

Casino order, 1989

[Date of commencement: See Section 1]

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ORDER

To provide for the management, control and licensing of casinos and to provide for matters connected therewith.

PARTI- PRELIMINARY

Short title and commencement

1. This order may be cited as the Casino Order, 1989, shall come into operation on a date to be fixed by Minister by notice in the Gazette.

Interpretation

2. In this Order, unless the context otherwise requires, "Accountant General" means the officer appointed as or for the time being acting as Head of the Treasury Division in the Ministry of Finance;

"Authorization" means authorizing granted under section 8 to establish and operate a casino in Lesotho;

"Board" means the Casino Board established under section 3;

"Casino" means the specific area in premises in respect of which a casino license is in force and includes gaming rooms in a hotel:

"game" means a game of chance played for money or any counter or chip representing money, or any article of value;

"Gaming" means the participation by anyone, either directly or indirectly, in a game:

"Gaming device" means any scheme, device, contrivance or machine by means of which a game can be played or gaming can take place:

"Gaming room" means a room in a casino for the playing of games;

"Holder" means the holder of an authorization granted under section 8;

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"Hotel" has the meaning assigned to it in the Hotels and Restaurant Act, 1984

"License" means a casino license granted under section 10, Minister means the Minister responsible for Tourism, Sports and Culture;

"slot machine" means any mechanical, electrical or other device, contrivance or machine, which, upon insertion of a coin, token or similar object therein or upon payment of any consideration or submission of or in exchange for anything of value, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator or application of the element of chance or both, may pay or entitle the person operating or playing the machine to receive cash or anything else of value, either immediately or at any future stage, but shall not pertain to devices, contrivances or machine which have entertainment as their sole purpose, and which do not entitle the player or operator thereof to receive cash or anything else of value either at the conclusion of playing or operation of such device, contrivance or machine, or at any future stage;

"Sub-lease" means a sub-lease of one or more parts of a casino approved under section 21.

PART II- THE BOARD

Establishment of the Board

3.(1) There is established a Board to be known as the Casino Board.

(2) The Board shall consist of the following members;

- a) The principal Secretary for the Ministry of Tourism, Sports and Culture, who shall be chairman;
- b) The principal Secretary for the Ministry of Finance;
- c) The Managing Director of Lesotho Tourist Board;
- d) The commissioner of Police; and
- e) The Commissioner of Income Tax.

Powers and duties of the Board

4.(1) The Board shall have power to issue, amend, renew, suspend- and revoke authorization and licenses in accordance with this Order or any regulations made there under

(2) The Board or a person authorized by the Board may;

- a) Inspect and examine any premises wherein gaming is conducted or where gaming devices are kept
 - b) Inspect all equipment upon or about such premises;
 - c) Seize, remove and impound from such premises, any equipment or supplies for the purpose of examination and inspection;
 - d) demand access to, to inspect and examine, photocopy and audit all books, documents and records of applicants or licensee, respecting the income produced by any casino and require verification of any matter that requires verification;
 - e) Compel any person to give any information in his knowledge which concerns a casino, as the Board may require;
 - f) Demand from a licensee the payment of fees, taxes or levy payable under section 20;
 - g) Monitor gaming activities so as to ensure adherence to the rules of the game made by the holder of an authorization in terms of section 27(2);
 - h) Conduct investigations in respect of;
 - I. Complaints made by patrons; and
 - II. Any criminal activities relating to casinos;
- (i) Consider appeals by persons refused entry into or ejected from a casino in terms of section 25

(3) The Board may authorize in writing a person to perform its duties and exercise its powers under this section.

Meeting of the Board

5.(1) The Board shall meet once every two months whenever the business of the Board so requires.

(2) Three members of the Board shall constitute a quorum

(3) All decisions of the Board shall be arrived at by the vote of the majority of the members present

(4) The chairman shall preside at all meetings of the Board in his absence; the members present shall elect one of the members to preside

(5) The chairman or other person presiding shall, in the case of an equality of votes, have a deliberative as well as a casting vote.

