

THE CASINO ACT

*Date of commencement: 28th December, 1963.*

*Arrangement of Sections*

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*An Act to enable a casino to be provided and operated in Swaziland and to make provision for the regulation and supervision of the casino.*

*Short title.*

1. This Act may be cited as the Casino Act, 1963.

*Interpretation.*

2. In this Act, unless inconsistent with the context —

“annual licence fee and levy” means fee and levy in accordance with section 9(3);

“board” means Swaziland Gaming Board of Control established in accordance with section 6;

“casino” means premises in respect of which a casino licence is in force and which is composed of —

- (a) a residential hotel containing at least sixty separate letting, double bedrooms all of which are provided with private bathrooms comprising a bath and water closet;
- (b) a public restaurant of a size adequate to accommodate the patrons of the casino, with provision for dancing and entertainment;
- (c) a swimming pool, with changing rooms and a sun lounge;
- (d) one or more conference rooms and lounges, with provision for refreshments;
- (e) one or more gaming rooms; and
- (f) such other buildings and amenities (if any) as the Minister may approve;

“casino licence”, or “licence”, means exclusive licence, under section 9, to provide and operate a casino;

“Collector” has the same meaning as in the Income Tax (Consolidation) Order No. 21 of 1975; (Amended K.O-I-C. 16/1976.)

“gaming room” means room in a casino for the playing, for money, of games of chance, and any adjoining room or veranda;

“intoxicating liquor” has the same meaning as “liquor” in the Liquor Licences Act 30 of 1964, save that it does not include methylated spirits; (Amended K.O-I-C. 16/1976.)

“licence” means licence under this Act, and “licensee” has a corresponding meaning;

“Minister” means the Minister for Tourism, Environment and Communication;

“offence” means offence under this Act;

“permit” means permit under section 10;

“police” means police force established under Police Act No. 29 of 1957, and  
“police officer” has a corresponding meaning;

“public officer” means officer in the service, or holding office, under the  
Government;

“regulation” means regulation made under section 23;

“rules” means rules made under section 19(2).

(Amended A.27/1968.)

*Exemption of gaming rooms from provisions of laws relating to gaming, betting or lotteries.*

3. (1) For the purposes of —

(a) Part II Chapter 1 (Gaming) of the Crimes Act No. 6 of 1889, a gaming room shall not be deemed to be a gambling house or a room in which is kept a gaming table;

(b) Part II Chapter 2 (Betting Houses) of the Crimes Act, No. 6 of 1889 a gaming room shall not be deemed to be a betting house;

by reason of the gaming room being used for the playing of a game.

(2) A game played in a gaming room shall not fall under the provisions of the Lotteries Act No. 40 of 1963.

*Advertising.*

4. Subject to the regulations, it shall be lawful to advertise a casino and the games to be played in the casino.

*Restriction on use of word “casino”.*

5. (1) No person shall use the word “casino” as the name, or as part of the name, of trade or business premises unless, subject to any regulations, those premises are a casino or part of a casino.

(2) A person who contravenes sub-section (1) shall be guilty of an offence and liable on conviction, to a penalty of a fine not exceeding twenty emalangeni, and, in the case of a continuing offence, a further fine not exceeding twenty emalangeni for each day on which the offence continues after conviction.

*Swaziland Gaming Board of Control.*

6. (1) There is hereby established a board to be known as the Swaziland Gaming Board of Control.

(2) Membership of the board shall consist of four persons —

(a) two of whom shall be public officers designated by the Minister;

(b) two of whom shall be a persons who are not public officers and whom the Minister shall appoint; and

(c) one of whom the Minister shall designate as chairman.

(3) The Minister shall appoint a secretary to the board.

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(4) A quorum for a meeting of the board shall be three members.

(5) Subject to sub-section (4), the board may regulate its own procedure. (Amended K.O-I-C. 8/1975.)

