

GAMING ACT

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PART I - PRELIMINARY

1 Short title

This Act may be cited as the Gaming Act.

2 Interpretation

In this Act –

"agent of a foreign pool promoter" means a person who, on behalf of a foreign pool promoter, issues, or receives with stake money, pool coupons or other forms;

"Board" means the Gaming Control Board established by section 51;

"collector" means a person who, on behalf of a pool promoter or of an agent of a foreign pool promoter, issues or receives with stake money, pool coupons or other forms;

"Commissioner" has the same meaning as in the Value Added Tax Act 1998;

"foreign pool promoter" means a person who carries on a business involving the receiving or negotiation of bets by way of pool betting outside Mauritius in relation to sporting or other events taking place outside Mauritius;

"gaming house" means any premises used for playing a game specified in the second column of the Second Schedule;

"gaming house licence" means a licence specified in the first column of the Second Schedule;

"horse-racing organiser" has the same meaning as in the Horse Racing Board Act 2003;

"licence" means a licence issued under this Act;

"licensee" means the holder of a licence;

"licensing authority" means the Board;

"lottery"-

(a) means an arrangement for the distribution of prizes by chance among persons holding tickets, slips or other means of giving right to the chance, but

(b) does not include a lotto lottery or sweepstake;

"lotto lottery" means a form of lottery organised in such manner and on such conditions as may be prescribed;

"Magistrate" means any District Magistrate in Mauritius or the Magistrate for Rodrigues;

"member" means a member of the Board;

"Minister" means the Minister to whom responsibility for the subject of finance is assigned;

"officer" means a person authorised in writing by the Commissioner, the Board or the Commissioner of Police to perform the duties of an officer under this Act;

"pool betting" means any form of betting or gambling which requires to be licensed under Part III;

"pool promoter" means a person who carries on a business involving the receiving or negotiating of bets by way of pool betting in Mauritius but does not include the agent of a foreign pool promoter or a collector;

"premises" includes any house, building, ship, boat, vehicle and any open or enclosed area;

"promoter's commission" means, in relation to pool betting, the amount by which the aggregate total stakes in all the competitions exceed the sum of -

(a) the aggregate prizes in the competitions;

(b) the aggregate pool betting duty and tax payable in respect of the competitions; and

(c) the expenses of the promoter actually incurred by him in the conduct of the competitions excluding any expenses properly chargeable to capital and any interest on borrowed money, and in particular, excluding any provision for depreciation of buildings or equipment, any emoluments payable to the promoter, or any emoluments payable to any person whether or not those emoluments depend to any extent on the profits of the promoter;

"qualified auditor" means any person -

(a) who holds such qualifications as may be approved by the Minister; or

(b) who, in the opinion of the Minister, has obtained adequate knowledge and experience in the course of his employment with any person who holds qualifications approved under paragraph(a);

"Sweepstake" means a form of lottery where the winner is determined by a draw and the result of a race organised by a horse-racing organiser;

PART II - GAMING HOUSES

4 Licensing of gaming houses

No person shall operate a gaming house unless he holds the appropriate licence.

4A Deposit by gaming house licensees

Every holder of a gaming house licence, other than a casino licence or a coin-operated gaming machine licence, shall deposit with the Commissioner, the sum of-

(a) in the case of a gaming house "A" licence, 100,000 rupees;and

(b) in the case of a gaming house "B" licence, 25,000 rupees.

5 Authorised games

No games shall be played or authorised to be played in a gaming house except those specified in the second column of the Second Schedule in respect of the licence issued for that gaming house.

6 Exhibition of notices

Every person licensed under this Part shall, at all times when a gaming house is open for the playing of games, exhibit and maintain in a conspicuous place in the gaming house a notice indicating -

(a) the games authorised to be played and the maximum stakes approved by the Board;

(b) the rules appertaining to any game as approved by the Board;
and

(c) such other conditions of the licence as the Board may require him in writing to include in the notice.

7 Repealed

8 Coin-operated gaming machines

(1) The Board may, with the approval of the Minister and subject to such conditions as it thinks fit, grant licences in respect of coin-operated gaming machines.

(2) Coin-operated gaming machines may be installed only at such places as may be determined by the Board.

9 Access to gaming houses

(1) No premises shall have access, directly or indirectly, to a gaming house.

(2) Nothing in subsection (1) shall be construed so as to prevent the issue, in respect of a gaming house, of one or more gaming house licences or any licence which may be issued in respect of a gaming house under any other enactment.

10 Prohibition on gaming by certain persons

(1) Subject to subsection (2), no person who is concerned in the management or control of a gaming house, or is employed in a gaming house, shall participate in the playing of any game in that gaming house.

(2) Subsection (1) shall not apply to a person who by the nature of his employment is required to participate in the playing of a game in a gaming house solely for the purpose of enabling other persons to play the game.

(3) No person under the age of 18 shall enter or be admitted to a gaming house.

11 Persons licensed under this Part

(1) Every person licensed under this Part shall –

(a) monthly at such time and in such manner as the Commissioner shall direct-

(i) pay, in addition to the licence fee payable under section 33, a tax at such rate on his monthly gross takings, or in such amount, as is specified in the Ninth Schedule; and

(ii) produce records of his gross takings;

(b) in the case of a casino, compute his gross takings according to such method as may be specified by the Minister; and

(c) where so directed by a written notice from the Commissioner, furnish such information relating to his business, and within such time, as may be specified in the notice.

