



No. 17 of 2014

I assent

Sir Colville N. Young
Governor-General

15th October, 2014

AN ACT to amend the Gaming Control Act, Chapter 152 of the Substantive Laws of Belize, Revised Edition 2000–2003, to make provisions for enhanced supervisory powers of the Gaming Control Board; to provide for greater transparency in relation to an applicant for a gaming licence; to ensure that the persons connected with gaming operations are fit and proper persons; and to provide for matters connected therewith or incidental thereto.

(Gazetted 18th October, 2014).

BE IT ENACTED, by and with the advice and consent of the House of Representatives and the Senate of Belize and by the authority of the same, as follows:

1. This Act may be cited as the

Short title.

GAMING CONTROL (AMENDMENT) ACT, 2014

CAP. 152. and shall be read and construed as one with the Gaming Control Act, which, as amended, is hereinafter referred to as the principal Act.

Amendment of section 2.

2. The principal Act is amended in section 2—

(a) by renumbering the section as subsection (1);

(b) by inserting the following definitions in alphabetical order—

““AML/CFT obligation” has the meaning given in the Money Laundering and Terrorism (Prevention) Act;

“approval” means an approval that may be granted by the Board under this Act or regulations made under this Act, but excludes a gaming licence;

“associate” has the meaning given in subsection (2);

“condition” means a condition attached to a gaming licence or to an approval and includes a condition as varied in accordance with section 5A;

“foreign regulatory authority” means an authority in a jurisdiction outside Belize which exercises a regulatory function similar to that of the Board;”;

(c) in the definition of “tax”, by deleting the words “section 7” and substituting the words “section 9”;

(d) by inserting the following new subsections (2) and (3)—

“(2) A person is an associate of a licensee or an applicant for a gaming licence if the person,

- (a) holds or will hold any relevant financial interest, or is or will be entitled to exercise any relevant power, whether on his own behalf or on behalf of any other person, in the licensee or applicant, and by virtue of that interest or power, is able or will be able to exercise significant influence over or with respect to the operation of that premises to be used for gaming; or
- (b) holds or will hold any relevant position, whether on his own behalf or on behalf of any other person, in the business of the licensee or applicant.

(3) For the purposes of subsection (2),

- (a) “relevant financial interest” means, in relation to a gaming business, five per cent or more of the voting capital of the business;
- (b) “relevant position”, in relation to a gaming business, means the position of director, manager or secretary, or other executive position, however that position is designated; and
- (c) “relevant power” means any power, whether exercisable by voting or otherwise, and whether exercisable alone or in association with others,

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

Amendment of
section 5.

3. The principal Act is amended in section 5—

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

“(2) For the purposes of performing its functions under subsection (1) of this section, the Board shall have power to,

- (a) license premises for gaming;
- (b) supervise the operation of licensees to ensure that licensees comply with the terms and conditions of their gaming licenses and with the provisions of this Act and of regulations made under this Act and with any applicable directives issued by the Board in accordance with this Act or regulations made under this Act;
- (c) inquire into the suitability of any person applying for any gaming license or approval under this Act or the regulations made under this Act and to ensure that those involved in the ownership, operation or management of, or employment in, a licensed gaming premises are fit and proper persons to carry out their functions relative to such licensed premises;

- (d) use all powers vested in it by this or any other law to ensure that games and gaming are kept free from criminal activity, and to prevent, detect and take all reasonable measures to ensure the prosecution of any offence against this Act or the regulations made under this Act;
- (e) advise the Minister on new developments, needs and risks in gaming and to make such proposals as may be deemed necessary or expedient to respond to those risks;
- (f) take enforcement action and co-operate with foreign regulatory authorities in accordance with this Act or the regulations made under this Act;
- (g) make regulations for the following purposes,
 - (i) prescribing specific areas where licensed gaming premises may be established;
 - (ii) prescribing the form and contents of the application for a gaming licence;
 - (iii) prescribing the criteria for eligibility for obtaining a gaming licence and setting a limit on the number of licensees;

- (iv) prescribing the terms and conditions to be attached to a gaming licence;
- (v) prescribing the fees to be charged for the issue of a gaming licence;
- (vi) prescribing the procedures to be adopted by the Board when taking enforcement action against a licensee;
- (vii) the determination of, or the method for determining, the amount of the administrative penalty that may be imposed for a disciplinary violation;
- (viii) controlling or regulating all matters connected with or incidental to gaming;
- (ix) prescribing the manner in which disputes between a licensee and any other person may be determined;
- (h) advise the Minister on the making of regulations under section 24;
- (i) enter into bilateral or multilateral agreements or memoranda of understanding with other local or overseas regulatory authorities, or other government agencies, for various matters including but not limited to exchange of information and other forms of collaboration;

(j) perform any other function as may from time to time be assigned to it by this Act or any other law or by regulations made thereunder”.

(b) in subsection (4)—

(i) by deleting the words “two thousand dollars” and substituting the words “fifty thousand dollars”; and

(ii) by inserting after the word “imprisonment” where it second appears, the words “or by an administrative penalty not exceeding fifty thousand dollars”.

4. The principal Act is amended by inserting immediately after section 5 the following new sections -

Insertion of sections 5A and 5B.

“Power to impose conditions.

5A. –(1) Subject to subsections (2) and (3), the Board may impose such conditions as it considers appropriate on any gaming licence issued or approval granted.

(2) It is a condition of every gaming licence issued or approval granted that the person in respect of whom the gaming licence is issued or approval granted is considered by the Board to be a fit and proper person for the function he performs or proposes to perform.