*Duties of board.*

7. The board shall, in accordance with this Act —

- (a) supervise and control the conduct and operation of a casino;
- (b) ensure that such sums of money as may be due to the Government by the licensee are duly paid and accounted for and, for that purpose, appoint an accountant to act on behalf of the board, and,
- (c) generally, do such things as may, from time to time, be necessary for the expeditious and efficient exercise of the functions of the board under this Act.

*Powers of the board.*

8. The board may, in accordance with this Act —

- (a) by a member or members of the board, or by persons it may authorize to represent the board, enter upon and inspect a casino at such times and in such manner as it may deem necessary in order to ascertain whether the terms and conditions of a licence or a permit are being observed;
- (b) co-opt, temporarily, such persons having technical or expert knowledge of matters to be considered by the board as the board may consider necessary; and
- (c) tender advice to the Minister. (Amended A.27/1968.)

*Licence to provide and operate a casino.*

9. (1) Subject to this Act and to any written agreement entered into by the Minister and any person, the Minister may grant, and cause to be issued, casino licences to provide and operate provided that any person to whom it is proposed to grant and issue such licence — (Amended K.O-I-C. 16/1976.)

- (a) satisfies the Minister that he will, except as otherwise provided in accordance with a permit issued under section 10, be the occupier of the whole of the casino, with such security of tenure as the Minister deems adequate and that he intends to manage the operation of the whole of the facilities of the casino;
- (b) satisfies the Minister that he is a person of integrity;
- (c) satisfies the Minister that he has adequate financial means available to provide and operate a casino of a high standard;
- (d) undertakes, within the period fixed by or under section 11 to submit to the Minister, for his approval, plans and specifications of the proposed casino; and upon obtaining that approval, to commence, carry on and complete the necessary works;
- (e) deposits with the Accountant-General such security as the board considers adequate for the meeting of any obligations he incurs to persons gaming in the proposed casino; and,

(f) being a body corporate, is a company within the meaning of the Companies Act No. 7 of 1912. (Amended A.8/1973; K.O-I-C. 16/1976.)

(2) A license issued under subsection (1) shall provide for the payment of —

(a) to the Accountant-General, of an annual licence fee, and

(b) to the Collector, of a levy,

as provided in sub-section (3).

(Amended K.O-I-C. 16/1976; A.8/1985.)

(3) For the purposes of sub-section (2) —

(a) a fee of two thousand Emalangeni, payable in advance, shall be paid in each year during which the licence subsists;

(b) a levy, payable as follows, shall be paid on the gross gaming rooms takings of the licensee less any amount paid out as winnings to casino patrons, that is to say —

(i) in respect of the first year of operation of the casino, no levy shall be paid;

(ii) in respect of the second, third, fourth, fifth and sixth years of operation of the casino, a levy of 2,0 per centum shall be paid; and

(iii) in respect of the seventh and subsequent years of operation of the casino, a levy of 4,5 per centum shall be paid; and

(Amended K.O-I-C. 16/1976; A.8/1985.)

(c) the Collector shall determine the levy as he would determine a charge to tax had the licensee not been, by sub-section (2), exempted from the payment of tax in respect of income; and all the provisions of that Order (including Part VI thereof with respect to objections and appeals) apply to the determination and payment of the levy as they apply to the determination and payment of tax within the meaning of that Order.

(4) Subject to the foregoing and the other requirements of this Act, a casino licence shall contain such terms and conditions as the Minister may think fit to impose with regard to the games to be played in gaming rooms, the operation of the casino or generally.

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(5) Subject to this Act, a casino licence is valid for a period of fifteen years commencing on the date of the grant of the licence but, subject to this Act, may be renewed on such terms and conditions as the Minister may deem fit.

(6) Notwithstanding any other law but subject to section 10, a casino licence and the fees and levies payable under this section, in respect of the licence, shall be the sole licence required and fees and levies payable in respect of the casino and all activities incidental to the operation of the casino.

