



BERMUDA

BETTING ACT 2021

2021 : 22

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SCHEDULE

Consequential amendments

WHEREAS it is expedient to repeal the Betting Act 1975, and replace it with a comprehensive statutory scheme for the regulation of betting by the Bermuda Gaming Commission, and to make connected provision;

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:

PART 1 PRELIMINARY

Citation

1 This Act may be cited as the Betting Act 2021.

Interpretation

2 In this Act, unless the context otherwise requires—
“associate” has the meaning given in section 7;

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“bet” means, according to context—

- (a) a wager, other than a wager in relation to a game or a lottery (as defined in the Gaming Act 2014), on—
 - (i) the outcome of a race, competition or other event or process;
 - (ii) the likelihood of anything occurring or not occurring;
 - (iii) whether anything is or is not true; or
- (b) to make or accept such a wager;

“betting licence” means—

- (a) a bookmaker’s licence;
- (b) a restricted bookmaker’s licence; or
- (c) a pool betting agent’s licence;

“betting operator” means a person who is the holder of a betting licence;

“betting premises” means premises in respect of which a betting licence is in force;

“bookmaker service” means the service of receiving or negotiating bets;

“bookmaker’s licence” means a licence granted under section 9;

“Commission” means the Bermuda Gaming Commission established under the Gaming Act 2014;

“court” means magistrates’ court;

“customer account” has the meaning given in section 39;

“disciplinary action” has the meaning given in section 81;

“event permit” and “event premises” have the meanings given in section 21;

“excluded person”, in relation to a betting operator, means a person subject to an exclusion order that applies to the betting premises, whether a self-exclusion order under section 59, a compulsory-exclusion order under section 60, an exclusion order made by the Commission or a casino operator under the Gaming Act 2014, or a family exclusion order made under Part 12 of that Act as applied by regulations made under this Act;

“Financial Intelligence Agency” (“FIA”) means the Financial Intelligence Agency established by the Financial Intelligence Agency Act 2007;

“fixed odds betting”, in relation to a person providing a bookmaker service, means betting in which—

- (a) the patron knows or can know, at the time he makes it, the amount he will win, except in so far as that amount is to depend on—
 - (i) the result of the event or events betted on;

- (ii) any such event taking place or producing a result;
- (iii) the numbers taking part in any such event;
- (iv) the starting prices or totalisator odds for any such event;
- (v) there being totalisator odds on any such event; or
- (vi) the time when the bet is received by any person with or through whom it is made; and

(b) the winnings consist entirely of money;

“gaming” includes any kind of wagering;

“inspector” means an inspector appointed under section 12(4) of the Gaming Act 2014;

“intoxicating liquor” has the same meaning as in the Liquor Licence Act 1974;

“minor” means a person who is under 18 years of age;

“patron”, in relation to a betting operator, means an individual who participates in betting with the betting operator;

“pool betting” means betting based on the forecasts of the results of a football match, cricket match, race or other event taking place outside Bermuda—

- (a) on terms that the winnings of the winners shall be, or be a share of, or be determined by reference to, the stake money paid or agreed to be paid by the persons taking part in the betting whether the bets are made by filling up and returning coupons or other printed or written forms, or otherwise howsoever; or
- (b) on terms that the winnings of the winners shall be, or shall include, an amount (not determined by reference to the stake money paid or agreed to be paid by those persons) which is divisible in any proportions among those persons; or
- (c) on the basis that the winners or their winnings shall, to any extent, be determined by the free discretion of the promoter of bets or any other person;

“pool betting agent’s licence” means a licence granted under section 11;

“prescribed” means prescribed by regulations;

“promoter” in relation to pool betting means the person to whom the persons making bets look for the payment of their winnings;

“registered patron” has the meaning given in section 37;

“restricted bookmaker’s licence” means a licence granted under section 10;

“significant bet” has the meaning given in section 38;

“staff member”, in relation to a betting operator, means—

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- (a) an employee of the betting operator; or
- (b) another individual who performs functions that are part of the normal operations of the relevant betting premises, whether or not the person is directly employed by the betting operator;

“starting prices” in relation to an event means the odds ruling at the scene of the event immediately before the start;

“totalisator odds” in relation to an event means the odds paid on bets made by means of totalisator at the scene of the event;

“uncertain event” includes an event purported to be uncertain;

“wager” means, according to context—

- (a) to make an agreement with one or more persons to pay money or money’s worth to one or more of the other persons on the basis of the result of a game or lottery (as defined in the Gaming Act 2014), or other uncertain event, whether or not a stake or participation fee is required;
- (b) such an agreement; or
- (c) the amount of money or money’s worth to be staked or paid by a particular person under such an agreement;

“winnings”, in relation to a party to a wager, means the money or money’s worth to be paid to, or retained by, that party as a result of the wager.

Application to Lotteries Act 1944

3 Nothing in the Lotteries Act 1944 shall render unlawful the business of receiving or negotiating bets by a betting operator.

Application to Gaming Act 2014

4 Nothing in this Act shall render unlawful the business of receiving or negotiating bets by a casino operator licensed in accordance with the Gaming Act 2014.

Prohibition of unlicensed bookmakers and pool betting agents

5 (1) No person shall act as a bookmaker or pool betting agent unless—

- (a) the person holds a betting licence that permits the person to carry on the relevant business; and
- (b) the business is carried on upon the betting premises to which the licence applies.

(2) No person shall by way of business receive or negotiate bets as the staff member of a person carrying on the business of a bookmaker or pool betting agent unless the bookmaker or pool betting agent holds a betting licence that permits that person to carry on the relevant business.

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(3) Any person contravening subsection (1) or (2) commits an offence and shall be liable on summary conviction—

- (a) to a fine not exceeding \$10,000 or a term of imprisonment not exceeding six months, or to both; and
- (b) in the case of a continuing offence, a further fine of \$500 for every day during which the offence continues.

(4) In this section—

“bookmaker” means any person who—

- (a) carries on, whether regularly or occasionally, the business of receiving or negotiating bets; or
- (b) by way of business in any manner holds himself out, or permits himself to be held out, as a person who receives or negotiates bets or conducts such operations;

“pool betting agent” means a person who—

- (a) carries on, whether regularly or occasionally, the business of receiving or negotiating pool bets; or
- (b) effects any transaction of pool betting, where the promoter of the pool betting is based outside Bermuda.

Prohibition on transmission of pools coupons outside Bermuda

6 Any person, other than the holder of a pool betting licence, who knowingly sends, or attempts to send, whether by post or by electronic means to a person outside Bermuda any pool coupon or other document connected with pool betting commits an offence, and shall be liable on summary conviction to a fine not exceeding \$10,000 or a term of imprisonment not exceeding six months, or to both.

Meaning of "associate"

7 (1) In this section, a reference to the operator is a reference to a person who is an applicant for, or the holder of, a licence under this Act.

(2) For the purposes of this Act, a person is an “associate” of, or associated with, the operator if—

- (a) the person is the owner of the betting premises or proposed betting premises; or
- (b) in the opinion of the Commission, the person is able or will be able to exercise an influence over or with respect to the management or operation of the business of the operator to which the licence relates (“the business”).

(3) In determining whether a person is able or will be able to exercise such an influence, the Commission may consider all or any of the following—

- (a) whether the person holds or will hold any relevant financial interest in the business;
- (b) whether the person is or will be entitled to exercise any relevant power (whether in his own right or on behalf of any other person) in the business;
- (c) whether the person holds or will hold any relevant position (whether in his own right or on behalf of any other person) in the business;
- (d) the degree of direct or indirect influence that the person has in the management or operation of the business;
- (e) any other matter that the Commission considers relevant.

(4) In this section—

“relevant financial interest”, in relation to a business, means—

- (a) any share of five per cent or more in the capital of the business;
- (b) any entitlement to receive any income derived from the business; or
- (c) any contribution to the capital of the business, whether by a loan or otherwise;

“relevant position”, in relation to a business, means the position of director or manager, or other executive position, however that position is designated;

“relevant power” means any power, whether exercisable by voting or otherwise, and whether exercisable alone or in association with others,—

- (a) to participate in any directorial, managerial or executive decision; or
- (b) to elect or appoint any person to any relevant position.

Enforceability of betting contracts

8 (1) The fact that a contract relates to betting with a betting operator shall not prevent its enforcement.

(2) Subsection (1) is without prejudice to any rule of law preventing the enforcement of a contract on the grounds of unlawfulness, other than a rule relating specifically to gaming.

PART 2

BETTING LICENCES

Chapter 1 - Types of betting licence

Bookmaker’s licence

9 (1) The Commission may, in accordance with Chapter 3, grant an applicant a bookmaker’s licence for a single specified premises.

(2) The holder of the licence may, in accordance with this Act and the terms and conditions of the licence—

- (a) provide a bookmaker service to patrons on the premises; and
- (b) where the Commission has given the holder of the licence an event permit under section 21, provide the approved bookmaker service to patrons on the event premises in accordance with the event permit.

