



SAMOA

## CASINO AND GAMBLING CONTROL ACT 2010

### Arrangement of Provisions

#### **PART 1 PRELIMINARY**

1. Short title and commencement
2. Interpretation
3. Act binds Government
4. Objects

#### **PART 2 ADMINISTRATION**

##### *Division 1 – Gambling Control Authority*

5. Establishment of the Authority
6. Directions to Minister and Authority
7. Functions of the Authority
8. Powers of the Authority
- 8A. Approved rules, standards, guidelines, operating procedures and codes of practice
9. Membership of the Authority
10. Terms of office of members
11. Remuneration of members
12. Vacation of office
13. Vacancy not to affect powers or functions
14. Disclosure of interests
15. Calling of meetings
16. Meetings of the Authority
17. Committees of the Authority
18. Delegation of powers

19. Authority monies and annual reports

##### *Division 2 – Chief Executive Officer and Other Staff*

20. Chief Executive Officer
21. Acting Chief Executive Officer
22. Authority staff

#### **PART 3 CASINOS**

##### *Division 1 – Preliminary*

23. Number of casino licences
24. Requirements for a casino
25. Authority may invite expressions of interest
26. Authority may conduct negotiations and enter into agreements

##### *Division 2 – Licensing of Casino*

27. Grant of licence by the Authority
28. Lawfulness of casino operation
29. Application for a casino licence
30. Suitability of casino licensee
31. Form of the casino licence
32. Duration of casino licence
33. Surrender of casino licence

- |  |  |
|--|--|
| <ul style="list-style-type: none"> <li>34. Suspension or cancellation of casino licence - grounds</li> <li>35. Suspension or cancellation of casino licence procedures</li> <li>36. Casino licence fee</li> <li>37. Commission</li> <li>38. Payment of fee and commission where casino licence suspended</li> <li>39. List of persons excluded from casino</li> <li>40. Application of Liquor Act</li> </ul> <p style="text-align: center;"><i>Division 3 – General</i></p> <ul style="list-style-type: none"> <li>41. Powers of officers</li> <li>42. Investigations</li> <li>43. Self-incrimination</li> <li>44. Secrecy</li> </ul> <p style="text-align: center;"><i>Division 4 – Operation of Casino</i></p> <ul style="list-style-type: none"> <li>45. Maintenance of facilities</li> <li>46. Approval of layout</li> <li>47. Approval of gaming equipment and chips</li> </ul> <p style="text-align: center;"><i>Division 5 – Exclusion of Persons from Casino</i></p> <ul style="list-style-type: none"> <li>48. Entry to and exclusion of entry from casino</li> <li>49. Grounds</li> <li>50. Enforcement</li> <li>51. Obligations of casino licensee</li> <li>52. Exclusion of certain person from casino venues</li> <li>53. Revocation of direction</li> </ul> <p style="text-align: center;"><i>Division 6 - Gaming and Related Activities</i></p> <ul style="list-style-type: none"> <li>54. Authorised games</li> <li>55. Gaming equipment and chips</li> <li>56. Conduct of gaming</li> <li>57. Gaming by certain persons prohibited</li> <li>58. Cheating</li> </ul> | <ul style="list-style-type: none"> <li>59. Forgery</li> <li>60. Restriction on credit</li> <li>61. Cheques</li> <li>62. Deposit accounts</li> <li>63. Redemption of cheques</li> <li>64. Proceedings to recover money or an amount of a cheque drawn in relation to gaming</li> </ul> <p style="text-align: center;"><i>Division 7 – Search, Entry and Seizure</i></p> <ul style="list-style-type: none"> <li>65. Interpretation</li> <li>66. Powers of officers in casino</li> <li>67. Seizure of things not specified in warrant</li> <li>68. Consent relating to searches</li> <li>69. Search warrants</li> <li>70. Police entry</li> <li>71. Special powers of officers and police officers</li> <li>72. Restrictions affecting search of persons</li> <li>73. Disposal of illegal thing after seizure</li> <li>74. Detention of suspected person</li> </ul> <p style="text-align: center;"><i>Division 8 – Offences</i></p> <ul style="list-style-type: none"> <li>75. Obstructing officer</li> <li>76. Compliance with requirement of officer</li> <li>77. False information</li> <li>78. False representation</li> <li>79. Failure to provide information</li> <li>80. Conflict of interest</li> <li>81. Bribery</li> <li>82. Conduct of directors, officers, employees and agents</li> </ul> <p style="text-align: center;"><i>Division 9 – Financial</i></p> <ul style="list-style-type: none"> <li>83. Bank accounts</li> <li>84. Access to banking records</li> <li>85. Accounts and records</li> </ul> |
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|--|--|
| 86. Statement of accounts                              | 89A. Forms and Fees  |
| 87. Audit  | 89B. Immunities for persons exercising powers under this Act |
| 88. Retention of records                               | 90. Consequential amendment                                  |
| 88A. Interactive gaming                                | 91. Amendment to Value Added Goods and Services Tax Act 1993 |
| 88B. Commission payable on interactive gaming services | 92. Transitional provision                                   |
| 88C. Exemption from tax                                |  |
| <i>Division 10 – Miscellaneous</i>                     |  |
| 89. Regulations  |  |

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**2010, No. 10**

**AN ACT** to establish the Gambling Control Authority and, for the promotion of tourism to provide for the licensing of casinos and control of their operation, and for other forms of gambling, and for related purposes.

*[Assent date: 19 October 2010]*

*[Commencement date: 8 March 2013]*

**BE IT ENACTED** by the Legislative Assembly of Samoa in Parliament assembled as follows:

**PART 1  
PRELIMINARY**

**1. Short title and commencement** – (1) This Act may be cited as Casino and Gambling Control Act 2010.

(2) This Act commences on a date or dates to be nominated by the Minister.

**2. Interpretation** – (1) In this Act, unless the context otherwise requires:

“authorised person” means:

- (a) the Chief Executive Officer; and
- (b) an officer; and
- (c) an investigator; and
- (d) any other person who performs in relation to this Act a function on behalf of the Government or the Authority;

- “Authority” means the Gambling Control Authority established by section 5;
- “casino” means the areas of a hotel casino complex identified in the licence as the areas of the casino;
- “casino gaming” means the playing of any game of chance in a casino whether played by a gaming machine or otherwise;
- “chips” means any tokens used or capable of being used in a casino in the conduct of gaming in the place of money and approved for the purpose by the Authority;
- “gaming equipment” means an electrical, electronic or mechanical device or any other thing (other than chips) used, or suitable for use, in connection with gaming;
- “Government” means the Government of the Independent State of Samoa;
- “government agency” means a department or ministry of the Public Service or an office, entity or instrument of the Government;
- “hotel” has the same meaning in clause (3) of Part B of Schedule 2 of the Income Tax Act 2012;
- “inspector” means an employee or officer of the Authority appointed by the Chief Executive Officer to be an inspector;
- “interactive gaming licence” means a licence for interactive gaming issued under section 88A;
- “interactive gaming product” means a device, software or any other digital or computer based system hardware used for interactive gaming;
- “interactive gaming service” means a gambling service that is provided in the course of carrying on a business and the service is provided to customers using any of the following:
- (a) an internet carriage service;
  - (b) a broadcasting service;
  - (c) any other content service;
  - (d) a datacasting service; or
  - (e) any other type of carriage service;
- “investigator” means a person authorised under section 42 to conduct an investigation;
- “junket” means an arrangement entered into between a promoter and the casino licensee;

- (a) the primary purpose of which is to induce a person or persons to visit the casino for the purpose of participating in gaming; and
  - (b) under which an amount exceeding the prescribed amount is provided, directly or indirectly, for the person or either or any of those persons by the casino licensee in connection with the provision of transportation, food, beverages, lodging or entertainment in respect of the visit or for any other purpose associated with the visit;
- “Minister” means the Minister responsible for administering this Act;
- “officer” means an officer appointed under section 22 and includes the Chief Executive Officer.
- “telecommunication device” means:
- (a) a computer adapted for communicating by way of the internet or another communications network; or
  - (b) a television receiver adapted to allow the viewer to transmit information by way of a cable television network or other communications device; or
  - (c) a telephone; or
  - (d) any other electronic device or thing used—
    - (i) for communicating at a distance; or
    - (ii) for any telecommunication services as defined in the Telecommunications Act 2005.
- (2) Meaning of “significant influence” in casino:
- (a) a person has a significant influence in a casino if the person —
    - (i) is or will be a director of the holder of, or applicant for a casino licence; or
    - (ii) is or will be employed or engaged by the holder of, or applicant for, a casino licence as the Chief Executive Officer or a senior manager of the casino; or
    - (iii) owns or will own shares, directly or indirectly, in the holder of, or applicant for, a casino licence that confer control of 20% or more of the voting rights of shareholders of any class in the holder or applicant;

- (b) a significant influence in a casino includes any influence that the Authority considers to be a significant interest in the management, ownership, or operation of a casino, however acquired or to be acquired;
- (c) paragraph (a) does not limit what the Authority considers to be a significant influence under paragraph (b).

**3. Act binds Government** – The Act binds the Government.

- 4. Objects** – The objects of this Act are:
- (a) to promote probity and integrity in gambling; and
  - (b) to maintain the probity and integrity of persons engaged in gambling in Samoa; and
  - (c) to promote fairness, integrity and efficiency in the operations of persons engaged in gambling in Samoa; and
  - (d) to reduce any adverse social impact of gambling; and
  - (e) to promote a balanced contribution by the gambling industry to tourism and general community benefit and amenity.

## **PART 2 ADMINISTRATION**

### *Division 1 – Gambling Control Authority*

**5. Establishment of the Authority** – (1) The Gambling Control Authority is established.

(2) The Authority:

- (a) is a body corporate; and
- (b) shall have a common seal; and
- (c) is capable of acquiring, holding and disposing of real and personal property; and
- (d) may sue and be sued in its corporate name.

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

(4) The Chief Executive Officer is responsible for the safe-keeping of the common seal of the Authority.

(5) The common seal of the Authority may only be affixed to a document by the Chief Executive Officer in accordance with any procedures approved by the Authority.

**6. Directions to Minister and Authority – (1)** Subject to this section, Cabinet may give written directions to the Minister and the Authority on policies relating to any gambling activity and the Minister and the Authority shall give effect to such directions.

(2) The Minister may, after consultation with the Authority, give directions and provide guidelines to the Authority as to how the Authority is to exercise any of its functions under this Act but only if the Minister is of the opinion that the direction or guideline:

- (a) is necessary or desirable to protect the integrity or apparent integrity of a gambling activity; or
- (b) is otherwise in the public interest.

(3) Directions and guidelines issued under this section are not to relate to:

- (a) the determination of an application for any licence, permit or other authority under this Act; or
- (b) any of the Authority's functions relating to disciplinary actions against licensees and permit holders or disciplinary action against officers or employees.

(4) The Authority is, in the exercise of its functions, subject to the directions and guidelines given or provided under this section.

(5) Directions and guidelines under this section shall be in writing.

(6) *Repealed.*

(7) Subsections (2) and (3) do not apply to directions as to the requirements for casino, gaming machines in casinos and directions the Minister gives to the Authority to invite expressions of interest as provided for in section 25.

**7. Functions of the Authority – (1)** The Authority has the following general functions:

- (a) such functions as are necessary or convenient to enable it to achieve its objects; and
- (b) such other functions as are conferred or imposed on it by or under this Act or any other law.

