

TURKS AND CAICOS ISLANDS
GAMING CONTROL ORDINANCE 2018

(Ordinance 19 of 2018)

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY

SECTIONS

1. Short title and commencement
2. Interpretation
3. Criminal records check

PART II

GAMING CONTROL COMMISSION

*Division 1 — Establishment of Gaming Control Commission and
Board*

4. Establishment of Gaming Control Commission
5. Functions of Commission
6. Powers of Commission
7. Board of Commission
8. Functions of Board
9. Disqualification, removal and resignation of member
10. Vacation of office
11. Filling of vacancy
12. Remuneration, allowances and expenses

Division 2 – Meetings and proceedings of Board

13. Meetings of Board
14. Disclosure of interest
15. Pecuniary interest
16. Confidentiality
17. Submission of particulars for declaration
18. Validity of decisions

Division 3 – Managing Director and staff of Commission

- 19. Managing Director
- 20. Functions and duties of Managing Director
- 21. Staff of Commission
- 22. Secretary

Division 4 – Financial provisions

- 23. Funds of Commission
- 24. Financial year
- 25. Annual report, accounts and audit
- 26. Commission Reserve Fund

PART III

LICENSING

Division 1 – Licensing general

- 27. Prohibition of conducting gaming without licence
- 28. Application for licence
- 29. Licence fees
- 30. Delegation of powers of licence to Managing Director
- 31. Matters to consider for issue of licence for gaming
- 32. Investigations
- 33. Issue of licence
- 34. Refusal of licence
- 35. Duration of licence
- 36. Licence not transferable
- 37. Changes in particulars to be notified
- 38. Renewal of licence
- 39. Recommendation by Managing Director to Commission
- 40. Report on licence applications

Division 2 – Categories of gaming related licences

- 41. Categories of licences

Division 3 – Gaming operation, facility and gaming licences

- 42. Casino Operator's licence
- 43. Slot Parlour licence

- 44. Requirements for licensed Class A or Class B casino operator or slot parlour gaming operator
- 45. Gaming Route licence
- 46. Route operator's licence
- 47. Electronic Bingo licence
- 48. Sports Betting licence

Additional provisions – Gaming operators

- 49. Additional considerations for gaming operators
- 50. Requirement for liquor licence
- 51. Surety bond for gaming operator

Division 4 – Internet gaming

- 52. Internet Gaming Operator's Licence
- 53. Conditions for acceptance of internet wagers
- 54. Inter-jurisdictional agreements for purposes of internet gaming

Division 5 – Lotteries

- 55. Lottery Operator's licence
- 56. Proxy Lottery Operator's licence
- 57. Issue of lottery or proxy lottery operator's licence; additional considerations

Division 6 – Supplier and gaming equipment related licences and key person

- 58. Supplier's licence
- 59. Gaming related-vendor licence
- 60. Issue of gaming-related vendor's licence
- 61. Monitoring and enforcement of gaming-related vendor licence
- 62. Key person licence

Division 7 – Charity gaming

- 63. Charitable Gaming or Special Game of Chance Licence
- 64. Considerations for charitable gaming or special game of chance

Division 8 – International market agent and representative

- 65. Licensing of international market agent

- 66. Functions of international market agent
- 67. Directions relating to international market agent operator's licence
- 68. Suspension or revocation of International Market Agent licence
- 69. Offences and penalties for International Market Agent licence

Division 9 – Personnel licensing

Key employee

- 70. Key employee licence
- 71. Provisional licence
- 72. Requirements for key employee licence
- 73. Termination of key employee licence

Gaming employee

- 74. Gaming employee licence
- 75. Categories of gaming employee licences
- 76. Requirements for gaming employee licence
- 77. Issue of gaming employee licence
- 78. Temporary gaming employee licence

PART IV

INSTITUTIONAL INVESTORS

- 79. Approval of institutional investor
- 80. Qualifications of institutional investor
- 81. Rescind approval of institutional investor
- 82. Monitoring suitably and qualification of institutional investor

PART V

GAMING OPERATIONS

- 83. Information to be provided to Commission
- 84. Cashless wagering system
- 85. Promotional gaming credit
- 86. Approval for debt transactions
- 87. System for operation and reporting; testing of equipment

Disputes between gaming operators and patrons

- 88. Notification of dispute
- 89. Investigation onto dispute
- 90. Review of decision
- 91. Payment of claim

Conservatorship of gaming facility

- 92. Administrator by conservator
- 93. Appointment of conservator
- 94. Duties and powers of conservator
- 95. Termination of conservator
- 96. Surety bond and insurance
- 97. Sale of facility under conservatorship
- 98. Discontinuation of conservation

PART VI

GAMING INTERNAL CONTROLS AND PROTECTION AGAINST MONEY
LAUNDERING

- 99. Approval of internal controls – gaming operator
- 100. Banking
- 101. Protections against money laundering
- 102. Accounting records
- 103. Keeping of records
- 104. Gaming operator audits
- 105. Audits of ceased gaming operations

PART VII

PROVISIONS FOR MINORS

- 106. Interpretation of Part VII
- 107. Minors prohibited from gaming or entering gaming facility
- 108. Gaming operator to bar minors from gaming facility
- 109. Entry of minors to be prevented
- 110. Proof of age required
- 111. Minor using false evidence of age
- 112. Notices to be displayed
- 113. Penalty

PART VIII
EXCLUSION FROM GAMBLING FACILITIES FOR PROBLEM GAMBLING
AND OTHER REASONS

114. Interpretation of Part VIII

Voluntary exclusion

115. Voluntary exclusion programme

Mandatory exclusion

116. Mandatory exclusion order

117. Notice of making of mandatory exclusion order

118. Revocation of mandatory exclusion order

Family exclusion order

119. Problem Gambling Committee

120. Oath of Secrecy

121. Functions of Committee

122. Meetings of Committee

123. Powers of Committee in proceedings

124. Validity of decisions of Committee

125. Application for family exclusion order

126. Process of application for family exclusion order

127. Dismissal of complaints or deferral of consideration

128. Issue of family exclusion order

129. Terms of family exclusion order

130. Variation of revocation of family exclusion order

131. Appeal of family exclusion order

Exclusion list and other provisions

132. Exclusion list

133. Exclusion or ejection of persons from gaming facility

134. Monitoring compulsive and problem gambling

PART IX
GAMING TAX

135. Payment of tax

- 136. Tax return
- 137. Assessments by Commission

PART X

COMPLIANCE AND ENFORCEMENT

Division 1 - Inspections and monitoring

- 138. Functions of inspector
- 139. Powers of inspector
- 140. Seizure and forfeiture of equipment, etc.

Division 2 Disciplinary action and penalties

- 141. General: suspension or revocation of licence
- 142. Grounds for disciplinary action: gaming operator
- 143. Penalty for gaming operator
- 144. Grounds for disciplinary action: key or gaming employee
- 145. Penalty for key or gaming employee
- 146. Suspension of employee licence pending disciplinary action
- 147. Effect, etc., of suspension
- 148. Return of key or gaming employee licence on suspension or cancellation
- 149. Termination of employment on revocation of key or gaming employee licence

Division 3 – Hearings

- 150. Licence hearings
- 151. Proceedings for hearing
- 152. Appeal

Division 4 – General offences

- 153. Offence for making false statement
- 154. Offences relating to minors
- 155. Offences relating to gaming
- 156. Offences relating to bribery
- 157. Offences relating to anti-money laundering measures
- 158. Offence relating to possessing gambling equipment
- 159. General penalty
- 160. Offences by body corporate

PART XI

MISCELLANEOUS

- 161. Advertising
 - 162. Restrictions on advertising and promotion of gaming
 - 163. Protection of confidential information
 - 164. Protection from liability
 - 165. Agreements with foreign regulatory agencies
 - 166. Regulations
 - 167. Rules
 - 168. Codes, standards of performance or specifications issued or approved by Commission
 - 169. Guidelines on compliance
 - 170. Repeal and savings
 - 171. Transitional provisions
 - 172. Consequential amendment
- SCHEDULE 1 – Application Fees
SCHEDULE 2 – Initial Licence Fees
SCHEDULE 3 – Tax Rates



TURKS AND CAICOS ISLANDS
GAMING CONTROL ORDINANCE 2018
(Ordinance 19 of 2018)

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Commencement..... in accordance with section 1

AN ORDINANCE TO PROVIDE FOR THE REGULATION OF THE GAMING INDUSTRY, ESTABLISHMENT OF A GAMING CONTROL COMMISSION AND FOR CONNECTED PURPOSES.

ENACTED by the Legislature of the Turks and Caicos Islands.

PART I

PRELIMINARY

Short title and commencement

1. (1) This Ordinance may be cited as the Gaming Control Ordinance 2018 and shall come into force on such day as the Governor may appoint by Notice published in the *Gazette*.

(2) Different dates may be appointed for different provisions and different purposes.

Interpretation

2. (1) In this Ordinance—
“acts of terrorism” has the same meaning as in the Prevention of Terrorism Ordinance;

“applicant” means a person who applies to a licensing authority for a licence under this Ordinance;

“arms trafficking offence” has the same meaning as in the Proceeds of Crime Ordinance;

“appropriate” in relation to a disciplinary action or penalty by the Board or Commission, means an effective, proportionate and dissuasive action;

“Board” means the Board of the Commission established under section 7;

“cashless wagering system” means a method of wagering and accounting in which—

(a) the validity and value of a wagering instrument or wagering credit is determined, monitored and retained by a computer operated and maintained by a casino operator which maintains a record of each transaction involving the wagering instrument or wagering credit, exclusive of the game or gaming device on which a wager is being made; or

(b) computerised or electronic monitoring systems facilitate electronic transfers of money directly to or from a game or gaming device;

“casino operator’s licence” means either a class A-integrated operator’s casino licence or a class B-standalone casino operator’s licence referred to under section 42;

“central system” means a computer system that provides the following functions related to casino gaming equipment used in connection with casino gaming authorised under this Ordinance—

(a) security;

(b) auditing;

(c) data and information retrieval; and

(d) other purposes deemed necessary and authorised by the Commission;

“Chairperson” means the chairperson of the Board;

“cheat” means to alter the result of a gambling game, the element of chance, the operation of a machine used in a gambling game, or the method of selection of criteria that determines—

(a) the result of the gambling game;

- (b) the amount or frequency of payment in a gambling game;
- (c) the value of a wagering instrument; or
- (d) the value of a wagering credit;

“chip purchase voucher” means a voucher issued by a gaming operator to a patron named in the voucher entitling the patron to be issued with chips of an equivalent value to that specified in the voucher;

“chips” means any tokens used instead of money for the purpose of gaming and includes any voucher or other instrument that has a fixed dollar wagering value;

“drug trafficking offence” has the same meaning as in the Proceeds of Crime Ordinance;

“Commission” means the Turks and Caicos Islands Gaming Control Commission established under section 4;

“Committee” means the Problem Gambling Committee established under section 119;

“conservator” means a person appointed by the Minister as a fiduciary to temporarily manage and control a gaming facility;

“court” means the Magistrate Court;

“DFNBP Supervisor” has the same meaning as in the Proceeds of Crime Ordinance;

“disciplinary action”—

- (a) in relation to a gaming operator, means one or more of the following—
 - (i) the suspension or revocation of a gaming licence;
 - (ii) the issuing of a letter of censure;
 - (iii) the variation of the terms of a gaming licence; or
 - (iv) the imposition of a financial penalty for each ground of disciplinary action; and
- (b) in relation to a key employee or gaming employee means one or more of the following—
 - (i) the service of a written notice on the licensee censuring him for any action specified in the notice;

- (ii) suspension of the employee licence for a specified period;
- (iii) revocation of the employee licence; or
- (iv) the imposition of a financial penalty;

“disqualifying offence” means—

- (a) any gambling offence;
- (b) any theft offence;
- (c) any acts of terrorism, arms trafficking offence, drug trafficking offence, money laundering offence and terrorist finance offence;
- (d) any offence having an element of fraud or misrepresentation; and
- (e) any offence having an element of moral turpitude;

“electronic bingo licence” means a licence referred to under section 47;

“electronic table game” means a gaming machine used for the purpose of playing a game traditionally played at tables, and includes any electronic device through which bets may be placed on a game played at a table;

“exclusion list” means the list of excluded persons established and maintained by the Commission under section 134, as varied from time to time;

“excluded person” means a person who is the subject of an exclusion order;

“gambling game” means any game offered by a licensed operator under this Ordinance for which patrons offer consideration in exchange for an opportunity to win a prize;

“gambling offence” means a contravention of any gaming requirements under this Ordinance; and includes cheating at a game, submitting false information on a gaming application, operating an illegal gambling game and fraud;

“game” means a game of chance, a game requiring skill or a game that is partly a game of chance and partly a game requiring skill;

“gaming” means to deal, operate, carry on, conduct, maintain or expose for play any game under this Ordinance; and includes a gambling game;

“inspector” means an officer employed by the Commission who is vested with duties to enforce this Ordinance and conduct other investigations into the conduct of gaming and the

maintenance of the equipment that the Commission considers necessary and proper;

“gaming employee” means any employee of a gaming operator or management company, but does not include a key employee;

“gaming equipment” means an electronic, electrical, or mechanical contrivance or machine or any device or thing, including chips, used, or capable of being used, for or in connection with gaming and includes—

- (a) a gaming machine;
- (b) a linked jackpot equipment or system;
- (c) a cashless wagering system;
- (d) a lottery system;
- (e) an internet gaming system;
- (f) a charity gaming system;
- (g) an electronic or mechanical device used to conduct a gambling game;
- (h) an electronic monitoring system;
- (i) a part of, or a replacement part for, any gaming machine, equipment or system;
- (j) a device used in connection with the operation of table games, including playing cards, chips and dice; or
- (k) any other equipment approved by the Commission;

“gaming facility” means the premises on which games licensed and regulated under this Ordinance are conducted;

“gaming operator” means the holder of a licence to operate games regulated under this Ordinance;

“gaming-related vendor” means any person or entity who supplies gaming-related equipment (not gaming equipment), goods or services to a gaming operator;

“gaming route licence” means a licence referred to under section 45;

“holding company” means any corporation, firm, partnership, limited partnership, limited liability company, trust, or other form of business organisation, not a natural person, which directly or indirectly does any of the following—

- (a) has the power or right to control a gaming operator, management company, or gaming-related vendor licence applicant or licensee;
- (b) holds an ownership interest of 5% or more, as determined by the Commission, in a gaming operator, management company, or gaming-related vendor licence applicant or licensee; or
- (c) holds voting rights with the power to vote 5% or more of the outstanding voting rights of a gaming operator, management company, or gaming-related vendor licence applicant or licensee;

“inter-casino linked system” includes the hardware, software, communications technology and other associated equipment used to link and monitor games or devices located at different licensed gaming facilities;

“international market agent” means a person, other than an employee of a gaming operator, that supplies transportation or serves as a travel agency who receives compensation for services solely on the price of the transportation or lodging arranged by the agency, who performs any function in relation to one or more gaming operator marketing arrangements;

“international market agent operator’s licence” means a licence issued by the Board to an international market agent under section 65;

“international market agent representative” means an individual who is employed by an international market agent to organise, promote or conduct a gaming operator marketing arrangement on behalf of the international market agent;

“international market agent representative licence” means a licence issued by the Board to an international market agent representative under section 65;

“internet gaming operator’s licence” means a licence referred to under section 52;

“initial investment” includes costs related to demolition, engineering, architecture, design, site preparation, construction, infrastructure improvements, land acquisition, fixtures and equipment, insurance related to construction, and leasehold improvements;

“institutional investor” means any of the entities described in section 80(1);

“Islander” has the same meaning as in the Turks and Caicos Islander Status Ordinance;

“jackpot” means the combination of letters, numbers, symbols or representations required to be displayed on the reels or video screen of a gaming machine so that the winnings in accordance with the prize pay-out scale displayed on the machine are payable from money which accumulates as contributions are made to a special prize pool;

“key employee” means—

- (a) any executive, employee, or agent of a gaming operator licensee or management company licensee having the power to exercise significant influence over decisions concerning any part of the operation of such licensee, including—
 - (i) an officer, director, trustee, or partner of a person that has applied for or holds a gaming operator, management company or gaming-related vendor licence, or of a holding company that has control of a person that has applied for or holds a gaming operator, management company or gaming-related vendor licence;
 - (ii) an individual who holds a direct or indirect ownership interest of more than 1% in an entity that has applied for or holds a gaming operator, management company or gaming-related vendor licence or holding company that has control of an entity that has applied for or holds a gaming operator, management company or gaming-related vendor licence; or
 - (iii) a managerial employee of an entity that has applied for or holds a gaming operator or gaming-related vendor licence in the Islands, or a managerial employee of a holding company that has control of an entity that has applied for or holds a gaming operator or gaming-related vendor licence in the Islands, who performs the function of—
 - (A) principal executive officer;
 - (B) principal operating officer;
 - (C) principal accounting officer; or
 - (D) an equivalent officer or other person the Board determines to have the power to exercise significant influence over decisions concerning any part of the operation of such licensee; or

- (d) an individual who, though his duties or status varies from those listed in paragraph (a), the Board determines is to be considered as a key employee;

“key person” means—

- (a) an entity that is a holder of any direct or indirect legal or beneficial publicly traded or privately held interest whose combined direct, indirect, or attributed publicly traded interest is 5% or more or privately held interest is 1% or more in an applicant or licensee or in a key business entity of an applicant or licensee; or
- (b) an entity which, though its duties or status varies from those listed in paragraph (a), the Board determines is to be considered as a key person;

“land acquisition”, in relation to an initial investment, includes the lease of property for a period of more than ten years;

“licensing authority” means—

- (a) in relation to gaming licences and key employee licences, the Board; and
- (b) in relation to gaming employee licences, the Managing Director;

“licensed gaming operator” means a gaming operator that has been issued a licence by the Commission and that has been certified annually by the Commission to have paid all applicable fees, taxes and debts to the government;

“licensee” means a person who is issued a licence under this Ordinance;

“linked jackpot arrangement” means an arrangement or inter-gaming facility linked system whereby two or more gaming machines are linked to a device that—

- (a) records, from time to time, an amount which, in the event of a jackpot or other result being obtained on one of those machines, may be payable, or part of which may be payable, as winnings;
- (b) for the purpose of recording the amount referred to in paragraph (a), receives data from each gaming machine to which the device is linked; and
- (c) is not capable of affecting the outcome of a game on a gaming machine to which the device is linked;

“linked jackpot equipment” means any jackpot meter, pay-out display, linking equipment, computer equipment, programming or other device (other than a gaming machine) forming, or capable of forming, part of a linked jackpot arrangement;

“lottery operator’s licence means a licence issued under section 55;

“management company” means an organisation retained by a gaming operator to manage a gaming facility and provide services such as accounting, general administration, maintenance, recruitment, and other operational services;

“Managing Director” means the Managing Director of the Commission appointed under section 19;

“match play coupon” means a coupon issued by a gaming operator to a patron which, when presented by the patron together with chips in any wager, augments the patron’s wager according to a ratio, percentage or value specified in the coupon;

“member” means a member of the Board;

“Minister” means the Minister responsible for gaming;

“minor” means a person who is below the age of 21 years;

“money laundering offence” has the same meaning as in the Proceeds of Crime Ordinance;

“operations”, in relation to a gaming facility, means—

- (a) the conduct of gaming in the facility;
- (b) the management and supervision of the conduct of gaming in the facility;
- (c) money counting in, and in relation to, the conduct of gaming;
- (d) accounting procedures in, and in relation to, the conduct of gaming;
- (e) the use of storage areas within the gaming facility; and
- (f) other matters affecting or arising out of activities relating to the conduct of gaming;

“patron” means an individual who—

- (a) opens a patron account with a gaming operator; or
- (b) is involved in a cash transaction with a gaming operator within its facility, whether or not that

person participates in gaming in the gaming facility;

“promotional gaming credit” means a gambling game, slot machine or table game credit, discount, or other similar item issued to a patron to enable the placement of, or increase in, a wager at a gambling game, slot machine or table game;

“proxy lottery operator’s licence” means a licence issued under section 56;

“public officer” has the same meaning as in the Constitution;

“record” includes any book, account, document, paper or other source of information compiled, recorded or stored in written form, or on microfilm, or by electronic process, or in any other matter or by any other means;

“reserved licence” means a licence which can only be issued to a company, whose beneficial ownership or the majority of its shares or stock and a person entitled to vote at general meetings of that company is an Islander;

“slot machine” means any mechanical, electrical, or other device or machine which, upon insertion of a coin, token, ticket, or similar object, or upon payment of any consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance, or both, makes individual prize determinations for individual participants in cash, premiums, merchandise, tokens, or anything of value, whether the payoff is made automatically from the machine or in any other manner;

“slot parlour licence” means a licence referred to under section 43;

“sports betting licence” means a licence referred to under section 48;

“table game” means any game played with cards, dice, or any mechanical, electromechanical, or electronic device or machine for money, gaming facility credit, or any representative of value; but does not include a slot machine;

“terrorist finance offence” has the same meaning as in the Prevention of Terrorism Ordinance; and

“voluntary exclusion programme” means a programme provided by the Commission that allows persons to voluntarily exclude themselves from the gaming area of a facility

licensed by the Commission, as provided under section 115.

