

No. 24 of 1993.

Gaming Machine Act 1993.

Certified on: / /20 .

INDEPENDENT STATE OF PAPUA NEW GUINEA.



No. 24 of 1993.

Gaming Machine Act 1993.

ARRANGEMENT OF SECTIONS.

PART I – PRELIMINARY.

1. Compliance with constitutional requirements.
2. Interpretation.
 - “approved gaming machine”
 - “authorized gaming machine”
 - “Board”
 - “Chairman”
 - “Community Benefit Fund”
 - “Community Benefit Fund Account”
 - “gaming machine”
 - “gaming machine technician’s licence”
 - “Inspector”
 - “linkage equipment”
 - “licence”
 - “member”
 - “monitoring and control system”
 - “operator”
 - “operator’s licence”
 - “permit”
 - “permit holder”
 - “person”
 - “Registrar”
 - “site”
 - “site owner”
 - “special permit”
 - “special permit holder”
 - “this Act”
- 2A. Moratorium on issue of permits, etc.

PART II – ADMINISTRATION.

Division 1 – National Gaming Control Board.

3. Establishment, etc., of the National Gaming Control Board.
- 3A. National Executive Council may give directions to Minister and Board.
4. Functions, etc., of the Board.
5. Powers of the Board.
6. Membership of the Board.
7. Leave of absence of members.
8. Vacation of office.
9. Vacancy not to affect powers or functions.
10. Calling of meetings.
11. Meetings of the Board.
12. Disclosure of interest by members.
13. Delegation.
14. Reports.
15. Powers of the Board in relation to inquiry.
16. Immunity.
17. Application of Public Finances (Management) Act 1995.
- 17A. Surplus Income.

Division 2 – Registrar and Other Staff.

18. Registrar.
19. Functions of the Registrar.
20. Staff.
21. Public Service rights.
22. Register of Permits and Licences.
23. Register of Gaming Machine Technicians.

PART III – KEEPING, ETC., OF GAMING MACHINES.

Division 1 – Permits.

24. Board may issue permits, etc.
25. Application for a permit.
26. Procedure following lodgement of application.
27. Grant of permit.
28. Display of permit etc.
29. Expiration of permit etc.
30. Variation of permit etc.
31. Renewal of permit.
32. Removal of gaming machine on expiration, etc., of permit.
33. Board may suspend or cancel permit.

Division 2 – Operator’s Licences.

34. Board may grant operator’s licences.
35. Application for an operator’s licence.
36. Procedure following lodgement of application.
37. Grant of operator’s licence.
38. Expiration of operator’s licence.
39. Variation of operator’s licence not permitted, etc.
40. Renewal of operator’s licence.

41. Board may suspend or cancel operator's licence.
42. Holder of an operator's licence to keep records.

Division 3 – Gaming Machine Technician's Licences.

43. Board may issue gaming machine technician's licences.
44. Application for gaming machine technician's licence.
45. Procedure following lodgement of application.
46. Grant of gaming machine technician's licence.
47. Production of gaming machine technician's licence.
48. Expiration of gaming machine technician's licence.
49. Variation of gaming machine technician's licence not permitted, etc.
50. Renewal of gaming machine technician's licence.
51. Board may suspend or cancel gaming machine technician's licence.

Division 4 – Appeals.

52. Procedure for appeals.

PART IV – PROCEDURE IN RESPECT OF APPLICATIONS.

53. Applications to be advertised.
54. Persons who may object.
55. Grounds of objection.
56. Taking of objection.
57. Hearing.
58. Discretionary powers of Board.
59. Appeal.

**PART V – CONDITIONS, ISSUE AND DURATION OF LICENCES
AND PERMITS AND SPECIAL PERMITS.**

60. Conditions of licences or permits or special permits.
61. Issue of licence or permit or special permit.
62. Duration of licence or permit.

PART VI – LICENCE FEES AND PERIODIC STATEMENTS.

63. Periodic licence fee.
64. Periodic provision of information by the holder of a licence.

PART VII – PROFIT FROM GAMING MACHINES.

65. Definitions.
 - “betting tax”
 - “cancelled credits payment”
 - “gross profit”
 - “jackpot payment”
 - “payouts”
 - “profits”
 - “relevant operator”
 - “relevant permit holder”
 - “revenue”
 - “turnover”
66. Amount returnable in prizes.
67. Distribution of profits.
- 67AA. No claim against Board, etc.,.
- 67AB. Write off Revenue.

- 67A. Betting tax.
 - “Commissioner General”
 - “operator”
- 67B. Powers of Commissioner General in relation to betting tax.
- 67C. Offences in relation to betting tax.
- [68 - 68A. *Repealed*]

PART VIII – INSPECTION.

- 69. Interpretation.
 - “authorized person”
 - “relevant matter”
- 70. Inspectors.
- 71. Powers of authorized persons.
- 72. Removal of gaming machine.
- 73. Powers of Inspector in relation to gaming machine.
- 73A. Monitoring of Gaming Machines.

PART IX – OFFENCES.

- 74. Keeping, acquisition and disposal of gaming machine.
- 75. Operation of gaming machine during suspension of permit.
- 76. Application for permit relating to a site while another permit still in force.
- 77. Keeping of old gaming machine.
- 78. Operation of defective gaming machines.
- 79. Unlawful interference with gaming machine.
- 80. Unauthorized possession of gaming machine by site owner.
- 81. Offences by unlicensed persons.
- 82. Restrictions on supply of gaming machines.
- 83. Sale of old gaming machines.
- 84. Illegal possession of gaming machines.
- 85. Minors not permitted in gaming machine areas.
- 86. Operation of gaming machines by minors.

PART X – DISCIPLINARY ACTION.

- 87. Definitions.
 - “authorized complaint”
 - “licensee”
- 88. Summons to show cause against taking of disciplinary action.
- 89. Duties of Board on receipt of authorized complaint.
- 90. Disciplinary powers of Board.

PART XI – MISCELLANEOUS.

- 91. Confidentiality.
- 92. Regulations.
- 93. By – Laws.

INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

Gaming Machine Act 1993,

Being an Act to provide for the legalization and control of gaming machines and their operation and for related purposes,

MADE by the National Parliament.

PART I. – PRELIMINARY.

1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.

(1) This Act, to the extent that it regulates or restricts a right or freedom referred to in Subdivision III.3.C (*qualified rights*) of the *Constitution* namely–

- (a) the right to freedom from arbitrary search and entry conferred by Section 44 of the *Constitution*; and
- (b) the right to privacy conferred by Section 49 of the *Constitution*; and
- (c) the right to freedom of information conferred by Section 51 of the *Constitution*,

is a law that is made for the purpose of giving effect to the public interest in public order.

(2) For the purposes of Section 41 of the *Organic Law on Provincial Governments and Local-level Governments* it is hereby declared that this Act relates to a matter of national interest.

2. INTERPRETATION.

In this Act, unless the contrary intention appears–

“approved gaming machine” means a device that–

- (a) has been designed and manufactured by a person approved by the Board; and

- (b) has been designed and manufactured in accordance with standards approved by the Board; and
- (c) is approved by the Board or is within a class of gaming machine approved by the Board; and
- (d) has not been prescribed as having ceased to be an approved gaming machine;

“authorized gaming machine”, in relation to a site, means a gaming machine that is the subject of a permit in force under this Act;

“Board” means the National Gaming Control Board established by Section 3;

“Chairman” means the Chairman of the Board appointed under Section 6;

¹**“Community Benefit Fund”** means the Community Benefit Fund established under Section 68A(1);

²**“Community Benefit Fund Account”** means the Community Benefit Fund Account opened in pursuance of Section 68A(1);

“gaming machine” means—

- (a) a device that is designed—
 - (i) for the playing of a game of chance or a game that is partly a game of chance and partly a game requiring skill; and
 - (ii) for paying out money or tokens or for registering a right to an amount of money or money’s worth to be paid; or
- (b) any linkage equipment;

“gaming machine technician’s licence” means a gaming machine technician’s licence granted under Section 46;

“Inspector” means an Inspector appointed under Section 70;

“linkage equipment” means any machine or system by means of which two or more authorized gaming machines are connected so that each gaming machine contributes to the registration of a right to claim a pooled amount of money or money’s worth;

“licence” means—

- (a) an operator’s licence; or
- (b) a gaming machine technician’s licence;

³**“member”** means a member of the Board appointed under Section 6;

⁴**“monitoring and control system”** means the monitoring and control system approved by the Board in pursuance to Section 73A.

¹ Section 2 Amended by No. 1 of 2001, s. 2.

² Section 2 Amended by No. 1 of 2001, s. 2.

³ Section 2 (definition of “manufacture”) repealed by *Gaming Machine (Amendment) Act 1995* (No. 8 of 1995), s1(a).

“operator” or **“holder of an operator’s licence”** means the holder of an operator’s licence;

“operator’s licence” means an operator’s licence granted under Section 37;

“permit” means a permit granted under Section 27;

⁵**“permit holder”** or **“holder of a permit”** means a club, hotel, motel, tavern or other premises as are considered appropriate in the considered judgement of the Board for the purpose of gaming machines in respect of which a permit granted under this Act is in force authorizing the permit holder–

- (a) to keep an authorized gaming machine on specified premises; and
- (b) to operate a gaming machine so kept;

“person” includes any natural person or persons, partnership, organization or body corporate;

“Registrar” means the Registrar appointed under Section 18;

⁶**“site”** means the premises of a club, hotel, motel, tavern or such other premises as are considered appropriate in the deliberate judgement of the Board for the purpose of gaming machines;

⁷**“site owner”** means the licensee of specified premises of a club, hotel, motel or tavern or the owner of such other specified premises as are considered appropriate in the deliberate judgement of the Board for the purpose of gaming machines;

“special permit” means a permit granted under Section 27 to one or more organizations or bodies established for social, literary, political, cultural, sporting or athletic purposes or for any other lawful purpose;

“special permit holder” or **“holder of a special permit”** means the person to whom a special permit is granted under Section 27 authorizing the holder–

- (a) to keep an approved gaming machine at a defined place; and
- (b) to operate such a gaming machine so kept;

“this Act” includes the Regulations.

⁴ Section 2 Amended by No. 1 of 2001, s. 2.

⁵ Section 2 (definition of “permit holder”) amended by *Gaming Machine (Amendment) Act* 1995 (No. 8 of 1995), s1(b). Repealed and replaced by *Gaming Machine (Budget Provisions No. 2 1997) Act* 1996 (No. 62 of 1996), s1(a).

⁶ Section 2 (definition of “site”) amended by *Gaming Machine (Amendment) Act* 1995 (No. 8 of 1995), s1(c). Repealed and replaced by *Gaming Machine (Budget Provisions No. 2 1997) Act* 1996 (No. 62 of 1996), s1(b).

⁷ Section 2 (definition of “site owner”) amended by *Gaming Machine (Amendment) Act* 1995 (No. 8 of 1995), s1(d). Repealed and replaced by *Gaming Machine (Budget Provisions No. 2 1997) Act* 1996 (No. 62 of 1996), s1(c).

2A. MORATORIUM ON ISSUE OF PERMITS, ETC.

⁸(1) The Head of State, acting on advice, may, by notice in the National Gazette, declare a period of moratorium during which—

- (a) no permits; or
- (b) no operator's licences; or
- (c) no gaming machine technician's licences,

shall be issued.

(2) A declaration under Subsection (1) shall specify the period during which the moratorium shall apply.