Restricted bookmaker's licence

10 (1) The Commission may, in accordance with Chapter 3, grant an applicant a restricted bookmaker's licence in relation to a single specified premises.

(2) The holder of the licence may, in accordance with this Act and the terms and conditions of the licence, provide a bookmaker service to patrons on the premises that is restricted to fixed odds betting on the results of a football match or cricket match.

(3) The Minister may, on the advice of the Commission, amend subsection (2) by order to include other sports.

Pool betting agent's licence

11 (1) The Commission may, in accordance with Chapter 3, grant an applicant a pool betting agent's licence in relation to a single specified premises.

(2) The holder of the licence may, in accordance with this Act and the terms and conditions of the licence, do the following on the premises—

- (a) receive or negotiate pool bets with patrons; or
- (b) effect any transaction of pool betting for patrons, where the promoter of the pool betting is based outside Bermuda.

Chapter 2 - Application for betting licence

Application for a betting licence

12 (1) An application for a betting licence in relation to a premises may be made to the Commission only by the person who will be responsible for providing the betting activities on the premises and will supervise and manage those activities.

(2) Where that person is not the owner of the premises, the approval of the owner is also required.

(3) The application shall—

- (a) be made to the Commission in a form approved by the Commission;
- (b) specify the type of betting licence and the premises to which it will apply;
- (c) specify whether the application is for—
 - (i) a new licence;
 - (ii) the renewal of a licence; or

- (iii) the transfer of an existing licence in accordance with section 24; and
- (d) be accompanied by—
 - (i) the relevant application fee;
 - (ii) the prescribed deposit for the costs of processing the application and assessing suitability;
 - (iii) a copy of the betting rules that the applicant wishes the Commission to approve under section 34;
 - (iv) a police record check for the applicant and each associate of the applicant; and
 - (v) such other documents and information as may be required by the Commission.
- (4) The following persons shall be disqualified from holding a betting licence—
 - (a) any person who is under the age of eighteen years;
 - (b) any person who is an undischarged bankrupt, or who has within ten years of the application entered into any composition or arrangement with his creditors;
 - (c) any person who has been convicted, whether in Bermuda or elsewhere, of an offence of which dishonesty or violence is an element.
- (5) By submitting an application for a betting licence, the applicant—
 - (a) consents to an investigation under this Act; and
 - (b) may be required by the Commission to consent to having his photograph, palm prints and fingerprints taken and sent to the Commissioner of Police.
- (6) The Commission shall cause a notice of the application to be published in the Gazette.
- (7) The following persons may lodge an objection with the Commission to the grant of a licence in relation to particular premises—
 - (a) the Commissioner of Police;
 - (b) in the case of premises in the Municipal areas of Hamilton or St. George, the Corporations thereof;
 - (c) any person who is the owner or occupier of any property situated within 300 metres of the premises;
 - (d) any person ordinarily resident in the parish in which the premises are located.

Application fees and time requirements

13 (1) The application fee for a new betting licence shall be as prescribed, and shall be non-refundable.

(2) Where the application is made later than three months before the 1 April of a year, the Commission may grant the licence for a term that begins later than 1 April.

(3) The application fee for the renewal of a betting licence shall be as prescribed and may be partly refundable.

(4) Subject to subsection (5), an application for a renewed licence shall be made no later than three months before the end of the term of the current licence.

(5) With the leave of the Commission, an application for a renewed licence may be made later than the time specified in subsection (4) on payment of the prescribed late application fee.

(6) The application fee for the transfer of an existing licence in accordance with section 24 shall be as prescribed.

Assessment of suitability of applicant for a betting licence

14 (1) The Commission shall not grant a betting licence unless it is satisfied that—

(a) each of the following persons is a suitable person to be concerned in or associated with the management and operation of a betting operation in the relevant capacity—

(i) the applicant;

(ii) any associate of the applicant;

(b) where the operation will be conducted by a company, the company is controlled by the applicant within a satisfactory corporate and ownership structure that does not include a trust or similar legal arrangement;

(c) the applicant has or is able to obtain—

(i) financial resources that are adequate to ensure the financial viability of the proposed betting operation; and

(ii) the services of persons who have sufficient experience in the management and operation of such a betting operation;

(d) the applicant has sufficient business ability to establish and maintain a successful betting operation on the premises.

(2) In assessing whether a person is suitable to be concerned in or associated with the management and operation of a betting operation, the Commission shall have regard to—

(a) whether the person is of good repute, having regard to character, honesty and integrity;

- (b) whether the person is a fit and proper person to be concerned with or associated with a betting operator or betting operations;
- (c) if the betting operation will be conducted by a company, the company will be controlled by the applicant within a satisfactory corporate and ownership structure that does not include a trust or similar legal arrangement;
- (d) if the betting operation will be conducted by an individual other than the licensee, the operation will be supervised and controlled by the applicant within a control structure that does not include a trust or similar legal arrangement;
- (e) any business association that the person has with another person, who or which, in the opinion of the Commission, is not of good repute having regard to character, honesty and integrity, or has undesirable or unsatisfactory financial resources;
- (f) if the person is not an individual, whether any director, partner, trustee, executive officer, secretary or any other officer or person determined by the Commission to be associated or connected with the ownership, administration or management of the operations or business of the applicant is a fit and proper person to act in that capacity;
- (g) if the person is an individual, the character, reputation and associations of other persons with whom the person associates; and
- (h) any other matter that may be prescribed.

(3) In determining whether a person is a fit and proper person to act in a particular capacity, regard shall be had to his probity, to his competence and soundness of judgment for fulfilling the responsibilities of that position, to the diligence with which he is fulfilling or likely to fulfil those responsibilities and to whether the interests of the betting operation are, or are likely to be, in any way threatened by his holding that position.

(4) In particular, regard may be had to the previous conduct and activities in business or financial matters of the person in question and to any evidence that he has—

- (a) committed an offence involving fraud or other dishonesty or violence;
- (b) contravened any provision made by or under any enactment appearing to the Commission to be designed for protecting members of the public against financial loss due to—
 - (i) dishonesty, incompetence or malpractice by persons concerned in the provision of services by the relevant business or profession or the management of companies; or
 - (ii) the conduct of discharged or undischarged bankrupts;
- (c) engaged in any business practices appearing to the Commission to be deceitful or oppressive or otherwise improper (whether lawful or not) or

which otherwise reflect discredit on his method of conducting business;
and

- (d) engaged in or has been associated with any other business practices or otherwise conducted himself in such a way as to cast doubt on his competence and soundness of judgment.

(5) For the purpose of determining the application, the Commission may, subject to the requirements of any other Act that relates to privacy or the use of personal information, consider any document given to the Commission for the purposes of this Act.

Assessment of other relevant matters

15 The Commission shall not grant a betting licence unless it has made an assessment of—

- (a) the effect that the grant of the licence will have on the public welfare;
- (b) the suitability of the premises and the location; and
- (c) any objections lodged with the Commission, and the extent to which they either are not material or will be satisfactorily dealt with by the limitations or conditions on the licence.

Investigation of application

16 (1) On receiving an application for a betting licence the Commission shall—

- (a) provide a copy of the application to the Commissioner of Police; and
- (b) cause to be carried out all such investigations and inquiries as it considers necessary to enable it to consider the application properly.

(2) In particular, the Commission may—

- (a) hold a meeting or hearing, which may be in public, at which the applicant and any other such person as the Commission sees fit may give evidence under oath;
- (b) require the applicant or another person to provide evidence by way of affidavit or testimony under oath;
- (c) authorise or instruct third parties to undertake any investigation as may be reasonably necessary and to provide information or documentation to the Commission; and
- (d) invite or request third parties, including law enforcement agencies in Bermuda and elsewhere, to provide an opinion on the suitability of the applicant, or any associate of the applicant, to be concerned in or associated with the management and operation of a betting operation in the relevant capacity.

Commission may require further information etc

17 (1) The Commission may, by notice in writing, require a person who is an applicant for a betting licence or a person whose association with the applicant is, in the opinion of the Commission, relevant to the application to do any one or more of the following—

- (a) to provide, in accordance with directions in the notice, any information that is relevant to the investigation of the application and is specified in the notice;
- (b) to produce, in accordance with directions in the notice, any records relevant to the investigation of the application that are specified in the notice and to permit examination of the records, the taking of extracts from them and the making of copies of them;
- (c) to furnish to the Commission any authorisations and consents from other persons that the Commission directs for the purpose of enabling the Commission to obtain information (including financial and other confidential information) concerning the person and his associates.

(2) If a requirement made under this section is not complied with, the Commission may refuse to consider the application concerned.

Updating of application

18 (1) If a change occurs in the information provided in or in connection with an application for a betting licence (including in any documents lodged with the application) before the application is granted or refused, the applicant shall, without delay, give the Commission written particulars of the change.

(2) If—

- (a) the Commission requires information (including information in any records) from a person referred to in section 17 whose association with the applicant is in the opinion of the Commission relevant to the application; and
- (b) a change occurs in the information provided before the application is granted or refused,

that person shall, without delay, give the Commission written particulars of the change.

