

GAMBLING ACT, 2012

No. 7



of 2012

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An Act to regulate gambling in Botswana; to establish the Gambling Authority; and to provide for all matters incidental thereto.

Date of Assent: 17.09.2012

Date of Commencement: ON NOTICE

ENACTED by the Parliament of Botswana.

PART I — *Preliminary*

1. This Act may be cited as the Gambling Act, 2012 and shall come into operation on such a date as the Minister may, by Order published in the *Gazette*, appoint.

Short title and commencement

2. (1) In this Act, unless the context otherwise requires —
“applicant” means a person who applies for a licence under this Act;
“Authority” means the Gambling Authority established in terms of section 3;

Interpretation

“betting” means making or accepting a bet on —

- (a) the outcome of a race, competition or other event of any description;
- (b) the likelihood of anything occurring or not occurring; or
- (c) whether anything is or is not true,

but does not include any bet made or stake hazarded in the course of or incidental to any gambling, and the expressions “bet”, “betting” and “bookmaking” shall be construed accordingly;

“bingo” means a game with a number of people, each having a card marked off as numbers are drawn, and the expression “electronic bingo” and “manual bingo” shall be construed accordingly;

“Board” means the Board of the Authority established in terms of section 7;

“bookmaker” means any person who —

- (a) whether on his or her own account or an employee or agent of any other person, carries on, whether occasionally or regularly, the business of receiving or negotiating bets or conducting pool betting operations; or
- (b) by way of business in any manner holds himself or herself out, or permits himself or herself to be held out, as a person who receives or negotiates bets or conducts such operations,
- (c) and the expression “bookmaking” shall be construed accordingly;

“casino” means premises on which gambling is conducted and in respect of which a licence has been granted;

“casino game” means any game irrespective of whether or not the result of that game is determined by chance or a measure of skill, played with playing cards, dice, gaming machine or any other device used to determine win or loss in outcome of a wager for money or other valuable consideration;

- “Chief Executive” means the Chief Executive of the Gambling Authority appointed in terms of section 24;
- “family member” means, in relation to any person, his or her spouse, his or her child, parent or sibling;
- “game of chance” includes —
- (a) a game that involves an element of chance and an element of skill;
 - (b) a game that involves an element of chance that can be eliminated by superlative skill;
 - (c) a game that is presented as involving an element of chance; and
 - (d) a game where a computer generates images or data taken to represent the actions of another participant or participants in the game;
- “gambling” means —
- (a) betting (including pool betting) and bookmaking;
 - (b) gaming; and
 - (c) promoting or entering a lottery;
- “gambling activity” includes any activity described as such under section 122;
- “gaming” means playing a game of chance, for a prize;
- “gambling establishment” means any place opened, kept or used for the purposes of gambling by or with persons resorting to gambling, where any one or more of the following conditions are fulfilled —
- (a) the gambling involves playing or staking against a bank, whether the bank is held by one of the participants or not;
 - (b) the nature of the gambling is such that the chances are not equally favourable to all participants;
 - (c) the nature of gambling is such that the chances on it lie between the participant and some other person, or if there are two or more participants, lie wholly or partly between the participants and some other person and those chances are not favourable to the participant or participants as they are to that other person; or
 - (d) any commission or percentage is charged in connection with the gambling, the stake or the winnings;
- and, for purposes of this definition “bank” means the total amount of money set aside by a player or participant, or a team of players or participants for the purposes of gambling;
- “gambling device” means any equipment or thing used in connection with gambling or betting to determine the result of a gambling activity, and includes any playing cards or dice, roulette wheel, electromechanical or electronic device;
- “gambling industry” includes any matter regulated in terms of this Act, but does not include a regulatory authority;

“gambling machine” means a machine constructed or adapted for playing a game of chance by means of the machine which —

- (a) has a slot or other aperture for the insertion of money or money’s worth in the form of cash, tokens or smartcards; and
- (b) requires no action by the player other than the actuation or manipulation of the machine or apparatus in order to play the game of chance;

and, for purposes of this definition, “machine” includes an apparatus;

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

“licence” means a licence of a description specified under section 33;

“licensee” means a person to whom a licence has been granted under this Act;

“licensed premises” means the place or premises specified in a licence on which the activities authorised by means of that licence shall be conducted in terms of this Act;

“lottery” means any scheme for the distribution of prizes by chance or lot in which the participants or a substantial number of them make a contribution for the purposes of participation in the chances of the lottery;

“occupier” means, in relation to any premises, a person in actual occupation of the whole or any part of the place, whether by himself or herself, his or her employees, or agents;

“owner” means, in relation to any premises, the person for the time being receiving or entitled to receive the rent, or his or her agent;

“participant” includes, in relation to a game of chance, a person who discharges an administrative or other function in relation to the game;

“pool betting” means betting made on terms that all or part of any winnings —

- (a) shall be determined by reference to the aggregate of stakes paid or agreed to be paid by the persons betting;
- (b) shall be divided among the winners; or
- (c) shall or may be something other than money;

“premises” includes the whole or part of a building, any place, whether open or enclosed, and any ship, boat or other vessel or a vehicle of any description;

“private lottery” means a lottery which is conducted —

- (a) for and by members of a social or sporting club which is not connected with any form of gambling;
- (b) for and by persons who work on the same premises; or
- (c) for and by persons who reside on the same premises,

and which is promoted and conducted by persons, each of whom is a person to whom, under paragraphs (a), (b) and (c), tickets or chance may be sold by the promoter and, in the case of a lottery conducted for the members of a social or sporting club, is a person authorised by the governing body of the social or sporting club to conduct the lottery;

“prize” means, in relation to gambling, money or money’s worth, and includes both a prize provided by a person organising gambling and winnings of money staked;

“promotional competition” means a lottery conducted for the purpose of promoting the sale or use of any goods or services;

“society” means a society registered under the Societies Act;

“ticket” includes, in relation to any lottery or proposed lottery, any document evidencing the claim of a person to participate in the chances of the lottery;

“totalisator” means the scheme for betting on a sporting event, known as a totalisator, or any other machine or instrument of betting of a like nature; and

“winnings” means anything won, whether in money or in money’s worth.

Cap. 18:01

PART II — Establishment, Powers and Functions of Gambling Authority and its Board

Establishment
of Authority

3. There is hereby established an authority to be known as the Gambling Authority, which shall be a body corporate with a common seal, capable of suing and being sued in its own name, and, subject to the provisions of this Act, of doing or performing all such acts or things as bodies corporate may, by law, do or perform.

Seal of
Authority

4. (1) The seal of the Authority shall be such device as may be determined by the Authority and shall be kept by the Chief Executive.

(2) The affixing of the seal shall be authenticated by the Chairperson or Vice Chairperson and the Chief Executive or any other person authorised in that behalf by a resolution of the Board.

(3) Any contract or instrument which, if entered into or executed by a person not being a body corporate would not be required to be under seal, may be entered into or executed without seal on behalf of the Board by the Chairperson or any other person generally or specifically authorised by the Board to do so.

- 5.** The powers and functions of the Authority shall be —
- (a) to regulate and control the development of gambling establishments in Botswana;
 - (b) with the approval of the Minister, to define the areas in which gambling establishments may be established and operated;
 - (c) to receive and consider applications for licences, to verify information contained in or submitted with the application, and to issue, refuse, suspend, or revoke licences;
 - (d) to receive, consider and decide on applications for the transfer of licences;
 - (e) to ensure that such sums of money as may be due by licensees are duly paid and accounted for;
 - (f) to ensure that licensees maintain the gambling establishments in respect of which they are licensed, to the standards set out in this Act;
 - (g) through the exercise by any of its officers, or any person authorised by it, to enter and inspect any gambling establishment at such times and in such manner as it may consider necessary to ascertain whether the terms and conditions of a licence are being observed; and
 - (h) to do all such things as are necessary or convenient for the purposes of carrying out its functions.

Powers and
functions of
Authority

6. (1) The structure of the Authority shall include the following Units —

Units of
Authority

- (a) the Licensing Services;
 - (b) the Compliance and Monitoring Services;
 - (c) the Funds Disbursement Agency; and
 - (d) such other Units as may be necessary for the proper performance of the functions of the Authority under this Act.
- (2) The Licensing Service Unit shall be responsible for the review of the manner in which licences are issued under this Act.
- (3) The Compliance and Monitoring Services shall be responsible for —
- (a) the inspection of premises in terms of this Act; and
 - (b) the evaluation and approval of such control systems as may be specified in terms of this Act.
- (4) The Funds Disbursement Agency shall be responsible for —
- (a) the collection of all levies and revenues provided for under this Act;
 - (b) the accounting for all levies and other fees received by the Authority in terms of this Act; and
 - (c) the disbursement of the funds of the Authority.

- (5) The following shall be the joint responsibility of all the Units —
- (a) communication and cooperation with regional and international gambling associations;
 - (b) the development and review of the policy relating to gambling in Botswana, and the carrying out of research related to that policy; and
 - (c) the development and review of legislation.

Establishment
of Board

7. (1) The powers and functions of the Authority shall be exercised and performed by a Board consisting of the following members appointed by the Minister —

- (a) four members, not being public officers, of whom —
 - (i) one shall be a person with knowledge and experience in the gambling field,
 - (ii) one shall be a member of the legal profession,
 - (iii) one shall be appointed by reason of his or her knowledge and experience in the field of community or socio-economic development, and
 - (iv) one shall be a representative of the community;
- (b) one member who shall be nominated by the Minister responsible for trade and industry;
- (c) one member who shall be nominated by the Minister responsible for finance;
- (d) one member who shall be nominated by the Minister responsible for town and regional planning; and
- (e) one member who shall be nominated by the Minister responsible for tourism.

(2) The Chief Executive shall be an ex-officio member of the Board.

(3) The Minister shall appoint a Chairperson of the Board from amongst members of the Board, and the Vice Chairperson of the Board shall be elected by the members of the Board from amongst themselves.

Appointment
of Secretary of
Board

8. (1) The Chief Executive shall, with the approval of the Board, appoint a Secretary, who shall be suitably qualified and experienced.

(2) The Secretary of the Board shall attend all meetings of the Board but shall have no right to vote, and shall be responsible for the accurate and complete recording of the Board's proceedings and decisions.

(3) The Secretary of the Board shall be accountable to the Chief Executive and to the Board for his or her functions and responsibilities.

(4) Notwithstanding the provisions of subsection (2), the conditions of service, including the remuneration package of the Secretary, shall be set by the Board with the approval of the Minister.

Tenure of
office

9. (1) A member of the Board shall hold office for a term not exceeding three years, and shall be eligible for re-appointment for one further term.

(2) The Chairperson shall hold office for a period of three years, and he or she shall be eligible for re-appointment for one further term.

10. A person shall be ineligible for appointment to the Board if he or she —

Disqualification
for
appointment
to Board

- (a) has, in terms of any law in force in any country —
 - (i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged,
 - (ii) made an assignment to, or arrangement or composition with, his or her creditors, which has not been rescinded or set aside;
- (b) within a period of 10 years immediately preceding the date of his or her proposed appointment, has been convicted —
 - (i) in Botswana, of a criminal offence for which he or she has not received a free pardon, or
 - (ii) outside Botswana, of an offence which, if committed in Botswana, would have been a criminal offence;
- (c) has been sentenced by a court of competent jurisdiction to imprisonment, with or without the option of a fine, whether that sentence has been suspended or not, and for which he or she has not received a free pardon;
- (d) has been found guilty of unprofessional conduct or misconduct by a competent tribunal, board or body legally constituted for the purpose of adjudicating on matters of discipline and conduct;
- (e) is a member of Parliament or a Councillor;
- (f) has been certified as being mentally ill or disordered;
- (g) has a controlling, financial or other interest in, any gambling activity, or his or her business partner or associate, or family member, holds an office in, or is employed by, any person, organisation or other body, which has an interest contemplated in paragraph (h); or
- (h) has failed to disclose an interest in terms of section 21, or attended or participated in the proceedings of the Board while having an interest contemplated in that section.