Criminal records check

3. (1) The Commission shall require a criminal record check to be conducted before any appointment is made or any licence is issued under this Ordinance.

(2) An application for a criminal record check required under subsection (1) may be made by the person who is required to submit a criminal record check or by the Commission, or by both.

(3) A criminal check required under subsection (1) shall be made—

- (a) before an individual is appointed as a member of the Board;
- (b) before appointing an individual as Managing Director;
- (c) before issuing a licence—
 - (i) for a key person, key employee or gaming employee; and
 - (ii) for a gaming operator, management company, holding company or gaming-related vendor; or
- (d) before approving any investor of a gaming operator or an institutional investor; and
- (e) before appointing an individual as an inspector, professional, technical or clerical employee of the Commission.

(4) An appointing or licensing authority shall, subsequent to the initial criminal records check, conduct other criminal records check of the same individual at three-year intervals for licences with a validity period of more than one year.

(5) The fees to cover the costs for all criminal records check conducted under this Ordinance—

- (a) shall be paid by the applicant for a gaming operator, management company, holding company, gaming-related vendor, key person, key employee, or gaming employee licence; and
- (b) for applicants, appointees or employees of the Commission or persons to be employed or appointed by the Commission are exempted.

(6) Subject to subsection (7), an appointing or licensing authority shall not appoint or issue a licence or retain the appointment or licensure of a person if a criminal records check discloses that the person has been convicted of or has pleaded guilty to a disqualifying offence.

(7) The Commission may consider mitigating circumstances in cases where a disqualifying offence, except for any acts of terrorism, arms trafficking offence, drug trafficking offence, money laundering offence and terrorist finance offence, is older than ten years and the applicant's conduct since that time establishes suitability by clear and convincing evidence.

(8) The report of a criminal records check is not a public record that is open to public inspection and copying.

(9) The Commission shall not make the report available to any person other than—

- (a) the person who was the subject of the criminal records check;
- (b) an appointing or licensing authority;
- (c) a member of the Board;
- (d) the Managing Director or an employee of the Commission; or
- (e) any court, including a tribunal, in a judicial or administrative proceeding relating to the person's employment or application for a licence under this Ordinance.

PART II

GAMING CONTROL COMMISSION

Division 1 — Establishment of Gaming Control Commission and Board

Establishment of Gaming Control Commission

4. (1) There is established a Commission to be known as the Turks and Caicos Islands Gaming Control Commission.

(2) The Commission shall be a body corporate with perpetual succession and a common seal, capable of suing and being sued in its own name, and subject to the provisions of this Ordinance, shall do or perform such acts or things as bodies corporate may, by law, do or perform.

Functions of Commission

5. (1) The functions of the Commission are—

- (a) to regulate and ensure integrity of the gaming industry;
- (b) to receive and consider applications for licences for gaming operators, management companies, holding companies, key persons, key employees, gaming employees and gaming-related vendors;
- (c) to investigate the suitability of applicants for licences and issue such licences where appropriate;
- (d) to enforce this Ordinance and penalise gaming operators, management companies, holding companies, key persons and key employees, gaming employees and gaming-related vendors;
- (e) to perform the function of DFNBP Supervisor for casinos under the Proceeds of Crime Ordinance and monitor compliance by licensees with that Ordinance, the Anti-Money Laundering Regulations and such other Ordinances, regulations, codes or guidance relating to money laundering or the financing of terrorism as may be prescribed;
- (f) to establish and maintain an exclusion list which shall contain a list of excluded persons;
- (g) to establish and implement a voluntary exclusion programme for problem gambling;
- (h) to regulate the employment of persons in the gaming industry and be responsible for assignment of inspectors;
- (i) to decide the number, type and location of gaming facilities in the Islands;
- (j) to assist with the detection and prevention of financial crime in relation to gaming;
- (k) do all things it is authorised or required to do under this Ordinance, including—
 - (i) to supervise, regulate and inspect the operations of gaming facilities, the persons responsible for such operations and the conduct of gaming within the gaming facilities;

- (ii) to ensure that the handling, collection, disbursement and counting of money within a gaming facility is supervised;
- (iii) to detect offences committed within gaming facilities or in relation to gaming;
- (iv) to receive and investigate complaints from gaming patrons concerning the conduct of gaming in the gaming facility;
- (v) to check gaming facility records as required; and
- (vi) to inspect, test and approve gaming equipment and chips used in gaming facilities; and
- (l) to perform such other functions as are conferred or imposed on the Commission under this Ordinance or any other enactment.

(2) To determine the number, type and location of gaming facilities provided under subsection (1)(i), the Commission shall consider the following—

- (a) the visitor appeal of the proposed gaming facility;
- (b) the comparability of the proposed gaming facility or any part of the gaming facility to similar attractions or facilities internationally or in markets similar to the Islands; and to the prevailing industry standards concerning such attraction or facility;
- (c) the degree to which the proposed gaming facility or any attraction or facility proposed as a part of the gaming facility project meets the prevailing, projected or desired market demand for the facility;
- (d) the contribution of the proposed gaming facility to the tourism industry in the Islands;
- (e) the number of jobs that will be produced by the proposed gaming facility;
- (f) the extent to which the proposed gaming facility will develop or redevelop areas that are considered blighted, damaged by weather or toxic materials or are otherwise believed to be difficult for development;
- (g) the extent to which the proposed facility compliments or improves the existing mix of high quality gaming operations in the Islands;

- (h) the extent to which the proposed facility will compete against existing gaming facilities that are underperforming or are considered to be of lower than desirable quality;
- (i) the impact of the gaming facility on neighbouring businesses or residents;
- (j) the public revenue that may be generated by the gaming facility;
- (k) the impact of the gaming facility on problem gambling;
- (l) the impact of the gaming facility on local traffic patterns and infrastructure;
- (m) the amount of capital investment of the gaming facility;
- (n) whether the licensing of the facility is in the best interests of the residents of the Islands; and
- (o) other criteria which the Commission deems relevant to the best interests of the residents of the Islands.

(3) The Commission may adopt standards regarding the marketing materials of a licensed gaming operator, including allowing the Commission to prohibit marketing materials that are contrary to the adopted standards.

Powers of Commission

6. (1) The Commission may carry on such activities as it appears to the Commission to be necessary for the performance of its functions and the discharge of its duties under this Ordinance.

(2) The activities referred to in subsection (1) may include power—

- (a) to inspect and examine all premises where gaming is conducted or gaming supplies, devices or equipment are manufactured, sold or distributed;
- (b) to inspect all gaming supplies, devices and equipment in or about a gaming facility;
- (c) to summarily impound, seize and remove from the gaming facility, gaming supplies, devices and equipment for the purpose of examination and inspection;

- (d) to determine any facts or any conditions, practices, or other matters as the Commission considers necessary or proper to aid in the enforcement of this Ordinance;
- (e) to investigate an applicant and determine the priority and eligibility of any applicant for a licence and to select among competing applicants for a licence, the applicant who or which best serves the interests of the residents of the Islands;
- (f) to conduct such investigations for issue of licences or compliance with licence conditions as may be necessary for enforcing this Ordinance;
- (g) to conduct background investigations such as criminal record checks and other civil and criminal investigations necessary for the execution of this Ordinance;
- (h) to issue or approve codes of practice relating to gaming facility operations;
- (i) to audit or cause audit of gaming operations, including those that have ceased operation;
- (j) to investigate, for the purpose of prosecution, any suspected violation of this Ordinance;
- (k) to assess any appropriate administrative penalty;
- (l) to require all licensees to file all financial reports as may be prescribed;
- (m) to issue subpoenas for the attendance of witnesses and *subpoenas duces tecum* for the production of books, records, and other pertinent documents;
- (n) to administer oaths and affirmations to the witnesses, when, in the opinion of the Board, it is necessary to enforce the provisions of this Ordinance;
- (o) to determine which of the authorised gambling games will be permitted on any licensed gaming facility;
- (p) to approve the hours of operation for each gaming facility which may include days on which gaming operations are prohibited from opening;
- (q) execute all contracts and other agreements, including contracts for necessary purchases of goods and services;

- (r) to employ the services of persons the Commission considers necessary for the purposes of consultation or investigation, and fix the salaries of, or contract for the services of, legal, accounting, technical, operational, and other personnel and consultants;
- (s) to secure, by agreement, information and services as the Board considers necessary from any other unit of government;
- (t) approve locations for the storage and servicing of gaming equipment;
- (u) mandate that licensees include in their marketing materials content relating to responsible gaming or other information the Board considers to be beneficial to protect the residents of the Islands and their visitors from possible harm resulting from gambling; and
- (v) perform all other things the Board considers necessary to carry out the intents and purposes of this Ordinance.

Board of Commission

7. (1) The Commission shall be governed by a Board which shall consist of the following members appointed by the Minister—

- (a) a Chairperson who shall be a person with at least ten years' experience, as an attorney or qualified and experienced in the field of finance or the gambling industry;
- (b) one person who shall be a certified public accountant or someone with extensive experience in complex financial matters;
- (c) one person with a background in law enforcement and anti-money laundering or anti-terrorist financing or compliance issues;
- (d) one person with at least five years' experience in gaming regulation or a background in the gaming, tourism and hospitality industry;
- (e) one person representing the interest of persons vulnerable to addiction;
- (f) Permanent Secretary for the Ministry with responsibility for gaming or his representative; and

(g) Permanent Secretary, Finance or his representative.

(2) The Managing Director shall be an *ex-officio* member of the Board, but shall not have a right to vote or be counted for the purpose of constituting a quorum.

(3) The Vice Chairperson shall be elected by members from amongst their number.

(4) At least three members, including the Chairperson shall be residents of the Islands.

(5) Subject to section 9(2) and (3), a member shall hold office for a term not exceeding four years, and shall be eligible for reappointment

(6) A person shall not serve as Chairperson for more than six successive years.

(7) To ensure that the terms of members do not expire at the same time, the Minister shall make an appointment in a manner that the tenure does not expire at the same time.

Functions of Board

8. The principal functions of the Board are—

- (a) to receive and consider applications for gaming licences and key employee licences, and issue such licences to persons who make an application under this Ordinance;
- (b) to monitor and oversee the management of the affairs and business of the Commission; and
- (c) to perform such other functions conferred on the Board by this Ordinance or any other enactment.

Disqualification, removal and resignation of member

9. (1) A person shall not be appointed as a member of the Board if—

- (a) he has in terms of any law in force in any country or in the Islands—
 - (i) been adjudged or otherwise declared bankrupt or insolvent and has not been rehabilitated or discharged; or
 - (ii) made an assignment, arrangement or composition with his creditors, which has not been rescinded or set aside;
- (b) he has been convicted of a disqualifying offence;

- (c) he is incapacitated by reason of physical or mental illness; or
- (d) he has an affiliation with a gaming operator, gaming facility owner or gaming equipment supplier.

(2) The Minister may by notice in writing, remove a member from office—

- (a) in the event of the occurrence of anything which would render the member ineligible for appointment in terms of subsection (1);
- (b) where the member has been absent from three consecutive meetings of the Board without reasonable excuse and leave from the Chairperson;
- (c) where the member contravenes the provisions of this Ordinance or otherwise misconducts himself to the detriment of the objectives of the Board and of the Commission, or of the public interest;
- (d) where the member fails to comply with sections 14, 15 and 16; or
- (e) where the member is otherwise unable or unfit to discharge the functions of member of the Board.

(3) A member may at any time resign his office by writing to the Chairperson, who shall forthwith cause the written resignation to be forwarded to the Minister.

(4) For purposes of subsection (2)(c), “misconduct” includes any act done without reasonable excuse by a member which—

- (a) amounts to failure to perform in a proper manner any duty imposed on the member;
- (b) is prejudicial to the efficient conduct of the Board;
or
- (c) tends to bring the Board into disrepute.

Vacation of office

10. The office of a member shall become vacant—

- (a) in the event of the occurrence of anything which would render the member ineligible for appointment in terms of section 9(1);
- (b) upon the death of a member;

- (c) if the member has been removed from office in terms of section 9(2); or
- (d) upon delivery of written resignation by the member in terms of section 9(3).

Filling of vacancy

11. (1) Where the Minister is satisfied that a member is temporarily incapacitated by illness, absence or other cause from satisfactorily performing the duties of his office, the Minister may in terms of section 9(1), appoint another person to act temporarily in his place for a period not exceeding six months, as the Minister may specify.

(2) On the death of, or vacating of office by a member, the Minister shall in terms of section 9(1), appoint another person to be a member in place of the member who vacates office, for the remaining period of office of that member.

Remuneration, allowances and expenses

12. A member of the Board or any person co-opted to attend any meeting of the Board shall be paid such remuneration, allowances and travelling expenses incurred in connection with service on the Board, as the Minister may determine.

Division 2 — Meetings and proceedings of Board

Meetings of Board

13. (1) Subject to this Ordinance, the Board shall regulate its own procedure.

(2) The Board shall meet as often as is necessary or expedient for the discharge of its functions, but in any case, at least four times a year, and a meeting shall be held at such place, day and time as the Chairperson in consultation with the Managing Director may determine.

(3) A meeting shall be called by the Chairperson upon giving written notice of not less than seven days.

(4) The Chairperson may call a special meeting—

- (a) by giving a shorter notice where the urgency of any matter does not require the giving of notice in terms of subsection (3); or
- (b) within five days on written request addressed to him by any three members.

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

- (a) the Chairperson;
- (b) in his absence, the Vice Chairperson; or
- (c) in the absence of the Chairperson or Vice Chairperson, a member elected by the members present at a meeting for purposes of presiding over that meeting.

(6) A quorum at any meeting of the Board shall be four members.

(7) A decision of the Board shall be passed by a simple majority of the members present and voting, and in the event of an equality of votes, the person presiding shall cast a vote in addition to his deliberative vote.

(8) The minutes of a meeting of the Board—

- (a) shall be kept in a proper form, and shall be confirmed by the person presiding as soon as practicable after any meeting, and before any subsequent meeting of the Board; and
- (b) after being confirmed under paragraph (a), a copy of the minutes shall be sent to the Minister.

(9) The Board may co-opt any person whose presence it considers necessary to assist or advise at any deliberation of the Board, but the person shall not form part of the quorum or have any right to vote.

Disclosure of interest

14. (1) Where a member of the Board is present at a meeting of the Board, at which meeting a matter which is the subject of consideration is one in which the member has any pecuniary interest, directly or indirectly, in a contract, proposed contract, licence or other matter, the member shall as soon as practicable after the commencement of the meeting and before the matter is discussed, disclose his interest and shall leave the meeting and not take part in any consideration or discussion of any question touching upon that matter .

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

(3) Where a member of the Board fails to disclose his interest in terms of subsection (1) and a decision by the Board is made benefiting the member, the decision shall be null and void to the extent to which it benefits that member.

(4) A member of the Board who fails to comply with subsection (1) commits an offence and is liable—

- (a) on summary conviction, to a fine of \$20,000 or to imprisonment for a term of two years, or to both; or
- (b) on conviction on indictment, to a fine of \$50,000 or to imprisonment for a term of three years, or to both.

Pecuniary interest

15. (1) For the purposes of section 14, a member of the Board shall be treated as having an indirect pecuniary interest in a contract, proposed contract, licence or other matter if—

- (a) the member, or any nominee of his, is a member of a company or other body which has a direct or indirect pecuniary interest in the contract, proposed contract, licence or other matter under consideration;
- (b) the member is a partner, or in the employment of a person with whom the contract was made or is proposed to be made, or who has a direct or indirect pecuniary interest in a contract, proposed contract, licence or other matter under consideration;
- (c) the member or any partner of his is a professional advisor to a person who has a direct or indirect pecuniary interest in a contract, proposed contract, licence or other matter under consideration; or
- (d) the member's spouse or child has a direct or indirect pecuniary interest in a contract, proposed contract, licence or other matter under consideration.

(2) Subsection (1) does not apply to membership of, or employment by, any public body.

(3) The Minister may, subject to such conditions as he may determine, appoint a person to act as a member for any specified period, where the number of members disabled by section 14 at any one time would be so great a proportion of the whole, as to impede the transaction of business of the Board.

Confidentiality

16. (1) A member of the Board, officer or employee of the Commission, or any person assisting the Board or Commission

shall observe and preserve the confidentiality of all matters coming before the Board or Commission, and the confidentiality shall subsist even after the termination of the term of office or the mandate.

(2) A member of the Board, officer or employee of the Commission, or any person to whom confidential information is revealed through working with the Board or Commission shall not disclose that information to any person, unless he is required to do so in terms of any law or for purposes of any judicial proceedings.

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

- (a) on summary conviction, to a fine of \$20,000 or to imprisonment for a term of two years, or to both; or
- (b) on conviction on indictment, to a fine of \$50,000 or to imprisonment for a term of three years, or to both.

Submission of particulars for declaration

17. A member shall comply with the provisions of the Integrity Commission Ordinance, and shall submit all particulars required by that Ordinance to identify the member's assets, holdings, beneficial income and other relevant interests.

Validity of decisions

18. The validity of any act or proceedings of the Board shall not be affected by any vacancy among its members, or by any defect in the appointment of a member, or in the incapacity of the membership.

Division 3 — Managing Director and staff of Commission

Managing Director

19. (1) There shall be a Managing Director for the Commission who shall be appointed by the Minister on the recommendation of the Board, and upon such terms and conditions and for such period as may be determined by the Minister and specified in the instrument of appointment.

(2) A person shall not be appointed as a Managing Director unless the Minister is satisfied that the person possesses the appropriate qualifications and experience to undertake the duties, and the person demonstrates that he is competent to carry out the functions of the Commission.

(3) The Managing Director shall be a full time officer and employee of the Commission, and shall render his services exclusively to the Commission.

(4) The Managing Director shall be answerable to the Board for his actions and decisions.

(5) In the Managing Director's absence or inability to fulfil his functions, the Deputy Director may perform his functions, and in the absence of the Deputy Director, the Board may appoint the a senior officer of the Commission to discharge the functions of the Managing Director during the period of absence or disability.

Functions and duties of Managing Director

20. (1) Subject to the directions on matters of policy as may be given by the Board, the Managing Director shall be responsible for—

- (a) the day-to-day management of the affairs of the Commission;
- (b) the discharge of the Board's functions and the exercise of its powers;
- (c) the licensing of gaming employees; and
- (d) the discharge of such functions and exercise of such powers as may be assigned to, or conferred on him by this Ordinance, or that may be delegated to him by the Board.

(2) The Managing Director may delegate to any senior officer of the Commission, any powers that he is authorised to exercise under this Ordinance.

(3) The Managing Director shall not have a pecuniary interest in any business entity that holds a licence under this Ordinance, or that does business with any person licensed under this Ordinance.

(4) The Managing Director shall make available at the request of the Board all documents, files, and other records pertaining to the operation and administration of the Commission and the regulation of gaming.

(5) The Managing Director shall prepare and make available to the Board each month, a complete and accurate accounting of gross gaming revenues, and all other relevant financial information, including an accounting of all transfers made from the funds of the Commission.

Staff of Commission

21. (1) The Board shall appoint the Deputy Director and the senior officers of the Commission and the Managing Director shall appoint such officers and employees as may be necessary for the proper discharge of the functions of the Commission.

(2) The terms and conditions of the staff of the Commission shall be determined by the Board, in consultation with the Minister.

(3) The Commission shall employ and assign inspectors to carry out such functions as are specified in this Ordinance.

(4) In order to maintain employment as an inspector, the inspector shall successfully complete all continuing training programmes required by the Commission and shall not have been convicted of or pleaded guilty to a criminal offence.

Secretary

22. (1) There shall be a Secretary of the Board who shall be appointed by the Managing Director on such terms and conditions as may be specified in the instrument of appointment.

(2) The Secretary shall, in addition to any function that is assigned to him by the Board or the Managing Director—

- (a) attend all meetings of the Board but shall not vote on any matter or question before the Board;
- (b) prepare minutes of the meetings of the Board;
- (c) keep a record of the proceedings and decisions of the Board;
- (d) receive applications for licences for and on behalf of the Board and Commission and review whether they are in order before submitting to the Board or Commission for review; and
- (e) attend to other duties as the Chairperson may require.

(3) In the absence of, or vacancy of the position of Secretary, the Managing Director may appoint any member of the staff of the Commission to perform the functions of the Secretary, until the Secretary resumes office or the vacancy is filled, as the case may be.

(4) In the performance of his duties, the Secretary shall be responsible to the Managing Director.

(5) The Managing Director may, with the approval of the Board, in writing, terminate the appointment of the Secretary, on such grounds referred to in the instrument of appointment.

