

**LAWS OF THE REPUBLIC OF VANUATU
CONSOLIDATED EDITION 2006**

Commencement: 28 October 1983

**CHAPTER 172
GAMING (CONTROL)**

*Act 23 of 1983
Act 47 of 1989
Act 19 of 1993*



*Act 3 of 1996
Act 14 of 1996
Act 12 of 1998
Act 3 of 2001*

ARRANGEMENT OF SECTIONS

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GAMING (CONTROL)

To make further provisions with respect to gaming and for purposes connected therewith.

1. Interpretation

In this Act –

"game of chance" includes –

- (a) a game of chance and skill combined and the fact that a game contains an element of skill shall not prevent it being treated as a game of chance if nothing but a superlative skill can overcome the element of chance;
- (b) without derogation from the generality of the foregoing, baccarat,

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blackjack, chemin de fer, craps, roulette, trente et quarante, vingt-et-un and any other game which is essentially similar to any of them;

(c) any other game which the Minister may, after consultation with the Minister responsible for home affairs, by Order declare to be a game of chance for the purposes of this Act, having regard to the character of the game and the circumstances in which it is played;

"gaming" means playing a game of chance for winnings in money or money's worth;

"gaming licence" means a licence issued under section 4;

"gaming machine" means a machine (commonly known as "poker machine") operated mechanically or electrically –

(a) which is constructed or adapted for playing a game of chance by means of it; and

(b) where a player pays to play the machine either by inserting a coin or token into the machine or in some other way; and

(c) where the outcome of the game is determined by the chances inherent in the machine, whether or not means are provided for manipulation of the machine by a player;

"gaming table" means any table or other surface constructed or adapted for playing any game of chance;

"hotel" does not include a pension, boarding house or similar establishment;

"licensee" means the holder of a gaming licence;

"Minister" means the Minister responsible for finance;

"premises" includes any vehicle and any ship belonging to Vanuatu by reason of registration or otherwise.

2. Prohibition of gaming machines and gaming tables

Subject to the provisions of section 3 no gaming machine or gaming table shall be provided for gaming at any place in Vanuatu.

3. Exceptions to section 2

The provisions of section 2 shall not apply to the provision of gaming machines or gaming tables on the premises of –

(a) any hotel;

(b) any club (whether incorporated or unincorporated and whether members' or proprietary) which is not set up and conducted with a view to profit or private gain;

(c) any pleasure ship or other vessel:

Provided that there is a valid gaming licence in respect of any such machine or table.

4. Licensing of gaming machines, etc.

(1) A gaming licence may be issued by the Minister after consultation with the Minister responsible for home affairs on application by a person having the management of the premises referred to in section 3.

(2) A gaming licence unless revoked earlier under section 7, shall be valid until the 31 December of the year of issue.

(3) The Minister may issue a licence under this section under such conditions to be specified in the licence as he may think fit.

(4) Without derogation from the generality of subsection (3) it may be a condition of a licence that a gaming machine or table may only be used by the residents of the hotel, members of the club, or passengers of the ship or vessel, as the case may be, where the machine or table is placed, and by bona fide guests of such persons.

(5) There shall be payable in respect of a licence issued under this Act a gaming licence fee at the rate of –

- (a) VT 5 million –
 - (i) for gaming machines; or
 - (ii) for gaming tables; or
 - (iii) for gaming machines and gaming tables,
in a hotel; and
- (b) VT 1,650,000 for gaming machines in a club.

(6) The fee provided in subsection (5) shall be an annual fee and shall be due and paid on the first day of the month on which business is first commenced and thereafter on or before the first day of January of each succeeding year.

(7) If the gaming licence fee has not been paid in full in accordance with subsection (6), the fee or part of the fee remaining unpaid shall be increased by 10% for each month or part thereof during which the fee remains unpaid.

5. Gaming duty

(1) A gaming duty is to be charged on each gaming machine and gaming table provided on any premises mentioned in section 3.

