

ABILL

ENTITLED

AN ACT to Amend the Casino Gaming Act.

[]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the Casino Gaming (Amendment) Act, 2015, and shall be read and construed as one with the Casino Gaming Act (hereinafter referred to as the "principal Act").

Short title
and
construction.

2. Section 2 of the principal Act is amended in subsection (1) in the definition of "winnings" or "payouts" by inserting immediately after the words "casino operator" the words " , as a result of wagering by way of games, sports betting or other activities, for the conduct or playing of which the casino operator is authorized under this Act to provide facilities".

Amendment
of section 2
of principal
Act.

Amendment
of section 6
of principal
Act.

3. Section 6 of the principal Act is amended—

- (a) in paragraph (b) by inserting immediately after the word “gaming” the words “, and the proper reporting of, and accounting for, gaming revenues and taxes”; and
- (b) by renumbering paragraph (f) as paragraph (g), deleting the word “and” at the end of paragraph (e), and inserting next after paragraph (e) the following as paragraph (f)—

“(f) issue, from time-to-time, guidelines relating to casino gaming in Jamaica; and”.

Amendment
of section 8
of principal
Act.

4. Section 8 of the principal Act is amended in subsection (1) by inserting immediately after the word “regulations” the words “or to grant licences”.

Amendment
of section 11
of principal
Act.

5. Section 11 of the principal Act is amended by deleting subsection (6) and substituting therefor the following—

“(6) Where, pursuant to subsection (4), the Minister has revoked an order made under section 9, any casino gaming licence or temporary casino gaming licence which has been granted in relation to the exclusive geographical area specified in the order shall be deemed to be revoked with effect from the date of the revocation of the order.”.

Amendment
of section 12
of principal
Act.

6. Section 12 of the principal Act is amended in subsection (1) by inserting immediately after the words “exclusive geographical area specified in” the words “the order made under”.

Amendment
of section 13
of principal
Act.

7. Section 13 of the principal Act is amended by deleting subsection (3).

Amendment
of section 14
of principal
Act.

8. Section 14 of the principal Act is amended in subsection (1) by deleting the words “or temporary casino gaming licence”.

9. Section 15 of the principal Act is amended by—

Amendment
of section 15
of principal
Act.

- (a) deleting subsection (2)(f) and substituting therefor the following—

“ (f) the applicant or the associate, as the case may be, or any person connected with the applicant or the associate, has any business association or personal association with any person, body or association who or which, in the opinion of the Commission, is not of good repute having regard to character, honesty and integrity or has undesirable or unsatisfactory financial resources;”

- (b) inserting next after subsection (2) the following as subsections (3) and (4)—

“ (3) For the purposes of this section, the following persons shall be treated as being connected with an applicant or associate (“B”), and B with them, and shall be so treated notwithstanding that at the relevant time any of the persons in question (not being individuals) had not yet come into existence or had ceased to exist—

- (a) a holding company or subsidiary of B;
- (b) a company which is a subsidiary of a holding company of B;
- (c) a company of which a holding company of B has control;
- (d) a company of which B has control;
- (e) a company of which B and persons connected with B together have control;
- (f) a company which, along with B, constitute a group;
- (g) an individual who is a director, manager or a person who has control of B, or of any holding company of B, or any partner or any immediate relative of such director, manager or person as aforesaid;

- (h) any company of which any of the persons referred to in paragraph (g) is a director, manager or has control.

(4) For the purposes of this section, the words “subsidiary” and “holding company” have the meanings ascribed thereto respectively in section 151 of the *Companies Act*, the word “control” has the meaning ascribed thereto in section 2 of the *Income Tax Act*, and the word “group” has the meaning ascribed thereto in section 3(2) of the *Securities Act*.”.

Amendment
of section 18
of principal
Act.

10. Section 18 of the principal Act is amended in subsection (4)(a) by inserting immediately after the words “section 72(1)(a)” the words “and approved by the Commission by order pursuant to section 55”.

Amendment
of section 20
of principal
Act.

11. Section 20 of the principal Act is amended in subsection (1)(b)(i) by deleting the words “given to the Commission by the casino operator” and substituting therefor the words “received by the Commission, whether by way of notification from the casino operator or otherwise”.

Amendment
of section 22
of principal
Act.

12. Section 22 of the principal Act is amended in subsection (2)—

- (a) by deleting the words “an imposition of a disciplinary penalty” and inserting therefor the words “the taking of disciplinary action under section 27”; and
- (b) by inserting in paragraph (b)(ii) immediately before the words “a condition” the words “a breach of”;

Amendment
of section 26
of principal
Act.