(7) The licensee, or, as appropriate the holder of a permit issued under section 10, shall charge such minimum tariffs, in respect of the hotel and public restaurant which form part of the casino, as are approved by the Minister. (Amended A.27/1968.)

*Permit to provide non-gaming facilities in a part of a casino.*

10. (1) Notwithstanding anything contained in this Act, the Minister may, if he considers it in the public interest and with the approval of the licensee, grant and cause to be issued to one or more persons, other than the licensee, a permit to provide, during the currency of the licence, facilities, other than those of gaming, in one or more parts of the casino, subject to such conditions as to —

- (a) the payment of fees,
- (b) the payment of the levy referred to in section 9, or the deeming of the profits and losses of the holder of the permit to be, for the purpose of the ascertainment of the levy mentioned in section 9(3)(b), those of the licensee, and,
- (c) generally, matters conducive to the better operation of those facilities and the furtherance of the objects of this Act,

as the Minister deems fit.

(2) The Minister may, on the advice of the Board, revoke a permit —

- (a) for breach of its terms and conditions, or
- (b) if he considers it in the public interest to revoke it.

(3) Subject to such conditions as the Minister may stipulate, the holder of a permit may surrender the permit.

(4) Where a permit is so revoked or surrendered, the Minister may, with the approval of the licensee, grant and cause to be issued, to any other person, a permit in respect of the like facilities.

(5) The licensee shall ensure that the holder of a permit complies with the terms and conditions of the permit and with this Act. (Amended A.27/1968; A.1/1970.)

*Plans and specifications of casino.*

11. (1) Within a period of six months from the date of the grant of the licence, the licensee shall submit to the Minister for his approval, in accordance with section 11, plans and specifications of the proposed casino.

(2) Within a period of fifteen months, or such longer period, if any, as the Minister may, in his discretion, fix, of approval given under sub-section (3), the licensee shall complete, in Swaziland, a casino in accordance with the plans so approved.

(3) No additions, alterations or improvements to the premises, including the addition or alteration of advertisements, signs and hoardings on the premises, shall be effected without the prior written approval thereto having been obtained from the Minister on written application made to him accompanied by a proper plan and specification of such proposed additions, alterations or improvements. (Amended A.1/1970.)

*Approval of plans and specifications.*

12. The Minister shall not approve the plans and specifications referred to in section 10 unless he is satisfied that the casino provided in accordance with the plans and specifications or any additions, alterations or improvements applied for in terms of sub-section (3) of the said section will be of a high standard of amenity, appearance and comfort.

*Revocation or surrender of licence.*

13. (1) On the advice of the board, the Minister may, at any time, revoke a casino licence or may refuse to renew the licence if —

- (a) it has been ascertained that any information given to the Minister by the licensee for the purpose of obtaining the grant of the licence was, at the time the information was given, false in a material particular; or
- (b) the licensee has, without reasonable excuse, failed to comply with a term or condition of the licence or a requirement of this Act applicable to the licensee; or
- (c) the licensee is convicted of an offence contrary to a law relating to gaming, betting or lotteries; or
- (d) the licensee is twice convicted within twelve months of an offence of permitting drunkenness or violent, riotous or quarrelsome conduct within a gaming room forming part of the casino contrary to the Liquor Licences Act No. 30 of 1964 (as read with section 17(4)); or (Amended K.O-I-C. 16/1976.)
- (e) the licensee or, in the case of a company, the managing director or other officer managing the company —
  - (i) has been convicted in a court, whether within or without Swaziland of a criminal offence involving dishonesty and is sentenced to imprisonment without the opinion of a fine; and
  - (ii) has not received a free pardon in respect of the offence; or
- (f) the licensee ceases, without the consent of the Minister or except as provided in a permit —
  - (i) to be the occupier of the whole of the casino; or
  - (ii) to manage the operation of the whole of the facilities of the casino; or
- (g) the casino, or part thereof, ceases to carry on business in accordance with this Act.

