

Gaming Control Act 2017



SAMOA

GAMING CONTROL ACT 2017

Arrangement of Provisions

**PART 1
PRELIMINARY**

1. Short title and commencement
2. Objectives of this Act
3. Interpretation

**PART 2
AUTHORITY TO REGULATE GAMING**

4. Functions and powers of the Authority
5. Powers of the Chief Executive Officer
6. Delegations of authority under this Act

**PART 3
CONTROLS OVER GAMBLING**

Gaming Control Act 2017

7. Permissible forms of gaming and gambling
8. Gambling by minors prohibited
9. Prohibited Prizes
10. Authorised purpose statements

PART 4**TOTALISATOR BETTING**

11. Conduct of a totalisator
12. Totalisator betting elsewhere than on racecourses
13. Acceptance of totalisator betting
14. Placing of bets
15. Application for totalisator licence
16. Conditions relating to betting through the Authority
17. Betting not permitted by under-aged persons
18. Dividends
19. Provisions applicable if no winning bets
20. Offences in relation to payment of winning bets and refunds
21. Credit Account
22. Dividend Equalization Account

PART 5**NATIONAL LOTTO**

23. Authority's right to conduct national lotto
24. Selling agents
25. General expenditure

*Gaming Control Act 2017***PART 6
LOTTERIES**

- 26. Conduct of lotteries
- 27. Lottery licences
- 28. Method of drawing lotteries
- 29. Lottery not to be drawn until all tickets are sold
- 30. Lotteries to be drawn in the presence of police
- 31. Drawings to be open to the public
- 32. Official result
- 33. Offences relating to lotteries
- 34. Sales of tickets in illegal lotteries

**PART 7
BINGO**

- 35. Application for a bingo licence
- 36. Lapse of licence
- 37. Bingo suppliers to be licensed
- 38. Appointment of organiser
- 39. Particulars required by the Chief Executive Officer
- 40. Conditions of play
- 41. Statement of receipts and payments
- 42. Records and evidence of conduct of bingo

**PART 8
SALES PROMOTION SCHEMES**

Gaming Control Act 2017

- 43. Conduct of sales promotion schemes
- 44. Sales promotion scheme licences
- 45. Method of drawing sales promotion schemes
- 46. Official result
- 47. Offences relating to sales promotion schemes

PART 9

GAMING BY TELECOMMUNICATIONS SERVICE PROVIDERS

- 48. Gaming activities by service providers
- 49. Licences for gaming using telecommunications devices
- 50. Granting a licence
- 51. Distribution of profits
- 52. Approval for games
- 53. Opting out of games
- 54. Offences against this Part

PART 10

CONTROLS OVER GAMING HOUSES

- 55. Gaming houses
- 56. Advancing money for a gaming house
- 57. Gambling in a public place

PART 11

INQUIRIES, AUDITS AND AUTHORISED EXPENSES

Gaming Control Act 2017

- 58. Information to be provided by licensees
- 59. General Audit
- 60. No commission of costs to be withheld

PART 12

HEARINGS BY THE AUTHORITY

- 61. Appeals and re-hearings
- 62. Inspectors to investigate complaints
- 63. Promotion of responsible gambling
- 64. Hearings in relation to complaints
- 65. Suspension of licences
- 66. Cancellation of licences

PART 13

ENFORCEMENT PROVISIONS

- 67. Obstruction of inspectors
- 68. Bribery and false information offences
- 69. Infringement notices
- 70. Infringement penalty
- 71. Effect of payment of fine

PART 14

MISCELLANEOUS

- 72. Approved forms and fees
- 73. Immunities for persons exercising powers under this Act
- 74. Regulations

Gaming Control Act 2017

- 75. Savings and transitional provisions
- 76. Repeal of Acts

GAMING CONTROL ACT 2017**2017,****No. 23**

AN ACT to regulate gaming and related gambling activities under reformed legal arrangements, and other related matters.

[Assent date: 21 December 2017]

[Commencement date: 1 May 2018]

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

PART 1
PRELIMINARY

1. Short title and commencement:

- (1) This Act may be cited as the Gaming Control Act 2017.
- (2) This Act commences on a date nominated by the Minister.