[Amended 10/82; 44/84; 67/85; 23/92]

(2) Where any person contravenes subsection (1) or the Commissioner has reason to believe that any record produced or furnished under subsection (1) is incomplete, inadequate or incorrect, the Commissioner may -

(a) determine the gross takings of the casino, the coin-operated gaming machine or the gaming house, as the case may be, in such manner as he considers reasonable; and

(b) levy the tax payable under subsection (1)(a) on the gross takings as determined by him under paragraph (a) and give written notice thereof to the licensee.

(3) (a) The tax leviable under subsection (2) shall be paid not later than 28 days after the date of issue of the notice.

(b) Subject to paragraph (c), no notice under subsection (2)(b) shall be given to the licensee after 5 years immediately following the last day of the month in which the liability to pay tax arose

(c) Paragraph (b) shall not apply in case of wilful neglect, evasion or fraud

(4) Any person who is aggrieved by a decision of the Commissioner under subsection(2) may lodge written representations with the secretary Assessment Review Committee, in accordance with section 8E of the Unified Revenue Act 1983.

(5) The tax levied under subsection (1) shall be in substitution of any tax payable by the licensee under the Income Tax Act.

(6) Every person licensed under this Part in respect of a casino, a coin-operated gaming machine, a gaming House"A" licence or a Gaming House "B" licence who fails to pay the tax on the day specified by the Commissioner under subsection (1)(a) shall be liable to a penalty -

(a) of 10 per cent of the tax for the first month or part of the month during which the tax remains unpaid: and

(b) of 2 per cent of the tax excluding the penalty for each subsequent month or part of the month during which the tax remains unpaid,

up to a maximum of 100 per cent of the tax.

PART III - POOL BETTING

12 Licensing of pool betting

No person shall be -

- (a) a pool promoter;
- (b) an agent of a foreign pool promoter; or
- (c) a collector,

unless he holds the appropriate licence.

13 Deposit by pool promoters and agents

Every pool promoter and every agent of a foreign pool promoter shall deposit with the Commissioner, the sum of 50,000 rupees.

14 Conduct of pool betting business

(1) Subject to the other provisions of this section, the pool betting business carried on by a pool promoter shall comply with the following requirements –

(a) it shall take the form of the promotion of competitions for prizes for making forecasts as to sporting or other events, the bets being entries in the competitions and the winnings in respect of the bets being the prizes or shares in the prizes;

(b) each bet shall be an entry in a particular competition;

(c) the stakes and the winnings shall be wholly in money;

(d) in each competition, the prizes shall be equally available from all the bets and accordingly the question which bets qualify for, or for shares in, the prizes and, save so far as it depends on the amounts staked, the amounts of the respective shares in the prizes, shall be determined solely by the relative success of the forecasts embodied in the respective bets;

(e) the total amount payable by way of winnings shall, in the case of each competition, be the total amount of the stakes in respect of entries in that competition less such percentage of that total amount representing commission and expenses as may be determined by the pool promoter, being the same percentage in respect of all competitions organised by him which depend on the same event or events taking place on the same day, but in no case exceeding 25 per cent of the total stakes;

(f) the rules applying to the competition shall be notified to and approved by the Board before the first of the relevant sporting or other events take place;

(g) if it is found that a bet which ought to have been treated as a winning bet has been overlooked, the pool promoter shall pay to the person making that bet the sum that would have been payable to the bettor had his winnings been assessed at the proper time, and any such sum paid under this paragraph shall be left out of account for the purposes of paragraph (e);

(h) the coupon or other form used for pool betting shall be in the form approved by the Board -

(i) subject to subsection (6);

(i) no bet by way of pool betting shall be made otherwise than by post sent direct by the bettor to the address of the pool promoter and no stake money for the purposes of the bet shall be remitted otherwise than by a postal order or money order; and

(ii) no prize money shall be paid otherwise than by a postal order, money order or cheque sent by the pool promoter to the bettor by registered post;

(j) no premium or bonus shall be awarded on any competition.

(2) Nothing in subsection (1)(b) shall be construed so as to prevent -

(a) several bets being made by a person relating to the same competition;

(b) several bets (whether relating to the same competition or to different competitions) being made by a person by means of the same coupon or other entry form; or

(c) the use of a formula for the purpose of making several bets, and in particular, the use for that purpose of any form of the device commonly known as a permutation.

(3) Notwithstanding subsection (1)(d) or (e), the rules applicable to any competition may provide -

(a) that the winnings shall not, in the case of any bet, exceed a stated amount and that any resulting decrease in the total amount payable in the case of the winning bets qualifying for, or for shares in, a prize in the competition shall be applied in increasing the amount payable in the case of the winning bet qualifying for, or for shares in another prize in that competition or in paying other prizes in that competition or in a subsequent competition;

(b) that, in specified circumstances, a prize shall not be paid and the amount which would have been payable in the case of the winning bet qualifying for, or for shares in, that prize shall be applied in increasing the amount payable in the case of the winning bet qualifying for, or for shares in, another prize in that competition, or in paying other prizes in that competition or in a subsequent competition;

(c) for the winnings of winning bets (being bets staking the minimum permissible under the rules of the competition) being increased or decreased (with a view to facilitating payment) so as to reach the nearest multiple of 25 cents and consequentially, for the winnings of winning bets (being bets staking more than the said

minimum) being increased or decreased so as to reach the nearest multiple of 25 cents.

(4) Nothing in subsection (1)(f) shall be construed so as to require, in the case of a series of competitions proposed to be held under the same rules, that those rules should be renotified to the Board on the occasion of each competition and, if the rules are altered before the series is completed, it shall suffice if the alteration is notified to and approved by the Board before any of the sporting or other events for the first competition to which the alteration applies takes place.