11. Where 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 or her office, the Minister may, by Notice published in the *Gazette*, appoint temporarily to act in his or her place, a person other than a public officer, and, in the case of the Chairperson, a public officer for such period not exceeding six months as the Minister may specify.

Temporary
members

12. The Board shall —

- (a) determine the policy regarding gambling in Botswana;
- (b) oversee the performance of the Authority; and
- (c) review, where necessary, the objects and purposes of the Authority and recommend, to the Minister, such changes, consequent upon such review, as it considers appropriate.

Powers and
functions of
Board

13. (1) The Board shall establish such committees as it considers necessary to assist it in the performance of its functions, and may delegate, to any such committee, such of the Authority's functions as it considers necessary or appropriate.

(2) Without derogating from the generality of subsection (1), the Board shall establish the following committees —

- (a) the Training and Localisation Committee whose function shall be to empower citizen employees with the requisite skills to localise expatriate held positions in the gambling industry; and
- (b) the Excessive Gambling Prevention and Rehabilitation Committee, whose main purpose shall be to guide and monitor the development and implementation of programmes and strategies aimed at preventing addictive or compulsive gambling, and rehabilitating compulsive gamblers.

(3) The Board may appoint to such committees, such number of members as it considers appropriate, and such persons shall hold office for such period as the Board may determine.

(4) Subject to the specific or general directions of the Board, a committee may regulate its own procedure.

(5) Meetings of a committee shall be held at such times and places as the committee may determine, or as the Board may direct.

(6) Each committee shall keep minutes of its meetings and shall keep the Board informed of its activities.

(7) A member of a committee shall be paid such remuneration, and such other allowances, incurred in connection with his or her service in the committee, if any, as the Board, with the approval of the Minister, may from time to time determine.

14. A member of the Board shall vacate his or her office and his or her office shall become vacant —

- (a) in the event of the occurrence of anything which would have rendered that member ineligible for appointment as a member of the Board;
- (b) upon his or her death;
- (c) upon the expiry of one month's notice, given in writing to the Minister, of his or her intention to resign his or her office;
- (d) if he or she is absent from three consecutive meetings of which he or she has been given notice, without reasonable excuse; or
- (e) upon the expiry of such time as the Minister may specify in writing, notifying the member of his or her removal from office by the Minister on account of that member being unable to exercise the functions of his or her office because of illness, absence or other cause and has been, or is likely to be so unable for a period exceeding three months.

15. (1) On the death of, or the vacating of office by, any member of the Board, the Minister shall, as soon as reasonably possible, appoint a person, in accordance with the provisions of section 7, for the remaining period of office of such deceased or vacating member.

Filling of vacancies

(2) Subsection (1) shall not apply where the remainder of the period for which a member whose office has been vacated would otherwise have held office is less than six months.

16. The Board may appoint or engage such experts or other persons as it considers necessary to assist it in the exercise and performance of its powers, functions and duties, or for the performance of any work arising from it.

Expert and other assistance

17. A member of the Board or an expert appointed or engaged to assist the Board shall be paid such remuneration, and such other allowances and travelling expenses, incurred in connection with his or her service on the Board, if any, as the Minister may from time to time determine.

Remuneration and allowances

18. (1) A member of the Board shall not —

Gambling by Board members

- (a) participate in any gambling activity, except in the performance of his or her duties in terms of this Act; or
- (b) solicit or accept directorship or shareholding from an applicant for, or holder of, a licence under this Act, within two years of the termination of his or her term of office.

(2) A person who contravenes the provisions of subsection (1) commits an offence.

PART III — *Meetings and Proceedings of Board*

19. (1) Subject to the provisions of this Act, the Board shall regulate its own procedure.

Meetings of Board

(2) The Board shall meet as often as is necessary or expedient for the discharge of its functions, but in any case at least once in each quarter of the year, and such meetings shall be held at such place, time and day as the Chairperson may determine in consultation with the Chief Executive.

(3) Upon giving notice in writing, of not less than 14 days, a meeting of the Board may be called by the Chairperson provided that if the urgency of any particular matter does not permit the giving of notice, a special meeting may be called upon giving of a shorter notice.

(4) There shall preside at any meeting of the Board —

- (a) the Chairperson;
- (b) in the absence of the Chairperson, the Vice Chairperson; or
- (c) in the absence of the Chairperson and Vice Chairperson, such member as the members present may elect from amongst themselves for the purpose of that meeting.

(5) A quorum at any meeting of the Board shall consist of any four members of the Board.

(6) All decisions of the Board shall be passed by a simple majority of the members present and voting at the meeting and, in the event of an equality of votes, the person presiding shall have a casting vote in addition to that person's deliberative vote.

Confidentiality

20. (1) A member of the Board, or any officer or member of staff of the Authority shall not divulge any financial or other information relating to any applicant, or any information which has been furnished to the Authority by the Botswana Police Service, an inspector or any other regulatory authority or law enforcement agent, to any person except on the order of a court.

(2) A person who contravenes the provisions of subsection (1) commits an offence.

Disclosure of
interest by
Board
members

21. (1) If a member of the Board is present at a meeting of the Board or any committee of the Board at which any matter being discussed is one in which the member is directly or indirectly interested in a private capacity, he or she shall, as soon as practicable after the commencement of the meeting, disclose such interest and shall not, unless the Board otherwise directs, take part in any consideration or discussion of, or vote on, any question concerning such matter.

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

(3) Where a member fails to disclose his or her interest in accordance with subsection (1) and the Board makes a decision which benefits that member, that decision shall be void to the extent to which it benefits that member.

(4) A member of the Board who fails to comply with the provisions of subsection (1) commits an offence.

Validity of
decisions

22. The validity of any act or proceedings of the Board shall not be affected by any vacancy among its members or by any defect in the appointment of a member of the Board, or by failure of a member to disclose his or her interest in terms of section 21.

Signification
of documents

23. All documents made by, and all decisions of the Board, shall be signified under the hand of the Chairperson or any member of the Board or senior officer of the Authority generally or specifically authorised to do so.

PART IV — *Officers and Staff of Authority*

24. (1) The Minister shall, on the recommendation of the Board, appoint a Chief Executive of the Authority, upon such terms and conditions and for such period as the Minister may determine.

Chief
Executive

(2) A person shall not be appointed as Chief Executive unless the person possesses such experience and training as the Minister may prescribe or approve in writing, and that person demonstrates that he or she is competent to carry out the functions of the Authority.

(3) The Chief Executive shall, subject to such directions, on matters of policy, as may be given by the Board, be responsible for the day to day affairs of the Authority.

(4) The Chief Executive may delegate, to any senior officer of the Authority, any power which he or she is authorised to exercise under this Act.

(5) The Chief Executive may resign from office by giving three months' written notice to the Minister, or by paying to the Authority, one month's salary in lieu of notice.

(6) The Chief Executive may be removed from office by the Minister giving him or her three months' notice in writing, or by giving him or her three months' salary in lieu of notice.

(7) Notwithstanding the provisions of subsection (6), the Minister may remove the Chief Executive from office at any time without giving notice for —

(a) misconduct or incompetence; or

(b) such conflict of interest as, in the opinion of the Minister, warrants his or her removal from office.

25. (1) The Board shall, on the recommendation of the Chief Executive, appoint the senior officers of the Authority, and the Chief Executive shall appoint such other officers and employees as may be necessary for the proper discharge of the functions of the Authority.

Appointment
and dismissal
of staff

(2) The terms and conditions of employment of staff of the Authority shall be as may be determined by the Board in consultation with the Minister.

26. The provisions of section 18 shall apply to the officers and members of staff of the Authority in respect of gambling.

Gambling by
Authority staff

PART V — *Financial Provisions*

27. The Authority's revenues shall consist of —

(a) such moneys as may be appropriated by the National Assembly for the purposes of the Authority;

(b) such grants and donations as the Authority may receive;

(c) such fees as the Authority may charge for services rendered by it;

(d) income that the Authority may receive from investments; and

(e) any other moneys, other than penalties, to which it may be entitled in terms of this Act.

Authority's
revenues

Financial year

28. The financial year of the Authority shall be a period of 12 months, beginning on 1st April and ending on the 31st of March.

Pension and
others funds

29. (1) The Authority may, out of its revenues, establish and maintain such pension, superannuation, provident or other funds as it may consider desirable or necessary for the payment of such benefits or other allowances on the death, sickness, injury, superannuation, resignation, retirement or discharge of its staff and may, make rules providing for the payment of money out of its revenues to such funds and providing for contributions to such funds by its staff.

(2) The Authority may contract with insurance companies or such other bodies as may be appropriate for the maintenance and administration of the funds authorised under subsection (1).

Accounts and
audit

30. (1) The Authority shall keep and maintain proper accounts and records in respect of every financial year relating to the assets, liabilities, income and expenditure of the Authority, and shall prepare, in each financial year, a statement of such accounts.

(2) The accounts of the Authority in respect of each financial year shall, within three months of the end of the financial year, be audited by an auditor appointed by the Board.

(3) The auditor shall report in respect of each financial year, in addition to any other matter on which he or she considers it relevant to comment, whether or not —

- (a) he or she has received all the information and explanation which, to the best of his or her knowledge and belief, were necessary for the performance of his or her duties as an auditor;
- (b) the accounts and related records of the Authority have been properly kept;
- (c) the Authority has complied with all the financial provisions of this Act, with which it is its duty to comply with; and
- (d) the statement of accounts prepared by the Authority was prepared on a basis consistent with that of the preceding year and represents a true and fair view of the transactions and financial affairs of the Authority.

(4) The auditor shall, within 14 days of completion of the audit report, forward the audit report and a copy of the audited accounts to the Authority.

Annual report

31. (1) The Authority shall, within a period of six months after the financial year, or within such longer period as the Minister may approve, submit to the Minister, a comprehensive report of its operations during that year, together with the auditor's report and the audited accounts as provided in section 30, and the report shall be published in such manner as the Minister may require.

(2) 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, and if the National Assembly is not then in session, within 30 days after the commencement of its next ensuing session.

PART VI — *Gambling Licences in General*

32. (1) A person shall not operate a gambling establishment unless he or she has a valid licence issued by the Authority.

Operating
without
licence
prohibited

(2) A person who contravenes the provisions of subsection (1) commits an offence and is liable —

(a) to a fine not exceeding P180 000 or to imprisonment for a term not exceeding 15 years, or to both; and

(b) for a second or subsequent offence, to a fine not exceeding P240 000 or to imprisonment for a term not exceeding 20 years, or to both.

33. For the purposes of this Act, the Authority may grant licences of the following descriptions —

Types and
scope of
licences

(a) a betting licence;

(b) a bingo licence;

(c) a bingo machine licence;

(d) a bookmaker's licence;

(e) a casino licence;

(f) a gambling establishment licence;

(g) a gambling machine licence;

(h) a lottery licence;

(i) a lottery machine licence;

(j) a racing licence;

(k) a testing agent licence; and

(l) a totalisator licence;

and the cases in which a licence of a particular description is required are specified in the Act.

34. (1) A person shall make an application to establish or operate a gambling establishment in such form as may be prescribed and shall submit the application, together with such application fee as may be prescribed, to the Authority.