(3) Any person who fails to comply with subsection (1) or (2) commits an offence, and shall be liable on summary conviction to a fine not exceeding \$10,000.

(4) When particulars of the change are given, those particulars shall then be considered to have formed part of the original application for the purposes of the application of subsection (1) or (2) to any further change in the information provided.

Chapter 3 - Grant or refusal of betting licence

Grant or refusal of betting licence

19 (1) When the Commission has completed its investigation into suitability in accordance with Chapter 2, it shall determine an application for a betting licence by either granting or refusing the application, and shall notify the applicant in writing of its decision.

(2) A betting licence may be granted subject to such conditions as the Commission thinks fit.

(3) Without limiting subsection (2), the conditions may relate to any matter for which provision is made under this Act but shall not be inconsistent with a provision of this Act.

(4) The term of a betting licence shall—

(a) begin on the next 1 April after it is granted, unless a different date is specified in the licence; and

(b) end at the end of the next 31 March after the day it begins.

(5) The licence shall specify the premises to which it applies.

(6) The conditions shall be stated on the licence.

(7) The Commission shall not, under any circumstances, be liable for any financial outlay or financial or other losses incurred or suffered by an applicant as a result of—

(a) an application for a licence being refused; or

(b) the attachment of conditions to a betting licence.

Betting licence annual fee

20 The regulations may prescribe an annual fee for the holder of a betting licence.

Chapter 4 - Event permits

Event permits

21 (1) The regulations may prescribe circumstances in which the Commission may, on application by the holder of a bookmaker's licence, grant the holder a permit (an "event permit") that—

(a) relates to a single specified premises (the "event premises");

(b) allows the holder of the licence to provide a bookmaker service of a specified kind at those premises (the "approved bookmaker service");

(c) is subject to specified conditions; and

(d) is limited to a specified period of not more than 72 hours.

(2) An application for an event permit shall be accompanied by the prescribed fee.

(3) In subsection (1)(a), “premises” includes any ship, boat, raft or other apparatus constructed or adapted for floating on water.

(4) For the avoidance of doubt, event premises are not betting premises.

(5) Section 76 (entry of inspector to betting premises) applies in relation to event premises as if they were betting premises.

PART 3
LICENCE CONDITIONS

Standard licence conditions

22 The regulations may prescribe standard conditions that will apply to all betting licences of a specified class, subject to modification if the Commission determines otherwise for any particular licence as a result of the Commission’s investigation and assessment under sections 14 to 18.

Amendment of conditions or boundaries of premises

23 (1) The conditions of a betting licence, or the boundaries of the premises to which it applies, may be amended in accordance with this section.

(2) An amendment may be proposed—

- (a) by the licence holder by requesting the Commission in writing to make the amendment; or
- (b) by the Commission by giving notice in writing of the proposed amendment to the licence holder.

(3) The Commission shall allow the licence holder such period as it may specify to make submissions to the Commission concerning any proposed amendment (whether proposed by the Commission or the licence holder) and shall consider the submissions made.

(4) The Commission shall then decide whether to make the proposed amendment, either with or without changes from that originally proposed, and shall notify the licence holder of its decision.

(5) Any amendment that the Commission decides upon takes effect when notice of the decision is given to the licence holder or on any later date that may be specified in the notice.

(6) A request made by the licence holder under subsection (2)(a) shall be accompanied by the prescribed fee.

(7) In this section, “amendment” includes the variation or revocation of any condition or the addition of a new condition.

Encumbrance or transfer of betting licence

24 (1) The holder of a betting licence shall not mortgage, charge or otherwise encumber the betting licence, except with the prior approval in writing of the Commission.

(2) A betting licence may not be transferred to another person except by way of an application for a new licence from a person who is taking over the operations of the holder of a licence.

(3) For the purposes of obtaining the written permission mentioned in subsection (1), section 12 and sections 16 to 18 shall apply with the necessary modifications.

Guarantees

25 (1) It is a condition of a bookmaker's licence and of a restricted bookmaker's licence that the holder shall not provide a bookmaker service unless there is lodged with the Commission an acceptable guarantee in the statutory amount for the due performance by the licence holder of his obligations to his clients in the event of any default by him.

(2) It is a condition of a pool betting agent's licence that the holder shall not provide the service described in section 11(2) unless there is lodged with the Commission an acceptable guarantee in the statutory amount as may be prescribed for the due performance by the promoter of the promoter's obligations to persons who place or negotiate bets with the promoter.

(3) For this section, a guarantee is acceptable if it is given—

- (a) by an institution licensed as a deposit-taking business under the Banks and Deposit Companies Act 1999; or
- (b) in equal shares by two persons who the Commission is satisfied are fit and proper persons for the purpose.

(4) For the avoidance of doubt, a guarantee given under this section shall be enforceable at law notwithstanding that the obligations in respect of which the security is given arise from gaming transactions.

(5) Where—

- (a) any guarantor desires to be discharged of his obligations under a guarantee given for the purposes of this section; or
- (b) the Commission ceases to be satisfied in relation to one of the guarantors,

the Commission may call upon the licence holder to replace the guarantee by another acceptable guarantee.

(6) Where a replacement guarantee is lodged, the obligations of any former guarantor shall be discharged with effect from the date of the lodgement.

(7) The "statutory amount" means—

- (a) for the purposes of subsection (1), \$100,000;
- (b) for the purposes of subsection (2), \$100,000.

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(8) The Minister may by order amend the amounts set out in subsection (7)(a) and (b).

Multiple licences

26 (1) Except as provided in this section, the Commission shall not grant a betting licence to a person who holds another betting licence or a casino licence under the Gaming Act 2014.

(2) The Commission may grant a person more than one betting licence if—

- (a) the licences are of different types; or
- (b) the licences are of the same type, but relate to different premises.

(3) Where a casino operator requests it, the Commission may grant a bookmaker's licence to a person other than the casino operator in relation to premises that are, or are a part of, the casino premises.

(4) In this section, "casino licence", "casino operator" and "casino premises" have the meanings given in section 2(1) of the Gaming Act 2014.

Surrender of licence

27 (1) The holder of a betting licence may surrender it by giving notice in writing to the Commission.

(2) The surrender takes effect on the date agreed by the Commission, subject to section 43 (market exit procedures).

PART 4

BETTING OPERATIONS

Chapter 1 - Internal Controls

Internal controls

28 (1) A betting operator shall establish, document and implement a system of internal controls for any aspects of the betting operations that are prescribed or that the operator is required to cover by a direction of the Commission.

(2) For this section, a system of internal controls is a system of controls, policies, rules, procedures, processes and safeguards that—

- (a) is designed to ensure that the betting operator complies with the requirements of this Act and any applicable regulations and directions; and
- (b) satisfies any prescribed requirements for a system of internal controls.

(3) The internal controls shall include procedures that, to the satisfaction of the Commission, will—

- (a) mitigate the risk of the betting operation being used by any person for the purposes of money laundering or terrorist financing; and
- (b) ensure compliance with section 46 of the Proceeds of Crime Act 1997 (disclosure of knowledge or suspicion of money laundering to the FIA).

(4) In subsection (3)—

“money laundering” has the meaning given in section 7(1) of the Proceeds of Crime Act 1997;

“terrorist financing” means an offence under section 5, 6, 7 or 8 of the Anti-Terrorism (Financial and Other Measures) Act 2004.

(5) Without limiting the prescribed requirements, they may include requirements for any part of the documentation, or amendments to it, to be approved by the Commission before being implemented or amended.

Currency transaction reports

29 (1) A betting operator shall maintain a record of all single transactions in which a patron either provides to or removes from the betting premises an amount of \$1,000 or more.

(2) A record maintained in accordance with subsection (1) shall be verified by the betting operator and shall include the following information—

- (a) the name of the patron;
- (b) the residential address of the patron, or in the case of a patron not resident in Bermuda—
 - (i) his temporary Bermuda address; and
 - (ii) his overseas residential address; and
- (c) the date of birth of the patron.

(3) A series of related transactions in any 24-hour period or the aggregate of transactions for any one patron in any 24-hour period shall be a single transaction for the purpose of subsection (1) and the betting operator shall set out in his betting operation’s internal controls the 24-hour period that shall be applicable to his betting operation.

(4) For the purpose of recording transactions over a 24-hour period in accordance with subsection (3), a betting operator shall begin monitoring and recording the transactions of any patron who has received from or provided to the betting operator \$500, and shall continue such monitoring and recording until the end of the 24-hour period.

(5) A record generated in accordance with subsection (1) shall be disclosed to the Financial Intelligence Agency.

(6) The Minister, in consultation with the Minister responsible for justice, may make regulations governing currency transaction reports.

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(7) A betting operator who fails to comply with this section commits an offence, and shall be liable on summary conviction to a fine not exceeding \$10,000 or a term of imprisonment not exceeding six months, or to both.

