



GOVERNMENT GAZETTE
OF THE
REPUBLIC OF NAMIBIA

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Government Notice

OFFICE OF THE PRIME MINISTER

No. 129

1995

**PROMULGATION OF ACT
OF PARLIAMENT**

The following Act which has been passed by the Parliament and signed by the President in terms of the Namibian Constitution is hereby published in terms of Article 56 of that Constitution.

No. 12 of 1995: Casinos and Gambling Houses Amendment Act, 1995.

**CASINOS AND GAMBLING HOUSES
AMENDMENT ACT, 1995**

EXPLANATORY NOTE:

- Words underlined with solid line indicate insertions in existing enactments.
- [] Words in bold type in square brackets indicate omissions from existing enactments.
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ACT

To amend the Casinos and Gambling Houses Act, 1994, so as to make provision for the grant of gambling house licences in respect of bookmaking businesses; to provide that the grant of an application for the issue, transfer or removal of a licence shall lapse unless the prescribed fees are paid within a specified period; to further regulate the payment of a levy on income derived from a casino or gambling house; to provide that a person authorised to share in the income so derived shall be jointly and severally liable with the licence holder for the payment of such levy; to further provide for offences regarding gambling on unlicensed premises; to provide that prosecution for an offence under this Act may be instituted in a magistrate's court on the authority of the Prosecutor-General; to confer on the Minister the power to prescribe the maximum number of gambling machines in respect of which a gambling house licence may be granted and issued; and to provide for matters connected therewith.

(Signed by the President on 24 July 1995)

BE IT ENACTED by the Parliament of the Republic of Namibia, as follows:-

Amendment of section 1 of Act 32 of 1994

1. Section 1 of the Casinos and Gambling Houses Act, 1994 (hereinafter referred to as the principal Act), is hereby amended -

- (a) by the insertion, after the definition of "board", of the following definition:

“bookmaking business” means any business carried on for the purpose of receiving or negotiating bets on the result of any event or contingency;”;

- (b) by the substitution for the definition of "licensed premises" of the following definition:

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"licensed premises" means any premises in or on which the keeping of a casino or gambling house, as the case may be, is authorised under a licence;"; and

- (c) by the substitution for the definition of "prize" of the following definition:

"prize" means any prize or benefit or anything of value which is offered to be won, **[in any casino or gambling house operated under a licence and includes]** including any movable or immovable property and any cash prize;".

Amendment of section 10 of Act 32 of 1994

2. Section 10 of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph:

- "(a) has or will have any direct or indirect interest in the accommodation establishment or retail liquor business or bookmaking business in respect of which the application is made;".

Substitution of section 14 of Act 32 of 1994

3. The following section is hereby substituted for section 14 of the principal Act:

"Persons to whom gambling house licences may be granted

14. (1) A gambling house licence shall not be granted to any person other than a person who -

- (a) conducts an accommodation establishment; **[or]**
(b) carries on a retail liquor business; or
(c) carries on a bookmaking business.".

(2) A gambling house licence shall authorise the keeping in or on the premises **[in respect of which such licence has been granted]** of the accommodation establishment, retail liquor business or bookmaking business concerned, or such part of such premises as is specified in the licence, of **[any]** prescribed gambling machines, but not exceeding the number stipulated in the licence.".

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4. Section 15 of the principal Act is hereby amended by the substitution for paragraph (g) of the following paragraph:

"(g) is a body corporate or an association of persons of which any director, member or partner is disqualified in terms of paragraph (a), (b), (c), (d), (e) or (f)."

Amendment of section 18 of Act 32 of 1994

5. Section 18 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) An inspector shall in respect of every application for the grant or removal of any licence report in writing to the board whether the premises [and] of the accommodation establishment or retail liquor business or bookmaking business to which the application relates -

- (a) are in good repair and in all respects suitable for the proper conducting of a casino or gambling house; or
- (b) if such accommodation establishment or retail liquor business or bookmaking business has not yet been erected, equipped or completed, would upon completion thereof, in accordance with the plans thereof, be suitable in all respects for the proper conducting of a casino or gambling house."

Substitution of section 22 of Act 32 of 1994

6. The following section is hereby substituted for section 22 of the principal Act:

"Issue of licence and certificates

22. (1) Where the Minister has granted an application under section 21, the applicant concerned shall, not later than 30 days after the date on which such application has been granted by the Minister, or such longer period as the Minister in a particular case may approve, pay to the secretary of the board the appropriate fee prescribed in respect of the issue, transfer or removal of the licence concerned, failing which the grant of such application shall lapse: Provided that in relation to any application so granted by the Minister before the commencement of the Casinos and Gambling Houses Amendment Act, 1995, the period of 30 days shall be calculated from the date of commencement of that Act.

