



REPUBLIC OF NAURU
Gaming Act 2011

Act No. 17 of 2011

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REPUBLIC OF NAURU

Gaming Act 2011

Act No. 17 of 2011

An Act to regulate gaming, and for related purposes

Certified on 3 November 2011

Enacted by the Parliament of Nauru as follows:

PART 1 – PRELIMINARY MATTERS

1 Short title

This Act may be cited as the *Gaming Act 2011*.

2 Commencement

This Act commences 1 month after it receives the certificate of the Speaker under Article 47.

3 Definitions

In this Act:

‘authorised officer’ means a person appointed under section 24;

‘betting’ includes the placing or accepting of bets;

‘exempt game’, see section 4(1);

‘exempt private game’, see section 4(2);

‘gaming licence’ means a licence granted under section 6(1);

'gaming machine' means a device that is designed:

- (a) for the playing of a game of chance or of mixed chance and skill; and
- (b) for paying out money or tokens or for registering a right to an amount of money or money's worth to be paid;

'information notice', for a decision, means a written notice to a person specifying the following:

- (a) the decision;
- (b) the reasons for the decision;
- (c) that the person may apply to the Minister for review of the decision within 28 days after receiving the notice;

'licence fee', for a gaming licence, means the prescribed fee for the licence;

'licensee', for a gaming licence, means the person who is granted the licence;

'lottery' means a scheme or device, other than bingo, in which the success or otherwise of participants is governed by numbers, tickets, or tokens drawn or determined in a way that involves a degree of chance;

'prescribed' means prescribed by regulation;

'proposed decision notice', for a proposed decision, means a written notice to a person specifying the following:

- (a) the proposed decision;
- (b) the reasons for the proposed decision;
- (c) that the person may make written submissions to the person giving the notice about the proposed decision within 7 days after receiving it;

'Secretary' means the Head of Department;

'table game' means a game, or a variation of a game, specified in Schedule 1;

'unlawful betting' means betting on an unlawful game;

'unlawful game' means a game:

- (a) of chance, or of mixed chance and skill, in which money or any other valuable thing is offered as a prize or is staked or risked (by a participant or someone else) on an event or contingency; and
- (b) that is not an exempt game.

4 Meaning of 'exempt game' and 'exempt private game'

- (1) An **'exempt game'** is a game that is:
 - (a) conducted in accordance with a gaming licence; or
 - (b) authorised under another written law; or
 - (c) an exempt private game; or
 - (d) a raffle or game of karti for which the total value of prizes offered is less than the amount prescribed for this paragraph.
- (2) An **'exempt private game'** is a game that is conducted:
 - (a) otherwise than for a commercial purpose; and
 - (b) so that:
 - (i) the only way a participant in the game can make a profit or gain any other benefit as a result of the conduct of the game is by winning a bet; and
 - (ii) the rules of the game provide the same chance of winning a bet for all participants; and
 - (c) in accordance with any prescribed conditions.

- (3) For subsection (2)(a), a game is taken to be conducted for a commercial purpose if:
 - (a) a fee is charged to participate in the game or to enter the place where the game is conducted (other than a fee intended to cover the reasonable cost of food or beverages provided at the place); or
 - (b) a charge, commission or fee is deducted from any amount bet or won by a participant in the game.

PART 2 – GAMING LICENCES

5 Application for gaming licence

- (1) A person may apply to the Secretary for a licence to conduct:
 - (a) bingo; or
 - (b) betting on sports or other events; or
 - (c) a lottery; or
 - (d) a game to be played on a gaming machine; or
 - (e) one or more table games.
- (2) The application must be:
 - (a) in the prescribed form; and
 - (b) accompanied by:
 - (i) evidence of payment of the licence fee for the licence; or
 - (ii) an application for waiver of the licence fee under section 14.

6 Decision on application

- (1) On receiving the application, the Secretary must:
 - (a) grant the licence; or
 - (b) refuse to grant the licence.

- (2) The Secretary may only grant the licence if he or she is satisfied that:
 - (a) the applicant is a suitable person to hold the licence; and
 - (b) the rules of the game to be conducted under the licence are fair and reasonable; and
 - (c) the rules and methods of conducting the game can be easily understood by participants; and
 - (d) if the application is for a licence to conduct betting on a sport or other event – that the conduct of the sport or event is lawful:
 - (i) if the sport or event is conducted in Nauru – in Nauru; or
 - (ii) if the sport or event is conducted in another place – in the place it is conducted; and
 - (e) any other prescribed criteria for granting the licence are met.
- (3) If the Secretary decides to refuse to grant the licence, the Secretary must give the applicant an information notice for the decision.