(2) Without limiting its general functions, the Authority has the following specific functions:

- (a) in relation to a casino —
  - (i) to invite expressions of interest for the establishment and operation of casinos and applications for casino licences and to consider and determine those applications;
  - (ii) to keep under constant review all matters connected with casinos and the activities of casino operators, persons associated with casino operators, and persons who are in a position to exercise direct or indirect control over the casino operators or persons associated with casino operators;
  - (iii) to approve the games to be played in a casino and the rules under which such games are played;
  - (iv) to approve gaming equipment for use in a casino;
  - (v) to directly supervise and inspect the operations of a casino and the conduct of gaming in a casino;
  - (vi) to approve the operating times of a casino;
- (b) in relation to gaming machines for use in casinos, to consider applications for, and where appropriate grant, permits and licences under this Act and otherwise to control the operation of gaming machines as specified in this Act and any other law; and
- (c) to consider and determine applications for other licences, permits and other authorisations under this Act; and
- (d) to do such things as it considers necessary or desirable for the proper regulation and control, in the interests of the public, of gambling; and
- (e) to investigate and make recommendations to the Minister on matters relating to the administration or operation of this Act; and
- (f) to undertake research and investigations into matters relating to gambling control, including the probity



- and financial security of organisations and persons involved in the business of gambling; and
- (g) to liaise with other gambling control agencies on matters relating to the administration, operation or control of gambling; and
  - (h) to monitor the implementation of guidelines for gambling control; and
  - (i) to review and determine complaints relating to the administration of gambling control; and
  - (j) to undertake research into the problems associated with gambling activities including the social and economic impact of gambling on individuals, families and the communities at large; and
  - (k) to promote community awareness and education in respect of problem gambling and the provision of counselling, rehabilitation and support services for problem gamblers and their families; and
  - (l) to advise the Minister on matters relating to gambling control.

**8. Powers of the Authority** – (1) The Authority has power to do all lawful things necessary or convenient to be done for or in connection with, or incidental to, the performance of its functions under this or any other Act.

(2) Without limiting its powers, the Authority has the following specific powers in relation to all forms of gambling permitted under this Act:

- (a) ensuring that the management and operation of all forms of gambling remain free from criminal influence or exploitation; and
- (b) ensuring that all forms of gambling are conducted honestly; and
- (c) containing and controlling the potential of all forms of gambling to cause harm to the public interest and to individuals and families.

**8A. Approved rules, standards, guidelines, operating procedures and codes of practice** – (1) For the purposes of implementing the provisions of this Act and any other Act for which the Authority is responsible, the Authority may develop and approve rules, standards, guidelines, operating procedures or

codes of practice in relation to any matter relevant to the management and operation of casinos, or any other regulated gambling activity.

(2) An approved rule, standard, guideline, operating procedure or code of practice applied under this section must be consistent with the provisions of this Act, and any other Act for which the Authority is responsible.

(3) Without limiting the generality of subsection (1), approved rules, standards, guidelines, operating procedures or codes of practice can be applied to achieve the objectives of this Act, and any other Act for which the Authority is responsible.

(4) An approved rule, standard, guideline, operating procedure or code of practice made under subsection (1) takes effect when it is approved by the Authority.

(5) The Chief Executive Officer must ensure that approved rules, standards, guidelines, operating procedures or codes of practice are made known to holders of casino licences, and to all other persons who operate licensed gambling operations or premises under any other Act for which the Authority is responsible.

(6) Failure to take any action referred to in subsection (5) does not affect the validity of an approved rule, standard, guideline, operating procedure or code of practice.

(7) Any approved rule, standard, guideline, operating procedure or code of practice made under this section applies as a condition to any licence or class or licence, or to any other permit or approval, to which the rule, standard, guideline, operating procedure or code of practice is stated to apply.

(8) A person who is obliged to comply with an approved standard, guideline, operating procedure or codes of practice and who breaches the rule, standard, guideline, operating procedure or code of practice commits an offence and is liable upon conviction to a fine not exceeding 100 penalty units, and to a further fine of 10 penalty units for every day that the offence continues.

**9. Board of the Authority** – The Board members of the Authority are to be appointed by the Head of State, acting on the advice of Cabinet and shall comprise:

- (a) the Chairperson who shall have an accounting qualification and experience in accounting; and

- (b) the Attorney General; and
- (c) the Chief Executive Officer of the Ministry of Finance; and
- (d) one member who shall be an experienced practitioner under the Lawyers and Legal Practice Act 2014;
- (e) one member nominated by the Samoa National Council of Churches; and
- (f) one member nominated by the Samoa Chamber of Commerce and Industry (Incorporated); and
- (g) one member representing the interests of women and children; and
- (h) one member representing the interests of sports.

**10. Terms of office of members** – A member, other than an *ex officio* member, appointed under section 9 shall hold office for the term stated in the instrument of appointment or until replaced under this Act.

**11. Remuneration of members** – A member is to be paid such remuneration and allowances as may be fixed by Cabinet.

**12. Vacation of office** – (1) A member may resign his or her office by writing under his or her hand and addressed to the Minister, the resignation to take effect, if no date is specified in the letter of resignation, on acceptance by the Minister.

(2) Where a member of the Authority:

- (a) becomes permanently incapable of performing his or her duties; or
- (b) resigns his or her office in accordance with subsection (1); or
- (c) absent himself or herself from 3 consecutive meetings of the Authority except with the written consent of the Minister; or
- (d) fails to comply with any provision of this Act; or
- (e) becomes bankrupt, or applies to take the benefit of any law for the benefit of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his or her remuneration for their benefit; or

(f) is convicted of an offence punishable under a law by a term of imprisonment for 1 year or longer, and, as a result of the conviction, is sentenced to imprisonment, the Head of State, acting on the advice of Cabinet, shall terminate his or her appointment.

(3) The Minister may by written notice, advise a member that the Minister intends to recommend termination of the member's appointment on the grounds of inefficiency, incapacity or misbehaviour.

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

(5) The Head of State shall, by instrument, terminate a member's appointment on the advice of Cabinet given after considering a recommendation from the Minister to terminate the member's appointment.

(6) Where the member referred to in subsection (3) does not reply in accordance with subsection (4), the Minister may recommend to Cabinet to terminate the member's appointment.

**13. Vacancy not to affect powers or functions** – The exercise of a power or the performance of a function of the Authority is not invalidated by reason only of a vacancy in the membership of the Authority.

**14. Disclosure of interests** – (1) A member who has a direct or indirect interest in a matter being considered or about to be considered by the Authority, otherwise than a member who has less than a controlling or majority shareholding of an incorporated company, shall, as soon as possible after the relevant facts have come to his or her knowledge, disclose the nature of the interest at a meeting of the Authority.

(2) A disclosure under subsection (1) is to be recorded in the minutes of the meeting of the Authority and, unless the Authority determines otherwise, the member:

- (a) shall not be present during any deliberation of the Authority with respect to that matter;
- (b) shall not take part in any decision of the Authority with respect to that matter; and

(c) shall be disregarded for the purpose of constituting a quorum of the Authority for such deliberation or decision.

(3) The Authority shall cause particulars of any disclosure recorded under subsection (2) to be made available at all reasonable hours for inspection by any person on payment of such fees as the Authority may determine.

**15. Calling of meetings** – (1) The Authority shall meet as often as the business of the Authority requires, and at such times and places as the Authority determines, or as the Chairperson directs, but in any event shall meet not less frequently than once in every 3 months.

(2) Where the Chairperson receives a request to do so by not less than 3 members, the Chairman shall convene a meeting of the Authority within 14 days.

(3) For the purposes of subsection (1), the Chairperson shall give to a member at least 7 days' notice of the meeting.

**16. Meetings of the Authority** – (1) At a meeting, 5 members form a quorum.

(2) The Chairperson shall preside at a meeting at which he or she is present.

(3) If the Chairperson is for any reason absent from a meeting, the members present shall elect 1 of the members to preside at that meeting.

(4) At a meeting, the Chairperson or other person presiding shall have a deliberative vote, and in the case of an equality of votes, the Chairperson shall also have a casting vote.

(5) A question arising at a meeting is to be decided by a majority of the votes.

(6) Subject to the other provisions of this Act, the Authority may regulate its procedure in such manner as the Authority thinks fit.

**17. Committees of the Authority** – (1) To assist the Authority to discharge its functions, the Authority may appoint such advisory, audit, regulatory and technical committees as it determines, and the Authority may:

(a) determine the functions of the committees; and

(b) delegate to the committees such powers of the Authority as are necessary for the committees to perform their functions.

(2) Members of committees appointed under subsection (1) may include members of the Authority, staff of the Authority and such other persons as the Authority considers appropriate for the committees to perform their functions.

(3) Members appointed to a committee established under subsection (1) may be paid fees, allowances and reimbursement of expenses as determined by the Authority.

(4) Subject to the other provisions of this Act and to any directions given to it by the Authority, a committee may regulate its procedure in such manner as it thinks fit.

**18. Delegation of powers – (1)** The Authority may delegate to any of its committees, or to the Chief Executive Officer, or to any other officer of the Authority any of its powers under this Act, except this power of delegation.

(2) Subject to any general or special directions given by the Authority, a committee or person to whom any powers are so delegated may exercise those powers in the same manner and with the same effect as if they had been conferred directly by this Act, and not by delegation.

(3) A committee or person purporting to act under a delegation under this section is presumed, until the contrary is proved, to be acting in accordance with the terms of the delegation.

(4) A delegation is revocable at will, and a delegation does not prevent the exercise of any power by the Authority itself.

(5) Until a delegation is revoked, it continues in force according to its terms, even if there is a change in the membership of the Authority, or of a committee of the Authority.

**19. Authority monies and annual reports – (1)** There are payable to the Authority monies that are payable under this Act or any other enactment.

(2) The Authority shall, by 31 October in a year, provide to the Minister a report on the progress and performance of the Authority in relation to its functions for the year ending 30 June previously.

(3) Annual reports shall include:

(a) audited financial statements prepared in accordance with generally accepted accounting principles as

defined in the Public Finance Management Act 2001;

- (b) an auditor's report on the financial statements in paragraph (a);
- (c) details of all licences and permits granted during the financial year to which the report relates (including details of the conditions subject to which the licence was granted);
- (d) details of any changes to the conditions of a licence made by the Authority during that year;
- (e) details of a disciplinary action taken by the Authority against a person during that year;
- (f) details of any directions given by the Minister under this Act;
- (g) a summary of the outcome of any investigation or review carried out by the Authority during that year.

(4) Within 12 sitting days of receiving the annual report of the Authority, the Minister shall lay the report before Parliament.

*Division 2 – Chief Executive Officer and Other Staff*

**20. Chief Executive Officer – (1)** The Head of State, acting on the advice of Cabinet, shall appoint a Chief Executive Officer of the Authority:

- (a) for such period as may be specified in the appointment, which may not exceed 3 years; and
- (b) on such other terms and conditions as are approved by Cabinet or the Authority.

(2) The Chief Executive Officer is to be the administrative head of the Authority and is to be responsible to the Authority for the effective and efficient management of the Authority, and for the execution of the Authority's functions including collection of fees and commissions and levies under this Act.

(3) The Chief Executive Officer may be removed from office by a decision of Cabinet to that effect.

(4) In carrying out his or her duties, the Chief Executive Officer shall follow any general or special directions given by the Authority.

(5) The Chief Executive Officer is eligible for re-appointment.

(6) All remuneration and other allowances and expenses payable to the Chief Executive Officer shall be in accordance with any approved policy of Cabinet applicable and is to be paid out of the funds of the Authority.