Division 4 — Financial provisions

Funds of Commission

23. (1) The Funds of the Commission shall consist of—

- (a) sums of moneys as may be appropriated by the House of Assembly for the purposes of the Commission;
- (b) licence fees and others fees that the Commission may charge for services rendered by it;
- (c) moneys derived from taxes paid under this Ordinance;
- (d) moneys derived from any fines or administrative penalties, forfeitures of property to which the Commission may be entitled; and
- (e) any other moneys to which it may be entitled under this Ordinance.

(2) The Commission shall set aside specific funding which shall be used for the purposes of a programme to deal with problem gambling and addictions, and the money shall be used for treatment of problem gambling and substance abuse, and for related research.

Financial year

24. The financial year of the Commission shall be a period of twelve months commencing from 1 of April and ending on 31 March of every year.

Annual report, accounts and audit

25. (1) The provisions of the Public Finance Management Ordinance and the National Audit Ordinance in relation to the preparation of estimates, accounts and audits and reporting of a statutory body shall apply to the Commission.

(2) In addition to submitting a report of its governance arrangements and finances as required by the Public Finance Management Ordinance, the Commission shall prepare a written report of its activities and operations during the last preceding year and furnish that report to the Minister within six months after the end of each financial year.

(3) The report referred to under subsection (2) shall cover the previous fiscal year and include—

- (a) a statement describing the receipts and disbursements of the Commission;
- (b) relevant financial data regarding gaming, including gross revenues and disbursements made under this Ordinance;
- (c) actions taken by the Commission;
- (d) an update on gaming operators', management companies' and holding companies' problem gambling plans, the Commission's problem gambling prevention and treatment programmes and the voluntary exclusion programme and exclusion list;
- (e) information regarding prosecutions for conduct; and
- (f) any additional information that the Commission considers useful or that the Minister requests.

Commission Reserve Fund

26. (1) The Commission shall build up and maintain a reserve of funds equal to expenditure of the Commission for a period of three months, and such reserve shall be placed on deposit in such reputable bank or financial institution as the Commission may from time to time determine.

(2) The moneys in the Fund shall be used to fund the Commission and its related affairs, including funds necessary to enforce this Ordinance to ensure the integrity of gaming.

(3) The Commission shall expend money from the reserve fund only for the purposes of the Commission.

(4) If, on the last working day of any quarter within a financial year, the monies standing to the credit of the reserve fund exceed the expected three months of the annual budgeted recurrent expenditure needs of the Commission, the Commission shall, within fourteen days of the last working day of the quarter, pay a sum equal to the excess to the government for payment into the Consolidated Fund.

PART III

LICENSING

Division 1 — Licensing general

Prohibition of conducting gaming without licence

27.(1) A person shall not conduct or participate in conducting gaming or offer products or services relating to the conduct of gaming unless the person holds a valid licence issued by a licensing authority under this Ordinance.

(2) A person who contravenes this section commits an offence and is liable on conviction on indictment to a fine of \$150,000 or to a term of imprisonment of five years, or to both.

Application for licence

28. (1) A person may apply to a licensing authority for a licence.

(2) An application for a licence under this Ordinance shall—

(a) be made under oath in the prescribed form; and

(b) be accompanied by a non-refundable application fee as set out in Schedule 1 or as may be prescribed.

(3) An application fee shall include the licensing processing costs and the costs for an investigation.

(4) Where the costs for an investigation are in excess of the fee paid, the Commission may require the applicant to pay the amount in excess, as the Commission will determine.

(5) An application shall contain such information as may be prescribed, which shall include—

(a) the name, business address, business telephone number, status card number or national insurance number, and, where applicable, the tax identification number of any applicant;

(b) the identity of every person having a greater than 5% direct or indirect interest in the applicant for which the licence is sought;

(c) an identification of any business, including the jurisdiction of incorporation or registration if applicable, in which an applicant, or the spouse or children of an applicant (where the applicant is a

- key employee), has an equity interest of more than 5%;
- (d) the name of any gaming operator, management company, holding company, and gaming-related vendor in which the applicant has an equity interest of at least 5%;
 - (e) if an applicant has ever applied for or has been granted any gaming licence or certificate issued by a licensing authority in any jurisdiction that has been refused, suspended, revoked, or not renewed, a statement describing the facts and circumstances concerning the application, refusal, suspension, revocation, or non-renewal, including—
 - (i) the name of the licensing authority;
 - (ii) the date each action was taken; and
 - (iii) the reason for each action;
 - (f) if an applicant has ever filed or had filed against it a civil or administrative action or proceeding in bankruptcy, information relating—
 - (i) to the date of filing;
 - (ii) to the name and location of the court; and
 - (iii) the case caption, docket number and the disposition;
 - (g) the name and business telephone number of any attorney representing an applicant in matters before the Commission;
 - (h) information concerning the amount, type of tax, the taxing agency, and times involved, if the applicant has filed or been served with a complaint or notice filed with a public body concerning a delinquency in the payment of, or a dispute over, a filing concerning the payment of a tax required under the law of any jurisdiction;
 - (i) a description of any proposed gaming operation and related gaming enterprises, including—
 - (i) the type of gaming facility;
 - (ii) location of the gaming facility;
 - (iii) expected economic benefit to the community; and
 - (iv) the anticipated or actual number of employees;

- (j) any statement from an applicant regarding compliance with—
 - (i) projected or actual admissions;
 - (ii) projected or actual gross receipts; and
 - (iii) scientific market research;
- (k) financial information in such manner and form as may prescribed;
- (l) any criminal conviction; and
- (m) other information required by the Commission as may be prescribed.

(6) Any holding company or management company, its directors, executive officers, members, managers, and any shareholder who holds more than 5% ownership interest of a holding company or management company shall be required to comply with the same information submission requirements as an applicant for the same category of licence as the holding company or management company.

Licence fees

29. (1) A non-refundable licence fee for each category of licence shall be paid before a licence is issued.

(2) The licence fee for each licence category is set out in Schedule 2.

(3) The Commission may by regulations—

- (a) prescribe additional licensing fees not set out in Schedule 2;
- (b) establish other licence categories and application fees as it deems necessary; and
- (c) prescribe annual fees and fees for the renewal of a licence.

(4) If an applicant for a licence as a management company or holding company is related through a joint venture or controlled by or under common control with another applicant for a licence as a gaming operator, management company, or holding company for the same gaming facility and the applicant for a licence as a management company or holding company was reviewed for suitability as part of the investigation of the gaming operator, only one licence fee shall be assessed against both applicants for that gaming facility.

(5) If the licence is being sought at the request of a gaming operator, the fees shall be paid by the gaming operator.

Delegation of powers of licence to Managing Director

30. The Board may delegate to the Managing Director, the authority to issue licences for employees of the gaming operation or gaming supplier that are not involved in the ownership, control or management of the gaming operation or gaming manufacturing enterprise.

Matters to consider for issue of licence for gaming

31. (1) A licensing authority shall not issue a licence for gaming unless he or it is satisfied that the applicant meets the requirements of the licence applied for, and is a suitable and qualified person to be licensed to conduct or participate in conducting gaming or offer products or services relating to the conduct of gaming.

(2) In determining whether an applicant is suitable, the licensing authority shall consider, where applicable—

- (a) the reputation, experience, and financial integrity of the applicant, its holding company, if applicable, and any other person that directly or indirectly controls the applicant;
- (b) the financial ability of the applicant to purchase and maintain adequate liability and casualty insurance and to provide an adequate surety bond;
- (c) the past and present compliance of the applicant and its affiliates or affiliated companies with gaming-related licensing requirements in the Islands or any other jurisdiction, including whether the applicant has a history of non-compliance with the gaming licensing requirements of any jurisdiction;
- (d) if the applicant has been charged with, convicted, pleaded guilty, or forfeited bail concerning any criminal offence under the laws of any jurisdiction, not including a traffic offence;
- (e) if the applicant has filed, or had filed against it a proceeding for bankruptcy or has ever been involved in any formal process to adjust, defer, suspend, or otherwise work out the payment of any debt;
- (f) if the applicant has been served with a complaint or other notice filed with any public body regarding a payment of any tax required under any law in any jurisdiction, where the applicant has been in breach for one or more years;

- (g) if the applicant is or has been a defendant in litigation involving its business practices;
- (h) if awarding a licence would undermine the public's confidence in the gaming industry in the Islands;
- (i) whether the applicant has demonstrated compliance with local zoning rules; and
- (j) if the applicant meets other prescribed standards for the issuance of a licence.

(3) An applicant for a licence under this Ordinance shall establish his or its suitability for a licence by clear and convincing evidence.

(4) A licensing authority shall not issue a licence under this Ordinance to an applicant if—

- (a) the applicant has been convicted of a disqualifying offence;
- (b) the applicant has submitted an application for a licence under this Ordinance that contains false information;
- (c) the licensing authority otherwise determines the applicant is ineligible for the licence.

Investigations

32. (1) The Commission shall, on the receipt of an application and before issuing any licence, or before making a finding on any act or transaction of which approval is required by the Commission, cause to be carried out all investigations and inquiries as it considers necessary to enable it to consider the application properly and make an informed decision regarding the application or approval required.

(2) The Commission shall continue to monitor the conduct of all licensees and all other persons having a material involvement directly or indirectly with a gaming operator, management company or holding company to ensure that—

- (a) a licence is not issued to or held by,
- (b) there is not any material involvement with a gaming operator, management company or holding company by,

an unqualified, disqualified, or unsuitable person or a person whose operations are conducted in an unsuitable manner or in unsuitable or prohibited places or locations.

(3) Information provided on the application shall be used as a basis for a thorough background investigation of each applicant.

(4) An applicant and licensee shall consent—

(a) to inspections, searches, and seizures and to the disclosure to the Commission and its agents of confidential records, including tax records, held by any public body, credit bureau, or financial institution; and

(b) to have his handwriting exemplars, photographs, fingerprints taken or provide such, and any information as required under this Ordinance.

(5) The Commission shall conduct a complete investigation on a licensee at least every three years, to determine that the licensee remains in compliance with the requirements of this Ordinance.

(6) Notwithstanding subsection (5), the Commission may investigate a licensee at any time the Commission determines it is necessary to ensure that the licensee remains in compliance with the requirements of this Ordinance.

(7) The licensee shall bear the cost of an investigation, except—

(a) for key employees and gaming employees who are employed by a gaming operator, in which case the gaming operator shall pay the investigation cost; or

(b) for appointees or employees of the Commission.

(8) A gaming operator may, in its discretion, choose to pay the cost of investigations for gaming employee licensees that are not key employees.

Issue of licence

33. (1) A licensing authority shall issue a licence if he or it determines that a person is eligible under this Ordinance to be issued a licence and that all other requirements for the issue of a licence under this Ordinance have been satisfied.

(2) A licence may be issued subject to such conditions as the licensing authority may determine and state in the licence.

Refusal of licence

34. (1) A false or incomplete application is cause for refusal of a licence.

(2) The Commission shall provide a written statement, to each applicant who is refused a licence, that describes the reason for refusal of the licence.

Duration of licence

35. All licences shall be valid for a period of one year, except as may be specified for each type of licence or as may be prescribed.

Licence not transferable

36. (1) A licence issued under this Ordinance is not transferable.

(2) Where there is a new majority ownership interest or control of a licensee, the new owner or person in control of the licensee shall apply for a new licence.

(3) A licensee has no vested right in or under any licence issued under this Ordinance.

(4) For purposes of this section—

“control” means either of the following—

(a) either—

(i) holding 50% or more of the outstanding voting securities of a licensee; or

(ii) for an unincorporated licensee, having the right to 50% or more of the profits of the licensee, or having the right in the event of dissolution to 50% or more of the assets of the licensee; or

(b) having the contractual power presently to designate 50% or more of the directors of a for-profit or not-for-profit company, or in the case of trusts, the trustees of such a trust;

“majority ownership interest” in a licence or in a gaming facility, as the case may be, means ownership of more than 50% of such licence or gaming facility, as the case may be.

Changes in particulars to be notified

37. (1) Where there occurs any change in the particulars respecting the applicant or licensee, set out in the form of application for a licence, an applicant or licensee shall within 30 days of such change notify the Commission in writing of the changes in the particulars.

(2) An applicant or licensee shall additionally and within the time specified in subsection (1), notify the Commission of the following changes—

- (a) any change in the persons who have a controlling interest in the gaming operator, management company, holding company or gaming-related vendor applicant or licensee;
- (b) any change in the persons in accordance with whose directions or instructions the directors of that gaming operator, management company, holding company or gaming-related vendor applicant or licensee are accustomed to act; and
- (c) any change in the persons who are directors of the gaming operator, management company, holding company or gaming-related vendor applicant or licensee.

(3) A person who fails to comply with this section commits an offence and is liable on summary conviction to a fine of \$5,000

Renewal of licence

38. (1) Unless a licence issued under this Ordinance is suspended, revoked or has expired, the licence may be renewed for a further period, as may be prescribed.

(2) An application for the renewal of a licence shall—

- (a) be made to the licensing authority in the prescribed form not later than six months before the date of expiry of the licence;
- (b) be accompanied by the prescribed application fee for renewal; and
- (c) be accompanied by such documents and information as may be required by the Commission regarding that licence.

(3) Sections 28 to 31 shall apply, with the necessary modifications and subject to this section, to an application for the renewal of a licence as they apply to an application of a licence.

Recommendation by Managing Director to Commission

39. The Managing Director may make recommendations to the Board—

- (a) to refuse a licence application;
- (b) to impose a condition on a licence;

- (c) to suspend or revoke a licence or finding; or
- (d) to impose a fine upon any licensee or other person in accordance with this Ordinance.

Report on licence applications

40. The Commission shall provide a report to the Minister not later than 1 April in each calendar year, which report shall specify—

- (a) each type of licence issued under this Ordinance;
- (b) the number of applications made in the preceding calendar year for each type of such licence; and
- (c) the number of applications denied in the preceding calendar year for each type of such licence.

Division 2 — Categories of gaming related licences

Categories of licences

41. (1) The categories of licences which may be issued under this Ordinance are—

- (a) a class A-integrated resort casino operator's licence;
- (b) a class B-stand-alone casino operator's licence;
- (c) a slot parlour licence;
- (d) a gaming route licence;
- (e) an electronic bingo licence;
- (f) a sports betting licence;
- (g) an internet gaming operator's licence
- (h) a lottery operator's licence;
- (i) a proxy lottery operator's licence;
- (j) a suppliers licence;
- (k) a route operator licence;
- (l) a gaming related-vendor licence;
- (m) a charitable gaming or special game of chance licence;
- (n) an international market agent operator's licence;
- (o) an international market agent representative licence; and

(p) such other category of licences as may be prescribed.

(2) All categories of licences under subsection (1) are reserved licences, other than a class A-integrated resort casino licence.

Division 3 — Gaming operation, facility and gaming licences

Casino operator's licence

42. (1) There shall be two classes of casino licences, namely—

- (a) a class A-integrated resort casino operator's licence; and
- (b) a class B-stand-alone casino operator's licence.

(2) Subject to subsection (4), a class A-integrated resort casino operator's licence—

- (a) requires a capital investment of at least \$150,000,000;
- (b) must include a diverse mix of non-gaming amenities such as restaurants, retail shopping, convention centres, museums, spas and recreational club facilities; and
- (c) requires that a casino facility must be integrated with at least fifty hotel rooms and may contain any number of table games and slot machines that are approved by the Board.

(3) Subject to subsection (4), a class B-stand-alone casino operator's licence—

- (a) requires a capital investment of at least \$8,000,000;
- (b) shall include food and beverage services and recreational club facilities meeting the prescribed standards; and
- (c) requires that a casino facility may contain any number of table games and slot machines that are approved by the Board.

(4) Notwithstanding subsections (2) and (3), for areas that are considered blighted, damaged by weather or toxic materials or are otherwise believed to be difficult for development, regulations may prescribe for lower requirements with regards to

a lower capital investment and conditions listed in those subsections.

(5) The Board shall consider the amount of the investment, the quality of the facility and the non-gaming amenities it provides when considering the number of table games and slot machines to be approved for the facility.

(6) A casino licence shall be valid for a period of ten years and is subject to renewal.

Slot parlour licence

43. (1) A slot parlour licence—

- (a) requires food and beverage services which shall meet the prescribed standards; and
- (b) is limited to one hundred gaming positions which may consist of slot machines or electronic table games.

(2) The number of gaming positions for each slot machine and electronic table game shall be determined by the Board.

(3) In determining the number of machines and table games in subsection (2), the Board may consider—

- (a) the amount of the investment in the facility;
- (b) the size and quality of the facility; and
- (c) the number of jobs created by the gaming operation in addition to other criteria established by the Board.

Requirements for licensed Class A or Class B casino operator or slot parlour gaming operator

44. (1) Before a licensed class A-integrated resort casino operator's licence and a class B-stand-alone casino operator's licence or slot parlour operator may conduct gaming at a facility, the licensee shall engage a third-party engineering and accounting firm to certify expenses of its initial investment and provide such documentation to the Board.

(2) The third-party engineering or accounting firm shall be approved by the Board and shall certify expenses in accordance with the regulations.

Gaming route licence

45. (1) A gaming route licence may be issued to the owner of a premises that—

- (a) provides food and beverage services meeting the standards set by the Board; and
 - (b) is limited to a minimum of four and a maximum of ten slot machines.
- (2) The number of slot machines allowed will be determined by the Board and shall be based in part on—
- (a) the amount of the investment in the facility; and
 - (b) the size and quality of the facility.

Route operator's licence

46. (1) A route operator's licence may be issued to a person who wishes to supply, maintain and manage licensed gaming route locations through a contract agreement approved by the Board.

(2) A route operator licensee may contract out the function of the licence, but shall not transfer the responsibilities of the licence specified in subsection (5).

(3) The contract referred to in subsection (2) shall be approved by the Board before it is finalised by the route operator.

(4) A route operator shall be limited to forty gaming machine route contracts unless otherwise approved by the Board.

- (5) A route operator shall take full responsibility for—
- (a) financial reporting of aspects of route operation required by the Commission;
 - (b) service and maintenance of gaming route operation, gaming equipment and associated equipment according to the prescribed standards;
 - (c) payment of taxes due for the route operation;
 - (d) resolving patron disputes as required by the Commission;
 - (e) payment of winnings according to the prescribed standards; and
 - (f) any other requirement as may be prescribed.

Electronic bingo licence

- 47.** (1) An electronic bingo licence—
- (a) requires food or beverage services, and live entertainment and permits only electronic bingo gaming devices, subject to the approval of the Board; and

(b) the building structure shall be of elegant design approved by the Board and must be at least 5500 square feet.

(2) An electronic bingo licence is limited to one licence per Island and shall be reserved for Islanders.

(3) An electronic bingo licence shall be issued following a transparent procurement process.

(4) The Board shall use the relevant procurement method under the Public Procurement Ordinance to select a person who is suitable and qualified to be issued an electronic bingo licence.

Sports Betting licence

48. (1) A sports betting licence shall only be permitted in a licensed casino, slot parlour or sports bar.

(2) There shall be one stand-alone sports bar per island and only one licence shall be issued at a time for a stand-alone sports bar, per island.

(3) A stand-alone sports betting licence shall be issued following a transparent procurement process.

(4) The Board shall use the relevant procurement method under the Public Procurement Ordinance to select a person who is suitable and qualified to be issued a sports betting licence.

(5) A sports bar must be 4000 square feet or more in size.

(6) To qualify, the building structure must provide a comfortable venue and an environment to view televised sporting events offering food or beverage services.

Additional provisions—Gaming operators

Additional considerations for gaming operators

49. In determining whether to issue a gaming operator's licence, the Board shall also consider—

(a) the quality and sufficiency of the facility or proposed facility for the conduct of gaming;

(b) the impact on job creation, which shall take into account—

(i) jobs created by the new gaming facility;

(ii) possibility of job loss by existing gaming operators;

- (iii) jobs potentially created or lost in other industries as a result of the proposed gaming facility; and
- (iv) quality of jobs created and potentially lost;
- (c) the alignment of the facility or proposed facility with the Islands tourism strategy;
- (d) the extent to which the proposed facility improves a blighted or difficult to develop area of the Islands;
- (e) the impact of the proposed gaming facility on the quality of the community and business environment in the Islands;
- (f) the gaming experience of the proposed operator;
- (g) the financial resources of the proposed operator to develop the facility in accordance with the proposed plan for the facility and requirements of the Board;
- (h) the prospective total revenue to be collected by the government from the conduct of gaming; and
- (i) the extent to which the applicant exceeds or meets other prescribed standards.

Requirement for liquor licence

50. All licensees providing beverage services who will be selling intoxicating liquor will require a liquor licence issued under the Liquor Licensing Ordinance.

Surety bond for gaming operator

51. (1) Before a licence is issued to a gaming operator, the gaming operator shall post, and thereafter shall maintain, a surety bond in the amount established by the Board, which amount shall not exceed \$2,000,000.

(2) The bond shall be issued by a surety that is licensed to do business in the Islands, and shall be approved by the Board.

(3) The total aggregate liability of the surety on the bond is limited to the amount specified in the bond.

