



BERMUDA

CASINO GAMING AMENDMENT ACT 2015

2015 : 35

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WHEREAS it is expedient to amend the Casino Gaming Act 2014;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

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### Citation

1 This Act, which amends the Casino Gaming Act 2014 (the “principal Act”), may be cited as the Casino Gaming Amendment Act 2015.

### Amends section 2

2 Section 2 of the principal Act is amended—

(a) in the definition of “integrated resort”—

(i) by repealing paragraph (a) and substituting the following—

“(a) a proposed development comprising hotel, retail, dining, entertainment, recreation and other facilities of which a casino may be a part, but does not include an extension, alteration or other redevelopment of an existing tourist resort; or”;

(ii) in paragraph (b), by deleting the words “a tourist resort” and substituting the words “an existing tourist resort”;

(b) in the definition of “owner” by repealing paragraph (a) and substituting the following—

“(a) the person who holds the estate in fee simple of the designated site or proposed designated site and, in any case where such site is owned by the Government, the owner shall be the person who has entered into a Development Agreement to lease the site;”;

(c) by inserting the following definitions in the appropriate alphabetical order—

“existing tourist resort” means a tourist resort existing on the date that section 4 of this Act comes into operation;

“Financial Intelligence Agency” means the Financial Intelligence Agency established by section 3 of the Financial Intelligence Agency Act 2007;

“money laundering” has the meaning given in section 7 of the Proceeds of Crime Act 1997;

“room” means a bedroom in an existing tourist resort that is available for paying guests throughout a year;

“terrorist financing” has the meaning given in section 2 of the Anti-Terrorism (Financial and Other Measures) Act 2004.

### Amends section 4

3 Section 4(1) of the principal Act is repealed and the following is substituted—

“(1) Subject to section 4A, the Minister, acting on the advice of the Commission, may by order published in the Gazette—

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- (a) designate, for such period as may be appropriate (the “specified period”), a parcel of land or an existing tourist resort as a site for an integrated resort;
- (b) extend any period under paragraph (a) for such further period as may be specified in the order.”.

Inserts section 4A

4 The principal Act is amended by inserting after section 4 the following—

“Application for designation of site

4A (1) The owner of land or of an existing tourist resort who wishes to have it designated under section 4 shall make an application to the Minister for that purpose.

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

- (a) be made in such form as the Commission may from time to time approve;
- (b) be accompanied by the prescribed fee; and
- (c) contain such information and be accompanied by such plans, specifications, drawings, reports and other documents, as may be prescribed.”.

Amends section 9

5 Section 9(1) of the principal Act is amended by repealing paragraph (d) and substituting the following—

“(d) to supervise casino operations and casino operators for the purpose of detecting or preventing money laundering, the financing of terrorism and the financing of the proliferation of weapons of mass destruction;”.

Amends section 12

6 Section 12(5) of the principal Act is amended by deleting the words “Consistent with its approved budget”.

Amends section 23

7 Section 23(3) of the principal Act is amended by deleting the words “six months thereafter” and substituting the words “as soon as practicable and not later than four months after the end of the financial year”.

Amends section 31

8 Section 31(2) of the principal Act is repealed and the following substituted—

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“(2) Any person who contravenes subsection (1) commits an offence and shall be liable on summary conviction to a fine not exceeding \$500,000.”.

Amends section 33

9 Section 33(2) of the principal Act is amended—

(a) by inserting after paragraph (a) the following—

“(aa) each such person is a fit and proper person to be concerned with or associated with a casino operator or the operation of a casino, in accordance with the minimum criteria that are set out in section 11A of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008;”;

(b) in paragraph (c), by inserting after the word “structure” the words “; but, for the purposes of this Act, satisfactory ownership or corporate structure does not include a trust or similar legal arrangement”;

(c) by inserting after subsection (2) the following—

“(3) Section 11A(2) and (3) of, and Schedule 2 to, the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 apply with the necessary modifications for the purpose of determining who is a fit and proper person for the purposes of this section, as they apply for the purposes of that Act.”.

Amends section 39

10 Section 39(1) of the principal Act is amended by deleting the words “A casino operator” and substituting the words “The owner of an integrated resort, on behalf of the casino operator in respect of the integrated resort.”.