Application
for licence

(2) Every applicant shall at his or her own expense, cause notification of an application under subsection (1) to be published in two consecutive issues of the *Gazette*, Daily News or any private local newspaper, calling upon any person who objects to the application to notify the Authority, in writing, of such objection and the grounds of that objection, within 30 days of the last publication of the notification.

35. (1) The Authority shall, on the filing of an application for a licence, cause the premises to which the application relates, or the architectural drawings where a building has not yet been built, to be inspected by an inspector appointed in terms of this Act in respect of its suitability for the establishment and operation of the business which is the subject matter of the application.

Inspection of
premises
relating to
application

(2) The inspector shall, upon the completion of his or her inspection, forward a copy of his or her report to the Authority which shall take such report into account in its consideration of the application.

Police
clearance

36. (1) The Authority shall request the Botswana Police Service for police clearance, which clearance shall include setting out any convictions on offences involving dishonesty or moral turpitude recorded against an applicant for a licence.

(2) The Authority shall, when assessing the application for a licence, take the clearance obtained at subsection (1) into consideration.

Issue of
licence

37. (1) The Authority shall grant and issue a licence to establish and operate a gambling establishment where an applicant for that licence —

- (a) satisfies the Authority that he or she will be the occupier of the whole of the premises from which the gambling establishment will be operated, with such security of tenure as the Authority may consider adequate, and that he or she intends to manage or procure the management of the operation of the whole of the facilities of the said establishment;
- (b) satisfies the Authority that he or she is a person of integrity or, in the case of a company, that it is directed by persons of integrity;
- (c) satisfies the Authority that he or she has the knowledge and experience necessary to establish and operate the relevant gambling establishment which is the subject matter of the application;
- (d) satisfies the Authority that he or she has adequate financial means available to establish and operate the gambling establishment to a high standard;
- (e) satisfies the Authority by plans and specifications submitted to it, that the gambling establishment will be of a high standard of amenity, appearance and comfort;
- (f) undertakes, if the said plans and specifications are approved by the Authority, to commence, carry on and complete within 15 months or such longer period as the Authority may, in its discretion determine, any works necessary to bring the establishment into operation;
- (g) in the case of a casino, gives a guarantee or deposits with the Authority, such security as the Authority may consider adequate for the meeting of any obligations which he or she may incur to persons gambling in the establishment; and
- (h) being a body corporate, is a company or external company within the meaning of the Companies Act.

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(2) A licence issued in terms of this section shall specify and define the area, in the gambling establishment, in which gambling may take place.

(3) The Authority may attach conditions to a licence issued under this section —

- (a) relating to the games which may be played in any gambling room;
- (b) relating to the method of operation of any game;
- (c) relating to the operation of any hotel forming part of a gambling establishment;

- (d) for the purpose of ensuring that the operation of the gambling establishment does not detract from the natural beauty or amenities of any place near that establishment;
- (e) for the purpose of ensuring that the operation of the gambling establishment accords with decency, dignity, good taste and honesty;
- (f) requiring the submission, to the Authority, of such reports and returns, relating to the operation of the gambling establishment as the Authority may from time to time require;
- (g) relating to the days and hours during which gambling may take place at the establishment; and
- (h) relating to any other matter which, in the opinion of the Authority, requires to be regulated.

(4) Where the Authority is of the opinion that it is necessary or expedient to do so for the better carrying out of the objects and purposes of this Act, it may propose, by written notice served on a licensee, to vary the conditions to that licensee's licence.

(5) The Authority shall in the written notice served under subsection (4), require the licensee to show cause in writing, within such time as shall be specified in the notice, as to why the licence should not be varied.

(6) The Authority shall after considering the explanations given by the licensee, make a decision and inform him or her in writing of such decision and the reasons for that decision.

(7) The Authority, when granting and issuing a licence under this section, may, with the approval of the Minister, provide, in such licence, that the licence shall confer exclusive authority on the licensee to establish and operate a gambling establishment within the area specified in the licence, and where the Authority has so provided, it shall, as long as such licence remains in force, grant and issue a licence in respect of such area to no other person.

38. (1) A licence issued under this Act shall, unless previously renewed or revoked, expire at the end of a period of 10 years from the date of issue.

Duration of
licence

(2) Notwithstanding the provisions of subsection (1), a licensee shall pay a prescribed annual licence fee, 30 days before the elapse of a period of 12 months from the date of issue of the licence.

39. (1) The Authority shall not issue a licence applied for under this Act where —

Refusal of
licence

- (a) the applicant is below the age of 21 years;
- (b) the applicant is a non-citizen and has failed to produce —
 - (i) proof of registration of his or her business or company where the applicant is not an individual, and
 - (ii) a valid identification document;
- (c) the applicant is an unrehabilitated insolvent;
- (d) the applicant has surrendered his or her estate for the benefit of his or her creditors;

- (e) the applicant has been convicted of an offence involving dishonesty or moral turpitude;
- (f) the applicant is a public servant;
- (g) the applicant does not qualify, in terms of section 37 or any other section of this Act, for the issue of a licence;
- (h) the issue of such licence would conflict with any approved or proposed town planning scheme or zoning area or rights in that respect;
- (i) any person has raised an objection in terms of section 34 (2) which the Authority considers to be valid; or
- (j) the location of the proposed premises is an unsuitable location for the proposed activity, having regard to the social impact which the said activity would have.

(2) The Authority shall, where it refuses to grant a licence, give the reasons for that refusal in writing.

Renewal of
licence

40. (1) An application for the renewal of a licence shall be made to the Authority by the licensee, in such form and upon payment of such fee as may be prescribed.

(2) Any such application shall be submitted to the Authority not later than six months prior to the date of the expiry of the current licence.

(3) On receipt of an application which complies with the requirements of subsections (1) and (2), the Authority shall proceed to consider the application and shall —

- (a) grant the application by renewing the licence for such period as may be specified in the licence, subject to the existing terms or subject to such other terms as the Authority considers appropriate;
- (b) give notice in writing to the applicant refusing the application; or
- (c) give notice in writing to the applicant that, before the Authority can reach a decision on the application, the Authority requires, within such reasonable time as is specified in the notice, such further information as is so specified.

(4) If, in a case where the Authority has given notice as mentioned in subsection (3) (c), the Authority receives the required information, it shall proceed in accordance with paragraphs (a) to (b) of subsection (3) but, if the required information is not received within a reasonable time, the Authority may revoke or refuse to renew the licence in terms of section 41.

(5) Where a licensee does not renew its licence within three months of its expiry, the Authority shall revoke that licence.

Revocation of
licence

41. (1) The Authority may at any time revoke or refuse to renew a licence where —

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

- (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;
 - (c) the licensee is convicted of an offence under this Act or any other enactment;
 - (d) the licensee or, in the case of a company, the owner, the managing director or other officer managing the company —
 - (i) has been convicted by a court of competent jurisdiction 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;
 - (e) the licensee ceases, without the consent of the Authority —
 - (i) to be the occupier of the whole of the gambling establishment, or
 - (ii) to manage the operation of the whole of the facilities of the establishment;
 - (f) the gambling establishment, or a part of it, ceases to carry on business in accordance with this Act; or
 - (g) the Authority establishes, in any proceedings, that the licensee has in any respect breached any agreement to which the Authority and the licensee are parties which concerns the gambling establishment referred to in the licence or matters relating to such establishment.
- (2) The Authority shall, where it revokes any licence or refuses to renew any licence, give reasons in writing to the licensee.

42. (1) Where the licensee is a company, and the owner, managing director or other officer managing the company —

- (a) has been convicted of an offence relating to the operation of a gambling establishment 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 officer delegated by him or her for the purpose, may petition the Authority to revoke the licence.

(2) The petition shall be heard at a meeting called by the Authority —

- (a) of which the Authority shall give the petitioner and the licensee two weeks' notice in writing; and
- (b) at which both the Commissioner and the licensee may be present or represented.

(3) The Authority may, on the hearing of the petition, revoke a licence where good reason is shown why it should be revoked.

43. A licensee may surrender his or her licence on such conditions as the Authority may in writing direct.

Revocation
of licence
following
conviction

Surrender of
licence

Transfer of
licence

44. (1) A person may, on application in such form as may be prescribed, apply to the Authority for a licence to be transferred to another person, or to be transferred from one premises to another.

(2) Without prejudice to the generality of subsection (1), the Authority may transfer a licence where —

- (a) the licensee has died, to his or her heir or beneficiary;
- (b) the licensee has been declared insolvent or has surrendered his or her estate for the benefit of his or her creditors, to his or her trustees;
- (c) the licensee becomes the subject of any legal disability, to his or her legal representative; or
- (d) a person acquires the business to which a licence is issued or acquires a controlling interest in a licence, to that person.

(3) The Authority shall not grant the transfer of a licence where it has reason to believe that as a result of that transfer, a person who is disqualified from acquiring a licence under this Act would acquire it.

Request for
additional
information

45. (1) When considering an application for a licence or for the transfer of a licence, the Authority may, in writing request —

- (a) such additional information, from the applicant, as it considers necessary;
- (b) written authorisation from the applicant permitting the Authority to procure information directly from third parties and authorising such third parties to provide that information; or
- (c) a report from —
 - (i) the Botswana Police Service, or
 - (ii) such other relevant authority as the Authority may consider necessary.

(2) A report requested in terms of subsection (1) may include the particulars of any convictions recorded against a person, to the extent that those particulars are relevant for the purpose of determining whether, in terms of this Act, that person is disqualified from holding an interest in a licence, licensed premises or the business to which a licence relates.

Licence
available due
to expiration,
surrender, etc.

46. (1) A casino licence or a gambling establishment licence may become available for fresh application, after revocation, surrender or expiration of that licence.

(2) The Authority shall advertise a licence which becomes available as a result of circumstances under subsection (1).

(3) A person may make an application for a licence available under this section, in such form as may be prescribed and shall submit the application, together with such application fee as may be prescribed, to the Authority.

(4) A licence acquired under this section shall be subject to the provisions applicable to licences under this Act.

47. A licensee whose licence is lost, destroyed or mutilated may make an application for a duplicate licence in such form and on payment of such fee as may be prescribed. Duplicate licence

48. (1) A person who is aggrieved by a decision of the Authority to — Appeals
(a) refuse to issue a licence;
(b) refuse to renew a licence;
(c) refuse to transfer a licence; or
(d) revoke a licence,
may appeal to the Minister within 30 days of that decision.

(2) 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 the appeal has been brought, the Minister may suspend the revocation until the determination or abandonment of the appeal.

49. (1) Where a licence is issued in respect of any premises, the licensee shall exhibit and keep exhibited, in a prominent place on the premises — Display of licence

(a) the licence; and
(b) a sign board or name plate bearing, in legible letters, the name or style under which he or she carries on business.

(2) A person who contravenes the provisions of this section commits an offence and is liable —

(a) to a fine not exceeding P40 000 or to imprisonment for a term not exceeding two years, or to both; and
(b) for a second or subsequent conviction, to a fine not exceeding P50 000 or to imprisonment for a term not exceeding three years, or to both.

50. (1) A licensee shall pay, in respect of every month during which his or her licence subsists, a levy of such percentage, of his or her gambling revenue for that month, as may be prescribed. Licence levy

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

(3) A licensee shall submit to the Authority, every levy payment made under this section, accompanied by a certificate under the hand of the person appointed in accordance with section 51, certifying that in the opinion of that person, the amount of the levy payable has been fairly and accurately calculated.

(4) A person who fails to pay levy or makes a late payment in accordance with subsections (1) and (2) shall be liable to a fine not exceeding P20 000.