(5) Any prize money in excess of 2 rupees accruing to a bettor on any event shall be paid in full by the pool promoter to that person within a period of 15 days from the date of that event, and shall in no circumstances be placed to the credit of the bettor in any account with the pool promoter or any other person or be subject to any deduction in settlement of any debt incurred or to be incurred by the bettor towards the pool promoter.

(6) Where any bet by way of pool betting is placed through a collector, it may be made otherwise than by post and stake money may be remitted by a postal or money order or cheque or cash.

(7) No person shall enter or be allowed on the premises where a pool promoter or an agent of a foreign pool promoter carried on his business for the purposes of making a bet or in connection with a bet already made by him.

(8) No pool promoter shall conduct pool betting on any event before the day on which the event has been officially announced by him in a daily newspaper of Mauritius and unless the announcement is made at least 7 clear days before the event is due to take place.

(9) No pool promoter or agent of a foreign pool promoter shall conduct pool betting business through any person other than a collector.

(10) Subsections (1)(i) and (5) shall apply to any bet by way of pool betting placed with an agent of a foreign pool promoter.[Amended 67/85]

15 Requirements as to the business of collector

- (1) No collector shall act at more than one office.
- (2) Every collector shall display his licence in a conspicuous place in his office.
- (3) No collector or any person in his employ shall induce any person to place a bet by way of pool betting.

16 Collector's responsibility

Every collector shall ensure that all stake money and coupons or other forms received by him on behalf of a pool promoter reach the pool promoter within such period as the Commissioner may determine.

17 Advertisements prohibited in certain cases

- (1) Except with the written permission of the Commissioner of Police, no advertisement relating to pool betting shall be published in any place other than the office of a collector.
- (2) Notwithstanding subsection (1), a collector may, on premises giving access to his office -

- (a) indicate that particular premises are used by him as his licensed office;

- (b) indicate where his office may be found; or

- (c) draw attention to the availability of, or to the facilities afforded to persons resorting to his office.

17A Authorised advertisement

Except with the approval of the Board, no person shall publish, or cause or permit to be published any notice or advertisement relating to pool betting.

18 Information by pool promoter

(1) As soon as may be after the events to which any competition organised by him relates have taken place, and in any case not later than 15 days, after the announcement of the results of that competition, every pool promoter shall send to the Commissioner a statement certified by a qualified auditor in respect of each type of competition organised by him showing -

(a) the total number of coupons and the total amount of the stakes in respect of entries in the competition;

(b) the total amount payable by way of winnings in that competition and the serial numbers of winning coupons;

(c) the total amount of the stakes in respect of winning bets in the competition, and if there are more prizes than one in the competition, the total amount of the stakes in respect of winning bets qualifying for, or for shares in, each of the prizes;

(d) the number of winning bets;

(e) in the case of a competition based on points the maximum possible number of points and the maximum number of points scored in respect of the winning bets; and

(f) the amount payable in respect of each winning bet or, as the case may be, of each winning bet qualifying for, or for a share in, each of the prizes, bets staking more than the minimum which is permissible under the rules of the competition being treated for the purposes of this paragraph as if they were several separate bets each staking the minimum.

(2) Every pool promoter shall, not later than 7 days after the events to which any competition organised by him relates, cause to be published in 2 newspapers

approved by the Commissioner a statement showing, in respect of each competition -

- (a) the gross stakes collected;
- (b) the total amount of dividends payable;
- (c) the amount payable in respect of each winning;
- (d) the percentage of commission and expenses.

(3) The statements specified in subsections (1) and (2) may be expressed to be subject to some form of check or scrutiny, but where a statement expressed to be subject to a check or scrutiny is sent to the Commissioner under subsection (1), the pool promoter shall as soon as may be sent to the Commissioner a further statement, stating that, as the result of the check or scrutiny, specified corrections or no corrections are necessary in the earlier statement or that the check or scrutiny has not been made and is not intended to be made.

(4) Where a payment is made in accordance with section 14(1)(g) after the sending of the statement to the Commissioner under subsection (1), the pool promoter shall as soon as may be sent particulars to the Commissioner.

19 Void competitions and rejected entries

(1) Nothing in section 14 shall be construed so as to prevent the rules of a competition from providing that the competition may be declared void in specified circumstances.

(2) Where a competition is, in accordance with its rules, declared void, the pool promoter shall comply with the requirements of section 18 except that -

- (a) for the statements required by section 18(1) and (2) he shall send a notice stating that the competition has been declared void and that sums paid as stakes will be repaid to the bettors;

(b) the competition shall be left out of account in computing the percentage of commission and expenses to be included in announcements of the results of, or to be sent to competitors, in, other competitions, depending on the same events or other events taking place on the same day.

(3) References to stakes in, or in respect of entries in, any competition do not include references to stakes in respect of rejected entries.

20 Pool betting duty

(1) (a) Every pool promoter shall pay a duty equal to 10 per cent of the stake money paid in respect of bets made with him by way of pool betting.

(b) The surcharge imposed by the Finance Act 1980 and the Finance Act 1981 shall not apply to the duty under subsection (1).

(2) (a) Every agent of a foreign pool promoter shall, in respect of each foreign pool promoter for whom he acts, pay a duty of 10 per cent which shall be computed by reference to the amount of stake money collected by him in respect of bets made by way of pool betting.

(b) Any agent of a foreign pool promoter or any collector may recover the duty leviable under paragraph (a), from the person from whom the stake money is collected.

(3) The duty levied under this section shall be paid to the Commissioner at such time and in such manner as the Commissioner may direct.

(4) Where a pool promoter or an agent of a foreign pool promoter fails to pay the duty in accordance with this section, he shall be liable to pay, in addition to the duty, a penalty of -

- a. 10 per cent of the duty for the first month or part of the month during which the duty remains unpaid; and

- b. 2 per cent of the duty excluding the penalty for each subsequent month or part of the month during which the duty remains unpaid.

up to a maximum of 100 per cent of the duty, as the case may be.