Amends section 47

11 Section 47 of the principal Act is amended by inserting after subsection (2) the following—

“(3) In this section, “serious breach”, in relation to a casino operator, means a contravention of a provision of this Act or a condition of the casino licence by the casino operator, a person in charge of the casino, an agent of the casino operator or a casino employee which, in the opinion of the Commission —

(a) severely affects the integrity of the casino operations or the integrity of gaming in the casino or severely undermines a measure intended to safeguard individuals or society against harm from casino gaming;

(b) has caused or could cause significant gain of property to a person not legally entitled to it or significant loss of property to a person legally entitled to it;

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- (c) has occurred as a result of wilful intent or reckless disregard for regulatory compliance;
- (d) has arisen from or in connection with a systemic failure or multiple failures in the management or operation of the casino; or
- (e) is injurious to the public interest or public order. ”.

Amends section 100

12 Section 100(1)(c) of the principal Act is repealed.

Amends section 116

13 Section 116(2) of the principal Act is amended by deleting the word “written”.

Repeals section 132

14 Section 132 of the principal Act is repealed.

Amends section 135

15 Section 135 of the principal Act is amended by deleting “Minister” wherever it appears and substituting “Commission”.

Amends section 196

16 Section 196 of the principal Act is amended—

- (a) by repealing subsection (2)(s) and substituting the following—

“(s) the designation of sites under section 4 for the purposes of this Act and fees for applications;”;

- (b) by repealing subsection (4) and substituting the following—

“(4) Regulations relating to designation of sites under section 4, and to fees, shall be subject to the affirmative resolution procedure.

(5) All other regulations made under this Act shall be subject to the negative resolution procedure.”.

Amends Schedule 1

17 Paragraph 10 of Schedule 1 to the principal Act is amended as follows—

- (a) by repealing subparagraph (2) and substituting the following—

“(2) Subject to subparagraph (5), the quorum at every meeting of the Commission shall be three members.”;

- (b) by repealing subparagraph (5) and substituting the following—

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“(5) Where both the Chairman and the Deputy Chairman are absent from a meeting, no such meeting shall be considered to have had a quorum of members.”.

### Consequential amendments

18 The statutory provisions set out in the Schedule are amended as specified in the Schedule.

### Commencement

19 (1) Sections 1, 17 and this section shall come into operation on Assent.

(2) The remaining provisions of this Act shall come into operation on such day as the Minister responsible for gaming shall appoint by Notice published in the Gazette.

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SCHEDULE

(Section 18)

CONSEQUENTIAL AMENDMENTS

Amends the Proceeds of Crime Act 1997

- 1 (1) Section 42A of the Proceeds of Crime Act 1997 is amended—
- (a) by inserting the following definitions in the appropriate alphabetical order—
    - “Bermuda Casino Gaming Commission” has the meaning given in section 6 of the Casino Gaming Act 2014;
    - “casino” has the meaning given in section 2 of the Casino Gaming Act 2014;
    - “casino operator” has the meaning given in section 2 of the Casino Gaming Act 2014;
    - “patron” has the meaning given in section 2 of the Casino Gaming Act 2014;”.
  - (b) in the definition of “supervisory authority”, by deleting “or” at the end of paragraph (a), by inserting “or” after the semicolon in paragraph (b) and by inserting after paragraph (b) the following—
    - “(c) in the case of a casino operator, the Bermuda Casino Gaming Commission.”.
- (2) Section 49 of the Proceeds of Crime Act 1997 is amended—
- (a) in subsection (4)(a), by deleting the word “and” from the end of subparagraph (i), by inserting “and” after the semicolon in subparagraph (ii), and by inserting after subparagraph (ii) the following—
    - “(iii) casino operators;”;
  - (b) by inserting after subsection (4) the following—
    - “(4A) In the application of subsection (4) in relation to casino operators “client” means a patron.”.

Amends the Anti-Terrorism (Financial and Other Measures) Act 2004

- 2 (1) The Anti-Terrorism (Financial and Other Measures) Act 2004 is amended in section 2 as follows by inserting the following definitions in the appropriate alphabetical order—
- “Bermuda Casino Gaming Commission” has the meaning given in section 6 of the Casino Gaming Act 2014;

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“casino” has the meaning given in section 2 of the Casino Gaming Act 2014;

“casino operator” has the meaning given in section 2 of the Casino Gaming Act 2014;

“patron” has the meaning given in section 2 of the Casino Gaming Act 2014;”.

