

**CASINO AND GAMBLING CONTROL
AMENDMENT BILL (No. 2) 2017**

SAMOA

Explanatory Memorandum

1.0 Object and reasons:

- 1.1 The Bill seeks to amend the Casino and Gambling Control Act 2010 (“Principal Act”).
- 1.2 The objects of the Bill are:
- (a) to provide for certain provisions to address the gaps currently identified within the Principal Act to ensure the smooth operation and management of matters dealt by the Gambling Control Authority (“Authority”) under the Principal Act; and
 - (b) to exempt the Authority’s income from income Tax under the Income Tax Act 2012.

Clauses:

- Clause 1:** - provides for the short title and commencement date of the Bill.
- Clause 2:** - amends section 2 of the Principal Act by repealing definition for “authorised police officer” and inserting definition for “inspector”.

- Clause 3:** - amends section 5 of the Principal Act by inserting new subsections (4), (5) and (6).
- Clause 4:** - amends section 6 of the Principal Act by repealing subsection (6).
- Clause 5:** - inserts a new section 8A within the Principal Act to deal with "Approved rules, standards, guidelines, operating procedures and codes of practice".
- Clause 6:** - amends section 9 of the Principal Act by substituting the term "membership" with "Board".
- Clause 7:** - amends section 19 of the Principal Act by substituting the current subsection (1) with new subsection (1).
- Clause 8:** - amends section 22 of the Principal Act by inserting a new subsection (4) to provide for power of the Chief Executive Officer to appoint certain officers of the Authority to carry out duties as inspectors.
- Clause 9:** - amends section 24 of the Principal Act by inserting a new subsection (5) which provides for penalty whereby a person may be liable if he or she contravenes section 24(3) of the Principal Act.
- Clause 10:** - amends section 37 of the Principal Act.
- Clause 11:** - amends section 49 of the Principal Act by substituting the age requirement of "18" years to "21" years.
- Clause 12:** - amends section 51 of the Principal Act by substituting the age requirement of "18" years to "21" years.
- Clause 13:** - amends sections 52 and 53 of the Principal Act by substituting the current sections with new sections 52 and 53, the new amendment removes the power from Commissioner of Police to exclude certain persons from casino venues and for this power to lie with the Authority.

- Clause 14:** - amends section 57 of the Principal Act by substituting the age requirement of “18” years to “21” years.
- Clause 15:** - amends section 61(2) of the Principal Act.
- Clause 16:** - amends sections 66(1) and (2) of the Principal Act by inserting new paragraphs (c), (d) and (e) which provides for additional powers of officers when inspecting a casino venue.
- Clause 17:** - amends section 84 of the Principal Act.
- Clause 18:** - amends section 88A(1) of the Principal Act.
- Clause 19:** - inserts new sections 88B and 88C into the Principal Act to provide for a person who holds a licence for interactive gaming to pay commission to the Authority and to provide for the Authority’s income to be exempted from income tax under the Income Tax Act 2012.
- Clause 20:** - amends section 89 of the Principal Act by inserting a new paragraph (ua) and increasing penalty units for offences that can be prescribed by Regulations.
- Clause 21:** - inserts new sections 89A and 89B within the Principal Act which provides for “Approved forms and fees” to be approved by the Chief Executive Officer and “Immunities for persons exercising powers under the Principal Act”.
- Clause 22:** - amends section 92 of the Principal Act to provide that the TAB shall continue to exercise powers, duties and functions if the Board of the Authority until ceased by the Head of State.

Clause 23: - provides for consequential amendment to the Income Tax Act 2012 to exempt the Authority's income from income tax.

A handwritten signature in black ink, appearing to be 'L. Selafi Purcell', is written over a horizontal dashed line. The signature is somewhat stylized and loops back.

(Hon LAUTAFI Fio Selafi Purcell)
MINISTER RESPONSIBLE FOR THE
GAMBLING CONTROL AUTHORITY

**CASINO AND GAMBLING CONTROL
AMENDMENT BILL (No. 2) 2017**

SAMOA

Arrangement of Provisions

1. Short title and commencement
2. Section 2 amended
3. Section 5 amended
4. Section 6 amended
5. New section 8A inserted
6. Section 9 amended
7. Section 19 amended
8. Section 22 amended
9. Section 24 amended
10. Section 37 amended
11. Section 49 amended
12. Section 51 amended
13. Sections 52 and 53 substituted
14. Section 57 amended
15. Section 61 amended
16. Section 66 amended

17. Section 84 amended
18. Section 88A amended
19. New Sections 88B and 88C inserted
20. Section 89 amended
21. New Sections 89A and 89B inserted
22. Section 92 amended
23. Consequential amendment to the Income Tax Act 2012

2017, No.

A BILL INTITULED

AN ACT to amend the Casino and Gambling Control Act 2010 (“principal Act”).

BE IT ENACTED by the Legislative Assembly of Samoa in Parliament assembled as follows:

1. Short title and commencement:

- (1) This Act may be cited as the Casino and Gambling Control Amendment Act (No. 2) 2017.
- (2) This Act commences on the date of its assent by the Head of State.