(6) Subjective to this section, the Board may regulate its procedure at meetings.

PART III- AUTHORIZATION AND LICENCING

Board to grant authorization and licenses

6. The Board shall be responsible for the issue of authorizations and licenses under the order.

Application for authorization and objections

7.(1) Subject to subsection (2), an application for authorization to establish and operate a casino shall be made to the Board in the prescribed form.

(2) The applicant, who shall be a company, shall, at least 30 days prior to the date of making the application, give to the Board notice in writing of its intention to apply for an authorization and the Board shall cause the notice to be published in the Gazette

(3) Any person may, within 30 days of the making of an application for an authorization, lodge an objection to the application in the prescribed form.

Grant of Authorization

8.(1) Subject to this Order, the Board may grant and cause to be issued to an applicant, on such terms and conditions as it may determine, which may include exclusive protection of the proposed casino business, an authorization to establish and operate casinos, if the applicant,

- a) Satisfies the Board that it has adequate financial means to develop the casino industry in Lesotho;
- b) Satisfies the Board that its directors are persons of integrity;

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- c) Is registered in Lesotho as a company Limited by shares in terms of the Companies Act, 1967;
- d) Satisfies the requirements of section 10(1), in respect of the granting of a casino license.

(2) Notwithstanding the provision of any other law, the Board shall be notified of any addition to the director, or the replacement of a director, of the company holding the authorization and, if the Board is not satisfied that a new director is a person of integrity, require the holder to elect a person whose integrity satisfies the Board as the new director

Application for license and objections

9. (1) Subject to subsections (2) and (3) the holder of an authorization wishing to operate

- a) slots machines only; or
- b) slots machines and any other games shall make an application to the Board for the issuance of a license,

(2) The applicant shall, at least 30 days prior to the date of making the application, give to the Board notice in writing of its intention to apply for a license and the Board shall cause the notice to be published in the Gazette

(3) An application for a license under subsection (1) shall be made in prescribed form and shall be accompanied by prescribed fee and such documents, samples and other material as may be prescribed.

(4) Any person may, within 30 days of making of an application for a license, lodge an objection to the application in the prescribed form

Grant of licenses

10. (1) Where an application is made to the Board in accordance with section 9. The Board may grant and cause to be issued to the holder of an authorization a casino license in respect of each casino to be established and operated by that holder, if the holder,

- a. Satisfies the Board that it will own or operate the whole of the casino in question, with such security of tenure as the Board deems adequate and that will, except as otherwise provided in accordance with a sub-lease approved under section 21, manage or procure the management of the operation of the whole of the facilities of the casino on such terms as the Board may deem acceptable:
 - b. Undertakes that the casino shall be composed of
 - I. Buildings, furnishings and other improvements of value equal to or exceeding an amount specified by the Board, of which amount not less than a percentage specified by the Board shall be in respect of facilities other than gaming devices; and
 - II. Such facilities as the Board may require or approve, which facilities may include hotel rooms, restaurant, swimming pools, conference rooms, gaming rooms, bars and other facilities consisting the same premises;
 - c. Satisfies the Board that it has adequate financial means to establish the casino in accordance with the requirements of paragraph(b) and to operate the casino at such standard of quality as is acceptable to the Board:
 - d. Undertakes, within the period fixed under section 22,
 - to submit to the Board, for its approval, plans and specification of the casino; and
 - upon obtaining that approval, to commence, carry on and complete the necessary works:
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- e. Satisfies the Board that the casino will be operated in premises which are licensed to be used as a hotel in terms of the Hotels and Restaurants Act, 1984.

(2) The Board may require the holder of an authorization to deposit with the Accountant –General such security or guarantee as the Board may reasonably consider adequate for meeting any obligations the casino incurs to persons gaming therein.

(3) Subject to this Order, each license shall contain such terms and conditions as the Board may think fit to impose with regard to the machines and other games to be played in the casino and the operation of a casino generally, and may afford exclusive protection to the licensee.