(4) The surety shall not cancel the bond unless the surety has given the Board—

- (a) in the event of non-payment of premium, ten days' notice of the intention to cancel; and

(b) in the event of any other cause, thirty days' notice of the intention to cancel.

(5) If the bond is to be cancelled, and if the gaming operator fails to post and maintain a new surety bond in the specified amount on or before the day of cancellation, the gaming operator's licence shall be revoked and not subject to appeal.

Division 4 — Internet gaming

Internet Gaming Operator's licence

52. (1) The Board shall issue a licence to conduct internet gaming through a competitive bidding process and shall award such number of licences, as the Board will determine.

(2) In determining whether to issue an internet gaming operator's licence, the Board shall consider—

- (a) the technology used to conduct internet gaming;
- (b) the solution proposed to prevent internet gaming by minors;
- (c) the network security solution proposed by the applicant;
- (d) the coordination of the internet gaming operation with the applicant's land-based gaming operation;
- (e) the impact of the proposed internet gaming operation on the gaming sector;
- (f) the number of jobs projected to be created directly and indirectly by the proposed internet gaming operation;
- (g) the impact of the proposed internet gaming operation on the quality of the community and business environment in the Islands;
- (h) the prospective total revenue to be collected by the government from the proposed internet gaming operation; and
- (i) the extent to which the applicant exceeds or meets other prescribed standards.

Conditions for acceptance of internet wagers

53. (1) A licensed gaming operator who holds an internet gaming operator's licence may accept internet gaming account wagers only as follows—

- (a) where the account wager is placed directly by the holder of the wagering account and the licensee has verified the account holder's physical presence; and
- (b) from persons whom the licensee determines that their wagering is not inconsistent with the law of the jurisdiction where such person is located, or such wagering is conducted in accordance with a reciprocal agreement as authorised by this Ordinance.

(2) The account holder placing the account wager shall provide the licensee with the correct authentication information for access to the wagering account.

(3) A licensee shall not accept an account wager—

- (a) in an amount in excess of funds on deposit in the wagering account of the holder placing the wager; or
- (b) from a minor or a person listed on the exclusion list maintained by the Commission.

(4) A licensee shall provide a mechanism by which a holder of a wagering account may establish the following controls on wagering activity through the wagering account—

- (a) a limit on the amount of money deposited within a specified period of time and the length of time the holder will be unable to participate in gaming if the holder reaches the established deposit limit; and
- (b) a temporary suspension of internet gaming through the account for any number of hours or days.

(5) A licensee shall not send gaming-related communications to an account holder while gaming through his wagering account is suspended, if the suspension is for at least 72 hours, without obtaining a waiver in writing from the Board.

(6) Subject to subsection (7), a licensee shall provide a mechanism by which an account holder may change the controls established under subsection (4).

(7) An account holder shall not change gaming controls while the wagering account is suspended, but the account holder shall continue to have access to the account and shall be permitted to withdraw funds from the account, on application to the licensed gaming operator.

Inter-jurisdictional agreements for purposes of internet gaming

54. (1) On the recommendation of the Board, the Minister, on behalf of the government of the Turks and Caicos Islands, is authorised to—

- (a) enter into agreements, in accordance with the requirements of this section, with other governments, through which persons who are physically located in a signatory jurisdiction may participate in internet gaming conducted by one or more operators licensed by one or more of the signatory governments; and
- (b) take all necessary actions to ensure that any agreement entered into in accordance with this section becomes effective.

(2) The Minister shall not enter into an agreement unless the agreement includes provisions—

- (a) for any potential arrangement for the sharing of revenues by the Government of the Turks and Caicos Islands and another government;
- (b) that permits the effective regulation of internet gaming by the government of the Turks and Caicos Islands, including—
 - (i) provisions relating to licensing;
 - (ii) the technical standards to be followed;
 - (iii) resolution of disputes by patrons; and
 - (iv) requirements for bankrolls, enforcement, accounting and maintenance of records;
- (c) that each government that is a signatory to the agreement agrees to prohibit operators of internet gaming, service providers and manufacturers or distributors of internet gaming systems from engaging in any activity permitted by the agreement unless such operators of internet gaming, service providers or manufacturers or distributors of interactive gaming systems are licensed or found suitable—
 - (i) in the Islands; or
 - (ii) in the signatory jurisdiction, in accordance with requirements that are materially consistent with the corresponding

requirements of the Government of the Turks and Caicos Islands;

- (d) that no variation or derogation from the requirements of the agreement is permitted for any signatory government without the consent of the Government of the Turks and Caicos Islands and all signatory governments;
- (e) that prohibits any subordinate or side agreements, except those concerning sharing of revenues among any subset of governments that are signatories to the agreement; and
- (f) that, if the agreement allows persons physically located in the Islands to participate in internet gaming conducted by another government or an operator of internet gaming licensed by another government, require that government to establish and maintain regulatory requirements governing internet gaming that are materially consistent with the requirements of the Government of the Turks and Caicos Islands in all material respects.

Division 5 —Lotteries

Lottery Operator's licence

55. (1) A lottery operator's licence may be issued by the Board following a transparent procurement process.

(2) The Board shall use the relevant procurement method under the Public Procurement Ordinance to select a person who is suitable and qualified to be issued a lottery operator's licence.

(3) Only one lottery operator's licence shall be issued at a time.

(4) A lottery operator's licence shall be valid for ten years and is not subject to renewal.

(5) The Board shall rebid a lottery operator's licence every ten years.

(6) A lottery operator's licence may be suspended or revoked for failing to meet the prescribed performance and integrity criteria.

(7) Where a lottery operator's licence is revoked, the Commission shall follow the procurement process to issue another licence.

Proxy lottery operator's licence

56. (1) A proxy lottery operator's licence is required by a business that intends to sell the right to collect the proceeds of winning lottery tickets purchased in a jurisdiction outside of the Islands.

(2) A proxy lottery operator's licence may be issued to an Islander to conduct—

- (a) online gambling games and online betting on the numbers games; and
- (b) over the counter betting on the numbers games as may be prescribed.

(3) Only five proxy lottery operator's licences may be issued at a time and each licence shall limit the operator to one facility per island.

(4) A proxy lottery agent licence may be issued to a person who is to serve as an agent of a proxy lottery operator licensee.

Issue of lottery or proxy lottery operator's licence; additional considerations

57. In determining whether to issue a lottery operator's licence or proxy lottery operator's licence, the Board shall also consider—

- (a) the technology used to conduct the lottery or proxy lottery;
- (b) the internal audit capabilities of the applicant to conduct the lottery or proxy lottery;
- (c) the payout structure proposed by the applicant to conduct the lottery or proxy lottery;
- (d) the impact of the proposed lottery or proxy lottery operation on the gaming sector;
- (e) the number of jobs projected to be created directly and indirectly by the proposed lottery or proxy lottery operation;
- (f) the impact of the proposed lottery or proxy lottery operation on the quality of the community and business environment in the Islands;
- (g) the legal status of the proposed proxy lottery operation in any jurisdiction included in the business plan, which the applicant submits to the Commission;

- (h) the prospective total revenue to be collected by the government from the conduct of the games proposed to be offered by the applicant to conduct the lottery or proxy lottery;
- (i) which lottery operator would serve the best interests of the residents of the Islands; and
- (j) the extent to which the applicant exceeds or meets other prescribed standards.

*Division 6 — Supplier and gaming equipment related licences
and key person*

Supplier's licence

58. (1) A supplier's licence is required to sell and distribute gaming equipment in the Islands.

(2) Criteria and further provisions for gaming equipment which shall be supplied under the supplier's licence shall be prescribed by regulations.

Gaming-related vendor licence

59. (1) A person may apply for a gaming-related vendor licence.

(2) A person who holds a gaming-related vendor's licence is authorised to—

- (a) sell or lease, and to contract to sell or lease, equipment and supplies to any licensee involved in the ownership or management of a gaming facility; and
- (b) provide services related to the operation of any gaming facility or in relation to the installation, maintenance, operation, configuration, hosting or servicing of any equipment or software relating to the operation, security or accounting of gambling games.

(3) Gambling supplies and gaming-related equipment shall not be distributed unless supplies and equipment conform to the prescribed standards.

Issue of gaming-related vendor's licence

60. The Board may issue a gaming-related vendor's licence to an applicant who or which has—

- (a) applied for a gaming-related vendor's licence;

- (b) provided the Board with all information requested by the Board;
- (c) paid a non-refundable application fee and licence fee, which shall cover the estimated cost of regulating the licensee and all background checks; and
- (d) been determined by the Board as eligible for a gaming-related vendor's licence.

Monitoring and enforcement of gaming-related vendor licence

61. (1) A gaming-related vendor shall furnish to the Board, a list of all equipment, devices and supplies offered for sale or lease in connection with games authorised under this Ordinance.

(2) A gaming-related vendor's equipment, devices, or supplies that are used by a person in an unauthorised gaming operation shall be forfeited to the Commission.

Key person licence

62. (1) The Board may issue a licence to a key person which the Board determines has material involvement in the ownership, management, control or operations of any licensee under this Ordinance.

(2) Further provisions relating to the licensing of key persons may be prescribed.

Division 7 —Charity gaming

Charitable gaming or special game of chance licence

63. (1) A charitable gaming or special game of chance licence is required to be obtained from the Managing Director for any scheme that includes the elements of prize, consideration and chance where a person pays something of value to play a game of chance with the opportunity to win a prize.

(2) A licence under this section may only be issued to a charitable organisation which meets the prescribed standards.

Considerations for charitable gaming or special game of chance

64. In determining whether to issue a charitable or special game of chance licence, the Managing Director shall also consider—

- (a) the nature of the charitable purpose for which the proceeds of gaming will be used;
- (b) the history of the charitable enterprise;
- (c) the experience of the charity in operating the proposed games;
- (d) the audit programme proposed by the charity; and
- (e) the extent to which the applicant exceeds or meets other prescribed standards.

Division 8 — International market agent and representative

Licensing of international market agent

65. (1) Subject to section 66(2), a person shall not perform any of the functions of an international market agent unless that person holds a valid licence issued by the Board to be an international market agent or an international market agent representative.

(2) The two types of licences to be issued for an international market agent are—

- (a) an international market agent operator's licence which is required by an individual or business entity which provides the services under section 64; or
- (b) an international market agent representative licence which is required—
 - (i) by an individual who is an employee of an international market agent; or
 - (ii) by an individual who is an employee of a casino operator who shall serve as an in-house international market agent.

(3) The Board may issue an international market agent operator's licence or international market agent representative licence if it is satisfied that the prescribed criteria is met.

Functions of international market agent

66. (1) The functions of an international market agent are—

- (a) to supply or organise transportation, or lodgings in relation to one or more gaming operator marketing arrangements;
- (b) to organise or conduct a casino, internet gaming or other gaming facility marketing arrangement;

(c) to give chips on credit to any patron participating in a casino, internet gaming or other gaming facility marketing arrangement; or

(d) such other function related to a casino, internet gaming or other gaming facility marketing arrangement as may be prescribed.

(2) Regulations may specify any persons or class of persons who are not required to be licensed as an international market agent or an international market agent representative.

Directions relating to international market agent operator's licence

67. (1) The Board may give a written direction to a casino, internet gaming or other gaming operator or a licensed international market agent, that relates to the organisation or conduct of a casino, internet gaming or other gaming facility marketing arrangement, including a direction relating to the maximum commission or other payment which may be paid by any casino, internet gaming or other gaming operator to a licensed international market agent for organising or conducting the marketing arrangement.

(2) A licensee who fails to comply with any direction under subsection (1) shall be liable to disciplinary action.

Suspension or revocation of International Market Agent licence

68. Notwithstanding any provision of this Ordinance, in any case where it appears to be necessary to the Board to prevent any threat to the security of the public or of gaming operations, the Board may, subject to the person being given the opportunity to be heard—

(a) suspend a licensed international market agent or licensed international market agent representative, pending the conclusion of any investigation or disciplinary proceedings against that licensed international market agent or licensed international market agent representative; or

(b) if the Board thinks it necessary in the public interest that the licensed international market agent or licensed international market agent representative should immediately cease to perform any function concerning any gaming marketing arrangement, revoke the licence of that

international market agent or international market agent representative.

Offences and penalties for International Market Agent licence

69. (1) A gaming operator who allows the organisation or conduct of, or is a party to, any gaming marketing arrangement with an unlicensed international market agent shall be liable to disciplinary action.

(2) The Commission may give a written direction to a casino, internet gaming or other gaming operator to cease any further business association with an unlicensed international market agent.

(3) A casino, internet gaming or other gaming operator who fails to comply with a direction given under subsection (2) shall be liable to disciplinary action.

Division 9 — Personnel licensing

Key employee

Key employee licence

70. (1) A person shall not be employed as a key employee of a gaming operator, management company or holding company unless the person is the holder of a valid key employee licence issued by the Board.

(2) A person shall not be employed as a key employee of a gaming-related vendor unless that person—

- (a) is the holder of a valid key employee licence issued by the Board; or
- (b) the person, at least five business days prior to the first day of employment as a key employee, has filed a notification of employment with the Board and subsequently files a completed application for a key employee licence within the first thirty days of employment as a key employee.

(3) An applicant for a key employee licence must satisfy the criteria and requirements for such licence as may be prescribed.

Provisional licence

71. (1) A licensing authority may, pending a decision on an application for a key employee or gaming employee licence, grant the applicant a provisional licence.

(2) A provisional licence is subject to any conditions or restrictions of which the provisional licensee is notified by the licensing authority when issuing the licence.

(3) A provisional licence shall be valid not longer than three months.

(4) A provisional licence may be renewed once, at the discretion of the licensing authority, for an additional two months

(5) A provisional licence may be cancelled by the licensing authority at any time and, unless sooner surrendered or cancelled, ceases to have effect on the approval or refusal of the provisional licensee's application for a licence.

(6) An applicant shall, during the period he holds a provisional licence, process an application for a work permit under the Immigration Ordinance and submit to the licensing authority the work permit or a letter of intent from the work permit board stating that subject to his obtaining a gaming licence, a work permit will be issued to the applicant.

Requirements for key employee licence

72. (1) An applicant shall, before the issue of any key employee licence, produce such additional information, documentation, and assurances as are required by the Board.

(2) In addition, an applicant shall, in writing, authorise the examination of all his bank accounts and records as may be required by the Board.

(3) An applicant shall disclose the following information on application—

- (a) whether or not the applicant has been issued a gambling related licence before;
- (b) whether or not the applicant has been licensed in any other jurisdiction under another name, and, if so, the name under which the licence was issued and the applicant's age at the time the licence was issued;
- (c) any criminal conviction the applicant has had; and
- (d) whether or not a permit or licence issued to the applicant in any other jurisdiction has been

suspended or revoked, and, if so, the cause and the duration of each action.

(4) The applicant shall also complete a cover sheet for the application on which the applicant shall disclose—

- (a) the applicant's name;
- (b) the business address of the gaming operator, management company or holding company; or
- (c) if it is a gaming-related vendor employing the applicant, the business address and telephone number of such employer; and
- (d) the jurisdiction in which the applicant's residence is located.

(5) An applicant shall submit with each application, two sets of fingerprints and a photograph.

Termination of key employee licence

73. (1) A gaming operator, management company or holding company which has employed a person as a key employee shall terminate the person's employment in any capacity requiring a licence under this Ordinance and shall not in any manner permit the person to exercise a significant influence over the operation of a gaming facility if—

- (a) the person does not receive a key employee licence—
 - (i) within three months of being issued a provisional licence, as prescribed; or
 - (ii) or within two months following the renewal of a provisional licence;
- (b) the person's application for a key employee licence is refused by the Board; and
- (c) the person's key employee licence is revoked by the Board.

(2) The Board shall notify the gaming operator, management company or holding company who employs such a person in writing of any finding, refusal, suspension or revocation.

(3) A gaming operator, management company or holding company, without the approval of the Board, shall not enter into any contract or other agreement—

- (a) with a person—

- (i) who has been found unsuitable;
- (ii) who has been refused a licence; or
- (iii) whose licence has been suspended or revoked under this section; or
- (b) with any business enterprise under the control of a person, after the date on which the gaming operator, management company or holding company receives notice under this section.

Gaming employee

Gaming employee licence

74. All employees involved in the operation of a gaming facility, internet gaming operation, mobile gaming operation or charity games are required to have a gaming employee licence.

Categories of gaming employee licences

75. (1) The Commission may establish the following categories of gaming employee licences—

- (a) casino gaming employee level I, which may include, management level employees or employees with critical fiscal or security responsibilities relating to the operation of a casino;
- (b) casino gaming employee level II, which may include the following and their supervisors—
 - (i) individuals involved in operating a casino gaming pit, including dealers, shills, clerks, hosts and in-house international market agent representatives;
 - (ii) individuals involved in handling money, including cashiers, change persons, count teams and coin wrappers;
 - (iii) individuals involved in operating gambling games;
 - (iv) individuals involved in operating and maintaining slot machines, including mechanics, floor persons and change and payoff persons;
 - (v) individuals involved in security, including guards and game observers;

- (c) internet gaming employee level I, which may include, management level employees or employees with critical fiscal or security responsibilities relating to the operation of internet gaming;
- (d) internet gaming employee level II, which may include the following and their supervisors—
 - (i) individuals involved in the operation, sale, distribution, warehousing, storage, purchasing, or transportation of internet gaming equipment or associated equipment;
 - (ii) individuals involved in the fiscal affairs of operating an internet game or handling of money related to the operation of any internet game;
 - (iii) individuals involved in the operation or maintenance of equipment used in the operation of an internet gaming operation;
 - (iv) individuals involved in the security or auditing of internet games; and
 - (v) other individuals involved, directly or indirectly, in the operation of internet games;
- (e) lottery and proxy lottery gaming employee level I, which may include, management level employees or employees with critical fiscal or security responsibilities relating to the operation of a lottery;
- (f) lottery and proxy lottery gaming employee level II, which may include the following and their supervisors—
 - (i) individuals involved in the operation, sale, distribution, warehousing, storage, purchasing, or transportation of lottery games or tickets, equipment or other implements used in the conduct of lottery games;
 - (ii) individuals involved in the fiscal affairs of operating a lottery game or handling of money related to the operation of any lottery game;
 - (iii) individuals involved in the operation or maintenance of equipment used in the operation of a lottery game;
 - (iv) individuals involved in the security or auditing of lottery games; and

- (v) other individuals directly or indirectly involved in the operation of lottery games; and
- (g) charity gaming employee, which may include the following and their supervisors—
 - (i) individuals directly involved in the conduct of charity games; and
 - (ii) individuals involved in the fiscal affairs of operating a charity game or handling of money related to the operation of any charity game.

(3) A gaming employee licence may be required by individuals with duties similar to those described in subsection (2)(a) to (g) or by other persons as the Commission may prescribe.

(4) For purposes of this section “gaming employee” does not include an individual whose duties are related solely to nongaming activities such as entertainment, hotel operation, maintenance, or preparing or serving food and beverages.

(5) Notwithstanding subsection (4), an employee who has access to a gaming floor is required to have a gaming employee licence.

Requirements for gaming employee licence

76. (1) An applicant shall be at least twenty-one years of age to be eligible for a gaming employee licence.

(2) The applicant shall set forth in the application—

- (a) whether or not the applicant has been issued prior gambling-related licences;
- (b) whether or not the applicant has been licensed in any other jurisdiction under any other name, and, if so, the name under which the licence was issued and the applicant's age at the time the licence was issued;
- (c) any criminal conviction the applicant has had; and
- (d) whether or not a permit or licence issued to the applicant in any other jurisdiction has been suspended or revoked, and, if so, the cause and the duration of each action.

(3) An applicant shall submit with each application, two sets of the applicant’s fingerprints and a photograph.

Issue of gaming employee licence

77. The Managing Director may issue a gaming employee licence to an applicant after he has determined that the applicant is eligible for a licence and has satisfied the requirements of this Ordinance.

Temporary gaming employee licence

78. (1) A gaming operator who regularly throughout each year employs persons not legally and ordinarily resident in the Islands on a temporary basis to provide technical services, may make a single application in each calendar year to the Commission for the issue, in each calendar year, of one or more temporary licences, and for more than one visit.

(2) An application for a temporary gaming employee licence shall be for any number of persons and visits as the gaming operator wishes to have a licence issued to, and shall contain for each person, such information as may be prescribed.

(3) A temporary gaming employee licence shall not be issued for a period exceeding seven days on any one visit.

(4) The Commission may issue a temporary licence for a single visit or a licence for multiple visits.

(5) An application fee for a temporary gaming employee licence shall be such amount as may be prescribed.

PART IV

INSTITUTIONAL INVESTORS

Approval of institutional investor

79. (1) An investor that wishes to be approved as an institutional investor of a gaming facility, gaming operator, management company or holding company may apply to the Board for approval as an institutional investor and to be waived from the requirements of licensing under this Ordinance.

(2) An investor may be found to be suitable or qualified to be an institutional investor by the Board, where the investor meets the requirements set out in section 80.