Accounts to be kept

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

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

(3) A betting operator shall implement internal control reviews to ensure that financial transactions and funds flowing through the organization are recorded accurately for all purposes, including for the calculation of betting duty.

Statement of accounts

31 (1) A betting operator shall, as soon as practicable, but in any case not later than three months after the end of its financial year, prepare financial statements and accounts, including—

- (a) a profit and loss statement or statement of comprehensive income (or its equivalent) for the financial year; and
- (b) a statement of its financial position (or its equivalent) as at the end of the financial year that gives a true and fair view of the financial operations of the betting operator in relation to the betting operations; and
- (c) any other statement, document, information or schedule required by the Commission.

(2) The financial statements and accounts are to be prepared by an independent accountant who is registered or deemed to be registered as an accountant under the Chartered Professional Accountants of Bermuda Act 1973.

Keeping of records

32 (1) A betting operator shall ensure that all records relating to the betting operation are—

- (a) kept at a location and in a manner approved by the Commission;
- (b) retained for not less than seven years after the completion of the transactions to which they relate, or such shorter period as the Commission may, on the application of the betting operator in any particular case, allow; and
- (c) available for inspection by an inspector at any time during that period.

(2) The betting operator shall ensure that all records relating to the betting operation are kept in such a manner as to permit a reconstruction of individual transactions

(including the amount and type of currency involved, if any) so as to provide, if necessary, evidence for prosecution of an offence.

(3) The Commission may, by instrument in writing, grant an exemption to a betting operator from specified requirements of this section in respect of specified documents, or specified classes of documents, and may grant such an exemption subject to conditions.

Chapter 2 - Betting operations

Banking

33 (1) A betting operator shall keep and maintain accounts, as approved by the Commission, at a deposit-taking business for use for all banking transactions arising under this Act in relation to the betting operator.

(2) A betting operator shall from time to time provide the Commission, as required, and in a form approved by the Commission, with a written authority addressed to the deposit-taking business referred to in subsection (1) authorising the deposit-taking business to comply with any requirements of an inspector exercising the powers conferred by this section.

(3) In this section, “deposit-taking business” means a deposit-taking business licensed under the Banks and Deposit Companies Act 1999.

Approval of betting rules

34 (1) A betting operator shall not conduct betting otherwise than in accordance with a set of betting rules approved by the Commission for use by the betting operator.

(2) Approvals by the Commission—

- (a) may differ according to differences in time or circumstances; and
- (b) may be conditional.

(3) The Commission may direct that a set of betting rules authorised and approved by a specified foreign gaming regulatory body be automatically an approved set of betting rules for a betting operator.

(4) An applicant for a betting licence shall submit with the application any betting rules that the applicant wishes the Commission to approve.

(5) The Commission may from time to time, on application by a betting operator, approve minor changes to the betting rules approved at the time the betting licence was granted to the operator.

(6) The Commission may publish the approvals and the rules approved on its official website.

Use of relevant equipment by betting operators

35 (1) A betting operator shall not use any relevant equipment in relation to betting offered by the betting operator unless—

- (a) it has provided the Commission with an up to date description of the equipment (including any modifications); and
- (b) if a determination under subsection (2) applies to the equipment, the equipment is approved.

(2) The Commission may by a notice in writing determine that specified relevant equipment, or relevant equipment of a specified kind, may not be used without the approval of the Commission.

(3) The Commission may investigate or authorise the investigation of relevant equipment for the purpose of determining whether the equipment is suitable to be approved for use by a betting operator, and may require the cost of such an investigation to be paid by the betting operator wishing to use the equipment.

(4) The Commission may approve relevant equipment for use by a betting operator and, for that purpose, may approve particular equipment or may approve equipment of a specified class or description, and may make the approval subject to conditions, which may include a condition that the equipment be supplied by a supplier approved by the Commission.

(5) Despite the provisions of any other law, the possession of relevant equipment is lawful if—

- (a) the possession is for the purposes of an investigation under this section; or
- (b) the equipment is identifiable in a manner approved by the Commission and is on a betting premises with the approval of the Commission or the circumstances of its possession are such as have been approved by the Commission generally or in a particular case.

(6) In this section—

“cashless wagering system” means an electronic system that allows a betting operator to offer its patrons a way of placing stakes and receiving winnings without using cash, by means of direct debiting and crediting of a customer account;

“relevant equipment” means equipment that is, or is part of—

- (a) a computerised betting system;
- (b) a cashless wagering system; or
- (c) an electronic monitoring system for either system.

Information for patrons

36 (1) A betting operator shall—

- (a) display a notice in accordance with the directions of the Commission informing patrons where a copy of the rules for betting approved under section 34 may be inspected;

- (b) display prominently in the betting premises—
 - (i) the advice or information concerning those rules, the mode of payment of winning wagers and the payout odds of each winning wager; and
 - (ii) such other advice or information to the patrons as the Commission directs.
- (2) A betting operator shall allow a patron to inspect a copy of the rules for betting on request.

Registered patrons

37 (1) A betting operator may, in accordance with this section and any prescribed requirements, establish a register of patrons whose identity has been verified by the betting operator.

- (2) A patron on the register is a “registered patron” of the betting operator.
- (3) The register shall include the prescribed details of each registered patron (the “patron details”).
- (4) The betting operator shall not register a person unless—
 - (a) the person appears at the betting premises in person;
 - (b) the betting operator is satisfied as to the identity of the person, established by photographic ID;
 - (c) the betting operator is satisfied that the person is not—
 - (i) a minor; or
 - (ii) an excluded person;
 - (d) the betting operator holds the relevant patron details, and is satisfied that they are correct; and
 - (e) the person has signed an appropriate statement to—
 - (i) certify that the patron details are correct;
 - (ii) certify that the person will place bets only on his own behalf and not on behalf of any other person; and
 - (iii) consent to the patron details and the details of the person’s transactions being recorded by the betting operator and made available to the Commission.
- (5) The betting operator shall not register a person in circumstances prescribed for the purposes of this section.
- (6) The betting operator shall remove a registered patron from the register if—
 - (a) requested to do so by the registered patron;
 - (b) the registered patron becomes an excluded person;

- (c) the registered patron does not have a customer account and the registered patron has not placed a bet with the betting operator for a period of twelve months;
- (d) the betting operator ceases to be satisfied as to the identity of the person, or that the patron details are correct; or
- (e) other prescribed circumstances apply.

(7) A betting operator who contravenes subsection (4), (5) or (6) commits an offence, and shall be liable on summary conviction to a fine not exceeding \$10,000 or a term of imprisonment not exceeding six months, or to both.

(8) In this section, “photographic ID”, in relation to a person, means a government issued identity document that includes a photograph of the person, his date of birth and a holographic mark.

(9) A betting operator or staff member shall not disclose any information relating to a registered patron except for the purposes of this Act or the Regulations, or for any criminal proceedings.

Significant bets to be accepted from registered patrons only

38 (1) A betting operator shall not accept a significant bet from a person other than a registered patron.

(2) “Significant bet” means a bet or series of linked bets by a patron in which the total value of the patron’s possible winnings is, or is more than, \$1,000 or such other amount as may be prescribed.

(3) A betting operator who contravenes subsection (1) commits an offence and shall be liable on summary conviction to a fine not exceeding \$10,000 or a term of imprisonment not exceeding six months, or to both.

Customer accounts may be offered to registered patrons only

39 (1) A betting operator may, in accordance with this section and any prescribed requirements, provide a registered patron with an account (a “customer account”), held to the credit of the registered patron for the purpose of betting with the betting operator.

(2) A betting operator shall not provide a customer account to—

- (a) a person who is not a registered patron; or
- (b) a person (including a registered patron) who is not a resident of Bermuda.

(3) The betting operator shall not provide more than one customer account to a registered patron.

(4) The betting operator shall close a customer account if—

- (a) requested to do so by the registered patron;
- (b) the patron ceases to be a registered patron; or

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- (c) prescribed circumstances apply.

Operation of customer account

40 A customer account shall be operated in the prescribed manner.

Credit etc

41 (1) No betting operator or staff member of a betting operator shall, in connection with any betting with the betting operator—

- (a) accept a wager made otherwise than by means of money;
- (b) lend money or any valuable thing; or
- (c) extend any other form of credit.

(2) A betting operator shall not provide a facility for a patron to pay for bets in advance, other than a customer account offered to a registered patron.

Automatic teller machines prohibited within betting premises

42 (1) A betting operator shall not provide or allow another person to provide any automatic teller machine within the boundaries of the betting premises.

(2) In this section, “automatic teller machine” has the meaning given in regulation 2 of the Bermuda Monetary Authority (Financial Institutions) (Control) Regulations 1994.

Market exit

43 (1) This section applies where a betting operator has decided to permanently cease operations of the entire business authorized by its licence, whether by sale of the business or any other way.

(2) The betting operator shall provide to the Commission no less than 30 days’ notice in writing of the cessation.