2. Objectives of this Act:

The objectives of this Act are to:

- (a) control the growth of gaming and gambling;
- (b) prevent and minimise the harm caused by gaming and gambling, including problem gambling;

Gaming Control Act 2017

- (c) authorise some types of gaming and gambling under regulatory arrangements, and to prohibit undesirable forms of gaming and gambling;
- (d) promote responsible gaming and gambling;
- (e) ensure the integrity and fairness of games of chance;
- (f) limit opportunities for crime and dishonesty associated with gaming or gambling; and
- (g) ensure that money from gambling or gaming is applied to community purposes.

3. Interpretation:

- (1) In this Act unless the contrary intention appears:
 - “approved form” means a form approved by the Chief Executive Officer for use under this Act;
 - “approved standards” means the standards, codes of practice and operating procedures approved by the Authority under the Casino and Gambling Control Act 2010 for any purpose under this Act;
 - “authorised” means authorised by the Authority;
 - “authorised purpose statement” means an authorised purpose statement provided for in section 10;
 - “authorised representative” means an individual authorised by a club to act as its representative in an application for an authorised purpose statement, and who is responsible for the compliance of the club in the conduct of its gambling operation;

Gaming Control Act 2017

“Authority” means the Gambling Control Authority established under the Casino and Gambling Control Act 2010;

“bingo” means the game commonly known under that name in which gambling is conducted according to game rule under which all of the following apply:

- (a) the numbers are selected randomly and announced to participants;
- (b) the participants mark or cover the numbers announced on their own cards;
- (c) the winners are participants who mark or cover any given arrangement of the numbers on their card and announce that fact openly to the other participants and to the organisers,

and includes any other game played in a similar manner.

“Chief Executive Officer” means the Chief Executive Officer of the Authority, and includes any person lawfully acting in that position from time to time;

“company” includes a corporation;

“conduct” includes to promote, organise, manage or operate;

“club” means an incorporated body or association of persons formed as a club, association, society or other body of persons, and which meets the requirements of subsection (2);

Gaming Control Act 2017

“Court” means a court of competent jurisdiction within Samoa constituted under the Constitution or an Act;

“gambling” means playing or staking consideration (directly or indirectly) on the outcome of something seeking to win money or money’s worth when the outcome depends wholly or partly on chance; and includes all of the following:

- (a) a sales promotion scheme which involves playing or staking consideration in such a manner;
- (b) placing a bet or stake with a person or business involved with bookmaking;
- (c) betting, paying, or staking consideration on the outcome of a sporting event,

but does not include an act, behaviour or transaction that is declared not to be gambling by regulations made under this Act.

“gaming” means playing for money or other valuable thing at any game of chance or any game of mixed chance and skill, including instant games, prize competitions and competitions involving the use of mobile telecommunications devices in any manner;

Gaming Control Act 2017

“illegal gambling” means any form of type of gambling which is not authorised under this Act or the Casino and Gambling Control Act 2010;

“inspector” means an officer of the Authority empowered as such under the Casino and Gambling Control Act 2010;

“instant game” means a form of gambling under which a winning ticket or the money or other reward that a winning ticket bears is determined, before or simultaneously with the sale of tickets, randomly or wholly by chance;

“licence” means a licence issued under this Act to conduct any gambling authorised under this Act;

“licensee” means an individual, club or company that is licensed under this Act to conduct any permissible type of gaming and gambling;

“lottery” means a scheme or device involving participants for which both of the following apply:

- (a) a person pays consideration to participate, directly or indirectly; and
- (b) prizes of money are distributed according to a draw that takes place after all participants have entered, and includes lotto, raffles and sweepstakes.

“money” includes money’s worth (whether or not convertible into money) and the right to money;

Gaming Control Act 2017

“private gambling” means gambling by persons at a private residence in which all of the following apply:

- (a) all the stakes placed are distributed as reward to the winners;
- (b) the gambling is, primarily, a social event or entertainment;
- (c) no remuneration, commission, or reward is paid to, or received by, a person for conducting the gambling;
- (d) persons who do not live at the residence are not induced (formally or informally) to participate in the gambling by advertisement, notice, or other means;
- (e) if the gambling involves playing or staking against a person who has the role of “bank”, that role passes from one person to another by chance or by regular rotation among all persons, without charge or other conditions;
- (f) all participants have an equal chance of winning;
- (g) no person other than a participant has a chance of winning;
- (h) no one pays for admission, directly or indirectly;
- (i) there are no deductions of any kind from a participant’s stakes or winnings.

Gaming Control Act 2017

“prize competition” means a scheme or competition to which all of the following apply:

- (a) direct or indirect consideration is paid to participate;
- (b) prizes of money or money's worth are distributed, or in which participants seek to win money or other prizes of any nature and value;
- (c) the result is determined partly by chance, or partly by the performance by the participant of an activity of a kind that may be performed more readily by a participant possessing or exercising some knowledge or skill, whether or not it may also be performed successfully by chance.