7 Suitability of applicant to hold gaming licence

- (1) In deciding, for section 6(2)(a), whether the applicant is a suitable person to hold the licence, the Secretary may consider any relevant matter, including the following:
 - (a) the character of the applicant;
 - (b) the financial position of the applicant;
 - (c) any other prescribed matter.
- (2) The applicant is taken not to be a suitable person to hold the licence if:
 - (a) the applicant has been refused a licence, or had a licence cancelled, within 12 months before the application is made; or

- (b) the applicant, or a person acting in the person's capacity as an agent or employee of the applicant, has contravened this Act within 5 years before the application is made.

8 Licence may be granted for period or event

- (1) A gaming licence may be granted:
 - (a) for the conduct of a game over a period; or
 - (b) for a single event.
- (2) However, a licence to conduct bingo may only be granted for a single event.

9 Form of licence

A gaming licence must:

- (a) be in writing; and
- (b) identify or describe:
 - (i) each game that may be conducted under the licence; and
 - (ii) each place at which the game may be conducted; and
- (c) state:
 - (i) the name of the licensee; and
 - (ii) the period of the licence; and
 - (iii) the conditions of the licence.

10 Conditions of licence

A gaming licence is subject to the following conditions:

- (a) the licence must be displayed at each place at which a game is conducted under the licence;
- (b) the game must be conducted in a competent and fair manner by a person who is at least 18 years old;

- (c) the licensee must ensure that each participant in the game is at least 18 years old;
- (d) the licensee must keep a record of any prescribed information;
- (e) the licensee must comply with this Act;
- (f) the licensee must not conduct a game under the licence at any place that is not specified in the licence as a place at which the game may be conducted;
- (g) any other conditions that are specified in the licence or prescribed;
- (h) if the licence fee for the licence has been waived under section 14 – the additional conditions specified in section 14(4).

11 Renewal of licence

- (1) This section does not apply to a gaming licence that is granted for a single event.
- (2) A licensee who wishes to renew a gaming licence must apply to the Secretary for the renewal at least 1 month before the licence expires.
- (3) If the application is not decided before the licence expires, the licence continues in force until the application is decided.
- (4) Sections 5 to 7 apply to the application as if it were an application for a new licence.

12 Variation of licence conditions

- (1) The Secretary may vary the conditions of a gaming licence:
 - (a) on the application of the licensee; or
 - (b) on the Secretary's initiative.
- (2) Before deciding to vary the conditions of a licence under subsection (1)(b), the Secretary must:
 - (a) give the licensee a proposed decision notice for the decision; and

- (b) consider any submissions received in response to the notice.
- (3) If the Secretary varies the conditions of a licence, the Secretary must issue a new copy of the licence to the licensee showing the new conditions.
- (4) Also, if the Secretary decides to vary the conditions of the licence under subsection (1)(b), the Secretary must give the licensee an information notice for the decision.

13 Suspension or cancellation of licence

- (1) The Secretary may suspend a gaming licence if:
 - (a) the Secretary suspects on reasonable grounds that the licensee:
 - (i) has failed to comply with a condition of the licence; or
 - (ii) is no longer a suitable person to hold the licence; and
 - (b) the suspension is necessary while the Secretary determines whether the licence should be cancelled.
- (2) If the Secretary suspends the licence, the Secretary must give the licensee a notice specifying:
 - (a) the reason for the suspension; and
 - (b) the circumstances in which the suspension will be lifted.
- (3) The Secretary must cancel a gaming licence if:
 - (a) the licensee is convicted of an offence against section 22 (failure to comply with a licence condition); or
 - (b) the Secretary believes on reasonable grounds that the licensee is no longer a suitable person to hold the licence.

- (4) The Secretary may cancel a gaming licence if the Secretary believes on reasonable grounds that the licensee has failed to comply with a licence condition, even if the licensee has not been charged with or convicted of an offence against section 22.
- (5) Before deciding to cancel a gaming licence, the Secretary must:
 - (a) give the licensee a proposed decision notice for the decision; and
 - (b) consider any submissions received in response to the notice.
- (6) If the Secretary decides to cancel the licence, the Secretary must give the licensee an information notice for the decision.