(3) It is a condition of every gaming licence issued that the licensee complies with his AML/CFT obligations.

(4) If a gaming licence is issued, or an approval granted, subject to one or more

conditions other than those referred to in subsection (2) or (3),

- (a) the Board shall, together with the gaming licence or approval, issue a written notice specifying the condition or conditions; and
- (b) if, in respect of any condition, it considers that it is in the public interest to do so, the Board may state that condition on the gaming licence or approval and issue a public statement concerning the condition, in such manner as it considers fit.

(5) The Board may, upon giving reasonable written notice to a licensee, at any time,

- (a) vary or revoke a condition imposed under subsection (1); or
- (b) impose new conditions on the gaming licence or approval.

(6) A licensee may apply to the Board in writing for a condition to be revoked or varied and, if the Board is satisfied that the condition is no longer necessary or should be varied, it may revoke or vary the condition.

(7) If the Board revokes or varies a condition or imposes a new condition, the licensee

shall, if requested to do so by the Board, deliver its gaming licence to the Board for re-issue.

(8) For the purposes of this section and section 5B, “gaming licence” refers to any licence issued by the Board under this Act or the regulations made under this Act.

Applications.

5B. –(1) Subject to subsection (2), every application for a gaming licence under this Act or the regulations made under this Act shall be accompanied by,

- (a) identification information for any director or senior officer of the applicant; and
- (b) a current list of shareholders of the applicant, including, where any beneficial interest is 5% or more of the outstanding shares of any class, identification information for the beneficial owner of any shares held by a legal person or in the name of nominee shareholder;
- (c) such information as may be required by this Act or the regulations made under this Act or requested by the Board; and
- (d) such fee as the Board may from time to time prescribe by regulations made under this Act.

(2) Paragraphs (1)(a) and (b) do not apply to an applicant that is a publicly traded company.”.

Amendment of section 6.

5. The principal Act is amended by deleting section 6 and its marginal note and substituting the following—

“Application for gaming licence.

6. —(1) Every person who intends to use or permit any other person to use his premises for gaming shall apply to the Board for a gaming licence.

(2) An application referred to in subsection (1) shall be made in accordance with section 5B.

(3) Any person who,

(a) is under the age of 18 years;

(b) in the opinion of the Board, is not a fit and proper person; or

(c) has an associate who, in the opinion of the Board, is not a fit and proper person;

is not eligible for a gaming licence.”.

Amendment of section 6A.

6. The principal Act is amended by deleting section 6A and its marginal note and substituting the following—

“Grant, duration and renewal of licence.

6A.—(1) After reviewing an application made under section 6, the Board may grant to the applicant a gaming licence, if the Board is satisfied that,

(a) the applicant and each associate of the applicant is a

fit and proper person to be concerned in or associated with the management or operation of a premises to be used for gaming; and

- (b) the applicant or any associate has not been convicted of a specified offence.

(2) In determining whether an applicant or any associate of an applicant is a fit and proper person to be concerned in or associated with the management or operation of premises to be used for gaming, the Board may consider such of the following as it considers appropriate,

- (a) the applicant or associate is of good repute, having regard to his character, honesty and integrity;
- (b) the applicant or associate is of sound and stable financial background;
- (c) the applicant has, or has arranged, a satisfactory ownership structure;
- (d) the applicant holds or is able to obtain,
 - (i) financial resources adequate to ensure the financial viability of the premises to be used for gaming; and

- (ii) the services of persons who have sufficient experience in the operation of the premises to be used for gaming;
- (e) the applicant has sufficient knowledge, experience and skills to successfully operate the premises to be used for gaming;
- (f) the applicant or associate has any business association with any person who, in the opinion of the Board, is not of good repute, having regard to the character, honesty and integrity of that person, or who has undesirable or unsatisfactory financial resources;
- (g) each director, partner, trustee, executive director, secretary and any other officer or person determined by the Board to be associated or connected with the ownership, administration or management of the premises to be used for gaming, or the operations or business of the applicant, is a suitable person to act in that capacity;
- (h) any person proposed to be engaged or appointed to

manage or operate the premises to be used for gaming is a suitable person to act in that capacity;

- (i) any other matter that may be prescribed, or condition that may be imposed on the licence, will be fulfilled.

(3) Every licence issued under this Act shall be valid for a period of twelve months but may be renewed on application by the licence holder in such form and containing such information as may be prescribed and,

- (a) on payment of such annual fee as may from time to time be prescribed by the Board by regulations made under this Act; and
- (b) if the Board remains satisfied that the requirements referred to in subsection (2) are still met.

(4) For the purposes of this section, “specified offence” is,

- (a) an offence under this Act or the regulations;
- (b) an offence under the Gambling Prevention Act or the regulations;

- (c) an offence under the Money Laundering and Terrorism (Prevention) Act;
- (d) an offence listed in the Second Schedule to the Money Laundering and Terrorism (Prevention) Act;
- (e) an offence under Part XI of the Criminal Code;
- (f) conspiracy to commit or attempting or aiding and abetting any offence referred to in paragraph (a) to (e); or
- (g) in the case of a jurisdiction other than Belize, an offence under the laws of that jurisdiction which is analogous to those referred to in paragraph (a) to (f).”.

Amendment of
section 7.