“responsible gambling” means lawful participation in gambling that meets all of the following criteria:

- (a) is lawful, fair, and honest;
- (b) is conducted in a safe and secure environment;
- (c) is conducted without pressure or devices designed to encourage gambling at levels that may cause harm;
- (d) is undertaken by informed participants who understand the nature of the activity and do not participate in ways that may cause harm.

Gaming Control Act 2017

“ticket” means a document or thing that is evidence of participation in gambling, or which signifies such participation, and if there is no such document or thing relevant to any specific gambling it includes the right to participate in the gambling.

- (2) For the purposes of this Act, a club must be incorporated under law and formed for a purpose other than personal gain, and all of the following must apply to it:
 - (a) the bank accounts must require more than one signature;
 - (b) the annual accounts must be audited and available for inspection;
 - (c) membership must be generally available to interested persons;
 - (d) members and office-holders of the club must not be entitled to a share of income or profits of the club.

PART 2**AUTHORITY TO REGULATE GAMING****4. Functions and powers of the Authority:**

- (1) In addition to its functions under the Casino and Gambling Control Act 2010, the Authority has the following functions under this Act:
 - (a) to regulate and monitor gaming and gambling in Samoa;
 - (b) to regulate and monitor totalisator activities in Samoa;

Gaming Control Act 2017

- (c) to regulate and monitor lottos or lotteries in Samoa;
 - (d) to promote and facilitate responsible gambling;
 - (e) any other prescribed functions.
- (2) The Authority has power to do anything necessary for or incidental to its functions under subsection (1).
- (3) Without limiting subsection (1) the Authority has all of the following powers:
- (a) to enter into agreements for the purpose of this Act;
 - (b) to issue licences under this Act;
 - (c) to make, apply and enforce rules for games;
 - (d) to receive and allocate funds from gaming and gambling;
 - (e) to engage in or conduct gaming or gambling activities as permitted by this Act;
 - (f) to authorise or require the taking of action against licensees in accordance with this Act;
 - (g) to ensure that action is taken to recover licence fees for licences issued under this Act, and to exercise other powers in relation to fees including the power to waive interest on outstanding licence fees;

Gaming Control Act 2017

- (h) to otherwise ensure that this Act is enforced by the taking of action against persons who breach this Act or regulations made under it.

5. Powers of the Chief Executive Officer:

The Chief Executive Officer of the Authority has all of the following powers:

- (a) to issue licenses approved by the Authority in accordance with this Act;
- (b) to apply and enforce rules for games approved by the Authority;
- (c) to approve or disallow equipment and suppliers to be used by licence holders;
- (d) to require a person conducting a gaming or gambling activity to provide information for research, policy analysis and development purposes;
- (e) to take action against licensees in accordance with this Act;
- (f) to recover licence fees for licences issued under this Act, and to exercise other powers in relation to fees including the power to waive interest on outstanding licence fees;
- (g) to otherwise enforce this Act by taking action against persons who breach this Act or regulations made under it.

6. Delegation of authority under this Act:

- (1) The Chief Executive Officer has authority to delegate to an officer of the Authority any or all

Gaming Control Act 2017

of the powers under this Act, except this power of delegation.

- (2) The Authority may determine powers which cannot be delegated by the Chief Executive Officer under this Act.
- (3) A delegation made under this section must be made in writing.
- (4) The delegation of a power under this section does not prevent the Chief Executive Officer from exercising that function or power.
- (5) A delegation made under this section may be revoked at will by resolution by the Chief Executive Officer.
- (6) A delegation made under this section applies to any person who subsequently lawfully holds the position of the officer to whom the power was delegated, and continues in force until such delegation is revoked by the Chief Executive Officer.