Qualifications of institutional investor

80. (1) An institutional investor may be found suitable and qualified if it is shown to be one of the following entities owning 5% or more, but less than 15 %, of an ownership interest in a gaming facility, gaming operator, management company or

holding company, and which persons do not exercise control over the affairs of a licensee and its ownership interest in a licensee is for investment purposes only—

- (a) a corporation, bank, insurance company, pension fund or pension fund trust, retirement fund, including funds administered by a public agency, employees' profit-sharing fund or employees' profit-sharing trust;
- (b) any association engaged, as a substantial part of its business or operations, in purchasing or holding securities, including a hedge fund, mutual fund, or private equity fund, or any trust in respect of which a bank is trustee or co-trustee;
- (c) collective investment trust organised by banks;
- (d) closed-end investment trust, chartered or licensed life insurance company or property and casualty insurance company;
- (e) an investment dealer licensed under the Investment Dealers (Licensing) Ordinance;
- (f) an investment adviser licensed under the Investment Dealers (Licensing) Ordinance; and
- (g) such other persons as the Board may reasonably determine to qualify as an institutional investor for reasons consistent with this Ordinance.

(2) The Board may approve an institutional investor if it is satisfied that the institutional investor is suitable and qualified upon perusing the documentation submitted which is sufficient to establish qualifications as an institutional investor and upon certifying all of the following—

- (a) that the institutional investor owns, holds, or controls securities issued by a licensee or holding, intermediate, or parent company of a licensee or in the ordinary course of business for investment purposes only;
- (b) that the institutional investor does not exercise influence over the affairs of the issuer of such securities nor over any licensed subsidiary of the issuer of such securities; and
- (c) that the institutional investor does not intend to exercise influence over the affairs of the issuer of such securities, nor over any licensed subsidiary of the issuer of such securities, in the future, and that

it agrees to notify the Board in writing within thirty days if there are changes of intent.

(3) The exercise of voting privileges with regard to securities shall not be deemed to constitute the exercise of influence over the affairs of a licensee.

Rescind approval of institutional investor

81. The Board shall rescind the approval for an institutional investor at any time if the institutional investor exercises or intends to exercise influence or control over the affairs of the licensee.

Monitoring suitability and qualification of institutional investor

82. (1) The Board may request further information to assist in the investigation of the suitability or qualifications of an institutional investor if—

- (a) the Board becomes aware of facts or information that may result in the institutional investor being found unsuitable or disqualified; or
- (b) the Board has any other reason to seek information from the investor to determine whether it qualifies as an institutional investor.

(2) If the Board finds an institutional investor to be unsuitable or unqualified, the Board shall notify the investor and the applicant or licensee in which the investor has invested.

(3) The Board shall allow the investor and the licensee a reasonable amount of time, as specified by the Board on a case-by-case basis, to cure the conditions that caused the Board to find the investor unsuitable or unqualified.

(4) If during the specified period of time the investor or the licensee does not or cannot cure the conditions that caused the Board to find the investor unsuitable or unqualified, the Board may allow the investor or licensee more time to cure the conditions or the Board may begin proceedings to refuse, suspend, or revoke the licence of the licensee in which the investor invested or to refuse any of the same the renewal of any such licence or, in the case of an applicant, refuse the application.

PART V

GAMING OPERATIONS

Information to be provided to Commission

83. A gaming operator, management company and holding company involved in the application and ownership or management of a gaming facility shall provide to the Commission as applicable—

- (a) an annual balance sheet;
- (b) an annual income statement;
- (c) an annual audited financial statement;
- (d) a list of the stockholders or other persons having at least a 5% ownership interest in the gaming operator, management company or holding company and any other information the Commission considers necessary for the effective administration of this Ordinance;
- (e) notification of any material changes to the applicant's or licensee's stockholders, which must be provided to the Commission within sixty days of the change;
- (f) notification of any refinancing and debt issuance, which shall be in accordance with the regulations;
- (g) a copy of the applicant's due diligence plan to ensure that it can prevent hiring, contracting or associating in business affairs with persons who are unsuitable to participate in gaming or would pose a threat to the effective regulation of gaming; and
- (h) an applicant's compulsive and problem gambling plan.

Cashless wagering system

84. (1) Wagering shall not be conducted with money or other negotiable currency.

(2) A licensee shall exchange the money or credit instrument of each wagerer for electronic or physical tokens, chips, or other forms of credit approved by the Commission to be wagered on the gambling games.

(3) A licensee shall exchange the tokens, chips, or other forms of wagering credit for money at the request of the wagerer.

(4) All tokens, chips, electronic cards or other forms of credit approved by the Commission that are used to make casino wagers shall be purchased from the gaming operator or management company while at a gaming facility that has been approved by the Commission.

(5) Chips, tokens, tickets, electronic cards or similar objects may be used while at the gaming facility only for the purpose of making wagers on gambling games.

(6) A licensee shall not utilize chip purchase vouchers or match play coupons without the prior written approval of the Commission and approval of the licensee's internal controls for the use of such instruments.

(7) A licensee shall not implement an inter-casino linked system without the prior written approval of the Commission.

(8) The Commission shall, before approving the inter-casino linked system, establish technical requirements for the certification of the system by its independent testing laboratory and internal controls for the auditing and control of the system.

(9) The Commission, in its discretion, may require certain categories of licensees to implement a central system, the cost of which shall be paid on a pro rata basis by the licensees using the system.

Promotional gaming credit

85. (1) A gaming operator and management company may provide promotional gaming credit to their patrons.

(2) Promotional gaming credit shall be subject to oversight by the Commission.

(3) A gaming operator and management company shall not—

(a) obtain a licence to operate a cheque-cashing business or banking business under the Banking Ordinance; or

(b) obtain a licence to provide loans under the Banking Ordinance or any other enactment.

Approval for debt transactions

86. (1) A licensed gaming operator shall not enter into a debt transaction in excess of \$1,000,000 without the approval of the Commission.

(2) The licensed gaming operator shall submit, in writing, a request for approval of a debt transaction that contains at least the following information—

- (a) the names and addresses of all parties to the debt transaction;
- (b) the amount of the funds involved;
- (c) the type of debt transaction;
- (d) the source of the funds to be obtained;
- (e) all sources of collateral;
- (f) the purpose of the debt transaction;
- (g) the terms of the debt transaction; and
- (h) any other information deemed necessary by the Commission.

(3) Notwithstanding subsections (1) and (2), a licensed gaming operator may enter into one or more debt transactions with affiliated companies, provided the aggregate amount of all such debt transactions at any one time does not exceed \$20,000,000.

(4) When a licensed gaming operator intends to enter into such a debt transaction with an affiliated company, the licensee shall provide immediate notification, in writing, to the Commission.

(5) The Commission is entitled to require prior approval of the debt transaction if the Commission provides notice to the licensed gaming operator within seven days after receiving the notification under subsection (4).

(6) In determining whether to approve such a debt transaction, the Commission may require the licensee to submit the information specified in subsection (2).

(7) The Commission may adopt rules governing its review and approval of such debt transactions.

(8) For purposes of this section—

“affiliated companies” means any holding company or institutional investor or any individual, partnership, corporation, association, trust, or any other group of individuals, however organised, which directly or indirectly owns, has the power or right to control, or holds with the power to vote, an ownership interest in a licensed gaming operator; and

“debt transaction” means a transaction by a licensed gaming operator concerning a gaming facility totalling \$1,000,000

or more in which a licensed gaming operator acquires debt, including bank financing, private debt offerings, and any other transaction that results in the encumbrance of assets.

System for operation and reporting; testing of equipment

87. (1) The Commission, through the Managing Director may enter into contracts necessary to ensure the proper operation and reporting of all gaming authorised under this Ordinance.

(2) A gaming operator shall be responsible for the costs of any accounting or player tracking systems required for the reporting of gaming data to the Commission.

(3) The Commission shall contract with an independent testing laboratory to scientifically test and technically evaluate electronic gaming equipment to determine compliance with rules and technical standards established by the Commission.

(4) The gaming equipment manufacturers shall be responsible for the payment of all costs related to testing and technical evaluations.

(5) The independent testing laboratory must be accredited by an international accreditation body approved by the Commission to demonstrate that it is competent and qualified to scientifically test and evaluate electronic gaming equipment and meets financial suitability criteria established by the Commission.

(6) The independent testing laboratory shall not be owned or controlled by an electronic gaming equipment vendor, manufacturer or retailer.

Disputes between gaming operators and patrons

Notification of dispute

88. (1) Where a gaming operator and a patron of a gaming facility are unable to resolve to the satisfaction of the patron any dispute on alleged winnings, alleged losses or the manner in which a game is conducted, the gaming operator shall—

- (a) immediately, or if during the weekend or a public holiday, on the next business day, notify an inspector of the dispute; and
- (b) inform the patron of his right to request that an inspector conduct an investigation into the dispute.

(2) Failure of a gaming operator to notify an inspector or inform the patron as provided in subsection (1) is grounds for disciplinary action.

Investigation into dispute

89. (1) A patron who wishes to request an inspector to conduct an investigation into a dispute shall, not later than seven days after the date they are informed of their right under section 88, submit a request in writing to the Commission in such form as may be prescribed.

(2) An inspector may refuse to consider a patron's request under subsection (1) for a request that is made after the period specified in that subsection, unless there are good reasons for the delay.

(3) When the Commission receives a request for investigation into a dispute under subsection (1), an inspector shall conduct such investigations as deemed necessary and, where the dispute relates to alleged winnings or alleged losses, the Commission shall determine whether payment should be made.

Review of decision

90. (1) Any party aggrieved by the decision of the Commission under section 89 may, in the prescribed manner and within the prescribed time, apply for review of the decision to the Board to reconsider the decision of the Commission.

(2) The application for review shall set forth the basis of the request for reconsideration.

(3) If no application for review for reconsideration is made within the time prescribed, the decision of the Commission shall be deemed final and is not subject to reconsideration by the Board.

(4) After considering the matter before it, the Board may confirm, vary or reverse the decision of the Commission.

(5) The decision by the Board shall be in writing and shall be served on the gaming operator and the patron concerned.

Payment of claim

91. (1) Except as otherwise allowed by the Commission, the person ordered to make payment to the other party shall do so within thirty days of a final decision.

(2) Failure of a gaming operator to pay within the time specified in subsection (1) is grounds for disciplinary action.

Conservatorship of gaming facility

Administration by conservator

92. (1) A gaming facility may be administered by a conservator if any of the following occurs—

- (a) the Board revokes the gaming operator's licence;
- (b) the Board refuses to renew the gaming operator's licence;
- (c) the Board suspends a gaming operator's licence for more than 120 days;
- (d) a proposed buyer is refused a gaming operator's licence, and the licensed gaming operator is unable or unwilling to retain ownership or control of the gaming facility;
- (e) a licensed gaming operator agrees in writing to relinquish control of a gaming facility to a conservator; or
- (f) a natural disaster or bankruptcy halts operations at a gaming facility

(2) The Minister may make regulations relating to the administration of a gaming facility by a conservator.

Appointment of conservator

93. (1) The Board may petition the Minister for appointment of a conservator to manage and control a gaming facility if any of the circumstances in section 92 occur.

(2) The petition shall contain the names of two or more persons who the Board believes are suitable and qualified to manage and control the gaming facility and are available for appointment as a conservator.

(3) Upon receipt of the petition, the Minister shall appoint a person from the persons named in the petition as conservator of the gaming facility.

(4) The Minister shall immediately notify the Board of the appointment made under subsection (3).

(5) Upon receipt of notice from the Minister given under subsection (4), the Board shall immediately notify the gaming operator and the conservator.

(6) If at any time the Minister finds that a conservator is not qualified or available to serve as conservator, the Minister shall request from the Board, the names of two or more persons

who the Board believes are suitable and qualified to manage and control a gaming facility and are available to serve as a conservator.

(7) The Minister shall set reasonable compensation, out of the revenue of the gaming facility, for the services, costs, and expenses of the conservator and for any other persons whom the conservator may engage to aid the conservator in performing the conservator's duties.

(8) A gaming operator may within three days of a petition to the Minister by the Board for the appointment of a conservator, make representation to the Minister, showing cause why a conservator should not be appointed for the gaming facility.

Duties and powers of conservator

94. (1) A conservator shall be deemed to be a licensed gaming operator, as ordered by the Board, and may perform all acts that the conservator is required or permitted to perform without approval or other action.

(2) The conservator shall take immediately into possession, all property of the gaming facility, including its money, accounts, books, records, and evidences of debts owed to the gaming operator, and shall continue the business of the gaming facility.

(3) A conservator shall file, with the Commission, reports on the administration of the gaming facility in such form and at such intervals as may be prescribed.

Termination of conservator

95. (1) The Board may, at any time after the appointment of a conservator, petition the Minister for the termination of the conservator and request for the appointment of a new conservator.

(2) The Board may terminate a conservator, amongst others, for non-performance of the duties of the conservator.

Surety bond and insurance

96. (1) A conservator shall, before assuming the conservator's duties, execute and file a bond for the faithful performance of the conservator's duties payable to the Commission with such surety or sureties and in such form as the Board approves and in such amount as the Board determines.

(2) The Board shall require that the former gaming operator purchase liability insurance, in an amount determined by the Board, to protect a conservator from liability for any acts or

omissions of the conservator occurring during the duration of the conservatorship that are reasonably related to, and within the scope of, the conservator's duties.

Sale of facility under conservatorship

97. (1) The former gaming operator has 180 days after the date on which the conservator is appointed to sell the gaming facility to another person who satisfies the requirements of this Ordinance for obtaining a gaming operator's licence and is approved by the Board.

(2) If the person is unable to sell the gaming facility in the time required under subsection (1), the conservator may take any action necessary to sell the gaming facility to another person who satisfies the requirements of this Ordinance for obtaining a gaming operator's licence and is approved by the Board.

Discontinuation of conservatorship

98. (1) The Board shall direct the Minister to discontinue a conservatorship when any of the following occurs—

- (a) the Board determines that the cause for which the conservatorship was instituted no longer exists; or
- (b) the former gaming operator or the conservator has, with the approval of the Board, consummated the sale, assignment, conveyance, or other disposition of the gaming facility.

(2) Upon the discontinuation of the conservatorship and with the approval of the Board, the conservator shall take any necessary steps to affect an orderly transfer of the property of the former gaming operator.

PART VI

GAMING INTERNAL CONTROLS AND PROTECTION AGAINST MONEY LAUNDERING

Approval of internal controls—gaming operator

99. (1) A gaming operator shall establish and implement a system of internal controls for the gaming operations which satisfies the prescribed internal controls requirements.

(2) The Commission may require a gaming operator to submit any part of its system of internal controls for approval by the Commission.

(3) Any approved internal controls shall remain in force until amended or substituted with the approval of the Commission.

(4) The gaming operator shall ensure that the system of internal controls or any part of the system approved under this section for the gaming operation are implemented.

Banking

100. (1) All gaming operators shall keep and maintain separate accounts, as approved by the Commission, at a bank for use for all banking transactions arising under this Ordinance in relation to the gaming operator.

(2) The Minister, in consultation with the Commission may establish banking requirements for charity gaming operators under regulations.

(3) All gaming operators shall from time to time provide the Commission, a written authority in the prescribed form, addressed to the bank referred to in subsection (1), authorising the bank to comply with any requirements of an inspector exercising the powers conferred by this section.

(4) A gaming operator who fails to comply with subsection (1) shall be liable to disciplinary action.

Protections against money laundering

101. (1) A gaming operator shall, in the following circumstances, perform such customer due diligence measures to detect or prevent money laundering and the financing of terrorism—

- (a) when the gaming operator opens a patron account;
- (b) when the gaming operator enters into a cash transaction with a patron involving \$3,000 or more in a single transaction;
- (c) when the gaming operator receives a sum of \$3,000 or more in a single transaction to be deposited in a patron account;
- (d) when the gaming operator has a reasonable suspicion that a patron is engaged in any money laundering or terrorism financing activity;
- (e) if the gaming operator has doubts about the veracity or adequacy of any information previously obtained about a patron; and

(f) when carrying out such other activities, or under such other circumstances, as may be prescribed.

(2) A gaming operator shall not proceed with the opening of any gaming patron account or with any transaction for any patron account, or with any cash transaction or deposit, as the case may be—

(a) if the gaming operator is unable to complete the applicable customer due diligence measures for any reason;

(b) if the patron in question is unable or unwilling to provide any information requested by the gaming operator, or decides to withdraw the application for the opening of the patron account or withdraw the cash transaction or deposit when requested to provide information; or

(c) under such other circumstances as may be prescribed.

(3) A gaming operator shall keep all records obtained through the customer due diligence measures taken under subsection (1), including, all copies or records of any identification document, accounts and business correspondence, as well as the results of any analysis undertaken.

(4) A gaming operator shall comply with the customer due diligence measures set out in the Proceeds of Crime Ordinance and Prevention of Terrorism Ordinance and standards made under these Ordinances.

(5) The Minister may make regulations to prevent, detect or prevent money laundering and the financing of terrorism for gaming operators.

(6) Regulations made under this section may include requirements for charity gaming operators and lottery gaming operators and may provide for penalties for contravention thereof.

(7) A gaming operator shall have regard to the customer due diligence measures, reporting obligations and all other measures set out for a designated non-financial business and profession, under the Proceeds of Crime Ordinance, Anti-Money Laundering and Prevention of Terrorist Financing Code, and any regulations made under that Ordinance.

Accounting records

102. (1) A gaming operator shall keep such accounting records that correctly record and explain the transactions and financial position of the operations of the gaming operation.

(2) The accounting records shall be kept in such a manner as may be prescribed that will enable true and fair financial statements and accounts to be prepared from time to time and the financial statements and accounts to be properly audited.

(3) A licensed gaming operator shall submit the accounting records to the Commission at the end of every month.

Keeping of records

103. (1) A gaming operator shall ensure that all records relating to its gaming operations are—

- (a) kept at a location and a manner as may be prescribed;
- (b) retained for not less than five years after the completion of the transactions to which they relate; and
- (c) available for inspection by an inspector at any time during that period.

(2) The gaming operator shall ensure that all records relating to the gaming operation are kept in a manner which will permit a reconstruction of individual transactions (including the amount and type of currency involved, if any) so as to provide, if necessary, evidence for prosecution of an offence.

(3) The Commission may require that the records, including financial statements, of any gaming operator, management company, holding company and gaming-related vendor be maintained in the prescribed manner and made available for inspection upon demand by the Commission.

Gaming operator audits

104. (1) A gaming operator licensee shall, as soon as practicable after the end of each financial year, cause the books, accounts and financial statements of the gaming operation to be audited by a certified public accountant approved by the Commission to audit the accounting records of the gaming operator.

(2) An auditor shall not be approved by the Commission as an auditor for a gaming operator unless the auditor complies with the conditions in relating to the discharge of his duties as may be prescribed.

(3) The Commission may impose additional duties on an auditor relating to the audit of a gaming operator, as the Commission considers necessary, and the costs of the audit shall be borne by the gaming operator.

(4) The Minister may prescribe audit requirements for charity gaming operators.

(5) The gaming operator shall cause the auditor's report, the financial statements and any additional information or report requested by the Commission to be filed with the Commission within three months after the end of the financial year to which the report, financial statements and additional information or report, if any, relate.

(6) The Commission may, at any time by a notice in writing—

(a) require a gaming operator to appoint a special auditor to review or investigate the gaming operator's affairs and report his findings to the Commission; and

(b) specify the terms of reference for the special audit referred to in paragraph (a) and the time within which it must be completed.

(7) A gaming operator to whom the notice under subsection (6) is directed shall engage, at its own expense, a certified public accountant approved by the Commission to be the special auditor to conduct the special audit in accordance with the terms of reference and within the time specified in the notice.

(8) The special auditor engaged under subsection (7) shall submit his report, all relevant supporting documents and such other information or report as the Commission may require in relation to the special audit, to the Commission not later than sixty days after the conclusion of the special audit or within such other period as the Commission may specify in any particular case.

Audits of ceased gaming operations

105. (1) Upon cessation of gaming operations, a former licensee shall furnish, upon the demand of the Commission, books, papers, and other records as necessary for the Commission to audit the ceased gaming operation.

(2) A former licensee shall maintain all books, papers, and other records for a period of three years after the cessation of gaming operations.

(3) If a civil action or criminal proceeding relating to the former licensee is pending, or if an administrative adjudication or judicial review of an administrative adjudication relating to the former licensee is pending, the former licensee shall maintain all books, papers, and other records until the matter has been finally determined.

(4) If a person disobeys a subpoena or *subpoena duces tecum*, or refuses to testify as directed by a subpoena, the Commission may apply to the court for an order compelling the person to attend or to produce tangible evidence, or to testify, as directed by the subpoena or *subpoena duces tecum*.

(5) The court shall treat the application as if it were disobedience to comply with a subpoena or *subpoena duces tecum* issued by the court or a refusal to testify in the court.

PART VII

PROVISIONS FOR MINORS

Interpretation of Part VII

106. In this Part—

“acceptable proof of age” for a person means documentation that might reasonably be accepted to apply to the person to prove that the person is at least 21 years of age;

“child” means a minor who is under the age of 16 years;

“young person” means a minor who is between the age of 16 years and 21 years.