14 Waiver of licence fee

- (1) A person may apply to the Secretary for waiver of the licence fee for a gaming licence to conduct one of the following games for a charitable purpose:
 - (a) a raffle;
 - (b) karti.
- (2) The Secretary may waive the fee if the Secretary is satisfied that the primary purpose of conducting the game is to raise funds for a charitable purpose.
- (3) The Secretary may only waive the fee in relation to a licence for a single event.
- (4) In addition to the conditions mentioned in section 10(a) to (g), a gaming licence for which the fee is waived under this section is subject to the following conditions:
 - (a) the following matters must be included on all tickets for the game or displayed at all places where tickets for the game can be obtained:
 - (i) the charitable purpose for which funds will be raised (which must be the same as the charitable purpose stated in the application for the waiver);
 - (ii) the minimum percentage of funds raised by the game that will be used for the charitable purpose;

- (b) the percentage disclosed under paragraph (a), or more, of the funds raised by the game must be used for the charitable purpose stated in the application for the waiver.

15 Refund of licence fee – refusal to grant licence

- (1) This section applies if:
 - (a) a person applies for a gaming licence; and
 - (b) the person pays the licence fee for the licence; and
 - (c) the Secretary refuses to grant the licence.
- (2) The Secretary must refund the licence fee to the person.

16 Refund of licence fee – return of licence

- (1) This section applies if:
 - (a) a person applies for a gaming licence to conduct a game; and
 - (b) the person pays the licence fee for the licence; and
 - (c) the person does not conduct a game under the licence at any time:
 - (i) for reasons beyond the person's control; or
 - (ii) because the licence has been issued subject to conditions that the licensee is not willing to accept.
- (2) The person may return the licence to the Secretary within 14 days after it is granted.
- (3) If the person returns the licence under subsection (2), the Secretary must refund the licence fee to the person.
- (4) For subsection (1)(c), a person conducts a game if the person:
 - (a) begins the game; or
 - (b) accepts bets or sells tickets for the game.

PART 3 – OFFENCES

17 Arranging unlawful gaming and betting

A person commits an offence if the person arranges:

- (a) an unlawful game; or
- (b) unlawful betting.

Maximum penalty: \$50,000 and 2 years imprisonment

18 Conducting unlawful gaming or betting

A person commits an offence if the person conducts:

- (a) an unlawful game; or
- (b) unlawful betting.

Maximum penalty: \$50,000 and 2 years imprisonment

19 Person in charge of place used for unlawful gaming or betting

(1) A person commits an offence if the person:

- (a) is in charge of a place being used for the conduct of an unlawful game; and
- (b) knows the place is being used for the conduct of an unlawful game.

Maximum penalty: \$10,000 and 6 months imprisonment

(2) A person commits an offence if the person:

- (a) is in charge of a place being used for the conduct of unlawful betting; and
- (b) knows the place is being used for the conduct of unlawful betting.

Maximum penalty: \$10,000 and 6 months imprisonment

20 Advertising unlawful gaming or betting

A person commits an offence if the person:

- (a) places, displays or broadcasts an advertisement for an unlawful game or unlawful betting; or
- (b) does anything else that promotes, or entices a person to participate in, an unlawful game or unlawful betting.

Maximum penalty: \$10,000 and 6 months imprisonment

21 Participating in unlawful gaming or betting

(1) A person commits an offence if the person:

- (a) participates in an unlawful game; and
- (b) knows the game is an unlawful game.

Maximum penalty: \$10,000 and 6 months imprisonment

(2) A person commits an offence if the person:

- (a) participates in unlawful betting; and
- (b) knows the betting is unlawful betting.

Maximum penalty: \$10,000 and 6 months imprisonment

22 Failure to comply with licence condition

A licensee for a gaming licence commits an offence if the licensee fails to comply with a condition of the licence.

Maximum penalty: \$20,000 and 12 months imprisonment

PART 4 – REVIEWABLE DECISIONS

23 Review of decision

(1) A person who is entitled to be given an information notice for a decision may apply to the Minister for review of the decision.

- (2) The application for review must be made within 28 days after:
 - (a) if the person receives an information notice for the decision – the day the person receives the notice; or
 - (b) if the person does not receive an information notice for the decision – the day the person becomes aware of the decision.
- (3) The application must be in writing and must set out the reasons for the application.
- (4) To decide the review, the Minister must:
 - (a) affirm the decision; or
 - (b) vary the decision; or
 - (c) set aside the decision and substitute a new decision.

PART 5 – ENFORCEMENT

24 Appointment of authorised officers

The Secretary may appoint a person to be an authorised officer.

25 Identity cards

- (1) The Secretary must issue to a person appointed as an authorised officer an identity card:
 - (a) specifying the person's name; and
 - (b) including a recent photograph of the person; and
 - (c) stating that the person is an authorised officer for this Act.
- (2) A person who has been issued with an identity card under subsection (1) and ceases to be an authorised officer must return the card to the Secretary as soon as practicable.

Maximum penalty: \$50

- (3) Subsection (2) does not apply if the person has a reasonable excuse.