7. The principal Act is amended by deleting section 7(1) and substituting the following -

“(1) Every person to whom a licence is granted under this Act shall, at the discretion of the Board, make a cash deposit or execute a bond in such sum as may be specified by the Board or provide a guarantor for payment of such sum as may be specified by the Board for the due payment of all winnings, prizes and penalties and for the faithful performance of all his obligations under the gaming licence.”.

8. The principal Act is amended by deleting section 8 and substituting the following -

Amendment of section 8.

“Revocation of licence.

8. (1) Notwithstanding section 6A(3), the Board may at any time revoke a licensee’s gaming licence if,

- (a) it is entitled to take enforcement action against the licensee under section 8E; or
- (b) the licensee has failed to commence or ceased to carry on the gaming business for which it was licensed.

(2) The Board may, on the application of a licensee, cancel the licensee’s gaming licence, subject to such conditions as the Board considers appropriate.

(3) Subject to subsection (4), before revoking a gaming licence under subsection (1), the Board shall give written notice to the licensee,

- (a) stating the grounds upon which it intends to revoke the gaming licence; and
- (b) containing a statement to the effect that unless the licensee, by written notice filed with the Board, shows good reason why its gaming licence should not be revoked, the gaming licence will be revoked on a date not less than 14 days after the date of the notice.

(4) If, on the application of the Board, the Supreme Court is satisfied that it is in the public interest or to the interests of any of the customers or creditors of a licensee that subsection (3) should not have effect or that the period referred to in paragraph (4)(b) should be reduced, it may so order.

(5) An application under subsection (4) may be made on an *ex parte* basis or upon such notice as the Supreme Court may require.”.

Insertion of
Parts IIA and
IIB.

9. The principal Act is amended by inserting the following new Parts IIA and IIB immediately before the heading for Part III—

“PART IIA

Compliance, Supervision and Enforcement

Compliance.

8A.—(1) A licensee shall appoint, or designate, a fit and proper individual approved by the Board as its compliance officer.

(2) The Board may, by notice in writing to a licensee, revoke its approval of an individual as the licensee’s compliance officer.

(3) Where the Board issues a notice under subsection (3), the licensee shall appoint, or designate, another individual as its compliance officer in accordance with this section.

(4) A licensee shall establish, maintain and implement a compliance policy and

compliance systems and controls that are appropriate for the nature, scale, complexity and diversity of the gaming business carried on by the licensee.

(5) The Board may issue one or more guidelines specifying requirements, not inconsistent with this Act or the regulations made under this Act, relating to the carrying on by licensees of gaming business.

(6) Without limiting subsection (5), guidelines may provide for the,

- (a) standards of compliance expected of licensees;
- (b) individuals who may act as the compliance officer for a licensee;
- (c) factors that the Board will take into account in considering the suitability of a person as a compliance officer;
- (d) functions and responsibilities of a compliance officer;
- (e) preparation by licensees of a compliance manual and the matters to be included in such a manual; and
- (f) requirements with respect to the compliance policies, systems and controls of a licensee.

- (7) Guidelines may,
- (a) make different provision in relation to persons, cases or circumstances of different descriptions; and
 - (b) include such transitional provisions as the Board considers necessary or expedient.
- (8) The Board may amend, add to or replace any guidelines by notice published in the Gazette.

Compliance visits.

8B.—(1) In this section “relevant person” means,

- (a) a licensee;
 - (b) a former licensee; or
 - (c) an associate of a licensee or of a former licensee.
- (2) The Board may, for a purpose or purposes specified in subsection (3),
- (a) inspect the premises and the business, whether in or outside Belize, including the procedures, systems and controls, of a relevant person;
 - (b) inspect the assets, including cash, belonging to or in the possession or control of a relevant person;

- (c) examine and make copies of documents belonging to or in the possession or control of a relevant person that, in the opinion of the Board, relate to the carrying on of gaming business by the relevant person; and
- (d) seek information and explanations from the officers, employees, agents and representatives of a relevant person, whether orally or in writing, and whether in preparation for, during or after a compliance visit.

(3) A compliance visit may be undertaken for the following purposes,

- (a) the supervision of gaming business, including monitoring and assessing a relevant person's compliance with,
 - (i) this Act, the regulations made under this Act and any other law related to gaming; and
 - (ii) any guidelines or directive issued by the Board; and
- (b) monitoring and assessing a relevant person's compliance with his AML/CFT obligations.

(4) Subject to subsection (5), the Board shall give reasonable notice to a relevant person of its intention to exercise its powers under subsection (2).

(5) Where it appears to the Board that the circumstances so justify, the Board may exercise its powers under subsection (2) without giving notice of its intention to do so.

(6) Subject to subsection (7), the Board may, upon the request of a foreign regulatory authority, permit that authority to take part in a compliance visit undertaken by the Board under this section.

(7) In deciding whether to permit a foreign regulatory authority to take part in a compliance visit under this section, the Board may take into account, in particular, whether, in its opinion,

- (a) the participation of the foreign regulatory authority,
 - (i) is necessary for the effective supervision of the person to be subject to the compliance visit or its subsidiary or holding company, and
 - (ii) is not contrary to the public interest; and
- (b) the foreign regulatory authority is subject to adequate legal restrictions on further disclosure and that it will not, without the written permission of the Board,
 - (i) disclose information obtained or documents examined or obtained during the

compliance visit to any person other than an officer or employee of the authority engaged in prudential supervision, or

- (ii) take any action on information obtained or documents examined or obtained during the compliance visit.

(8) Subject to subsection (5), a relevant person shall permit any employee of the Board or person appointed by the Board for the purpose to have access at any reasonable time to any of its business premises to enable that person to undertake a compliance visit.