PART 3

CONTROLS OVER GAMING AND GAMBLING

7. Permissible forms of gaming and gambling:

- (1) The only forms of gambling which are permissible in Samoa are gaming and gambling activities which are consistent with the following:
 - (a) gaming and gambling activities which are for an authorised purpose under this Act, and which comply with all

Gaming Control Act 2017

17

- applicable requirements under this Act,
and any relevant licence conditions,
game rules and approved standards;
 - (b) gaming and gambling activities which
fall into the category of private
gambling;
 - (c) gambling in casinos as authorised under
the Casino and Gambling Control Act
2010;
 - (d) interactive gaming (including on-line
sports betting) for which a licence has
been issued under the Casino and
Gambling Control Act 2010.
- (2) All other forms of gambling are prohibited and
illegal.
- (3) Without limiting the generality of subsection (2),
the following forms of gambling are prohibited
and illegal and may not be authorised under this
Act:
- (a) bookmaking;
 - (b) any other gambling activity which is
prohibited by Regulations made under
this Act.
- (4) For the purposes of subsection (3)
“bookmaking”:
- (a) means a business which involves any of
the following activities -
 - (i) taking or negotiating bets;
 - (ii) organising pool betting;
 - (iii) matching gamblers;
 - (iv) laying or offering odds;

Gaming Control Act 2017

- (v) offering to bet with more than 1 person; and
- (b) does not include any of the following -
 - (i) the activities of a racing club;
 - (ii) private gambling;
 - (iii) totalisator betting which is authorised under this Act;
 - (iv) on-line sports betting which is authorised and licensed as interactive gaming under the Casino and Gambling Control Act 2010.
- (5) Any person who conducts a gambling activity that is prohibited under this section commits an offence and is liable upon conviction to a fine not exceeding 100 penalty units or to a term of imprisonment not exceeding three (3) years, or both.

8. Gambling by minors prohibited:

- (1) A person under the age of 21 is prohibited from gambling.
- (2) Any person who:
 - (a) conducts a gambling activity and who breaches subsection (1), or
 - (b) who causes or permits a breach of subsection (1) to occur,
 commits an offence and is liable upon conviction to a fine not exceeding 50 penalty units or to a term of imprisonment not exceeding one (1) year, or both.

*Gaming Control Act 2017***9. Prohibited Prizes:**

- (1) No gambling activity may use any of the following as prizes or rewards:
 - (a) tobacco products;
 - (b) alcohol;
 - (c) firearms;
 - (d) sexual services;
 - (e) customary land;
 - (f) any other title in land (unless that land is offered in a legally licensed raffle);
 - (g) historical items as prescribed by Regulations made under this Act.
- (2) Regulations made under this Act may prescribe additional prohibited prizes, and specify property or types of property that must not be offered as a reward for gaming or gambling.
- (3) A person who offers or uses property or a class of property as a prize or reward in breach of this section commits an offence and is liable upon conviction to a fine not exceeding 50 penalty units or to a term of imprisonment not exceeding three (3) years, or both.

10. Authorised purpose statements:

- (1) For the purposes of this section and any other provision of this Act, “an authorised purpose” means gaming or gambling for any of the following purposes:
 - (a) a charitable purpose;
 - (b) to support a church or religious organisation;

Gaming Control Act 2017

- (c) a non-commercial purpose that is beneficial to the whole or a section of the community;
 - (d) a club, or association (sporting or otherwise) that raises money for the benefit of its members or to discharge the payment of debts owed by the club or association;
 - (e) any other purpose which is deemed to be an authorised purpose by Regulations made under this Act.
- (2) No licence may be issued to authorise gaming or gambling in accordance with this Act unless an authorised purpose statement has been submitted to the Chief Executive Officer and approved under this section for the proposed gaming or gambling activity.
- (3) Application can be made to the Chief Executive Officer for the approval of an authorised purpose statement when such a statement is a requirement under a provision of this Act.
- (4) An application made under subsection (2) must be in the approved form and be accompanied by the approved fee, and must be accompanied by statement providing sufficient details of the proposed activities to satisfy the Chief Executive Officer that the gaming or gambling activity is for an approved purpose as provided for under this section.

Gaming Control Act 2017

- (5) An application under subsection (4) must nominate an authorised representative who has authority to act as the representative of the applicant, and who will be responsible for compliance by the applicant with all legal requirements relating to the conduct of the licensed gaming or gambling operations.
- (6) The Chief Executive Officer has authority to approve an authorised purpose statement, and when deciding whether or not to approve such a statement the Chief Executive Officer must consider all prescribed requirements and any approved policy made by the Authority in relation to such statements.
- (7) Approval for an authorised purpose statement can be revoked at any time by the Chief Executive Officer or by a decision of the Authority.
- (8) If the Chief Executive Officer determines that an application under this section not be granted, the applicant has a right to make a written request, within seven (7) days of receiving notification of the refusal, to the Authority to review the decision, and in such a case the Authority may affirm the decision of the Chief Executive Officer or direct that an authorised purpose statement be approved on such terms and conditions as the Authority determines.
- (9) The Chief Executive Officer has authority to monitor the activities of a licensee to determine that the licensee is complying with the