(7) The Chief Executive Officer shall not engage in any other business or occupation without the prior written consent of the Authority.

**21. Acting Chief Executive Officer** – (1) The Authority may on such terms and conditions as it specifies, appoint a suitable person to be the Acting Chief Executive Officer of the Authority during any temporary vacancy in the office of the Chief Executive Officer, or while the Chief Executive Officer is for any reason unable to carry out the duties of the office.

(2) During any such vacancy in office or incapacity of the Chief Executive Officer, the person appointed to be the Acting Chief Executive Officer may exercise all the functions and powers of the Chief Executive Officer, and shall perform all the duties of the office.

**22. Authority staff** – (1) The Authority may appoint such other officers and employees of the Authority as it may consider necessary for the purposes of carrying out of the Authority's functions.

(2) Officers may be engaged under contract for fixed periods or appointed to hold office in accordance with policies of employment and terms and conditions approved by the Authority.

(3) An officer may enter and remain on the premises of a casino for the purposes of:

- (a) viewing gambling; and
- (b) observing any of the operations of the casino; and
- (c) ascertaining whether the operation of the casino is being properly conducted, supervised and managed; and
- (d) ascertaining whether the provisions of this Act are being complied with; and
- (e) in any other respect, exercising his or her powers or performing his or her duties.

(4) The Chief Executive Officer may designate certain officers to carry out functions and duties of inspectors provided under this Act.



**PART 3  
CASINOS**

*Division 1 – Preliminary*

**23. Number of casino licences** – (1) Cabinet, on the recommendation of the Minister, may determine the number of casino licences that may be in force under this Act at a particular time but there shall not be more than 2 licences for the first 10 years after the coming into operation of this Act.

(2) A casino licence authorises the holder of the casino licence to open and operate subject to subsection (3) 1 casino.

(3) The Authority may, on application in the form approved by the Authority, authorise the holder of the casino licence to operate from a second venue subject to terms and conditions and to the additional prescribed fee.

**24. Requirements for a casino** – (1) Casino gaming shall only be permitted in areas of a hotel-casino complex identified in a licence issued by the Authority.

(2) No person shall permit or cause casino gaming to take place in any premises unless the person is the holder of a licence issued by the Authority.

(3) No person other than a foreign passport holder who is a residential guest of the hotel-casino complex or of another hotel has a right to enter, remain or participate in casino gaming, other than an officer who may enter and remain when performing duties of his or her employment.

(4) The Authority may determine any of the following matters:

- (a) the permissible location for a casino;
- (b) the required size and style of a casino;
- (c) the development required to take place in conjunction with the establishment of a casino including the requirement for a hotel of which a casino is to form part;
- (d) any other prescribed matter concerning the establishment of a casino.

(5) A casino licensee who contravenes or fails to comply with subsection (3) commits an offence and is liable upon

conviction to a fine of 250 penalty units or a term of imprisonment not exceeding three (3) years or both.

**25. Authority may invite expressions of interest – (1)** At the direction of the Minister, the Authority shall publicly invite expressions of interest for the establishment and operation of a casino.

(2) An invitation under subsection (1) shall:

- (a) provide information concerning the requirements for the establishment and operation of the proposed casino; and
- (b) contain such other matters that the Authority considers relevant.

(3) The Authority may charge a fee for an expression of interest made under this section.

**26. Authority may conduct negotiations and enter into agreements – (1)** With the approval of the Minister, the Authority may conduct negotiations and enter into agreements on behalf of the Government for or in connection with the establishment and operation of a casino and a development of which a casino or proposed casino forms part.

(2) An agreement made under this section may contain only terms not inconsistent with this Act that are approved by the Minister on the recommendation of the Authority.

(3) An agreement made under this section may provide that all or specified obligations imposed by the agreement are to be considered to be conditions of the relevant casino licence and such a provision has effect accordingly.

(4) An assignment or encumbrance of the rights and obligations conferred or imposed by an agreement made under this section is void unless the Minister, on the recommendation of the Authority, consents to the assignment or encumbrance and any conditions subject to which the consent is given are complied with.

(5) The Minister may, on the recommendation of the Authority, vary or revoke a consent given under subsection (4).

*Division 2 – Licensing of Casino*

**27. Grant of licence by the Authority** – The Authority may, subject to the provisions of this Act, grant a person a licence for the operation of a casino in Samoa.

**28. Lawfulness of casino operation** – (1) Despite any other law but subject to the provisions of this Act, it shall be lawful for a casino licensee to operate a casino in Samoa.

(2) The casino shall not be taken to be a public or private nuisance by reason only that it is used as a gaming house.

(3) A person shall not, except against a licensee, institute legal proceedings to recover:

- (a) money won in the course of gaming in the casino;
- (b) money, on a cheque or other instrument, given in payment of money so won; or
- (c) a loan of money with which to play a game in the casino, that could not be instituted if this Act had not been enacted.

**29. Application for a casino licence** – An application for a casino licence shall be made to the Authority in a form approved by the Authority.

**30. Suitability of casino licensee** – (1) Prior to a casino operation agreement being entered into, the Authority shall be satisfied that the applicant and persons with a significant influence are suitable.

(2) In considering whether an applicant or person with a significant influence is suitable, the Authority must take into account the following matters:

- (a) the honesty of the applicant or person with a significant influence, including —
  - (i) whether the applicant or person with a significant influence has been convicted of a relevant offence; and
  - (ii) whether the applicant or person with a significant influence has been disciplined by a professional body for ethical misconduct; and
  - (iii) whether the applicant or person with a significant influence has been disciplined in

- any way during previous involvement with a casino; and
- (iv) any other matters raised in the police report, and the report of any government agency to which the application is referred, provided under subsection (3); and
- (b) the financial position of the applicant or person with a significant influence, including —
  - (i) whether the applicant or person with a significant influence has ever been adjudged bankrupt; and
  - (ii) whether the applicant or person with a significant influence has been directly involved in the management of a company that went into receivership or liquidation; and
  - (iii) whether the applicant or person with a significant influence has sufficient financial resources; and
- (c) the business skills of the applicant or person with a significant influence, including—
  - (i) whether the applicant or person with a significant influence has sufficient business management experience; and
  - (ii) whether the applicant or person with a significant influence has sufficient experience in casino operation or the operation of similar ventures; and
  - (iii) whether the applicant or person with a significant influence has qualifications relevant to the operation of a casino; and
- (d) the management structure of the applicant, including —
  - (i) whether that structure is suitably arranged for effective compliance with this Act; and
  - (ii) the nature of all relevant interests in the financial and management structure of the applicant; and
  - (iii) whether all such interests encourage the applicant's effective compliance with the Act; and
- (e) any other matter the Authority considers relevant.

(3) On receiving an application for a casino licence, the Authority must investigate the applicant and persons with a significant influence.

(4) Without limiting subsection (3), the Authority:

- (a) may require the applicant and persons with a significant influence to consent to having their photograph and fingerprints taken; and
- (b) may require the applicant and persons with a significant influence to provide further information; and
- (c) must refer a copy of the application, and any photographs, fingerprints, or other information obtained in the investigation, to the Commissioner of Police and any government agency that the Authority considers relevant.

(5) The Commissioner of Police and a government agency to whom the application is referred must inquire into, and report to the Authority on the applicant and persons with a significant influence.

(6) The Authority may refuse to grant a casino licence if the applicant or persons with a significant influence fail to provide information requested by the Authority or refuse to have fingerprints or a photograph taken.

(7) Fingerprints and photographs provided by the Authority to the Commissioner of Police or other government agency must be returned to the Authority for destruction under subsection (8).

(8) Fingerprints and photographs required by the Authority must be destroyed immediately after the Authority has made a decision as to whether or not to grant a casino licence.

**31. Form of the casino licence – (1)** A licence granted under section 27 is to be:

- (a) in the prescribed form and shall specify:
  - (i) the date of its issue; and
  - (ii) the date of its expiration; and
  - (iii) the name of the casino licensee; and
  - (iv) address in Samoa specified by the licensee for the service of documents on the licensee; and
  - (v) address of the casino; and
  - (vi) those areas constituting the casino; and

- (vii) such other particulars relating to the casino as the Authority considers necessary; and
- (viii) such other particulars as are prescribed; and
- (b) subject to the terms and conditions specified in the agreement, if any, referred to in section 26.

(2) Where the Authority makes a decision refusing to grant a casino licence, the Authority shall give to the applicant notice in writing of the decision, and grounds for that decision.

**32. Duration of casino licence** – A casino licence remains in force until the expiration of the date specified in the licence as the date of expiration of the licence:

- (a) unless it is sooner surrendered or cancelled; and
- (b) except while it is suspended; and
- (c) under this Act.

**33. Surrender of casino licence** – (1) A casino licensee may surrender the casino licence at any time.

(2) The casino licensee may not surrender the casino licence if there is an amount payable by the licensee to the Authority under section 36 or 37.

**34. Suspension or cancellation of casino licence – grounds** – (1) The Authority may suspend or cancel the casino licence where:

- (a) the casino licensee is convicted of any offence under this Act;
- (b) the casino licensee is convicted of an offence punishable by not less than 2 years imprisonment;
- (c) the casino licensee contravenes this Act;
- (d) the casino licensee fails to comply with any term or conditions of the casino operation agreement, if any;
- (e) the casino licensee contravenes a requirement by the Authority in relation to a matter of foreign investment;
- (f) the casino licensee knowingly or recklessly supplies to the Authority, officer or any other person who performs in relation to this Act a function on behalf of the Government, information that is false or misleading in a material particular;

- (g) the casino licensee fails to meet the licensee's financial commitments when they become due and payable;
  - (h) proceedings to wind up the casino licensee are instituted;
  - (i) the Authority is satisfied that the casino licensee is not, or has ceased to be, a suitable person to be the licensee having regard to the requirements specified in section 30(2).
- (2) Despite any other provision of this Act, the Authority may, where it is satisfied that it is in the public interest to do so:
- (a) suspend the casino licence for such period as the Authority thinks fit; or
  - (b) cancel the casino licence.

**35. Suspension or cancellation of casino licence procedures** – (1) Where the Authority decides to suspend or cancel a casino licence, the Authority, by notice in writing, shall request the casino licensee to show cause, within such period (being not less than 21 days after the issue of the notice) as is specified in the notice, why the casino licence should not be suspended, or cancelled, as the case may be.

(2) A notice under subsection (1) shall specify the ground for its issue.

(3) The Authority shall have regard to a response made under subsection (1) and:

- (a) where the matter is resolved to its satisfaction, shall take no further action;
- (b) where the matter is not resolved to its satisfaction but the Authority considers that action to suspend or cancel the casino licence is not warranted, may, in writing, caution the casino licensee; or
- (c) where the matter is not resolved to its satisfaction and the Authority is satisfied that further action is warranted, may —
  - (i) by notice in writing, give such direction as the Authority considers appropriate; or
  - (ii) suspend for such period as the Authority thinks fit, or cancel, the casino licence.

(4) Where a direction given by the Authority under subsection (3)(c)(i) is not complied with within the time specified

in the notice, the Authority may suspend for such period as the Authority thinks fit, or cancel, the casino licence.

(5) Where a casino licence is suspended under this Division, the Authority may, by notice in writing given to the casino licensee, terminate, or reduce the period of, the suspension of the licence.

(6) Where a casino licence is suspended or cancelled under this Division, the Authority shall, by notice in writing, inform the casino licensee of the suspension or cancellation and of the grounds for the suspension or cancellation.