(9) The Regulations may specify circumstances in which the Board may require a licensee to contribute towards the costs of a compliance visit.

Power of Board to gather information.

8C.—(1) The Board may, by notice in writing, require a licensee or a person who, in the opinion of the Board, is or was directly or indirectly associated with the licensee, to,

- (a) provide, in accordance with directions in the notice, such information relevant to the licensee, that associate or the licensed premises, or with such information as the Board requires, and specified in the notice;
- (b) produce, in accordance with the directions in the notice, such records

relevant to the licensee, that associate or the licensed premises, or to matters specified by the Board, 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; or

- (c) attend before the Board, or such person as may be designated by the Board, for examination in relation to any matters relevant to the licensee, that associate or the licensed premises, or to matters specified by the Board, and to answer questions relating to those matters.

(2) Where records are produced under this section, the Board, or such person as may be designated by the Board to whom they are produced, may retain possession of the records for such period as may reasonably be necessary for an investigation to be carried out.

(3) At any reasonable time during the period for which records are retained, the Board, or such person as may be designated by the Board, shall permit inspection of the records by a person who would be entitled to inspect them if they were not in the possession of the Board, or person designated by the Board.

(4) A person, including a director, officer or employee of a licensee, who provides information or produces records to the Board in compliance with a notice under this section does not contravene any law, rule of law, agreement or professional code of conduct to

which that person is subject and no civil, criminal or disciplinary proceedings shall lie against him, or against the licensee, in respect thereof.

Power to give directions.

8D.—(1) The Board may give to a licensee written directions relating to the conduct, supervision or control of operations in the licensed premises and the licensee shall comply with such directions within the period specified in the direction.

(2) Any directions given under subsection (1) shall take effect when such directions are delivered to the licensee or at such later date as may be specified in the directions.

(3) The power conferred upon the Board by this section shall include the power to give a direction to a licensee to do any of the following,

- (a) adopt, vary, cease or refrain from any practice in respect of the conduct of gaming operations;
- (b) where the Board is of the opinion that a director, senior officer, compliance officer or person undertaking any function that requires authorization by the Board does not satisfy its fit and proper criteria,
 - (i) remove that person and, if it considers it appropriate, to replace him with another person acceptable to the Board; or

- (ii) ensure that the person ceases to undertake certain specified functions in relation to the licensee.

(4) Every direction given under this section shall not be inconsistent with any provision of this Act, any regulations made under this Act or the conditions of the gaming licence.

**Enforcement
action.**

8E.—(1) The Board may take enforcement action against a licensee if,

- (a) in the opinion of the Board, the licensee,
 - (i) has contravened or is in contravention of this Act or the regulations made under this Act;
 - (ii) is carrying on, or is likely to carry on, gaming business in a manner detrimental to the public interest or to the interest of any of its customers;
 - (iii) is or is likely to become insolvent;
 - (iv) is in breach of any term or condition of its gaming licence;
 - (v) has failed to comply with a direction given to it by the Board;

- (vi) is not a fit and proper person to hold a gaming licence; or
 - (vii) has provided the Board with any false, inaccurate or misleading information, whether on making application for a gaming licence or approval or subsequent to the issue of the gaming licence or approval; or
- (b) in the opinion of the Board,
- (i) a person having a share or interest in the licensee, whether equitable or legal, or any director, officer, manager or employee of the licensee is not a fit and proper person to have an interest in or be concerned with the management or operation of a licensee, as the case may be, or
 - (ii) the licensee or a subsidiary or holding company of the licensee has refused or failed to co-operate with the Board on a compliance visit conducted by the Board under section 8B.

(2) If the Board is entitled to take enforcement action under subsection (1) it may exercise such of the following powers as it considers appropriate,

- (a) revoke the licensee's gaming licence under section 8;
- (b) issue a directive under section 8F;
- (c) appoint an investigator to conduct an investigation under section 8G;
- (d) take disciplinary action against the licensee under Part IIB.

Directives.

8F.—(1) Where the Board is entitled to take enforcement action against a licensee, the Board may issue a directive,

- (a) imposing a prohibition, restriction, limitation or condition on the gaming business undertaken by the licensee, including that the licensee shall cease to engage in any type of gaming business, and
- (b) requiring the licensee to take such other action as the Board considers may be necessary to protect the property of, or in the custody, possession or control of, the licensee or to protect customers or creditors or potential customers or creditors of the licensee.

(2) Where the Board is of the opinion that a person is carrying on, or has carried on, unlicensed gaming business, the Board may issue a directive to that person requiring the person,

- (a) to cease carrying on that business; and

- (b) to take such other action as the Board considers necessary to protect the property belonging to, or in the custody, possession or control of, the person, or to protect the person's customers or creditors or potential customers or creditors.

**Appointment
of investigator.**

8G.—(1) The Board may appoint one or more competent persons as investigators to conduct an investigation on its behalf,

- (a) with respect to a licensee,
 - (i) if it appears to the Board on reasonable grounds that there are, or may be, grounds for taking enforcement action against the licensee under section 8E, or
 - (ii) the Board is of the opinion that it is desirable to appoint an investigator in the interests of the customers or potential customers of the licensee or in the public interest or in order to safeguard the reputation of Belize;
- (b) with respect to a former licensee, if the Board would have been entitled to appoint an investigator under paragraph (a), but for the revocation of the licensee's gaming licence; and
- (c) with respect to any person if it appears to the Board on reasonable

grounds that the person is carrying on, or has carried on, unlicensed gaming business.