51. (1) The Board shall appoint such person, as it considers appropriate, to assist the Authority in determining what sums of money are payable to the Authority by licensees. Board to appoint assistant to Authority

(2) A person appointed in terms of subsection (1) shall have power to enter casinos and gambling establishments, and inspect the books of licensees and shall perform such other powers as may be delegated to him or her by the Authority, which powers are connected to the inspection of the books of the licensees.

PART VII — *Casino Licences*

Applicability
of general
licensing
provisions
to casinos

52. The provisions of Part VI, shall with necessary modifications, in respect of applications for a licence under this Part, apply.

Licence
required to
establish or
operate casino

53. (1) A person shall not establish or operate a casino without a casino licence.

(2) A person who contravenes the provisions of subsection (1) commits an offence and is liable —

- (a) to a fine not exceeding P60 000 or to imprisonment for a term not exceeding four years, or to both; and
- (b) for a second or subsequent offence, to a fine not exceeding P80 000 or to imprisonment for a term not exceeding five years, or to both.

Grant of casino
licence

54. The Board shall, in considering whether to grant an application for a casino licence, and in considering any conditions and requirements to which any such licence should be made subject to, take into consideration —

- (a) whether the casino will enhance the neighbourhood within which it is proposed to be situated, and the environment;
- (b) the extent to which the casino will promote tourism at the place where the premises will be situated and in the District in general;
- (c) the extent to which the applicant will provide training and skills to his or her employees;
- (d) the extent to which the applicant will procure labour, goods and services from such place and the District in general for the construction and conducting of the casino;
- (e) the extent to which the applicant intends to provide for participation in the ownership or profits of the casino by citizens;
- (f) any facility, advantage or contribution which the applicant intends to provide or furnish for the benefit of, or for utilisation or enjoyment by, any needy community at or near the place where the premises will be located, or any persons or groups or categories of persons contemplated in paragraph (e); or
- (g) any other factors which may affect the desirability to grant the application or to attach any conditions or requirements.

55. The granting of a casino licence shall authorise the playing or making available for play, of the casino games specified in the licence, on the licensed premises concerned.

Activities authorised by casino licence

56. A licensee shall —

Operation of casino

- (a) ensure that the operation of his or her casino accords with decency, dignity, good taste and honesty;
- (b) in accordance with the conditions of his or her licence, permit and organise the playing of games with cards, dice or mechanical devices (including roulette wheel) for money or money's worth;
- (c) display permanently within the casino, such information regarding its operation as may be prescribed by the Authority;
- (d) make available for examination, at the request of any customer, a copy of the rules determining the manner in which any particular casino game shall be played;
- (e) operate the casino, including any hotel, which it is part of, in accordance with the conditions of his or her licence; and
- (f) generally operate the casino in accordance with this Act.

57. (1) A person who is not the holder of a casino licence shall not trade or carry on business under a name or title of which the word "casino" forms a part.

Prohibition of use of the word "casino"

(2) The holder of a casino licence shall display the word "casino" on the premises of the casino.

(3) A person who contravenes the provisions of this section commits an offence and is liable —

- (a) to a fine not exceeding P40 000 or to imprisonment for a term not exceeding two years, or to both; and
- (b) for a second or subsequent conviction, to a fine not exceeding P50 000 or to imprisonment for a term not exceeding three years, or to both.

PART VIII — *Bingo Licences*

58. The provisions of Part VI, shall with necessary modifications, in respect of applications for a licence under this Part, apply.

Applicability of general licensing provisions to bingo licences

59. (1) A person shall not make available for play, the game of bingo unless he or she has a valid licence.

Requirement of bingo licence

(2) A person shall not, by any electronic or other method of linking to any other premises, provide for the game of bingo to be played at such other premises unless he or she has a valid bingo licence.

(3) A person who contravenes the provisions of this section commits an offence and is liable —

(a) to a fine not exceeding P60 000 or to imprisonment for a term not exceeding four years, or to both; and

(b) for a second or subsequent offence, to a fine not exceeding P80 000 or to imprisonment for a term not exceeding five years, or to both.

Activities
authorised by
bingo licence

60. (1) A bingo licence shall authorise the holder of such licence to conduct or provide for the game of bingo on the licensed premises concerned.

(2) The amount that may be charged to enable a person to play the game of bingo shall not exceed the amount prescribed in the bingo licence concerned.

(3) The return to players in any game of bingo shall not be prescribed.

PART IX — *Lotteries*

Applicability
of general
licensing
provisions to
lotteries

61. (1) The provisions of Part VI, shall with necessary modifications, in respect of applications for a licence under this Part, apply.

(2) Notwithstanding the provisions of subsection (1), the provisions of sections 34, 36, 37, 41, 42, 44, 45 and 47 shall, with necessary modifications, in respect of applications for a licence to operate the National Lottery, apply.

National
Lottery

62. (1) The Authority may, after consultation with the Minister, issue a licence to authorise a person to conduct a National Lottery.

(2) The Authority shall not issue a licence under this section to any person who does not possess any experience and knowledge in operating a National Lottery.

(3) The Authority shall not issue more than one licence at a time under this section.

(4) A licence granted under this section shall be valid for a period of 10 years unless sooner revoked by the Authority, and any subsequent licence shall be for such period as the Authority may determine.

National
Lottery
Distribution
Fund

63. (1) The Minister responsible for finance may, by Order published in the *Gazette*, establish the National Lottery Distribution Fund into which a prescribed percentage of the proceeds of the National Lottery shall be paid.

(2) The moneys paid into the Fund shall be used for national projects which shall include —

(a) charitable expenditure;

(b) development of sport and recreation;

(c) expenditure on or connected with arts, culture and youth empowerment; and

(d) any other matter approved by the Minister for that purpose.

(3) The moneys to be used for the purposes provided in subsection (2) shall not be less than the prescribed percentage allocated for that purpose.

64. (1) Any lottery, other than the National Lottery shall be lawful if it is provided on behalf of —

Lawful lottery

- (a) a society; or
- (b) an institution or organisation prescribed as a charitable institution or organisation, and is promoted and conducted in accordance with the provisions of section 68.

(2) Regulations may prescribe such institutions or organisations to be considered as charitable institutions or organisations for the purposes of this Act.

65. (1) It shall be unlawful to operate or conduct a lottery which is not authorised by the Authority under this Part.

Prohibited lottery

(2) A person who operates or conducts an unlawful lottery commits an offence and is liable to a fine not exceeding P60 000 or to imprisonment for a term not exceeding four years, or to both.

66. A private lottery shall not be unlawful if —

Private lottery

- (a) all the proceeds, after deducting only expenses incurred for printing and stationery pertaining to tickets of that lottery and notices advertising that lottery, are devoted to the provision of prizes for purchases of tickets or chances, or, in the case of a lottery conducted for the members of a society, such proceeds are devoted to —
 - (i) the provision of prizes, or
 - (ii) the purposes for which the society was established;
- (b) a written notice or advertisement of the lottery is not exhibited, published or distributed other than —
 - (i) a notice exhibited on the premises of the society for whose members the lottery is conducted or, as the case may be, on the premises on which the persons for whom the lottery is conducted, ordinarily work or reside, and
 - (ii) such announcement or advertisement of the lottery is contained in the text printed on the tickets, if any;
- (c) a person is not employed for reward in any form whatsoever in connection with the conduct of the lottery;
- (d) a ticket in the lottery is not sent through the post;
- (e) the total value of the tickets or chances sold or to be sold or the total value of the prizes in that lottery is not more than the prescribed amount determined by the Minister in consultation with the Authority;
- (f) the sale of tickets in the lottery is confined —
 - (i) to the persons for whom the lottery is conducted, and
 - (ii) in the case of a lottery conducted for the members of a social or sporting club, also to any other person who is on the premises of such club at the time of sale;
- (g) it is conducted for members of a society established and conducted for purposes not connected with lotteries, gambling or betting; and
- (h) a person purchasing a ticket for a private lottery does not solely by purchasing that ticket become a member of the club or society which conducts that lottery or on whose behalf that lottery is conducted.

(2) The Authority may determine the maximum number and frequency of private lotteries that may be promoted in any period of 12 months on behalf of the same social or sporting club, or on the same premises where persons work or reside.

67. (1) A promotional competition shall not be unlawful if —

- (a) it is conducted in Botswana;
- (b) the consideration payable in respect of the purchase of goods or the use of services in respect of which that promotional competition is conducted —
 - (i) is the price usually or ordinarily paid, excluding discounts, for such or similar goods or services without the opportunity of taking in a promotional competition,
 - (ii) is not increased by the opportunity to participate in that promotional competition, or
 - (iii) is the only consideration payable for those goods or services and includes consideration for the right to compete;
- (c) the opportunity of participating in the promotional competition is not the only or the only substantial inducement to a person to purchase or use the goods or services to which the promotional competition relates;
- (d) the promotional competition is conducted in accordance with the regulations prescribed by the Minister in terms of subsection (2) or (3);
- (e) the Minister has not in terms of subsection (4) declared the promotional competition unlawful;
- (f) the goods or services manufactured, sold, supplied, distributed or delivered in connection with the right to participate in a promotional competition are usually or ordinarily manufactured, sold, supplied, distributed or delivered by the person for whose benefit the promotional competition is held;
- (g) the promotional competition is not substantially similar to any competition, game or sports pool conducted by or on behalf of the National Lottery; and
- (h) the consideration paid for the purchase of the goods or the use of the services promoted by a promotional competition is not increased by the opportunity to take part in that promotional competition to such an extent that, that promotional competition does not mainly serve as a means, method or mechanism of promoting the relevant goods or services, but substantially as consideration for the opportunity to take part in that promotional competition.

(2) The Minister may, after consultation with the Authority, with due regard to the effect of promotional competitions on the National Lottery, and society lotteries, make regulations which are necessary for the proper conduct and regulation of promotional competitions in general.

(3) Without prejudice to the generality of subsection (2), the Minister may make regulations in respect of —

- (a) the minimum age of a person who may participate in any particular competition or category of competitions;
- (b) the conditions or circumstances under which the Authority or any person designated by it may without the consent of the person who conducts the promotional competition inspect any aspect, including any process or procedure, relating to a promotional competition, including the accounting procedures and the process of identifying the winner or winners of that promotional competition;
- (c) any matter relating to the conduct of a promotional competition which may reasonably have a negative influence on or consequence for the public, or any part or group of the public; and
- (d) offences and penalties for the contravention of the regulations.

(4) The Minister may on the recommendation of the Authority, by Notice published in the *Gazette* declare a promotional competition to be unlawful.

(5) Any person conducting a promotional competition which in terms of subsection (4) has been declared unlawful, shall immediately cease to conduct such competition and shall immediately instruct his or her, or its agents and any other person connected with that competition to immediately terminate any action connected with the conduct of that competition, and any person who fails to comply with this subsection or an instruction made under this subsection commits an offence and is liable to a fine not exceeding P60 000 or to imprisonment for a term not exceeding four years, or to both.

68. (1) The following conditions shall be observed in the promotion and conduct of a lottery —

- (a) tickets or chance shall be sold at a price to be determined by the promoter and approved by the Authority;
- (b) the price of every ticket or chance shall be the same, and the price of any ticket shall be stated on the ticket;
- (c) money received by the promoter for or on account of a ticket or chance shall not in any circumstance be returned;
- (d) where a lottery is made on behalf of a society or charitable institution or organisation, the whole proceeds, after deducting sums lawfully appropriated on account of expenses or for the provisions of prizes, shall be applied to the purposes of the society or charitable institution or organisation;
- (e) every ticket and every notice or advertisement of the lottery lawfully exhibited, distributed or published, shall specify the name of the company, society, institution or organisation, the name and address of the promoter and the date on which the draw, determination or event by or by reference to which the prize winners are ascertained will take place; and
- (f) payment on account of expenses or prizes shall be made out of proceeds of the lottery, and shall not be made out of other moneys of the society or charitable institution or organisation.