Minors prohibited from gaming or entering gaming facility

107. (1) A minor shall not—

(a) enter or remain, or take part in any gaming on any gaming facility;

(b) operate any gambling machine or device;

(c) engage in, conduct or make available a gaming activity within a gaming facility; and

(d) engage in any charity gaming.

(2) A minor who contravenes subsection (1) commits an offence.

Gaming operator to bar minors from gaming facility

108. (1) A gaming operator shall not permit a minor to enter or remain in the section where gaming is conducted on the gaming facility, or to participate in any gambling game in the facility.

(2) If a minor is in the section where gaming is conducted in a gaming facility, the gaming operator shall immediately notify

an inspector who shall immediately notify the appropriate authority.

(3) A gaming operator who contravenes subsection (1) or (2) shall be liable to disciplinary action.

(4) It is lawful for the person for the time being in charge of a gaming facility or a gaming employee to request a security guard or police officer to remove the minor or cause the minor to be removed from the section where gaming is conducted in a gaming facility, using no more force than is reasonably necessary.

(5) It is a defence to disciplinary action for a contravention of subsection (1) or (2) if it is proved that before the minor entered the section where gaming is conducted in a gaming facility or while the minor was in that section of the gaming facility, the gaming operator—

(a) took all reasonable steps, including requiring production of valid documentary proof of age in order to determine the person's age; and

(b) reasonably believed that the person was not a minor.

Entry of minors to be prevented

109. (1) If a gaming operator or a gaming employee is aware that a person who appears to be a minor is attempting to enter the gaming facility, the gaming operator or gaming employee shall refuse the person entry to the gaming facility.

(2) The gaming operator or gaming employee is not required to refuse the person entry if there is produced to the gaming operator or gaming employee acceptable proof of age for the person.

(3) A person who contravenes subsection (1) shall be liable to disciplinary action, in the case of a gaming operator or a licensed key employee.

Proof of age required

110. (1) The person in charge of a gaming facility, a gaming employee, an inspector or a police officer may if he has reasonable cause to suspect that a person who appears to be a minor is on the gaming facility—

(a) require the person on the gaming facility to state his correct age, name and address and provide documentary evidence thereof; and

(b) if it is suspected on reasonable grounds that the age, name or address given in response to the requirement is false, require the person to produce evidence of its correctness.

(2) A person who—

(a) fails to comply with a requirement under subsection (1)(a); or

(b) without reasonable cause, fails to comply with a requirement under subsection (1)(b),

commits an offence.

Minor using false evidence of age

111. A minor who falsely claims he is over 21 years and produces documentation purporting to be evidence of this claim, in order to obtain entry to or remain on any gaming facility, commits an offence.

Notices to be displayed

112. (1) A notice shall be displayed, in the prescribed manner, within the gaming facility to indicate that a person under the age of 21 years is not allowed to enter or remain in a gaming facility or participate in gambling.

(2) A gaming operator is liable to disciplinary action if such a direction is not complied with in relation to the gaming facility.

Penalty

113. (1) Where the minor is a child, he may only be prosecuted before a Juvenile Court, and where the child is convicted before that Court, the Court may impose the following penalties with respect to the child and in no other way—

(a) the Court may make an order for the absolute discharge of the child;

(b) the Court may make an order for the conditional discharge of the child;

(c) the Court may impose a fine of \$200.

(2) Where the minor is a young person, the Juvenile Court may impose on him—

(a) any penalty set out in subsection (1)(a) or (b) that may be imposed on a child by that Court;

(b) a fine of \$2,000; or

- (c) such community based sentence, as the Court sees fit.

PART VIII

EXCLUSION FROM GAMBLING FACILITIES FOR PROBLEM GAMBLING AND OTHER REASONS

Interpretation of Part VIII

114. In this Part—

“family exclusion order” means an exclusion order made by the Commission under this Part;

“family member”, in relation to the respondent, means—

- (a) a spouse of the respondent;
- (b) a child of the respondent;
- (c) a parent of the respondent; and
- (d) a sibling of the respondent; and

‘respondent’ means a person against whom a family exclusion order is sought or made.

Voluntary exclusion

Voluntary exclusion programme

115. (1) The Commission shall establish and implement a voluntary exclusion programme.

(2) A person may request to participate in the voluntary exclusion programme and agree to refrain from entering a gaming facility or participating in any gambling activity.

(3) A voluntary request to participate in the programme by a person under subsection (2) shall be made in writing to the Commission and signed by that person in the presence of an employee of the Commission.

(4) The name of the person shall be included as a participant of the programme on the exclusion list.

(5) A gaming operator shall make all reasonable attempts as determined by the Commission to cease all direct marketing efforts to a person participating in the programme.

(6) A gaming operator shall not cash the cheque of a person participating in the programme or extend credit to the person in any manner.

(7) Notwithstanding subsection (6), a gaming operator may enforce or seek payment for a gaming debt accrued by a person before participating in the programme.

Mandatory exclusion

Mandatory exclusion order

116. (1) Where the Minister finds that the exclusion or ejection of certain persons from a gaming facility is necessary to carry out the intents and purposes of this Ordinance and to maintain strict and effective regulation of gaming, the Minister may, on the recommendation of the Commission, make a mandatory exclusion order of persons who are to be excluded or ejected from a gaming facility.

(2) A mandatory exclusion order—

- (a) may include any person whose presence in a gaming facility is determined by the Commission to pose a threat to the interests of the Government of the Turks and Caicos Islands; and
- (b) is created to achieve the intents and purposes of this Ordinance and to ensure the strict and effective regulation of gaming.

(3) In determining whether to make a mandatory exclusion order against a person and include the person on the mandatory exclusion list, the Commission may consider—

- (a) any prior conviction of—
 - (i) any offence under the laws of the Islands or outside the Islands;
 - (ii) an offence involving moral turpitude; or
 - (iii) a contravention of the gaming laws of the Islands or outside the Islands;
- (b) a contravention, or a conspiracy to contravene, any provision of this Ordinance that consists of—
 - (i) a failure to disclose an interest in a gaming facility for which the person must obtain a licence;
 - (ii) purposeful evasion of taxes or payment of fees;

- (iii) a notorious or unsavoury reputation that would adversely affect public confidence and trust that gaming is free from criminal or corruptive elements; or
 - (iv) a contravention of an order of the Commission that warrants exclusion or ejection of the person from a gaming facility;
 - (c) if the person has pending charges or proceedings for a gaming offence or a crime related to the integrity of gaming operations in any jurisdiction;
 - (d) if the person's conduct or reputation is such that the person's presence within a gaming facility may call into question the honesty and integrity of the gaming operations or interfere with the orderly conduct of the gaming operations;
 - (e) if the person is a career or professional offender whose presence in a gaming facility would be adverse to the interest of licensed gaming in the Islands;
 - (f) if the person has a known relationship or connection with a career or professional offender whose presence in a gaming facility would be adverse to the interest of licensed gaming in the Islands;
 - (g) if the Commission has suspended the person's gaming privileges;
 - (h) if the Commission has revoked the person's licence related to this Ordinance;
 - (i) if the Commission determines that the person poses a threat to the safety of patrons or employees of a gaming facility;
 - (j) if the person has a history of conduct involving the disruption of gaming operations within a gaming facility; or
 - (k) if the person's name is in a gaming exclusion list of another jurisdiction.
- (4) Race, colour, creed, national origin or ancestry, or sex are not grounds for making a mandatory exclusion order against a person and placing the person on the mandatory exclusion list.

Notice of making of mandatory exclusion order

117. (1) The Commission shall notify a person of the Commission's intent to recommend to the Minister, the making of a mandatory exclusion order and include the person on the mandatory exclusion list.

(2) The notice under subsection (1) shall be made by personal service or certified mail to the person's last known address, or, if service cannot be accomplished by personal service or certified mail, by publication daily for two weeks in a newspaper of general circulation within the vicinity in which the person resides and in a newspaper of general circulation within the Islands.

(3) A person who receives notice of intent to make a mandatory exclusion order and include him on the exclusion list is entitled to a hearing, except as provided in this section, in which the person may demonstrate why he should not be issued a mandatory exclusion order and not be included on the exclusion list.

(4) The person shall request a hearing not later than thirty days after the person receives the notice by personal service or certified mail, or not later than thirty days after the last newspaper publication of the notice.

Revocation of mandatory exclusion order

118. (1) The Minister may, on the recommendation of the Commission revoke a mandatory exclusion order after any hearing or any appeal results in an order that the person should not be included on the exclusion list.

(2) The Commission shall thereafter publish a revised exclusion list that does not include the person.

(3) This section does not apply to the voluntary exclusion list created as part of the voluntary exclusion programme.

Family exclusion order

Problem Gambling Committee

119. (1) There is established a committee to be known as the Problem Gambling Committee which shall consist of five members.

(2) The Committee shall consist of—

- (a) the Gaming Coordinator or person responsible for problem gambling in the Commission, who shall be the chairperson;

- (b) the Director responsible for mental health and substance abuse under the Ministry responsible for health or his representative;
- (c) the Director responsible for social welfare or his representative; and
- (d) two persons appointed by the Minister, one of whom shall be a person from the gaming industry with experience with problem gambling.

(3) An appointed member shall be appointed for a period not exceeding three years and shall be eligible for reappointment.

(4) The Minister shall appoint a person as Secretary to the Committee, who shall be a public officer.

Oath of Secrecy

120. A member of the Committee shall, before assuming office, take the Oath of Secrecy as may be prescribed.

Functions of Committee

- 121.** (1) The functions of the Council are—
- (a) to hear and determine applications for family exclusion orders and decide on the exclusion of persons from gaming facilities;
 - (b) publish educational materials or carry out research or other educational activities relating to casino gaming, or to support (financially or otherwise) the carrying out by others of such activities or the provision by others of information or advice.

Meetings of Committee

122. (1) The Committee shall meet at such time and such place as the chairperson may decide.

(2) The chairperson shall preside at all meetings of the Committee.

(3) Subject to this Part, the Committee shall establish its own procedure.

(4) Three members of the Committee shall constitute a quorum.

(5) When the Committee meets to hear and determine a complaint for a family exclusion order, the Committee may give the person complained against the opportunity to be heard before it determines any complaint for a family exclusion order in respect of him.

Powers of Committee in proceedings

123. (1) The Committee shall have the power to—

- (a) summon any person whom it may consider able to give evidence to attend at the hearing of an application; and examine such person as a witness;
- (b) require any person to furnish such information or produce such document, record or article in the possession or under control of that person as the Committee considers relevant for the purposes of the proceedings; and
- (c) inspect, keep or make copies of such record, document or article.

(2) Every person examined as a witness by or before a Committee or required to furnish any information or produce any document, record or article by a Committee shall, subject to the conditions set out in subsection (3), be legally bound to state the truth and to produce such records, documents or articles as the Committee may require for the purposes of carrying out its functions and duties under this Part.

(3) The conditions referred to in subsection (2) are that the Committee is not entitled to require a person to produce information or produce any document, record or article requested by the Committee—

- (a) consisting of or including items subject to legal privilege; or
- (b) in breach of any enactment or rule of law relating to confidentiality of medical information or any rule of practice relating to client confidentiality.

(4) A statement made by a person in compliance with a requirement imposed by this section may not be used in evidence against him in criminal proceedings.

(5) Subsection (4) does not apply on a prosecution for perjury.

(6) In proceedings under this Part, the Committee is to decide questions of fact on the balance of probabilities.

(7) A Committee shall not be bound by the strict rules of evidence and shall determine the conduct of its proceedings.

Validity of decisions of Committee

124. The validity of any act or proceedings of the Committee shall not be affected by any vacancy among its members, or by

any defect in the appointment of a member, or in the incapacity of the membership.

Application for family exclusion order

125. (1) A family member may make an application to the Committee for an exclusion order to require a person to be included in the exclusion list.

(2) An application made under subsection (1)—

(a) in the case of a minor, may be made on behalf of the minor—

(i) by a parent or guardian of the minor; or

(ii) any other family member or other relative of the minor who satisfies the Commission that he has a proper interest in the welfare of the child and with whom the child normally or regularly resides; and

(b) in the case of a person who is unable to make an application, either by reason of physical incapacity or a mental disorder, may be made on behalf of the person—

(i) by any family member or other relative of the person; or

(ii) in the case of a person with a mental disorder, a caregiver as defined under the Mental Health Ordinance.

Process of application for family exclusion order

126. (1) A person may apply for a family exclusion order against the respondent if there is a reasonable apprehension that the respondent may cause serious harm to a family member because of problem gambling.

(2) For the purposes of this section, the respondent is to be regarded as having caused serious harm to a family member because of problem gambling if the respondent—

(a) has engaged in a gambling activity irresponsibly having regard to the needs and welfare of the respondent's family members; and

(b) has done so repeatedly over a period of not less than three months or in a particularly irresponsible manner over a lesser period.

(3) The Committee shall consider the application if—

- (a) the Committee is satisfied that the making of the order is reasonably appropriate in the circumstances;
- (b) the Committee is satisfied that it would be in the best interests of the respondent and his family members to make the order; and
- (c) the respondent has been given notice in writing of the application, and an opportunity to object.

(4) The Committee may decide that there is a reasonable apprehension that the respondent may cause serious harm to family members because of problem gambling if the Committee is satisfied that—

- (a) the respondent has caused such harm prior to the application; and
- (b) there is reason to believe that the respondent's irresponsible gambling behaviour is likely to continue or recur.

(5) The Committee may, in determining whether there is a reasonable apprehension that the respondent may cause serious harm to a family member because of problem gambling, take into account events that have taken place outside the Islands.

(6) If a respondent disputes some or all of the grounds on which a family exclusion order is sought or made but consents to the order, the Committee may make or confirm the order without receiving any further submissions or evidence concerning the grounds.

Dismissal of complaints or deferral of consideration

127. (1) The Committee shall, before the Committee hears evidence in support of an application, consider whether it should, and may in an appropriate case, refer the parties to family counselling or mediation.

(2) The Committee may, at any stage, dismiss an application if the Committee is satisfied that the application is frivolous, vexatious, without substance or has no reasonable prospect of success.

Issue of family exclusion order

128. (1) The Committee shall conduct a hearing to determine the issue of a family exclusion order.

(2) The Committee shall consider all information and documents furnished as evidence to prove that the respondent

may cause serious harm to a family member because of problem gambling.

(3) Before issuing a family exclusion order, the Committee shall give the respondent an opportunity to be heard.

(4) The Committee shall send a notice of the application and hearing to the respondent, which notice shall—

- (a) specify the grounds of the application;
- (b) inform the respondent of his right to be heard and object; and
- (c) specify the date, time and location of the hearing.

(5) The notice under subsection (4) shall be made by personal service or certified mail to the person's last known address, or, if service cannot be accomplished by personal service or certified mail, by publication in two consecutive issues, of a newspaper of general circulation within the vicinity in which the person resides and in a newspaper of general circulation within the Islands.

(6) The Committee may issue a family exclusion order if the Committee is satisfied—

- (a) that the respondent has caused serious harm to a family member because of problem gambling;
- (b) there is reason to believe that the respondent's irresponsible gambling behaviour is likely to continue or recur.

(7) The Committee may make an exclusion order without hearing the respondent or in the absence of the respondent—

- (a) if the respondent has been given notice of the application and the hearing, and
 - (i) has without reasonable excuse, failed to appear at the time and place appointed for the hearing; or
 - (ii) has indicated that he does not wish to attend the hearing, object or respond to the application; or
- (b) if no service of the notice can be effected after reasonable efforts have been made to locate the respondent who cannot be found or is outside the Islands.

Terms of family exclusion order

129. (1) A family exclusion order shall specify the period during which it is in force.

(2) Without limiting the matters that may be the subject of a family exclusion order, an order may do one or more of the following—

- (a) refer the respondent to participate in a programme of counselling, rehabilitation or special education or any combination of these;
- (b) bar the respondent from entering or remaining, on any gaming facility or participating in an gambling activity;
- (c) require the respondent to close any patron account in a gaming facility; or
- (d) require a gaming operator to close any patron account of the respondent with the gaming facility.

Variation or revocation of family exclusion order

130. (1) The Committee may vary or revoke a family exclusion order made—

- (a) by a family member for whose benefit the family exclusion order was made; or
- (b) by the respondent.

(2) An application for variation or revocation of an order may be made by the respondent only with the permission of the Committee and permission is only to be granted if the Committee is satisfied that there has been a substantial change in the relevant circumstances since the order was made or last varied.

(3) For the purposes of determining whether there has been a substantial change in the relevant circumstances, the Committee may—

- (a) require the respondent to undergo an assessment of harm caused by gambling, including a clinical assessment if necessary, by a suitably qualified person appointed by the Commission for this purpose;
- (b) require any person to furnish such information or produce such document or record in the possession or under the control of that person as the Committee considers relevant to its determination; and

- (c) inspect, keep or make copies of such document or record.

(4) The Committee shall, before varying or revoking an order under this section, allow the respondent and, in the case of a family exclusion order, a family member for whose benefit the order was made, a reasonable opportunity to be heard on the matter.

Appeal of family exclusion order

131. A person who is aggrieved by a decision in relation to a family exclusion order under this Part may appeal to the court.

Exclusion list and other provisions

Exclusion list

132. (1) The Commission shall establish, maintain and regularly update a list of excluded persons.

(2) The exclusion list shall contain—

- (a) a list of persons who have volunteered into the voluntary exclusion programme;
- (b) a list of persons to whom a mandatory exclusion order has been made; and
- (c) a list of persons to whom a family exclusion order has been made.

(3) The exclusion list shall—

- (a) set out the names and particulars of every person included on the list and that person's physical description; and
- (b) specify whether the person is on the list by virtue of volunteering, mandatory exclusion order or family exclusion order.

(4) The list of persons participating in the voluntary exclusion programme and the personal information of those persons shall be confidential and shall only be disseminated by the Commission to a gaming operator and the agents and employees of the gaming operator for purposes of enforcement and to other entities, upon request of the participant and agreement by the Commission.

(5) The Commission shall transmit a copy of the exclusion list periodically to gaming operators, as it is initially issued and thereafter as it is revised, within thirty days of its revision.

(6) The Commission shall publish on its website, the part of the exclusion list with a list of the persons excluded by a mandatory exclusion order only.

(7) Where the Commission has removed a person from the exclusion list, the Commission shall notify gaming operators that the person has been removed from the exclusion list.

(8) A gaming operator shall take necessary steps to ensure that all its key employees and gaming employees are—

- (a) aware of and understand the exclusion list and its function; and
- (b) kept aware of the content of the exclusion list as it is issued, or where a person has been removed from the exclusion list and as revised from time to time.

Exclusion or ejection of persons from gaming facility

133. (1) The Commission may eject or authorise the ejection of, and an inspector may, eject a person from a gaming facility for any of the following reasons—

- (a) the person's name is on the exclusion list;
- (b) the person contravenes or conspires to contravene the provisions of this Ordinance; or
- (d) the Commission determines that the person's conduct or reputation is such that the person's presence within a gaming facility may call into question the honesty and integrity of the gaming operations or interfere with the orderly conduct of the gaming operations.

(2) A gaming operator or management company shall have the same authority to eject a person from its gaming facility as authorised under subsection (1).

(3) The gaming operator or management company shall as soon as possible notify the Commission in writing, of an ejection made in accordance with subsection (2).

Monitoring compulsive and problem gambling

134. (1) A gaming operator shall submit an annual summary of its compulsive and problem gambling plan to the Commission.

(2) The compulsive and problem gambling plan at a minimum shall contain the following elements—

- (a) the goals of the plan and procedures and timetables to implement the plan;
- (b) the identification of the individual who will be responsible for the implementation and maintenance of the plan;
- (c) policies and procedures including—
 - (i) the commitment of the gaming operator to train appropriate employees;
 - (ii) the duties and responsibilities of the employees designated to implement or participate in the plan;
 - (iii) the responsibility of patrons with respect to responsible gambling;
 - (iv) procedures for providing information to individuals regarding community, public and private treatment services, gamblers anonymous programmes, and similar treatment or addiction therapy programmes designed to prevent, treat, or monitor compulsive and problem gamblers and to counsel family members;
 - (v) the provision of printed material to educate patrons about compulsive and problem gambling and to inform them about treatment services available to compulsive and problem gamblers and their families;
 - (vi) the employee training programme;
 - (vii) procedures to prevent gambling by minors;
 - (viii) procedures to prevent intoxicated patrons from gambling; and
 - (ix) the plan for posting signs within the gaming facility containing gambling treatment information.

(3) A gaming operator shall submit quarterly updates and an annual report to the Commission of its adherence to the plans and goals submitted under subsection (1).

PART IX

GAMING TAX

Payment of tax

135. (1) A gaming tax shall be imposed on the adjusted gross receipts received from gambling games authorised under this Ordinance in the rates set out in Schedule 3.

(2) The Commission shall establish procedures for the collection of taxes required by this section.