(2) The licensee may surrender the licence on such conditions as the Minister, on the advice of the board, may stipulate.

(3) Where a licence has, under this section or section 14, been revoked or surrendered or not been renewed, as the case may be, the Minister may, on the advice of the board, grant and cause to be issued to some other person a casino licence in respect of the same or another casino, but shall not do so whilst a licence is in force. (Amended A.27/1968.)

*Revocation of licence following conviction.*

14. (1) Where a licensee or, if the licensee is a company, the managing director or other officer managing the company —

- (a) has been convicted, in a court, of a criminal offence relating to the operation of the casino and sentenced to imprisonment without the option of a fine; or
- (b) has not received a free pardon in respect of the offence;

the Commissioner of Police, or any other police officer deputed by him for the purpose, may, by petition, make application to the board for the board to advise the Commissioner to revoke the licence.

(2) The petition shall be heard at a special meeting of the board of which the board shall give the petitioner and the licensee notice; and at which either may be present or represented.

(3) On the hearing of the petition, the board may, if good cause is shown why the licence should be revoked, advise the Minister to revoke the licence.

(4) The Minister may, on the advice of the board in accordance with sub-section (3), revoke the licence.

*Appeals.*

15. (1) A person aggrieved by the revocation by the Minister of a casino licence, or refusal of the Minister to renew a casino licence, may, within thirty days, appeal to the High Court in accordance with the rules of that court.

(2) The High Court shall, on such an appeal, make such order as justice may require.

(3) Where a licence is revoked —

- (a) the licence shall be deemed to remain in force during the period within which an appeal may be brought under this section; and,
- (b) after such an appeal is brought, the court may, by order, suspend the revocation until the determination or abandonment of the appeal.

*Prohibition of persons entering casino premises.*

16. (1) Where a court convicts a person of an offence, and is of the opinion that, by reason of the nature of the offence, or the circumstances under which the offence was committed, it is undesirable that the person should be permitted to enter a casino or any part or parts of the casino, the court may issue a written order prohibiting him from entering the casino, or that part or parts of the casino stipulated in the order, for a period to be stated in the order.



(2) Where the court makes an order under sub-section (1), the clerk of that court shall, as soon as practicable, cause a copy of the order to be delivered to the licensee.

(3) A person who contravenes an order made under this section, or aids and abets or permits such a contravention; shall be guilty of an offence and is liable on conviction to a penalty of a fine not exceeding one hundred emalangeni.

*Sale, etc., of intoxicating liquor.*

17. (1) Notwithstanding anything contained in the Liquor Licences Act No. 30 of 1964 or any other law, it shall not be necessary for a licensee or the holder of a permit to obtain, in respect of the casino, or any part thereof, a licence under that Act or other law, for the sale, supply and consumption of intoxicating liquor, or other refreshments, in accordance with this section. (Amended K.O-I-C. 16/1976.)

(2) A licensee or the holder of a permit in accordance with the terms and conditions of his permit may, at any time when a gaming room is lawfully open for play, sell or supply in that room intoxicating liquor and other refreshments for consumption in that room (including any adjoining room or veranda).

(3) Intoxicating liquor may be sold, supplied and consumed in parts of the casino, other than the gaming rooms, during the hours permitted by or under the Liquor Licences Act for the sale of liquor under an hotel liquor licence but may not be sold or supplied for consumption off the casino.

(4) Save as is otherwise provided in this section, such provisions of the Liquor Licences Act No. 30 of 1964 as apply to premises licensed under that Act (including the grant of privileges for an extension of hours to midnight in the case of an hotel liquor licence) shall also apply, *mutatis mutandis*, to a casino. (Amended A.27/1968; K.O-I-C. 16/1976.)