Conditions in
the promotion
and conduct of
lottery

(2) A person who contravenes the provisions of this section commits an offence and is liable to a fine not exceeding P60 000 or to imprisonment for a term not exceeding four years, or to both.

Sale of lottery tickets

69. (1) A person shall not sell or offer to sell a ticket for any lottery to a person under the age of 21 years.

(2) Tickets for the National Lottery shall be sold only by the person licensed to conduct the lottery, or authorised agents and retailers.

(3) The following persons shall not purchase a lottery ticket —

- (a) in the case of a National Lottery, the company licensed to conduct National Lottery tickets or any director, agent or employee of that company; or
- (b) a person who prints a lottery ticket for any lottery authorised under this Part.

(4) A person who contravenes the provisions of this section commits an offence and is liable —

- (a) to a fine not exceeding P60 000 or to imprisonment for a term not exceeding four years, or to both; and
- (b) for a second or subsequent offence, to a fine not exceeding P80 000 or to imprisonment for a term not exceeding five years, or to both.

Printing of tickets for unlawful lottery

70. (1) A person shall not print or cause or permit to be printed, a ticket in connection with an unlawful lottery.

(2) A person who contravenes the provisions of subsection (1) commits an offence and is liable —

- (a) to a fine not exceeding P60 000, or to imprisonment for a term not exceeding four years, or to both; and
- (b) for a second or subsequent offence, to a fine not exceeding P80 000, or to imprisonment for a term not exceeding five years, or to both.

Scrutiny of National Lottery

71. (1) The Authority or the Commissioner of Police may, at any time, appoint such person as the Authority or the Commissioner considers appropriate, to examine or investigate the conduct of the National Lottery.

(2) The examination or investigation referred to in subsection (1) shall be to probe the following —

- (a) the organisation, management and procedures of the company licensed to conduct the National Lottery;
- (b) the manner in which the tickets for the National Lottery are processed;
- (c) the manner in which the winning tickets are determined;
- (d) whether the machines or devices used for the purposes of the National Lottery are correctly installed, operated or maintained and comply with the provisions of sections 89, 92 and 100; and
- (e) whether any conditions attached to the licence authorising the National Lottery are being complied with.

(3) A person appointed under subsection (1) may enter and remain on the premises of the company concerned and shall have the right to examine or inspect any file, machine, device, ticket or other record or thing as he or she considers necessary, and shall make such recommendations, in a written report, as he or she considers appropriate to the Authority.

(4) The Authority shall, within two months of receiving the report referred to in subsection (3), take such action as is appropriate.

(5) A person who obstructs or hinders a person who carries out or attempts to carry out an examination or investigation commits an offence and is liable to a fine not exceeding P30 000 or to imprisonment for a term not exceeding 18 months, or to both.

72. (1) A company conducting the National Lottery, and any society or organisation which is concerned with, or has conducted a lottery, shall keep proper accounts and records in respect of every financial year relating to its assets, liabilities, income and expenditure, and shall prepare, in each financial year, a statement of such accounts.

(2) The provisions of sections 30 and 31 shall apply, save that the company's accounts and records shall be audited by an auditor appointed by the company and the copy of audited accounts shall be forwarded to the company, the Minister and the Authority.

Audit of
accounts

PART X — *Totalisators and Pools*

73. The provisions of Part VI, shall with necessary modifications, in respect of applications for a licence under this Part, apply.

Applicability
of general
licensing
provisions to
totalisators,
etc.

74. (1) A person shall not carry on the business of a totalisator or betting pool without a totalisator licence.

(2) A person who contravenes the provisions of subsection (1) commits an offence and is liable —

Licence
required
to carry on
totalisator
business

(a) to a fine not exceeding P60 000 or to imprisonment for a term not exceeding four years, or to both; and

(b) for a second or subsequent offence, to a fine not exceeding P80 000 or to imprisonment for a term not exceeding five years, or to both.

75. (1) A totalisator licence shall authorise the conducting of the totalisator or betting pool specified in the licence.

Totalisator and
betting pools

(2) The holder of a totalisator licence shall conduct totalisator and betting pools in accordance with rules made by such holder which have been approved by the Authority.

(3) The aggregate of the returns by the holder of a totalisator licence to those persons who have made winning bets on any event or combination of events shall not be less than 85 per cent of the total amount pooled in respect of that event or combination of events.

Totalisator transactions to be recorded

76. Every transaction effected by means of a totalisator shall be recorded in such manner as may be approved by the Authority to ensure that, as far as practicable, the recording is in the uninterrupted view of the public.

Prohibition for use of totalisator

77. (1) A person in charge of or having control of a totalisator, or any assistant of such person, shall not accept any money from, or issue a ticket or pay any dividend or money to a person under the age of 21 years.

(2) A person who contravenes the provisions of subsection (1) commits an offence.

Betting transactions not validated

78. Nothing in this Part shall be deemed to give any betting transaction any authoritative or legal effect not otherwise attached to that transaction, or to affect the common law in that regard.

Commission and levy

79. (1) A licensee shall deduct a commission of such percentage as the Authority may determine, on every totalisator transaction made under this Part.

(2) There shall be payable, by the licensee, to the Authority, at the end of each day on which a totalisator has been used, a levy calculated on the gross takings of each licensed totalisator for that day, at such rate as may be determined by the Authority.

PART XI — *Bookmakers*

Applicability of general licensing provisions for bookmakers

80. The provisions of Part VI, shall with necessary modifications, in respect of applications for a licence under this Part, apply.

Licence for carrying on bookmaker's business

81. (1) A person shall not carry on the business of a bookmaker without a bookmaker's licence.

(2) A person who contravenes the provisions of subsection (1) commits an offence and is liable —

(a) to a fine not exceeding P60 000 or to imprisonment for a term not exceeding four years, or to both; and

(b) for a second or subsequent offence, to a fine not exceeding P80 000 or to imprisonment for a term not exceeding five years, or to both.

Activities authorised by bookmaker's licence

82. (1) A bookmaker's licence shall authorise the accepting of fixed bets on sporting events, on the licensed premises concerned.

(2) A person shall not —

(a) act as an agent for the holder of a bookmaker's licence for the purpose of betting on a sporting event, whether or not for gain; or

(b) act as an intermediary between any holder of a bookmaker's licence and any other person for the purpose of betting on a sporting event.

(3) A bookmaker shall not directly or indirectly, give or undertake to give to any other person, money or other valuable consideration, other than the amount of a wager won by such other person, to induce that person to bet on a sporting event.

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

PART XII — *Racing*

- 83.** The provisions of Part VI, shall with necessary modifications, in respect of applications for a licence under this Part, apply. Applicability of general licensing provisions to racing
- 84.** For the purposes of this Part — Interpretation of Part XII
- “horse” includes any pony, galloway or donkey;
 - “race” means any foot race, horse race, dog race, cycle race, motor race, boat race and any other race declared under this Part to be a race;
 - “race club” means any club or association of persons promoting and controlling racing;
 - “racecourse” means the place at which a race is or is to be held; and
 - “race meeting” means any gathering of persons attending a race, whether or not that race is run, if the date of that meeting has been made known by public advertisement or private invitation.
- 85.** (1) A person shall not hold a race meeting, or own or operate a racecourse, unless he or she has a valid licence. Unauthorised racing unlawful
- (2) A person who contravenes the provisions of this section commits an offence and is liable —
- (a) to a fine not exceeding P60 000 or to imprisonment for a term not exceeding four years, or to both; and
 - (b) for a second or subsequent offence, to a fine not exceeding P80 000 or to imprisonment for a term not exceeding five years, or to both.
- (3) In prosecution for an offence referred to in subsection (2) —
- (a) any person who organised, arranged or assisted in organising a race meeting shall be deemed to have held such meeting; and
 - (b) any gathering of persons attending a race meeting shall be deemed to have taken place as a result of a public advertisement or private invitation.
- 86.** A licence issued for the purposes of this Part shall specify the number of race meetings which may be held per annum, on the premises that shall be specified on that licence. Licence of racing meetings

PART XIII — *Gambling Premises*

- 87.** (1) A person shall not — Use of premises for unlicensed activities unlawful
- (a) permit any premises under his or her control to be used for the purposes of a gambling activity;
 - (b) permit any person in or on any premises under his or her control to engage in any gambling activity; or
 - (c) own, maintain, operate from or control any premises for the purposes of a gambling activity,
- unless that activity has been authorised in terms of a licence under this Act.

(2) A person who owns, maintains, operates or has control over any premises and believes that those premises are being used or are intended to be used, without his or her permission, for any purpose which is unlawful in terms of this Act, shall without delay, notify the Authority in writing, and the Authority shall, as soon as practicable, carry out an investigation in terms of section 118.

(3) A person who contravenes the provisions of subsection (1) commits an offence and is liable to a fine not exceeding P10 000 or to imprisonment for a term not exceeding six months, or to both.

Alterations to
premises of
gambling
establishment

88. Additions, alterations or improvements to the premises of a gambling area, including the addition or alteration of advertisements or signs on the premises, shall not be effected without prior written approval from the Authority, on written application made to the Authority, which application shall be accompanied by a proper plan and specification of such proposed additions, alterations or improvements.

PART XIV – *Gambling Machines and Devices*

Unlicensed
possession of
gambling
machines
unlawful

89. (1) A person shall not –

(a) own or possess any gambling machine or device; or

(b) own, keep or maintain any premises on which any gambling machine or device is kept,

unless he or she holds a valid licence to own, possess or maintain a gambling machine or device.

(2) A person who contravenes the provisions of subsection (1) commits an offence and is liable –

(a) to a fine not exceeding P90 000 or to imprisonment for a term not exceeding six years, or to both; and

(b) for a second or subsequent offence, to a fine not exceeding P120 000 or to imprisonment for a term not exceeding nine years, or to both.

(3) An applicant for a licence referred to in subsection (1) shall apply to the Authority in such form and in such manner as may be prescribed.

(4) The Authority shall not grant a licence under this section to a person to whom it would not grant and issue a licence to own or operate a gambling establishment.

(5) A gambling machine licence shall authorise the holder of that licence, to keep gambling machines or devices on the premises specified on the licence.

Registration of
gambling
machine or
device

90. (1) A person who imports a gambling machine or device into Botswana, or who manufactures, sells, markets or distributes such machines or devices within Botswana shall register that machine or device with the Authority in such form and manner as may be prescribed.

(2) A person shall not own or possess a gambling machine or device unless it is registered in terms of this section.

(3) The Authority shall not register a gambling machine or device unless that machine or device has been certified in accordance with this Act and complies with the provisions of the Standards Act.

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(4) The person in whose name a machine or device is registered under this section shall, subject to any transfer of the machine or device to another person, be deemed to be the registered owner of that machine or device.

(5) A person who contravenes the provisions of this section commits an offence and is liable —

(a) to a fine not exceeding P30 000 or to imprisonment for a term not exceeding 18 months, or to both; and

(b) for a second or subsequent offence, to a fine not exceeding P40 000 or to imprisonment for a term not exceeding two years, or to both.

91. The Authority shall —

Register of
gambling
machine or
device

(a) establish and maintain, in such manner and form as may be prescribed, a register of every gambling machine or device manufactured in, or imported into Botswana;

(b) assign, to each machine or device, a registration number unique to such machine or device, which number shall be related to —

(i) the name of the manufacturer or importer of that machine or device,

(ii) the date of manufacture or import of that machine or device, and

(iii) the serial number of that machine or device; and

(c) record the name, licence number and such other particulars as may be prescribed, of the registered owner of the machine or device, or the name of the person to whom the machine or device has been leased or transferred to.