Tax return

136. (1) A tax imposed under this Ordinance shall be returned to the Commission as may be prescribed.

(2) All cheques and drafts remitted for payment of these taxes shall be made payable to the Commission.

(3) If the Commission is not satisfied with the return or payment made by any licensee, the Commission shall make an assessment of the amount in accordance with section 137.

Assessments by Commission

137. (1) Notwithstanding any other provisions of this Ordinance—

- (a) if the Commission has reason to believe that any amount of taxes has been incorrectly computed by a licensed gaming operator; or
- (b) when a licensed gaming operator fails in any month to submit to the Commission a financial statement in accordance with section 102,

the Commission may assess the amount of taxes, if any, payable by the licensed gaming operator as may, in the circumstances, appear proper to the Commission under the provisions of this Ordinance.

(2) Where any taxes are assessed by the Commission in accordance with this section, the Commission shall give notice in writing to the licensed gaming operator stating the amount so assessed and such amount of taxes shall be due and payable by the licensed gaming operator within such period following the date of such notice as the Commission may, in the notice, direct.

(3) A licensed gaming operator may appeal within thirty days of the date of such notice to the court.

PART X

COMPLIANCE AND ENFORCEMENT

Division 1 -Inspections and monitoring

Functions of inspector

138. The functions of an inspector are—

- (a) for the purpose of ascertaining whether or not a gaming operator or licensee is complying with the provisions of this Ordinance and the conditions of a licence—
 - (i) to inspect gaming facilities;
 - (ii) to monitor the operations of a gaming facility; and
 - (iii) to examine gaming equipment used in a gaming facility and records kept in relation to a gaming operator;
- (b) to monitor the handling and counting of money on gaming facilities;
- (c) to assist in any other manner, where necessary, in the detection of offences committed under this Ordinance;
- (d) to receive and investigate complaints from patrons relating to the conduct of gaming;
- (e) to submit monthly reports to the Managing Director regarding the compliance rates and the general community impact related to the conduct of gaming; and
- (f) to perform any other functions as are conferred on inspectors under this Ordinance.

Powers of inspector

139. (1) An inspector may, with regard to the detection and investigation of offences under this Ordinance, do any one or more of the following—

- (a) seize evidence allegedly relating to commission of offences;
- (b) apprehend and arrest persons allegedly committing gaming offences;
- (c) access gaming facilities to carry out the requirements of this Ordinance;
- (d) require any person in possession of, or having control of, any machinery, equipment, record or

other thing relating to the operations of a gaming facility—

- (i) to produce the machinery, equipment, record or other thing for inspection; and
 - (ii) to answer questions or provide information relating to the machinery, equipment, record or other thing;
- (e) inspect any machinery, equipment, record or other thing referred to in paragraph (d) and take copies of, extracts from, or notes relating to, such record;
- (f) if the inspector considers it necessary to do so for the purpose of obtaining evidence of the contravention of any provision of this Ordinance, seize any machinery, equipment, record or other thing;
- (g) stop any game conducted in a gaming facility;
- (h) by written notice require any of the following licensees to attend before the inspector at a specified time and place and to answer questions, or to provide information within a reasonable period specified in the notice, with respect to any activity regulated by this Ordinance—
 - (i) the holder of any gaming licence, key employee licence, international market agent licence, international market agent representative licence or other authorisation or approval under this Ordinance;
 - (ii) an employee of a person referred to in subparagraph (i); or
 - (iii) any other person associated with operations or the management of a gaming facility the inspector is authorised to enter;
- (i) examine and test any machinery, equipment or other thing referred to in paragraph (d) and order the person in charge of it to withdraw it from use if it is unsatisfactory for use;
- (j) investigate any complaint from a patron of a casino relating to the conduct of any activity regulated by this Ordinance;
- (k) any other thing authorised by this Ordinance to be done by an inspector.

(2) If an inspector seizes anything under this section, it may be retained by the Commission until the completion of any proceedings (including proceedings on appeal) in which it may be evidence but, in the case of records, the person from whom the records were seized shall be permitted to inspect and make copies of the records.

(3) Subsection (2) ceases to have effect in relation to things seized if, on the application of a person aggrieved by the seizure, the court in which proceedings referred to in that subsection are instituted so orders.

Seizure and forfeiture of equipment, etc.

140. (1) An inspector may seize and retain for a period not exceeding five days—

- (a) anything that the inspector reasonably suspects is gaming equipment that is not authorised under this Ordinance to be on a gaming facility; or
- (b) any article or thing relating to gaming, the use or possession of which is unlawful.

(2) An inspector may apply to a court within ten days of the seizure of the item or upon completion of the investigation by an inspector in relation to any item seized under subsection (1), whichever is the earlier, for an order that the item seized under that subsection be forfeited to the Commission.

(3) The standard of proof required under this section shall be the balance of probabilities.

(4) The court may, on such application, extend the time period referred to in subsection (2) as it considers appropriate to permit the inspector to complete the investigation.

(5) On an application under subsection (2), the court—

- (a) shall give the person from whom an article or thing has been seized the opportunity to be heard and may, if satisfied that the item is a thing or article set out in subsection (1)(a) or (b), order that the item be forfeited to the Commission; or
- (b) if it is not satisfied concerning the matters referred to in paragraph (b), order the return of the item to the person from whom it was seized.

(5) Any item forfeited under this section shall be disposed of in accordance with any direction of the court.

Division 2—Disciplinary action and penalties

General: suspension or revocation of licence

141. (1) A licence issued under this Ordinance may be suspended or revoked where it is shown that a licensed gaming operator or his agent or employees have acted or failed to act—

- (a) in a manner that is injurious to the public health, safety, morals, good order and general welfare of the residents of the Islands; or
- (b) that would discredit or tend to discredit the Islands' gaming industry, or the Commission,

unless the licensee proves by clear and convincing evidence that it is not guilty of such action.

(2) The Board or Commission shall take appropriate action against any licensee who violates this Ordinance.

(3) Without limiting subsections (1) and (2), the following acts or omissions may be grounds for suspension or revocation—

- (a) failing to comply with or make provision for compliance with this Ordinance or any other enactment;
- (b) failing to comply with any order or ruling of the Commission or its agents pertaining to gaming;
- (c) receiving gaming-related goods or services from a person or business entity who does not hold a supplier's or gaming-related vendor's licence but who is required to hold such licence under this Ordinance;
- (d) being suspended or ruled ineligible or having a licence revoked or suspended in any foreign gaming jurisdiction;
- (e) associating with, either socially or in business affairs, or employing persons of notorious or unsavoury reputation or who have extensive police records, or who have failed to cooperate with any officially constituted investigatory or administrative body and would adversely affect public confidence and trust in gaming;
- (f) employing in any operation licensed under this Ordinance, any person known to have been found guilty of cheating or using any improper device in connection with any gambling game;
- (g) use of fraud, deception, misrepresentation or bribery in securing any licence issued under this Ordinance;

- (h) obtaining or attempting to obtain any fee, charge, or other compensation by fraud, deception or misrepresentation; or
- (i) incompetence, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties regulated by this Ordinance.

(3) Without limiting the authority of the Board or Commission to impose the level and type of discipline the Board or Commission considers appropriate, the Board or Commission may take into consideration the following—

- (a) if the licensee knew or reasonably should have known that the action complained of was a contravention of any law or condition on the licensee's licence;
- (b) if the licensee has previously been disciplined by the Commission;
- (c) if the licensee has previously been subject to discipline by the Commission concerning the contravention of any law or condition of the licensee's licence;
- (d) if the licensee reasonably relied upon professional advice from a lawyer, doctor, accountant, or other recognised professional that was relevant to the action resulting in the contravention;
- (e) if the licensee or the licensee's employer had a reasonably constituted and functioning compliance programme;
- (f) if the imposition of a condition requiring the licensee to establish and implement a written self-enforcement and compliance programme would assist in ensuring the licensee's future compliance with all laws and conditions of the licence;
- (g) if the licensee realized a pecuniary gain from the contravention;
- (h) if the amount of any fine or other penalty imposed would result in disgorgement of any gains unlawfully realized by the licensee;
- (i) if the contravention was caused by an officer or employee of the licensee, and the level of authority of the individual who caused the contravention;

- (j) if the individual who caused the violation acted within the scope of the individual's authority as granted by the licensee;
- (k) the adequacy of any training programmes offered by the licensee or the licensee's employer that were relevant to the activity that resulted in the violation;
- (l) if the licensee's action substantially deviated from industry standards and customs;
- (m) the extent to which the licensee cooperated with the Commission during the investigation of the violation;
- (n) if the licensee has initiated remedial measures to prevent similar violations;
- (o) the magnitude of penalties imposed on other licensees for similar violations;
- (p) the proportionality of the penalty in relation to the misconduct;
- (q) the extent to which the amount of any fine imposed would punish the licensee for the conduct and deter future violations;
- (r) any mitigating factors offered by the licensee; and
- (s) any other factors the Commission considers relevant.

Grounds for disciplinary action: gaming operator

142. In addition to the grounds specified in section 141, the following are grounds for disciplinary action for a gaming operator—

- (a) that the gaming operator licence was improperly obtained in that, at the time the licence was issued or renewed, there were grounds for refusing it;
- (b) the gaming operator, a key employee or person in charge of the gaming operator, an agent or employee of the gaming operator has contravened a provision of this Ordinance or condition of the gaming operator's licence;
- (c) the gaming facility is, for specified reasons, no longer suitable for the conduct of gaming operations;

- (d) the gaming operator is, for specified reasons, in the opinion of the Board no longer a suitable person to hold a licence;
- (e) the gaming operator has failed to comply with any direction given to it by the Commission under this Ordinance;
- (f) the gaming operator has failed to provide information that it is required by this Ordinance to provide or has provided information knowing it to be false or misleading or reckless as to whether it is so; or
- (g) the gaming operator has failed or refused to pay taxes payable under this Ordinance.

Penalty for gaming operator

143. (1) The Board, for each ground of disciplinary action that is proved, may impose any of the following administrative penalties—

- (a) suspension or revocation of a licence;
- (b) where the ground relates to a serious breach, impose on a gaming operator a financial penalty of a sum not exceeding an amount three times the highest daily amount of gross receipts derived from wagering on the gambling games, whether unauthorised or authorised, conducted during the financial year preceding the date of the financial penalty, as ascertained from the gaming operator's latest audited accounts; or
- (c) in respect of any other ground, impose on a gaming operator a financial penalty of a sum not exceeding \$1,000,000; and
- (d) confiscation and forfeiture of all gambling game equipment used in the conduct of unauthorised gambling games.

(2) The Commission shall not impose a penalty where there are reasonable grounds for it to be satisfied that the gaming operator took all reasonable steps and exercised all due diligence to ensure that the requirement would be complied with.

Grounds for disciplinary action: key or gaming employee

144. (1) In addition to the grounds specified in section 141, the following are grounds for disciplinary action for a key or gaming employee, are any of the following—

- (a) that the employee licence was improperly obtained in that, when it was granted, there were grounds for refusing it;
- (b) that the licensee has been convicted—
 - (i) of an offence under this Ordinance;
 - (ii) of an indictable offence arising out of or in connection with the employment of the licensee under this Ordinance; or
 - (iii) whether in the Islands or elsewhere, for an offence involving dishonesty or moral turpitude;
- (c) that the licensee has contravened a provision of this Ordinance or a condition of his licence;
- (d) that the licensee has failed to provide information that he is required by this Ordinance to provide or has provided information knowing it to be false or misleading or reckless as to whether it is so;
- (e) that for any reason, the licensee is, in the opinion of the Board or Commission, no longer a suitable person to hold a key or gaming employee licence;
- (f) the employee has failed to provide information that he is required to provide or has provided information knowing it to be false or misleading.

Penalty for key or gaming employee

145. (1) The Board or Managing Director, whichever is applicable, may impose a financial penalty in accordance with this Part of an amount not exceeding \$10,000 for each ground of disciplinary action as it considers appropriate on a key or gaming employee who fails to comply with any requirement of this Ordinance that attracts disciplinary action.

(2) The Board or Managing Director may, pursuant to a hearing, impose any of the following penalties on a key or gaming employee against whom a ground for disciplinary action is made out—

- (a) the service of a written notice on the licensee censuring him for any action specified in the notice;
- (b) suspension of the key or gaming employee licence for a specified period;
- (c) revocation of the key or gaming employee licence;

- (d) revocation of the key or gaming employee licence and disqualification from obtaining or applying for a key or gaming employee under this Ordinance for a specified period.

Suspension of employee licence pending disciplinary action

- 146.** (1) In any case where—
- (a) it appears to be necessary to the Board or Commission to prevent any threat to the security of the public or of gaming operations; and
 - (b) the Board or Commission has been informed that a licensee is under investigation for, or has been charged with—
 - (i) an offence under this Ordinance;
 - (ii) an offence arising out of or in connection with the employment of the licensee under this Ordinance; or
 - (iii) an offence involving dishonesty or moral turpitude, whether in the Islands or elsewhere,
 - (c) disciplinary proceedings have been or will be commenced against a licensee, the Board or Managing Director may suspend the licensee concerned, pending the conclusion of any inquiry or disciplinary proceedings against the licensee under this Part, if the Commission thinks it necessary in the public interest that the licensee should immediately cease his functions in relation to any gaming operator.

(2) The suspension under subsection (1) shall take effect notwithstanding that any representation is made.

Effect, etc., of suspension

147. During any period of suspension of a key or gaming employee licence, the licensee is deemed not to be the holder of a key or gaming employee licence.

Return of key or gaming employee licence on suspension or cancellation

148. (1) If a key or gaming employee licence is suspended or revoked, the licensee shall return the licence to the Commission immediately after the suspension or revocation.

(2) A person who fails to comply with subsection (1) commits an offence and is liable on summary conviction to a fine of \$2,500.

Termination of employment on revocation of key or gaming employee licence

149. (1) If a gaming operator receives written notice from the Commission that a key or gaming employee licence has been revoked or has otherwise ceased to be in force, the gaming operator shall, within 24 hours after receiving the notice—

- (a) in the case of an associate of the gaming operator, terminate the association that constitutes the exercise of the functions of a key or gaming employee licence; or
- (b) in the case of an employee, terminate the employment that constitutes the exercise of the functions of a key or gaming employee licence or cause it to be terminated.

(2) A termination of employment in accordance with this section shall be effected in accordance with any other Ordinance or any law, award or industrial or other agreement relating to employment.

(3) The Commission shall not incur any liability because of a termination made in accordance with this section.

Division 3 —Hearings

Licence hearings

150. (1) The Board or Commission may conduct a hearing—

- (a) before a licence is issued, during the application process; or
- (b) after a licence is issued, for disciplinary action against a licensed gaming operator or licensee.

(2) Where an investigation has been conducted on a licensed gaming operator or a licensee, the Board or Commission may proceed to hold a hearing for disciplinary action against the licensed gaming operator or licensee.

Proceedings for hearing

151. (1) A hearing shall be conducted according to rules established by the Commission that are consistent with the provisions of this Ordinance.

(2) The Board or Commission shall give the applicant or licensee, fourteen days notification of the intention to conduct a hearing and the notice shall—

- (a) specify the date, time and location of hearing;
- (b) state the intention to hold a hearing;
- (c) state the reason for conducting the hearing;
- (d) if it relates to an application, state the part of application the Board seeks to consider;
- (e) if it is for a disciplinary action, state the reasons for the disciplinary action and the penalty the Board or Commission intends to impose; or
- (f) state the condition or term of licence the licensee is not complying with or has not complied with.

(3) After notice and opportunity for a hearing, the Board or Commission may refuse or not renew a licence or impose the appropriate penalty.

(4) A decision of the Commission shall be reached by a majority of the members conducting the hearing.

(5) In deciding whether a licensed gaming operator or licensee has failed to comply with a requirement of this Ordinance, the Commission shall consider whether the licensed gaming operator or licensee followed any relevant guidance or code of practice which was at the time—

- (a) issued by the Commission;
- (b) approved by the Commission; and
- (c) published to the licensed gaming operator or licensee.

(6) The standard of proof required in proceedings for a disciplinary hearing shall be the same as that required in criminal proceedings.

(7) For the purpose of conducting a hearing, the Commission shall have all the powers of a court of summary jurisdiction in relation to the summoning of witnesses, their examination on oath or otherwise and to compelling the production of any document or thing relevant to the subject matter of the proceedings.

(8) The Commission may rely, in whole or in part, upon investigations, conclusions, or findings of other gaming Commissions or other government regulatory bodies in connection with licensing, investigations, or other matters relating to an applicant or licensee under this Ordinance.

Appeal

152. A person aggrieved by a decision of the Board or Commission may within a period of twenty-one days from the decision, appeal the decision to the Supreme Court.

Division 4—General offences

Offence for making false statement

153. (1) A person who knowingly or intentionally makes a false statement on an application submitted under this Ordinance commits an offence.

(2) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of \$10,000 or to a term of imprisonment of twelve months, or to both.

Offences relating to minors

154. (1) A person who knowingly or intentionally aids, induces, or causes a minor who is not an employee of the casino gaming operation to enter or attempt to enter a casino facility commits an offence.

(2) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of \$50,000 or to a term of imprisonment of three years, or to both.

Offences relating to gaming

155. (1) A person who knowingly or intentionally does any of the following commits an offence—

- (a) uses or possesses with the intent to use a device to assist in projecting the outcome of the gambling game, keeping track of the cards played, analysing the probability of the occurrence of an event relating to a gambling game, or analysing the strategy for playing or betting to be used in the gambling game, except as permitted by the Commission;
- (b) possesses a gambling device, that is regulated by the Commission, without a licence;

- (c) cheats at a gambling game;
- (d) manufactures, sells, or distributes any cards, chips, dice, game, or device that is intended to be used to contravene this Ordinance;
- (e) alters or misrepresents the outcome of a gambling game on which wagers have been made after the outcome is made sure but before the outcome is revealed to the players;
- (f) places, increases, or decreases a wager on the outcome of a gambling game after acquiring knowledge that is not available to all players and concerns the outcome of the gambling game that is the subject of the wager;
- (g) aids a person in acquiring the knowledge described in paragraph (e) for the purpose of placing, increasing, or decreasing a wager contingent on the outcome of a gambling game;
- (h) claims, collects, takes, or attempts to claim, collect, or take money or anything of value in or from a gambling game with the intent to defraud or without having made a wager contingent on winning a gambling game;
- (i) claims, collects, or takes an amount of money or thing of value of greater value than the amount won in a gambling game;
- (j) uses or possesses counterfeit chips, tickets, tokens, or cashless wagering instruments in or for use in a gambling game;
- (k) possesses a key or device designed for opening, entering, or affecting the operation of a gambling game, drop box, or an electronic or a mechanical device connected with the gambling game or removing coins, tickets, tokens, chips, or other contents of a gambling game;
- (l) possesses materials used to manufacture a device intended to be used in a manner that contravenes this Ordinance; or
- (m) operates a gaming operation in which wagering is conducted or is to be conducted in a manner other than the manner required under this Ordinance.

(2) The possession of more than one of the devices described in subsection (1)(i), (j) or (k) creates a rebuttable

presumption that the possessor intended to use the devices for cheating.

(3) If a person who commits an offence under subsection (1) is a licensee under this Ordinance, the Commission shall revoke the person's licence.

(4) Subsection (1)(k) does not apply to a gaming operator, management company, gaming-related vendor or an agent and employee of the gaming operator, management company or gaming-related vendor, in the course of their agency or employment.

(5) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of \$100,000 or to a term of imprisonment of four years, or to both.

Offences relating to bribery

156. (1) A person who knowingly or intentionally does any of the following commits an offence—

- (a) offers, promises, or gives anything of value or benefit to a person who is connected with the gaming operator, management company, holding company or gaming-related vendor, including their officers and employees, under an agreement to influence or with the intent to influence the actions of the person to whom the offer, promise, or gift was made in order to affect or attempt to affect the outcome of a gambling game or an official action of a member of the Board, agent or employee; or
- (b) solicits, accepts, or receives a promise of anything of value or benefit while the person is connected with a gaming operation, including an officer or employee of a gaming operator, management company or gaming-related vendor, under an agreement to influence or with the intent to influence the actions of the person to affect or attempt to affect the outcome of a gambling game or an official action of a member of the Board, agent or employee.

(2) If the person under subsection (1) is a licensee under this Ordinance, the Board shall revoke the person's licence after the first offence.

(3) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of \$50,000 or to a term of imprisonment of three years, or to both.

Offences relating to anti-money laundering measures

157. (1) A person who knowingly or intentionally does any of the following while participating in gaming or otherwise transacting with a gaming facility commits an offence—

- (a) causes or attempts to cause a casino facility to fail to file a report required under the anti-money laundering provisions of this Ordinance; or
- (b) with one or more gaming facilities, structures a transaction, is complicit in structuring a transaction, attempts to structure a transaction, or is complicit in an attempt to structure a transaction.

(2) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of \$50,000 or to a term of imprisonment of three years, or to both.