**36. Casino licence fee** – The prescribed fee is to be paid by the licensee to the Authority on the issue of the casino licence and on the first day of a subsequent year during the currency of the licence:

- (a) a daily penalty at the rate of 20% per annum is to be payable by the casino licensee on a principal amount of the casino licence fee that remains unpaid after the fourteenth day after the relevant time for payment of the fee;
- (b) the daily penalty payable under paragraph (a) compounds at 3 monthly intervals;
- (c) the Authority may, for any reason the Authority thinks fit, remit apart, or the whole, of the daily penalty payable under this section;
- (d) the casino licence fee and daily penalty payable under this section are debts due to the State and may be recovered by action in a court of competent jurisdiction.

**37. Commission** – (1) The casino licensee shall pay commission on the gross profit derived in each month in connection with the operation of the casino.

(1A) The commission payable under subsection (1) is to be a sum equivalent to 15% or such other rate as the Authority shall determine of the gross profit and is to be paid into a fund determined by the Authority.

(2) The commission is payable to the Authority by the casino licensee on or before the last working day of a month following the month in respect of which the gross profit was made.



(3) For the purposes of subsections (1) and (1A) the “gross profit” derived in a month from gaming is to be calculated:

- (a) by deducting from the total amount received by the casino licensee in that month from gaming in the casino the amount paid out during that month as winnings in respect of the gaming; and
- (b) if the value of unredeemed chips at the end of that month is greater than the value of unredeemed chips at the beginning of that month by adding to the amount so ascertained under paragraph (a) the difference between values; or
- (c) if the value of unredeemed chips at the end of that month is less than the value of unredeemed chips at the beginning of that month, by deducting from the amount so ascertained the difference between those values.

**38. Payment of fee and commission where casino licence suspended** – The liability of the casino licensee to pay the casino licence fee or the commission is not affected by a suspension of the casino licence and:

- (a) that fee continues to be payable by the casino licensee to the Authority in respect of a period of suspension of the licence; and
- (b) that commission continues to be payable by the casino licensee to the Authority.

**39. List of persons excluded from casino** – (1) The casino licensee shall maintain, in writing, a list of names of persons in respect of whom directions to exclude the persons from the casino are in force under section 52(1).

(2) The casino licensee shall make available to the Authority and the Chief Executive Officer a copy of the list referred to in subsection (1).

(3) A person who contravenes or fails to comply with this section commits an offence and is liable on conviction:

- (a) if the offender is a body corporate, to a fine not exceeding 125 penalty units;
- (b) if the offender is a natural person, to a fine not exceeding 25 penalty units.

**40. Application of Liquor Act** – Except as otherwise provided by this Act, the Liquor Act 2011 applies in relation to the casino.

*Division 3 – General*

**41. Powers of officers** – (1) An officer may:

- (a) require a person whom the officer believes, on reasonable grounds, has in the person's possession or under the person's control any gaming equipment or chips —
  - (i) to produce the equipment or chips to the officer for inspection or testing; or
  - (ii) to attend before the officer at a reasonable time and place specified by the officer and there to answer such questions, or to supply such information, relating to the equipment or chips as the officer specifies;
- (b) require a person —
  - (i) to produce to the officer for inspection such records in the custody or control of the person relating to the casino or the operation of the casino as the officer specifies; or
  - (ii) to attend before the officer at a reasonable time and place specified by the officer and there to answer such questions, to supply such information, or to produce such records, relating to the casino or the operation of the casino, as the officer specifies;
- (c) inspect or test any gaming equipment or chips or inspect such records, and take copies of, or make notes in relation to, such records, relating to the casino or the operation of the casino, as the officer specifies;
- (d) direct the casino licensee not to use any gaming equipment or chips that the officer considers to be unsatisfactory for use;
- (e) receive and, if the officer thinks fit, investigate a complaint with respect to an aspect of the operation of the casino and advise the complainant of the results of an investigation; and

- (f) call to the officer's assistance —
  - (i) another officer; or
  - (ii) a casino employee who, in the belief of the officer, is competent to assist the officer in the exercise of his or her powers or performance of his or her duties.

(2) A requirement under subsection (1)(a) or (b) or a direction under subsection (1)(d) may be made to a person:

- (a) by notice in writing; or
- (b) where the officer is satisfied that special circumstances make it appropriate orally.

**42. Investigations** – (1) For the purposes of this Act, the Authority may, by instrument, authorise the Chief Executive Officer, an officer or another person to conduct an investigation in relation to a matter specified in the instrument, other than a matter involving the commission or the possible commission of an offence against this Act or another law in force in Samoa.

(2) For the purpose of conducting an investigation, an investigator may, by notice in writing, after giving to a person warning of the obligation to comply with the requirement, require that person within such period of not less than 21 days as is specified in the notice:

- (a) to provide to the investigator, orally or in writing, such information as is specified in the notice;
- (b) to produce to the investigator such documents in the custody or control of the person, containing records relating to the casino or the operation of the casino as are specified in the notice;
- (c) to produce to the investigator such other document in the custody or control of the person as is specified in the notice; or
- (d) to answer, orally or in writing, such question as is specified in the notice, to enable the investigation to be properly conducted.

(3) An investigator may:

- (a) inspect a document produced under subsection (2); and
- (b) make copies of, or take extracts from, such parts of the document as are relevant to a matter the subject of the investigation.

(4) A person shall not, without reasonable excuse:

- (a) refuse or fail to comply with a requirement made of that person under subsection (2) to the extent that the person is capable of complying with that requirement; or
- (b) in purported compliance with such a requirement, knowingly or recklessly provide information or give an answer that is false or misleading in a material particular.

(5) A person who contravenes or fails to comply with this section commits an offence and is liable on conviction:

- (a) if the offender is a body corporate, to a fine not exceeding 250 penalty units; or
- (b) if the offender is a natural person, to a fine not exceeding 50 penalty units.

**43. Self-incrimination** – A person shall not be excused from providing information, producing a document or answering a question pursuant to a requirement made of the person under section 42(2) on the ground that the information or answer, or the production of the document, may tend to incriminate the person; but any information provided, document produced or answer given under a requirement under that subsection, and any information or thing (including any document) obtained as a direct or indirect consequence of providing of the information, the production of the document or answering of the question, as the case may be, shall not be admissible in evidence against the person in any criminal or civil proceedings.

**44. Secrecy** – (1) Subject to subsection (3), a person shall not, directly or indirectly, except in the performance of duties or exercise of powers under this Act, make a record of, or divulge to any person, any information with respect to the affairs of another person acquired by the first-mentioned person in the performance of those duties or exercise of those powers.

(2) Subject to subsection (5), a person shall not, except for the purposes of this Act, be required:

- (a) to produce in court a document that has come into his or her possession or under his or her control;  
or

- (b) to divulge to a court any information that has come to his or her notice, in the performance of duties or exercise of powers under this Act.
- (3) A person may:
- (a) divulge specified information to such persons as the Authority directs if the Authority certifies that it is necessary in the public interest that the information should be so divulged; or
  - (b) divulge information to a prescribed authority or prescribed person; or
  - (c) divulge information to a person who is expressly or impliedly authorised by the person to whom the information relates to obtain it.
- (4) An authority or person to whom information is divulged under subsection (3), and a person or employee under the control of that authority or person, shall, in respect of that information, be subject to the same rights, privileges, obligations and liabilities under this section as if that authority, person or employee were a person performing duties under this Act and had acquired the information in the performance of those duties.
- (5) Where:
- (a) the Authority certifies that it is necessary in the public interest that specified information should be divulged to a court; or
  - (b) a person to whom information relates has expressly authorised it to be divulged to a court,—
- a person may be required to produce in court any document containing the information or to divulge the information to the court.
- (6) A person who contravenes or fails to comply with subsection (1) commits an offence and is liable on conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 12 months, or both.

*Division 4 – Operation of Casino*

- 45. Maintenance of facilities** – The casino licensee shall:
- (a) maintain the facilities and amenities of the casino in such a condition as will promote the satisfaction of patrons; and

- (b) ensure that the casino is at all times properly and competently conducted; and
- (c) ensure that all casino installations, equipment and procedures for security are available and are tested, used, operated and applied effectively; and
- (d) ensure the gaming equipment and chips approved by the Authority for use in the casino are maintained in good order and condition.

**46. Approval of layout** – (1) The casino licensee shall not operate the casino unless the layout of the casino is in accordance with plans and diagrams approved by the Authority.

(2) The casino licensee shall submit, for the approval of the Authority:

- (a) plans and diagrams of the layout of the casino; and
- (b) where it is proposed to vary the layout of the casino, plans and diagrams of the proposed variation.

(3) The Authority may, by notice in writing, require the casino licensee to supply such further particulars or documents, or to answer such questions, relating to plans and diagrams submitted to the Authority under this section as are specified in the notice.

(4) The Authority shall not approve plans and diagrams under this section unless the layout of the casino as shown on the plans and diagrams complies with the requirements of the regulations.

(5) A person who contravenes or fails to comply with subsection (1) commits an offence and is liable on conviction:

- (a) if the offender is a body corporate, to a fine not exceeding 250 penalty units; or
- (b) if the offender is a natural person, to a fine not exceeding 50 penalty units.

**47. Approval of gaming equipment and chips** – The Authority may approve gaming equipment and chips for use in the casino.

*Division 5 – Exclusion of Persons from Casino*

**48. Entry to and exclusion of entry from casino** – (1) No person shall have a right as against the casino licensee to enter, or remain in, the casino.

(2) This Division shall not be taken to affect the operation of any other law of Samoa.

(3) This Division shall not be taken to authorise the exclusion of an authorised person from the casino.

**49. Grounds** – (1) A person is not to enter the casino during the hours of operation of the casino if the person:

- (a) is requested by a casino employee not to enter the casino on the ground that the person has previously contravened the approved rules of an authorised game or rules of conduct in force in the casino; or
- (b) is a person in relation to whom a direction under section 52(1) is in force; or
- (c) does not have a right to enter under section 24(3).

(2) A person is not to enter the casino during the hours of operation of the casino if the person:

- (a) is under the age of 21 years; or
- (b) is not permitted, by reason of a condition prescribed by the Authority.

(3) A person shall not remain in the casino during the hours of operation of the casino if the person:

- (a) when requested to do so by a casino employee, refuses or fails to produce evidence of his or her age;
- (b) has been requested by a casino employee to leave the casino on the ground that the person—
  - (i) appears not to understand fully the nature or consequences of gaming as it relates to the application of the approved rules of authorised games and the potential for financial loss;
  - (ii) appears to be under the influence of alcohol or a drug to the extent that the person could not reasonably be expected to exercise rational judgment while playing an authorised game;
  - (iii) appears to be under the influence of alcohol or a drug to the extent that the person is affecting the orderly functioning of the operations of the casino;

- (iv) appears to be cheating, or attempting to cheat, in the casino; or
  - (v) has previously contravened the approved rules of an authorised game or rules of conduct in force in the casino;
  - (c) is not permitted, by reason of a condition prescribed by the Authority;
  - (d) is a person in relation to whom a direction under section 52(1) is in force; or
  - (e) does not have a right to remain under section 24(3).
- (4) A person shall not, on being requested under subsection (3)(a) to produce evidence of his or her age, produce evidence that is false.
- (5) A person is not prevented from entering, or being in, the casino on the ground only that the person is under the age of 21 years if the person:
- (a) is employed or permitted to work at the casino; or
  - (b) enters, or is in, the casino in the company of the spouse or a parent of the person, being a spouse or parent who is not less than 21 years of age—
    - (i) for the purpose of dining at a restaurant in the casino; or
    - (ii) for a purpose connected with entertainment at the casino that does not involve playing or observing the playing of an authorised game.
- (6) A person who contravenes or fails to comply with the provisions of:
- (a) subsection (1) commits an offence and is liable on conviction to a fine not exceeding 50 penalty units; or
  - (b) subsection (2) or subsection (4) commits an offence and is liable on conviction to a fine not exceeding 25 penalty units.