(2) The Board may give directions to the investigator concerning any one or more of the following,

- (a) the scope of the investigation;
- (b) the period for the conduct of the investigation;
- (c) the manner in which the investigator shall report to it.

(3) An investigator appointed under subsection (1) may, if he considers it necessary for the purposes of his investigation, also investigate the business of any person who is, or at any relevant time has been, an associate of the person under investigation on giving written notice to such associate.

(4) Notwithstanding subsection (3), an investigator has the power to,

- (a) without notice, enter at all reasonable times any premises in order to ensure compliance with,
 - (i) the provisions of this Act or any regulations made under this Act; or
 - (ii) any condition subject to which a licence, authorization or approval is granted;

- (b) without notice, enter at all reasonable times any licensed premises and inspect any accounts, book, document, records, article or thing to which any gaming relates and any gaming machine or equipment; and
- (c) require the production of records and accounts which are required to be kept by the casino operator under the provisions of this Act or any regulations made under this Act.

(5) An investigator may during the course of an inspection seize and remove any gaming machine, equipment or article which the investigator reasonably believes is being used in contravention of any provision of this Act or regulations made under this Act for examination outside of the specified premises.

(6) Subject to subsection (7), any gaming machine, equipment or article seized under subsection (5) shall be returned to the licensee as soon as practicable, and in any case shall not be retained for,

- (a) a longer period than two months; or
- (b) if within the period referred to in paragraph (a), court proceedings have been brought in respect of the seizure, longer than the conclusion of those proceedings.

(7) Any gaming machine, equipment or article seized under this section may, by order of the court, be forfeited pursuant to section 23A or 23B.

(8) An investigator shall submit a report of his investigation to the Board.

(9) The Board may direct that the licensee pay the costs, or such part of the costs as it may specify, of an investigation conducted, or storage of any gaming machine, equipment or article seized, under this section.

(10) A notice referred to in subsection (3) shall be kept confidential and any person who receives a notice referred to in subsection (3) shall not disclose the existence or contents of the notice to any person except a legal adviser for the purpose of obtaining legal advice or representation in respect of the notice.

(11) A person who contravenes subsection (10) commits an offence and is liable on summary conviction to a fine not exceeding twenty-five thousand dollars or to imprisonment for a term not exceeding one year, or to both such fine and term of imprisonment.

PART IIB

Disciplinary Action

**Interpretation
for this Part.**

8H.—(1) For the purposes of this Part,

- (a) “disciplinary violation” means,
 - (i) a contravention of a provision of this Act or regulations made or directive given under this Act; or

- (c) the date when the time for any appeal has expired and no appeal has been filed; or
- (d) the dismissal of any appeal of the licensee, provided that the time for any further appeal has expired.

**Disciplinary
action.**

8I.—(1) The Board may take disciplinary action against a licensee under this section where it is,

- (a) entitled to take enforcement action under section 8E; or
- (b) satisfied that the licensee has committed a disciplinary violation.

(2) The Board takes disciplinary action against a licensee by taking such of the following actions as it considers appropriate,

- (a) issue letter of warning, admonishment, censure or reprimand referred to in subsection (6);
- (b) imposing an administrative penalty on that person;
- (c) both actions referred to in paragraphs (a) and (b).

(3) The administrative penalty imposed on a licensee in respect of a disciplinary violation shall,

- (a) not exceed the maximum amount prescribed in relation to the disciplinary violation; and

(b) be paid to the Board.

(4) The Board shall not take disciplinary action against a licensee in respect of a disciplinary violation committed more than 2 years prior to the date upon which it sends a notice to the licensee under section 8J or 8L.

(5) If the conduct or omission that constitutes a disciplinary violation also constitutes an offence,

(a) the taking of disciplinary action against a licensee does not prevent the licensee being also prosecuted for the offence; and

(b) the prosecution of a licensee for the offence does not prevent the taking of disciplinary action against the licensee.

(6) A letter of warning, admonishment, censure or reprimand from the Board may,

(a) warn, admonish, censure or reprimand the licensee in respect of any matter connected with the licensed premises or gaming operations; and

(b) include a directive referred to in section 8F requiring the licensee to rectify within a specified time any matter giving rise to the letter of warning, admonishment, censure or reprimand.

Notice of
intention to
take
disciplinary
action.

8J.—(1) Where it intends to take disciplinary action against a licensee, other than by imposing a late payment penalty on the licensee, the Board shall send a notice of its intention to the licensee,

(a) specifying,

(i) the alleged disciplinary violation and the relevant facts surrounding the violation; and

(ii) the amount of the penalty that it intends to impose; and

(b) advising the licensee of his right to make written representations to the Board in accordance with subsection (2).

(2) A licensee who receives a notice under subsection (1) may, within 28 days of the date of the notice, or such longer period as the Board, in special circumstances, may authorise, send written representations to the Board,

(a) denying that he has committed the alleged disciplinary violation or disputing the facts of the alleged disciplinary violation; or

(b) providing reasons that he considers justify the imposition of a lower penalty.

(3) Representations made other than in accordance with subsection (2) may not be considered by the Board.