(3) The betting operator shall ensure that all sums owing to—

- (a) the Commission;
- (b) the Government of Bermuda; or
- (c) a patron, including any sums in a registered patron’s customer account,

are paid in full before the cessation, and shall provide a financial report to the Commission of all such sums demonstrating that such payments were properly effected.

(4) Subsection (3) applies where a licence is revoked or suspended, with the modification that all such sums owing are to be paid in full, and the financial report provided to the Commission, as soon as possible after the revocation or suspension in accordance with a direction of the Commission.

Chapter 3 - Conduct within betting premises

Liquor not to be served or consumed on betting premises

- 44 (1) No betting operator or staff member of a betting operator shall—
- (a) sell or serve intoxicating liquor on the betting premises;
 - (b) permit any person to consume intoxicating liquor on the betting premises.
- (2) No person shall consume intoxicating liquor on betting premises.
- (3) Any person who contravenes this section commits an offence, and shall be liable on summary conviction to a fine not exceeding \$10,000 or a term of imprisonment not exceeding six months, or to both.

Removal of drunk or disorderly persons from betting premises

- 45 (1) A betting operator, or his staff member, may refuse to admit to, or may expel from, the betting premises any person who appears to be intoxicated by intoxicating liquor or a drug, or is acting in a disorderly manner, or whose presence on the betting premises would subject the betting operator to a penalty under this Act or any other statutory provision.
- (2) If any person liable to be expelled from the betting premises under this section fails to leave the premises when requested to do so by the operator or his staff member or a police officer, he commits an offence, and shall be liable on summary conviction to a fine not exceeding \$10,000 or a term of imprisonment not exceeding six months, or to both.
- (3) A police officer shall, on the request of the operator or his staff member, help to expel from the betting premises any person liable to be expelled from those premises under this section, using no more force than is reasonably necessary.

Conduct within betting premises

- 46 A betting operator shall take all appropriate steps to ensure that the following acts are not committed by its staff members, patrons or other persons within the betting premises—
- (a) illegal gaming activities;
 - (b) unlicensed moneylending or related activities;
 - (c) drunken, disorderly or riotous behaviour;
 - (d) unlawful acts under the Misuse of Drugs Act 1972;
 - (e) soliciting for the purpose of prostitution or for any other immoral purpose;
 - (f) any behaviour likely to amount to a serious arrestable offence listed in Schedule 1 to the Police and Criminal Evidence Act 2006; and
 - (g) any behaviour likely to bring the betting operator, the Commission or Bermuda into disrepute.

Betting by staff member or family

47 Regulations may prohibit a staff member of a betting operator, a class of such staff members, or a prescribed member of the family of such a staff member from betting with the betting operator.

Chapter 4 - Minors

Acceptable proof of age

48 In this Chapter, “acceptable proof of age” for a person means documentation that might reasonably be accepted as applying to the person and as proving that the person is at least 18 years of age.

Minors not to enter betting premises

- 49
- (1) A minor shall not enter or remain on betting premises.
 - (2) A minor shall not take part in any betting remotely with a betting operator.
 - (3) Any minor who contravenes subsection (1) or (2) commits an offence.

Betting operator to bar minors from betting premises

50 (1) A betting operator or staff member shall not permit a minor to enter or remain on betting premises.

(2) If a minor is on betting premises, the betting operator or staff member shall immediately remove the minor.

(3) It is lawful for the betting operator or a staff member to request a security guard or police officer to remove the minor or cause the minor to be removed from the betting premises, using no more force than is reasonably necessary.

(4) It is a defence to disciplinary action for a contravention of subsection (1) or (2) if it is proved that before the minor entered the betting premises, the betting operator or staff member—

- (a) took all reasonable steps, including requiring production of acceptable proof of age, in order to determine that the person was not a minor; and
- (b) reasonably believed that the person was not a minor.

Entry of minors to be prevented

51 (1) If a betting operator or a staff member is aware that a person who appears to be a minor is attempting to enter the betting premises, the betting operator or staff member shall refuse the person entry to the betting premises.

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

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Proof of age may be required

52 (1) The betting operator or a staff member, or an inspector or a police officer, may if he has reasonable cause to suspect that a person who appears to be a minor is in the betting premises—

- (a) require the person to state his name and address and provide acceptable proof of age; and
- (b) if it is suspected on reasonable grounds that the age, name or address given in response to the requirement is false, require the person to produce further evidence of its correctness.

(2) A person commits an offence if he fails to comply with a requirement under subsection (1)(a) or (b).

Minor using false evidence of age

53 A minor who uses any evidence purporting to be evidence of his age in order to obtain entry to or remain in any betting premises, being evidence which is false in relation to the minor, commits an offence.

Notices to be displayed

54 (1) The Commission may, by written direction given to a betting operator, require a notice or notices to be displayed within the betting premises with respect to the exclusion from the betting premises of persons under the age of 18 years.

(2) The direction may impose requirements as to the form, position and matter to be displayed on any such notice.

Penalty for Chapter 4 offences

55 A person who commits an offence against this Chapter shall be liable on summary conviction to a fine of \$10,000.

Chapter 5 - Entry to, exclusion from, betting premises

Right of entry to betting premises

56 (1) Except as provided by this Act, a person enters and remains on any betting premises only by the licence of the betting operator.

(2) Without limiting subsection (1), a betting operator, or person so authorised by or on behalf of the betting operator, may refuse to allow a person to enter or remain on the betting premises unless the person satisfies the official of his age by showing valid documentary evidence.

Entry of police officer to betting premises

57 (1) A police officer may, at any time, enter and be in any part of the betting premises if the police officer—

- (a) is of or above the rank of sergeant;

- (b) is authorised to do so by another police officer of or above the rank of sergeant; or
- (c) is asked to do so by a betting operator or person so authorised by the operator.

(2) This section does not affect the power of a police officer under any law to enter and be on the betting premises for the purpose of discharging his duty as a police officer.

Exclusion orders

58 (1) The Minister may make regulations governing the procedure for making, varying, and revoking exclusion orders made under this Part.

(2) An exclusion order may relate to the whole or any part of betting premises.

(3) No liability shall be incurred by any person towards an excluded person arising out of—

- (a) any failure by the betting operator to prevent the excluded person from entering the betting premises;
- (b) any failure by the betting operator to prevent the excluded person from engaging in betting.

(4) A self-exclusion order shall not apply in the event that the excluded person—

- (a) is required to be on the betting premises as a result of his employment;
- (b) has given the betting operator prior notice (unless the circumstances are such that prior notice has not been possible); and
- (c) does not engage in any gaming or betting activities.

(5) Regulations may make provision adapting Part 10 of the Gaming Act 2014 (Problem Gaming Council and family exclusion orders) in relation to betting, with such modifications as the Minister, after consulting the Commission, considers necessary.

Self-exclusion orders

59 (1) A betting operator, the Commission, or any other person as may be specified, may make a self-exclusion order in relation to a person at the request of that person.

(2) A voluntary request by a person under subsection (1)—

- (a) shall be in writing on such form as may be approved by the Commission; and
- (b) shall be signed by the requestor in accordance with any directions given by the Commission.

(3) As soon as practicable after a betting operator makes a self-exclusion order under this Chapter, the betting operator shall notify the Commission of that order.

(4) A self-exclusion order made by a betting operator may only relate to the premises of, or the business conducted by, the betting operator making the order.

(5) A self-exclusion order made by the Commission shall apply to all betting premises in Bermuda, unless otherwise specified in the order.

(6) A self-excluded person may apply to the Commission for the revocation or variation of a self-exclusion order relating to him in accordance with section 62.

Compulsory-exclusion orders

60 (1) The Commission or a betting operator may make a compulsory-exclusion order in relation to a person if there are reasonable grounds for believing—

- (a) that the person is affecting or is likely to affect the orderly functioning of the operations of the betting premises;
- (b) that the person appears to be cheating, or attempting to cheat, on the betting premises; or
- (c) that the making of the order is appropriate in the circumstances.

(2) As soon as practicable after the making of a compulsory-exclusion order, the Commission or the betting operator must effect personal service of the compulsory-exclusion order on the excluded person.

(3) As soon as practicable after a betting operator makes a compulsory-exclusion order, the betting operator shall notify the Commission of that order and the reasons for the order.

(4) A compulsory-exclusion order made by a betting operator may only relate to the premises of, or the business conducted by, that betting operator.

(5) A compulsory-exclusion order made by the Commission shall apply to all betting premises in Bermuda, unless otherwise specified in the order.

(6) The betting operator or the excluded person may apply to the Commission to vary or revoke a compulsory-exclusion order in accordance with section 62.

Duration of exclusion orders

61 (1) Subject to this section, an exclusion order made under this Chapter remains in force in respect of a person until it is revoked—

- (a) by the Commission upon an application by the excluded person for revocation following expiry of the minimum period; or
- (b) by the Commission or on appeal.

(2) An exclusion order shall state a minimum duration and may be made for an indefinite duration but may not be made for a period of less than six months.

(3) An exclusion order made at the request of the excluded person may specify a minimum period of at least six months during which the order shall remain in force.