13. Section 26 of the principal Act is amended —

- (a) in subsection (1) by inserting next after the word “prescribed” the words “form and” .
- (b) in subsection (3) by inserting next after the word “Commission” the words “in the prescribed form and manner”.
- (c) in subsection (6), by—
 - (i) deleting the word “and” appearing at the end of paragraph (b);

- (ii) inserting immediately after the semi-colon appearing in paragraph (c) the word “and”; and
- (iii) inserting next after paragraph (c) the following as paragraph (d)—

“ (d) the application for a temporary casino gaming licence, as they apply to an application for a casino gaming licence under section 14.”

14. Section 27(1) of the principal Act is amended—

Amendment
of section 27
of principal
Act.

- (a) in subsection (1), in the definition of “grounds for disciplinary actions”, by deleting from paragraph (f) the word “licence” and substituting therefor the words “casino gaming licence”; and
- (b) by renumbering subsection (8) as subsection (9) and inserting next after subsection (7) the following as subsection (8)—

“ (8) Where the Commission so permits, a casino operator may elect to discharge its liability with respect to disciplinary action proposed to be taken against it under this section, by paying to the Commission an administrative penalty of such amount as the Commission may determine to be reasonable and proportionate in the circumstances, and such payment, if made within the time permitted by the Commission, shall discharge the liability concerned.”

15. Section 28 of the principal Act is repealed.

Repeal of
section 28 of
principal
Act.

16. Section 39(5) of the principal Act is amended by deleting the words “(other than a casino operator)”.

Amendment
of section 39
of principal
Act.

17. Section 42 of the principal Act is amended in subsection (9) by deleting the words “subsection (1)” and substituting therefor the words “subsection (2) or to comply with a direction given under subsection (7)”.

Amendment
of section 42
of principal
Act.

Amendment
of section 46
of principal
Act.

18. Section 46 of the principal Act is amended in subsection 1(a) and (b) by deleting the word “reasonable” wherever it appears.

Amendment
of section 47
of principal
Act.

19. Section 47 of the principal Act is amended in—

- (a) subsection (1), by inserting immediately after the word “abandoned” the words “or was made or adapted for the purpose of committing or facilitating the commission of an offence in contravention of any provision of this Act or regulations made hereunder.”;
- (b) subsection (6)(b), by deleting the word “machine” and substituting therefor the word “equipment”.

Amendment
of section 65
of principal
Act.

20. Section 65 of the principal Act is amended in subsection (1)(a), (b), (c), (d) and (e) by deleting the words “authorized officer or inspector” wherever they appear and substituting therefor, in each case, the words “inspector or authorized person”.

Amendment
of section 69
of principal
Act.

21. Section 69 of the principal Act is amended—

- (a) in subsection (2), by deleting the words “finds a person whom he has reason to believe” and substituting therefor the words “has reason to believe that a person”;
- (b) in subsection (8)(c), by inserting immediately after the word “Taxes” the words “or body designated under subsection (4)”.

Amendment
of section 72
of principal
Act.

22. Section 72(1) of the principal Act is amended by—

- (a) renumbering paragraph (w) as paragraph (x); and
- (b) inserting next after paragraph (v) the following as paragraph (w)—
 - “(w) prescribing terms and conditions for the management of premises at which casino gaming operations are carried out;”.

23. The Sixth Schedule to the principal Act is amended by deleting the entry relating to section 42(9) and substituting therefor the following—

| “ | Section | Offences | Fine | Amendment of Sixth Schedule to principal Act. |
|---|---------|--|----------------|---|
| | — | — | — | |
| | 42(9) | Failure to notify the Commission that a person is likely to become an associate, under subsection (2) or failure to comply with a direction to take all reasonable steps to terminate an association, given under subsection (7) | \$500,000.00.” | |

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to amend the Casino Gaming Act in order to—

- (a) clarify and remove any ambiguity with respect to the procedure for applying for a temporary casino gaming licence;
- (b) make revisions to the Act to remove inconsistencies that have been identified.

PETER D. PHILLIPS, PH.D., M.P.
Minister of Finance and Planning.

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AN ACT to Amend the Casino Gaming Act.

**As introduced by the Honourable Minister of Finance
and Planning.**

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SECTION 2 OF THE PRINCIPAL ACT WHICH
IT IS PROPOSED TO AMEND

General

2.—(1) In this Act, unless the context otherwise requires—

“Appeals Tribunal” means the tribunal established under section 63;

...