(1A) The gaming duty is to be calculated at the following rates:

- (a) 7.5% on the gross profit derived in each month from each gaming machine and gambling table for non-profit clubs;
 - (b) 30% on the gross profit derived in each month from each gaming machine and gambling table for profit-making establishments.
- (2) Gaming duty provided in subsection (1) in respect of any month shall be payable by every licensee, to the collector of Rates and Taxes on or before the last working day of the succeeding month.
- (3) For the purpose of this section the "gross profit derived in any month" means: the sum obtained by deducting from the total amount received from gaming, the amount dispensed during that month by payment to players as winnings and then if the value of any unredeemed token or chips at the end of the month –
- (a) is greater than that which it was at the beginning of the month by adding the difference between those values, or
 - (b) is less than it was at the beginning of the month by deducting the difference between those values.
- (4) For the avoidance of doubt it is hereby declared that the provisions of gaming machines or gaming tables in respect of which a gaming licence is in force shall not be regarded as supply of goods or services for the purposes of the Hotel and Licensed Premises Act [Cap. 141]*, and, accordingly, no tax shall be charged under that Act in respect of such machines or tables.

5A. Returns to be furnished by the licensee

- (1) Every licensee shall furnish to the Collector within 30 days immediately succeeding the end of the month in respect of which the gaming duty is due, a return in such form and containing such particulars as may be prescribed, of the gross profit derived by that licensee during that month.
- (2) Any licensee who fails to furnish a return under subsection (1) shall be guilty of an offence and shall be liable to a fine not exceeding VT 50,000 and if the failure continues, to a further fine of VT 2,000 for each day in which the failure so continues.

5AA. Exemption from requirement to pay gaming duty

- (1) A licensee is exempt, for the prescribed period, from any requirement to pay gaming duty under section 5 if the Minister is satisfied on issuing the licensee's licence that:
- (a) the gaming machines or gaming tables to which the licence applies are, or are to be, newly installed at the premises concerned; and
 - (b) the capital investment in Vanuatu by the licensee, in relation to the premises (including the machines or tables), has been, or will be, VT 1 billion or more within a 3 year period.

* *Editor's Note: Cap. 141 has since been repealed*

(2) If the Minister determines (after issuing the licence and based on information not available to him or her when granting the licence) that the capital investment in Vanuatu has been, or will be, less than VT 1 billion within the 3 year period:

- (a) the exemption ceases to apply; and
- (b) the licensee is liable to pay gaming duty under section 5, for each month that has elapsed during the period of exemption, at the rate that applied under that section during that month.

(3) However, if the Minister determines that failure to invest VT 1 billion or more within the 3 year period is due to circumstances beyond the control of the licensee, the Minister may continue the exemption for a further period.

(4) If the Minister subsequently determines (based on information not available to him or her when making the determination under subsection (3)) that the capital investment in Vanuatu has been, or will be, less than a total of VT 1 billion during the 3 year period and the further period, paragraphs (a) and (b) of subsection (2) apply.

(5) In this section, "prescribed period", for an exemption from duty payable in relation to gaming machines or gaming tables on premises, means the period of one year from the date on which the gaming machines or gaming tables commence to be made available for trade at the premises.

5B. Records

(1) Every licensee shall keep for the purposes of this Act, records and documents sufficient to enable an accurate calculation of the gross profit derived by him on every gaming machine or gaming table in respect of which the licence is issued.

(2) Any licensee failing to comply with subsection (1) shall be guilty of an offence and shall be liable to a fine not exceeding VT 100,000.

5C. Penalty

(1) If a licensee does not pay the gaming duty when it is due and payable he shall pay to the Collector a penalty at the rate of 10 percent of the unpaid gaming duty which shall accumulate monthly.

(2) The penalty shall become immediately payable on the first day after the end of the calendar month during which it was due and payable and shall be payable in respect of the gaming duty due and payable during that period.

(3) The Collector with the approval of the Minister may reduce or waive any penalty added under this section if it appears to him that such reduction or waiver is just and equitable in all the circumstances of the case.

6. Licences to be displayed

(1) The person having the management of the premises on which gaming machines or gaming

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tables are provided shall secure that the gaming licence is prominently affixed to each machine or table in respect of which it is issued, or, where that is not practicable, that it is prominently displayed near such machine or table in such manner as to enable such machine or table to be easily identified.

(2) Any such person who fails to comply with the provisions of subsection (1) shall be guilty of an offence.

Penalty: a fine of VT 50,000.