21 Directions of Commissioner

(1) The Board or Commissioner may give to a person licensed under this Part such directions as he thinks fit in relation to the conduct of his business and the licensee shall comply with such directions.

(2) Any directions under subsection (1) may be given either generally by notice published in the *Gazette* or to any particular person by letter sent by post.

22 Limitation of bets by way of pool betting

(1) No person shall conduct, promote, or organise any bets by way of pool betting other than on the sporting or other events approved by the Board.

(2) No pool betting shall be conducted, promoted or organised by any person more than once a week on any sporting or other event taking place outside Mauritius as approved by the Board.

(3) No bets other than bets by way of pool betting shall be conducted, promoted or organised on any sporting or other event taking place outside Mauritius as approved by the Board.

23 Repealed.

24 Auditors to report contraventions

Where a qualified auditor employed by a pool promoter has cause to believe that any provision of this Act is being contravened in relation to any competition organised by that pool promoter he shall report the matter to the Commissioner.

PART IV – SWEEPSTAKES

25 Licensing

No person shall organise sweepstake unless he is the holder of the appropriate licence.

26 Place of business

A licence under this Part shall authorise the holder to carry on his business at one place only.

27 Period of licence

A licence under this Part shall be issued for the period extending from -

- (a) 1 January to 15 August,
- (b) 16 August to 31 December

28. Repealed

29. Levy of duty on sweepstakes

(1) There shall be levied on every sweepstake the duty specified in the Eighth Schedule.

(2) The duty levied under this section shall be paid to the Commissioner at such time and in such manner as the Commissioner may direct.

(3) Where a sweepstake organiser fails to pay the duty in accordance with subsection (1), he shall be liable to pay, in addition to the duty, a penalty of

- (a) 10 per cent of the duty for the first month or part of the month during which the duty remains unpaid; and
- (b) 2 per cent of the duty excluding the penalty for each subsequent month or part of the month during which the duty remains unpaid, up to a maximum of 100 per cent of the duty

29A Repealed

30 Repealed

30A Disposal of unclaimed amounts

Where, after the expiry of 6 months from the date of the publication of the results of a sweepstake, any prize has not been claimed by the winner, it shall, after deduction of the amount of duty leviable under section 29 (1) forthwith be paid by the sweepstakes organiser to the National Solidarity Fund set up under the Finance and Audit (National Solidarity Fund) Regulations 1984.

PART IV A – Repealed

PART V - LOTTERIES

31 Licensing of lotteries

(1) Subject to subsection (2), no person shall organise a lottery unless-

(a) he holds the appropriate licence;

(b) he pays to the Commissioner the fee specified in the Fifth Schedule;

(c) he pays to the Commissioner a deposit of 10,000 rupees or such other amount as may be prescribed, or furnishes to him a security equivalent to the amount of the deposit by means of a bank guarantee;

(d) the purposes for which the lottery is organised have been approved by the Board.

(2) (a) Subject to paragraph (b), subsection (1) shall not apply to a lottery organised for a charitable, benevolent, religious or educational purpose.

(b) A lottery under paragraph (a) shall not be organised unless it has been approved by the Commissioner of Police.

(3) The Minister may exempt any person licensed under this Part from any other provision of this Act applicable to him.

31A Disposal of unclaimed prizes

Where, after the expiry of 6 months from the date of the publication of the results of a lottery organised under section 31(1), any prize has not been claimed by the winner, the licensee shall forthwith pay to the National Solidarity Fund -

- (a) where the prize is a money prize, the amount of the prize; or
- (b) where the prize is not a money prize, the market value of the prize on which the licence fee was paid in accordance with section 31.

32 Government lotteries

- (1) The Minister may, either directly or through a Committee, organise lotteries for such purposes as he may approve.
- (2) Where a lottery is organised under subsection (1), the Minister may determine the percentage of the amount collected after deduction of expenses incurred in the organisation of the lottery that shall be distributed by way of prizes.
- (3) Any balance remaining from the amount collected after deduction of the expenses incurred in the organisation of a lottery and the payment of prize money shall be paid into the Consolidated Fund.

PART VI - LICENSING AND ADMINISTRATIVE PROVISIONS

33 Application for and issue of licences

- (1) Every application for a licence shall be in writing addressed to the licensing authority.
- (2) On receipt of an application for a licence the licensing authority may require the applicant to furnish such information as it thinks necessary.
- (3) Subject to section 72, the licensing authority may, in its discretion, issue or refuse to issue a licence.

(4) A licence issued under this Act shall at all times be subject to such terms and conditions as the licensing authority may impose whether at the time of issue or renewal of the licence or during its currency.

(5) No licence shall be issued unless -

(a) the deposit required in respect of the particular licence has been made with the Commissioner; and

(b) the appropriate licence fee specified in the Fourth Schedule has been paid to the Commissioner.

34 Restriction on the grant of licences

No licence shall be issued to a person -

(a) who is under the age of 21;

(b) who has, within the 10 years preceding the date of application, been convicted of any offence involving fraud or dishonesty, or is a corporate of which any director, manager or officer has been so convicted; or

(c) who was prior to the date of application, the holder of a licence which has been revoked.