Refusal to grant authorization or license

11.(1) Where the Board decides not to grant an authorization or a license, it shall, within one month of its decision, notify in writing the applicant and the objector, if any, of its decision.

(2) The applicant for, or any objector, to grant of an authorization or a license who is aggrieved by the decision of the Board under subsection (1) may, within 30 days of the decision being communicated to him, appeal in writing to the Minister and, subject to section 19 (!) and (2), the decision of the Minister in respect of an appeal under this section shall be final.

Duration and renewal of authorization and licensee

12.(1) subject to this Order,

- a) An authorization shall be valid for a period of 10 years from the date of the commencement of the applicant's casino business: and
- b) A casino license shall be valid for so long as the authorization in respect of which the license was granted, is valid, but may be renewed on such terms and conditions as the Board may determine,

including exclusive protection for the holder of the Authorization and the licensee.

(2) An application for the renewal of an authorization or license shall be made 2 years prior to the expiry of the authorization or license, shall be made in the prescribed form and accompanied by the prescribed fee and such documents and other material as may be prescribed.

(3) The applicant shall, least 390 days prior to the date of the making of the application for renewal, give to the Board notice in writing of its intention to apply for the renewal of an authorization or a license and the Board shall cause the notice to be published in the Gazette.

(4) Any person, may, within 30 days of making of an application for the renewal of an authorization or license, lodge an objection to the application in the prescribed form.

(5) Where the Board decides not to renew an authorization or a license, it shall, within 30 days of its decision, notify the applicant in writing of its decision.

(6) A person aggrieved by the decision of the Board not to renew an authorization or license may, within 30 days of the decision being communicated to him, appealed in writing to the Minister.

(7) Pending the decision of the Minister pursuant to an appeal made under subsection(6) o section 11(2) or any outcome of review proceedings applied for under section 19.

- a) The decision of the Board which is the subject of an appeal or review shall have no effect; and
- b) The Board shall not issue any authorization or licenses to other applicants in terms of section 17(4).

Authorization and license not transferrable

13. Neither an authorization nor license will be transferrable.

Register

14. The Board shall keep a register of all authorization and licenses.

Temporary and duplicate license

15. The Board may, on payment of the prescribed fee.

- a) Grant a temporary casino license to enable the licensee to wind up its activities or otherwise for any good cause as the Board may determine;
- b) Grant a duplicate license to a licensee whose license has been lost, defaced or mutilated.

Exhibition of license

16.A license shall.

- a) Exhibit the license in a conspicuous place at the entrance of the place of business;
- b) Produce the license to the Board or to a person authorized by the Board when so required.

Revocation or surrender of authorization or license

17.(1) The Board may, at any time, revoke or refuse to renew an authorization if;

- a) Any information given to the Board by the holder of the authorization for the purposes of obtaining the grant of that authorization was, at the time the information was given, false in a material particular.
- b) The holder of an authorization has, without reasonable excuse, failed to comply with a term or condition of that authorization or with a requirement of this Order applicable to that holder,
- c) the licensee under an authorization commits three times within twelve months an offence involving the permitting of drunkenness or violent, riotous or quarrelsome conduct within a casino; or
- d) The managing director or order officer managing the company holding an authorization;
 - I. Has been convicted in a court, whether within or outside Lesotho, of a criminal offence involving dishonesty and relating to the operation of a casino, and has been sentenced to imprisonment without the option of a fine; and
 - II. Has not received a free pardon in respect of that offense.

(2) The Board may, at any time, revoke or refuse to renew a license in respect of the premises;

- a) The licensee ceases, without the consent of the Board or except as provided in the sublease in respect of the premises;
 - I. To be the owner or operator of the whole of that casino, or
 - II. To manage or procure the facilities of the management of the operation of the whole of that casino, or
- b) The casino or part thereof, ceases to carry on business in accordance with this Order and the terms and conditions of the license.

(3) The holder of an authorization may surrender the authorization or license on such conditions as the Board may stipulate.