7. Revocation of gaming licences

(1) The Minister may revoke or refuse to renew a gaming licence at any time on any of the following grounds –

- (a) that the licence has been obtained by fraud or misrepresentation;
- (b) that the person having the management of the relevant premises or the persons employed thereon are not fit and proper persons for such purposes;
- (c) that the relevant premises are not in any class of premises specified in paragraphs (a), (b) and (c) of section 3.
- (d) that the relevant premises have not been so conducted as to prevent disturbance or disorder;
- (e) that gaming on the relevant premises has been dishonestly conducted;
- (f) that the relevant premises have been used for an unlawful purpose or as a resort of criminals or prostitutes;
- (g) that any conditions of the licence have not been complied with by any person;
- (h) that appropriate precautions against the danger of fire have not been observed, or have been insufficiently observed in the use of the relevant premises.

(2) In this section "relevant premises" means the premises specified in the gaming licence.

8. Search warrants

If a magistrate is satisfied on information on oath that there are reasonable grounds for suspecting that an offence under this Act is being or has been committed on any premises, he may issue a warrant authorising any police officer or other person to enter those premises, if necessary by force; and any such officer or person may seize and remove any document, money, instrument or other thing whatsoever found on the premises which he has reason to believe may be required as evidence in any proceedings for an offence under this Act.

9. Offences

(1) Any person who –

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- (a) provides or is a party to providing a gaming machine or gaming table for gaming at any place in Vanuatu other than the premises specified in paragraphs (a), (b) or (e) of section 3; or
- (b) provides or is a party to providing a gaming machine or gaming table for gaming at any such premises without a valid gaming licence in respect of such machine or table; or
- (c) contravenes or fails to comply with any of the conditions of a gaming licence, shall be guilty of an offence.

Penalty: a fine of VT 500,000 and imprisonment for 1 year.

(1A) Any person who –

- (a) for the purposes of this Act makes any statement or entry in a return, or furnishes any information, record or particulars which to the knowledge of that person is untrue or incorrect; or
 - (b) omits from a return made or furnished under this Act any amount of gross profit which he should have include in that return: or
 - (c) prepares or maintains for the purpose of this Act any false books of account or other records or falsifies any book or record,
- shall be guilty of an offence.

Penalty: Fine of VT 500,000 and imprisonment of one year.

(2) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

10. Forfeiture

Where a person is convicted of an offence under section 9 the court may order anything (including money) produced to the court and shown to relate to the offence to be forfeited and either destroyed or dealt with in such other manner as the court may order.

10A. Regulations

- (1) The Minister may make regulations for the purpose of carrying out or giving effect to the principles and provisions of this Act.
- (2) In particular and without prejudice to the generality of the powers conferred by subsection (1), the Minister may make regulations in respect of any matter which is required or authorized by this Act to be prescribed.

11. Provisions concerning Cap. 33

The provisions of the Amusement Machines Tax Act [Cap. 33]* shall not apply in relation to gaming machines and gaming tables.

Table of Amendments (since the Revised Edition 1988)

1 Amended by Act 47 of 1989

4(5), (6), (7) Inserted by Act 3 of 1996

5 Substituted by Act 47 of 1989

5(1) Amended by Acts 3 of 1996, 14 of 1996; Substituted by Act 12 of 1998, then by Act 3 of 2001

5(1A) Inserted by Act 3 of 2001

5A Inserted by Act 47 of 1989

5AA Inserted by Act 8 of 2005

5B Inserted by Act 47 of 1989

5C Inserted by Act 19 of 1993

9(1A) Inserted by Act 47 of 1989

10A Inserted by Act 47 of 1989

* *Editor's Note: Cap. 33 has since been repealed*



REPUBLIC OF VANUATU

**GAMING (CONTROL) (AMENDMENT)
ACT NO. 28 OF 2017**

Arrangement of Sections

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REPUBLIC OF VANUATU

Assent: 02/01/2018
Commencement: 05/01/2018

GAMING (CONTROL) (AMENDMENT) ACT NO. 28 OF 2017

An Act to amend the Gaming (Control) Act [CAP 172] and for related purposes.

Be it enacted by the President and Parliament as follows-

1 Amendments

The Gaming (Control) Act [CAP 172] is amended as set out in the Schedule, and any other item in the Schedule has effect according to its terms.

2 Commencement

This Act commences on the day on which it is published in the Gazette.