(4) During the minimum period, an excluded individual may only apply for the variation or revocation of an exclusion order under section 62 if there has been a material change in circumstances since the making of the order.

(5) If a betting operator makes an exclusion order or receives a request to make an exclusion order, the betting operator shall—

- (a) make a record of the order or request in a manner and containing the particulars required by the Commission; and
- (b) within seven days after making the order or making a decision to refuse the request, notify the Commission of the order or decision in a manner, and containing the particulars, required by the Commission.

(6) A person who has been given an exclusion order under this Chapter and is aggrieved thereby may appeal in accordance with regulations made under this section.

Variation or revocation of exclusion order

62 (1) The Commission may make an order affirming, varying or revoking an exclusion order under this Chapter at any time of its own volition or on an application by the betting operator or the excluded person in accordance with this Chapter and in such manner as may be prescribed.

(2) The Commission may vary an order as it sees fit which may include extending or shortening the period of exclusion, the imposition of conditions, suspending the order for a set period (whether conditionally or unconditionally) or affirming the order on different grounds.

(3) The Commission may take into account all of the circumstances including events subsequent to the date the exclusion order was first made.

List of persons excluded by betting operator

63 (1) A betting operator shall at all times maintain a list of those persons subject to an exclusion order made by the betting operator; and the Commission may, from time to time, require a betting operator to furnish that list of persons excluded from the betting premises by the betting operator.

(2) The Commission shall keep and maintain a record containing—

- (a) the prescribed particulars in respect of—
 - (i) exclusion orders; and
 - (ii) requests for exclusion orders that are refused.
- (b) any other information that, in the opinion of the Commission, is relevant to exclusion of persons from betting premises.

(3) The Commission shall maintain and make available to all betting operators a record containing, for each excluded person, the full name and address, age, date of birth and a photograph of that person, the start and end date (if applicable) of any exclusion order relating to that person, and whether the order is a compulsory-exclusion order.

(4) Information referred to in subsection (2) and (3) shall be treated as confidential information and may only be disclosed for the purposes of this Act.

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(5) A person who discloses information contrary to subsection (4) commits an offence against this Act shall be liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding six months, or to both.

(6) The entry of a person's name in the record of excluded persons is, unless the contrary is proved, evidence that he is an excluded person.

(7) A betting operator shall establish procedures in accordance with any regulations or directions given by the Commission to ensure that all appropriate staff members are notified of the individuals on the list of excluded persons.

Excluded person not to enter betting premises or take part in betting

64 (1) An excluded person shall not enter or remain on any betting premises to which the exclusion order applies.

(2) An excluded person shall not take part in betting with a betting operator to which the exclusion order applies.

(3) Any person who is subject to a compulsory-exclusion order made under this Chapter who contravenes this section commits an offence and shall be liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding six months, or to both.

Betting operator to bar excluded persons

65 (1) A betting operator shall not, without reasonable excuse, permit an excluded person to enter or remain on the betting premises.

(2) A betting operator shall not, without reasonable excuse, permit an excluded person to take part in betting with the betting operator.

Removal of excluded persons from betting premises

66 (1) This section applies to the following persons on betting premises—

- (a) the person for the time being in charge of the betting premises;
- (b) a member of staff authorised by the person for the time being in charge.

(2) A person to whom this section applies who knows that an excluded person is about to enter or is on the betting premises shall—

- (a) notify an inspector as soon as practicable; and
- (b) provide such assistance to the inspector as is reasonable in the circumstances.

Chapter 6 - Resolution of disputes

Disputes between betting operator and patron

67 (1) Where a betting operator and a patron are unable to resolve to the satisfaction of the patron any dispute as to alleged winnings, alleged losses or the manner in which

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betting is conducted, and the amount in dispute is not less than \$500, the betting operator shall—

- (a) immediately notify an inspector of the dispute; and
- (b) inform the patron of his right to request that an inspector conduct an investigation into the dispute.

(2) A patron who wishes to request an inspector to conduct an investigation into the dispute shall, not later than seven days after the date he is informed under subsection (1) of his right, make the request to an inspector in such form as the Commission may specify.

(3) An inspector may refuse to consider any patron's request under subsection (2) for investigation that is incomplete or is made after the period specified in subsection (2), unless the inspector is satisfied that there were good reasons for the incompleteness or delay.

(4) An inspector who receives a request for investigation into a dispute under subsection (2) shall conduct such investigation as he thinks necessary and, where the dispute relates to alleged winnings or alleged losses shall determine whether payment should be made.

Reconsideration of inspector's decision

68 (1) Any party aggrieved by the decision of an inspector may, in the prescribed manner and within the prescribed time, apply to the Commission for a review to reconsider the inspector's decision.

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

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

(4) After considering the matter before it, the Commission may confirm, vary or reverse the inspector's decision.

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

Payment of claim after decision

69 Except as otherwise allowed by the Commission, the person ordered to make payment to the other party shall do so within 30 days of—

- (a) the decision of the inspector under section 67, or the Commission under section 68; or
- (b) where an appeal was made under section 70, the decision of the court under that section.

Appeal to court

70 A person who is aggrieved by a decision made against him by the Commission under section 68 may, within 30 days of being notified of the decision, appeal to the magistrates' court.

PART 5

SUPERVISION AND CONTROL OF BETTING OPERATORS

Directions to betting operator

71 (1) The Commission may give to a betting operator a written direction that relates to the conduct, supervision or control of betting operations, whether within the betting premises or elsewhere, and the betting operator shall comply with the direction as soon as it takes effect.

(2) The direction takes effect when the direction is given to the betting operator or on a later date specified in the direction.

(3) The power conferred by this section includes a power to give a direction to a betting operator to adopt, vary, cease or refrain from any practice in respect of the conduct of betting operations, whether within the betting premises or elsewhere.

(4) A direction under this section shall not be inconsistent with this Act, the Regulations, or the conditions of the betting licence.

Betting operator to provide information

72 (1) The Commission may, by notice in writing, require a betting operator or a person who was a betting operator or a person who, in the opinion of the Commission, is or was directly or indirectly associated with the betting operator—

- (a) to provide the Commission or an authorised person, in accordance with directions in the notice, with such information relevant to the betting operator or that association or to the betting operation, or with such information as the Commission requires, as is specified in the notice;
- (b) to produce to the Commission or an authorised person, in accordance with the directions in the notice, such records relevant to the betting operator or that association, or to the betting operation, or to matters specified by the Commission, as are specified in the notice and to permit examination of those records, the taking of extracts from them and the making of copies of them.

(2) Any person who fails to comply with a requirement of a notice under this section commits an offence and shall be liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding six months, or to both.

Change in situation of betting operator

73 (1) In this section—

“major change”, in the situation existing in relation to a betting operator, means—

- (a) any change which results in a person becoming an associate of the betting operator;
- (b) any change in the person engaged or appointed to manage or operate the betting operation; or
- (c) any other change which is of a class or description prescribed as major for the purposes of this section;

“minor change”, in the situation existing in relation to a betting operator, means—

- (a) change in contact details (including telephone numbers, email and mailing address);
- (b) change of address of any administrative premises separate from the betting premises; and
- (c) any other change prescribed as a minor change for the purposes of this section.

(2) A betting operator shall—

- (a) take all reasonable steps to ensure that a major change in the situation existing in relation to the betting operator which is within the betting operator’s power to prevent occurring does not occur except with the prior approval in writing of the Commission;
- (b) where paragraph (a) does not apply, notify the Commission in writing of any major change in the situation existing in relation to the betting operator within three days after the betting operator becomes aware of the change; and
- (c) notify the Commission in writing of any minor change in the situation existing in relation to the betting operator within 14 days after becoming aware that the change has occurred.

(3) Sections 16 and 17 apply to and in respect of an application for approval under this section in the same manner that they apply to and in respect of an application for a betting licence.

Change in situation of associate

74 Where a change of a kind specified by the Commission by written directions takes place in the situation existing in relation to the associate of the betting operator, the betting operator shall notify the Commission in writing of the change within 14 days after it takes place.

Ongoing monitoring of associates and others

75 (1) The Commission may, from time to time, investigate—

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- (a) an associate, or a person likely to become an associate, of a betting operator; or
- (b) any person having a business association with a person referred to in paragraph (a).

(2) A betting operator shall notify the Commission in writing that a person is likely to become an associate within ten business days after the betting operator becomes aware of the likelihood.

(3) If the Commission, having regard to the relevant matters referred to in section 14(2), determines that an associate is unsuitable to be concerned in or associated with the business of the betting operator, the Commission may, by notice in writing, request the betting operator to terminate the association with the associate.

(4) If the Commission determines that an associate of a betting operator has engaged or is engaging in conduct that, in the Commission's opinion, is unacceptable for a person who is concerned in or associated with the ownership, management or operation of the business of the betting operator, the Commission may—

- (a) issue a written warning to the betting operator that the conduct is unacceptable; or
- (b) give written notice to the betting operator requiring the operator to give a written undertaking to the Commission, within the period specified in the notice, that he will address the concerns regarding the conduct of the business with the associate.