2. Section 2 amended:

In section 2(1) of the Principal Act:

- (a) the definition of “authorised police officer” is repealed; and
- (b) insert in its correct alphabetical order the following definition:

““inspector” means an employee or officer of the Authority appointed by the Chief Executive Officer to be an inspector;”.

3. Section 5 amended:

For section 5 of the principal Act, insert the following new subsections after subsection (3):

- “(4) The Chief Executive Officer is responsible for the safe-keeping of the common seal of the Authority.
- (5) The common seal of the Authority may only be affixed to a document by the Chief Executive Officer in accordance with any procedures approved by the Authority.”.

4. Section 6 amended:

Section 6(6) of the principal Act is repealed.

5. New section 8A inserted:

After section 8 of the principal Act, insert:

“8A. Approved rules, standards, guidelines, operating procedures and codes of practice:

- (1) For the purposes of implementing the provisions of this Act and any other Act for which the Authority is responsible, the Authority may develop and approve rules, standards, guidelines, operating procedures or codes of practice in relation to any matter relevant to the management and operation of casinos, or any other regulated gambling activity.
- (2) An approved rule, standard, guideline, operating procedure or code of practice applied under this section must be consistent with the provisions of this Act, and any other Act for which the Authority is responsible.

- (3) Without limiting the generality of subsection (1), approved rules, standards, guidelines, operating procedures or codes or practice can be applied to achieve the objectives of this Act, and any other Act for which the Authority is responsible.
- (4) An approved rule, standard, guideline, operating procedure or code of practice made under subsection (1) takes effect when it is approved by the Authority.
- (5) The Chief Executive Officer must ensure that approved rules, standards, guidelines, operating procedures or codes of practice are made known to holders of casino licences, and to all other persons who operate licensed gambling operations or premises under any other Act for which the Authority is responsible.
- (6) Failure to take any action referred to in subsection (5) does not affect the validity of an approved rule, standard, guideline, operating procedure or code of practice.
- (7) Any approved rule, standard, guideline, operating procedure or code of practice made under this section applies as a condition to any licence or class or licence, or to any other permit or approval, to which the rule, standard, guideline, operating procedure or code of practice is stated to apply.
- (8) A person who is obliged to comply with an approved standard, guideline, operating procedure or codes of practice and who breaches the rule, standard, guideline, operating procedure or code of practice commits an offence and is liable upon conviction to a fine not exceeding 100 penalty units, and to a further fine of 10 penalty units for every day that the offence continues.”.

6. Section 9 amended:

- (1) In section 9 of the Principal Act, for "Membership" substitute "Board".
- (2) In section 9 of the Principal Act, after "The", where first occurring, insert "Board".

7. Section 19 amended:

For section 19(1) of the Principal Act substitute:

- "(1) There are payable to the Authority monies that are payable under this Act or any other enactment."

8. Section 22 amended:

After section 22(3) of the Principal Act insert:

- "(4) The Chief Executive Officer may designate certain officers to carry out functions and duties of inspectors provided under this Act."

9. Section 24 amended:

In section 24 of the principal Act, after subsection (4), insert:

- "(5) A casino licensee who contravenes or fails to comply with subsection (3) commits an offence and is liable upon conviction to a fine of 250 penalty units or a term of imprisonment not exceeding three (3) years or both."

10. Section 37 amended:

For section 37(1A) of the principal Act, delete the phrase “paid into a sports fund, designated by the Authority” and substitute “paid into a fund determined by the Authority”.

11. Section 49 amended:

In section 49 of the Principal Act, for “18”, wherever occurring, substitute “21”.

12. Section 51 amended:

In section 51(2) of the Principal Act, for “18”, wherever occurring, substitute “21”.

13. Sections 52 and 53 substituted:

For sections 52 and 53 of the principal Act substitute:

“52. Exclusion of certain person from casino venues:

- (1) The Authority may by notice in writing, direct the casino licensee to exclude from the casino a person specified in the notice.
- (2) A direction under subsection (1) shall not be given unless the Authority believes, on reasonable grounds, that the person is, or has been, engaged in, or associated with persons engaged in, swindling, cheating or any malpractice in gaming.
- (3) Where a notice is given under subsection (1) to the casino licensee, the Authority:

- (a) shall make available to the casino licensee a recent photograph of the person specified in the notice;
 - (b) if it is not practicable to comply with paragraph (a), shall provide the casino licensee with such a description of the person specified in the notice as is sufficient to enable the casino licensee to readily identify the person.
- (4) A casino licensee who, without reasonable excuse, contravenes or fails to comply with a direction under subsection (1), commits an offence and is liable on conviction:
- (a) if such casino licensee is a body corporate, to a fine not exceeding 500 penalty units; or
 - (b) if such casino licensee is a natural person, to a fine not exceeding 100 penalty units.

53. Revocation of direction:

- (1) The Authority may revoke a direction made under section 52(1), if the Authority is satisfied that the person is a fit and proper person to be permitted to enter and participate in gaming in the casino.
- (2) A person whom a direction was given under section 52(1) must submit an application to the Authority to have the direction revoked.
- (3) The Authority shall, as soon as practicable after revoking a direction, notify, in writing, the casino licensee and the person in respect of whom the direction was given of the revocation.