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SCHEDULE

AMENDMENTS OF THE GAMING (CONTROL) ACT [CAP 172]

1 Section 1

Insert in their correct alphabetical positions

“ “beneficial owner” has the meaning given by section 1A;

“confidential information” means information that is supplied to or obtained by the Director in the performance of his or her functions or the exercise of his or her powers under this Act, but does not include information that:

- (a) can be disclosed under any provision of this Act; or
- (b) is already in the public domain; or
- (c) consists of aggregate data from which no information about a specific person or business can be identified;

“controller” of an applicant for a gaming licence or a licensee means a person who exercises influence, authority or power over decisions about the applicant’s or licensee’s financial or operating policies, including as a result of, or by means of, a trust, agreement, arrangement, understanding or practice, and “control” has a corresponding meaning;

“Court” means the Supreme Court of Vanuatu;

“Director” means the Director responsible for customs and inland revenue;

“director” of an applicant for a licence or a licensee means:

- (a) any person occupying the position of a director of the applicant or licensee, regardless of the name given to the position; or
- (b) any person held out by the applicant, or licensee to be a director;

“domestic regulatory authority” means a body or agency established by or under a law of Vanuatu that:

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- (a) grants or issues under that law or any other law licences, permits, certificates, registrations or other equivalent permissions; and
- (b) performs any other regulatory function related to a matter referred to in paragraph (a), including developing, monitoring or enforcing compliance with standards or obligations prescribed by or under that law or any other law;

“Financial Intelligence Unit” means the Financial Intelligence Unit established under section 4 of the Anti-Money Laundering and Counter-Terrorism Financing Act No. 13 of 2014;

“foreign government agency” means:

- (a) a body or agency established by or under a law of a foreign country; or
- (b) an arm, ministry, department, or instrumentality of the government of a foreign country; or
- (c) a body or agency of a foreign country set up by administrative act for governmental purposes;

“foreign serious offence” means:

- (a) an offence against a law of another country that, if the relevant act or omission had occurred in Vanuatu, would be an offence against the laws of Vanuatu, for which the maximum penalty is imprisonment for at least 12 months; or
- (b) an offence prescribed by the regulations;

“foreign tax evasion offence” means conduct that:

- (a) amounts to an offence against a law of a foreign country; and
- (b) relates to a breach of a duty relating to a tax imposed under the law of the foreign country (whether or not that tax is imposed under a law of Vanuatu); and
- (c) would be regarded by the courts of Vanuatu as an offence of fraudulent evasion of tax for which the maximum penalty is imprisonment for at least 12 months, had the conduct occurred in Vanuatu;

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“key person” of an applicant for a gaming licence or a licensee means a beneficial owner, owner, controller, director or manager of the applicant or licensee;

“law enforcement agency” means:

- (a) the Vanuatu Police Force; or
- (b) the Office of the Public Prosecutor; or
- (c) the department responsible for customs and inland revenue; or
- (d) the department responsible for immigration; or
- (e) such other persons prescribed for the purposes of this definition;

“manager” of an applicant for a gaming licence or a licensee means:

- (a) an individual who occupies the position of the chief executive officer (however described) of the applicant or licensee; or
- (b) an individual who under the immediate authority of the chief executive officer or a director of the applicant or licensee, exercises the management functions of the applicant or licensee;

“owner” of an applicant for a gaming licence or a licensee means a person who has a legal entitlement of 25% or more of the applicant or licensee by way of ownership of shares or otherwise, and “own” and “ownership” have a corresponding meaning;

“regulatory law” means a law that provides for:

- (a) the grant or issue of licences, permits, certificates, registrations or other equivalent permissions; and
- (b) other regulatory functions related to a matter referred to in paragraph (a), including monitoring or enforcing compliance with standards or obligations prescribed by that law;

“Sanctions Secretariat” means the Sanctions Secretariat established under section 17 of the United Nations Financial Sanctions Act No. 6 of 2017;”

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2 Section 1 (Paragraph (c) of the definition of game of chance)

Delete “, after consultation with the Minister responsible for home affairs,”

3 After section 1

Insert

“1A. Meaning of beneficial owner

- (1) A beneficial owner of an applicant for a gaming licence or a licensee is a natural person who ultimately owns or ultimately controls the applicant or licensee.
- (2) For the purpose of the subsection (1), ultimately owns and ultimately controls include circumstances where ownership or control is exercised:
 - (a) through a chain of ownership; or
 - (b) by a means of indirect control that may not have legal or equitable force, or be based on legal or equitable rights.”