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(2) Subject to subsection (1), the secretary of the board shall, upon payment to him or her of the prescribed fee -

- (a) in the case of the grant of a licence, issue to the applicant the licence in question;
- (b) in the case of a transfer of a licence, issue to the transferee concerned a certificate to the effect that the licence in question has been transferred to him or her; or
- (c) in the case of the removal of a licence, issue to the licence holder concerned a certificate to the effect that the licence in question is of effect with respect to the new premises."

Substitution of section 41 of Act 32 of 1994

7. The following section is hereby substituted for section 41 of the principal Act:

"Levies on income of casinos and gambling houses

41. (1) Subject to subsection (2), every holder of a casino licence and every holder of a gambling house licence shall be liable to pay, for the benefit of the State Revenue Fund, [an annual] a levy on income as may be prescribed which such holder derives from the conduct of the casino or gambling house concerned, and which levy shall be calculated on such basis and at such rate as may be prescribed and be payable in the manner and before the date as prescribed.

(2) Where any person has under section 38 been granted authority in effect to control a casino or gambling house of any licence holder or to become a partner therein or to share in the profits thereof, such person shall, together with the licence holder concerned, be jointly and severally liable for the payment of the levy referred to in subsection (1)."

Substitution of section 44 of Act 32 of 1994

8. The following section is hereby substituted for section 44 of the principal Act:

"Offence regarding unlicensed gambling

44. Any person who in or on any premises carries on or allows to be carried on gambling by means of any game or, for the

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purpose of gambling, keeps or allows to be kept any gambling machines, without such person being -

- (a) the holder of an appropriate licence in respect of such premises; or
- (b) an employee of a person who is the holder of an appropriate licence in respect of such premises,

shall be guilty of an offence and on conviction be liable to a fine not exceeding N\$100 000 or to imprisonment for a period not exceeding five years or to both such fine and such imprisonment."

Substitution of section 45 of Act 32 of 1994

9. The following section is hereby substituted for section 45 of the principal Act:

"Offence regarding unlawful conducting of games

45. Any person who -

- (a) in any casino or gambling house -
 - (i) conducts any game or keeps any gambling machine which is not **[prescribed] permitted** under this Act; or
 - (ii) conducts any prescribed game otherwise than in accordance with the rules of such game; or
- (b) in a gambling house keeps gambling machines in excess of the number specified in the licence issued in respect of such gambling house,

shall be guilty of an offence and on conviction be liable to a fine not exceeding N\$10 000 or to imprisonment for a period not exceeding 12 months or to both such fine and such imprisonment."

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Insertion of section 51A in Act 32 of 1994

10. The following section is hereby inserted in the principal Act after section 51:

"Jurisdiction of magistrate's courts

51A. Notwithstanding anything to the contrary contained in any law, a magistrate's court shall have jurisdiction to try any offence under this Act and to impose any penalty prescribed by this Act if the Prosecutor-General, or any officer of the Prosecutor-General's office designated by the Prosecutor-General, has personally granted written authority that the prosecution in respect of such offence may be instituted and conducted in the magistrate's court in question."

Amendment of section 54 of Act 32 of 1994

11. (1) Section 54 of the principal Act is hereby amended -

(a) by the substitution for paragraph (g) of subsection (1) of the following paragraph:

"(g) the manner in which licences shall be issued, transferred, or removed **[and penalties which shall apply thereto]**";

(b) by the insertion in subsection (1) of the following paragraph after paragraph (g):

"(gA) in relation to gambling house licences, the maximum number of gambling machines for which such a licence may be granted and issued, which number may differ according to the different types of businesses in respect of which such a licence may be granted in terms of section 14(1);" and

(c) by the substitution for paragraph (j) of subsection (1) of the following paragraph:

"(j) the income on which, and the basis on and the rate at which, the **[annual]** levy imposed by section 41 shall be calculated;"

(2) The amendment effected by paragraph (b) of subsection (1) shall be deemed to have come into operation on 2 December 1994.

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**CASINOS AND GAMBLING HOUSES
AMENDMENT ACT, 1995****Short title**

12. This Act shall be called the Casinos and Gambling Houses Amendment Act, 1995.