Gaming Control Act 2017

authorised purpose statement, and can exercise any of the following powers:

- (a) the licensee can be required to provide any information necessary to determine whether there is compliance with the statement and the matters disclosed in the application for the statement;
 - (b) the licensee can be required to provide records and financial statements to determine compliance;
 - (c) the Chief Executive Officer can issue a direction to the licensee that the activities be conducted in any particular manner so as to comply with this section.
- (10) An applicant or licensee who breaches any requirement applying under this section commits an offence and is liable upon conviction to a fine not exceeding 100 penalty units.
 - (11) A licence issued under this Act can be cancelled or suspended in the event of any breach of a requirement under this section.
 - (12) Regulations made under this Act may prescribe any matter relating to authorised purpose statements.

PART 4**TOTALISATOR BETTING****11. Conduct of a totalisator:**

- (1) In this Part unless the contrary intention appears:

Gaming Control Act 2017

“race” means a horse race, dog race, pony race or trotting race, and includes in relation to a bet, with one stake, on the results of 2 or more races, all of the races in relation to which the bet is made;

“race club” means a club formed or carried on for the purpose of conducting or controlling races;

“racecourse” means land, whether within or outside of Samoa, that is used for races and to which admission is obtainable by payment of money, by ticket or otherwise;

“totalisator betting” means betting on:

- (a) a racecourse or any place other than on a racecourse, by placing bets on a race on a totalisator;
- (b) any other prescribed race, sports competition or event.

- (2) A person must not conduct a totalisator for totalisator betting unless the person has a valid and current authorised purpose statement issued under section 10 relevant to such betting, and a licence issued by the Authority for such activities.
- (3) The Authority may enter into an agreement under this section with a body in another country that is authorised by a law of that country to conduct or provide totalisator betting.
- (4) An agreement entered into under subsection (3) may provide that:

Gaming Control Act 2017

- (a) the body in the other country will place bets transmitted to it by the Authority on a totalisator conducted in that country and return to the Authority such dividends in respect of bets so transmitted to it as are declared by the totalisator on which the bets were placed;
- (b) that the body will return to the Authority such amount as commission out of the amount of the bets received by that body from the Authority as is agreed upon between that body and the Authority;
- (c) the Authority will place any bets transmitted to it by that body on a totalisator conducted by the Authority and return to that body the dividends payable in respect of the bets placed by the Authority in accordance with this Act; and
- (d) the Authority -
 - (i) will return to that body such amount as commission out of the amount of the bets received by the Authority from that body as is agreed upon between that body and the Authority; or
 - (ii) if, in relation to bets transmitted to the Authority by the body, being bets included in a specified class or classes of bets, the body

Gaming Control Act 2017

will retain, out of the amount of each bet so transmitted to the Authority, as commission such amount as is agreed upon between that body and the Authority and will pay to the Authority such amount, as commission in respect of the placing of those bets by the Authority, as is agreed upon between that body and the Authority.

- (5) The return of an amount as commission referred to in subsection (4)(b) or (d)(i) may be made subject to such conditions relating to the application of the commission as are agreed upon between the parties to the agreement.
- (6) If bets are transmitted to the Authority in pursuance of an agreement under this section and the body that has transmitted those bets to the Authority has, in pursuance of a provision in that agreement of the kind referred to in subsection (4)(d)(ii) retained out of the amounts of those bets commission under that provision, then the Authority must not retain out of, the amount of the bets so transmitted any commission under this Part.
- (7) A race club controlling races at a racecourse in Samoa must, if the Authority has not established an office or agency at the racecourse, make available to the Authority such premises at the

Gaming Control Act 2017

racecourse as are necessary to enable the Authority to conduct totalisator betting facilities at the racecourse.

- (8) A reference in this Act to an office or agency of the Authority shall, unless the contrary intention appears, be read as including premises made available to the Authority under subsection (7).
- (9) The Authority and a licensed totalisator have authority, out of the amount of each bet received by it and placed by it on the totalisator operated by it, to retain as commission such amount as the Authority determines to be so retained for the class of bet.