92. (1) A person shall not supply a gambling machine or device to any person other than the holder of a casino licence, gambling machine licence or manufacturer's licence.

Supply of
gambling
machine or
device

(2) A person who contravenes the provisions of subsection (1) commits an offence and is liable —

(a) to a fine not exceeding P30 000 or to imprisonment for a term not exceeding 18 months, or to both; and

(b) for a second or subsequent offence, to a fine not exceeding P40 000 or to imprisonment for a term not exceeding two years, or to both.

93. (1) A manufacturer shall keep a written record, of every gambling machine or device that he or she acquires, manufactures, sells or otherwise distributes, in such form as may be prescribed.

Identification
of gambling
machine or
device

(2) A manufacturer of a gambling machine or device manufactured in, or imported into Botswana, shall incorporate, in the design of that machine or device, a mechanism that permanently identifies —

(a) the name of the manufacturer;

(b) a serial number unique to the machine or device; and

(c) the date of manufacture of the machine or device.

Transfer of
ownership or
possession of
machine or
device

(3) A manufacturer of every gambling machine or device shall attach, to each machine and device, in such manner as may be prescribed, a certificate specifying the —

- (a) origin and year of manufacture of that machine or device; and
- (b) quality and performance standard of that machine or device.

(4) A person shall not remove, alter, obscure or destroy any detail specified in subsection (2).

(5) A person who contravenes the provisions of this section commits an offence and is liable —

- (a) to a fine not exceeding P60 000 or to imprisonment for a term not exceeding four years, or to both; and
- (b) for a second or subsequent offence, to a fine not exceeding P80 000 or to imprisonment for a term not exceeding five years, or to both.

94. (1) A person who proposes to transfer ownership of a gambling machine or device to another person shall apply to the Authority for approval, in such form and manner as may be prescribed.

(2) Subject to subsections (3) and (4), a person who proposes to lease or transfer possession of a gambling machine or device to another person while retaining legal title to that machine or device shall apply to the Authority in such form and manner as may be prescribed.

(3) A registered owner of a gambling machine or device who repossesses that machine or device from a lessee or other person to whom possession has been transferred in terms of this section shall not be required to apply for approval to repossess the machine or device but shall, within 14 days of the repossession, notify the Authority in writing that the machine or device has been repossessed.

(4) A person shall not be required to apply for approval in terms of this section before transferring a gambling machine or device to another person solely for the purpose of —

- (a) transporting it from one place to another;
- (b) performing essential maintenance work on, or repairing, that gambling machine or device; or
- (c) for exhibition purposes.

(5) The Authority shall approve the transfer or lease of a gambling machine or device only where —

- (a) the proposed transferor is the registered owner of that machine or device;
- (b) the machine or device has been certified in terms of this Act and the certification has not expired; and
- (c) the proposed transferee —

- (i) holds a valid licence of a manufacturer, supplier or maintenance provider permitting that person to possess that category of machine or device, or has concurrently applied for such a licence,

(ii) holds a valid licence to engage in or conduct gambling or to make available gambling activities that include the operation of that category of machine or device, or has concurrently applied for such a licence, or

(iii) is otherwise authorised to possess that category of prescribed machine or device in terms of a licence issued under this Act.

(6) The Authority shall refuse the application where an applicant under this section does not meet the requirements set out in this section.

95. (1) A person shall not —

(a) alter, mark, tamper with, adjust or otherwise modify, in any manner, any gambling machine or device, or any other apparatus for the purpose of deceiving the players or improperly altering the normal or random results or chances of the casino game or gambling machine concerned;

(b) use or make available for the purpose of deceiving players any such machine or device which has been so altered, marked, tampered with, adjusted or otherwise modified; or

(c) use any other machine or device for deceiving players.

(2) A person who contravenes the provisions of subsection (1) commits an offence and is liable —

(a) to a fine not exceeding P60 000 or to imprisonment for a term not exceeding four years, or to both; and

(b) for a second or subsequent offence, to a fine not exceeding P80 000 or to imprisonment for a term not exceeding five years, or to both.

96. (1) The Authority shall establish and maintain a central electronic, computer or communications system to send or receive data relating to the functioning of any gambling machine or device for the purpose of monitoring the operation of such machine or device.

(2) The holder of a gambling machine licence, shall link any gambling machine or device which is installed on his or her premises to the monitoring system established in terms of subsection (1), but the holder of a casino or bingo licence shall install his or her own monitoring system.

(3) A person who contravenes the provisions of this section commits an offence.

Modification
of gambling
machine
or device
unlawful

Electronic
monitoring
system for
machines

PART XV — *Registration of Certain Personnel*

97. (1) A person shall not —

(a) be engaged in the sale, lease, distribution, importation, marketing, maintenance, repair or testing of any gambling machine or device;
or

(b) be engaged in any other occupation relating to gambling as may be prescribed;

unless such person is registered with the Authority.

Registration of
persons
selling,
repairing or
testing
machines

(2) A person who desires to be registered in terms of subsection (1) shall make an application to the Authority, in such form and manner as may be prescribed.

(3) A licensee shall not employ any person to perform any act or be engaged in any activity or occupation specified in subsection (1) unless such person has been registered with the Authority in terms of subsection (1).

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

Refusal to register person

98. The Authority shall not register any person in terms of section 97 if that person —

- (a) has been adjudged or otherwise declared insolvent or bankrupt, and has not been rehabilitated or discharged;
- (b) has at any time been convicted, whether in Botswana or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, an offence under this Act, or offence involving dishonesty;
- (c) is a family member of an employee of the Authority;
- (d) is a public servant; or
- (e) is a member of Parliament or a Councillor.

Suspension of registration

99. The Authority may at any time suspend or revoke the registration of any person for a specified period after giving the person an opportunity to be heard, if —

- (a) any information contained in the application for registration was false;
- (b) the person registered has become subject to disqualification in terms of section 98;
- (c) the person registered has performed any act or been engaged in any activity or occupation contemplated under section 97 (1) as an agent, employee or otherwise, for or on behalf of a person who is not the licensee; or
- (d) the person registered has contravened any provision of this Act.

Testing agent licence

100. (1) A person shall not carry out any maintenance on, repair, test, or calibrate any gambling machine or device unless he or she holds a valid licence.

(2) An application for a licence under subsection (1) shall be made by the applicant to the Authority in such form and manner as may be prescribed, and shall be accompanied by such fee as may be prescribed.

(3) The Authority may grant and issue a licence to a person only where it is satisfied that the person —

- (a) is able to conduct tests and perform calibrations in an objective and impartial manner;
- (b) is accredited, at the time of his or her application, for technical competency by the appropriate authority in Botswana;
- (c) is able to conduct tests and perform calibrations to ensure compliance with standards established by the Botswana Bureau of Standards or a prescribed institution; and

(d) is independent of any other licensee in the gambling industry, any regulatory body, or the Botswana Bureau of Standards or a prescribed institution.

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

101. (1) A person who operates or maintains a gambling establishment shall cause every gambling machine or device in that establishment to be tested and certified by a licensed testing agent for compliance with such standards as are specified in the Standards Act or prescribed in terms of this Act before it is operated or used for the first time, and thereafter shall ensure that it is tested and certified at such intervals as may be prescribed.

(2) A person shall not make available, for play by the public, a gambling machine or device unless it has been certified in accordance with this Act.

(3) When called upon to test a gambling machine or device, a licensed testing agent shall —

(a) test that machine or device for compliance with the applicable standard;

(b) record all test results; and

(c) issue a written report of the test results to —

(i) the person requesting the certification,

(ii) the Authority, and

(iii) the Botswana Bureau of Standards.

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

PART XVI — *Licensing of Persons Employed in the Gambling Industry*

102. (1) A person shall not engage in any work within the gambling industry unless that person is licensed.

(2) The Minister may, by regulations, determine any specific category of work to be subject to licensing under subsection (1).

(3) A person who makes an application for a licence under this section shall make the application in such form and manner as may be prescribed.

(4) The Authority shall not grant a licence under this section to any person who —

(a) has been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged;

(b) has at any time been convicted, whether in Botswana or elsewhere, of theft, fraud, forgery or uttering a forged document, perjury, an offence under this Act, or an offence involving dishonesty;

(c) is a family member of an employee of the Authority;

(d) is a public servant; or

(e) is a member of Parliament or Councillor.

Calibration and
certification of
machines and
devices
Cap. 43:07

Gambling
industry
employees to
be licensed

(5) A gambling establishment licensee shall not employ any person who is not licensed in terms of this section, neither shall they permit an existing employee to engage in any work within the gambling industry unless that employee is licensed.

(6) A person who contravenes the provisions of this section commits an offence and is liable —

(a) to a fine not exceeding P30 000 or to imprisonment for a term not exceeding 18 months, or to both; and

(b) for a second or subsequent offence, to a fine not exceeding P40 000 or to imprisonment for a term not exceeding two years, or to both.

Employee
licence
not
transferable

103. A licence issued in terms of section 102 shall not be transferable, but this shall not apply to a licence issued to a casino employee moving from one casino to another casino.

PART XVII — *Gambling in General*

Interpretation
of Part XVII

104. For purposes of this Part —

“minor” means a person who is under the age of 21 years.

Advertising

105. Subject to the provisions of this Act and to any regulations made under this Act, it shall be lawful to advertise a casino, a gambling establishment, and the games and gambling activities to be played in the casino or gambling establishment.

Restrictions on
advertising and
promoting
gambling
activities

106. (1) A person shall not advertise or promote —

(a) any gambling activity which is unlawful in terms of this Act, or is false and misleading in any manner; or

(b) a gambling activity, in a manner intended to target or attract minors.

(2) Any advertisement of a gambling machine or device, a gambling activity or licensed premises at which gambling activities are available shall —

(a) include a statement, in such manner as may be prescribed, warning against the dangers of addictive and compulsive gambling; and

(b) not include anything that directly or indirectly promotes or encourages the removal of a person from the register of excluded persons.

(3) A person shall not advertise or promote any gambling activity at or near facilities such as schools, hospitals, sporting grounds, civic parks, shopping centres, cinemas, places of religious worship and such other facilities as may be prescribed.

(4) A person shall not advertise or promote any gambling activity as being available free of charge or at a discounted rate as an inducement to gamble.

(5) A person who contravenes the provisions of this section commits an offence.

Extending
credit
to gamblers
prohibited

107. (1) A licensee who makes available a gambling activity shall not extend credit to any person for the purpose of gambling.

- (2) In this section “credit” includes —
 - (a) any form of financial accommodation; and
 - (b) in particular, the acceptance by the way of payment of a fee, charge or stake of anything other than —
 - (i) cash,
 - (ii) a cheque which is not post-dated and for which full value is given, or
 - (iii) a debit card payment which is not post-dated and for which full value is given.

108. (1) A licensee or employee of a licensee who permits a minor, or any parent or guardian of a minor, who permits a minor to —

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

commits an offence and is liable —

- (i) to a fine not exceeding P60 000 or to imprisonment for a term not exceeding four years, or to both, and
- (ii) for a second or subsequent offence, to a fine not exceeding P80 000 or to imprisonment for a term not exceeding five years, or to both.