(3) During a period of moratorium declared under Subsection (1), no permits or licences of the type specified in the declaration shall be issued and no application for such permits or licences shall be accepted, notwithstanding any provision of this Act to the contrary.

(4) A declaration under Subsection (1) does not prevent the renewal of permits or licences issued before the commencement of the period of moratorium.

⁸ Section 2A inserted by *Gaming Machine (Amendment No. 2) Act 1996* (No. 31 of 1996), s1.

PART II. – ADMINISTRATION.

Division 1.

National Gaming Control Board.

3. ESTABLISHMENT, ETC., OF THE NATIONAL GAMING CONTROL BOARD.

(1) The National Gaming Control Board is hereby established.

(2) The Board–

(a) is a body corporate; and

(b) shall have a common seal; and

(c) is capable of acquiring, holding and disposing of real and personal property; and

(d) may sue and be sued in its corporate name.

(3) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Board affixed to a document and shall presume that it was duly affixed.

(4)⁹ [*Repealed.*]

3A. NATIONAL EXECUTIVE COUNCIL MAY GIVE DIRECTIONS TO MINISTER AND BOARD.

¹⁰The National Executive Council may give written directions to the Minister and the Board on policy in respect of gaming machines and the Minister and the Board shall give effect to such directions.

4. FUNCTIONS, ETC., OF THE BOARD.

The functions and duties of the Board are to consider applications for, and where appropriate grant, permits and licences under this Act and otherwise to control the operation of gaming machines as specified in this Act and any other law.

5. POWERS OF THE BOARD.

¹¹The powers of the Board are as specified in this Act and include the following powers: –..

(a)¹² to borrow money from any licensed bank or licensed financial institution within the country, or any financial institution outside the country as

⁹ Section 3(4) repealed by *Gaming Machine (Amendment) Act 1995* (No. 8 of 1995), s2.

¹⁰ Section 3A inserted by *Gaming Machine (Amendment No. 2) Act 1996* (No. 31 of 1996), s2.

¹¹ Section 5 Amended by No. 1 of 2001, s. 3.

¹² Section 5 Amended by No. 1 of 2001, s. 4.

- approved in writing by the Bank of Papua New Guinea, to enable the Board to carry out its functions under this Act;
- (b)¹³ to mortgage, charge or pledge any of the assets of the Board including future assets or future income, as security for any borrowing of the Board;
- (c)¹⁴ to possess, own, operate or maintain any gaming machine in accordance with Section 34(2A);
- (d)¹⁵ to sell, lease or hire any gaming machine to the holder of a permit granted under Section 27 on such terms as the Board considers fit;
- (e)¹⁶ to enter into arrangements with any person or corporation for the purpose of enabling the Board to carry out its functions under this Act.

6. MEMBERSHIP OF THE BOARD.

(1) The Board shall consist of the following members:–

- (a)¹⁷ a Chairman;
- (b)¹⁸ one member nominated by the Papua New Guinea Council of Churches;
- (c)¹⁹ one member representing the industry appointed by the Minister;
- (d) one member nominated by the Papua New Guinea Chamber of Commerce;
- (e) one member nominated by the National Council of Women;
- (f) the Departmental Head of the Department responsible for finance and planning matters, *ex officio*, or his nominee;
- (g) the Departmental Head of the Department responsible for justice matters, *ex officio*, or his nominee.

(2) The members referred to in Subsection (1)(a) to (e) inclusive–

- (a)²⁰ shall be appointed in accordance with the *Regulatory Statutory Authorities (Appointment to Certain Offices) Act 2004*; and
- (b)²¹ shall be appointed for a term not exceeding three years; and
- (c) shall be entitled to the appropriate fees and allowances under the *Boards (Fees and Allowances) Act 1955*; and
- (d) are eligible for re-appointment.

¹³ Section 5 Amended by No. 1 of 2001, s. 4.

¹⁴ Section 5 Amended by No. 1 of 2001, s. 4.

¹⁵ Section 5 Amended by No. 1 of 2001, s. 4.

¹⁶ Section 5 Amended by No. 1 of 2001, s. 4.

¹⁷ Section 6 Subsection (1) amended by No. 97 of 2006, Sched. 1.

¹⁸ Section 6(1)(b) repealed and replaced by *Gaming Machine (Amendment) Act 1995* (No. 8 of 1995), s3(a)(i).

¹⁹ Section 6(1)(c) repealed and replaced by *Gaming Machine (Amendment) Act 1995* (No. 8 of 1995), s3(a)(ii).

²⁰ Section 6 Subsection (2) amended by No. 97 of 2006, Sched. 1.

²¹ Section 6(2)(b) amended by *Gaming Machine (Amendment) Act 1995* (No. 8 of 1995), s3(b).

(3) In the event of—

- (a) there being a vacancy in the membership of any member referred to in Subsection (1)(b) to (e) inclusive; and
- (b) for any reason no person has been nominated or has accepted nomination to fill the position,

the Minister may, by notice in the National Gazette, appoint a person to fill that position.

7. LEAVE OF ABSENCE OF MEMBERS.

The Minister may grant leave of absence to a member on such terms and conditions as the Minister determines.

8. VACATION OF OFFICE.

(1) A member, other than an *ex officio* member, may resign his office by writing under his hand and addressed to the Minister.

(2) Where a member of the Board—

- (a) becomes permanently incapable of performing his functions; or
- (b) resigns his office in accordance with Subsection (1); or
- (c) absents himself from three consecutive meetings of the Board except with the written consent of the Minister; or
- (d) fails to comply with Section 12 or with any provision of this Act; or
- (e) becomes bankrupt, or applies to take the benefit of any law for the benefit of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit; or
- (f) is convicted of an offence punishable under a law by a term of imprisonment for one year or longer, or by death, and as a result of the conviction is sentenced to imprisonment or death, or is under a bond to appear for sentence if called on,

the Minister shall terminate his appointment.

(3) The Minister may, at any time, by written notice, advise a member that he intends to terminate his appointment on the grounds of inefficiency, incapacity or misbehaviour.

(4) Within 14 days of the receipt of a notice under Subsection (3), the member may reply in writing to the Minister, who shall consider the reply, and, where appropriate, terminate the appointment.

(5) Where the member referred to in Subsection (3) does not reply in accordance with Subsection (4), his appointment is terminated.

9. VACANCY NOT TO AFFECT POWERS OR FUNCTIONS.

The exercise of a power or the performance of a function of the Board is not invalidated by reason of there being a vacancy in the membership of the Board.

10. CALLING OF MEETINGS.

(1) The Board shall meet as often as the business of the Board requires, and at such times and places as the Board determines, or as the Chairman directs, but in any event shall meet not less frequently than once in every three months.

(2) Where the Chairman receives a request to do so by the Minister, or by not less than two members, the Chairman shall convene a meeting of the Board within 14 days.

(3) For the purposes of Subsection (1), the Chairman shall give to every member at least 14 days' notice of the meeting.

11. MEETINGS OF THE BOARD.

(1) At a meeting of the Board—

(a) four members form a quorum; and

(b) the Chairman shall preside, but, if the Chairman is absent, the members present shall appoint a Chairman for that meeting from amongst their own number; and

(c) subject to this Act—

(i) matters arising shall be decided by a majority of the votes of the members present and voting; and

(ii) the person presiding has a deliberative and, in the event of an equality of votes on any matter, also a casting vote.

(2) The Board shall cause minutes of its meetings to be recorded and kept.

(3) Subject to this Act, the procedures of the Board are as determined by the Board.

12. DISCLOSURE OF INTEREST BY MEMBERS.

(1) A member who is directly or indirectly interested in a matter being considered or about to be considered by the Board, otherwise than as a member of, and in common with the other members of, an incorporated company consisting of not less than 25 persons, shall, as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Board.

(2) A disclosure under Subsection (1) shall be recorded in the minutes of the Board, and the member shall not take part, after the disclosure, in any deliberation or decision of the Board in relation to that matter except with the express authority of the Board.

13. DELEGATION.

The Board may, by instrument, delegate to any member of the Board or to the Registrar all or any of its powers and functions under this Act (except this power of delegation).

14. REPORTS.

(1) The Board shall, by 31 March in each year, furnish to the Minister a report on the progress and performance of the Board in relation to its functions for the year ending 31 December previously.

(2) As soon as practicable after he has received a report under Subsection (1), the Minister shall forward the report to the Speaker for presentation to the Parliament.

(3)²² [*Repealed.*]

15. POWERS OF THE BOARD IN RELATION TO INQUIRY.

(1) For the purposes of considering or dealing with any matter—

- (a) the Board; or
- (b) the Registrar acting by direction and under the delegation in writing of the Board,

may hold an inquiry and may—

- (c) by summons under the hand of the Chairman or of the Registrar require the attendance of any witness; and
- (d) by notice in writing signed by the Chairman or by the Registrar, require the production of any book, paper or document relevant to the matter before the Board or the Registrar; and
- (e) inspect any book, paper and document produced before the Board or the Registrar and make copies of or extracts from matters therein that are relevant to the matter before the Board or the Registrar; and
- (f) examine any witness on oath or affirmation.

(2) For the purposes of Subsection (1), each member of the Board or the Registrar has authority to administer an oath.

(3) A person into whose conduct the Board or Registrar is proposing to inquire is entitled to be represented at the inquiry by a lawyer and to call and examine witnesses, and the Board shall give such person or his lawyer an opportunity of making to the Board such representations as are relevant to the inquiry.

(4) A person who—

²² Section 14 Subsection (3) omitted by No. 1 of 2001, s. 5.

- (a) having been personally served with a summons referred to in Subsection (1)(c) to attend before the Board or the Registrar, fails without lawful excuse to attend in obedience to that summons; or
- (b) being called or examined as a witness in any inquiry before the Board—
 - (i) refuses to be sworn or make an affirmation; or
 - (ii) fails to answer any question relevant to a matter in issue in the inquiry; or
 - (iii) without lawful excuse fails to produce any book, paper or document mentioned in a notice referred to in Subsection (1)(d) and personally served upon him; or
 - (iv) knowingly and wilfully makes a false statement to the Board,

is guilty of an offence.

Penalty: A fine not exceeding K1,000 or imprisonment for a term not exceeding six months, or both.

(5) It is a defence to a prosecution for an offence against this section of failing to produce a book, paper or document that the book, paper or document was not relevant to the matter the subject of the inquiry.

(6) A statement made by a person in answer to a question put to him in the course of an inquiry conducted by the Board or the Registrar is not admissible in evidence in any proceedings against the person in a court, other than proceedings for an offence arising out of the falsity of the answer.

16. IMMUNITY.

(1) An action or proceeding, civil or criminal, does not lie against a member of the Board or the Registrar for or in respect of an act or thing done in good faith by the member in his capacity as a member of the Board or as the Registrar.

(2) A lawyer appearing for a party at an inquiry conducted by the Board or the Registrar under this Act has the same protection and immunity as a lawyer has in appearing for a party in proceedings in the National Court.

(3) A witness who gives evidence at an inquiry conducted by the Board under this Act has the same protection as a witness in proceedings in the National Court.

17. APPLICATION OF PUBLIC FINANCES (MANAGEMENT) ACT 1995.

²³(1) Part VIII of the *Public Finances (Management) Act 1995* applies to and in relation to the Board.

(2) The Board is declared to be a trading enterprise for the purposes of Section 62(2) of the *Public Finances (Management) Act 1995*.

²³ Section 17 Substituted by No. 1 of 2001, s. 6.

17A. SURPLUS INCOME.