(5) If the betting operator fails to give an undertaking required under subsection (4)(b) or breaches an undertaking given under that subsection, the Commission may give the betting operator written notice requesting the betting operator to terminate, within 14 days or any longer period agreed with the Commission, the association with the associate.

(6) If the association is not terminated within 14 days from the date of the notice referred to in subsection (3) or (5) or any longer period agreed with the Commission, the Commission may, by notice in writing, direct the betting operator to take all reasonable steps to terminate the association and the betting operator shall comply with the direction within 14 days or any longer period agreed with the Commission.

(7) The Commission may—

- (a) require an associate or a person likely to become an associate to consent to having his photograph, palm prints and fingerprints taken; and
- (b) send a copy of such photograph, palm prints and fingerprints and any supporting documents to the Commissioner of Police.

(8) The Commission must ensure that information or other matters collected under this section shall be maintained as confidential information, not to be used for any other purpose than the purpose provided in this section.

Entry of inspector to betting premises

76 (1) An inspector may, at any time, enter and remain on any betting premises for the purposes of exercising his functions as an inspector under this Act, including but not limited to—

- (a) observing any of the operations of the betting operation or betting premises;
- (b) ascertaining whether the betting operations or the betting premises are being properly conducted, supervised and managed;
- (c) ascertaining whether the provisions of this Act or regulations are being complied with; and
- (d) in any other respect, exercising his functions under this Act.

(2) An inspector who enters premises under this section is not authorised to remain on the premises if, on the request of the occupier of the premises, the inspector does not show to the occupier his identification card issued for the purposes of this Act.

Other powers of inspectors

77 (1) An inspector may—

- (a) require any person in possession of, or having control of, any machinery, equipment, record or other thing relating to betting operations to produce the machinery, equipment, record or other thing for inspection and to answer questions or provide information relating to the machinery, equipment, record or other thing;
- (b) inspect any machinery, equipment, record or other thing referred to in paragraph (a) and take copies of, extracts from, or notes relating to, such record;
- (c) if the inspector considers it necessary to do so for the purpose of obtaining evidence of the contravention of any provision of this Act, seize any machinery, equipment, record or other thing;
- (d) stop any betting being conducted on betting premises;
- (e) by written notice require—
 - (i) the holder of any betting licence; and
 - (ii) a staff member of such a holder;to attend before the inspector at a specified time and place and to answer questions, or to provide information within a reasonable period specified in the notice, with respect to any activity regulated by this Act;
- (f) examine and test any machinery, equipment or other thing referred to in paragraph (a) and order the person in charge of it to withdraw it from use if it is unsatisfactory for use;

- (g) investigate any complaint from a patron of a betting operation relating to the conduct of any activity regulated by this Act;
- (h) do any other thing authorised by this Act to be done by an inspector.

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

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

Inspector may require information on oath

78 (1) For the purposes of this Act, an inspector is authorised to administer oaths.

(2) An inspector may require any information submitted pursuant to this Act to be provided on oath.

(3) An inspector may instead of administering an oath require the person examined to make and subscribe a declaration of the truth of the matters about which that person is examined.

Power to require names and addresses

79 (1) An inspector who exercises a right of entry to betting premises under section 76 or a police officer under a search warrant may require a person on the premises to state the person's full name and residential address.

(2) An inspector is not authorised to require a person to state his name or address unless the inspector suspects on reasonable grounds that an offence under this Act has been or is being committed.

(3) If any person refuses to provide an inspector with a full name and residential address, or the inspector has reason to believe that the information given is false, the inspector may detain that person provided that—

- (a) no more force is used than may be reasonably necessary;
- (b) the person detained is informed of the reasons for the detention; and
- (c) the police are immediately informed of the detention.

(4) Any person who fails to comply with a requirement made under subsection (1) commits an offence and shall be liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding six months, or to both.

Seizure and forfeiture of equipment etc

80 (1) An inspector may seize and retain for a period not exceeding 30 days any article or thing relating to betting, the use or possession of which is unlawful.

(2) An inspector may apply to a court within 30 days of the seizure of the item or upon completion of the investigation by an inspector in relation to any item seized under subsection (1) (whichever is the earlier) for an order that the item seized under that subsection be forfeited to the Commission or any other such order as may be appropriate in all the circumstances.

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

(4) The court may, on an application by the Commission or any person interested in the item, vary the time period referred to in subsections (1) and (2) as it considers appropriate, including extending the time so as to permit the inspector to complete the investigation.

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

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

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

PART 6

DISCIPLINARY ACTION & APPEALS

Disciplinary action against a betting operator

81 (1) Where the Commission is satisfied that a ground for disciplinary action has been proved in relation to a betting operator, the Commission may take appropriate disciplinary action in accordance with this Part.

(2) In subsection (1), disciplinary action is appropriate if it is effective, proportionate and dissuasive.

(3) In this Act—

“disciplinary action”, in relation to a betting operator, means one or more of the following—

- (a) issuing a letter of censure;
- (b) varying the conditions of the licence;
- (c) imposing a financial penalty (see section 84);
- (d) suspending the licence—

- (i) for a specified period;
- (ii) until the fulfilment of a specified condition; or
- (iii) until the occurrence of a specified event;
- (e) revoking the licence.

(4) The Minister may by order amend the definition of “disciplinary action” in subsection (3) to insert additional forms of disciplinary action.

Grounds for disciplinary action

82 (1) Each of the following is a ground for disciplinary action in respect of a betting operator—

- (a) the licence was improperly obtained in that, at the time it was granted or renewed, there were grounds for refusing it;
- (b) the operator or the operator’s staff member has contravened or failed to comply with—
 - (i) a provision of this Act or an instrument made under this Act;
 - (ii) a direction by the Commission made under this Act or under an instrument made under this Act;
 - (iii) a condition of the licence; or
 - (iv) any documented system of internal controls that applies to the person under section 28;
- (c) the betting premises are, for specified reasons, no longer suitable for the conduct of the betting operations;
- (d) the operator has failed to provide information that he is required under this Act to provide, or has provided information knowing it to be false or misleading or reckless as to whether it is so;
- (e) the operator has been convicted of an offence under this Act;
- (f) where the operator is an individual, the operator has been convicted of an offence of which dishonesty or violence is an element, whether in Bermuda or elsewhere;
- (g) the operator is, for specified reasons, in the opinion of the Commission no longer a suitable person to hold the betting licence having regard to the matters in section 14; or
- (h) the person has failed to comply with a direction under section 75(6) within the time referred to in that subsection to terminate an association with an associate.

(2) The Minister may by order amend subsection (1) to insert additional grounds for disciplinary action.

Suspension of betting licence pending disciplinary action

- 83 (1) This section applies if—
- (a) the Commission has been informed of circumstances that could make it appropriate for disciplinary action to be commenced against a betting operator; and
 - (b) the Commission reasonably believes that it is necessary and proportionate to suspend the betting licence in order to prevent any threat to the security of the public or of betting in Bermuda.
- (2) The Commission may suspend the licence until the circumstances have been investigated and either—
- (a) the Commission has decided not to commence disciplinary proceedings or is satisfied that the suspension is not justified by any threat to the security of the public or of betting in Bermuda; or
 - (b) the disciplinary action has been completed.

Financial penalty in disciplinary matter

84 Where a ground of disciplinary action is proved against a betting operator, the Commission may impose a financial penalty not exceeding \$10,000 for each ground of disciplinary action.

Procedure to be followed as regards disciplinary action

- 85 The Minister may by regulations prescribe—
- (a) the procedure to be followed as regards disciplinary action against a betting operator;
 - (b) the powers of the Commission as regards disciplinary action against a betting operator;
 - (c) the powers of the Commission for the hearing of an appeal against the decision of an inspector;
 - (d) the powers of the Commission to investigate matters in relation to disciplinary action and provide for variation or suspension of a betting licence during an investigation;
 - (e) the establishment, conduct, procedure (including any fees) and powers of a tribunal for the hearing of any appeal against any disciplinary decision; and
 - (f) the regulation of disciplinary action against a betting operator generally.

Right of appeal - licence holder and applicant

86 (1) The holder of a betting licence who is aggrieved by any decision of the Commission regarding the licence, and a person whose application for a licence is refused under section 19, may appeal to the magistrates' court against the decision within 21 days,

or such longer period as the court may allow, after the Commission delivers its decision or refuses the licence.

(2) On any appeal under this section the court may make such order, including an order for costs, as it thinks just.

(3) The Commission shall, for the purposes of an appeal under this section, supply reasons for the decision appealed against.

PART 7
GENERAL OFFENCES

Cheating at betting

87 (1) A person shall not—

- (a) cheat at betting; or
- (b) do anything for the purpose of enabling or assisting another person to cheat at betting.

(2) For the purposes of subsection (1), it is immaterial whether a person who cheats—

- (a) improves his chances of winning anything; or
- (b) wins anything.