- (4) A revocation under subsection (1) is to be made by in writing.”.

14. Section 57 amended:

In section 57 of the Principal Act, for “18”, wherever occurring, substitute “21”.

15. Section 61 amended:

For section 61(2) of the principal Act substitute “is specified, for the purposes of this section, by the Minister by notice published in the Gazette” with “determined by the Chief Executive Officer”.

16. Section 66 amended:

- (1) In section 66(1)(b)(iii) of the principal Act, substitute the full stop with “; and”, and after section 66(1)(b)(iii) insert:

- “(c) take photographs and measurements, and to otherwise collect any necessary evidence relating to any matter concerning compliance with this Act, or any other Act for which the Authority is responsible; and

- (d) require that any action be taken or that any activity cease in order to achieve compliance with this Act or any other Act for which the Authority is responsible; and

- (e) take samples for testing and analysis of any matter, substance or thing to ensure compliance with this Act or any other Act for which the Authority is responsible.”.

(2) In section 66(2)(b)(iii) of the principal Act, substitute the full stop with “; and”, after section 66(2)(b)(iii) insert:

“(c) require the production of records and information held by any person relating to a licence held under this Act, or any other Act for which the Authority is responsible; and

(d) require any person working in licensed premises to state their name, address and age, and to provide verification of such matters; and

(e) where relevant require any person on licensed premises to state their name, address and age, and to provide verification of such matters.”.

17. Section 84 amended:

In section 84 of the Principal Act:

(a) after “Authority”, wherever occurring, insert “or Chief Executive Officer”; and

(b) after subsection (1) insert:

“(1A) Statement of an account referred to in subsection (1) includes copies of cheques and other transaction records relevant to the account.”; and

(c) after subsection (5) insert:

“(6) A bank or any officer of the bank who provides information for the purpose of this section is not liable for breach of trust.”.

18. Section 88A amended:

In section 88A(1) of the Principal Act, for “by means of the internet” substitute “to provide interactive gaming services or to sell or supply interactive gaming products”.

19. New sections 88B and 88C inserted:

After section 88A insert:

“88B. Commission payable on interactive gaming and services:

- (1) A person who holds a licence issued under section 88A for interactive gaming and the provision of interactive gaming services must pay commission on the gross profit derived in connection with interactive gaming or interactive gaming services.
- (2) The commission payable under subsection (1) is an amount determined by the Authority which must be specified in the licence as a percentage of gross profit.
- (3) All payments of commission under this section must be paid into a fund determined by the Authority.
- (4) Unless otherwise determined by the Authority under subsection (7)(a), the commission is payable to the Authority by a licensee to which subsection (1) applies on or before the last working day of a month following the month in respect of which the gross profit was made.
- (5) For the purposes of this section gross profit derived in a month from gaming is to be calculated by deducting the amount paid out as winnings in respect of the gaming or gaming services from the total amount received by the licensee from licensed activities.

- (6) The Authority may determine any matter necessary for the calculation of the commission payable under this section, and give directions to a licensee to ensure that commission is properly determined, accounted for and paid to the Authority.
- (7) Without limiting subsection (6), the Authority may give directions in relation to any of the following:
 - (a) the time that commission must be calculated and paid to the Authority;
 - (b) dealing with unclaimed prizes when determining the commission that is payable by a licensee.

88C. Exemption from tax:

The income of the Authority is wholly exempted from income tax under the Income Tax Act 2012.”.

20. Section 89 amended:

- (1) After section 89(2)(u) of the Principal Act insert:
 - “(ua) prescribe matters in relation to interactive gaming such as -
 - (i) categories of interactive gaming licences;
 - (ii) validity of interactive gaming licences;
 - (iii) terms and conditions applicable to interactive gaming licences;

(iv) restrictions in relation to categories of licences, including restrictions on where the licensed games can be conducted and persons permitted to participate in interactive gaming.”.

(2) In section 89(2)(w)(i) of the Principal Act, for “50” substitute “1000”.

(3) In section 89(2)(w)(ii) of the Principal Act:

(a) for “10” substitute “250”;

(b) after “units” insert “or imprisonment term not exceeding two (2) years or both.”.

21. New Sections 89A and 89B inserted:

After section 89 of the Principal Act insert:

“89A. Approved forms and fees:

The Chief Executive Officer has authority to approve forms and fees for any purpose under this Act, or any other Act for which the Authority has responsibility.

89B. Immunities for persons exercising powers under this Act:

The Authority and its members, the Chief Executive Officer and officers and policies are not subject to any civil or criminal liability to any person affected by the lawful exercise of a power under the provisions of this Act or any other Act for which the Authority is responsible.”.

22. Section 92 amended:

For section 92(2) of the Principal Act substitute:

“(2) The TAB shall continue to exercise the powers, duties and functions of the Board of the Authority from the date of commencement of this Act until ceased by the Head of State on the advice of the Cabinet.”.

23. Consequential amendment to the Income Tax Act 2012:

After Schedule 2, Part A(1) of the Income Tax Act 2012 insert:

“(zg) the income of the Gambling Control Authority.”.