(2) Section 12A of the Anti-Terrorism (Financial and Other Measures) Act 2004 is amended—

- (a) in subsection (2)(a), by deleting the word “and” at the end of subparagraph (i), by inserting “and” after the semicolon in subparagraph (ii), and by inserting after subparagraph (ii) the following—

“(iii) casino operators.”;

- (b) by inserting after subsection (2) the following—

“(2A) In the application of subsection (2) in relation to casino operators “client” means a patron.”.

(3) Section 12O(2) of the Anti-Terrorism (Financial and Other Measures) Act 2004 is repealed and the following substituted—

“(2) In this section “supervisory authority” means—

- (a) the Bermuda Monetary Authority in relation to persons falling within section 12A(2)(a)(i), being persons who are licensed, registered or otherwise exempted under any enactment regulating the financial services industry;
- (b) a professional body designated by the Minister under any enactment in relation to relevant persons regulated by it; or
- (c) the Bermuda Casino Gaming Commission in relation to casino operators.”.

Amends the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008

3 (1) The Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 is amended in section 2(1)—

- (a) by inserting the following definitions in the appropriate alphabetical order—

“Bermuda Casino Gaming Commission ” has the meaning given in section 6 of the Casino Gaming Act 2014;

“casino” has the meaning given in section 2 of the Casino Gaming Act 2014;



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“casino operator” has the meaning given in section 2 of the Casino Gaming Act 2014;”;

- (b) in the definition of “competent authority”, by deleting the word “or” and substituting a comma, and by inserting after “FIA” the words “or the Bermuda Casino Gaming Commission”.

(2) Section 3(1) of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 is amended—

- (a) by deleting the word “and” at the end of paragraph (b);
- (b) in paragraph (c), by inserting after the word “profession” the words “other than a casino operator; and”;
- (c) by inserting after paragraph (c) the following—

“(d) the Bermuda Casino Gaming Commission for casino operators.”.

(3) Section 6A of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 is repealed and the following is substituted—

“Competent authorities for regulated non-financial businesses or professions

6A (1) The Bermuda Casino Gaming Commission has the functions conferred on it by section 5, and under the Casino Gaming Act 2014, in relation to casino operators.

(2) The FIA has the functions conferred on it by section 5 in relation to regulated non-financial businesses or professions other than casino operators.”.

(4) Section 8(1)(b) of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 is repealed and the following is substituted—

“(b) in the case of—

- (i) the Bermuda Casino Gaming Commission, casino operators;
- (ii) the FIA, all regulated non-financial businesses or professions other than casino operators.”.

(5) Schedule 2 to the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing Supervision and Enforcement) Act 2008 is amended by inserting the following items in Column 1 and Column 2 respectively—

“

Column 1: Non-financial business or profession	Required to meet the fit and proper test in section 11A
1. Casino operators	Yes

”.

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### Amendment of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008

4 (1) Regulation 2 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 is amended as follows—

(a) in paragraph (1)—

(i) by inserting the following definitions in the appropriate alphabetical order—

“Bermuda Casino Gaming Commission” has the meaning given in section 6 of the Casino Gaming Act 2014;

“casino” has the meaning given in section 2 of the Casino Gaming Act 2014;

“casino operator” has the meaning given in section 2 of the Casino Gaming Act 2014;

“patron” has the meaning given in section 2 of the Casino Gaming Act 2014;”;

(ii) by revoking the definition of “supervisory authority” and substituting the following—

“supervisory authority” means—

(a) the Bermuda Monetary Authority in relation to relevant persons that are AML/ATF regulated financial institutions;

(b) a professional body designated by the Minister under any enactment in relation to relevant persons regulated by it; or

(c) the Bermuda Casino Gaming Commission, in relation to relevant persons that are casino operators;”;

(b) by inserting after paragraph (2) the following—

“(3) For the purposes of these Regulations, a reference to a customer shall be construed as a reference to a patron in relation to a casino or casino operator.”.

(2) Regulation 4 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 is amended by deleting the full stop at the end of paragraph (b) and inserting a semicolon, and by inserting after paragraph (b) the following—

“(c) casino operators.”.

(3) The Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 are amended by inserting after regulation 8 the following new regulations—

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### “Casinos: timing of verification of identity of patrons

8A (1) This regulation applies in respect of the duty under regulation 6(1)(a) and (b) to apply the customer due diligence measures referred to in regulation 5(a) and (b).