(3) Without prejudice to the generality of subsection (1), cheating at betting may, in particular, consist of actual or attempted deception or interference in connection with—

- (a) the process by which betting is conducted; or
- (b) a real or virtual game, race or other event or process to which betting relates.

(4) Any person who contravenes subsection (1) commits an offence and shall be liable on summary conviction to a fine of not exceeding \$10,000 or to imprisonment for a term not exceeding six months, or to both.

(5) Any person who colludes with another person to do any act in contravention of subsection (1) commits an offence and shall be liable on summary conviction to be punished with the punishment provided for the offence in subsection (4).

(6) If a police officer or an inspector believes on reasonable grounds that a person has committed, or colluded in the commission of, an offence of contravening subsection (1), the police officer or inspector may search the person for any device, betting equipment, implement or material that the police officer or inspector suspects was used in the commission of the offence.

(7) Nothing in subsection (6) shall authorise any police officer or inspector to remove, or require a person to remove, any of the person's clothing, and a search of a

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person's clothing being worn by the person may only be done by a police officer or an inspector of the same sex as the person.

Impersonation

88 (1) No person shall impersonate—

- (a) an inspector; or
- (b) any other person lawfully performing functions or duties under this Act.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding six months, or to both.

Entering betting premises on false pretences

89 Any person who enters any betting premises by pretending to be some other person, or by using another person's identification document, commits an offence and shall be liable on summary conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding six months, or to both.

Refusal to provide information etc

90 (1) Any person who—

- (a) fails, without reasonable excuse, to produce for inspection any machinery, equipment, record or thing in the possession or under the control of the person when required to do so by an inspector or a police officer in the performance of his functions under this Act; or
- (b) fails, without reasonable excuse, to attend before an inspector or a police officer and answer questions or supply information when required to do so by the inspector or police officer in the performance of his functions under this Act,

commits an offence, and shall be liable on summary conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding two years, or to both.

(2) If a person is charged with an offence under subsection (1) in respect of a requirement to produce a document, it shall be a defence for him to prove that—

- (a) the document was not in his possession or under his control; and
- (b) it was not reasonably practicable for him to comply with the requirement.

Destroying or falsifying documents

91 Any person who, having been required to produce a document to the Commission, an inspector or an authorised person under this Act—

- (a) intentionally or recklessly destroys or otherwise disposes of it, falsifies it or conceals it; or
- (b) causes or permits its destruction, disposal, falsification or concealment,

commits an offence, and shall be liable on summary conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding two years, or to both.

False or misleading information

92 (1) Any person who provides information to the Commission, a police officer, an inspector or any authorised person in connection with any application to the Commission or any function or duty of the Commission, police officer, inspector or authorised person under this Act commits an offence if—

- (a) the information is false or misleading in a material particular; and
- (b) he knows that it is false or misleading in a material particular or is reckless as to whether it is so.

(2) A person who—

- (a) provides any information to another person, knowing the information to be false or misleading in a material particular; or
- (b) recklessly provides any information to another person which is false or misleading in a material particular,

knowing that the information is to be used for the purpose of providing information to the Commission, a police officer, an inspector or any authorised person in connection with any application to the Commission or any function or duty of the Commission, police officer, inspector or authorised person under this Act, commits an offence.

(3) Any person who commits an offence under subsection (1) or (2) shall be liable on summary conviction to a fine not exceeding \$50,000 or to imprisonment for a term not exceeding two years, or to both.

Obstructing officer of Commission etc

93 Any person who refuses to give access to, or obstructs, hinders or delays—

- (a) any member, officer, employee or agent of the Commission authorised to act for or assist the Commission;
- (b) any inspector or person assisting an inspector; or
- (c) any authorised person,

in the discharge of his duties under this Act commits an offence, and shall be liable on summary conviction to a fine of \$50,000 or to imprisonment for a term not exceeding two years, or to both.

Prosecution of offences

94 Notwithstanding section 80 of the Criminal Jurisdiction and Procedure Act 2015, summary proceedings for an offence under this Act may be commenced at any time within three years from the time when the offence was committed.

Offences by bodies corporate etc

- 95 (1) Where an offence under this Act committed by a body corporate is proved—
- (a) to have been committed with the consent or connivance of an officer of the body corporate; or
 - (b) to be attributable to any neglect on the part of such officer,

the officer as well as the body corporate commits the offence and shall be liable to be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(3) In this section, “officer”, in relation to a body corporate, means any director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body corporate and includes any person purporting to act in any such capacity.

PART 8

FINAL PROVISIONS

Regulations and orders

96 (1) The Minister may make regulations for any purpose for which regulations are required to be made under this Act and generally for carrying out the purposes and provisions of this Act.

(2) Regulations made under this Act—

- (a) may provide that any contravention of any provision of the regulations shall be an offence punishable on summary conviction with a fine not exceeding \$10,000;
- (b) may provide for such transitional, savings and other consequential, incidental and supplemental provisions as the Minister considers necessary or expedient.

(3) Regulations relating to fees shall be subject to the affirmative resolution procedure.

(4) All other regulations, and any orders, made under this Act by the Minister shall be subject to the negative resolution procedure.

Codes, standards of performance or specifications issued or approved by Commission

97 (1) The Commission may, from time to time, issue one or more codes, standards of performance or specifications applicable to betting operations.

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(2) If any provision in any code, standard of performance or specification is inconsistent with any provision of this Act, such provision, to the extent of the inconsistency—

- (a) shall have effect subject to the provisions of this Act; or
- (b) having regard to the provisions of this Act, shall not have effect.

(3) Where any code, standard of performance or specification is issued, approved, amended or revoked by the Commission, the Commission shall—

- (a) notify each betting operator;
- (b) specify in the notice referred to in paragraph (a) the date that the issuance, approval, amendment or revocation is to take effect; and
- (c) ensure that, so long as the code, standard of performance or specification remains in force, copies of that code, standard of performance or specification are made available to the betting operators.

(4) Any code, standard of performance or specification issued or approved under this section—

- (a) may be of general or specific application; and
- (b) may specify that different provisions thereof apply to different circumstances or provide for different cases or classes of cases.

(5) The Commission may, either generally or for such time as the Commission may specify, waive the application of any code, standard of performance or specification, or part thereof, issued or approved under this section to any betting operator.

(6) A code issued under this section shall not be subject to the Statutory Instruments Act 1977.

Consequential amendments

98 The consequential amendments set out in the Schedule shall have effect.

Repeals

- 99 (1) The Betting Act 1975 is repealed.
- (2) The Betting (Amount of Guarantee) Regulations 1975 are revoked.

Transitional provision

100 (1) In this section, “the transitional period” means the period of six months beginning on the day on which section 99 comes into effect.

(2) A bookmaker’s licence, a pool betting agent’s licence or a restricted bookmaker’s licence that—

- (a) was granted to a person under the Betting Act 1975 in relation to particular premises; and

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(b) was in effect immediately before the transitional period, (“a 1975 Act licence”) shall remain in effect and be deemed for the purposes of this Act as if it were a licence of the corresponding type granted under this Act for the same duration.

(3) During the transitional period, this Act shall apply in relation to a 1975 Act licence and the holder of such a licence as if—

- (a) in section 25(7), the statutory amount for the purposes of section 25(1) and (2) were \$10,000;
- (b) sections 28 to 30 and 34 to 40 were omitted.

Commencement

101 (1) Subject to subsection (2), this Act shall come into operation on such date as the Minister responsible for gaming may appoint by notice in the Gazette.

(2) Section 58(5) shall come into effect on the commencement of Part 10 of the Gaming Act 2014 (Problem Gaming Council).

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SCHEDULE

(Section 98)

CONSEQUENTIAL AMENDMENTS

Amends Insurance Act 1978

1 In section 57(5) of the Insurance Act 1978, delete “Betting Act 1975” and substitute “Betting Act 2021”.

Amends Government Authorities (Fees) Act 1971

2 In Part B of the First Schedule to the Government Authorities (Fees) Act 1971, delete the entry “Betting Licensing Authority”.

Amends Government Fees Regulations 1976

3 Delete Head 9 of the Schedule to the Government Fees Regulations 1976.

Amends Miscellaneous Taxes Act 1976

4 In section 1 of the Miscellaneous Taxes Act 1976—

(a) in the definition of “bookmaker”, delete “Betting Act 1975” and substitute “Betting Act 2021”;

(b) repeal the definition of “fixed odds betting” and substitute—

“ “fixed odds betting” means fixed odds betting within the meaning of the Betting Act 2021;”;

(c) repeal the definition of “licensed” and substitute—

“ “licensed person” in relation to betting duty, means a betting operator within the meaning of the Betting Act 2021;”;

(d) in the definition of “pool betting agent”, delete “Betting Act 1975” and substitute “Betting Act 2021”;

(e) repeal the definition of “winnings” and substitute—

“ “winnings” means winnings within the meaning of the Betting Act 2021;”.

[Assent Date: 01 June 2021]

[Operative Date: 01 August 2021]