“winnings” or “payouts” means the aggregate amount due and payable
to a patron by a casino operator.

...

SECTION 6 OF THE PRINCIPAL ACT WHICH
IT IS PROPOSED TO AMEND

6. The functions of the Commission shall be to—

- (a) regulate and control casino gaming in Jamaica;
- (b) approve systems of controls for, and administrative and accounting
procedures in, casinos in order to ensure integrity and fairness in
casino gaming;
- ...
- (e) advise the Minister on matters of general policy relating to casino
gaming in Jamaica; and
- (f) carry out such other functions pertaining to casino gaming as may
be assigned to it by or under this Act or any other enactment.

SECTION 8 OF THE PRINCIPAL ACT WHICH
IT IS PROPOSED TO AMEND

8.—(1) The Commission may, subject to the approval of the Minister, delegate
any of its functions under this Act (other than the power of delegation or the
power to make regulations) to any member, officer, employee or agent of the
Commission.

...

SECTIONS 11, 12, 13 AND 14 OF THE PRINCIPAL ACT WHICH
IT IS PROPOSED TO AMEND

11.—(1) An approved developer may, in writing, apply to the Minister for an
amendment of an order under section 9.

...

(6) Where, pursuant to subsection (4), the Minister has revoked an order made under section 9, any casino gaming licence or temporary casino gaming licence granted for a casino on the specified site shall be deemed revoked with effect from the date of revocation of the order.

12.—(1) The Minister may, in respect of an approved integrated resort development, determine that for a period specified in an order made under section 9, the approved developer shall be granted exclusivity status, that is to say, the approved developer or his nominee shall be the only person to whom a casino gaming licence or a temporary casino gaming licence shall be granted in the exclusive geographical area specified in section 9.

13.—(1) Subject to subsection (2) and section 26, a person shall not operate a casino, except in accordance with the provisions of this Act, any regulations made hereunder and a casino gaming licence.

(3) In this section—

“Jamaican waters” means the inland waters and—

- (a) internal water;
- (b) archipelagic waters; and
- (c) territorial sea,

as defined in the Maritime Areas Act, and such other waters as may be prescribed under any enactment to be Jamaican waters;

“ship” includes every description of vessel used in navigation.

14.—(1) Every approved developer who, or a company nominated by the approved developer that, is desirous of operating a casino in an integrated resort development shall apply in the prescribed form and manner to the Commission for a casino gaming licence or temporary casino gaming licence.

SECTION 15 OF THE PRINCIPAL ACT WHICH IT IS PROPOSED TO AMEND

15.—(1) Upon an application made in accordance with section 14, the Commission shall grant to the applicant, a casino gaming licence, if the Commission is satisfied that—

- (a) the applicant, and each associate of the applicant (hereinafter called an “associate”), is a fit and proper person to be concerned in or associated with the management or operation of a casino;

(4) The grant of a licence under subsection (1) shall authorize the licensee to provide facilities for the conduct or playing of—

- (a) games prescribed under section 72 (1)(a):
- (b) other games, including games conducted by the use of machines, as approved by the Commission:
- (c) sports betting or other forms of wagering under rules prescribed by the Commission and otherwise as approved by the Commission.

... ..

SECTION 20 OF THE PRINCIPAL ACT WHICH
IT IS PROPOSED TO AMEND

20.—(1) Subject to subsection (2), the Commission may review a casino gaming licence where—

- (a) it suspects that a breach of any condition of the licence, this Act or any regulations made hereunder or any other enactment, has been committed by the casino operator; or
- (b) it appears appropriate to the Commission to do so, having regard to—
 - (i) any notice of a relevant event given to the Commission by the casino operator; or
 - (ii) the time which has passed since the grant of the licence or the last review.

... ..

SECTION 22 OF THE PRINCIPAL ACT WHICH
IT IS PROPOSED TO AMEND

22.—(1)

(2) The Commission may suspend a casino gaming licence for administrative purposes (and not as an imposition of a disciplinary penalty) where,

- (a)
- (b) it is in its opinion necessary to prevent the continuation of—
 - (i) a breach of this Act or any regulations made hereunder; or
 - (ii) a condition of a licence or authorization granted or given under this Act;

SECTIONS 26 AND 27 OF THE PRINCIPAL ACT
WHICH IT IS PROPOSED TO AMEND

26.—(1) An approved developer or his nominee may apply in writing to the Minister, in the prescribed manner, for the issue of an authorization pursuant to subsection (2).