35 Repealed

36 Refusal to renew and revocation of licences

(1) The licensing authority may revoke or refuse to renew a licence if -

- (a) any information given to it by the licensee for the purpose of obtaining the issue of the licence was, at the time the information was given, false in any material particular;
 - (b) the licensee has, without lawful excuse, failed to -
 - (i) comply with a requirement of this Act, a condition of the licence held by him or a direction of the Commissioner;
 - (ii) pay any tax or duty levied in accordance with this Act;
 - (c) the licensee is convicted of an offence under this Act;
 - (d) the licensee is convicted of permitting drunkenness or violent, riotous or disorderly conduct on premises to which the licence relates;
 - (e) the licensee is convicted of an offence involving fraud or dishonesty;
 - (f) the licensee ceases to occupy or manage the premises to which the licence relates;
 - (g) the licensee ceases to carry on business in accordance with this Act;
 - (h) the deposit made or the security furnished under this Act has been applied for the purposes of section 40A(2);
 - (i) the premises to which the licence relates cease, in the opinion of the Commissioner of Police, to be suitable for the purposes for which they were licensed;
 - (j) the Minister so directs in the public interest.
- (2) Where the licensing authority has reasonable grounds to suspect that any licensee has transferred, assigned or sublet a licence or is only nominally the true licensee, the authority may revoke or refuse to renew the licence.

(3) Where the licensing authority revokes a licence, no refund shall be made or compensation paid in respect of the unexpired portion of the licence.

37 Death, bankruptcy or insanity of licensee

Where a licensee dies or becomes bankrupt or insane, his widow, heir, or representative, as the case may be, may, with the consent of the licensing authority, carry on his business for the unexpired portion of the licence, either personally or by an agent approved by the licensing authority, and that person shall comply with this Act.

38 Repealed

39 Audited Accounts

Every licensee, other than a collector, shall submit to the Commissioner his audited accounts not later than 6 months after the date of closing of the accounts.

39 A Power to access computers and other electronic devices

(1) For the purposes of ascertaining any duty or tax payable by a licensee under this Act, the Commissioner may, at any reasonable time –

(a) have access to –

(i) any computer, computer software, whether installed in the computer or otherwise, or any other device, used in connection with any document which the person is required to produce for the purpose of ascertaining his liability to pay any duty or tax under this Act;

(ii) any information, code or technology which has the capability of retransforming or unscrambling encrypted data contained in or available to such computers or devices into readable and comprehensive format or text;

(b) inspect and check the operation of any such computer or other device and make extracts of any computer software, computer output or such other document used in connection therewith;

(c) require any person by whom or on whose behalf the computer or other electronic device is operated, or any person concerned with the operation of the equipment, to give such assistance as is necessary for the purposes of this section; and

(c) require any person in possession of decryption information to grant him access to such decryption information necessary to decrypt data required for the purposes of this section.

40 Keeping of books and records

Every licensee shall -

(a) keep proper books, records and accounts in relation to the business for which he is licensed;

- (b) keep such other documents in relation to his business as the Commissioner may direct;
- (c) subject to any other enactment, preserve the books, records accounts and documents required to be kept under paragraph (a) or (b) for a period of at least 5 years after the completion of the transaction to which it relates.
- (d) where required to do so by the Commissioner or any officer, produce, at such time and place as may be specified by the Commissioner or officer, his licence and any books, records, accounts or documents relating to his business.
- (e) permit any officer to enter any premises used for the purpose of his business and to inspect and take copies of any books, records and accounts and any documents in his possession or power or on any premises used for the purposes of his business, being books, records, accounts, or documents which relate or appear to relate to the business; or
- (f) make such returns or give such information relating to his business to such persons and at such time as the Commissioner may specify.

40A Application of deposit or security

(1) Where the Commissioner is satisfied that any security by means of a bank guarantee furnished under section 31 is required for the purposes of the other provisions of this section or of section 71A, he may, by written notice served upon the bank which has issued the bank guarantee, require the bank to pay over to him the amount of the bank guarantee, and the bank shall thereupon pay over the amount to the Commissioner within 7 days of receiving the notice.

(2) Any deposit made under this Act or any security recovered under subsection (1) may be applied by the Commissioner to the payment of any amount which is due by the licensee or his legal representatives -

(a) by virtue of any debt arising out of a matter which relates to the business of the licensee; and

(b) in respect of any tax, licence fee or duty payable to the Government under this Act or any other enactment.

(3) Subject to subsection (4), where the amount of the deposit made under this Act or security recovered under subsection (1) is applied for any of the purposes specified in subsection (2), no claim shall be receivable in respect of any sum paid by the Commissioner to any person.

(4) Subsection (3) shall not prejudice any right, of the licensee to recover from any person any sum paid out to that person by the Commissioner under subsection (2).

40 B Commissioner may make assessments

(1) Where the Commissioner is of the opinion that a licensee has not paid any duty or tax under section 20 or 29 by reason of -

(a) his failure or delay to submit a statement or return;

(b) the incorrectness or inadequacy of his statement or return;

(c) his failure to keep proper books, records, accounts or documents;

(d) the incorrectness or inadequacy of books, records, accounts or documents;

(e) any other cause,

he may, on such information as is available to him, make an assessment of the duty and tax due and payable by the licensee and give to the licensee written notice of the assessment.

(2) (a) Where the Commissioner has given written notice to any person of an assessment under subsection (1), the licensee shall pay the duty or tax within 28 days of the date of the notice of assessment.

(b) Subject to paragraph (c), an assessment under subsection (1) shall not be made after 5 years immediately following the last day of the period in which the liability to pay duty or tax arose.

(c) Paragraph (b) shall not apply in case of wilful neglect, evasion or fraud.

(3) Any person who is aggrieved by an assessment under subsection (1) may lodge written representations with the Secretary, Assessment Review Committee, in accordance with section 8E of the Unified Revenue Act 1983".