(4) where the authorization or license has been revoked, surrendered or not been renewed, as the case may be, the Board may, subject to section 12 (6) and (7) in the case of renewal, grant and cause to be issued to some other applicant an authorized and one or more licenses pursuant to such authorization in respect of the same or other casinos, but shall not do so whilst an authorization is in force.

Revocation of authorization or license following conviction

18.(1) where the managing director or other officer managing the company holding an authorization,

- a) Has been convicted in a court, whether within or outside Lesotho, of a criminal offence relating to the operation of a casino and sentenced to imprisonment without the option of a fine; and
- b) Has not received a free pardon in respect of the offence the Attorney General may make application to be the Board for revocation of the authorization or license.

(2) The application shall be heard at a special meeting of the Board.

(a) Of which the Board shall give the Attorney General and the holder of the authorization, notice; and

(3) On the hearing of the application, the Board may, if good cause is shown, revoke the authorization or the license.

(4) Upon the Board reaching a decision, it shall communicate the decision forthwith to the Attorney- General and the Holder of the authorization.

Review by High Court within a specified period

19.(1) where

- a) The applicant for, or any objector to the grant of an authorization or a license,
- b) The holder of an authorization or the licensee; or

- c) The applicant for the renewal of an authorization or a license, who is aggrieved by the decision of the Board or the Minister, or both, wishes to have such decision reviewed by the High Court, it may, within 30 days of it being communicated to it, apply to the High Court for a review of such decision.

(2) where the holder of an authorization or the licensee who aggrieved by the decision of the Board, or the Minister, or both, to revoke its authorization or one or more of its licenses wishes to have such decision reviewed, it may, within 30 days of the decision being communicated to it, apply to the High Court for review of such decision.

(3) Where an authorization or a license is revoked.

- a) The authorization or license shall be deemed to remain in force during the period within which review may be applied for under this section, and
- b) After such review is applied for, a judge of the High Court may, by order, suspend the revocation until the determination or abandonment that application.

PART IV- GENERAL

License fees, gaming levy and income tax

20. There shall be paid to the Commissioner of Income Tax or to such other person as the Commissioner of Income Tax may appoint, in respect of each casino licensed under this Order, such license fees, levies, taxes and other payments as the Minister may prescribe,

Sub-letting parts of casino

21.(1) A licensee may, with the prior approved of the Board, sublet one or more parts of a casino to one or more persons to provide facilities other than those of gaming.

(2) Such sub-lease shall be subject to such conditions as the Board deems fit to impose in respect of matters conducive to the better operation of these facilities and the furtherance of the objects of this Order.

(3) The Board may withdraw its approval of a sublease for breach of a condition imposed by the Board or for breach of a provision of this Order.

(4) such sublease in no way relieves the licensee from responsibility for ensuring compliance, in respect of any part which may be sublet, with any conditions imposed by Board or with the provisions of this Order.

Plans and specifications

22.(1) The holder of an authorization shall submit to the Board for its approval in accordance with section 10(1) (d), plans and specifications of each proposed casino within a period of 6 months from the date of the grant of the authorization.

(2) The holder of an authorization shall complete each proposed casino in accordance with the plans and specification so approved within a period of 12 months, or such longer period as the Board may determine, from the date on which the Board gives a final approval, in respect of the casino, to the plans and specifications submitted under section (1)

Approval of plans and specifications

23. The Board shall not approve the plans and specifications referred to section 22 unless the casino established in accordance with the plans and specifications conforms to such standard of amenity, appearance and comfort as acceptable to the Board.

Counting rooms

24.(1) A licensee shall comply with all the conditions relating to counting rooms as the Board may prescribe.

(2) Where a licensee fails to comply with any condition relating to counting rooms, the Board may suspend its license for such period as the Board may determine.