... ..

(3) An approved developer or his nominee, in respect of whom an authorization has been issued by the Minister pursuant to subsection (2), may apply to the Commission for the grant of a temporary casino gaming licence.

... ..

(6) Subject to the provisions of this section, and save and except for sections 15(1)(b), 19(2) and paragraphs 4 and 5 of the Third Schedule, the provisions of this Part and Parts V and VI shall apply to—

- (a) a temporary casino gaming licence as they apply to a casino gaming licence granted under section 18;
- (b) a casino operator holding a temporary casino gaming licence as they apply to a casino operator holding a casino gaming licence granted under section 18; and
- (c) the applicant for a temporary casino gaming licence as they apply to an applicant for a licence granted under section 18;

27.—(1) In this Part—

“grounds for disciplinary action”, in relation to a casino operator;

includes any of the following, namely that—

- (a)
- (f) the Commission is satisfied that the licence was obtained as a result of any false or fraudulent representation or in consequence of any incorrect information which is material; or

... ..

SECTION 28 OF THE PRINCIPAL ACT WHICH
IT IS PROPOSED TO REPEAL

28.—(1) Any premises licensed for the purposes of this Act by the Commission shall be managed by the casino operator in accordance with the terms and conditions specified in the licence.

(2) In the case of a breach of any of the terms and conditions in a licence or of any regulations made under this Act the casino operator shall be liable to disciplinary action under section 27.

SECTION 39 OF THE PRINCIPAL ACT WHICH
IT IS PROPOSED TO AMEND

39.—(1)

(5) Any person (other than a casino operator) who fails to comply with a requirement in a notice under this section commits an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding two million dollars and in default of payment, to imprisonment for a term not exceeding twelve months.

SECTION 42 OF THE PRINCIPAL ACT WHICH
IT IS PROPOSED TO AMEND

42.—(1)

(9) Any casino operator that fails to comply with subsection (1) shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding one million dollars; however, where pursuant to section 68, a director or other individual is also proceeded against, he shall be liable in default of payment to imprisonment for a term not exceeding twelve months.

SECTION 46 OF THE PRINCIPAL ACT WHICH
IT IS PROPOSED TO AMEND

46.—(1) An inspector or authorized person shall have the power to—

- (a) enter at all reasonable times any premises in order to ensure compliance with—
 - (i) the provisions of this Act or any regulations made hereunder; or
 - (ii) any condition subject to which a licence, authorization or approval is granted;
- (b) enter at all reasonable times any premises specified in a casino gaming licence and inspect any accounts, book, document, records, article or thing to which any casino gaming relates and any gaming equipment; and
- (c) require the production of records and accounts which are required to be kept by the casino operator under the provisions of this Act or any regulations made hereunder.

SECTION 47 OF THE PRINCIPAL ACT WHICH
IT IS PROPOSED TO AMEND

47.—(1) On the application of the Commission before a Resident Magistrate's Court having jurisdiction where a gaming equipment or article is seized pursuant to section 46, the Resident Magistrate may order the forfeiture of the gaming equipment or article if the Resident Magistrate is satisfied that the seized gaming equipment or article has been abandoned.

... ..
(6) If, upon the application of any person prejudiced by an order made by the Court under subsection (1) the Court is satisfied that it is just to revoke such order, the Court—

- (a) may revoke that order upon such terms and conditions as it deems appropriate; and
- (b) without prejudice to the generality of the foregoing, shall require that person, to pay in respect of storage, maintenance, administrative expenses, security and insurance of the gaming equipment or article such charges as shall be charged by the Commission and approved by the Court, not exceeding one and a half times the value as determined by the Court, of the gaming machine or article.

SECTION 65 OF THE PRINCIPAL ACT WHICH
IT IS PROPOSED TO AMEND

65.—(1) A person commits an offence if he—

- (a) wilfully hinders or obstructs an authorized officer or inspector in the execution of his duties under this Act;
- (b) without lawful excuse, fails within a reasonable time to comply with any requirement of an authorized officer or inspector exercising a power conferred on him under this Act;
- (c) upon being required to disclose his true name and place of residence by an authorized officer or inspector acting in the execution of his duties under this Act—
 - (i) refuses to disclose his true name and place of residence;
or
 - (ii) gives a false name or place of residence;
- (d) personates or pretends to be an authorized officer or inspector; or