4 After section 3

Insert

“3A. Application for a gaming licence

- (1) An application for a gaming licence must:
 - (a) be made to the Director by the person having the management of the premises referred to in section 3 and be in a form approved by the Director; and
 - (b) include the following:
 - (i) details of each key person of the applicant;
 - (ii) details as required by the Director on whether a beneficial owner of the applicant is a beneficial owner, owner or controller of an entity licensed or registered under a regulatory law of Vanuatu or a foreign jurisdiction;
 - (iii) details of the source of funds used to pay the capital of the applicant; and
 - (c) be accompanied by the prescribed fee.

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- (2) If the applicant is a body corporate, the application must also include the following details:
 - (a) the name of the body corporate;
 - (b) proof of incorporation of the body corporate;
 - (c) the registered business address of the body corporate.
- (3) If the applicant is a natural person, the application must also be accompanied by:
 - (a) a notarised copy of the passport of the applicant; and
 - (b) a police clearance certificate for the applicant with a certified translation where necessary.
- (4) If the applicant is not a body corporate or a natural person, the application must also include such other information as may be required by the Director.
- (5) The Director may require an applicant to provide such additional information as the Director considers necessary to determine an application.”

5 Section 4

Repeal the section, substitute

“4. Issue of gaming licence

- (1) The Director may issue a gaming licence to an applicant if:
 - (a) the application for the gaming licence complies with section 3A;
and
 - (b) the Director is satisfied that:
 - (i) each key person of the applicant is a fit and proper person;
and
 - (ii) the source of funds used to pay the capital of the applicant is acceptable.

- (2) In deciding whether a key person of the applicant is a fit and proper person, the Director must have regard to:
 - (a) whether the person has been convicted of an offence or is subject to criminal proceedings; and
 - (b) whether the person is listed on a United Nations Financial Sanctions list, a financial sanctions list under the United Nations Financial Sanctions Act No. 6 of 2017 or a financial sanctions list under a law of any jurisdiction; and
 - (c) any other fit and proper criteria prescribed by Regulations.
- (3) A gaming licence is valid until the 31st of December of the year of issue unless revoked earlier.
- (4) The Director may issue a gaming licence on such conditions as he or she thinks fit, and the conditions are to be specified in the gaming licence.

4A. Renewal of gaming licence

- (1) The Director may renew a gaming licence on the written application of the licensee made at least 28 days before the expiry date of the gaming licence.
- (2) If the Director has not decided an application for the renewal of a gaming licence on or before the expiry date, the gaming licence continues in force until the Director decides the application.
- (3) If the Director renews a gaming licence, it is renewed for a period of one year starting on the day after the expiry date, unless revoked earlier.
- (4) A gaming licence may be renewed more than once under this section.
- (5) In this section, “expiry date” for a gaming licence means the 31st of December.

4B. Gaming licence and renewal fees

- (1) The fees set out below are payable in respect of the issue or renewal of a gaming licence:
 - (a) VT5 million for:

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- (i) gaming machines in a hotel; or
 - (ii) gaming tables in a hotel; or
 - (iii) gaming machines and gaming tables in a hotel; and
- (b) VT1,650,000 for gaming machines in a club.
- (2) The Director must not issue or renew a gaming licence if the fees are not paid in full.
- (3) The Director may calculate the fee for a gaming licence for the year in which it is issued on a pro rata basis.”

6 Subsection 5(2)

Delete “collector of Rates and Taxes”, substitute “Director”

7 Subsection 5A(1)

Delete “Collector”, substitute “Director”

8 Section 5AA

Delete “Minister” (wherever occurring), substitute “Director”

9 Subsection 5C(1)

Delete “Collector”, substitute “Director”

10 Subsection 5C(3)

Delete “Collector with the approval of the Minister”, substitute “Director”

11 Section 7 (heading)

Delete the heading, substitute “**Suspension and revocation of gaming licences**”

12 Subsection 7(1)

Delete “Minister may revoke”, substitute “Director may suspend or revoke”

13 Paragraph 7(1)(b)

Repeal the paragraph, substitute

“(b) that a key person of the licensee does not meet fit and proper criteria prescribed by this Act or the Regulations;

(ba) that the persons employed on the relevant premises of the licensee are not fit and proper persons for such purposes;”

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14 After paragraph 7(1)(g)

Insert

- “(ga) that the licensee has contravened a provision of the Anti–Money Laundering and Counter-Terrorism Financing Act No. 13 of 2014 and that contravention has resulted in the use of an enforcement measure under Part 10AA of that Act;
- (gb) that the Director is not satisfied of the source of funds used to pay the capital of the licensee;”