(2) A minor shall not —

- (a) enter any place designated as a gambling area in any licensed premises;
- (b) operate any gambling machine or device;
- (c) conduct or make available any gambling activity;
- (d) engage in any social gambling activity; or
- (e) falsely claim to be 21 years of age or over in order to —
 - (i) gain access to any area designated as a gambling area in any licensed premises,
 - (ii) gain access to a gambling machine or device,
 - (iii) engage in, conduct or make available a gambling activity within such licensed premises, or
 - (iv) engage in a social gambling activity within such licensed premises.

(3) A person shall not falsely claim that a person is 21 years or over in order to enable that person to do any of the things prohibited in subsection (2) (e).

(4) A person shall not gamble with a minor.

(5) A licensee, licensed employee or person in control of licensed premises, or a gambling machine or device shall not knowingly permit a minor to do any of the things prohibited in subsection (2) (a) to (d).

(6) A licensee, licensed employee or person in control of licensed premises, or a gambling machine or device shall take reasonable steps to determine whether or not a person is a minor before permitting that person to do any thing set out in subsection (2) (a) to (d).

(7) A person who contravenes the provisions of subsections (3), (4) or (5) commits an offence and is liable to the penalty specified in subsection (1).

Protection of
minors

109. (1) A person who wishes to be prevented from engaging in any gambling activity may register as an excluded person by submitting to the Authority, a notice to that effect in such manner and form as may be prescribed.

(2) Notwithstanding the provisions of subsection (1), a person may apply to the Authority for an order requiring the registration, as an excluded person, of —

- (a) a family member of the applicant;
- (b) a person on whom the applicant is financially dependent in, whole or in part;
- (c) a person for whom the applicant is financially responsible for, in whole or in part;
- (d) a person who is subject to an order of a competent court holding that person to be mentally unsound; or
- (e) any other person —
 - (i) to whom the applicant has a duty of care, or
 - (ii) whose behaviour manifests symptoms of addictive or compulsive gambling.

(3) A notice filed in terms of subsection (1) shall take effect on such date as may be prescribed.

(4) The Authority shall, where it considers it reasonable and just, in the circumstances of an application in terms of this section, to prevent a person from engaging in any gambling activity, effect the registration of that person as an excluded person.

(5) An excluded person affected by a registration in terms of subsection (4) may apply to the Authority to set aside the registration, and the Authority may do so if, after considering the grounds for the registration and any new evidence before it, the Authority is satisfied that it is no longer reasonable and just to prevent that person from engaging in any gambling activity.

(6) The Authority shall —

- (a) establish and maintain a national register of excluded persons, in such manner and form as may be prescribed; and
- (b) make the information in the register continuously available to every person who is licensed to make a gambling activity available to the public.

(7) The Authority shall not charge a fee for registering a person as an excluded person.

(8) A licensee, licensed employee or person in control of licensed premises or a gambling machine or device shall not knowingly permit an excluded person to —

- (a) enter or remain in an area designated for gambling within those premises;
- (b) operate that gambling machine or device; or
- (c) conduct or make available a gambling activity which is not permitted under this Act.

(9) A licensee, licensed employee or person in control of licensed premises or a gambling machine or device shall —

- (a) take such measures as may be prescribed to determine whether or not a person is an excluded person before permitting that person to do anything contemplated in subsection (8); and
- (b) not be liable under this Act or any other enactment for admitting an excluded person provided the licensee has taken the measures prescribed to determine whether that person is an excluded person or not, and found negative results.

(10) Every licensee authorised to make a gambling activity available to the public shall —

- (a) make available, at all its licensed premises —
 - (i) such form as may be prescribed to be used by a person wishing to register as an excluded person in terms of subsection (1), and
 - (ii) a directory of local recognised counselling, treatment or education services addressing the problems of compulsive and addictive gambling; and
- (b) display a notice, in a prominent manner, at every entry to those premises, a notice advertising the availability of those materials.

110. Any gambling debt lawfully incurred after the commencement of this Act shall be enforceable in a court of law.

Gambling debt enforceable

111. (1) A person shall not gamble on the result of any event or contingency other than on —

Events and contingencies on which gambling may take place

- (a) a casino game;
- (b) a bingo game;
- (c) the operation of a gambling machine; or
- (d) a sporting event.

(2) A person shall not gamble on the result of an event or contingency under subsection (1) with any person other than the licensee who is authorised by such licence to gamble on the event or contingency concerned.

(3) A person who contravenes the provisions of this section commits an offence and is liable to a fine not exceeding P20 000 or to imprisonment for a term not exceeding 12 months, or to both.

112. (1) A person shall not gamble at any place other than the licensed premises.

Place of gambling and settling gambling debts

(2) For the purposes of subsection (1), gambling by means of the placing of telephone bets on all sporting events where the licensee accepts and records the bet at the licensed premises shall be deemed to have occurred at the licensed premises.

- (3) A gambling debt may only be settled at —
 - (a) the licensed premises;
 - (b) a place authorised by the Authority on the application of the holder of the licence concerned; or
 - (c) in circumstances where the debt is paid pursuant to a court order or the terms of settlement of legal proceedings instituted for its recovery, any place where a debt is ordinarily paid in such circumstances.

(4) A person who contravenes the provisions of this section commits an offence and is liable to a fine not exceeding P20 000, or to imprisonment for a term not exceeding 12 months, or to both.

PART XVIII — *Monitoring Social Effects of Gambling*

Monitoring
social effects
of gambling

113. (1) The Excessive Gambling Prevention and Rehabilitation Committee established by the Board, in terms of section 13 of this Act, shall —

- (a) monitor the social and economic effects of gambling in Botswana, including the need for counselling and other services;
- (b) monitor the development and implementation of the programmes and strategies referred to in section 13 (2) (b); and
- (c) at intervals of not less than 12 months, report to the Minister, in writing, on the results of its activities under this section.

(2) The Minister shall lay, before the National Assembly, a copy of the report referred to in subsection (1) within 14 days of receiving it or, if the National Assembly is not then in session, within 14 days after the commencement of its next ensuing session.

Code of
practice

114. (1) The Excessive Gambling Prevention and Rehabilitation Committee shall develop a code of practice setting out guidelines, programmes and strategies to —

- (a) prevent addictive or compulsive gambling; and
- (b) rehabilitate those who engage in addictive or compulsive gambling.

(2) The code of practice shall apply to all licensees under this Act and shall include, but not limited to, guidelines, programmes and strategies —

- (a) regarding the training of people employed in gambling establishments to recognise and deal appropriately with addictive or compulsive gamblers or people who are at risk of so becoming;
- (b) to deal with people employed in gambling establishments or with clients who engage in gambling addictively or compulsively or are at risk of so doing; and
- (c) limiting or prohibiting, as it considers appropriate, facilities, at gambling establishments, which enable a gambler to spend more than he or she originally intended, such as automatic teller machines, credit facilities and payments by cheque or credit card.

(3) The Excessive Gambling Prevention and Rehabilitation Committee shall, from time to time, review the effectiveness of the codes of practice and make written recommendations to the Authority, which shall, within 30 days of receiving such recommendations, either accept or amend as it considers appropriate, the said recommendations, and then forward such recommendations to the Minister.

(4) The Minister shall, upon receipt of the recommendations, make such regulations as he or she considers appropriate.

115. The Authority shall outsource, from appropriately qualified persons in the private sector and Non-Governmental Organisations, on a competitive bidding basis —

Education and counselling

- (a) counselling for people who engage in addictive or compulsive gambling; and
- (b) publicity and education programmes —
 - (i) providing consumer information for different kinds of gambling,
 - (ii) dealing with the risks of engaging in gambling, or
 - (iii) dealing with addictive gambling.

PART XIX — *Inspections and Enquiries*

116. (1) The Authority may, by Notice published in the *Gazette*, appoint any person in its service or any other suitably qualified person as a casino inspector.

Appointment of inspectors

(2) A person who is not in the full-time employment of the Authority and who is appointed as a casino inspector shall be appointed on such conditions and at such remuneration as the Authority may, with the approval of the Minister, determine.

(3) A person shall not be appointed as a casino inspector if such person or any family member of such person has a controlling interest or any financial or other interest in any gambling activity.

(4) Subject to the provisions of subsection (2), a casino inspector shall not accept any donation, reward or other benefit in connection with the performance of his or her functions from any person, and no other person shall give or offer such donation, reward or benefit to a casino inspector.

(5) A person who contravenes the provisions of subsection (4) commits an offence and is liable —

- (a) to a fine not exceeding P30 000 or to imprisonment for a term not exceeding 18 months, or to both; and
- (b) for a second or subsequent offence, to a fine not exceeding P40 000 or to imprisonment for a term not exceeding two years, or to both.

117. (1) A casino inspector may, at any time without prior notice —

Powers of casino inspectors

- (a) enter any licensed premises;
- (b) enter any unlicensed premises in, on or from which it is suspected that —
 - (i) gambling is being engaged in, conducted or made available, or
 - (ii) a gambling machine or device, equipment, record, recording or other document used or capable of being used in connection with the conducting of a casino or any other gambling activity, may be found; or
- (c) in any premises referred to in paragraph (a) or (b) —
 - (i) inspect or search such premises,

- (ii) examine, or make copies of or take extracts from, any document found in or upon such premises and which refers or is suspected to refer to any gambling activity, and request from the owner or person in charge of such premises or from any person in whose capacity or charge that document is, an explanation of any entry in that document,
 - (iii) examine any article or other object found in or upon such premises and which refers or is suspected to refer to any gambling activity, and request from the owner of, or person in charge of, such premises or from any person in whose possession or charge that article or object is, information in regard to that article or object, or
 - (iv) seize, against the issue of a receipt, any such article, document or object, if it appears to provide proof of a contravention of a provision of the Act, or if he or she wishes to retain it for further examination or for safe custody.
- (2) A casino inspector may, in the company of a police officer of the rank of Sergeant or above and subject to the provisions of any other law —
 - (a) enter any premises on or in which any article, document or other object connected with gambling is or is suspected to be or which are occupied or used or suspected to be occupied with or used for the purposes of any gambling activity;
 - (b) in respect of such premises, do everything set out in subsection (1); and
 - (c) inspect any account of any person at any bank or other financial institution which may afford evidence of the commission of an offence in terms of this Act.
- (3) A person who —
 - (a) obstructs or hinders a casino inspector in the performance of his or her functions under this Act;
 - (b) when asked by a casino inspector for an explanation or information relating to a matter within his or her knowledge, gives an explanation or information which is false or misleading, knowing it to be false or misleading; or
 - (c) falsely represent himself or herself to be an inspector, commits an offence and is liable —
 - (i) to a fine not exceeding P30 000 or to imprisonment for a term not exceeding 18 months, or to both, and
 - (ii) for a second or subsequent offence, to a fine not exceeding P40 000 or to imprisonment for a term not exceeding two years, or to both.

PART XX — *Investigations and Surveillance*

118. (1) Notwithstanding the provisions of sections 117 and 121, a police officer of the rank of Sergeant or above may enter a gambling establishment at any time without a search warrant, for the purpose of preventing or detecting the commission of an offence, or of investigating the conduct of persons —

Right of certain officers to enter casino

- (a) in that establishment;
- (b) working in that establishment; or
- (c) being a patron of such establishment.

(2) A police officer entering a gambling establishment in pursuance of subsection (1) shall submit a written report on his or her visit to the casino to the Commissioner of Police, who shall, within 14 days of receiving such report, give written notice of such entry to the Authority.

(3) A person who, by himself or herself or by a person in his or her employment, or acting with his or her consent, fails to admit an officer who, in pursuance of subsection (1), demands entry into the premises of a gambling establishment commits an offence and is liable —

- (a) to a fine not exceeding P30 000 or to imprisonment for a term not exceeding 18 months, or to both; and
- (b) for a second or subsequent offence, to a fine not exceeding P40 000 or to imprisonment for a term not exceeding two years, or to both.