Penalty notice. 8K.—(1) After the expiration of 28 days from the date that it sent a notice under section 8J to a licensee, the Board may take disciplinary action against that licensee by sending him a penalty notice stating,

- (a) the disciplinary violation in respect of which the notice is issued;
- (b) the date on which notice of intention to take disciplinary action in respect of that violation was sent to the licensee;
- (c) the amount of the administrative penalty imposed;
- (d) a date, not less than 14 days after the date of the penalty notice, by which the penalty shall be paid to the Board; and
- (e) that if the licensee does not pay the administrative penalty or exercise his rights of appeal under section 14B, on or before the date referred to in paragraph (d), the licensee will be considered to have committed the violation and be liable for the penalty set out in the notice.

(2) The penalty imposed in a penalty notice shall not exceed the amount specified in the notice of intention sent under section 8J.

(3) Where the Board takes disciplinary action against a licensee by issuing a letter of warning, admonishment, censure or reprimand, the penalty notice shall state,

- (a) whether the licensee is warned, admonished, censured or reprimanded;
- (b) the remedial actions required to be taken under the directive referred to in section 8F; and
- (c) the period in which the licensee must complete the actions referred to in the directive.

(4) Before taking disciplinary action against a licensee under subsection (1), the Board shall consider any written representations that it has received from the licensee and, where it receives such representations, it must provide reasons for the action that it takes.

(5) A licensee who receives a penalty notice under subsection (1) shall pay the penalty stated to the Board, complete the actions referred to in the directive, or appeal the imposition of the penalty under section 14B, on or before the date specified in the notice.

(6) Where the Board takes disciplinary action by imposing an administrative penalty, an appeal shall not itself result in the suspension of the decision of the Board in relation to which the appeal is made, but the appellant may, within the time prescribed for making such appeal, apply to the Supreme Court for stay of execution of the decision appealed from, pending the determination of such appeal.

Late payment penalties.

8L.—(1) Where the Board decides to take disciplinary action against a licensee by imposing a late payment penalty on the licensee, it shall send the licensee a penalty notice stating,

(a) the amount in respect of which the late payment penalty is being imposed; and

(b) the amount of the penalty.

(2) A licensee who receives a penalty notice under subsection (1) shall pay the late payment penalty stated in the notice to the Board, or appeal the imposition of the penalty under section 14B, within 28 days of the date of the penalty notice.

Date licensee considered to commit disciplinary violation.

8M.—(1) If a licensee pays an administrative penalty imposed on him under section 8K or 8L on or before the last date for payment of the penalty, the licensee is considered to have committed the violation and the disciplinary action is over.

(2) A licensee who neither pays an administrative penalty imposed on him under section 8K or 8L, nor appeals the imposition of the administrative penalty, on or before the last date for payment of the penalty, is considered to have committed the disciplinary violation and is liable for the administrative penalty.

Recovery of administrative penalty.

8N.—(1) An administrative penalty may be recovered as a debt due to the Government of Belize from the licensee, as well as by the

means provided for by sections 11, 12 and 13 of this Act.

(2) In any proceedings to recover an administrative penalty, a certificate purporting to be signed by the Chairman of the Board certifying the amount of the administrative penalty_due shall be regarded as prima facie evidence of that fact.”.

Insertion of
Part IIIA.

10. The principal Act is amended by inserting the following new Part IIIA immediately before the heading for Part IV—

“PART IIIA

Appeals

Establishment
of Appeals
Tribunal.

14A.—(1) For the purposes of this Act and the regulations made under this Act, there is hereby established an Appeals Tribunal.

Second
Schedule.

(2) The Second Schedule has effect as to the constitution and procedures of the Appeals Tribunal and otherwise in relation thereto.

Second
Schedule.

(3) The Minister may, by regulation, amend, revoke or replace the Second Schedule.

Appeals to
Appeals
Tribunal.

14B.—(1) A person who is aggrieved by a decision of the Board or any other person acting in exercise of any function under this Act or the regulations made under this Act may appeal to the Appeals Tribunal by giving written notice of appeal to the Appeals Tribunal within fourteen days of the date of the decision or within such longer period as the Appeals Tribunal may, in any special circumstance, allow.

(2) The notice of appeal shall set out clearly the grounds of the appeal and shall be accompanied by copies of any correspondence, document or statement relevant to the appeal.

(3) The Appeals Tribunal shall, within seven days of the receipt of a notice of appeal under subsection (1),

(a) give the Board a copy of the notice of appeal together with copies of any correspondence, document or statement;

(b) request the Board to furnish it with written representations relating to the decision under appeal.

(4) The Appeals Tribunal shall cause all parties to the appeal to be informed,

(a) of the date of the hearing of the appeal;

(b) that they may appear themselves or be represented by their Attorney-at-Law; and

(c) that they may summon witnesses in their cause.

(5) The Appeals Tribunal may order that any book, paper, document or statement, relating to the appeal which is in the possession of the Board, any other person acting in exercise of any function under this Act or the regulations made under this Act, or the person aggrieved be produced at the hearing of the appeal.

(6) On hearing an appeal under this section, the Appeals Tribunal may,

- (a) dismiss the appeal and confirm the decision of the Board;
- (b) allow the appeal and set aside the decision;
- (c) vary the decision; or
- (d) direct that the matter be referred to the Board for reconsideration with such instructions as the Appeals Tribunal considers appropriate.”.

Amendment of section 15.

11. The principal Act is amended in section 15(2), by deleting the words “five thousand dollars” and substituting the words “one hundred thousand dollars”.

Insertion of sections 16A and 16B.

12. The principal Act is amended by inserting the following new sections after section 16—

“Penalty for failure to comply with notice.

16A.—(1) Any person who, without reasonable excuse, fails to comply with a notice issued under section 8C(1) commits an offence.