12. Totalisator betting elsewhere than on racecourses:

- (1) A bet on a race that could lawfully be made in Samoa at a racecourse during a race-meeting may be made through any of the following:
 - (a) the Authority, at an authorised office or agency of the Authority;
 - (b) at an office of a licensed totalisator, whether or not a race-meeting is being conducted at a racecourse in Samoa on the day the bet is made.
- (2) Subject to this Act, the operation of offices and agencies of the Authority and of licensed totalisators, including the hours of business of its offices and agencies, are as the Authority determines.

Gaming Control Act 2017

- (3) A person having the management or control of an office or agency of the Authority or a licensed totalisator has authority to do the following:
 - (a) to request a person who is drunk, violent, quarrelsome, behaving in a disorderly manner, or loitering or hanging about in the office or agency, to leave the office or agency;
 - (b) to refuse to admit such a person to the office or agency.
- (4) A person must not:
 - (a) enter an office or agency of the Authority on being refused admittance to it under subsection (3); or
 - (b) refuse or fail to leave an office or agency of the Authority on being requested to leave it under subsection (3).
- (5) A person who contravenes a provision of subsection (4) commits an offence and is liable upon conviction to a fine not exceeding 10 penalty units.

13. Acceptance of totalisator betting:

- (1) The Authority must only accept totalisator betting at an authorised office or agency of the Authority.
- (2) The Authority and any other licensed totalisator must not accept a bet from a person unless any of the following apply:

Gaming Control Act 2017

- (a) the amount of the bet is deposited in cash at an authorised office or agency at the time of making the bet;
 - (b) the amount of the bet is received at an authorised office or agency with a letter from that person setting out the bet;
 - (c) the bet is made by telegraphic transfer from that person received at an authorised office or agency, and payment of the amount of the bet is arranged by that means;
 - (d) the bet is made by any of the following -
 - (i) by letter, telephone message to, or any other prescribed mode;
 - (ii) personally at, an authorised office or agency by that person, and payment of the amount of the bet is authorised to be made from a credit account that was established by that person under section 21 before the commencement of the race-meeting at which the race on which the bet is made is run, and which shows sufficient credit at the time of making the bet to pay the amount of the bet.
- (3) The Authority must not accept a bet except in an amount or multiple approved by the Authority.

Gaming Control Act 2017

- (4) A person must not, in respect of totalisator betting, issue a ticket or other acknowledgment purporting to relate to a totalisator bet which is issued by the Authority or other licensed totalisator unless he or she is a person employed by the Authority or a licensed totalisator for that purpose.
- (5) A person who contravenes subsection (4) commits an offence and is liable upon conviction to a fine not exceeding 20 penalty units.

14. Placing of bets:

The Authority or a licensed totalisator may place a bet accepted by it under this Act on the following:

- (a) for a race on which the Authority or licensed totalisator operates its own totalisator, on that totalisator;
- (b) for a race on which the Authority or licensed totalisator does not operate its own totalisator, on the totalisator in another country being the totalisator of a body conducting totalisator betting in that country on that race pursuant to an agreement with that body under section 11(3), the agent of the Authority.

15. Application for totalisator licence:

- (1) A person may apply to the Authority for a licence to operate a totalisator for the purposes of totalisator betting under this Part.
- (2) The Authority may grant an application under this section and issue a licence with terms as the Authority determines.

Gaming Control Act 2017

- (3) In relation to a licence issued under this section, the Authority may apply conditions to the licence which the Authority determines, which must be consistent with this Part.

16. Conditions relating to betting through the Authority:

- (1) Subject to this Act, the Authority may determine all of the following:
 - (a) the arrangements for distributing amounts as dividends on bets made by any specific means;
 - (b) the closing times and other conditions for the acceptance of bets at its offices and agencies;
 - (c) the method of identification of persons offering to make bets;
 - (d) the manner of acknowledging bets made;
 - (e) the manner of recording the bets made.
- (2) A person employed by the Authority who accepts a bet, or who allows a bet to be accepted, at any time other than the time determined by the Authority for the acceptance of that bet commits an offence and is liable upon conviction to a fine not exceeding 5 penalty units.

17. Betting not permitted for under-aged persons:

- (1) A person who permits a person under the age of 21 years to make a bet through the Authority or a licensed totalisator commits an offence and is

Gaming Control Act 2017

liable upon conviction to a fine not exceeding 50 penalty units or to a term of imprisonment not exceeding one (1) year, or both.

- (2) A person who has the management or control of, or who is employed at an office or agency of the Authority or a licensed totalisator has authority to require that a person who is apparently under the age of 21 years to provide proof of age before accepting a bet from that person.