²⁴In January and July each year, the Board shall review the cost of carrying out its functions against income received for that purpose in the six months prior to the month of review, and after taking into account anticipated income and expenditure for the ensuing six months period, shall pay any funds then held and surplus to requirements in the ensuing six months, into the Community Benefit Fund Account.

Division 2.***Registrar and Other Staff.*****18. REGISTRAR.**

(1) There is established an office of Registrar to the Board.

(2)²⁵ The Registrar—

- (a) shall be appointed by the Minister by notice in the National Gazette; and
- (b) shall be appointed for a term not exceeding three years;
- (c) is eligible for re-appointment; and
- (d) subject to the *Salaries and Conditions Monitoring Committee Act 1988*, shall be employed under a written contract on such terms and conditions as are determined by the Minister.

²⁶19. FUNCTIONS OF THE REGISTRAR.

The Registrar—

- (a) is the Secretary to the Board; and
- (b) shall carry out and perform the functions and duties required of him under this Act or by the Board.

20. STAFF.

²⁷The Registrar may, with the consent of the Board, employ such other persons as are necessary but subject to a staff ceiling approved by the Department responsible for personnel management matters.

²⁴ Section 17A Inserted by No. 1 of 2001, s. 6.

²⁵ Section 18(2)(a) amended by *Gaming Machine (Amendment) Act 1995* (No. 8 of 1995), s4(a); Section 18(2)(b) amended by *Gaming Machine (Amendment) Act 1995* (No. 8 of 1995), s4(b); Section 18(2)(d) amended by *Gaming Machine (Amendment) Act 1995* (No. 8 of 1995), s4(c).

²⁶ Section 18(2)(a) amended by *Gaming Machine (Amendment) Act 1995* (No. 8 of 1995), s4(a); Section 18(2)(b) amended by *Gaming Machine (Amendment) Act 1995* (No. 8 of 1995), s4(b); Section 18(2)(d) amended by *Gaming Machine (Amendment) Act 1995* (No. 8 of 1995), s4(c).

²⁷ Section 20 repealed and replaced by *Gaming Machine (Amendment) Act 1995* (No. 8 of 1995), s5.

21. PUBLIC SERVICE RIGHTS.

Where an officer or employee of the Public Service is appointed to be Registrar or a member of the staff, his service as Registrar or as a member of the staff shall be counted as service in the Public Service for the purpose of determining his rights (if any) in respect of—

- (a) leave of absence on grounds of illness; or
- (b) furlough or pay instead of furlough (including pay to dependants on the death of the officer).

22. REGISTER OF PERMITS AND LICENCES.

(1) The Registrar shall establish and maintain a Register of Permits and Licences.

(2) The Registrar shall enter in the Register of Permits and Licences the particulars of the issue, renewal, suspension, cancellation and such other particulars as the Board directs of each permit, special permit and licence granted under this Act.

(3) The Registrar shall, at reasonable times—

- (a) make available the Register of Permits and Licences for inspection on payment of the prescribed fee; and
- (b) allow copies of entries in the Register of Permits and Licences to be made on payment of the prescribed fee.

23. REGISTER OF GAMING MACHINE TECHNICIANS.

(1) The Registrar shall establish and maintain a Register of Gaming Machine Technicians.

(2) The Registrar shall enter in the Register of Gaming Machine Technicians the particulars of each person licensed as a gaming machine technician under Section 46.

(3) The Registrar shall, at reasonable times—

- (a) make available the Register of Gaming Machine Technicians for inspection on payment of the prescribed fee; and
- (b) allow copies of entries in the Register of Gaming Machine Technicians to be made on payment of the prescribed fee.

PART III. – KEEPING, ETC., OF GAMING MACHINES.

Division 1.

Permits.

24. BOARD MAY ISSUE PERMITS, ETC.

The Board may, in accordance with this Act–

- (a) grant to a site owner, in respect of a specified site, a permit authorizing that site owner–
 - (i) to keep an authorized gaming machine or authorized gaming machines on that site; and
 - (ii) to operate such a gaming machine or gaming machines so kept,
in accordance with the terms and conditions of such permit and of this Act and while such permit remains in force; and
- (b) grant to the Secretary of, or other person nominated for the purpose by, an organization or body established for social, political, literary, cultural or sporting purposes, in respect of a specified site, a special permit authorizing that person–
 - (i) to keep an approved gaming machine or approved gaming machines for a period not exceeding one week on that site; and
 - (ii) to operate such a gaming machine or gaming machines so kept,
in accordance with the terms and conditions of such special permit and of this Act while such special permit remains in force; and
- (c) grant to a site owner a permit authorizing that site owner to dispose of an authorized gaming machine or gaming machines in accordance with the terms and conditions of such permit and of this Act while such permit remains in force.

25. APPLICATION FOR A PERMIT.

(1) A site owner may make application to the Board for a permit–

- (a) to keep an approved gaming machine or approved gaming machines on the site of which he is owner and to operate such machine or machines; or
- (b) to dispose of a gaming machine.

(2) The Secretary of, or other person nominated for the purpose by, an organization or body established for social, political, literary, cultural or sporting purposes may make application to the Board on behalf of that organization or body

for a special permit to keep an approved gaming machine or approved gaming machines at a specified site for a period not exceeding one week and to operate such gaming machine or gaming machines.

- (3) An application under Subsection (1) or (2)–
 - (a) shall be lodged with the Registrar; and
 - (b) shall be in the prescribed form; and
 - (c) shall be accompanied by the prescribed fee; and
 - (d) in the case of an application under Subsection (1)(a) or (2) shall be accompanied by particulars of–
 - (i) the site in respect of which the permit is sought; and
 - (ii) the approved gaming machine or approved gaming machines; and
 - (iii) the financial resources of the applicant; and
 - (e) in the case of an application under Subsection (1)(b) shall include particulars of the gaming machine permission to dispose of which is sought; and
 - (f) in the case of an application under Subsection (2) be accompanied by particulars of the organization or body on whose behalf the application is made; and
 - (g) shall be accompanied by such other particulars as are prescribed or as the Board may require.

26. PROCEDURE FOLLOWING LODGEMENT OF APPLICATION.

Where an application has been made under Section 25, the procedure specified in Part IV for the advertisement of the application, for the making of objections to the application, for the consideration and determination of any objections and for the hearing of the application shall be followed.

27. GRANT OF PERMIT.

- (1) On the completion of the procedure specified in Part IV in respect of an application under Section 25, where the Board considers–
 - (a) that the applicant and the site are suitable for the operation of the machines specified in the application; and
 - (b) that the applicant is a fit and proper person of good fame and character; and
 - (c) that any person financially, beneficially or otherwise concerned in the application is of good fame and character; and
 - (d) as to any other matters the Board considers material to the application,

the Board may grant a permit or special permit, as the case may be, in the prescribed form to the applicant.

(2) Notwithstanding the number and type of gaming machines sought by an applicant, the Board may, having regard to the size and layout of the premises in respect of which the permit or special permit was sought, and such other matters as are relevant, determine the number and the type of gaming machines in respect of which a permit or special permit shall be granted.

28. DISPLAY OF PERMIT ETC.

(1) A permit shall be prominently displayed by the holder of the permit in the site to which the permit relates.

(2) A special permit shall be prominently displayed by the holder of the special permit in the site to which the special permit relates.

29. EXPIRATION OF PERMIT ETC.

(1) Unless sooner terminated in accordance with this Act, a permit expires at the expiration of a period of 12 months from the date of grant of the permit.

(2) Unless sooner terminated in accordance with this Act, a special permit expires on the expiration date specified on the special permit.

30. VARIATION OF PERMIT ETC.

(1) A holder of a permit may, during the currency of the permit, make application to the Board for variation of the permit in respect of—

- (a) the holder of the permit; or
- (b) the premises in respect of which the permit was granted; or
- (c) the number and type of machines authorized.

(2) An application under Subsection (1)—

- (a) shall be made to the Registrar; and
- (b) shall be made on the prescribed form; and
- (c) shall be accompanied by the prescribed fee; and
- (d) shall contain such particulars as are prescribed or as the Board requires.

(3) The procedures specified in Part IV shall apply to an application under this section.

(4) In considering an application under this section, the Board may take into account—

- (a) the conduct of the permit holder; and
- (b) the operation of gaming machines at the site; and

- (c) the performance of gaming machines at the site; and
- (d) any proposed changes to the premises,

and may vary the permit in accordance with the application or subject to such modifications or conditions as the Board determines.

(5) A variation under this section will be for the unexpired period of the period in respect of which the permit is valid.

31. RENEWAL OF PERMIT.

(1) A permit holder may, not more than 40 days before the expiration of the permit, or of any renewal thereof, make application to the Board for renewal of the permit.

(2) An application under Subsection (1)–

- (a) shall be made to the Registrar; and
- (b) shall be made on the prescribed form; and
- (c) shall be accompanied by the prescribed fee.

(3) The procedures specified in Part IV shall apply to an application under this section.

(4) In considering an application under this section the Board may, before making a determination, take into account–

- (a) the conduct of the permit holder; and
- (b) the operation of gaming machines at the site; and
- (c) the performance of gaming machines at the site,

and may renew the permit by the issue of a new permit for a further period of 12 months.

32. REMOVAL OF GAMING MACHINE ON EXPIRATION, ETC., OF PERMIT.

(1) Where–

- (a) a permit issued to a site owner has expired and the permit has not been renewed; or
- (b) a permit has been cancelled under Section 33,

the site owner shall take all reasonable steps to arrange, in conjunction with the relevant operator, for the removal from the premises, within 14 days from the date of expiration of the permit or cancellation of the permit, as the case may be, or within such further period as the operator approves in writing of the gaming machines in respect of which the permit was granted.

(2) A site owner, who fails to comply with Subsection (1), is guilty of an offence.

Penalty: A fine not exceeding K500.00.

33. BOARD MAY SUSPEND OR CANCEL PERMIT.

(1) Where—

(a) the Board considers that—

- (i) a permit or a renewal of a permit was obtained by fraud, dishonesty or misrepresentation; or
- (ii) a gaming machine was acquired, installed, operated or used contrary to this Act; or
- (iii) premises in respect of which a permit was issued are not maintained to a suitable standard; or
- (iv) the action is otherwise warranted; or

(b) a permit holder has been convicted of an offence against this Act,

the Board may by order suspend the relevant permit for such period as the Board thinks fit or until the Board by a further order terminates the suspension or cancels the permit.

(2) Before making an order under Subsection (1) to suspend or cancel a permit, the Board shall give written notification to the holder of the permit of its intention to suspend or cancel the permit.

(3) A written notification under Subsection (2) shall—

- (a) state the reasons for the proposed suspension or cancellation; and
- (b) require the holder of the permit, if he wishes so to do, to make written representations to the Board on the matter within seven days of the receipt by him of the notification.

(4) The Board shall consider any representations made under Subsection (3)(b) before making its decision whether or not to suspend or cancel the permit, as the case may be.

Division 2.***Operator's Licences.*****34. BOARD MAY GRANT OPERATOR'S LICENCES.**

(1) The Board may, in accordance with this Act, grant to a corporate person an operator's licence authorizing that corporate person, subject to this Act and to any conditions to which the licence is subject—

- (a)²⁸ [*Repealed.*]
- (b) to import approved gaming machines; and
- (c) to supply approved gaming machines; and
- (d) to acquire, own and possess gaming machines; and

²⁸ Section 34(1)(a) repealed by *Gaming Machine (Amendment) Act 1995* (No. 8 of 1995), s6.

- (e) to service, repair and maintain gaming machines; and
- (f) to install and operate gaming machines in premises in respect of which a permit or special permit is in force.