15 After subsection 7(1)

Insert

- “(1A) Before suspending, revoking or refusing to renew a gaming licence, the Director must give written notice to the licensee that he or she proposes to suspend, revoke or refuse to renew the gaming licence and the reasons for it.
- (1B) The licensee may, within 14 days after receiving a notice under subsection (1A), give the Director written reasons why the gaming licence should not be suspended or revoked, or the renewal of the gaming licence should not be refused.
- (1C) The Director may suspend, revoke or refuse to renew a licensee’s gaming licence if:
- (a) the licensee does not give the Director reasons under subsection (1B); or
 - (b) having taken into account the licensee’s reasons, the Director is of the opinion that the licensee has failed to show good cause why the gaming licence should not be suspended or revoked, or the renewal of the gaming licence should not be refused.”

16 After section 8

Insert

“8A. Licensee to give notice of certain changes to Director

- (1) A licensee must give the Director written notice of a change in:
- (a) a key person of the licensee; or

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- (b) the circumstances of a key person of the licensee that may affect whether he or she meets fit and proper criteria; or
 - (c) the source of funds used to pay the capital of the licensee,
within 14 days after the change occurs.
- (2) If a licensee fails to comply with subsection (1), the licensee commits an offence punishable upon conviction by:
 - (a) if the licensee is a natural person - a fine not exceeding VT 25 million or imprisonment not exceeding 15 years, or both; or
 - (b) if the licensee is a body corporate - a fine not exceeding VT 125 million.
- (3) If a licensee fails to comply with subsection (1), the Director may by notice in writing to the licensee revoke the licensee's gaming licence.
- (4) If a licensee does provide the information as required under subsection (1), but the Director is not satisfied:
 - (a) that the key persons of the licensee are fit and proper persons to fulfil the responsibilities of their positions having regard to the matters referred to in subsection 4(2); or
 - (b) as to the source of funds used to pay the capital of the licensee,
the Director may by notice in writing to the licensee revoke the licensee's gaming licence.
- (5) Before revoking a gaming licence under subsection (3) or (4), the Director must give written notice to the licensee that he or she proposes to revoke the gaming licence and the reasons for the revocation.
- (6) The licensee may, within 14 days after receiving a notice under subsection (5), give the Director written reasons why the gaming licence should not be revoked.
- (7) The Director may revoke a licensee's gaming licence if:

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- (a) the licensee does not give the Director reasons under subsection (6); or
- (b) having taken into account the licensee's reasons, the Director is of the opinion that the licensee has failed to show good cause why the gaming licence should not be revoked.

8B. Director may require information and documents relating to licensee

- (1) Subject to subsection (2), the Director may, by notice in writing to a licensee, require the licensee to provide the Director with information or documents, or both, specified in the notice within the period set out in the notice.
- (2) The information or documents must relate to:
 - (a) the licensee's integrity, competence, financial standing or organisation; or
 - (b) the licensee's compliance with this Act or the regulations.
- (3) If the licensee:
 - (a) refuses or fails to give the Director the information or documents required by the Director; or
 - (b) knowingly or recklessly gives the Director information or documents that are false or misleading,the licensee commits an offence punishable upon conviction by the penalty set out in subsection (4).
- (4) The penalty is:
 - (a) if the licensee is a natural person - a fine not exceeding VT 15 million or imprisonment not exceeding 5 years, or both; or
 - (b) if the licensee is a body corporate - a fine not exceeding VT 75 million.

8C. On-site inspections

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- (1) The Director may conduct on-site inspections at the business premises occupied by a licensee at any time during the ordinary business hours of the licensee.
- (2) The Director may for the purposes of subsection (1):
 - (a) enter the business premises of the licensee during the ordinary business hours of the licensee; and
 - (b) inspect and take copies of any books, accounts and documents of the licensee that relate to:
 - (i) the licensee's integrity, competence, financial standing or organisation; or
 - (ii) the licensee's compliance with this Act or the Regulations.
- (3) The licensee must cooperate fully with the Director by:
 - (a) giving the Director all the information, and making available the documents the Director requires; and
 - (b) if necessary, giving the Director appropriate workspace and reasonable access to office services, during the inspection.
- (4) If a person intentionally obstructs the Director in the exercise of the Director's powers under this section, the person commits an offence punishable upon conviction by:
 - (a) in the case of a natural person - a fine not exceeding VT 15 million or imprisonment not exceeding 5 years, or both; or
 - (b) in the case of a body corporate - a fine not exceeding VT 75 million.
- (5) In this section, a reference to the Director includes a person appointed by the Director in writing as an authorised officer for the purposes of this section.
- (6) An authorised officer must produce written evidence of his or her appointment if required to do so while carrying out on-site inspections.