*Prohibition of gaming by certain persons.*

18. (1) A person who —

- (a) is in any way concerned in the management, regulation, supervision, control or administration of a casino, or is in any way employed in or about a casino; and
- (b) participates in the playing of a game in a gaming room of the casino, save in so far as he may be required to do so by the nature of his employment in conducting the game so as to enable other persons to play at the game;

shall be guilty of an offence.

(2) A public officer who participates in the playing of a game in a gaming room of a casino shall be guilty of an offence.

(3) The licensee shall ensure that a person under twenty-one years of age is not in a gaming room open for play.

*Operation of casino.*

19. (1) The licensee shall —

- (a) ensure that the operation of the casino accords with decency, dignity, honesty and good taste;

- (b) in accordance with the conditions of the licence, permit and organize the playing of games with cards, dice or mechanical contrivance or device (including roulette), for money or money's worth;
- (c) subject to the requirements of this Act, provide refreshments to suit the personal needs of the visitors to the casino;
- (d) operate except as otherwise provided by a permit the hotel part of the casino in accordance with any conditions of the licence; and,
- (e) generally, operate the casino in accordance with this Act.

(2) The licensee shall make rules relating to the method of playing games, which rules shall be subject to the approval of the Minister acting on the advice of the board.

(19) (Repealed A.27/1968.)

*Right of certain police officers to enter a casino.*

20. (1) A police officer of the rank of inspector or above may, at any time, and without a search warrant, enter a casino for the purpose of preventing or detecting the commission of an offence.

(2) A person who, himself only or by a person in his employ or acting with his consent, fails to admit a police officer who, in pursuance of sub-section (1), demands entry into the premises of a casino, shall be guilty of an offence and liable on conviction for a first offence to a fine not exceeding fifty emalangeni, and, for any subsequent offence, to a fine not exceeding one hundred emalangeni.

*Auditing and inspections.*

21. (1) The licensee and the holder of a permit shall keep such proper books of account and records of all transactions as the board may require.

(2) The licensee and the holder of a permit shall appoint, to audit their respective accounts, auditors approved by the Minister.

(3) The Minister may appoint inspectors who may —

- (a) scrutinize any equipment used in connection with a casino; and
- (b) require the licensee to repair or replace such equipment as may be found to be defective. (Amended A.27/1968.)

*Regulations.*

22. (1) The Minister may, by notice published in the Gazette, make regulations as to anything necessary for the licensing, regulation and good conduct of a casino.

(2) Without prejudice to the generality of the power conferred by sub-section (1), the regulations may —

- (a) prescribe how application is to be made for a casino licence and how the licence is to be issued and renewed, the forms of that licence and the manner in which the annual licence fee and levy are to be ascertained;

- (b) prescribe the manner in which the duties of the accountant referred to in section 7(b) are to be carried out and the facilities to be granted to him for that purpose;
- (c) prescribe standards of maintenance for a casino and the grounds of a casino;
- (d) provide for the supervision of a casino by the board and the police; and
- (e) regulate the advertising of a casino.

*Penalties.*

23. (1) A person guilty, of an offence for which a special penalty is not provided in the section creating the offence is liable —

- (a) on conviction by a Magistrate's court established under the Magistrate's Courts Act No. 66 of 1938, to a fine not exceeding five hundred emalangeni and, in any other case, of a fine exceeding two hundred emalangeni or,
- (b) on conviction by the High Court, to a fine not exceeding two thousand emalangeni.

(2) A prosecution shall not lie against a person in respect of an offence referred to in sub-section (1) without the written consent of the Attorney-General.

(3) For the purposes of sub-section (2), a certificate purporting to be signed by the Attorney-General shall be conclusive evidence that the Attorney-General has so consented.

*Non-liability of Government.*

24. The Government is not liable at the suit of a person in respect of anything done, or omitted to be done, by the licensee or the holder of a permit in relation to the provision or operation of a casino or of facilities. (Amended A.27/1968.)