



No. 24 of 1993.

***Gaming Machine Act 1993.***

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1993.

*Gaming Machine Act 1993.*

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INDEPENDENT STATE OF PAPUA NEW GUINEA.

No. of 1993.

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 29 of the *Organic Law on Provincial Government* 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;

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- "Board" means the National Gaming Control Board established by Section 3;
- "Chairman" means the Chairman of the Board appointed under Section 6;
- "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;
- "manufacture", in relation to an approved gaming machine, includes manufacture -
- (a) by assembling an approved gaming machine; or
  - (b) by rebuilding or modifying a machine which has been prescribed as having ceased to be an approved gaming machine, so that it is an approved gaming machine;
- "member" means a member of the Board appointed under Section 6;
- "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;
- "permit holder" or "holder of a permit" means a club, hotel, motel, tavern or bottle shop licensed under the appropriate National, Provincial or National Capital District legislation pertaining to liquor licensing 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 those defined premises; and
  - (b) to operate such 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;
- "site" means the premises of a club, hotel, motel, tavern or bottle shop licensed under the appropriate National, Provincial or National Capital District legislation pertaining to liquor licensing;
- "site owner" means the licensee of specified premises of a club, hotel, motel, tavern or bottle shop licensed under the appropriate National, Provincial or National Capital District legislation pertaining to liquor licensing;
- "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;

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"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.

### **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) Notwithstanding its incorporation by this Act, the Board shall not be, and shall not be regarded as being, for any purpose, the servant or agent of the Independent State of Papua New Guinea.

### **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.**

The powers of the Board are as specified in this Act.

### **6. MEMBERSHIP OF THE BOARD.**

- (1) The Board shall consist of the following members:-
  - (a) a Chairman nominated by the Minister;
  - (b) one member nominated by the Melanesian Council of Churches;
  - (c) one member nominated by the holders of operator's licences;
  - (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) shall be appointed by the Minister by notice in the National Gazette; and
  - (b) shall be appointed for a term not exceeding five years; and
  - (c) shall be entitled to the appropriate fees and allowances under the *Boards (Fees and Allowances) Act* (Chapter 299); and
  - (d) are eligible for re-appointment.

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(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.



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(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) The Board shall at intervals of three months provide to each provincial government a report on the operation of gaming machines in the province.

### **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 -

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- (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 -

- (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.

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(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* 1986.**

Part VIII of the *Public Finances (Management) Act* 1986 applies to and in relation to the Board.

### *Division 2. - Registrar and Other Staff.*

### **18. REGISTRAR.**

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

(2) The Registrar -

(a) shall be appointed by the Board by notice in the National Gazette; and

(b) shall be appointed for a term not exceeding four 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 Board.

### **19. 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.**

The Registrar may, with the consent of the Board, employ such other persons as are necessary to assist him in his duties and to provide secretarial services to the Board.

### **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.

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(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 I. - 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

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- (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.

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### 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,

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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. - Operators Licences.*

### **34. BOARD MAY GRANT OPERATORS' 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) to manufacture approved gaming machines in the place or places from time to time specified in the licence; and
- (b) to import approved gaming machines; and
- (c) to supply approved gaming machines; and
- (d) to acquire, own and possess gaming machines; and
- (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.

(3) The Board shall ensure that not more than three 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
  - (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.



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### **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 Technicians 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.

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### **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) a person who is not employed by a person holding an 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
  - (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.

### **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.

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### **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

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(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 7 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) an operator's licence under Section 35 or any variation or renewal thereof; 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

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whether any person other than the objector is interested in the lodging of the objection and, if so -

- (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 7 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 7 clear days as the Board thinks fit.

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### 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

(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

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- (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 imposed, 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

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- (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.

### PART VII. PROFIT FROM GAMING MACHINES.

### 65. DEFINITIONS.

In this Part -

"cancelled credits payment" means payment (otherwise than directly from the gaming machine) 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;

"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;

"payouts" means cancelled credit payments, jackpot payments, refills and short pays;

"profits" means the excess of revenue over payouts;

"refill" means an amount of money inserted by a site owner into the hopper of a gaming machine;

"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;

"revenue" from a gaming machine means -

- (a) money cleared from the machine; and
- (b) money invested by players of the machine in order to play the machine (but not being money inserted into the machine);

"short pay" means a payment made to a gaming machine player of an amount to which the player is entitled and which would, except for a malfunction of the machine, have been paid to the player by the machine;



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

### **66. AMOUNT RETURNABLE IN PRIZES.**

A 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) The holder of an operator's licence shall, at the end of each month, set aside, in a bank account approved by the Board for the purpose, an amount which represents 60% of the profits derived from operating gaming machines during that month on each site on which he operates gaming machines under this Act (other than gaming machines the subject of a special permit).

(2) The holder of an operator's licence shall, by the fifteenth day of the month following the month referred to in Subsection (1), pay, of the profits derived from operating gaming machines during the month referred to in Subsection (1) (other than gaming machines the subject of a special licence), out of the account referred to in Subsection (1) -

- (a) 40% to the relevant operator as compensation for the supply of gaming machines, maintenance, overhead costs, reporting requirements and return on investment; and
- (b) 15% to a trust account for the purpose opened and operated by and in the name -
  - (i) where the gaming machines are located in a province - of the provincial government of that province; and
  - (ii) where the gaming machines are located in the National Capital District - of the National Capital District Commission; and
- (c) 5% to a trust account for the purpose opened by the Department responsible for finance and planning matters.

(3) The balance of 40% 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.

(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 Subsection (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.

### **68. PAYMENTS BY NATIONAL GOVERNMENT OUT OF SHARE OF PROFITS.**

(1) As soon as practicable after the end of each financial year, the Minister shall, in accordance with this section, out of moneys paid into the trust account under Section 67(2)(c) during that financial year, after deduction of the expenses of operating the trust account, make payments of such amounts as are directed by the National Executive Council for such health, welfare, community, sporting or rehabilitation purposes as are directed by the National Executive Council.

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(2) Payments made by the Minister under Subsection (1) shall be so made that they are made for purposes referred to in Subsection (1) in each province and in the National Capital District in the same proportion in which payments were paid into the trust account under Section 67(2)(c) from profits derived from each province and from the National Capital District.

### 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 manufacture, import, supply, sale, servicing, possession, keeping or operating a gaming machine.

#### 70. 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 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.

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(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) Where a gaming machine removed under Subsection (1) is not returned within 14 days together with any money that was in it when it was removed, the provisions of Section 71(3) and (4) apply in relation to the gaming machine and money in the same way as they apply in relation to a gaming machine and money 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;
- (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.

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### 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.

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### **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) a reference to interfering with the normal operation of a gaming machine includes a reference to maliciously damaging the gaming machine or inserting, or causing to be inserted, in the gaming machine anything other than a coin of the Independent State of Papua New Guinea, or other 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 or her duties, corrects, or attempts to correct, a minor malfunction of an authorized gaming machine.

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### 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 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.

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### **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.

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(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 3 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 his 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.



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### 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.

I hereby certify that the above is a fair print of the *Gaming Machine Act 1993* which has been made by the National Parliament.

Acting Clerk of the National Parliament.

I hereby certify that the *Gaming Machine Act 1993* was made by the National Parliament on 19 August 1993 by an absolute majority in accordance with the Constitution.

Speaker of the National Parliament.