119. The Botswana Police Service may conduct such surveillance on gambling establishments, including the use of closed circuit camera or video surveillance or data derived from such cameras or videos as they consider necessary to prevent the commission of an offence, or to investigate any conduct which they have reasonable cause to believe could either lead to the commission of an offence or amounts to the commission of an offence.

Surveillance on gambling establishments

120. (1) The licensee in respect of a gambling establishment or any premises on which a gambling establishment is situated shall install, at his or her own cost, at such establishment, such surveillance equipment, including closed circuit cameras as will enable that licensee or any other person authorised in terms of this Act, to monitor the activities within such establishment or any gambling room in that establishment.

Licensee of gambling establishment to install surveillance equipment

(2) The licensee shall also ensure the proper functioning of the surveillance equipment installed in pursuance of subsection (1).

(3) The licensee shall post, in a conspicuous place within the gambling establishment, a notice informing the public of the existence of the surveillance equipment installed in that establishment.

(4) A person who contravenes the provisions of this section commits an offence and is liable to a fine not exceeding P40 000 or to imprisonment for a term not exceeding two years, or to both.

Licensee and employees to report suspicious transactions

121. (1) A licensee or an inspector appointed under section 116 and any person employed by him or her shall report, to a person authorised under this Part to carry out an investigation or surveillance in terms of this Part, any suspicious transactions which take place during the playing of any casino game, gambling game or race or at any time in that establishment.

(2) A person who contravenes the provisions of this section commits an offence and is liable —

- (a) to a fine not exceeding P30 000 or to imprisonment for a term not exceeding 18 months, or to both; and
- (b) for a second or subsequent offence, to a fine not exceeding P40 000 or to imprisonment for a term not exceeding two years, or to both.

PART XXI — *Miscellaneous Provisions*

Gambling activities

122. For the purposes of this Act, the following shall be considered to be gambling activities —

- (a) placing or accepting a bet or wager in terms of section 123 (1);
- (b) placing or accepting a totalisator bet, in terms of section 123 (2); or
- (c) making available for play, or playing, bingo or another gambling game.

Bets and wagers

123. (1) A person places or accepts a bet or wager when that person —

- (a) being a player, stakes money or anything of value on a fixed-odds bet, or an open bet, with a bookmaker on any contingency;
- (b) being a bookmaker —
 - (i) accepts a stake of money or anything of value on a fixed-odds bet, or an open bet, from a player on any contingency, or
 - (ii) stakes money or anything of value on a fixed-odds bet, on an open bet, with another bookmaker on any contingency;
- (c) stakes or accepts a stake of money or anything of value with one or more other persons on any contingency; or
- (d) expressly or implicitly undertakes, promises or agrees to do anything contemplated in paragraph (a), (b) or (c).

(2) A person places or accepts a totalisator bet when he or she stakes money or anything of value on the outcome of an event or combination of events by means of —

- (a) a system in which the total amount staked, after deductions provided for by law or agreement, is divided among the persons who made winning bets in proportion to the amount staked by each of them in respect of a winning bet; or
- (b) any scheme, form or system of betting, whether mechanically operated or not, that is operated on similar principles.

Gambling in relation to illegal activities unlawful

124. (1) A person shall not —

- (a) engage in, conduct or make available a gambling game if the outcome of that game depends directly, indirectly, partly or entirely on a contingency related to an event or activity that is itself unlawful in terms of any law;

- (b) permit any gambling machine or device under his or her control to be used for the purposes of a gambling game contemplated in paragraph (a);
 - (c) own, maintain, operate or have under his or her control, any premises, whether or not such premises are licensed for the purposes of a gambling game contemplated in paragraph (a); or
 - (d) permit any premises under his or her control, whether or not such premises are licensed, to be used for the purposes of a gambling game contemplated in paragraph (a).
- (2) A person who contravenes the provisions of subsection (1) commits an offence and is liable —
- (a) to a fine not exceeding P60 000 or to imprisonment for a term not exceeding four years, or to both; and
 - (b) for a second or subsequent offence, to a fine not exceeding P80 000 or to imprisonment for a term not exceeding five years, or to both.

125. (1) Notwithstanding any other enactment, a person shall not engage in, conduct or make available a gambling game except where it is —

Unlicensed
gambling
unlawful

- (a) a licensed gambling game; or
 - (b) an informal bet, unless there are reasonable grounds to believe that one or both of the parties to the bet intended to establish an enforceable contractual relationship when they staked or accepted the stake of money on that contingency.
- (2) A person who contravenes the provisions of subsection (1) commits an offence and is liable —
- (a) to a fine not exceeding P60 000 or to imprisonment for a term not exceeding four years, or to both; and
 - (b) for a second or subsequent offence, to a fine not exceeding P80 000 or to imprisonment for a term not exceeding five years, or to both.

126. No matter or thing done or omitted to be done by a member of the Board, a member of staff of the Authority or any person authorised by the Board or the Authority shall, if the matter or thing is done in good faith in the course of the operations of the Authority, render that authorised person, member of the Board or member of staff personally liable to an action, claim or demand.

Indemnity

- 127.** A person who —
- (a) does anything which is calculated to improperly influence the Authority concerning any matter connected with an investigation;
 - (b) does anything in connection with an investigation that would have been contempt of court if the proceedings had occurred in a court of law;
 - (c) knowingly provides false information to the Authority;
 - (d) wilfully interrupts any proceedings or misbehaves in the place where a hearing is being conducted;
 - (e) falsely claims to be an inspector, regulatory authority or a person authorised to act on behalf of a regulatory authority; or
 - (f) refuses or fails to comply, to the best of his or her ability, with any request of an inspector under section 117,
- commits an offence and is liable —

Offences

	<ul style="list-style-type: none"> (i) to a fine not exceeding P30 000 or to imprisonment for a term not exceeding 18 months, or to both, and (ii) for a second or subsequent offence, to a fine not exceeding P40 000 or to imprisonment for a term not exceeding two years, or to both.
Penalties	<p>128. A person who commits an offence under this Act, where the penalty is not laid down by the provision creating the offence shall be liable —</p> <ul style="list-style-type: none"> (a) to a fine not exceeding P20 000 or to imprisonment for a term not exceeding 12 months, or to both; and (b) for a second or subsequent offence, to a fine not exceeding P30 000 or to imprisonment for a term not exceeding two years, or to both.
Operation of gambling establishments in general	<p>129. A licensee shall —</p> <ul style="list-style-type: none"> (a) ensure that the operation of his or her gambling establishment accords with decency, dignity, good taste and honesty; (b) in accordance with the conditions of his or her licence, permit and organise the playing of games with cards, dice or mechanical devices (including roulette wheel) for money or money's worth; (c) display permanently within the gambling establishment, such information regarding its operation as may be prescribed by the Authority; (d) make available for examination, at the request of any customer, a copy of the rules determining the manner in which any particular casino game shall be played; (e) operate the establishment in accordance with the conditions of his or her licence; and (f) generally operate the establishment in accordance with this Act.
Entrance fee	<p>130. A person who enters a gambling establishment or a casino for purposes of gambling, shall pay an entrance fee, as may be prescribed.</p>
Sale, supply of intoxicating liquor Cap. 43:11	<p>131. (1) Notwithstanding anything contained in the Liquor Act, or any other law, it shall not be necessary for a licensee to obtain, in respect of a gambling establishment, or any part of the gambling establishment, a licence under that Act or other law for the sale, supply or consumption of intoxicating liquor or other refreshments in accordance with this section.</p> <p>(2) A licensee may at any time when a gambling 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).</p> <p>(3) Intoxicating liquor may be sold, supplied and consumed in parts of the gambling establishment, other than the gambling rooms, during the hours permitted by or under the Liquor Act, for the sale of liquor under a bar liquor licence but may not be sold or supplied for consumption off the gambling establishment.</p>
Prohibition of certain persons from entering casino premises	<p>132. (1) When a court convicting a person of an offence is of the 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 of that casino, the court may issue a written order prohibiting him or her from entering such casino, or the part or parts specified in the order, for a period to be stated in the order.</p>

(2) A person against whom an order has been made under subsection (1) may apply to the High Court for the review of such an 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, commits an offence and is liable to —

(a) a fine not exceeding P30 000 or to imprisonment for a term not exceeding 18 months, or to both; and

(b) for a second or subsequent offence, to a fine not exceeding P40 000, or to imprisonment for a term not exceeding two years, or to both.

133. (1) Every licensee and person employed by him or her shall observe such control measures as may be prescribed by regulations, and every such licensee and employee shall conduct himself or herself in a responsible and professional manner in order to safeguard the integrity of the industry and to ensure the safety of persons using their gambling facilities.

Conduct of
licensees

(2) Every licensee shall take every step possible to prevent fraud or the commission of an offence under this Act by both players and those employed by him or her.

134. (1) The Minister may, by Order published in the *Gazette* establish a fund into which all levies imposed under this Act shall be paid.

Levy fund

(2) The moneys paid into the fund shall be used for the general benefit of the gambling industry in Botswana.

135. (1) The Minister may make regulations prescribing anything under this Act which is to be prescribed or which is necessary or convenient to be prescribed for the better carrying out of the objects and purposes of this Act, or to give force and effect to its provisions.

Regulations

(2) Without prejudice to the generality of subsection (1), regulations may provide for —

(a) the imposition of a levy required under this Act, or the rate or percentage of a levy imposed under this Act;

(b) the manner in which application is to be made for a licence, the manner in which a licence is to be issued, renewed or transferred;

(c) the forms to be used and fees to be paid in relation to anything done under this Act;

(d) the regulation of advertising of a casino, gambling establishment or any game or gambling activity;

(e) such information as may be required for the operation of a casino;

(f) the conduct of the National lottery and other lotteries;

(g) the institutions or organisations to be considered as charitable institutions or organisations;

(h) the registration of gambling machines or devices;

(i) manner and form of which excluded persons are to be registered;

(j) standards, measures and safeguards of the gambling industry; and

(k) any other thing that may be required for the proper implementation of this Act.

136. The Casino Act and the Lotteries and Betting Act are hereby repealed.

Savings

137. (1) Any subsidiary legislation made under the legislation repealed in terms of section 136 and in force immediately prior to the coming into force of this Act shall, so far as it is not inconsistent with the provisions of this Act, continue in force as if made under this Act, until revoked or amended by or under this Act.

(2) Any right of appeal which subsisted immediately before the commencement of this Act by virtue of the Acts repealed by section 136 shall be treated as subsisting by virtue of the corresponding provisions in this Act, and any appeal commenced before the repeal of the Acts repealed in terms of section 136 may be prosecuted and disposed of as though commenced in terms of the provisions of this Act.

Transitional
provisions

138. (1) A permit, licence or other authorisation granted in terms of the Acts repealed under section 136 shall —

- (a) not be invalidated by the said repeal but shall have effect as though granted in terms of this Act; and
- (b) remain valid until its expiry date whereupon an application shall be made under this Act for the relevant permit, licence or other authorisation.

(2) Any person employed in a casino in terms of the Casino Act repealed under section 136 shall continue to be employed in a casino as if employed under this Act, in so far as that employment is not inconsistent with this Act, whereupon an application shall be made under this Act for the relevant licence.

(3) The Casino Control Board established under the Casino Act repealed under section 136, shall until such time that the Authority and Board established under this Act are set up, or until otherwise determined by the Minister, as the case may be, continue to operate and carry out the functions vested on it by the Casino Act.

PASSED by the National Assembly this 25th day of July, 2012.

BARBARAN N. DITHAPO,
Clerk of the National Assembly.