40C Repealed

PART VII-RECOVERY OF DUTY AND TAXES

41.Recovery of duty and taxes by attachment

The Commissioner may, without prejudice to any other action which he may take, enforce payment of any duty and taxes payable under this Act by attachment in the same manner as is provided for in the Attachment (Rates and Taxes) Act.

42. Recovery by distress and sale

(1) The Commissioner may issue a warrant in the form set out in the Third Schedule to the Value Added Tax Regulations 1998, subject to such modifications and adaptations as may be necessary, to an usher of the Supreme Court to recover duty and taxes payable under this Act by distress and sale of

goods, chattels and effects belonging to the person by whom the duty and taxes are payable.

(2) Three days' notice of such sale shall be given in the *Gazette*.

43 Inscribed privilege

(1) The Government shall have, in respect of any duty and taxes payable under this Act and so long as the duty and taxes are not paid in full or the liability is not discharged, a privilege on all immovable properties belonging to the person by whom the duty and taxes are payable.

(2) Where the Commissioner thinks it necessary for securing the recovery of any duty and taxes payable under this Act to inscribe the privilege provided for under subsection (1), he shall deposit with the Conservator of Mortgages 2 identical memoranda in the form set out in the Fourth schedule to the Value Added Tax Regulations 1998, subject to such modifications and adaptations as may be necessary, and shall forthwith notify the person by whom the duty and taxes are payable, of the deposit of the memoranda.

(3) The Conservator of Mortgages shall, upon deposit of the memoranda, inscribe the privilege generally on all immovable properties belonging, or which may subsequently belong, to the person by whom the duty and taxes are payable, and shall return one of the memoranda to the Commissioner with a statement written or stamped on it to the effect that the privilege has duly been inscribed.

(4) Where a privilege is inscribed under this section, it shall take effect from the date of the inscription.

(5) Where any duty and taxes in respect of which an inscription has been taken under this section are paid in full or the liability is discharged, the Commissioner shall forthwith send to the conservator of mortgages a request in the form set out in the Fifth Schedule to the Value Added Tax Regulations 1998, subject to such modifications and adaptations as may be necessary, to erase the inscription.

(6) The inscription of a privilege under this section shall be erased by the Conservator of Mortgages at the request of the Commissioner.

(7) Any inscription or erasure of inscription which is required to be taken or made under this section shall be free from stamp duty under the Stamp Duty Act 1990 or registration dues leviable under the Registration Duty Act or any other costs.

44 Uninscribed privilege

(1) Notwithstanding section 43, but subject to subsection (2), the privilege for the recovery of duty and taxes under Articles 2148 and 2152 of the Code Civil Mauricien shall operate on account of duty and taxes payable under this Act independently of and without the necessity for inscription, upon -

- a. personal property wherever found;
- b. the proceeds of the sale of immovable property; and
- c. the crops, fruits, rents and revenues, belonging to the person owing the duty and taxes.

(2) The privilege conferred under subsection (1) shall operate only in respect of duty and taxes payable for a period of 12 months at the discretion of the Commissioner and shall rank immediately after the privilege for judicial costs.

45. Contrainte

(1) Where any duty and taxes are payable under this act, the Commissioner may apply to a Judge in Chambers for an order (Contrainte) to issue against the debtor.

(2) Any order issued under subsection (1) shall -

(a) be served on the debtor; and

(b) be executory

(3) Any debtor aggrieved by an order issued under subsection (1) may, within 21 days of the service of the order, appeal to the Supreme Court.

(4) No costs shall be awarded against an unsuccessful party except disbursement for –

(a) stamp duty under the Stamp Duty Act 1990;

(b) service of the order; and

(c) execution of the order.

46. No limitation of action for recovery of duty and taxes

No law relating to the limitation of action shall bar or affect any action or remedy for the recovery of duty and taxes payable under this Act.

47 – 50 – *Repealed*

PART VIII - GAMING CONTROL BOARD

51 Gaming Control Board

There is established, for the purposes of this Act, a Gaming Control Board which shall consist of a Chairman and 5 other members.

52 Constitution of the Board

(1) The Chairman of the Board shall be appointed by the Minister.

(2) The other members of the Board shall be -

(a) a representative of the Minister of External Affairs, Tourism and Emigration;

(b) a representative of the Attorney-General;

(c) a representative of the Commissioner of Police;

(d) 2 other members appointed by the Minister.

(3) The appointed members of the Board shall hold and vacate office on such terms and conditions as the Minister may determine.

(4) No appointed member shall be deemed to hold a public office by virtue of his appointment.

53 Meetings of the Board

(1) The Chairman shall preside at any meeting of the Board and, in his absence from any meeting, the members shall appoint from among themselves a member to act as Chairman for that meeting.

(2) The quorum of the Board shall be 4.

(3) All acts, matters, or things authorised or required to be done by the Board shall be decided by a simple majority of the votes of members present and voting at that meeting.

(4) At any meeting of the Board each member shall have one vote on the matter in question and in the event of an equality of votes, the Chairman shall have a casting vote.

(5) Subject to the other provisions of this section, the Board shall regulate its proceedings in such manner as it thinks fit.

54 Officers of the Board

The Minister may designate such public officers as may be required by the Board to enable it to properly exercise its powers.

55 Functions of the Board

The Board shall, subject to such directions as the Minister may give -

(a) authorise the commissioner to issue licences.

(b) specify the rules applicable to, and determine the minimum and maximum stakes in respect of, any gambling and pool betting activities;

(c) specify the rules applicable to lotteries;

(d) supervise the conduct and operation of all gambling, pool betting and lottery activities; and

(e) generally do such acts and things as may be necessary for the purposes of this Act.