Right of refusal of admittance and right of ejection

25.(1) The holder of an authorization or a licensee or an agent or employee of such holder or licensee, may refuse for such period as is considered reasonable, to admit to, or may turn out of the premises of the casino, or any part of such premises, using such force as is reasonably necessary, any person who is drunk, violent, quarrelsome or disorderly, whether drunk or not and any person whose presence on those premises or whose behavior might constitute an offence or a contravention by the holder of an authorization or the licensee in respect of any provision of this Order, the regulations made there under or in respect of any terms or conditions or of an authorization or a license or in respect of any provision of any other law.

(2) A police officer is required, at the request of the holder of the authorization license, or an agent or employee of each holder or licensee, to eject or assist in ejecting every such person from such premises or part thereof, and may use such force as may be reasonably necessary for that purpose.

(3) A person who is refused entry into or who has been ejected from the premises of a casino by the holder of an authorization or licensee may appeal to the Board against the decision of such holder or licensee.

(4) The Board may confirm or revoke the decision of the holder of an authorization or the licensee as it may deem appropriate and the decision of the Board in respect of an appeal under this section shall be final.

Citizens of Lesotho to participate in games only on cash basis

26. The holder of an authorization or licensee shall take all reasonable precautions to ensure that citizens of Lesotho participating in games in a casino only on cash basis which, for purposes hereof, shall include travelers' cheques, but exclude personal cheques, credit cards and other forms of credit.

Operation of casino

27.(1) The holder of an authorization or licensee shall;

- a. Take all reasonable precautions to ensure that no person under the age of 18 years is present in a casino;
- b. Ensure that operation of each casino complies with standards of decency, dignity, honesty and good taste acceptable to the Board;
- c. The accordance with the conditions of the authorization and the relevant license, permit and organize in each casino the playing of games with slot machines or other gaming devices;
- d. Operate, except as otherwise provided by a sub-lease, the hotel part of each casino in accordance with any conditions of the relevant license; and
- e. Generally operate each casino in accordance with this Order.

Right of certain police officers to enter and search casino and seize slot machines, etc.

28. Notwithstanding anything to the contrary in any other law contained, a police officer of the rank of warrant Officer Class I or above may, upon properly identifying himself, at any time and without any search warrant, enter and search a casino and seize there from any slot machine or other gaming device, for the purpose of preventing or investigating the commission of an offence.

Accounts and audit

29.(1) A licensee shall keep such books of account and records of transactions as the Board may require.

(2) A licensee shall cause to be audited his books by an auditor appointed by him with the approval of the Board.

PART V- PENAL PROVISIONS

Prohibition of operation of a casino without a license

30.(1) No person shall operate a casino in any place, unless he holds a license for that purpose under this Order.

(2) A person who contrives subsection (1) commits an offence and is liable on conviction to a fine of M10, 000 or to imprisonment for a period of 10 years.

Prohibition of gaming by certain persons

31.A person, other than a director of the company holding an authorization 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) Participants in the playing of a game or in the playing of a slot machine or other gaming device in the casino, save in so far as he may be required to do so by the nature o his employment in conducting the game so as to enable other persons to play at the game. Commits an offence and is liable on conviction to a fine of M5, 000 or imprisonment for a period of 5 years.

Failure to produce documents, or to give information, etc.

32.A person who, being the holder of an authorization or a licensee,

(a) Upon being required by the Board or a person authorized by the Board to do so under section 4(2) (d),

- i. Fails or refuse to permit the Board or a person authorized by the Board to have access to, inspect, examine, photocopy or audit any books, documents and records of applicants or licensees relating to the income produced by a casino, or
- ii. Fails or refuses to give verification on any matter that requires verification; or

(b)Upon being required by the Board or a person authorized by the Board to do so under section 4(2) (e), fails or refuses to give any information in his knowledge concerning a casino. Commits an offence and is liable on conviction to a fine of M10, 000 or to imprisonment for a period of 10 years.