(2) The authority conferred by an operator's licence on a corporation extends to a director or secretary of that corporation.

(2A)²⁹ ³⁰The Board shall be deemed to be the holder of an operator's licence and may –

- (a) import approved gaming machines; and
- (b) supply approved gaming machines; and
- (c) acquire, own and possess gaming machines; and
- (d) service, repair and maintain gaming machines; and
- (e) install and operate gaming machines in premises in respect of which a permit or a special permit is in force; and
- (f) delegate to, or engage, a corporation to service, repair and maintain gaming machines; and
- (g) sell, lease or hire gaming machines to a site owner who is the holder of a permit granted under Section 27.

(3)³¹ ³²The Board shall ensure that not more than four operator's licences are in force at any one time.

35. APPLICATION FOR AN OPERATOR'S LICENCE.

(1) Subject to Subsection (2), a person may make application to the Board for an operator's licence.

(2) An application for an operator's licence may not be made by–

- (a) a person other than a corporation; or
- (b) a corporation that is not incorporated in Papua New Guinea; or
- (c) a person disqualified from holding an operator's licence; or
- (d) a person who is the holder of a suspended operator's licence; or
- (e) a person who is the holder of a current operator's licence.

(3) An application under Subsection (1)–

- (a) shall be lodged with the Registrar; and
- (b) shall be in the prescribed form; and
- (c) shall be accompanied by the prescribed fee; and

²⁹ Section 34 Subsection (2A) inserted by No. 1 of 2001, s. 7.

³⁰ Section 34 Subsection (2A) inserted by No. 1 of 2001, s. 7.

³¹ Section 34 Subsection (3) amended by No. 1 of 2001, s. 7.

³² Section 34 Subsection (3) amended by No. 1 of 2001, s. 7.

- (d) shall be accompanied by such other particulars as may be prescribed or as the Board may require.

36. PROCEDURE FOLLOWING LODGEMENT OF APPLICATION.

Where an application has been made under Section 35, the procedure specified in Part IV for the advertisement of the application, for the making of objections to the application, for the consideration and determination of any objections and for the hearing of the application shall be followed.

37. GRANT OF OPERATOR'S LICENCE.

On the completion of the procedure specified in Part IV in respect of an application under Section 35, where the Board considers that the applicant—

- (a) has the financial and other resources; and
- (b) has available the necessary experience and expertise,

to fulfil the functions authorized by an operator's licence, the Board may grant an operator's licence in the prescribed form to the applicant.

38. EXPIRATION OF OPERATOR'S LICENCE.

Unless sooner terminated in accordance with this Act, an operator's licence expires at the expiration of a period of three years from the date of grant of the licence.

39. VARIATION OF OPERATOR'S LICENCE NOT PERMITTED, ETC.

- (1) A variation of an operator's licence is not permitted.
- (2) An operator's licence is not transferable.

40. RENEWAL OF OPERATOR'S LICENCE.

(1) The holder of an operator's licence may, not more than 40 days before the expiration of the licence, or of any renewal thereof, make application to the Board for renewal of the licence.

- (2) An application under Subsection (1)—
 - (a) shall be made to the Registrar; and
 - (b) shall be made on the prescribed form; and
 - (c) shall be accompanied by the prescribed fee.

(3) The procedure specified in Part IV shall apply to an application under this section.

(4) In considering an application under this section the Board may, before making a determination, take into account the performance of the applicant in

relation to the operator's licence, renewal of which is sought, and may renew the operator's licence by the grant of a new operator's licence for a period of three years.

41. BOARD MAY SUSPEND OR CANCEL OPERATOR'S LICENCE.

(1) Where—

(a) the Board considers that—

(i) an operator's licence or a renewal of an operator's licence was obtained by fraud, dishonesty or misrepresentation; or

(ii) the action is otherwise warranted; or

(b) the holder of an operator's licence has been convicted of an offence against this Act,

the Board may by order suspend the relevant operator's licence for such period as the Board thinks fit or until the Board by a further order terminates the suspension or cancels the operator's licence.

(2) Before making an order under Subsection (1) to suspend or cancel an operator's licence, the Board shall give written notification to the holder of the operator's licence of its intention to suspend or cancel the operator's licence.

(3) A written notification under Subsection (2) shall—

(a) state the reasons for the proposed suspension or cancellation; and

(b) require the holder of the operator's licence, if he wishes to do so, to make written representations to the Board on the matter within seven days of the receipt by him of the notification.

(4) The Board shall consider any representations made under Subsection (3)(b) before making its decision whether or not to suspend or cancel the operator's licence, as the case may be.

42. HOLDER OF AN OPERATOR'S LICENCE TO KEEP RECORDS.

(1) A holder of an operator's licence shall keep and maintain accurate written records at the premises in respect of which a permit was granted—

(a) in respect of each gaming machine installed and operated by him within the premises; and

(b) in a form approved by the Board; and

(c) in such a manner as to allow for proper and convenient inspection and audit.

(2) A holder of an operator's licence shall make available to the Board or to the Registrar or to an Inspector any records kept under Subsection (1).

(3) The records required to be kept under this section shall be as prescribed.

(4) A holder of an operator's licence, who fails to comply with a provision of this section, is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 in respect of each gaming machine in respect of which an offence was committed.

Division 3.

Gaming Machine Technician's Licences.

43. BOARD MAY ISSUE GAMING MACHINE TECHNICIAN'S LICENCES.

The Board may, in accordance with this Act, grant to a person a gaming machine technician's licence authorizing that person, subject to this Act and any condition to which the licence is subject, to service, repair and maintain gaming machines.

44. APPLICATION FOR GAMING MACHINE TECHNICIAN'S LICENCE.

(1) Subject to Subsection (2), a person may make application to the Board for a gaming machine technician's licence.

(2) An application under Subsection (1) shall not be made by—

- (a) a person other than a natural person; or
- (b) a person who has not attained the age of 18 years; or
- (c) a person disqualified from holding a licence; or
- (d) a person who is the holder of a suspended licence; or
- (e)³³ [*Repealed.*]

(3) An application under Subsection (1)—

- (a) shall be lodged with the Registrar; and
- (b) shall be in the prescribed form; and
- (c) shall be accompanied by the prescribed fee; and
- (d) shall contain particulars of the applicant's qualifications and experience and such other particulars as may be prescribed or as the Board may require.

45. PROCEDURE FOLLOWING LODGEMENT OF APPLICATION.

Where an application has been made under Section 44, the procedure specified in Part IV for the advertisement of the application, for the making of objections to the application, for the consideration and determination of any objections and for the hearing of the application shall be followed.

³³ Section 44(2)(e) repealed by *Gaming Machine (Amendment) Act* 1995 (No. 8 of 1995), s7.

46. GRANT OF GAMING MACHINE TECHNICIAN'S LICENCE.

On the completion of the procedure specified in Part IV in respect of an application under Section 44, where the Board considers—

- (a) that the applicant is a fit and proper person of good fame and character; and
- (b) that the applicant has the necessary expertise including any prescribed qualification; and
- (c) as to any other matters the Board considers material to the application,

the Board may grant a gaming machine technician's licence in the prescribed form to the applicant.

47. PRODUCTION OF GAMING MACHINE TECHNICIAN'S LICENCE.

The holder of a gaming machine technician's licence shall produce such licence for inspection when requested so to do by—

- (a) a permit holder; or
- (b) the holder of an operator's licence; or
- (c) an authorized person, as that phrase is defined in Section 69; or
- (d) the Registrar; or
- (e) a member of the Board.

48. EXPIRATION OF GAMING MACHINE TECHNICIAN'S LICENCE.

Unless sooner terminated in accordance with this Act a gaming machine technician's licence expires at the expiration of a period of three years from the date of grant of the licence.

49. VARIATION OF GAMING MACHINE TECHNICIAN'S LICENCE NOT PERMITTED, ETC.

- (1) A variation of a gaming machine technician's licence is not permitted.
- (2) A gaming machine technician's licence is not transferable.

50. RENEWAL OF GAMING MACHINE TECHNICIAN'S LICENCE.

(1) The holder of a gaming machine technician's licence may, not more than 40 days before the expiration of the licence, or of any renewal thereof, make application to the Board for renewal of the licence.

- (2) An application under Subsection (1)—
 - (a) shall be made to the Registrar; and
 - (b) shall be made on the prescribed form; and
 - (c) shall be accompanied by the prescribed fee.

(3) The procedure specified under Part IV shall apply to an application under this section.

(4) In considering an application under this section the Board may, before making a determination, take into account the performance of the applicant in relation to the gaming machine technician's licence, renewal of which is sought, and may renew the gaming machine technician's licence by the grant of a new gaming machine technician's licence for a period of three years.

51. BOARD MAY SUSPEND OR CANCEL GAMING MACHINE TECHNICIAN'S LICENCE.

(1) Where—

(a) the Board considers that—

- (i) a gaming machine technician's licence or a renewal of a gaming machine technician's licence was obtained by fraud, dishonesty or misrepresentation; or
- (ii) the action is otherwise warranted; or

(b) the holder of a gaming machine technician's licence has been convicted of an offence against this Act,

the Board may by order suspend the relevant gaming machine technician's licence for such period as the Board thinks fit or until the Board by a further order terminates the suspension or cancels the gaming machine technician's licence.

(2) Before making an order under Subsection (1) to suspend or cancel a gaming machine technician's licence, the Board shall give written notification to the holder of the gaming machine technician's licence of its intention to suspend or cancel the gaming machine technician's licence.

(3) A written notification under Subsection (2) shall—

- (a) state the reasons for the proposed suspension or cancellation; and
- (b) require the holder of the gaming machine technician's licence, if he wishes to do so, to make written representations to the Board on the matter within seven days of the receipt by him of the notification.

(4) The Board shall consider any representations made under Subsection (3)(b) before making its decision whether or not to suspend or cancel the gaming machine technician's licence, as the case may be.

Division 4.

Appeals.

52. PROCEDURE FOR APPEALS.

(1) Where the Board makes a decision or order—

- (a) refusing an application under this Part for a permit, special permit or licence, or for a renewal of a permit or licence, or for a variation of a permit; or
- (b) suspending or cancelling a permit or licence; or
- (c) refusing to permit an applicant for a permit to install and use on the premises the type or the number of gaming machines requested,

the Board shall give to the applicant a statement in writing of the reasons for the decision or order, and the applicant may, within 30 days after the date on which a statement of the reasons for the decision or order are so given, appeal to the Minister.

(2) The Minister shall have jurisdiction to hear and determine an appeal under Subsection (1) and may—

- (a) renew the decision or order appealed against and the reasons therefor; and
- (b) having regard to the matters which he considers relevant, confirm, vary or reverse the decision or order.

(3) Where, under Subsection (2)(b), the Minister varies or reverses a decision or order of the Board, the Board shall, as soon as practicable, give effect to that decision as if it were a decision of the Board.

PART IV. – PROCEDURE IN RESPECT OF APPLICATIONS.**53. APPLICATIONS TO BE ADVERTISED.**

(1) The Registrar shall, within seven days of the receipt of an application for–

- (a) a permit under Section 25 or any variation or renewal thereof; or
- (b) a special permit under Section 25; or
- (c)³⁴ an operator's licence under Section 35; or
- (d) a gaming machine technician's licence under Section 44,

cause notice of the application to be published in–

- (e) the National Gazette; and
- (f) a newspaper published in and circulating generally throughout the country not less frequently than once in a week.

