by it under the provisions of this Act. Board's accounts and audit thereof

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

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

- (a) he has received all the information and explanations which, to the best of his knowledge and belief, were necessary

for the performance of his duties as auditor;

- (b) the accounts of the Board have been properly kept; and
- (c) the Board has complied with all the financial provisions of this Act with which it is its duty to comply.

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

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

Annual  
report by  
Board

**29.** (1) The Board shall, when sending the auditor's report and a copy of the audited accounts in respect of each year in terms of section 28(4), submit to the Minister a comprehensive report on its operations during such year.

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

Power of  
Minister to  
give  
directions

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

Restriction on  
use of word  
"Casino"

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

(2) A person who contravenes subsection (1) shall be guilty of an offence and liable on conviction to a fine of twenty rand, and in the case of a continuing offence to a further fine of twenty rand for each day on which the offence is continued after conviction.

Non-liability  
of Govern-  
ment

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

Penalties

**33.** Any person who contravenes any provision of this Act for which no other penalty is prescribed or who contravenes or fails to comply with any condition imposed by the Board in terms of this Act shall be guilty of an offence and liable on conviction to a fine of one thousand rand and to imprisonment for a period of two years.

**34.** A magistrate shall have jurisdiction summarily to impose any penalty prescribed by this Act. Jurisdiction of  
magistrates

**35.** The Minister may make regulations for the better carrying out of the objects and purposes of this Act and for giving effect to its principles and provisions, and without prejudice to the generality of the foregoing may in such regulations — Regulations

- (a) prescribe the manner in which application is to be made for a licence, the manner in which a licence is to be issued and renewed, and the form of a licence;
- (b) prescribe the manner in which the duties of the person referred to in section 27 are to be carried out and the facilities to be granted to him for that purpose;
- (c) prescribe standards of maintenance for casinos and the grounds thereof;
- (d) provide for the supervision of casinos by the Board and the police;
- (e) regulate the advertising of a casino; and
- (f) prescribe types of expenditure to be included or excluded in the determination of deemed gaming expenses:

Provided that the omission to prescribe such types of expenditure shall not invalidate any determination by the Board.

Passed by the National Assembly this day, the 1st April, 1971.

**G.T. MATENGE,**  
*Clerk of the National Assembly.*