Other offences and penalties

33.(1) No person shall,

- a. Use counterfeit chips or substitute and use in any such games , cards or dice that have been marked or tempered with;
- b. Employ or have on his person any cheating device to facilitate cheating in gaming
- c. Use any fraudulent scheme or technique including but not limited to purposefully breaking or damaging any part of any slot machine or otherwise causing the machine to malfunction to facilitate the alignment of any winning combination or the removal of money from the machine;
- d. In playing or using any slot machine, knowingly use any coin that is not Lesotho's legal tender or use of any other token or method of operation which does not correspond with the manner in which the slot machine or other gaming device has been designed or intended to be used by the supplier thereof or by the licensee concerned;
- e. Use any heating device, including magnetic or electronic devices to unlawfully facilitate aligning any winning combination or removing from any slot machine any money or other contents thereof;
- f. Not being a gaming employee, have on his person while on the licensed establishment. Any device designed for the purpose of and suitable for opening and entering any slot machine or drop-box.

(2) Any person who contravenes subsection (1) commits an offence and is liable on conviction to a fine of M300 or to imprisonment for a period of 3 months.

(3) A person who fails, or an employer who either himself or by a person in his employ or acting with his consent fails or refuses to admit a police officer to enter a casino in terms of section 28, commits an offence and is liable,

- a) for a first offence, to a fine M500 or to imprisonment for a period of 6 months; and
- b) for a subsequent offence, to a fine of M1,000 or imprisonment for period of 1 year

(4) A person who, upon being requested by the holder of an authorization of the licensee or agent or employee of such holder or licensee, or any member of the police force, to leave such premises or part thereof, fails or refuses to do so, commits an offence and is liable on conviction to a fine of M500 or imprisonment of 5 months.

Forfeiture

34.(1) Where a person who is employed by or is acting for or on behalf of the holder of an authorization or licensee, is convicted of an offence under this order the court may order that any slot machine or other gaming device to which the conviction relates shall be forfeited to the Government.

(2) Anything forfeited to the Government under subsection (1) shall be disposed of in such manner as the Minister may direct.

PART VI- FINAL AND SUPPLEMENTARY PROVISIONS

Indemnity

35.The Government shall not be liable at the suit of any person in respect of anything done or omitted to be done by the holder of an authorization or licensee in relation to the establishment or operation of a casino.

Regulations

36.(1) The Minister may make regulations for the better carrying out of the provisions of this Order and on any matter incidental thereto.

(2) Without prejudice to the generally of sub-section (1), the Minister may make regulations.

- a) Prescribing any fees, gaming levy, taxes and other payments payable under section 20;
- b) Prescribing all forms and reports for the administration and collection of fees, taxes and other payments payable under section 20;
- c) Prescribing the details, maps, plans and all materials to be supplied by the applicant;
- d) Prescribing the procedure for the counting of money in the counting rooms;
- e) Prescribing which persons may operate gaming establishment;
- f) Prescribing the minimum requirements or standard to be maintained by a licensee;
- g) Prescribing anything which under this Order he has power to prescribe.

Lotteries Act 1975 not to apply to casinos A. 10 OF 1975

37.The provisions of the lotteries Act 1975 and the provisions of any law prohibiting the promotion or operation of or the participation in gaming or lotteries shall not apply to any casino.

Repeals and savings A. 26 OF 1969

38.(1) The casino Act, 1969 is repealed.

(2) The repeal effected by subsection(1) shall not affect any rights conferred by or liabilities imposed under any agreement relating to the operation of a casino in Lesotho, entered into between the Government and any person before the commencement of this Order, so far as such rights and liabilities continued to subsist immediately before the commencement of this Order.

(3) Any person relying on the provisions of subsection (2) shall,

- a) until the expiry of its agreement referred to in subsection (2), be deemed to be the holder of an authorization and a licensee under this Order and on terms of the aforesaid agreement, in respect of each casino operated by it immediately prior to the commencement of this Order;
- b) During the period intended by paragraph (a), be entitled to avail itself of the rights conferred on holder of authorization and licenses by this Order;
- c) Upon the expiry of its agreement referred to in subsection (2), be entitled to apply for the renewal of its authorization and its license in accordance with the provisions of this Order.