- (2) A casino operator shall establish and verify the identity of—
- (a) all patrons to whom the casino operator makes facilities for gaming available before entry to any casino premises where such facilities or games are provided; and
  - (b) if the specified conditions are met, all patrons who, in the course of any period of 24 hours—
    - (i) purchase from, or exchange with, the casino operator, chips with a total value of \$2,000 or more; or
    - (ii) pay the casino operator \$2,000 or more for the use of gaming machines.
- (3) The specified conditions are—
- (a) the casino operator verifies the identity of each customer before or immediately after such purchase, exchange or payment takes place; and
  - (b) the Bermuda Casino Gaming Commission is satisfied that the casino operator has appropriate procedures in place to monitor and record—
    - (i) the total value of chips purchased from or exchanged with the casino operator; or
    - (ii) the total money paid for the use of gaming machines.
- (4) In this regulation—

“casino premises” has the meaning given in section 2 of the Casino Gaming Act 2014;

“gaming machine” has the meaning given in section 2 of the Casino Gaming Act 2014.

### Casinos: patron accounts

8B (1) A casino operator shall not open or maintain any anonymous patron account or any patron account in the name of a person other than the patron (whether such name is of a person living or dead or of a fictitious person).

(2) A casino operator shall establish the identity of each patron who opens a patron account with the casino operator, in accordance with this regulation and its system of internal controls.

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(3) Paragraphs (4), (5) and (6) apply in respect of the duty under regulation 6(1)(a) and (b) to apply the customer due diligence measures referred to in regulation 5(a) and (b).

(4) Before opening a patron account, a special employee authorised by the casino operator to do so, shall obtain and record, at the minimum, all of the following information—

- (a) the patron's identifying information and signature;
- (b) the date the patron account is opened;
- (c) the amount of the initial deposit into the patron account (including the type of foreign currency and conversion rate, if applicable);
- (d) the type and purpose of the patron account;
- (e) the name and signature of the special employee who approved the opening of the patron account.

(5) Where a deposit of \$2,000 or more in a single transaction (other than the initial deposit in the patron account) is made into a patron account, the casino operator shall—

- (a) establish the identity of the person making the deposit; and
- (b) where the deposit is made in person—
  - (i) record the identifying information of the person making the deposit; and
  - (ii) verify his identity using reliable and independent sources.

(6) For the purpose of paragraph (5), a single transaction includes a transaction that is carried out in two or more operations that appear to be linked.

(7) The casino operator shall, in addition, keep the following records in respect of every deposit referred to in paragraph (5)—

- (a) the date of the deposit;
- (b) the amount of the deposit;
- (c) the details of the patron account into which the deposit was made;
- (d) the identifying information of the patron;
- (e) the type of instrument by which the deposit is made, or whether the deposit is made in cash or chips;
- (f) the name of the issuer of the instrument, if any;
- (g) all reference numbers (including the number of any cheque, bank draft, money order or other instrument); and
- (h) the name and special employee licence number of the authorised employee who carried out the transaction.

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### Casinos: prohibited transactions

8C (1) For the purpose of preventing any transaction which may be connected with or may facilitate money laundering, the financing of terrorism or the financing of proliferation of weapons of mass destruction, the following transactions shall be prohibited—

- (a) any transaction by a casino operator with a patron involving the conversion of money from one form to another without being used for gaming, including—
  - (i) the receipt of cash for transmittal of all or part of that sum through telegraphic transfer for or on behalf of a patron;
  - (ii) cash payments made to or on behalf of a patron of funds received through electronic transfers; and
  - (iii) the cashing of cheques or other negotiable instruments;
- (b) any receipt by a casino operator of money the purpose or ownership of which cannot be ascertained within a period of 7 days from the date of receipt;
- (c) any transaction, including the opening of a patron account, which the casino operator has reasonable grounds to suspect—
  - (i) is for the purpose of dealing in the proceeds of any relevant offence;
  - (ii) is a cash transaction that uses the proceeds of any relevant offence; or
  - (iii) involves the custody or control of any funds or other assets that are the proceeds of any relevant offence.

(2) In this regulation, “relevant offence” has the meaning given in section 3 of the Proceeds of Crime Act 1997.”.

(4) Paragraphs (2)(a) and (4) of regulation 15 of the Proceeds of Crime (Anti-Money Laundering and Anti-Terrorist Financing) Regulations 2008 are amended by inserting after the words “regulation 6,”, “8B(7),”.

[Assent Date: 04 August 2015]

*[Operative Dates: Sections 1, 17 and 19 in force 4 August 2015. Sections 2 to 16 and 18 in force 6 November 2015 by BR 92 / 2015 para. 2.]*