56 Powers of the Board

The Board may -

- (a) by any member of the Board, or by any person duly authorised in writing by the Board, enter and inspect any gaming house at such times and in such manner as it thinks fit in order to ascertain whether the terms and conditions of any licence are being complied with;
- (b) co-opt temporarily, any person having technical knowledge of matters to be considered by the Board;
- (c) inspect any equipment used in connection with any licence.

PART IX - OFFENCES

57 Non-compliance provisions

Any person who -

- (a) contravenes this Act; or
- (b) fails to comply with -
 - (i) any direction given or request made by the Commissioner under this Act;
 - (ii) any condition of any licence held by him, shall commit an offence and shall, on conviction, be liable

to a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding one year.

58. Prohibition on betting in public places

(1) Any person frequenting or loitering in a public place for the purposes of betting, agreeing to bet, or paying, receiving or settling bets shall commit an offence.

(2) Any police officer may, without warrant, arrest any person found committing an offence under this section and may seize any money, book or paper or writing found in the offender's possession.

(3) In this section -

(a) "public place" includes any bridge, road, land, footpath, subway, alley or passage,

whether a thoroughfare or not which is for the time being open to the public; and

(b) the doorways and entrances of premises abutting upon any ground adjoining and

open to, a road, shall be treated as forming part of the road.

59 Non-payment of duty or tax

Any person who fails to pay any duty or tax payable under this Act shall commit an offence and shall, on conviction, be liable to a fine which shall not be less than double and not more than treble the duty or tax which would have been payable.

60 Offences connected with duty or tax

Any person who -

(a) in connection with any duty or tax payable under this Act -

(i) makes any statement which he knows or should have known to be false or misleading in any material particular; and

(ii) with intent to deceive, produces or makes use of any book, account, record, return or other document which is false or misleading in any material particular;

(b) is knowingly concerned in, or is taking steps with a view to, the evasion, by him or any other person of any duty or tax payable under this Act;

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees or to imprisonment for a term not exceeding 5 years.

60A Unlawful transfer of licence

Any person who transfers, assigns or sublets a licence shall commit an offence and, without prejudice to the revocation of the licence under section 36, shall, on conviction, be liable to a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding one year.

61 Unlicensed persons

Any person, not being a licensee, who carries on any gaming activity, other than in relation to a sweepstake or a lottery, which is required to be licensed under this Act, shall commit an offence and shall, on conviction, be liable to a fine which shall not be less than double and not more than treble the licence fee which would have been payable in respect of the appropriate licence and to imprisonment for a term not exceeding one year.

61A Transaction with unlicensed persons

Any person who transacts any business which is regulated by this Act with a person who is not licensed under this Act shall commit an offence and shall, on conviction, be liable to a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding one year.

62 Unlicensed gaming houses

Any person who operates, controls or is concerned in the management of a gaming house without being the holder of a licence or causes or permits premises to be used as a gaming house without a licence being in force in relation to those premises, shall commit an offence and shall, on conviction, be liable to a fine which shall not be less than double and not more than treble the licence duty which would have been payable in respect of the appropriate licence.

63 Unlicensed sweepstakes and lotteries

Any person who, not being licensed to organise a sweepstake or a lottery -

(a) prints, publishes or causes to be printed or published any ticket for or advertisement or notice relating to a sweepstake or a lottery;

(b) sells or offers for sale, any ticket or chance in a sweepstake or lottery; or

(c) organises or takes part in the organisation of a sweepstake or a lottery,

shall commit an offence.

64 Deleted

64A Betting business with minors

(1) No pool promoter or agent of a foreign pool promoter or collector shall transact any betting business with a minor.

(2) Any bet transacted in contravention of subsection (1) shall be voidable at the instance of the minor.

65 Penalty

Any person who commits an offence for which no penalty is specifically provided shall, on conviction, be liable to a fine not exceeding 5,000 rupees and to imprisonment for a term not exceeding one year.

66 Powers of entry, search and detention

Where he has reason to suspect that any premises are used or are likely to be used in contravention of this Act -

(a) a police officer not below the rank of Assistant Superintendent;

or

(b) a police officer of any other rank, with a warrant or a written authority of the Commissioner of Police, may enter and search the premises and seize any money, security for money or article reasonably suspected to have been used or intended to be used in contravention of this Act, and to arrest and detain any person found on the premises.

67 Presumptions

(1) Where -

(a) any money, security for money, or article specified in section 66 is found on any premises specified in that section or any person is found there;

(b) any person is seen or heard to escape from those premises on the approach or entry of a police officer;

(c) a police officer is prevented from or obstructed in entering or approaching those premises,

it shall be presumed, unless the contrary is proved, that the premises are being used in contravention of this Act.

(2) Any person found in or leaving any premises specified in section 66 shall be presumed, unless the contrary is proved, to have been acting in contravention of this Act.

68 Seizure and forfeiture

Any money, security for money or other article used in connection with the commission of an offence may be seized and upon the conviction of the offender may be forfeited by the court.

69 Repealed

70 Jurisdiction

(1) Notwithstanding -

(a) section 114 of the Courts Act; and

(b) section 72 of the District and Intermediate Courts (Criminal Jurisdiction) Act Magistrate shall subject to subsection (2) have jurisdiction to try all offences under this Act and may impose any penalty provided by this Act.

(2) The prosecution for an offence under the sections of the Act specified in the Fifth Schedule to the Unified Revenue Act shall take place, at the sole discretion of the Director of Public Prosecutions, before the Revenue Division of the Supreme Court, the Intermediate Court, or the District Court.

PART X - GENERAL

71 Restriction of liability

(1) No civil or criminal liability shall attach to any member, or to an officer of the Board, in respect of any act done in good faith in the execution or purported execution of the duties of the Board under this Act.