**50. Enforcement – (1)** A person who is:

- (a) a police officer;
  - (b) for the time being in charge of the casino; or
  - (c) an agent or employee of the casino licensee,—
- may, with such assistance as is necessary and reasonable and using such force as is necessary and reasonable, cause another



person who, under section 49, may not enter, or remain in, the casino:

- (d) to be prevented from entering the casino; or
- (e) to be removed promptly from the casino, as the case requires.

(2) A person who, without reasonable excuse, obstructs or hinders a person in the exercise of a power conferred on the last-mentioned person under subsection (1) commits an offence and is liable on conviction to a fine not exceeding 25 penalty units or to imprisonment for a term not exceeding 6 months, or both.

**51. Obligations of casino licensee – (1)** The casino licensee shall not, knowingly or recklessly:

- (a) permit to enter the casino a person who is not entitled to do so by virtue of section 24(3) or section 49(1)(a) or section 49(2)(a); or
- (b) fail to remove from the casino—
  - (i) a person in relation to whom a request to leave the casino may be made by a casino employee under section 49(3)(b)(i), (ii), (iii) or (iv); or
  - (ii) a person who is not entitled to remain in the casino by virtue of section 24(3) or 49(3)(c).

(2) The casino licensee shall not refuse to permit a person to enter, or be in, the casino on the ground only that the person is under the age of 21 years if the person:

- (a) is employed or permitted to work at the casino; or
- (b) enters, or is in, the casino in the company of the spouse or a parent of the person, being a spouse or parent who is not less than 21 years of age—
  - (i) for the purpose of dining at a restaurant in the casino; or
  - (ii) for a purpose connected with entertainment at the casino that does not involve playing or observing the playing of an authorised game.

(3) A person who contravenes or fails to comply with subsection (1) commits an offence and is liable on conviction:

- (a) if the offender is a body corporate, to a fine not exceeding 250 penalty units; or
- (b) if the offender is a natural person, to a fine not exceeding 50 penalty units.

**52. Exclusion of certain person from casino venues – (1)**

The Authority may by notice in writing, direct the casino licensee to exclude from the casino a person specified in the notice.

(2) A direction under subsection (1) shall not be given unless the Authority believes, on reasonable grounds, that the person is, or has been, engaged in, or associated with persons engaged in, swindling, cheating or any malpractice in gaming.

(3) Where a notice is given under subsection (1) to the casino licensee, the Authority:

(a) shall make available to the casino licensee a recent photograph of the person specified in the notice;

(b) if it is not practicable to comply with paragraph (a), shall provide the casino licensee with such a description of the person specified in the notice as is sufficient to enable the casino licensee to readily identify the person.

(4) A casino licensee who, without reasonable excuse, contravenes or fails to comply with a direction under subsection (1), commits an offence and is liable on conviction:

(a) if such casino licensee is a body corporate, to a fine not exceeding 500 penalty units; or

(b) if such casino licensee is a natural person, to a fine not exceeding 100 penalty units.

**53. Revocation of direction – (1)** The Authority may revoke a direction made under section 52(1), if the Authority is satisfied that the person is a fit and proper person to be permitted to enter and participate in gaming in the casino.

(2) A person whom a direction was given under section 52(1) must submit an application to the Authority to have the direction revoked.

(3) The Authority shall, as soon as practicable after revoking a direction, notify, in writing, the casino licensee and the person in respect of whom the direction was given of the revocation.

(4) A revocation under subsection (1) is to be made by in writing.

**54. Authorised games** – (1) The Authority may by regulation approve any game as a game that may be conducted or played in a casino under a casino licence.

(2) The regulations in respect of a game shall include an account of the rules for the playing of the game.

(3) Rules for the playing of a game may be altered by subsequent regulations.

(4) The reference in subsection (3) to an alteration of the approved rules of a game is to be read as including a reference to an omission from or an addition to those rules.

(5) The Authority shall, as soon as practicable, notify, in writing, the casino licensee of:

- (a) the rules approved by the Authority under which an authorised game is to be played; and
- (b) any alteration of the approved rules of an authorised game.

(6) The casino licensee shall ensure that printed copies of the approved rules of each authorised game conducted in the casino are freely available to patrons of the casino.

**55. Gaming equipment and chips** – (1) A person, other than a person authorised by the Authority, shall not, except while in the casino, have in his or her possession any gaming equipment or chips approved by the Authority for use in the casino.

(2) A person shall not exhibit or possess gaming equipment or chips in the casino other than gaming equipment or chips approved by the Authority for use in the casino.

(3) A person who contravenes or fails to comply with this section commits an offence and is liable on conviction:

- (a) if the offender is a body corporate, to a fine not exceeding 250 penalty units; or
- (b) if the offender is a natural person, to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 12 months, or both.

**56. Conduct of gaming** – (1) The casino licensee:

- (a) shall cause all playing cards dealt in the course of gaming in the casino to be dealt from a card shoe;

- (b) shall not issue, or cause or permit to be issued, any chips for gaming in the casino unless the chips are paid for in money to the face value of the chips;
  - (c) shall not conduct an authorised game, or permit an authorised game to be conducted, in the casino otherwise than in accordance with—
    - (i) the approved rules for that game; and
    - (ii) a restriction or condition specified in regulations made under section 54 in relation to that game;
  - (d) shall not, in relation to the playing of an authorised game, permit wagers to be placed in the casino otherwise than by means of chips unless the approved rules of the game require, or provide for, the placing of wagers in money;
  - (e) shall cause all wagers won in the course of playing an authorised game in the casino to be paid for in full without deduction of any commission or levy other than a commission or levy provided for in the approved rules of that game;
  - (f) shall, during the times the casino is open to the public for gaming, at the request of a patron of the casino, cause—
    - (i) chips to be exchanged for other chips; or
    - (ii) chips to be redeemed for money of a value equivalent to the face value of the chips; and
  - (g) shall not require any deposit, charge, commission or levy (whether directly or indirectly and whether or not it is claimed to be refundable) to be paid by a person for the person to enter the casino or, except as may be provided by the approved rules of a game, to take part in gaming in the casino.
- (2) A casino licensee who contravenes or fails to comply with subsection (1) commits an offence and is liable on conviction:
- (a) if the casino licensee is a body corporate, to a fine not exceeding 500 penalty units; or
  - (b) if the casino licensee is a natural person, to a fine not exceeding 100 penalty units.

**57. Gaming by certain persons prohibited** – (1) An authorised person shall not play a game in the casino except to the extent that it may be necessary to do so:

- (a) in the performance of his or her functions under this Act; or
- (b) in the course of his or her employment; or
- (c) the performance in relation to this Act of a function on behalf of the State.

(2) A casino employee shall not solicit or accept any gratuity, consideration or other benefit from a patron in the casino.

(3) The casino licensee shall not knowingly permit a person under the age of 21 years to play any game in the casino.

(4) A person under the age of 21 years who plays a game in the casino commits an offence punishable, on conviction, by a fine not exceeding 250 penalty units.

(5) An authorised person who contravenes or fails to comply with subsection (1) commits an offence and is liable on conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 12 months, or both.

(6) A casino licensee who contravenes or fails to comply with subsection (3) commits an offence and is liable on conviction:

- (a) if the casino licensee is a body corporate, to a fine not exceeding 500 penalty units; or
- (b) if the casino licensee is a natural person, to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding 2 years, or both.

**58. Cheating** – (1) A person shall not, in the casino, dishonestly:

- (a) by trick, device, sleight of hand or representation;
- (b) by a scheme or practice;
- (c) by the use of gaming equipment; or
- (d) by the use of an instrument or article of a type used in connection with gaming, or appearing to be of a type used in connection with gaming, or of any other thing, obtain for himself or herself or another person, or induce a person to deliver, give or credit to him or her or another person, any money, chips, benefit, advantage, valuable consideration or security.

(2) A person shall not use, or have in his or her possession, in the casino:

- (a) chips that the person knows are bogus or counterfeit chips; or
- (b) cards, dice or coins that the person knows have been marked, loaded or tampered with; or
- (c) for the purposes of cheating or stealing, any equipment, device or thing that permits or facilitates cheating or stealing.

(3) Subsection (2)(a) and (b) does not prohibit the possession of a thing by a person in charge of the casino, an agent or employee of the casino licensee, an inspector or a police officer if that thing has been seized by any of those persons from another person for destruction or for use as evidence in proceedings for any offence.

(4) A person who contravenes or fails to comply with subsection (1) commits an offence and is liable on conviction to a fine not exceeding 250 penalty units or to imprisonment for a term not exceeding 5 years, or both.

(5) A person who contravenes or fails to comply with subsection (2) commits an offence and is liable on conviction to a fine not exceeding 120 penalty units or to imprisonment for a term not exceeding 2 years, or both.

**59. Forgery – (1)** A person shall not:

- (a) forge or counterfeit chips, a licence or a form of identification used for the purposes of this Act; or
- (b) knowingly utter counterfeit chips or knowingly utter a forged or counterfeit licence or such a form of identification.

(2) A person who contravenes or fails to comply with subsection (1) commits an offence and is liable on conviction to a fine not exceeding 250 penalty units or to imprisonment for a term not exceeding 5 years, or both.

**60. Restriction on credit – (1)** The casino licensee shall not, in relation to gaming in the casino:

- (a) extend credit in any form to any person; or
- (b) accept a credit wager from any person; or
- (c) provide cash or chips to any person upon a blank cheque; or

- (d) make a loan to any person; or
  - (e) provide cash or chips to any person in respect of a credit card or debit card transaction; or
  - (f) wholly or partly release or discharge a debt without the approval of the Authority.
- (2) A casino who contravenes or fails to comply with subsection (1) commits an offence and is liable on conviction:
- (a) if the casino licensee is a body corporate, to a fine not exceeding 500 penalty units; or
  - (b) if the casino licensee is a natural person, to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding 2 years, or both.

**61. Cheques – (1)** The casino licensee shall not accept a cheque, other than a cheque of a kind, and otherwise than in accordance with the procedures, specified in the regulations.

(2) The casino licensee shall, in relation to a cheque accepted by the licensee that has not been redeemed under section 63, present the cheque for payment within such period as determined by the Chief Executive Officer.

(3) The casino licensee shall not accept or cash a cheque at the request of a person if any cheque previously received by the casino licensee from that person has been dishonoured and the debt so incurred has not been discharged.

(4) Nothing in this section is taken to require the casino licensee to cash a cheque at the request of a person.

(5) A casino licensee who contravenes or fails to comply with:

- (a) subsection (1) or (2) commits an offence and is liable on conviction—
  - (i) if the casino licensee is a body corporate, to a fine not exceeding 125 penalty units; or
  - (ii) if the casino licensee is a natural person to a fine not exceeding 25 penalty units; or
- (b) subsection (3) commits an offence and is liable on conviction—
  - (i) if the casino licensee is a body corporate, to a fine not exceeding 250 penalty units; or
  - (ii) if the casino licensee is a natural person, to a fine not exceeding 50 penalty units or to

imprisonment for a term not exceeding 12 months, or both.