(2) A notice under Subsection (1) shall–

- (a) be in the prescribed form; and
- (b) contain the prescribed particulars; and
- (c) require any person wishing to object to the application in accordance with this Part, to lodge a written objection with the Registrar in accordance with this Part within seven days of the date of publication of the notice under Subsection (1)(e) or (f), whichever is the later date; and
- (d) specify the date of the hearing of the application by the Board, being a date not less than 14 days after the date of publication of the notice under Subsection (1)(e) or (f) whichever is the later date.

54. PERSONS WHO MAY OBJECT.

(1) An objection to the granting of an application referred to in Section 53(1) may be taken by–

- (a) the Commissioner of Police; or
- (b) any other person with the leave of the Board,

within the period specified in Section 53(2)(c).

(2) An objection may not be taken by a person referred to in Subsection (1)(b) unless it is accompanied by an affidavit by the objector stating–

- (a) whether the objector has any direct or indirect pecuniary interest in the refusal of the application or any expectation of such an interest; and
- (b) whether any person other than the objector is interested in the lodging of the objection and, if so–

³⁴ Section 53(1)(c) amended by *Gaming Machine (Amendment) Act 1995* (No. 8 of 1995), s8.

- (i) the name of each such person; and
- (ii) where such a person is a proprietary company—the names of the directors and shareholders.

55. GROUNDS OF OBJECTION.

(1) Objection to the grant of an application referred to in Section 53(1) may be taken on one or more of the following grounds:—

- (a) that the applicant is not a fit and proper person to be the holder of a licence or permit;
- (b) except in the case of an application for a gaming machine technician's licence—that a person directly or indirectly interested in the application or in the business, or the profits of the business, to be carried on under the licence or permit if the application is granted is not a fit and proper person to be so interested;
- (c) that the applicant is closely associated with a specified person and, by reason of that association, is not a fit and proper person to be the holder of a licence or permit,

and, where any such objection is taken, the onus is on the applicant to rebut the objection.

(2) In addition to, or instead of, a ground specified in Subsection (1), objection to the grant of an application for a licence or permit or special permit may be taken on one or more of the following grounds:—

- (a) that, during the period of 12 months that last preceded the making of the application, the applicant was convicted of carrying on an activity without being the holder of a licence or permit required for the lawful carrying on of that activity;
- (b) that a licence or permit or special permit held by the applicant was cancelled during that period of 12 months;
- (c) that, for other reasons specified in the objection (not being reasons based on the unsuitability of a person for any purpose) it would not be in the public interest to grant the application.

56. TAKING OF OBJECTION.

(1) An objection under Section 55 may be taken only by a written notice of objection that—

- (a) is signed by each objector and specifies, in each case, the address of the objector; and
- (b) where the objection is based on the unsuitability of a person for any purpose, specifies the reasons why the objector considers that the person is not a fit and proper person for that purpose.

(2) Except as provided by Subsection (3), an objection may not be heard and determined unless a copy of the notice of objection has been given to the applicant by the Registrar and the Board at least seven clear days before the hearing of the application.

(3) The Board may, in a proper case and subject to compliance with any conditions imposed by the Board, hear and determine an objection to the grant of an application taken at the hearing of the application subject to the hearing being adjourned for such period of not less than seven clear days as the Board thinks fit.

57. HEARING.

(1) The Board shall, on the date specified under Section 53(2)(d), or on such later date as the Board may determine, consider the application and any objections made to the application.

(2) The procedures at a hearing under this section shall be as determined by the Board, having regard to the principles of natural justice.

58. DISCRETIONARY POWERS OF BOARD.

(1) Notwithstanding that an objection to the grant of an application for a licence or permit or special permit has not been taken or, if taken, has not been made out, the Board may refuse an application referred to in Section 53(1) if it finds, after Subsection (2) has been complied with, that reasons exist upon which an objection could have been grounded and made out.

(2) A finding under Subsection (1) may be made only if—

- (a) the applicant has been made aware of the reasons for the possibility of such a finding; and
- (b) the applicant has been given an opportunity to make submissions, and adduce evidence, related to those reasons; and
- (c) those reasons are, or include, the reasons for the finding.

(3) Notwithstanding a finding by the Board that an objection to the grant of an application for a licence or permit on a ground other than a ground based on unsuitability or the public interest has been made out, the Board has a discretion to grant the application.

59. APPEAL.

(1) A person aggrieved by a decision of the Board made under this Part may appeal therefrom to the National Court on a question of law.

(2) On the determination of an appeal under Subsection (1), the National Court shall—

- (a) remit the matter to the Board with the decision of the National Court; or

s. 59.

Gaming Machine 1993

(b) make such other order in relation to the appeal as it thinks fit.

(3) An appeal under Subsection (1) shall be made in accordance with rules of the National Court.

PART V. – CONDITIONS, ISSUE AND DURATION OF LICENCES AND PERMITS AND SPECIAL PERMITS.

60. CONDITIONS OF LICENCES OR PERMITS OR SPECIAL PERMITS.

(1) The Board may–

(a) on the hearing of an application for the grant of a licence or permit or special permit or of any matter relating to a licence or permit–of its own motion or on the application of a party to the hearing or the Commissioner of Police; or

(b) at any other time–on the application of the Commissioner of Police,

impose a condition not inconsistent with this Act without prior compliance with which the grant does not take effect or to which the licence or permit or special permit is to be subject.

(2) A licence or permit or special permit is subject to–

(a) a prescribed condition; and

(b) a condition imposed under Subsection (1); and

(c) a condition imposed by the Board on the hearing of a complaint under Section 90; and

(d) any other condition the National Court is authorized by this Act to impose, whether or not the condition is endorsed on the licence or permit or special permit.

(3) A holder of a licence or permit or special permit, who fails to comply with a condition to which a licence or permit or special permit is subject, is guilty of an offence.

Penalty: A fine not exceeding K2,000.00.

(4) The Board may vary or revoke a condition (other than a prescribed condition) of a licence or permit or special permit–

(a) at any time on the application of the holder of the licence or permit or of the Commissioner of Police; or

(b) at any time of its own motion, whether or not on the hearing of any matter relating to the licence or permit or special permit.

61. ISSUE OF LICENCE OR PERMIT OR SPECIAL PERMIT.

(1) Where the Board grants an application for a licence or permit or special permit, the licence or permit or special permit shall not be issued unless–

(a) the prescribed fee for the grant of the licence or permit or special permit has been paid; and

(b) any condition, without prior compliance with which the grant does not have effect, has been complied with.

- (2) The Board may defer the issue of a licence or permit or special permit—
- (a) until the expiration of the period within which an appeal against the adjudication granting the licence or permit or special permit may be made or the expiration of the period of month that next succeeds the adjudication, whichever is the later; and
 - (b) where such an appeal is lodged—until the appeal is heard and determined or otherwise disposed of,

and may at any time terminate such a deferral.

(3) A grant of an application for a licence or permit or special permit does not have effect while the issue of the licence or permit or special permit is prohibited by, or deferred under, this section.

62. DURATION OF LICENCE OR PERMIT.

Subject to this Act, except during any period of suspension, a licence or permit remains in force until its expiration or surrender in writing is accepted by the Board or it is sooner cancelled.

PART VI. – LICENCE FEES AND PERIODIC STATEMENTS.

63. PERIODIC LICENCE FEE.

(1) A fee is payable to the Board for a licence while the licence is in force or under suspension and so payable in respect of each period prescribed for the purposes of this section.

(2) Regulations may be made prescribing–

- (a) the amounts for licence fees; and
- (b) for and with respect to the times for payment of licence fees; and
- (c) the payment of those fees by instalments; and
- (d) penalties for late payment of those fees or instalments; and
- (e) the suspension or cancellation of a licence after a failure to pay the licence fee or any part of the licence fee; and
- (f) the circumstances in which a licence fee, or a proportion of a licence fee, may be refunded.

64. PERIODIC PROVISION OF INFORMATION BY THE HOLDER OF A LICENCE.

(1) A person who is or was the holder of a licence during a prescribed period or part of a prescribed period shall, not later than 30 days after the end of the prescribed period, lodge with the Board a return that–

- (a) is in a form approved by the Board; and
- (b) is accompanied by the prescribed documents; and
- (c) is signed–
 - (i) where the holder is a corporation–by at least two directors of the corporation; or
 - (ii) in any other case–by the licensee.

(2) A person, who makes a false or misleading statement in a return under Subsection (1), is guilty of an offence.

Penalty: A fine not exceeding K2,000.00.

(3)³⁵ ³⁶An agreement between an operator and a permit holder touching on any matter related to the operation of gaming machines shall be in writing, and a copy of the agreement shall be delivered to the Board by an operator within 30 days of the signing of the agreement or the coming into force of the Gaming Machine (Amendment) Act 2001, whichever is the later.

³⁵ Section 64 Subsection (3) inserted by No. 1 of 2001, s. 8.

³⁶ Section 64 Subsection (3) inserted by No. 1 of 2001, s. 8.

(4)^{37 38}The Board –

- (a) shall disallow any term of an agreement referred to in Subsection (3) if, in the opinion of the Board, the term has the effect of placing either party to the agreement in breach of any provision of this Act; and
- (b) may disallow any term it considers not to be in the best interest of the industry.

(5)^{39 40}An agreement not submitted to the Board as required by Subsection (3) or a term disallowed under Subsection (4), is unenforceable.

³⁷ Section 64 Subsection (4) inserted by No. 1 of 2001, s. 8.

³⁸ Section 64 Subsection (4) inserted by No. 1 of 2001, s. 8.

³⁹ Section 64 Subsection (5) inserted by No. 1 of 2001, s. 8.

⁴⁰ Section 64 Subsection (5) inserted by No. 1 of 2001, s. 8.

PART VII. – PROFIT FROM GAMING MACHINES.

65. DEFINITIONS.

In this Part–

⁴¹“**betting tax**” means the betting tax due and payable under Section 67A;

⁴²“**cancelled credits payment**” means payment of an amount by way of redemption of the value of the credits appearing on the machine’s credit meter at the time which were accumulated by a gaming machine player in the course of play;

⁴³“**gross profit**” means the excess of revenue over payouts;

“**jackpot payment**” means payment of an amount to which a gaming machine player is entitled–

(a) for the achievement by the player, at the end of a play, of a combination of symbols that is designated, in the original design of the machine or in a subsequent modification approved by the Board, as a jackpot combination; or

(b) on the happening of any other event or contingency which the Board, by instrument in writing, approves as being a due occasion of a jackpot payment for the purposes of this definition;

⁴⁴“**payouts**” means cancelled credit payments, jackpot payments, refills and short pays;

⁴⁵“**profits**” means gross profit less betting tax paid or due and payable under Section 67A.

⁴⁶“**relevant operator**” in relation to a permit holder, means the holder of the operator’s licence supplying and maintaining the gaming machines in respect of which the permit is granted;

“**relevant permit holder**” in relation to an operator, means the holder of a permit in respect of a site on which the operator has installed and operates gaming machines;

⁴¹ Section 65 (definition of “betting tax”) inserted by *Gaming Machine (Budget Provisions No. 2 1997) Act* 1996 (No. 62 of 1996), s2(a).

⁴² Section 65 (definition of “cancelled credits payment”) amended by *Gaming Machine (Amendment) Act* 1995 (No. 8 of 1995), s9(a).

⁴³ Section 65 (definition of “gross profit”) inserted by *Gaming Machine (Budget Provisions No. 2 1997) Act* 1996 (No. 62 of 1996), s2(b).