(2) This section shall be in addition to and not in derogation from the Public Officers Protection Act, and for the purposes of that Act, every member or officer of the Board shall be deemed to be a public officer or a person engaged or employed in the performance of a public duty.

71A Refund of deposit or cancelling of security

(1) Where a licensee who has made a deposit or has furnished a bank guarantee under this Act ceases to carry on business, he may apply to the Commissioner for a refund of the deposit or a cancellation of the bank guarantee.

(2) On the application under subsection (1), the Commissioner shall, at the expense of the applicant, by a notice published in the *Gazette* and in 3 daily newspapers-

(a) inform all interested parties of the application;

(b) request any person who claims to be entitled to a payment out of the

amount of the deposit or bank guarantee under section 40A to give notice of his claim to the Commissioner within 3 months from the publication of the notice.

(3) The Commissioner may accept or reject a claim under subsection (2).

(4) Where, after the expiry of the time specified under subsection (2) -

(a) no claim has been received; or

(b) any claim received has been withdrawn or rejected, the

Commissioner shall refund the deposit to the applicant or cancel the bank guarantee.

(5) Where the Commissioner accepts a claim in whole or in part under subsection (3), he shall, at the expiry of the time specified under subsection (2) -

(a) in relation to a deposit -

(i) pay the amount of the claim as accepted by him;
and

(ii) refund to the applicant any balance of the deposit remaining after making the payment under subparagraph (i);

(b) in relation to the amount of a bank guarantee -

(i) recover the amount of the bank guarantee in accordance with section 40A;

(ii) pay the amount of the claim as accepted by him;
and

(iii) refund to the bank any balance of the amount of the bank guarantee remaining after making the payment under subparagraph (ii) and all other incidental expenses.

(6) A refund or payment made by the Commissioner under subsection (4) or (5) shall operate as a valid discharge to the Government of Mauritius and the Commissioner shall not be liable in respect of any claim by any person in connection with the refund or payment.

(7) Subsection (6) shall not prejudice the right of an applicant to recover from any person any sum lawfully due to the applicant and paid out to that person by the Commissioner.

(8) Notwithstanding subsection (2), the Commissioner may refund to the licensee the deposit paid, or cancel the bank guarantee furnished, under section 31, where he is satisfied that the prizes have been claimed and all unclaimed prizes disposed of in accordance with section 31A.

71B Recovery of gambling debts

Notwithstanding article 1965 of the Code Napoleon, an action shall lie for the recovery of any gambling debt incurred by any person at a casino in respect of gambling at the casino.

72 Restriction on the number of licences

(1) Where the Minister believes that it is necessary in the public interest that the licences of any particular class should be limited, he may by order addressed to a licensing authority limit the number of licences of that class which may be issued.

(2) An order issued under subsection (1) shall be binding for such district, town, village or other area or for such period of not less than one year as may be specified in the order.

73 Restriction on the use of the word "casino"

No person shall use the word "casino" as a name or as part of the name, of trade or business premises unless those premises are licensed under this Act as a casino.

74 Regulations

The Minister may make such regulations as he thinks fit for the purposes of this Act.

75 Amendment of Schedules

The Minister may, by regulations, amend the Schedules.

FIRST SCHEDULE REPEALED

SECOND SCHEDULE

(sections 2 and 5)

First column	Second column
Gaming house ... Casino licence.	Chemin de fer, roulette, blackjack and mini-chemy
Gaming house 'A' licence	All games other than those played in a casino or a gaming house with category 'B' or 'C' licence
Gaming house 'B' licence	Vanlak, 10 1/2, chinese dominoes(boeuf), Bingo, Premier Roi
Gaming house 'C' licence	Mahjong and Rummy

[Amended 67/85]

THIRD SCHEDULE REPEALED

FOURTH SCHEDULE

(section 33)

Gaming -

R

Casino	500,000 per 12 month period or part thereof
'A' licence	400,000 per 12 month period or part thereof
'B' licence	100,000 per 12 month period or part thereof
'C' licence	10,000 per 12 month period or part thereof

Coin-operated gaming machine.....	20,000 per machine per 12 month period
or licence	part thereof
Pool betting	
Pool promoter	3,630 per 12 month period or part thereof
Agent of a foreign pool promoter.....	3,630 per 12 month period or part thereof
Collector.....	151.25 per 12 month period or part thereof in respect of each pool promoter or agent of a foreign pool promoter on whose behalf the collector is licensed
Sweepstake organiser	1000 per licensing period or part thereof
Lottery.....	No fee

FIFTH SCHEDULE

(section 31)

Licence per lottery.....	Rs 6050 or 42.35 per cent of the total market value of the prizes, whichever is the higher
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SIXTH SCHEDULE REPEALED

SEVENTH SCHEDULE REPEALED

EIGHTH SCHEDULE

(section 29)

Duty on sweepstakes

A duty of 8 per cent of the amount collected.

NINTH SCHEDULE

(section 11)

Every person licensed in respect of -	Rate of tax or amount
1. A Casino	50 per cent of gross takings
2. A coin-operated gaming machine	50 per cent of gross takings
3. A gaming house "A" Licence-	
(a) within the town of Port Louis	50 per cent of gross takings or 300,000 rupees, whichever is the greater
(b) outside the town of Port Louis	50 per cent of gross takings or 120,000 rupees, whichever is the greater
4. A gaming house "B" Licence -	
(a) within the town of Port Louis	50 per cent of gross takings or 20,000 rupees, whichever is the greater
(b) outside the town of Port Louis	50 per cent of gross takings or 10,000 rupees, whichever is the greater