**62. Deposit accounts** – (1) The casino licensee may establish for a natural person a deposit account.

(2) The casino licensee may issue to a person who establishes a deposit account:

- (a) chips; or
- (b) money; or
- (c) a cheque, –

not exceeding in total value the amount standing to the credit of the account at the time of issue of the chips, money or cheque.

(3) The casino licensee shall credit to the deposit account of a person:

- (a) the amount of any money or cheque deposited with the casino licensee for the purpose by the person; and
- (b) the amount of any money transferred by the person to that account directly from an account operated by the person with a financial institution.

(4) The casino licensee shall debit the deposit account of a person with:

- (a) an amount equal to—
  - (i) the face value of chips; or
  - (ii) the amount of money; or
  - (iii) the amount of a cheque, issued to the person under subsection (2); and
- (b) the amount of any money transferred by the person from that account directly to an account operated by the person with a financial institution.

(5) The casino licensee shall not credit an amount to the deposit account of a person, or debit the deposit account of a person with an amount, otherwise than in accordance with this section.

**63. Redemption of cheques** – A person may, with the agreement of the casino licensee, redeem any cheque accepted from the person by the casino licensee, prior to presentation, or the expiration of the period specified for presentation, of the cheque for payment under section 61(2), by presenting at the cash desk of the casino:



- (a) an amount of money equivalent to;
- (b) chips the face value of which is equivalent to; or
- (c) where more than one cheque is being redeemed, a consolidating cheque for an amount equivalent to,

—  
the amount of the cheque, or the sum of the amounts of the cheques, to be redeemed.

**64. Proceedings to recover money or an amount of a cheque drawn in relation to gaming – (1)** Despite any other law of Samoa, an action lies at the suit of the casino licensee to recover the amount of a cheque drawn in respect of a gaming debt incurred in the casino and subsequently dishonoured.

(2) The casino licensee shall not assign to a third party the whole or apart of any rights arising out of a gaming debt incurred in the casino by a person, being a debt incurred by reason of the dishonour of a cheque drawn by the last-mentioned person and accepted by the casino licensee.

(3) An action lies against the casino licensee to recover:

- (a) money won at gaming in the casino; or
- (b) the amount of a cheque given by the casino licensee in payment of money so won and subsequently dishonoured.

(4) A person who contravenes or fails to comply with subsection (2) commits an offence and is liable on conviction:

- (a) if the offender is a body corporate, to a fine not exceeding 125 penalty units; or
- (b) if the offender is a natural person, to a fine not exceeding 25 penalty units or to imprisonment for a term not exceeding 6 months, or both.

*Division 7 – Search, Entry and Seizure*

**65. Interpretation – (1)** In this Division, unless the contrary intention appears, “offence” means a conduct (whether constituted by an act or omission) engaged in which constitutes, or which is believed on reasonable grounds constitutes:

- (a) an offence against this Act; or
- (b) an offence that is to be taken to be related to an offence against this Act.

(2) For the purposes of this Division, a thing is connected with a particular offence if the thing:

- (a) is a thing with respect to which the offence has been committed;
- (b) will afford evidence of the commission of the offence; or
- (c) was used, or is or was intended to be used, for the purpose of committing the offence.

**66. Powers of officers in casino – (1)** An officer may:

- (a) enter any premises; and
- (b) search the premises for, and seize, a thing that the officer believes on reasonable grounds to be connected with an offence, –
  - if the entry, search or seizure, as the case requires, is made—
    - (i) pursuant to a warrant issued under section 69(2); or
    - (ii) with the consent of the occupier of the premises; or
    - (iii) pursuant to an order of a court; and
- (c) take photographs and measurements, and to otherwise collect any necessary evidence relating to any matter concerning compliance with this Act, or any other Act for which the Authority is responsible; and
- (d) require that any action be taken or that any activity cease in order to achieve compliance with this Act or any other Act for which the Authority is responsible; and
- (e) take samples for testing and analysis of any matter, substance or thing to ensure compliance with this Act or any other Act for which the Authority is responsible.

(2) An officer may:

- (a) search a person for anything connected with an offence; and
- (b) seize anything found in the course of the search that the officer believes on reasonable grounds to be connected with an offence, –

if the search or seizure, as the case requires, is made—

- (i) pursuant to a warrant issued under section 69(4) or;
  - (ii) with the consent of the person; or
  - (iii) pursuant to an order of a court; and
- (c) require the production of records and information held by any person relating to a licence held under this Act, or any other Act for which the Authority is responsible; and
- (d) require any person working in licensed premises to state their name, address and age, and to provide verification of such matters; and
- (e) where relevant require any person on licensed premises to state their name, address and age, and to provide verification of such matters.

**67. Seizure of things not specified in warrant** – If, in the course of searching under a warrant issued under section 69 for things connected with a particular offence, an officer finds a thing that the officer believes on reasonable grounds to be:

- (a) connected with that offence, although not of a kind specified in the warrant; or
- (b) connected with another offence, the officer may seize that thing if the officer has reasonable grounds for believing that it is necessary to effect the seizure in order to prevent the thing being—
  - (i) concealed, lost or destroyed; or
  - (ii) sold or otherwise disposed of; or
  - (iii) used in connection with an offence or gaming in the casino.

**68. Consent relating to searches** – (1) Before seeking the consent of a person for the purposes of section 66(1)(d) or (2)(d), an officer shall inform the person that the person may refuse to give that consent.

(2) If the officer obtains the person’s consent for those purposes, the officer shall ask the person to sign a written acknowledgment:

- (a) where section 66(1)(d) is applicable, that the person has given the officer consent, for the purposes of

that paragraph, to enter the premises of which the person is the occupier and to exercise the powers of an officer referred to in section 66(1)(b); and

- (b) where section 66(2)(d) is applicable, that the person has given the officer consent, for the purposes of that paragraph, to search the person and to exercise the powers of an officer referred to in section 66(2)(b); and
- (c) that the person has been informed that he or she may refuse to give that consent; and
- (d) of the day on which, and the time at which, that consent was given.

(3) Where it is material, in any proceedings, for a court to be satisfied that a person has consented for the purposes of section 66(1)(d) or (2)(d) and an acknowledgment, in accordance with sub-section (2) of this section and signed by the person, is not produced in evidence, it is presumed that the person did not consent unless the contrary is established.

**69. Search warrants** – (1) Where an officer has reasonable grounds for suspecting that there may be, or that, within the next following 72 hours, there may be, in or on any premises, a thing of a particular kind connected with a particular offence, the officer may:

- (a) lay before a Judge or Registrar any information on oath setting out those grounds; and
- (b) apply for the issue of a warrant to search the premises for things of that kind.

(2) Where an application is made under subsection (1) for a warrant to search premises, the Judge or Registrar may, subject to subsection (5), issue a warrant authorising an officer named in the warrant with such assistance and by such force as is necessary and reasonable:

- (a) to enter the premises;
- (b) to seize anything found in the course of search that the officer believes, on reasonable grounds, to be a thing of that kind connected with the relevant offence.

(3) Where an officer has reasonable grounds for suspecting that there may be a thing of a particular kind connected with a particular offence:

- (a) on a person; or
  - (b) in the clothing that is being worn by a person; or
  - (c) otherwise in a person's immediate control,—
- the officer may—
- (i) lay before a Judge or Registrar any information on oath setting out those grounds; and
  - (ii) apply for the issue of a warrant to search the person for things of that kind.

(4) Where an application is made under subsection (3) for a warrant to search a person, the Judge or Registrar may, subject to subsection (5), issue a warrant authorising an officer named in the warrant with such assistance and by such force as is necessary and reasonable:

- (a) to search the person for things of the kind specified in the warrant; and
- (b) to seize anything found in the course of the search that the officer believes, on reasonable grounds, to be a thing of that kind connected with the relevant offence.

(5) A Judge or Registrar shall not issue a warrant under this section unless:

- (a) the informant or another person has given the Judge or Registrar, either orally or by affidavit, any further information that the Judge or Registrar requires concerning the grounds on which the issue of the warrant is being sought; and
- (b) the Judge or Registrar is satisfied that there are reasonable grounds for issuing the warrant.

(6) A warrant shall:

- (a) state the purpose for which it is issued; and
- (b) specify the nature of the relevant offence; and
- (c) specify particular hours during which the entry is authorised, or state that the entry is authorised at any time of the day or night; and
- (d) include a description of the kinds of things in relation to which the powers under the warrant may be exercised; and
- (e) specify the date, being a date not later than one (1) month after the date of issue of the warrant, on which the warrant ceases to have effect.

**70. Police entry – (1)** A police officer:

- (a) who is of, or above, the rank of sergeant; or
- (b) who is authorised for the purpose by a police officer of, or above, the rank of sergeant; or
- (c) who is requested to do so by an inspector, may enter, and be in, any part of the casino.

(2) Subsection (1) does not affect the power of a police officer under any other law of Samoa to enter, and be in, the casino.

**71. Special powers of officers and police officers – (1)** Where an officer enters the casino under section 22(3), the officer may search the casino for, and seize, anything that the officer suspects on reasonable grounds to be connected with an offence.

(2) Where:

- (a) an officer enters the casino under section 22(3); and
- (b) the officer suspects, on reasonable grounds, that a particular thing is connected with a particular offence, the officer may search a person for the thing and, if the thing is found in the course of the search, seize it.

(3) Where a police officer suspects on reasonable grounds, that a particular thing is connected with a particular offence, the police officer may search a person, or enter premises and search, for the thing and, if the thing is found in the course of the search, seize it.

(4) An officer or police officer shall not exercise a power under this section in relation to a thing unless:

- (a) the officer or police officer, as the case requires, believes, on reasonable grounds, that it is necessary to exercise the power in order to prevent the concealment, loss or destruction of the thing; and
- (b) the circumstances are so serious and urgent that the circumstances require the immediate exercise of the power without the authority of an order of a court or of a warrant issued under this Act or any other law in force.

(5) If, in the course of searching, under this section, for a thing connected with a particular offence, an officer or police officer finds:

- (a) a thing that the officer or police officer believes, on reasonable grounds, to be a thing connected with another offence; or
  - (b) anything that the officer or police officer believes, on reasonable grounds, will afford evidence as to the commission of an offence, and the officer or police officer, as the case requires, believes, on reasonable grounds, that it is necessary to seize that thing in order to prevent its concealment, loss or destruction, or its use in committing, continuing or repeating the offence or the other offence,—
- the officer or police officer, as the case requires, may seize the thing.

**72. Restrictions affecting search of persons – (1)** Where an officer or police officer searches a person under this Division, the officer or police officer, as the case requires, may also search:

- (a) the clothing that is being worn by the person; and
- (b) any property in, or apparently in, the person's immediate control.

(2) In conducting a search of a person under this Division, an officer or police officer shall not use more force, or subject a person to greater indignity, than is reasonable and necessary in order to conduct the search.

(3) A person shall not be searched under the Division except by a person of the same sex.

(4) Nothing in this Division authorises a person to carry out a search by way of an examination of a body cavity of a person.

**73. Disposal of illegal thing after seizure – (1)** Where a thing, other than an illegal thing, is seized under section 66, 67 or 71:

- (a) if a person is not charged, within a period of 60 days after seizure, with an offence against this Act in relation to that thing, or, having been charged with such an offence, is not convicted of the offence, the Authority shall arrange for the thing to be returned to the person from whom it was seized, or to the person occupying, or in charge of, the relevant premises, as the case requires; or

- (b) if a person is convicted of an offence referred to in paragraph (a), not being a cognisable offence, the court may order—
  - (i) that the thing be returned to the person from whom it was seized or to the person occupying, or in charge of, the relevant premises, as the case requires; or
  - (ii) that the thing shall be forfeited to the State.
- (2) Where an illegal thing is seized under section 66, 67 or 71, the thing is forfeited to the State.
- (3) In this section, “illegal thing” means:
  - (a) a bogus or counterfeit chip; or
  - (b) a card that has been marked or otherwise tampered with; or
  - (c) dice that has been marked, loaded or otherwise tampered with; or
  - (d) any other device or thing that permits or facilitates cheating.