18. Dividends:

- (1) The Authority and a licensed totalisator must, as soon as practicable after the end of each race on which totalisator betting facilities are conducted or provided by it, pay dividends in accordance with this section on each bet on which a dividend is payable.
- (2) For the purposes of subsection (1):
 - (a) a bet is a bet in respect of which a dividend is payable -
 - (i) in a case where bets are placed on the totalisator operated by the Authority - if the bet is accepted and applicable to be a bet on which a dividend is payable; and
 - (ii) in a case where bets are placed by a licensed totalisator other than the totalisator operated by the Authority - if the bet is declared by the totalisator on which the

Gaming Control Act 2017

- bets were placed to be a bet on which a dividend is payable; and
- (b) a reference to a bet on which a dividend is payable is to be read as including a bet in which a refund is payable that is applicable to the race on which the bet was placed and the class of bets in which that bet is included or is payable by the totalisator on which the bet was placed, as the case may be.
- (3) The minimum amount to be paid by the Authority or a licensed totalisator as a dividend in respect of a bet placed on a race, other than a race in which two or more runners were each placed, first, second or third, is \$1.00.
- (4) The Authority or a licensed totalisator are not liable to pay an amount as a dividend in respect of a bet on a race remaining unclaimed after the expiration of the period of three (3) months from the first day on which the place at which the bet was made was open for business after the day of the race.

19. Provisions applicable if no winning bets:

If the bets on a race do not include a bet on the winner of the race or on a winning combination on the race, the amount that would have been available for distribution as dividends shall form part of the amount available for distribution as dividends on other bets.

*Gaming Control Act 2017***20. Offences in relation to payment of winning bets and refunds:**

A person who authorises or permits a payment of a dividend or of a refund otherwise than in accordance with this Act, commits an offence and is liable upon conviction to a fine not exceeding 5 penalty units.

21. Credit Account:

- (1) A person may, as the Authority determines, establish a credit account with the Authority by depositing an amount of not less than \$2 and may, as the Authority determines, deposit further moneys in, or credit amounts as dividends in respect of bets won to the account.
- (2) If no bets are made through the Authority by a person from his or her credit account for a period of three (3) months, the Authority must, by letter posted to his or her last-known address, notify the person of the amount standing to his or her credit.
- (3) If, within the period of one (1) month after the posting of the notification referred to in subsection (2), no bets have been made in respect of the credit account of the person, the Authority is not liable to refund any amount of money standing to the credit of that person in the account.
- (4) No licensed totalisator may permit credit accounts to be operated by a customer unless the Authority approves the use of such accounts.

Gaming Control Act 2017

- (5) An approval under subsection (4) is subject to conditions imposed by the Authority, and such conditions can be applied at any time during the currency of the approval.
- (6) A licensee who breaches subsection (1) or any condition applying under subsection (5) commits an offence and is liable upon conviction to a fine not exceeding 50 penalty units.

22. Dividend Equalization Account:

- (1) The Authority and any licensed totalisator must keep an account to be called the Dividend Equalization Account and set aside in that account any unclaimed dividends that the Authority or licensed totalisator is not liable to distribute under this Part.
- (2) Any balance standing to the credit of any Dividend Equalization Account maintained under this section must be transferred to the revenue account of the Authority at the end of each accounting year.
- (3) Regulations made under this Act may prescribe any matter relating to the establishment and operation of Dividend Equalisation Accounts, and any matter concerning payments into and out of such accounts.

PART 5
NATIONAL LOTTO

*Gaming Control Act 2017***23. Authority's right to conduct national lotto:**

- (1) The Authority has the right to conduct one or more national lotto games.
- (2) A national lotto game shall be conducted in such manner as the Authority thinks fit.
- (3) Without limiting subsection (2), the Authority may determine with respect to any national lotto game:
 - (a) the means by which entries to the lotto are to be made;
 - (b) the price to be charged for such entries;
 - (c) the number and amounts of the prizes to be distributed;
 - (d) the form of the tickets or receipts evidencing entry into a lotto game;
 - (e) the rate of commission or other remuneration to be paid to the selling agents;
 - (f) the bonuses (if any) to be paid to agents selling winning tickets;
 - (g) the amounts to be expended on the printing of tickets and the advertising for the lotto.
- (4) All prize-moneys received by prize-winners in any lotto game are to be wholly exempt from income tax.
- (5) If no person establishes his or her claim to a prize in any national lotto game, to the satisfaction of the Authority, within six (6) months after the result of the drawing of the lotto is advertised, the Authority shall deal with

Gaming Control Act 2017

the prize-money as if it were part of the net proceeds which can be retained by the Authority, but the Authority, in its discretion, may after the expiration of that six (6) months, authorise payment of the amount of the prize out of the undistributed funds of the Authority to any person who satisfies the Authority that he or she is entitled to it.