⁴⁴ Section 65 (definition of “payouts”) repealed and replaced by *Gaming Machine (Amendment) Act* 1995 (No. 8 of 1995), s9(b), *Gaming Machine (Budget Provisions 1997) Act* 1996 (No. 32 of 1996), s1, *Gaming Machine (Budget Provisions No. 2 1997) Act* 1996 (No. 62 of 1996), s2(c).

⁴⁵ Section 65 (definition of “profits”) repealed and replaced by *Gaming Machine (Budget Provisions No. 2 1997) Act* 1996 (No. 62 of 1996), s2(d).

⁴⁶ Section 65 (definition of “refill”) repealed by *Gaming Machine (Amendment) Act* 1995 (No. 8 of 1995), s9(c); Section 65 (definition of “short pay”) repealed by *Gaming Machine (Amendment) Act* 1995 (No. 8 of 1995), s9(e).

⁴⁷“**revenue**” from a gaming machine means money invested by players of a machine in order to play a machine;

“**turnover**” means the value of accumulated money played, staked or bet on a gaming machine.

66. AMOUNT RETURNABLE IN PRIZES.

⁴⁸A gaming machine shall not be installed or operated unless, according to the design of the machine and the game implemented therein, the amount calculated to be statistically or theoretically returnable to players in prizes is not less than 85% of turnover.

67. DISTRIBUTION OF PROFITS.

(1)⁴⁹ ⁵⁰A permit holder, and where an operator receives the gross profit, that operator, shall each banking day bank the gross profit derived from operating gaming machines during the previous day (or during the previous non-banking day of days) on each site on which he operates gaming machines under this Act (other than gaming machines the subject of a special permit) in a bank account or bank accounts approved by the Board for the purpose.

(1A)⁵¹ ⁵²An operator shall monitor the banking obligations of all relevant permit holders pursuant to Section 67(1) and where a permit holder has not banked for three consecutive banking days, the operator shall request the Board to disable the gaming machines at that site in accordance with Section 73A(4).

(1B)⁵³ ⁵⁴From the account or accounts referred to in Subsection (1), an operator shall make the payments prescribed by Section 67(2).

(2)⁵⁵ ⁵⁶The holder of an operator’s licence shall, by the fifteenth day of the month following pay, of the profits derived from operating gaming machines during the previous month, or deemed pursuant to Subsection (2A) to have been so derived (other than gaming machines the subject of a special licence), out of the account referred to in Subsection (1)–

⁴⁷ Section 65 (definition of “revenue”) repealed and replaced by *Gaming Machine (Amendment) Act 1995* (No. 8 of 1995), s9(d).

⁴⁸ Section 66 amended by *Gaming Machine (Budget Provisions 1997) Act 1996* (No. 32 of 1996), s2; amended by *Gaming Machine (Budget Provisions No. 2 1997) Act 1996* (No. 62 of 1996), s3.

⁴⁹ Section 67(1) amended by *Gaming Machine (Amendment) Act 1995* (No. 8 of 1995), s10(a); Section 67 Subsection (1) substituted by No. 1 of 2001, s. 9.

⁵⁰ Section 67(1) amended by *Gaming Machine (Amendment) Act 1995* (No. 8 of 1995), s10(a); Section 67 Subsection (1) substituted by No. 1 of 2001, s. 9.

⁵¹ Section 67 Subsection (1A) inserted by No. 1 of 2001, s. 9.

⁵² Section 67 Subsection (1A) inserted by No. 1 of 2001, s. 9.

⁵³ Section 67 Subsection (1B) inserted by No. 1 of 2001, s. 9.

⁵⁴ Section 67 Subsection (1B) inserted by No. 1 of 2001, s. 9.

⁵⁵ Section 67 Subsection (2) amended by No. 1 of 2001, s. 9.

⁵⁶ Section 67 Subsection (2) amended by No. 1 of 2001, s. 9.

(a)⁵⁷ 15.3846% to the relevant operator as compensation for the supply of gaming machines, maintenance, overhead costs, reporting requirements and return on investment; and

(b - c)⁵⁸ [Repealed.]

(2A)⁵⁹ ⁶⁰Where an operator has not complied with the provisions of Section 67(1A), the amount of profit derived from operating gaming machines calculated in accordance with the provisions of Section 67(2) shall be deemed to include the amount of profit reported by the monitoring and control system in respect of the relevant site.

(3)⁶¹ ⁶²The balance of 84.6154% of the profits derived from operating gaming machines during a month (being the balance after payment of the amounts referred to in Subsection (2)) shall be paid to the relevant permit holder less the amount payable pursuant to Section 73A..

(4) A person, who varies the percentage of profits payable to a permit holder under Subsection (3), is guilty of an offence.

Penalty: A fine not exceeding K2,000.00.

(5) A person who—

- (a) shares any profits from the operation of a gaming machine; or
- (b) makes any payment or part payment by way of commission or allowance from or upon any such profits,

otherwise than as provided by this section, is guilty of an offence.

(6) The provisions of Subsections (1), (2) and (3) are deemed to be a condition of a permit in force under this Act.

(7) The regulations may prescribe penalties for late payment of amounts to be paid under this section.

(8)⁶³ ⁶⁴The Board may sue an operator or permit holder to recover any amount due to be paid by the operator or permit holder pursuant to this section.

⁵⁷ Section 67(2)(a) amended by *Gaming Machine (Budget Provisions No. 2 1997) Act* 1996 (No. 62 of 1996), s4(a); Section 67(2)(a) amended by *Gaming Machine (Amendment) Act* 1999 (No 4 of 1999), s1(a); Section 67(2)(a) percentage reduced to 10% by No 5 of 2000 s. 1(a); Section 67 Subsection (2) amended by No. 1 of 2001, s. 9.

⁵⁸ Section 67 Subsection (2) amended by No. 1 of 2001, s. 9.

⁵⁹ Section 67 Subsection (2A) inserted by No. 1 of 2001, s. 9.

⁶⁰ Section 67 Subsection (2A) inserted by No. 1 of 2001, s. 9.

⁶¹ Section 67 Subsection (3) amended by No. 1 of 2001, s. 9; Section 67 Subsection (3) amended by No. 1 of 2001, s. 9; Section 67(3) amended by *Gaming Machine (Amendment) Act* 1999 (No 4 of 1999), s1(b). Percentage changed from 30% to 55% by No 5 of 2000 s. 1(c).

⁶² Section 67 Subsection (3) amended by No. 1 of 2001, s. 9; Section 67 Subsection (3) amended by No. 1 of 2001, s. 9; Section 67(3) amended by *Gaming Machine (Amendment) Act* 1999 (No 4 of 1999), s1(b). Percentage changed from 30% to 55% by No 5 of 2000 s. 1(c).

⁶³ Section 67 Subsection (8) inserted by No. 1 of 2001, s. 9.

⁶⁴ Section 67 Subsection (8) inserted by No. 1 of 2001, s. 9.

67AA.NO CLAIM AGAINST BOARD, ETC.,.

⁶⁵No claim, demand, action or proceedings may be commenced or continued or any judgement enforced against the National Executive Council, the Minister, the Registrar or his staff or the Board or its property in respect of –

- (a) any monies paid into accounts established under Section 67(2)(b) or (c) prior to the coming into operation of Section 10 of the Gaming Machine (Amendment) Act 2001 or the payment of monies into those accounts or any payment of monies from those accounts; or
- (b) any monies which were required to be paid into accounts referred to in Section 67(2)(b) or (c) prior to the coming into operation of Section 10 of the Gaming Machine (Amendment) Act 2001 which were paid into any other accounts or the payment of such monies into those other accounts.

67AB.WRITE OFF REVENUE.

⁶⁶(1) All amounts accruing due to, but not paid into, the bank accounts operated pursuant to Section 67(2)(c) and Section 68A (1) prior to the coming into force of the Gaming Machine (Amendment No.2) Act 2001, shall be written off for the purposes of preparation of the financial accounts of the Board and of any report prepared pursuant to the provisions of Section 14.

(2) Neither this section nor its effect may be pleaded in defence of any proceedings or inquiry (civil or criminal) in respect of the recovery of or establishment of liability for the amount written off.

67A. BETTING TAX.

⁶⁷(1) In this Part–

“Commissioner General” means the Commissioner General of Internal Revenue appointed under Section 6 of the *Income Tax Act 1959*;

“operator” means the holder of an operator’s licence.

(2)⁶⁸ ⁶⁹A betting tax of 74% is payable by an operator on the amount of the taxable gross profit (other than on the first K2,500.00 of gross profit derived by each site) and the operator shall, no later than the seventh day of each month, pay the qualifying site owner a direct rebate of the amount of betting tax that would have been payable under Subsection 67A(2)(a) on that amount of exempt gross profit.

⁶⁵ Section 67AA Inserted by No. 1 of 2001, s. 10.

⁶⁶ Section 67AB Inserted by No. 1 of 2001, s. 10.

⁶⁷ Section 67A inserted by *Gaming Machine (Budget Provisions 1997) Act 1996* (No. 32 of 1996), s3. Repealed and replaced by *Gaming Machine (Budget Provisions No. 2 1997) Act 1996* (No. 62 of 1996), s5.

⁶⁸ Section 67A Subsection (2) amended by No. 1 of 2001, s. 11; Section 67A(2) repealed and replaced by *Gaming Machine (Amendment) Act 1998* (No. 9 of 1998), s1(a). Amended by *Gaming Machine (Amendment) Act 1999* (No 4 of 1999), s2.

⁶⁹ Section 67A Subsection (2) amended by No. 1 of 2001, s. 11; Section 67A(2) repealed and replaced by *Gaming Machine (Amendment) Act 1998* (No. 9 of 1998), s1(a). Amended by *Gaming Machine (Amendment) Act 1999* (No 4 of 1999), s2.

(3)⁷⁰ ⁷¹The betting tax imposed by Subsection (2) is a debt due and payable by an operator to the State and shall, in respect of the total taxable gross profit collected each month, be paid by the operator to the Commissioner General within 14 days after the end of that month or within such further time as the Commissioner General allows.

(4)⁷² ⁷³An operator shall send to the Commissioner General with every amount of betting tax payable by him a return, in such form as the Commissioner General requires, setting out particulars of the gross profit and betting tax payable by the operator in respect of that month.

(5)⁷⁴ ⁷⁵Where the Commissioner General is of the opinion that the amount of betting tax payable by an operator in respect of any month has been understated or cannot be correctly determined, the Commissioner General may make an assessment of the amount that he considers is the correct amount of betting tax for that month and the amount so assessed shall, unless the contrary is proved, be deemed to be the amount of betting tax payable by the operator in respect of that month.

(6) The Commissioner General shall, within seven days immediately after making an assessment under this section, send to the operator by post, a notice of the assessment, but this section shall not be construed as deferring the date on which any amount of betting tax becomes due and payable.

(7) Part V of the *Income Tax Act 1959* shall, with the necessary modifications, apply to and in relation to an assessment of betting tax under this section as if that assessment was an assessment of income tax under that Act by the Commissioner General.

(8) Where any amount of betting tax remains unpaid after the expiration of the time provided for payment under this section, additional tax of 20% of the amount unpaid shall be due and payable to the State.

(9) An amount of additional tax under this Section shall be deemed to be betting tax due and payable by the operator in respect of the week to which the unpaid tax relates.

(10) In addition to any additional tax imposed by Subsection (8), where any betting tax remains unpaid after the time provided for its payment under this section, further additional betting tax is due and payable at the rate of 20% per annum on the amount unpaid, computed from such date as the Commissioner General determines, not being a date before the date on which the betting tax was originally due and payable.