**74. Detention of suspected person – (1) Where:**

- (a) the person for the time being in charge of the casino;  
or
  - (b) an agent or employee of the casino licensee; or
  - (c) an officer, suspects on reasonable grounds that a person in the casino is contravening, or attempting to contravene, a provision of this Act, the person in charge, agent, employee or officer may detain the suspected person in a suitable place in the casino until the arrival at the place of detention of a police officer.
- (2) A person may not be detained under this section unless:
- (a) no more force is used than is reasonable and necessary in the circumstances; and
  - (b) the person detained is informed of the reasons for the detention; and
  - (c) the person effecting the detention immediately notifies a police officer of the detention and the reasons for the detention.



**75. Obstructing officer** – A person who wilfully obstructs, hinders, threatens or intimidates an officer in the exercise of the officer’s powers or the performance of the officer’s functions under this Act commits an offence and is liable on conviction to a fine not exceeding 25 penalty units or to imprisonment for a term not exceeding 6 months, or both.

**76. Compliance with requirement of officer** – A person who, without reasonable excuse, refuses or fails to comply with a requirement made of the person or directions given to the person by an officer in the exercise of the officer’s powers or the performance of the officer’s functions under this Act commits an offence and is liable on conviction to a fine not exceeding 25 penalty units or to imprisonment for a term not exceeding 6 months, or both.

**77. False information** – A person who, in relation to a matter arising under this Act, knowingly or recklessly:

- (a) provides information that is false or misleading in a material particular; or
- (b) makes a material omission from information provided in purported compliance with a requirement under this Act, commits an offence and is liable on conviction—
  - (i) if the offender is a body corporate, to a fine not exceeding 250 penalty units; or
  - (ii) if the offender is a natural person, to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 12 months, or both.

**78. False representation** – A person who:

- (a) impersonates the holder of a licence or of a form of identification used for the purposes of this Act; or
  - (b) falsely represents himself or herself to be an officer or other authorised person,—
- commits an offence and is liable on conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 12 months or to both.

**79. Failure to provide information** – A person who, without reasonable excuse, fails to provide information or a document that the person is required under this Act to provide, commits an offence and is liable on conviction:

- (a) if the offender is a body corporate, to a fine not exceeding 250 penalty units; or
- (b) if the offender is a natural person, to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 12 months, or both.

**80. Conflict of interest** – (1) An official shall not knowingly or recklessly:

- (a) have, directly or indirectly—
  - (i) any business or financial association with; or
  - (ii) any business or financial interest in any matter in conjunction with, a casino licensee; or
- (b) be employed, in any capacity, by a casino licensee.

(2) Where a person ceases to be an official, the person shall not knowingly or recklessly solicit or accept employment from, or have any business or financial association with, a casino licensee within the period of 1 year after so ceasing to be an official.

(3) A casino licensee shall not knowingly or recklessly:

- (a) have, directly or indirectly—
  - (i) any business or financial association with; or
  - (ii) any business or financial interest in any matter in conjunction with, an official; or
- (b) employ in any capacity an official.

(4) Where a person ceases to be an official, a casino licensee shall not knowingly or recklessly employ in any capacity, or have any business or financial association with, the person within the period of 1 year after the person so ceased to be an official.

(5) An official who knowingly has, directly or indirectly:

- (a) any business or financial association with; or
- (b) any business or financial interest in any matter in conjunction with,—

a person who is the applicant for a casino employee's licence, shall, as soon as practicable, notify the Authority in writing of the association or interest.

(6) A person who contravenes or fails to comply with:

- (a) subsection (1) or (2), commits an offence and is liable on conviction to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 12 months, both;
  - (b) subsection (3) or (4) commits an offence and is liable on conviction—
    - (i) if the offender is a body corporate, to a fine not exceeding 500 penalty units; or
    - (ii) if the offender is a natural person, to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding 2 years, or both;
  - (c) subsection (5) commits an offence and is liable on conviction to a fine not exceeding 125 penalty units or to imprisonment for a term not exceeding 6 months, or both.
- (7) In this section, “official” means an authorised person, other than a casino employee.

**81. Bribery – (1)** An authorised person shall not:

- (a) ask for, receive, obtain or agree to receive or obtain any money, property or benefit of any kind for himself or herself or for another person—
    - (i) to forego or neglect his or her duty or to influence him or her in the performance of his or her functions under this Act; or
    - (ii) on account of anything already done or omitted to be done, or to be afterwards done or omitted to be done, by him or her in the performance of those functions; or
    - (iii) use, or take advantage of, his or her position as an authorised person in order improperly to gain a benefit or advantage for, or to facilitate the commission of an offence by, another person.
- (2) A person who contravenes or fails to comply with subsection (1) commits an offence and is liable on conviction to a fine not exceeding 125 penalty units or to imprisonment for a term not exceeding 2 years, or both.

(3) A person who gives to, confers upon, or procures for, an authorised person, or any other person, any money, property or benefit of any kind:

- (a) to influence the authorised person to forego or neglect, or in the performance of, his or her functions under this Act; or
- (b) on account of anything done or omitted to be done, or to be afterwards done or omitted to be done, by the authorised person in relation to those functions; or
- (c) to influence the authorised person to use, or take advantage of, his or her position as an authorised person in order improperly to gain a benefit or advantage for, or to facilitate the commission of an offence by, a person;

commits an offence and is liable on conviction—

- (i) if the offender is a body corporate, to a fine not exceeding 500 penalty units; or
- (ii) if the offender is a natural person, to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding 2 years, or both.

**82. Conduct of directors, officers, employees and agents—**

(1) Where, in proceedings for an offence against this Act, it is necessary to establish the state of mind of a body corporate in relation to particular conduct, it is sufficient to show:

- (a) that the conduct was engaged in by a director, officer, employee or agent of the body corporate within the scope of his or her actual or apparent authority; and
- (b) that the director, officer, employee or agent had the state of mind.

(2) A conduct engaged in on behalf of a body corporate by a director, officer, employee or agent of the body corporate within the scope of his or her actual or apparent authority shall be taken, for the purposes of a prosecution for an offence against this Act, to have been engaged in also by the body corporate unless the body corporate establishes that the body corporate took reasonable precautions and exercised due diligence to avoid the conduct.

(3) Where in proceedings for an offence against this Act, it is necessary to establish the state of mind of a person other than a body corporate in relation to particular conduct, it is sufficient to show:

- (a) that the conduct was engaged in by an officer, employee or agent of the person within the scope of his or her actual or apparent authority; and
- (b) that the servant or agent had the state of mind.

(4) A conduct engaged in on behalf of a person other than a body corporate by an officer, employee or agent of the person within the scope of his or her actual or apparent authority shall be taken, for the purposes of a prosecution for an offence against this Act, to have been engaged in also by the first-mentioned person unless the first-mentioned person establishes that the first-mentioned person took reasonable precautions and exercised due diligence to avoid the conduct.

(5) Where:

- (a) a person, other than a body corporate, is convicted of an offence; and
- (b) the person would not have been convicted of the offence if subsections (3) and (4) had not been enacted,—

the person is not liable to be punished by imprisonment for that offence.

(6) A reference in subsection (1) or (3) to the state of mind of a person includes a reference to:

- (a) the knowledge, intention, opinion, belief or purpose of the person; and
- (b) the person's reasons for the intention, opinion, belief or purpose.

(7) A reference in this section to engaging in conduct includes a reference to failing or refusing to engage in conduct.

*Division 9 – Financial*

**83. Bank accounts – (1)** The casino licensee shall open and maintain separate bank accounts as approved by the Authority, at a bank or banks in Samoa for use for all banking transactions arising in relation to the operation of the casino or the casino operation agreement.

(2) A casino licensee who contravenes or fails to comply with subsection (1) commits an offence and is liable on conviction:

- (a) if the offender is a body corporate, to a fine not exceeding 250 penalty units; or
- (b) if the offender is a natural person, to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 12 months, or both.

**84. Access to banking records – (1)** The Authority or Chief Executive Officer may, by written notice to a bank referred to in section 83, require the bank to give an officer, on the day and during the hours specified in the notice access to a statement of an account referred to in that section and such other particulars relating to the account as are specified in the notice.

(1A) Statement of an account referred to in subsection (1) includes copies of cheques and other transaction records relevant to the account.

(2) The Authority or Chief Executive Officer may, by written notice to a bank referred to in section 83, require the bank, within 30 days after receiving the notice, to give an officer specified in the notice, a copy of a statement of an account referred to in that section.

(3) The hours specified in a notice to a bank under subsection (1) shall be during the normal business hours of the bank.

(4) Where, by virtue of subsection (1), an officer inspects a statement of an account, the officer may also make a copy of, or take extracts from, the statement.

(5) A bank who, without reasonable excuse, refuses or fails to comply with a requirement made under subsection (1) or (2) commits an offence and is liable on conviction:

- (a) if the offender is a body corporate, to a fine not exceeding 250 penalty units; or
- (b) if the offender is a natural person, to a fine not exceeding 50 penalty units or to imprisonment for a term not exceeding 12 months, or both.

(6) A bank or any officer of the bank who provides information for the purpose of this section is not liable for breach of trust.

**85. Accounts and records –** The casino licensee shall:

- (a) cause to be kept in Samoa, in respect of the transactions and affairs of the casino licensee relating to the operation of the casino, proper accounts and records in accordance with the accounting principles generally applied in commercial practice; and
- (b) do all things necessary to ensure that, in relation to the operation of the casino—
  - (i) payments out of the moneys of the casino licensee are correctly made and properly authorised; and
  - (ii) adequate control is maintained over the incurring of liabilities by the casino licensee; and
  - (iii) adequate control is maintained over the assets of, or in the custody of, the casino licensee.

**86. Statement of accounts** – (1) The casino licensee shall, as soon as practicable but not later than 90 days after the end of each financial year, lodge with the Authority, financial statements and accounts in the prescribed form, including:

- (a) trading accounts, where applicable, for the financial year; and
- (b) profit and loss accounts for the financial year; and
- (c) a balance sheet as at the end of the financial year, that give a true and fair view of the financial operations of the casino licensee in relation to the operation of the casino.

(2) A casino licensee who contravenes or fails to comply with subsection (1) commits an offence and is liable on conviction:

- (a) if the offender is a body corporate, to a fine not exceeding 125 penalty units; or
- (b) if the offender is a natural person, to a fine not exceeding 25 penalty units or to imprisonment for a term not exceeding 6 months, or both.

**87. Audit** – (1) The casino licensee shall, as soon as practicable after the end of a financial year, cause the books, accounts and financial statements of the casino licensee in relation to the casino to be audited by a person approved by the Authority.

(2) The casino licensee shall cause a report of an auditor under subsection (1) to be lodged with the Authority as soon as practicable after the end of the financial year to which the report relates.

(3) A casino licensee who contravenes or fails to comply with subsection (1) commits an offence and is liable on conviction:

- (a) if the offender is a body corporate, to a fine not exceeding 125 penalty units; or
- (b) if the offender is a natural person, to a fine not exceeding 25 penalty units or to imprisonment for a term not exceeding 6 months, or both.