(2) Any person who in purported compliance with a notice issued by the Board under section 8C(1),

- (a) provides information which he knows to be false or misleading in a material respect; or
- (b) recklessly provides information which is false or misleading in a material respect;

commits an offence.

(3) Any person who, for the purpose of obstructing or frustrating compliance with a notice issued by the Commission under section 8C(1) destroys, mutilates, defaces, hides or removes a document commits an offence.

(4) Any person who commits an offence under this section shall be liable for each offence on summary conviction,

(a) to a fine not exceeding twenty-five thousand dollars or to imprisonment for a term not exceeding one year, or to both such fine and term of imprisonment; and

(b) where an offence under subsection (1) is a continuing offence, a fine of two hundred fifty dollars for each day during which the offence continues.

Penalty for failure to comply with direction or directive.

16B.—(1) Any person who, without reasonable excuse, fails to comply with a direction given under section 8D or a directive issued under section 8F commits an offence and shall be liable for each offence on summary conviction,

(a) to a fine not exceeding twenty-five thousand dollars or to imprisonment for a term not exceeding one year, or to both such fine and term of imprisonment; and

(b) where an offence under subsection (1) is a continuing offence, a fine of

two hundred fifty dollars for each day during which the offence continues.”.

Amendment of section 17.

13. The principal Act is amended in section 17—

- (a) by inserting after the words “obstructs or hinders” the words “the Board, a person designated by the Board under section 8C, an investigator appointed by the Board under section 8G or”; and
- (b) by deleting the words “ten thousand dollars” and substituting the words “twenty-five thousand dollars”.

Insertion of sections 23A and 23B.

14. The principal Act is amended by inserting immediately after section 23 the following new sections -

“Forfeiture on conviction.

23A.—(1) Subject to subsection (2), where the court by or before which a person is convicted of an offence under this Act or the regulations made under this Act is satisfied that any gaming machine, equipment or article is related to the offence, the court may order the gaming machine, equipment or article forfeited and destroyed or otherwise dealt with in such manner as the court may order.

(2) Where a person claiming to be the owner of, or a person otherwise interested in, the gaming machine, equipment or article referred to in subsection (1) applies to be heard by the court, the court shall not order anything forfeited under this section unless that person has been given an opportunity to show cause why such order should not be made.

Forfeiture of abandoned machines, equipment or articles.

23B.—(1) On the application of the Board to a Magistrate’s Court, where a gaming machine, equipment or article is seized under section 8G, the Magistrate may order the forfeiture of the gaming machine, equipment or article if the Court is satisfied that the seized gaming machine, equipment or article has been abandoned.

(2) Where the Board proposes to apply for forfeiture under subsection (1), it shall give written notice of the application to the person from whom the gaming machine, equipment or article was seized.

(3) Where a person claiming to be the owner of, or a person otherwise interested in, the gaming machine, equipment or article referred to in subsection (1) applies to be heard by the court, the court shall not order anything forfeited under this section unless that person has been given an opportunity to show cause why such order should not be made.

(4) Where a person referred to in subsection (3) satisfies the court that an order for forfeiture should not be made, the court shall require that person to pay to the Board such amount as the court may consider fit in respect of storage, maintenance and administrative expenses related to the gaming machine, equipment or article referred to in subsection (1).”.

15. The principal Act is amended in section 24 by deleting subsection (2) and substituting the following—

Amendment of section 24.

“(2) The Minister may, by Regulations, provide that the breach of any Regulations made under this Act shall constitute—

- (a) an offence and may provide for penalties on summary conviction of a fine not exceeding fifty thousand dollars, or imprisonment for a term not exceeding two years, or to both a fine and imprisonment; and
- (b) a disciplinary violation and may provide for imposition of an administrative penalty not exceeding two hundred and fifty thousand dollars and for the determination of, or the method for determining, the amount of the administrative penalty that may be imposed for a disciplinary violation.”.

Insertion of
section 26.

16. The principal Act is amended by inserting immediately after section 25 the following new section –

“Giving notices
and
documents.

26.—(1) A notice or document directed to the Board is deemed to be sufficiently given if it is,

- (a) given personally to the Chairman of the Board;
- (b) given to the person in charge or apparently in charge of the office where the Board meets; or
- (c) sent by registered mail, postage pre-paid, addressed to the office where the Board meets and a person has acknowledged receipt in writing on behalf of the Board.

(2) A notice or document directed to the Appeals Tribunal, is deemed to be sufficiently given if it is,

- (a) given personally to the Chairman of the Appeals Tribunal; or

(b) given to the person in charge or apparently in charge of the office where the Appeals Tribunal meets.

(3) A notice or document directed to an individual is deemed to be sufficiently given if it is,

(a) personally given to the individual or a person who holds a power of attorney from the individual under which the attorney is authorised to accept service of the notice or document;

(b) given to an adult person at the individual's residence or apparently in charge of the individual's place of business;

(c) sent by registered mail, postage pre-paid, addressed to the individual at his address last known to the person giving the notice or document and the individual has acknowledged receipt in writing;

(d) sent by any form of electronic transmission that generates legible evidence of receipt; or

(e) if service under paragraph (a), (b), (c) or (d) is not reasonably possible, published at least twice, and not more than a week apart, in at least one newspaper of general circulation in Belize.