(11) The Commissioner General may, in any case, for reasons that he thinks sufficient, remit the further additional betting tax or any part of that betting tax.

⁷⁰ Section 67A(3) repealed and replaced by *Gaming Machine (Amendment) Act 1998* (No. 9 of 1998), s1(b).

⁷¹ Section 67A(3) repealed and replaced by *Gaming Machine (Amendment) Act 1998* (No. 9 of 1998), s1(b).

⁷² Section 67A(4) repealed and replaced by *Gaming Machine (Amendment) Act 1998* (No. 9 of 1998), s1(c).

⁷³ Section 67A(4) repealed and replaced by *Gaming Machine (Amendment) Act 1998* (No. 9 of 1998), s1(c).

⁷⁴ Section 67A(5) repealed and replaced by *Gaming Machine (Amendment) Act 1998* (No. 9 of 1998), s1(d).

⁷⁵ Section 67A(5) repealed and replaced by *Gaming Machine (Amendment) Act 1998* (No. 9 of 1998), s1(d).

67B. POWERS OF COMMISSIONER GENERAL IN RELATION TO BETTING TAX.

⁷⁶(1) The Commissioner General or a person authorized by him for the purpose shall at all times have full and free access to all buildings, places, books, documents, other papers and electronic storage devices for the purpose of obtaining information relating to the determination of the gross profit of and the liability to pay betting tax under this section by an operator and may make extracts from or copies of any such books, papers or electronically stored information.

(2) The Commissioner General may—

(a) by written notice, require an operator—

(i) to furnish him with such information as he may require; and

(ii) to attend and give evidence before him (or before a person authorized by him for the purpose),

concerning the operation of the gaming machines and the amount of gross profit of those machines and may require him to produce books, documents and other papers in his custody, or under his control relating to those matters.

(3) The Commissioner General may require the information or evidence referred to in Subsection (2)(a) to be given under oath, orally or in writing and for that purpose he, or the person authorized by him, may administer an oath.

(4) An operator required to attend and give evidence under this subsection shall be paid such reasonable expenses as the Commissioner General determines.

67C. OFFENCES IN RELATION TO BETTING TAX.

⁷⁷(1) An operator who—

(a) fails or neglects to lodge; or

(b) makes a false or misleading statement in,

a return to be lodged with the Commissioner General under Section 67A is guilty of an offence.

Penalty: A fine not less than K1,000.00 and not exceeding K10,000.00.

Default penalty: A fine not exceeding K1,000.00.

(2) In addition to any penalty imposed by the court under Subsection (1) in respect of a false or misleading statement in a return, the court may order the person convicted to pay to the Commissioner General a sum not exceeding double the amount of betting tax that would have been avoided if the statement in the return had been accepted as correct.

⁷⁶ Section 67B inserted by *Gaming Machine (Budget Provisions 1997) Act 1996* (No. 32 of 1996), s4. Repealed and replaced by *Gaming Machine (Budget Provisions No. 2 1997) Act 1996* (No. 62 of 1996), s6.

⁷⁷ Section 67C inserted by *Gaming Machine (Budget Provisions 1997) Act 1996* (No. 32 of 1996), s5. Repealed and replaced by *Gaming Machine (Budget Provisions No. 2 1997) Act 1996* (No. 62 of 1996), s7.

(3) On the conviction of a person under Subsection (1), the court may order him to furnish the return or a corrected return as the case may be, within the time specified in the order and a person who does not comply with such an order is guilty of an offence.

Penalty: A fine not less than K1,000.00. and not exceeding K10,000.00.

(4) An operator who fails—

- (a) to keep complete and proper books in respect of his carrying on the business of operator; or
- (b) to enter and keep entered in the books specified in Paragraph (a) a full and accurate record of all gaming machine transactions relating to the machines controlled by him; or
- (c) to retain the books specified in Paragraph (a) for such period as is prescribed; or
- (d) to produce the books specified in Paragraph (a) when required to do so by the Commissioner General or a person authorized by him for the purpose and to allow the books and all entries in the books to be inspected,

is guilty of an offence.

Penalty: A fine not exceeding K2,000.00.

(5) A person, who hinders or obstructs the Commissioner General or a person authorized by the Commissioner General under this section, or a member of the Police Force in the carrying out, exercise or performance of any of his functions, duties and powers under this section, is guilty of an offence.

Penalty: A fine not exceeding K2,000.00.

68 - 68A⁷⁸. [REPEALED.]

⁷⁸ Section 67C inserted by *Gaming Machine (Budget Provisions 1997) Act 1996* (No. 32 of 1996), s5. Repealed and replaced by *Gaming Machine (Budget Provisions No. 2 1997) Act 1996* (No. 62 of 1996), s7.

PART VIII. – INSPECTION.**69. INTERPRETATION.**

In this Part–

“**authorized person**” means–

- (a) an Inspector appointed under Section 70; or
- (b) the Commissioner of Police, or a commissioned officer of police authorized in writing by the Commissioner of Police; or
- (c) a person appointed by the Board as an authorized officer for the purposes of this Part;

“**relevant matter**” means a matter relating to the import, supply, sale, servicing, possession, keeping or operating a gaming machine.

⁷⁹70. INSPECTORS.

(1) The Board may, by notice in the National Gazette, appoint such persons as it thinks fit to be Inspectors for the purposes of this Act.

(2) An Inspector shall perform such duties as are required by this Act or such duties as the Board or the Registrar directs.

(3) The Board shall cause an Inspector to be issued with an identification card and, where a person proposing to exercise the functions of an Inspector under this Act fails to produce on demand his identification card, that person is not authorized to exercise those functions in relation to the person making the demand.

71. POWERS OF AUTHORIZED PERSONS.

(1) An authorized person may, at any reasonable hour of the day or night, enter any part of premises where the holder of a licence carries on business or is employed, or any part of the premises of a holder of a permit.

(2) Where an authorized person enters premises in accordance with this section, the authorized person may–

- (a) inspect, take account of, check, test, and make notes relating to, gaming machines; and
- (b) require a person having access to records relating to relevant matters to produce the records for examination; and
- (c) make copies of, or take extracts from, records relating to relevant matters; and
- (d) ask a holder of a licence or employee of a holder of a licence, or a director of a licence that is a corporation, or an employee of a holder of a

⁷⁹ Section 69 (definition of “relevant matter”) amended by *Gaming Machine (Amendment) Act 1995* (No. 8 of 1995), s11.

permit or site owner, to answer questions relating to relevant matters;
and

- (e) for the purposes of further examination, take possession of, and remove, a gaming machine or a record relating to relevant matters.

(3) A gaming machine removed under Subsection (2) shall be returned to the holder of the permit or the relevant operator if the Board so directs on the application of the holder of the permit or the relevant operator made not earlier than 14 days after the removal of the gaming machine.

(4) Where a holder of an operator's licence or a holder of a permit reasonably claims that a record removed under Subsection (2) is necessary for the proper conduct of the business of the holder of the operator's licence or permit, the record shall not be retained beyond the end of the day that next succeeds the day of its removal unless the operator or holder of the permit is first provided with a certified copy of the record and, where such a copy is provided, it is for all purposes of equal validity to the original.

72. REMOVAL OF GAMING MACHINE.

(1) An authorized person who enters premises in accordance with Section 71 may take possession of, and remove, a gaming machine (and money in the gaming machine) that the authorized person suspects on reasonable grounds—

- (a) is in the possession of a person in contravention of this Act; or
- (b) is not an authorized gaming machine.

(2)⁸⁰ ⁸¹Where a gaming machine removed under Subsection (1) is not returned within 14 days, the provisions of Section 71(3) and (4) apply in relation to the gaming machine in the same way as they apply in relation to a gaming machine seized under a search warrant.

73. POWERS OF INSPECTOR IN RELATION TO GAMING MACHINE.

(1) An Inspector may require a holder of a permit to do all or any of the following:—

- (a) withdraw from operation a gaming machine that, in the opinion of the Inspector, is not operating properly;
- (b) refrain from making available for operation a gaming machine withdrawn under Paragraph (a) until, in the opinion of an Inspector, it is operating properly;
- (c) refrain from making a gaming machine available for operation except in accordance with such controls as are specified by the Inspector in relation to the gaming machine;

⁸⁰ Section 72(2) amended by *Gaming Machine (Amendment) Act 1995* (No. 8 of 1995), s12.

⁸¹ Section 72(2) amended by *Gaming Machine (Amendment) Act 1995* (No. 8 of 1995), s12.

- (d) deliver to the Board, in writing in the English language and within such time as is specified by the Inspector, such particulars relating to a gaming machine kept by the holder of the permit as are so specified;
- (e) refrain from making available for operation a gaming machine indicated by the Inspector until it has been fitted with a device approved by the Board for the purposes of the secure keeping and operation of the gaming machine.

(2) A holder of a permit, who fails to comply with a requirement under Subsection (1), is guilty of an offence.

Penalty: A fine not exceeding K2,000.00.

(3) A person, who—

- (a) wilfully delays or obstructs an authorized person in the exercise of powers conferred by this section; or
- (b) being a holder of a licence or an employee of a holder of a licence—refuses to permit or refuses to assist the exercise of those powers,

is guilty of an offence.

Penalty: A fine not exceeding K2,000.00.

73A. MONITORING OF GAMING MACHINES.

⁸²(1) A permit holder and an operator shall have a gaming machine at a site electronically connected to a central monitoring and control system approved by the Board, by such means as the Board stipulates.

(2) A operator shall pay to the Board by the fifteenth day each month, in respect of the previous month, the prescribed cost of monitoring each machine required to be connected to the central monitoring and control system.

(3) The Board may, by notice in the National Gazette, prescribe the cost of monitoring each machine and the proportion in which the operator and the permit holder shall be liable for the cost and until prescribed the cost shall be K40 per month per machine of which K10 is payable by the permit holder and K30 by the operator.

(4) The Board may utilize the monitoring and control system to disable gaming machines at a site if it receives a report from an operator that the relevant permit holder is in breach of its obligations under Section 67(1) or, in the opinion of the Board, the permit holder is in breach of any of the provisions of the Act.

⁸² Section 73A Inserted by No. 1 of 2001, s. 13.

PART IX. – OFFENCES.

74. KEEPING, ACQUISITION AND DISPOSAL OF GAMING MACHINE.

(1) A person who—

- (a) keeps a gaming machine that is not an authorized gaming machine; or
- (b) acquires a gaming machine from any person other than the holder of an operator's licence and without complying with any conditions imposed by the Board in relation to the acquisition of the gaming machine; or
- (c) disposes of a gaming machine to a person other than the holder of an operator's licence and without complying with any conditions imposed by the Board in relation to the disposal of the gaming machine,

is guilty of an offence.

Penalty: A fine not exceeding K500.00 in respect of every gaming machine in respect of which an offence has been committed.

75. OPERATION OF GAMING MACHINE DURING SUSPENSION OF PERMIT.

Where—

- (a) a permit has been suspended under Section 33; and
- (b) during the period of suspension, a person plays any gaming machine to which the permit relates on the premises in respect of which the permit was granted,

the holder of the permit is guilty of an offence.

Penalty: A fine not exceeding K500.00 in respect of each gaming machine played.

76. APPLICATION FOR PERMIT RELATING TO A SITE WHILE ANOTHER PERMIT STILL IN FORCE.

A holder of a permit, or any person on behalf of a holder of a permit, who applies for or holds a permit relating to a site while another permit for that site is in force, is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

77. KEEPING OF OLD GAMING MACHINE.

A holder of a permit, who keeps a gaming machine after the expiration of the prescribed period that next succeeds the date of manufacture of the machine, is guilty of an offence.