(3) For purposes of this section, “structure a transaction” means to break up a series of transactions that could have been treated as a single transaction, in order to avoid an obligation either to report or generally to avoid regulatory oversight.

Offences relating to possessing gambling equipment

158. (1) A person commits an offence relating to possession of a gambling device when, with knowledge of the character thereof, the person manufactures, sells, transports, places or possesses, or conducts or negotiates any transaction affecting or designed to affect ownership, custody or use of—

- (a) a slot machine, unless such possession is permitted by a licence issued under this Ordinance or such possession is otherwise authorised by the Commission; or
- (b) any other gambling device that requires a licence to be issued by the Board where there is evidence of an intent to use such device in the advancement of unlawful gambling activity.

(2) Transportation and possession of a gambling device referred to under subsection (1) shall not be unlawful where—

- (a) such transportation and possession is necessary to facilitate the training of persons in the repair and reconditioning of such devices as are used or are to be used for operations in gaming facilities licensed by the Board, so long as such possession and transportation has been authorised in writing by the Commission; or

(b) the Commission has authorised the transportation and possession of such gambling devices in writing for the purposes of testing, training, distribution or other purposes authorised by the Commission.

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

(a) for a first offence, on summary conviction to a fine of \$100,000 or to a term of imprisonment of four years, or to both; and

(b) for a second or subsequent offence, on conviction on indictment to a fine of \$150,000 or to a term of imprisonment of five years, or to both.

General penalty

159. A person who is convicted of an offence under this Ordinance shall be liable to the penalty specified in the relevant section of the offence and may also be barred for life from entering a gaming facility by the Commission.

Offences by body corporate

160. (1) Where an offence under this Ordinance committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to, any neglect on the part of, a director, manager, secretary or employee of the body corporate or any person purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and liable to be proceeded against and punished accordingly.

(2) For the purpose of this section a person shall be deemed to be a director of a body corporate if he is a person in accordance with whose directions or instructions the directors of the body corporate or any of them act.

PART XI

MISCELLANEOUS

Advertising

161. Subject to the provisions of this Ordinance and any other prescribed conditions, it shall be lawful to advertise a gaming facility, casino or any gambling game to be played a gaming facility.

Restrictions on advertising and promoting gaming

- 162.** (1) A person shall not advertise or promote—
- (a) any gambling activity or game which is unlawful in terms of this Ordinance, or is false and misleading in any manner; or
 - (b) a gambling activity or game, in a manner intended to target or attract minors.
- (2) Any advertisement of a gaming facility, gambling activity or game, or gambling machine or device shall—
- (a) include a statement, in such manner as may be prescribed, warning against the dangers of addictive and compulsive gambling; and
 - (b) not include anything that directly or indirectly promotes or encourages the removal of a person from the excluded list.
- (3) A person shall not advertise or promote any gambling activity or game at or near facilities such as schools, hospitals, sporting grounds, civic parks, shopping centres, cinemas, places of religious worship and such other facilities as may be prescribed.
- (4) A person who contravenes the provisions of this section commits an offence

Protection of confidential information

- 163.** (1) Any information submitted, collected or gathered as part of an application of a licence to a licensing authority under this Ordinance is confidential and not subject to disclosure.
- (2) The information under subsection (1) includes information relating—
- (a) to a minor child of an applicant;
 - (b) to any identification number including, the status card number, national insurance number, passport number, or tax identification number of an applicant or the spouse of an applicant;
 - (c) to the home address and telephone number of an applicant or the spouse or dependant of an applicant;
 - (d) to an applicant's birth certificate;
 - (e) to the driver's licence number of an applicant or the applicant's spouse;

- (f) to the name or address of a previous spouse of the applicant;
- (g) to the date of birth of the applicant and the spouse of an applicant;
- (h) to the place of birth of the applicant and the spouse of an applicant;
- (i) to the personal financial information and records of an applicant or of an employee or the spouse or dependant of an applicant, including tax returns and information, and records of criminal proceedings;
- (j) any information concerning a victim of domestic violence, sexual assault, or stalking;
- (k) the electronic mail address of the spouse or family member of the applicant;
- (l) any trade secret, medical records, and patents or exclusive licences;
- (m) security information, including risk prevention plans, detection and countermeasures, location of count rooms or other money storage areas, emergency management plans, security and surveillance plans, equipment and usage protocols, and theft and fraud prevention plans and countermeasures; and
- (n) information provided in a multijurisdictional personal history disclosure form, as may be prescribed, including the Turks and Caicos Islands supplement, exhibits, attachments, and updates.

(3) Notwithstanding any other law, upon written request from a person, the Commission shall provide the following information to the person—

- (a) the information provided under this Ordinance concerning a licensee or an applicant;
- (b) the amount of the gaming tax paid by a licensed applicant or an operating agent; and
- (c) a copy of a letter providing the reasons for the refusal of an applicant's licence or an operating agent's contract and a copy of a letter providing the reasons for the Commission's refusal to allow an applicant to withdraw the applicant's application, but with confidential information redacted if that information is the reason for the refusal to withdraw.

(4) An individual who holds, held, or has applied for a licence under this Ordinance may waive the confidentiality requirements of subsection (2).

(5) Confidential information received by the Commission from another jurisdiction relating to a person who holds, held, or has applied for a licence under this Ordinance is confidential and not subject to disclosure as a public record.

(6) The Commission may disclose confidential information if the Commission is required to disclose under any law or for purposes of any judicial proceedings.

Protection from liability

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

Agreements with foreign regulatory agencies

165. (1) The Commission may, with the approval of the Minister, enter into arrangements with any foreign gaming regulatory agency whereby each party to the arrangements may—

- (a) furnish to the other party information in its possession if the information is required by that other party for the purpose of performance by it of any of its functions; and
- (b) provide such other assistance to the other party as will facilitate the performance by that other party of any of its functions.

(2) The Commission shall not furnish any information to a foreign gaming regulatory agency in accordance with such arrangements unless it requires of, and obtains from, that agency an undertaking in writing by it that it will comply with terms specified in that requirement, including terms that correspond to the provisions of any other enactment concerning the disclosure of that information by the Commission.

(3) The Minister, in consultation with the Commission, may make regulations for the purposes of this section.

(4) For purposes of this section, “foreign gaming regulatory agency” means a person in whom there are vested functions under the law of another country or territory with respect to the enforcement or the administration of provisions of

law of that country or territory concerning the regulation or conduct of gaming.

Regulations

166. (1) The Minister may, after consulting with the Commission, make regulations generally for giving effect to this Ordinance and specifically in respect of anything required or permitted to be prescribed by this Ordinance.

(2) Without derogating from the generality of subsection (1), the regulations may—

- (a) provide for the prevention of practices detrimental to the public interest;
- (b) provide for the method of applying and the form of application for licences;
- (c) provide the information to be furnished by an applicant or licensee;
- (d) provide the anti-money laundering requirements;
- (e) describe the certification standards and duties of an independent testing laboratory certified under section 87 and the relationship between the Commission, the laboratory, the gaming-related vendor, and gaming operators;
- (f) provide the minimum amount of insurance that must be maintained by a gaming operator, management company, holding company or gaming-related vendor;
- (g) provide for the certification and approval of gaming supplies, devices, and equipment to be distributed by gaming-related vendors;
- (h) provide for tournament play in any gaming facility;
- (i) require all licensees of gaming facilities to use a cashless wagering system whereby all players' money is converted to physical or electronic tokens, tickets, electronic cards, chips or other forms of credit or gaming implements approved by the Commission, which only can be used for play in a gambling game licensed by the Board;
- (j) establish standards for provisional key employee licences for a person who is required to be licensed as a key employee and is in exigent circumstances and standards for provisional

licences for gaming employees who submit complete applications and are compliant under an instant background check.

- (k) provide the manner in which winnings, compensation from gaming, and gross revenue must be computed and reported by a licensee;
- (l) provide conditions for suspension or revocation of a licence;
- (m) provide the manner and procedure of all hearings to be conducted by the Commission;
- (n) provide technical standards and requirements that are to be met by security and surveillance equipment that is used at and standards and requirements to be met by personnel who are employed at gaming facilities, and standards and requirements for the provision of security at and surveillance of gaming facilities;
- (o) provide requirements for a gaming operator to provide unarmed security services at a gaming facility by licensed gaming employees, and the training that shall be completed by these employees;
- (p) provide standards according to which gaming operators shall keep accounts and standards according to which gaming accounts shall be audited, and establish means of levying and collecting the gaming revenue tax levied under this Ordinance
- (r) establish standards for decertifying contractors that contravene the laws of the Islands or another recognised government;
- (s) establish standards for the repair of gaming equipment;
- (t) establish procedures to ensure that gaming operators, management companies and holding companies are compliant with the compulsive and problem gambling plan;
- (u) provide for institutional investors in or holding companies of a gaming operator, management company, holding company, or gaming-related vendor that fall below the threshold needed to be considered an institutional investor or a holding company, standards regarding what any employees, members, or owners of those investors

or holding companies may do and shall not do in relation to gaming facilities and gaming in the Islands, which standards shall rationally relate to the need to proscribe conduct that is inconsistent with passive institutional investment status;

- (v) establish criteria for the conduct of gaming facility marketing arrangements, which may include, for good cause shown, the prohibition of certain forms of advertising that are deemed to be contrary to the public interest;
- (w) provide the categories of licences that may include, distinguishing between owners and operators and between parent and subsidiary corporate entities;
- (x) provide for any other thing necessary and proper for successful and efficient regulation of gaming under this Ordinance; and
- (y) prescribe a lower capital investment value or conditions for a Class A-integrated resort casino operator's licence or a Class B-stand-alone casino operator's licence for areas that are considered blighted, damaged by weather or toxic materials or are otherwise believed to be difficult for development as provided under section 42(4).

(3) Regulations made under this Ordinance may provide that any contravention of any provision of the regulations shall be an offence punishable with a fine not exceeding \$150,000 or to a term of imprisonment not exceeding five years, or to both such fine or imprisonment.

(4) Regulations made under this section shall be laid before the House of Assembly at its next meeting immediately following the date of publication of the Regulations in the *Gazette*.

(5) If, at the meeting of the House of Assembly referred to in subsection (4), the House of Assembly passes a resolution annulling regulations which have been laid before it in accordance with that subsection or if regulations made under this section are not laid before the House of Assembly in accordance with that subsection, the regulations shall cease to have effect on and after the day of the annulment or the day next following the day that the meeting is concluded, as the case may require, but without affecting the validity or curing the invalidity of anything done or omitted to be done thereunder before that day or the making of new regulations.

Rules

167. The Commission may, subject to this Ordinance, make such rules as it thinks fit to regulate its own internal management or for the conduct of any proceedings by the Commission.

Codes, standards of performance or specifications issued or approved by Commission

- 168.** (1) The Commission may, from time to time—
- (a) issue one or more codes, standards of performance or specifications applicable to gaming operations;
 - (b) approve as a code, standard of performance or specification applicable to gaming operators any document prepared by a person other than the Commission if the Commission considers the document as suitable for this purpose; or
 - (c) amend or revoke any code, standard of performance or specification issued under paragraph (a) or approved under paragraph (b).

(2) If any provision in any code, standard of performance or specification is inconsistent with any provision of this Ordinance, such provision, to the extent of the inconsistency—

- (a) shall have effect subject to the provisions of this Ordinance; or
- (b) having regard to the provisions of this Ordinance, shall not have effect.

(3) Where any code, standard of performance or specification is issued, approved, amended or revoked by the Commission under subsection (1), the Commission shall—

- (a) notify each gaming operator and any other person licensed or approved by the Commission who may be affected by the issuance, approval, amendment or revocation;
- (b) specify in the notice referred to in paragraph (a) the date that the issuance, approval, amendment or revocation is to take effect; and
- (c) ensure that, so long as the code, standard of performance or specification remains in force, copies of that code, standard of performance or specification are made available to the gaming operators and any other person required to comply with the code, standard of performance or specification.

(4) Any code, standard of performance or specification issued or approved under this section—

- (a) may be of general or specific application; and
- (b) may specify that different provisions thereof apply to different circumstances or provide for different cases or classes of cases.

(5) The Commission may, either generally or for such time as the Commission may specify, waive the application of any code, standard of performance or specification, or part thereof, issued or approved under this section to any gaming operator or other person.

Guidelines on compliance

169. (1) The Commission may, from time to time and with a view to enabling any person to order his affairs in compliance with the provisions of this Ordinance, issue such guidelines as it considers appropriate for providing guidance—

- (a) in furtherance of its regulatory objectives; or
- (b) on any matter relating to gaming operations.

(2) The failure of any person to comply with any of the provisions of a guideline issued under this section that applies to him shall not of itself render that person for that reason only liable to criminal proceedings but any such failure may, in any proceedings whether civil or criminal, be relied upon by any party to the proceedings as tending to establish or to negate any liability which is in question in the proceedings.

Repeal and savings

170. (1) The following Ordinances are hereby repealed—

- (a) Casinos Ordinance;
- (b) Gaming Machines Ordinance;
- (c) Gaming (Occasional Permissions) Ordinance; and
- (d) Turks and Caicos Islands National Lottery Ordinance.

(2) Any licence granted under any of the Ordinances repealed under subsection (1), which licence would fall under the description of a reserved licence under this Ordinance, which is in force immediately before the coming into force of this Ordinance, shall upon expiry on the 31 December 2019 as specified under section 171, be eligible for application under the new Ordinance, notwithstanding that the applicant may not fall under the definition of “reserved licence”.

Transitional provisions

171. (1) To ensure the integrity of gaming and the consistent, effective and efficient regulation of the gaming industry in the Islands, all licences of a term of one year issued under any of the Ordinances repealed under section 170 prior to the effective date of this Ordinance shall expire on 31 December 2019.

(2) Subject to subsection (3)—

- (a) any casino licence issued under the Casinos Ordinance shall at the date of commencement of this Ordinance, continue to operate for the period specified in the respective licence agreement and expire at the end of that period; and
- (b) any lottery licence issued under the Turks and Caicos Islands National Lottery Ordinance shall at the date of commencement of this Ordinance, continue to operate for the period specified in the respective licence agreement and expire at the end of that period.

(3) Any casino licence or lottery licence issued under the repealed Casinos Ordinance and the Turks and Caicos Islands National Lottery Ordinance, respectively, which continues to operate in accordance with subsections (2) shall, at the commencement of the provisions of this Ordinance (wholly or partly)—

- (a) be regulated under this Ordinance; and
- (b) be subject to the licence fees and taxes specified under this Ordinance.

(4) Any gaming operator seeking to continue after 31 December 2019 or after the expiry of their licence may, after the date of commencement of this Ordinance, apply for a licence under this Ordinance.

(5) Part VI of this Ordinance and any functions relating to the monitoring of casinos for purpose of money laundering shall in the meantime, be implemented by the Gaming Inspectorate under the Ministry responsible for tourism, if that Part will come into force before the rest of the provisions of this Ordinance.

(6) All outstanding licence fees, taxes or moneys due to the Government on the commencement date of this Ordinance shall be pursued and enforced under the provisions of the repealed Ordinance under which they were due or liable.

(7) All legal proceedings still in process on the commencement date of this Ordinance shall continue and be

completed under the provisions of the repealed Ordinance under which they were initiated, and any fines and penalties given thereunder, shall be so enforced.

(8) For the purposes of making a transition to the full operation of the Commission, the Governor in the exercise of his discretion and subject to such conditions as he may impose, may approve the secondment of any public officer to serve with the Commission for a period not exceeding two years from the coming into operation of this Ordinance

(9) A period of secondment shall be considered as a continuous service with the public service.

(10) Subject to the conditions of his secondment, a public officer shall at the expiry of his period of secondment have the option to be employed as an officer of the Commission and the Commission shall have the option to employ him.

Consequential amendment

172. (1) The Rehabilitation of Offenders Ordinance is amended in Schedule 4, by inserting the following new paragraph—

“4. A licence issued under the Gaming Control Ordinance”.

(2) The Proceeds of Crime Ordinance is amended in section 161 by repealing subsection (2) and substituting—

“(2)The Governor shall prescribe one or two persons as the supervisory authority for designated non-financial businesses and professions, one of which may be the Commission.”

SCHEDULE 1
APPLICATION FEES

(section 28(2)(b))

Non-refundable application fees for each category of licence
are—

- (a) a class A-integrated resort casino operator applicant shall pay a non-refundable application fee established by the Commission not to exceed \$50,000;
- (b) a class B-stand-alone casino operator applicant shall pay a non-refundable application fee established by the Commission not to exceed \$15,000;
- (c) a slot parlour applicant shall pay a non-refundable application fee established by the Commission not to exceed \$7,500;
- (d) a key person applicant shall pay a non-refundable application fee established by the Commission by category, the maximum which shall not to exceed \$10,000;
- (e) a gaming route applicant shall pay a non-refundable application fee established by the Commission not to exceed \$1,000;
- (f) a gaming route operator's applicant shall pay a non-refundable application fee established by the Commission not to exceed \$750 per gaming position as defined by the Board;
- (g) an electronic bingo applicant shall pay a non-refundable application fee established by the Board not to exceed \$5,000;
- (h) a sports betting applicant shall pay a non-refundable application fee established by the Board not to exceed \$7,500;
- (i) an internet gaming operator's applicant shall pay a non-refundable application fee established by the Board not to exceed \$7,500;

- (j) a lottery operator's applicant shall pay a non-refundable application fee established by the Board not to exceed \$10,000;
- (k) a proxy lottery operator's applicant shall pay a non-refundable application fee established by the Board not to exceed \$10,000;
- (l) a supplier's applicant shall pay a non-refundable application fee established by the Board not to exceed \$5,000;
- (m) a gaming related-vendor's applicant shall pay a non-refundable application fee according to categories established by the Board, the maximum of which shall not to exceed \$7,500;
- (n) a charitable gaming or special game of chance applicants shall pay a non-refundable application fee established by the Board not to exceed \$500;
- (o) an international market agent operator's applicant shall pay a non-refundable application fee established by the Board not to exceed \$1,000; and
- (p) an international market agent representative applicant shall pay a non-refundable application fee established by the Board not to exceed \$500.

SCHEDULE 2

INITIAL LICENCE FEES

(section 29)

The initial licence fees are—

- (a) a class A-integrated resort casino operator applicant shall pay an initial licence fee established by the Board not to exceed \$250,000;
- (b) a class B-standalone casino operator applicant shall pay an initial licence fee established by the Board not to exceed \$125,000;
- (c) a slot parlour licence applicant shall pay an initial licence fee established by the Board not to exceed \$25,000;
- (d) a key person applicant shall pay an initial licence fee established by the Board not to exceed \$500.

- (e) a gaming route licence applicant shall pay an initial licence fee established by the Board not to exceed \$5,000;
 - (f) a route operator's licence applicant shall pay an initial licence fee established by the Board not to exceed \$2,500;
 - (g) an electronic bingo licence applicant shall pay an initial licence fee established by the Board not to exceed \$2,000;
 - (h) a sports betting licence applicant shall pay an initial licence fee established by the Board not to exceed \$7,500;
 - (i) an internet gaming operator's licence applicant shall pay an initial licence fee of \$10,000;
 - (j) a lottery gaming operator's licence applicant shall pay an initial licence fee established by the Board not to exceed \$25,000;
 - (k) a proxy lottery gaming operator's licence applicant shall pay an initial licence fee established by the Board not to exceed \$25,000;
 - (l) a supplier's licence applicant shall pay an initial licence fee established by the Board not to exceed \$5,000; and
 - (m) a gaming related vendor licence applicant shall pay an initial licence fee established by the Board not to exceed \$300;
 - (n) a charitable gaming or special game of chance applicants shall pay an initial licence fee established by the Board not to exceed \$150;
 - (o) an international market agent operator's applicant shall pay an initial licence fee established by the Board not to exceed \$1,000; and
 - (p) an international market agent representative applicant shall pay an initial licence fee established by the Board not to \$2,000.
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SCHEDULE 3

TAX RATES

(section 135)

The tax rates are—

- (a)* a class A-integrated resort casino operator shall pay 8% of adjusted gross receipts received from gambling games;
- (b)* a class B-standalone casino operator shall pay 10% of adjusted gross receipts received from gambling games;
- (c)* a slot parlour gaming operator shall pay 28% of adjusted gross receipts received from gambling games;
- (d)* a gaming route licensee 30% of adjusted gross receipts from gambling games;
- (e)* a route operator shall pay 30% of adjusted gross receipts received from gambling games;
- (f)* an electronic bingo operator shall pay 28% of adjusted gross receipts received from gambling games;
- (g)* a sports betting gaming operator shall pay 15% of adjusted gross receipts received from gambling games; and
- (h)* an internet gaming operator shall pay 10% of adjusted gross receipts received from gambling games;
- (i)* a lottery gaming operators shall pay 25% of adjusted gross receipts received from gambling games;
- (j)* proxy lottery shall pay 15% of adjusted gross receipts received from gambling games; and
- (k)* charity gaming operator shall pay 0% to 5% of adjusted gross receipts received from gambling games, as the Commission may determine depending on the type of charitable activity.