(4) A notice or document directed to a corporation or association is deemed to be sufficiently given if it is,

- (a) personally given to a director or officer of the corporation or association;
- (b) given to an adult person apparently in charge of the office or place of business of the corporation or association;
- (c) given to a person who holds a power of attorney for the corporation or association under which the attorney is authorised to accept service of the notice or document;
- (d) sent by registered mail, postage pre-paid, addressed to the corporation or association at its office or place of business and a person has acknowledged receipt in writing on behalf of the corporation or association;
- (e) sent by any form of electronic transmission that generates legible evidence of receipt; or
- (f) if service under paragraph (a), (b), (c), (d) or (e) is not reasonably possible, published at least twice, and not more than a week apart, in at least one newspaper of general circulation in Belize.

(5) A written notice or document directed to a partnership is deemed to be sufficiently given if it is,

- (a) in the case of a partner who is an individual, given to the partner in accordance with subsection (3);
- (b) in the case of a partner that is a corporation or association, given to the partner in accordance with subsection (4);
- (c) given to a person who holds a power of attorney from the partnership under which the attorney is authorised to accept service of the notice or document on behalf of the partnership; or
- (d) if service under paragraph (a), (b) or (c) is not reasonably possible, published at least twice, and not more than a week apart, in at least one newspaper of general circulation in Belize.”.

17. The principal Act is amended by redesignating the Schedule as the First Schedule and inserting immediately after the First Schedule, as redesignated, the following Second Schedule—

**Redesignation
of Schedule and
insertion of
Second
Schedule.**

“SECOND SCHEDULE

GAMING CONTROL ACT

Constitution and Procedures of Appeals Tribunal

[Section 14A]

**Appointment
of members.**

1.—(1) The Appeals Tribunal shall consist of not less than three nor more than five members appointed by the Minister in his discretion, being persons appearing to the Minister to be knowledgeable and experienced in matters relating to gaming, law, finance, accounting or tourism.

(2) A person who is a public officer, a minor or a member of the National Assembly is not eligible for appointment as a member.

(3) The Minister in his discretion shall designate a member to be the Chairman of the Appeals Tribunal.

(4) For the hearing of an appeal under this Act, the Appeals Tribunal may consist of one member sitting alone if the parties to the appeal agree.

**Temporary
appointment.**

2. If the Chairman or other member of the Appeals Tribunal is absent or unable to act, the Minister may appoint another person to act temporarily as Chairman or other member.

**Tenure of
office.**

3. (1) Subject to the provisions of this Schedule, a member of the Appeals Tribunal shall hold office for such period, not exceeding one year, as may be specified in the instrument of appointment.

(2) Every member of the Appeals Tribunal shall be eligible for reappointment but no such member shall be appointed for more than five consecutive years.

(3) If any vacancy occurs in the membership of the Appeals Tribunal, the vacancy shall be filled by the making of

another such appointment; however, the member so appointed shall, subject to the provisions of this Schedule, hold office for the remainder of the period for which the previous member was appointed.

(4) The Minister may, at any time, revoke the appointment of the Chairman or any other member if he thinks it expedient to do so.

4.(1) Any member of the Appeals Tribunal other than the Chairman may, at any time, resign his office by instrument in writing addressed to the Minister and transmitted through the Chairman and from the date of the receipt by the Minister of such instrument such member shall cease to be a member of the Appeals Tribunal.

Resignation.

(2) The Chairman may, at any time, resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt of such instrument by the Minister.

5. The names of the members of the Appeals Tribunal as first constituted and every change in membership thereof shall be published in the *Gazette*.

Publication of membership.

6. There shall be paid to the Chairman and other members or the Appeals Tribunal such remuneration (whether by way of honorarium, salary or fees) and such allowances as the Minister may determine.

Remuneration of members.

7. Any member of the Appeals Tribunal who has any interest, directly or indirectly, in any matter brought before the Appeals Tribunal shall,

Disclosure of interest.

- (a) as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Appeals Tribunal; and

- (b) refrain from influencing or participating in any decision or vote that relates to the matter.

Procedure.

8.—(1) The Appeals Tribunal shall meet at such times as may be necessary or expedient for the transaction of business and such meetings shall be held at such places and times and on such days as the Appeals Tribunal may determine.

(2) The Chairman or any other person appointed to act temporarily as Chairman shall preside at meetings of the Appeals Tribunal.

(3) Subject to section 1(4), the decisions of the Appeals Tribunal shall be by a majority of votes of the members and, in addition to an original vote, the Chairman shall have a casting vote in any case in which the voting is equal.

(4) The Appeals Tribunal, with the approval of the Minister, may make rules to regulate its own proceedings.

Secretary and minutes.

9.—(1) The Chairman shall appoint a person other than a member to act as Secretary.

(2) The Secretary shall keep accurate minutes of each meeting and hearing of the Appeals Tribunal, including particulars of—

- (a) the members or other persons in attendance;
- (b) each matter considered by the Appeals Tribunal, the number of members present and voting for and against it or abstaining from voting on it and the decision of the Appeals Tribunal; and
- (c) any disclosure of interest referred to in section 7 made by a member.

(3) The Secretary shall circulate to the members for approval a copy of the minutes of a meeting as soon practicable after the conclusion of the meeting.

10. All documents made by, and all decisions of, the Appeals Tribunal may be signified under the hand of the Chairman or any member of the Appeals Tribunal authorized to act in that behalf.

**Authentication
of documents.**

11. No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Appeals Tribunal for anything done or omitted to be done in good faith and in the administration or discharge of any functions, duties or powers under this Act or the regulations made under this Act.”.

**Protection of
members.**