Penalty: A fine not exceeding K1,000.00.

78. OPERATION OF DEFECTIVE GAMING MACHINES.

(1) A holder of a permit, who permits the operation of a gaming machine that does not function properly, is guilty of an offence.

Penalty: A fine not exceeding K2,000.00.

(2) It is a defence to a prosecution for an offence under Subsection (1) if it is proved—

- (a) that the operation of the gaming machine was for testing or maintenance purposes; or
- (b) that the holder of the permit or other person for the time being in charge of the site—
 - (i) had taken all reasonable precautions to ensure that the gaming machine was functioning properly; and
 - (ii) at the time of the alleged offence did not know, and had no reason to know, that the gaming machine was not functioning properly.

79. UNLAWFUL INTERFERENCE WITH GAMING MACHINE.

(1) A person on the premises of a site, who without reasonable cause (proof of which lies on the person)—

- (a) has in his possession an article made or adapted, or intended by the person to be used, for interfering with the normal operation of a gaming machine; or
- (b) interferes, or attempts to interfere, with the normal operation of a gaming machine; or
- (c) interferes, or attempts to interfere, with any component or part of a gaming machine; or
- (d) obtains, or attempts to obtain, possession of any key, machine or thing which is designed or intended for use in connection with a gaming machine,

is guilty of an offence.

Penalty: A fine not exceeding K2,000.00 or imprisonment for a term not exceeding two years, or both.

(2) For the purposes of Subsection (1), but without limiting its operation—

- (a) the reference to the premises of a site includes a reference to a car-parking area under the control of the site, its owner or governing body; and
- (b)⁸³ a reference to interfering with the normal operation of a gaming machine includes a reference to maliciously damaging the gaming

⁸³ Section 79(2)(b) amended by *Gaming Machine (Amendment) Act 1995* (No. 8 of 1995), s13.

machine or inserting, or causing to be inserted, in the gaming machine anything other than an object of the kind intended for use in operating the machine.

80. UNAUTHORIZED POSSESSION OF GAMING MACHINE BY SITE OWNER.

Except to the extent that may be otherwise prescribed, a site owner who is in possession of a gaming machine that is not an authorized gaming machine, is guilty of an offence.

Penalty: A fine not exceeding K2,000.00.

81. OFFENCES BY UNLICENSED PERSONS.

(1) Subject to this section, a person who—

- (a) manufactures, imports or supplies a gaming machine otherwise than in accordance with the authority conferred on the person by an operator's licence; or
- (b) services, repairs or maintains a gaming machine otherwise than in accordance with the authority conferred on the person by a gaming machine technician's licence,

is guilty of an offence.

Penalty: A fine not exceeding K5,000.00 or imprisonment for a term not exceeding 12 months, or both.

(2) In the case of the supply of a gaming machine, Subsection (1)(a) does not apply to a site owner if the site owner returns a gaming machine to the holder of an operator's licence.

(3) Subsection (1)(b) does not apply to a site owner or an employee of a site owner, if the person, in the course of his duties, corrects, or attempts to correct, a minor malfunction of an authorized gaming machine.

82. RESTRICTIONS ON SUPPLY OF GAMING MACHINES.

(1) Except with the approval of the Board and subject to such conditions as may be imposed by the Board when giving the approval, the holder of an operator's licence who supplies an approved gaming machine by way of sale, is guilty of an offence.

Penalty: A fine not exceeding K5,000.00 or imprisonment for a term not exceeding 12 months, or both.

(2) A site owner, who acquires or offers to acquire, an approved gaming machine from a person who is not the holder of an operator's licence, is guilty of an offence.

Penalty: A fine not exceeding K5,000.00 or imprisonment for a term not exceeding 12 months, or both.

83. SALE OF OLD GAMING MACHINES.

The holder of an operator's licence, who supplies to a site owner an approved gaming machine that was manufactured before the commencement of the prescribed period that last preceded the date of supply, is guilty of an offence.

Penalty: A fine not exceeding K2,000.00.

84. ILLEGAL POSSESSION OF GAMING MACHINES.

A person, other than—

- (a) the holder of an operator's licence; or
- (b) the holder of a gaming machine technician's licence; or
- (c) an Inspector; or
- (d) an authorized common carrier; or
- (e) the holder of a permit,

who is in possession of a gaming machine, is guilty of an offence.

Penalty: A fine not exceeding K5,000.00 or imprisonment for a term not exceeding 12 months, or both.

85. MINORS NOT PERMITTED IN GAMING MACHINE AREAS.

Where a person under the age of 18 years is in any area of a site which operates gaming machines and is not forthwith removed from that area—

- (a) the holder of the permit relating to that site; and
- (b) the site owner,

are each guilty of an offence.

Penalty: In the case of the holder of the permit a fine, not exceeding K2,000.00 and, in the case of the site owner, a fine not exceeding K1,000.00.

86. OPERATION OF GAMING MACHINES BY MINORS.

A person under the age of 18 years who—

- (a) uses or operates a gaming machine in the premises of a site owner; or
- (b) enters or is in a gaming machine area,

is guilty of an offence.

Penalty: A fine not exceeding K500.00.

PART X. – DISCIPLINARY ACTION.**87. DEFINITIONS.**

In this Part, unless the contrary intention appears–

“**authorized complaint**” means a complaint which, in accordance with Section 88 is an authorized complaint;

“**licensee**” means the holder of a licence or a permit or a special permit and includes a former licensee and a former permit holder.

88. SUMMONS TO SHOW CAUSE AGAINST TAKING OF DISCIPLINARY ACTION.

(1) A complaint in relation to a licensee is an authorized complaint if it is made in writing addressed to the Board and lodged with the Registrar, by–

- (a) the Commissioner of Police; or
- (b) an Inspector; or
- (c) an operator; or
- (d) a site owner; or
- (e) a person authorized by the regulations to make the complaint,

and specifies as its grounds one or more of the grounds referred to in Subsection (2).

(2) The grounds upon which an authorized complaint may be made are–

- (a) that the licensee has, while holding the licence or permit or special permit, been convicted–
 - (i) of an offence against this Act specified in the complaint; or
 - (ii) of an offence prescribed for the purposes of this subsection; or
- (b) that the licensee has, while holding the licence or permit or special permit, failed to comply with a specified condition of the licence or permit; or
- (c) that the licensee has, while holding the licence or permit or special permit, failed to comply with a specified order or direction of the Board; or
- (d) that the licensee has failed to make due payment of a fee, or of a penalty for late payment of a fee, in accordance with this Act; or
- (e) that the licensee is not a suitable person to be the holder of the licence or permit or special permit; or
- (f) that the licensee is associated with a specified person and the association results in the licensee not being a suitable person to be the holder of the licence or permit or special permit; or

- (g) that the licence or permit or special permit has not been exercised in the public interest; or
- (h) that the continuation of the licence or permit or special permit is not in the public interest.

89. DUTIES OF BOARD ON RECEIPT OF AUTHORIZED COMPLAINT.

(1) Where an authorized complaint is lodged with the Registrar he shall advise the Board and the Board may summon the licensee to whom the authorized complaint relates to appear before the Board to answer the authorized complaint and show cause why disciplinary action should not be taken under Section 90.

(2) A summons under Subsection (1)–

- (a) shall specify the grounds of the authorized complaint upon which the summons was issued; and
- (b) where a ground of an authorized complaint is based on the unsuitability of a person for any purpose or based on the public interest–shall specify the reasons given by the complainant for making the complaint on that ground; and
- (c) shall be served on the licensee personally or in any other prescribed manner; and
- (d) shall specify a date, being a date not less than seven days after the date of service of the summons under Paragraph (c), on which the Board shall consider the authorized complaint; and
- (e) shall be under the hand of the Chairman.

(3) A failure to comply with a condition of a licence or permit shall not be the subject of both an authorized complaint and proceedings for an offence.

90. DISCIPLINARY POWERS OF BOARD.

(1) Where–

- (a) a licensee appears in response to a summons under Section 89; or
- (b) a licensee fails to appear in response to a summons under Section 89,

the Board shall proceed to hear and determine the matter of the complaint to which the summons relates and, if it is satisfied that the ground upon which the authorized complaint was made has been made out, may do any one or more of the following:–

- (c) reprimand the licensee;
- (d) impose a condition to which the licence or permit or special permit is to be subject, or revoke or vary a condition to which the licence or permit or special permit is subject;
- (e) suspend the licence or permit or special permit for such period, not exceeding 12 months, as the Board thinks fit;

- (f) cancel the licence or permit or special permit;
- (g) disqualify the licensee from holding a licence or permit or special permit for such period, not exceeding three years, as the Board thinks fit.

(2) Where, under Subsection (1), the Board hears and determines the matter of an authorized complaint made by the Commissioner of Police, the Board may, in its discretion, order—

- (a) that the licensee against whom the complaint was made pay the complainant's reasonable costs and expenses incurred in making the complaint, or a specified part of those costs and expenses; or
- (b) that the complainant pay to the licensee the licensee's reasonable costs and expenses incurred in answering the complaint, or a specified part of those costs and expenses.

PART XI. – MISCELLANEOUS.**91. CONFIDENTIALITY.**

(1) Any information disclosed under this Act to the Minister, to a member of the Board, to the Registrar, to a member of the staff of the Board or to an Inspector shall not be disclosed to any person who is not a member of the Board or the Registrar or a member of the staff of the Board or an Inspector without the prior written approval of the person who provided that information, except—

- (a) to the extent that disclosure is authorized or required under this Act or any other law; or
- (b) to the extent that the person providing the information authorized its disclosure at the time of providing the information; or
- (c) to the extent necessary to enable the Registrar to publish statistical information concerning the subject matter of the functions of the Board; or
- (d) to the extent necessary to enable the Board to give advice to the Minister.

(2) A member of the Board or the Registrar or a member of the staff of the Board or an Inspector who fails to comply with Subsection (1) or who uses, for his personal gain, any information disclosed under this Act, that comes to his knowledge in the course of or by reason of his membership of the Board or his employment as Registrar, a member of the staff of the Board or an Inspector, is guilty of an offence.

Penalty: A fine not exceeding K5,000.00 or imprisonment for a term not exceeding two years, or both.

92. REGULATIONS.

The Head of State, acting on advice, may make Regulations, not inconsistent with this Act, prescribing all matters that are required or permitted to be prescribed or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act, and in particular for prescribing—

- (a) fees and charges in respect of applications and the grant of permits, special permits and licences; and
- (b) penalties of fines not exceeding K2,000.00 for offences against the Regulations.

93. BY – LAWS.

⁸⁴(1) The Board may, by notice in the National Gazette, make by –laws not inconsistent with this Act prescribing, in relation to premises in which gaming machines are installed –

⁸⁴ Section 93 Inserted by No. 1 of 2001, s. 14.

- (a) the area of unoccupied floor space to be provided adjacent to machine; and
- (b) the level of lighting required; and
- (c) the provisions to be made for ventilation, frequency of air changes, provisions for removal of smoke or other polluted air; and
- (d) the minimum requirement for provision of beverage for customers.
- (e) the minimum requirement for provision of food for customers; and
- (f) the provision of security; and
- (g) the provision of other forms of entertainment; and
- (h) prohibiting a class of persons from entering the premises; and
- (i) the hours of operation of gaming machines; and
- (j) the days when the premises shall be closed for business.

(2) By-laws may be made generally or in respect of a class of premises, specified premises or a geographical area.

Office of Legislative Counsel, PNG