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8D. Director may request information and documents

For the purpose of performing a function or exercising a power under this Act, the Director may request information or documents, or both, from any or all of the following:

- (a) the Financial Intelligence Unit;
- (b) a supervisor within the meaning of the Anti-Money Laundering and Counter-Terrorism Financing Act No. 13 of 2014;
- (c) the Sanctions Secretariat;
- (d) a law enforcement agency;
- (e) a domestic regulatory authority;
- (f) a foreign government agency that carries out functions corresponding or similar to the functions carried out by a body or agency referred to in paragraph (a), (b), (c), (d) or (e).

8E. Disclosure of confidential information

- (1) The Director may disclose confidential information if the disclosure:
 - (a) is required or authorised by the Court; or
 - (b) is made for the purpose of performing a function or exercising a power under this Act; or
 - (c) is made to the Financial Intelligence Unit for the purpose of performing a function or exercising a power under the Anti-Money Laundering and Counter-Terrorism Financing Act No. 13 of 2014; or
 - (d) is made to a supervisor within the meaning of the Anti-Money Laundering and Counter-Terrorism Financing Act No. 13 of 2014 for the purpose of performing a function or exercising a power under that Act; or
 - (e) is made to a law enforcement agency for the purpose of investigating or prosecuting an offence against a law of Vanuatu for which the maximum penalty is a fine of at least VT 1 million or imprisonment for at least 12 months; or

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- (f) is made to a law enforcement agency for the purpose of investigating or taking action under the Proceeds of Crime Act [CAP 284]; or
 - (g) is made to a domestic regulatory authority for the purpose of carrying out its regulatory functions; or
 - (h) is made to the Sanctions Secretariat for the purpose of performing a function or exercising a power under the United Nations Financial Sanctions Act No. 6 of 2017; or
 - (i) is made to a foreign government agency in accordance with section 8F.
- (2) If a person contravenes subsection (1), the person commits an offence punishable upon conviction by:
- (a) if the person is a natural person - a fine not exceeding VT 15 million or imprisonment for a term not exceeding 5 years, or both; or
 - (b) if the person is a body corporate - a fine not exceeding VT 75 million.

8F. Disclosure to foreign government agency

The Director may disclose confidential information about a licensee to a foreign government agency if:

- (a) the Director is satisfied that the disclosure is for the purpose of:
 - (i) performing a function or exercising a power under the foreign government agency's own regulatory legislation, including investigating a breach of that legislation; or
 - (ii) performing a function or exercising a power under the foreign jurisdiction's anti-money laundering and counter-terrorism financing regulation and supervision laws; or
 - (iii) performing a function or exercising a power under the foreign jurisdiction's financial sanctions laws; or

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- (iv) investigating or prosecuting a foreign serious offence or a foreign tax evasion offence; or
 - (v) investigating or taking action under the foreign jurisdiction's proceeds of crime laws; and
- (b) the Director is satisfied that:
- (i) the information will be used for a proper regulatory, supervisory or law enforcement purpose; and
 - (ii) the agency is subject to adequate restrictions on further disclosure.

8G. Indemnity from liability

A person is not subject to any civil or criminal liability, action, claim or demand for anything done or omitted to be done by the person in good faith under or for the purposes of this Act.”

17 Subsection 9(1)

Delete “Penalty: a fine of VT 500,000 and imprisonment for 1 year.”, substitute “Penalty:

- (a) in the case of a natural person - a fine not exceeding VT 25 million or imprisonment not exceeding 15 years, or both; or
- (b) in the case of a body corporate - a fine not exceeding VT 125 million.”

18 Subsection 9(1A)

Delete “Penalty: Fine of VT 500,000 and imprisonment of one year.”, substitute “Penalty:

- (a) in the case of a natural person - a fine not exceeding VT 15 million or imprisonment not exceeding 5 years, or both; or
- (b) in the case of a body corporate - a fine not exceeding VT 75 million.”