**88. Retention of records** – (1) The casino licensee shall keep in the casino all records relating to transactions less than 7 years old that relate to the casino operation agreement or the operation of the casino.

(2) A casino licensee who contravenes or fails to comply with subsection (1) commits an offence and is liable on conviction:

- (a) if the offender is a body corporate, to a fine not exceeding 250 penalty units; or
- (b) if the offender is a natural person, to a fine not exceeding 50 penalty units.

**88A. Interactive Gaming** – (1) Subject to this section, a person may apply to the Chief Executive Officer, in the prescribed form and together with the prescribed fee, for an interactive gaming licence authorising the person to conduct interactive gaming to provide interactive gaming services or to sell or supply interactive gaming products, subject to any conditions of the licence imposed by the Authority

(2) A game is an interactive game if:

- (a) a prize consisting of money or something else of value is offered or can be won under the rules of the interactive game; and
- (b) a player—
  - (i) enters the interactive game or takes any step in the interactive game by means of a telecommunications device; and
  - (ii) gives, or undertakes to give, a monetary payment or other valuable consideration to enter the interactive game; and



(c) the winner of a prize in the interactive game is decided—

(i) wholly or partly by chance; or

(ii) by a competition or other activity in which the outcome is wholly or partly dependant on the player's skill.

(3) Subject to subsection (4), betting on a race event, sporting event or any other event by means of a telecommunications device is taken to be an interactive game.

(4) A game is not an interactive game if it is prescribed not to be an interactive game.

(5) The Chief Executive Officer may enter into and approve an agreement or arrangement with a person who is offering or intending to sell an interactive gaming product or service under that person's interactive gaming licence, subject to conditions of the licence imposed by the Authority under subsection (1).

(6) An agreement or arrangement made under subsection (5) is effective from the date it is approved by the Chief Executive Officer.

(7) A person who undertakes interactive gaming contrary to subsection (1) commits an offence and is liable to a fine not exceeding 500 penalty units.

**88B. Commission payable on interactive gaming and services** – (1) A person who holds a licence issued under section 88A for interactive gaming and the provision of interactive gaming services must pay commission on the gross profit derived in connection with interactive gaming or interactive gaming services.

(2) The commission payable under subsection (1) is an amount determined by the Authority which must be specified in the licence as a percentage of gross profit.

(3) All payments of commission under this section must be paid into a fund determined by the Authority.

(4) Unless otherwise determined by the Authority under subsection (7)(a), the commission is payable to the Authority by a licensee to which subsection (1) applies on or before the last working day of a month following the month in respect of which the gross profit was made.

(5) For the purposes of this section gross profit derived in a month from gaming is to be calculated by deducting the amount

paid out as winnings in respect of the gaming or gaming services from the total amount received by the licensee from licensed activities.

(6) The Authority may determine any matter necessary for the calculation of the commission payable under this section, and give directions to a licensee to ensure that commission is properly determined, accounted for and paid to the Authority.

(7) Without limiting subsection (6), the Authority may give directions in relation to any of the following:

- (a) the time that commission must be calculated and paid to the Authority;
- (b) dealing with unclaimed prizes when determining the commission that is payable by a licensee.

**88C. Exemption from tax** – The income of the Authority is wholly exempted from income tax under the Income Tax Act 2012.

*Division 10 – Miscellaneous*

**89. Regulations** – (1) The Head of State, acting on the advice of Cabinet, may make regulations, not inconsistent with this Act, prescribing matters:

- (a) required or permitted by this Act to be prescribed; or
  - (b) necessary or convenient to be prescribed for the carrying out or giving effect to this Act.
- (2) Without limiting subsection (1), the regulations may:
- (a) make provision in relation to the control of the casino or of the operations of the casino;
  - (b) make provision in relation to the quality, type or identification of gaming equipment to be used in the casino;
  - (c) make provision in relation to maintenance or use of gaming equipment in the casino;
  - (d) make provision in relation to the control of chip stock;
  - (e) prescribe standards or procedures for the testing, repair or overhaul of gaming equipment;
  - (f) make provision in relation to the handling of chips by casino employees or the use of chips by patrons of the casino;

- (g) make provision in relation to the transportation of gaming equipment or chips to or from the casino;
- (h) make provision in relation to conditions for entering and being in the casino;
- (i) make provision in relation to the security arrangements to be applied in relation to the casino;
- (j) prescribe, for the purposes of security and orderly gaming, requirements for the layout of the casino relating to—
  - (i) the sitting of gaming tables, gaming equipment, counting rooms, cages and other facilities provided for operations in the casino;
  - (ii) the manner of installation of any closed circuit television system, the position and field of coverage of cameras associated with the system and the height of the cameras above the gaming operations in the casino;
  - (iii) the position and type of any surveillance system for use in connection with the direct visual monitoring of operations of the casino;
  - (iv) the communications facilities provided for persons maintaining operations in the casino, whether by means of a closed circuit television system, a surveillance system or by some other means; and
  - (v) the office and related facilities to be provided for inspectors;
- (k) prescribe procedures for the payment of winning wagers;
- (l) prescribe procedures for the supervision and control of the counting of money;
- (m) specify the amount, or prescribe procedures for specifying the amount, of any bet to be made in connection with the playing of an authorised game;
- (n) prescribe procedures for the reconciliation of disputes arising out of the conduct of gaming in the casino;

- (o) prescribe accounts or other records to be kept by the casino licensee;
- (p) prescribe requirements to be observed by the casino licensee in relation to the publication of information concerning the casino and its activities;
- (q) make provision in relation to notices to be displayed in the casino by the casino licensee;
- (r) make provision in relation to the control of junkets;
- (s) prescribe criteria for the grant of a casino licence or a casino employee's licence, including matters relating to the control—
  - (i) of any corporation affected by this Act;
  - (ii) of substantial shareholders of, or foreign participation in, such a corporation;
  - (iii) of persons who are associates of such a corporation;
- (t) prescribe conditions to be applicable to a casino licence;
- (u) require that any matter affected by the regulations be subject to the approval, or satisfaction, of a specified body, or a person holding or occupying a particular office, so as to authorise such a body or person to exercise a discretionary authority;
- (ua) prescribe matters in relation to interactive gaming such as -
  - (i) categories of interactive gaming licences;
  - (ii) validity of interactive gaming licences;
  - (iii) terms and conditions applicable to interactive gaming licences,restrictions in relation to categories of licences, including restrictions on where the licensed games can be conducted and persons permitted to participate in interactive gaming.
- (v) prescribe fees for the purposes of this Act;
- (w) prescribe, for offences against the regulations, penalties not exceeding—
  - (i) if the offender is a body corporate, a fine of 1000 penalty units; or

- (ii) if the offender is a natural person, a fine of 250 penalty units or imprisonment term not exceeding two (2) years or both.

**89A. Forms and fees** – (1) The Chief Executive Officer may approve forms for any purpose under this Act, or any Act for which the Authority has responsibility.

(2) Regulations may be made to prescribe fees and charges for the purpose of this Act, and the amount of any fee or charge prescribed under this section:

- (a) shall be proposed by the Authority; and
- (b) is subject to the consideration and approval of the National Revenue Board under the Public Finance Management Act 2001.

**89B. Immunities for persons exercising powers under this Act** – The Authority and its members, the Chief Executive Officer and officers and policies are not subject to any civil or criminal liability to any person affected by the lawful exercise of a power under the provisions of this Act or any other Act for which the Authority is responsible.

**90. Consequential amendment** – In section 2(1) of the Gaming Act 1978, for the definition of “Gaming” substitute:

“gaming” means playing for money or other valuable thing at any game of chance or any game of mixed chance and skill not authorised under the provisions of the Casino and Gambling Control Act 2010 or of this Act, including the Chinese games of fan-tan, pakapoo and other similar games;”.

**91. Amendment to Value Added Goods and Services Tax Act 1993** – Section 12 of the Value Added Goods and Services Tax Act 1993 is amended:

- (a) in subsection (1), after paragraph (k), insert:

“(l) the supplies and equipment supplied to the Gambling Control Authority established

under the Casino and Gambling Control Act 2010.”;

(b) in subsection (6), after paragraph (p), insert:

“(q) the services are the licensing of casinos and the bringing to account commission imposed by the Gambling Control Authority under the Casino and Gambling Control Act 2010.”.

**92. Transitional provision – (1)** Subject to subsection (2), at the commencement of this Act, the Totalisator Agency Board (“TAB”) appointed under the Betting (Totalisator Agency) Act 1990 shall act as and assume the powers, duties and functions of the Authority.

**(2)** The TAB shall continue to exercise the powers, duties and functions of the Board of the Authority from the date of commencement of this Act until ceased by the Head of State on the advice of the Cabinet.

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#### REVISION NOTES 2013 – 2019

This is the official version of this Act as at 31 December 2019.

This Act has been revised by the Legislative Drafting Division from 2013 to 2019 respectively under the authority of the Attorney General given under the *Revision and Publication of Laws Act 2008*.

The general revisions have been made:

- (a) Substituted “Law Practitioners Act 1967” with “Lawyers and Legal Practice Act 2014”.
- (b) References to “his” has been amended to include “or her”.
- (c) Parts in Roman numerals changed to decimal numbers.
- (d) Reference to “chief executive” has been substituted with “Chief Executive Officer” under section 2(2)(a)(ii).

The following amendments were made to this Act since the publication of the *Consolidated and Revised Statutes of Samoa 2007*:

By the *Casino and Gambling Control Amendment Act 2015*, No.14:

**Section 2** definitions “interactive gaming licence”, “interactive gaming product”, interactive

gaming service” and “telecommunication device” substitute with new definitions.

**Section 23** subsection (2) substitute subsections (2) and (3).

**Section 88A** new section inserted.

**Section 92(2)** “2 years” substitute “4 years”.

By the *Casino and Gambling Control Amendment Act 2017*, No 14:

**Section 92(2)** “4 years” substituted with “5 years”

By the *Casino and Gambling Control Amendment Act 2018* No. 7

- Section 2** - definition of “authorized police officer” repealed
- Section 5** - new subsections (4) and (5) inserted
- Section 6** - subsection (6) repealed
- Section 8A** - New section inserted
- Section 9** - “membership” replaced with “Board”
- Section 19** - subsection (1) substituted
- Section 22** - new subsection (4) inserted
- Section 24** - new subsection (5) inserted
- Section 37(1A)** - words “paid into a sports fund, designated by the Authority” is replaced by the words “paid into a fund determined by the Authority”
- Section 49** - replace age of “18” with “21”
- Section 51 amended** - replace age of “18” with “21”
- Section 52** - substituted
- Section 53** - substituted
- Section 57** - replace age of “18” with “21”
- Section 61(2)** - replace the words “is specified, for the purposes of this section, by the Minister by notice published in the Gazette” with the words “determined by the Chief Executive Officer”
- Section 66(1)** - new paragraphs (c), (d) and (e) inserted
- Section 84** - general amendments and new subsections (1A) and (6) inserted
- Section 88A(1)** - replaced the words “by means of the internet” with the words “to provide interactive gaming services or to sell or supply interactive gaming products”.
- Section 88B** - new section inserted
- Section 88C** - new section inserted
- Section 89(2)** - insert new paragraph (ua), and general amendments to penalty units and imprisonment term
- Section 89A** - new section inserted
- Section 89B** - new section inserted
- Section 92** - subsection (2) substituted.



Lemalu Hermann P. Retzlaff  
Attorney General of Samoa

*This Act is administered by  
the Gambling Control Authority*

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