26 General powers and functions of authorised officers

- (1) An authorised officer has the following powers and functions:
 - (a) to ensure this Act is complied with;
 - (b) any other powers or functions given to the officer by this Act or another written law.
- (2) When exercising a power or performing a function, an authorised officer is subject to the directions of the Secretary.

27 Powers of entry and investigation – authorised officers

For the performance of an authorised officer's functions, an authorised officer may:

- (a) enter:
 - (i) a public place; or
 - (ii) a place that is used as commercial premises, including any part of the place (other than a residential part of the place) to which access is ordinarily restricted to persons who own, manage or are employed at the place; and
- (b) do any of the following:
 - (i) inspect the place or anything found at the place;
 - (ii) open a container, receptacle or package found at the place;
 - (iii) seize and remove anything found at the place;
 - (iv) require a person at the place to answer questions, produce a document or thing under the person's control or give any other assistance the officer requires to carry out his or her functions;
 - (v) examine, copy or take extracts from a document found at the place;
 - (vi) take photographs, films or audio, video or other recordings.

28 Powers of entry and investigation – police officers

A police officer may enter any place, including residential premises, and do anything mentioned in section 27(b), if the police officer reasonably believes doing so may disclose evidence of, or otherwise relates to, an offence against this Act.

29 Obstruction of authorised officer

A person must not obstruct an authorised officer exercising a power or performing a function under this Act or another written law.

Maximum penalty: \$10,000 and 6 months imprisonment.

30 Complaints about licensee

A person may complain to the Secretary about the conduct of a licensee in their capacity as a licensee.

PART 6 – ADMINISTRATIVE MATTERS

31 Regulations

- (1) Cabinet may make regulations under this Act.
- (2) Without limiting subsection (1), the regulations may:
 - (a) prescribe the fees payable under this Act;
 - (b) prescribe, as a condition of a gaming licence, a requirement for the licensee to pay a bond, to be held by the Republic, as security for prize money offered by the licensee in relation to a game conducted under the licence; and
 - (c) give a person discretion to decide a matter; and
 - (d) apply, adopt or incorporate (with or without changes) the whole or part of a document as in force or existing at a particular time or from time to time.

PART 7 – REPEALS AND TRANSITIONAL MATTERS

Division 1 – Repeals

32 Repeal of Acts

The following Acts are repealed:

- (a) *Street Betting Act 1970*;
- (b) *Sporting Pools Act 1968*;
- (c) *Bingo Licensing Act 2008*.

Division 2 – Transitional matters

33 Definitions

In this Division:

‘commencement date’ means the date this Act commences;

‘repealed Act’ means an Act mentioned in section 32 as in force immediately before the commencement date.

34 Licence issued under repealed Act

- (1) A licence issued under a repealed Act is taken, from the commencement date, to be a gaming licence issued under this Act.
- (2) The licence continues to be valid until the date on which it would have expired under the repealed Act.
- (3) Subsection (2) does not prevent the Secretary from cancelling the licence under this Act.

35 Application under repealed Act

If an application for a licence made under a repealed Act has not been decided immediately before the commencement date, the application is, from the commencement date, taken to be an application for a gaming licence made under this Act.

36 Transitional regulations

- (1) The regulations may make provision (a ***'transitional regulation'***) about a matter for which:
 - (a) it is necessary to make provision for the transition to the operation of this Act; and
 - (b) this Act does not make provision or sufficient provision.
- (2) A transitional regulation may have retrospective operation to a date not earlier than the commencement date.
- (3) However, to the extent to which a transitional regulation has retrospective operation, it does not operate to the disadvantage of a person (other than the Republic) by adversely affecting the person's rights or imposing liabilities on the person.
- (4) This section expires 12 months after the commencement date.

PART 8 – CONSEQUENTIAL AMENDMENTS

37 Amendment of Criminal Code 1899

Schedule 2 amends the *Criminal Code 1899*.

38 Expiry of Part

This Part expires the day after it commences.

SCHEDULE 1 – TABLE GAMES

section 3,
definition of **'table game'**

Baccarat
Blackjack
Casino war
Fan-Tan
Faro
Poker
Teen Patti
Two-up
Penny-up
Craps
Pai Gow
Sic bo
Big Six wheel
Roulette

SCHEDULE 2 – CONSEQUENTIAL AMENDMENTS

section 37

[1] Repeal of sections 232 to 234

Sections 232, 233 and 234

repeal

[2] Amendment of section 235

2.1 Section 235, heading

omit

all the words from “, **Gaming**” to “**Lotteries**”

2.2 Section 235

omit

the four preceding sections

substitute

section 231

[3] Repeal of section 637

Section 637

repeal