19 Transitional provision for certain licensee information

- (1) This provision applies to a licensee if, immediately before the commencement of this Act, the licensee’s gaming licence was in force under the Gaming (Control) Act [CAP 172].

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- (2) The licensee must provide the Director with the information required under subparagraphs 3A(1)(b)(i), (ii) and (iii) of the Gaming (Control) Act [CAP 172] as amended by this Act (“the additional information”) within 6 months after the commencement of this Act.
- (3) If the licensee does not provide the additional information as required under subsection (2), the Director may by notice in writing to the licensee revoke the licensee’s gaming licence.
- (4) If the licensee does provide the additional information as required under subsection (2), but the Director is not satisfied with the additional information having regard to the matters set out in subparagraphs 4(1)(b)(i) and (ii) of the Gaming (Control) Act [CAP 172] as amended by this Act, the Director may, by notice in writing to the licensee, revoke the licensee’s gaming licence.
- (5) Before revoking a gaming licence under subsection (3) or (4), the Director must give written notice to the licensee that he or she proposes to revoke the gaming licence and the reasons for the revocation.
- (6) The licensee may, within 14 days after receiving a notice under subsection (5), give the Director written reasons why the licensee’s gaming licence should not be revoked.
- (7) The Director may revoke the licensee’s gaming licence if:
 - (a) the licensee does not give the Director reasons under subsection (6); or
 - (b) having taken in to account the licensee’s reasons, the Director is of the opinion that the licensee has failed to show good cause why the gaming licence should not be revoked.
- (8) A term or expression used in this item has the same meaning as in the Gaming (Control) Act [CAP 172] as amended by this Act.

20 Transitional provision for gaming licences

- (1) If a gaming licence is in force immediately before the commencement of this Act, the gaming licence continues in force, on and after that commencement, as if it were a gaming licence issued under the Gaming (Control) Act [CAP 172] as amended by this Act.

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- (2) A term or expression used in this item has the same meaning as in the Gaming (Control) Act [CAP 172] as amended by this Act.

Commencement: 24 July 2005

REPUBLIC OF VANUATU
THE
GAMING (CONTROL) (AMENDMENT) ACT NO. 8 OF 2005

Arrangement of Sections

- 1 Amendments
- 2 Commencement

REPUBLIC OF VANUATU

THE
GAMING (CONTROL) (AMENDMENT) ACT NO. 8 OF 2005

Assent: 14 July 2005
Commencement: 24 July 2005

An Act to amend the Gaming (Control) Act [CAP 172].

Be it enacted by the President and Parliament as follows-

1 Amendments

The Gaming (Control) Act [CAP 172] is amended as set out in the Schedule.

2 Commencement

This Act commences on the date on which it is published in the Gazette.

SCHEDULE

AMENDMENTS OF THE GAMING (CONTROL) ACT [CAP 172]

1 After section 5A

Insert

“5AA Exemption from requirement to pay gaming duty

- (1) A licensee is exempt, for the prescribed period, from any requirement to pay gaming duty under section 5 if the Minister is satisfied on issuing the licensee's licence that:
 - (b) the gaming machines or gaming tables to which the licence applies are, or are to be, newly installed at the premises concerned; and
 - (b) the capital investment in Vanuatu by the licensee, in relation to the premises (including the machines or tables), has been, or will be, VT1 billion or more within a 3 year period.
- (2) If the Minister determines (after issuing the licence and based on information not available to him or her when granting the licence) that the capital investment in Vanuatu has been, or will be, less than VT1 billion within the 3 year period:
 - (a) the exemption ceases to apply; and
 - (b) the licensee is liable to pay gaming duty under section 5, for each month that has elapsed during the period of exemption, at the rate that applied under that section during that month.
- (6) However, if the Minister determines that failure to invest VT1 billion or more within the 3 year period is due to circumstances beyond the control of the licensee, the Minister may continue the exemption for a further period.
- (7) If the Minister subsequently determines (based on information not available to him or her when making the determination under subsection (3)) that the capital investment in Vanuatu has been, or will be, less than a total of VT1 billion during the 3 year period and the further period, paragraphs (2) (a) and (b) apply.
- (8) In this section, **prescribed period**, for an exemption from duty payable in relation to gaming machines or gaming tables on premises, means the period of one year from the date on which the gaming machines or gaming tables commence to be made available for trade at the premises.