24. Selling agents:

- (1) Selling agents for approved national lotto games may be appointed by the Authority upon such conditions as are determined by the Authority.
- (2) The commission or other remuneration to which selling agents are entitled is to be payable by the Authority from the proceeds of the sale of tickets in the lotto games.

25. General expenditure:

There may be paid out of the funds of the Authority such amounts as the Authority determines for all of the following:

- (a) all prize moneys payable in respect of approved national lotto games;
- (b) any commission or other remuneration payable to selling agents;
- (c) any bonuses payable to the sellers of winning tickets;

Gaming Control Act 2017

- (d) all expenses incurred in the conduct of approved national lotto games, including costs related to the printing of tickets and for advertising approved national lotto games.

PART 6
LOTTERIES

26. Conduct of lotteries:

- (1) A lottery must be licensed in accordance with this Act and conducted in the manner determined by the Chief Executive Officer, who in the exercise of all powers under this Part must apply any policy or process applicable to lotteries which is approved by the Authority.
- (2) Without limiting subsection (1), the Chief Executive Officer has authority to determine, approve and apply any of the following matters with respect to any lottery:
 - (a) the number of tickets for the lottery;
 - (b) the price to be charged for tickets;
 - (c) the number and amounts of the prizes to be distributed;
 - (d) the form of the tickets;
 - (e) the rate of commission or other remuneration to be paid to the selling agents;
 - (f) the bonuses (if any) to be paid to agents selling winning tickets;
 - (g) the amounts to be expended on the printing of tickets and advertising for the lottery.

Gaming Control Act 2017

- (3) Regulations may be made under this Act to prescribe any requirement applicable to licensed lotteries or to the control and regulation of lotteries.
- (4) The Chief Executive Officer has authority to determine the manner in which unclaimed or undistributed prizes in a lottery are to be dealt with.

27. Lottery licences:

- (1) An application for approval to conduct a lottery must be made to the Chief Executive Officer and must meet all of the following requirements:
 - (a) it must be in the approved form and be accompanied by the approved fee;
 - (b) it must be accompanied by an approved authorised purpose statement;
 - (c) it must identify the organisation which is to organise the lottery, or for whose benefit the proceeds of the lottery will be applied;
 - (d) it must nominate an authorised representative of the organisation;
 - (e) it must be accompanied or supported by any information required by the Chief Executive Officer, and any verification of the information provided to the satisfaction of the Chief Executive Officer.
- (2) Subject to subsection (3), the Chief Executive Officer has authority to grant or refuse an application for a lottery licence.

Gaming Control Act 2017

- (3) The Chief Executive Officer must not grant a licence under this section unless the Chief Executive Officer is satisfied that the profits of the lottery concerned are to be applied only for an authorised purpose in accordance with the approved authorised purpose statement applying to the lottery.
- (4) The Chief Executive Officer, in granting a licence under this section, has authority to impose such conditions as the Chief Executive Officer determines.
- (5) The Chief Executive Officer has authority to revoke a licence issued under this section.

28. Method of drawing lotteries:

A lottery must be drawn in such manner as the Chief Executive Officer directs.

29. Lottery not to be drawn until all tickets are sold:

- (1) A lottery must not be drawn until all tickets in it have been sold.
- (2) Subsection (1) does not apply if the Chief Executive Officer is satisfied that unsold tickets have been lost in transit to a selling agent or cannot be sold, and the Chief Executive Officer has authority to authorise the drawing of the lottery subject to those tickets being excluded from the draw.
- (3) The Authority has power to waive compliance with subsection (1) if there are exceptional grounds for permitting the drawing of the

Gaming Control Act 2017

lottery without all tickets having been sold, and may apply any condition or requirement when granting such permission.

30. Lotteries to be drawn in the presence of police:

Unless exempted by the Chief Executive Officer, a lottery must be drawn in the presence of two (2) members of police, and at least one of the policemen present must hold a rank that is not lower than senior sergeant.

31. Drawings to be open to the public:

The drawing of lottery must be open to the public, and the time and place of that drawing must be advertised or notified in a manner approved by the Chief Executive Officer.

32. Official result:

- (1) A licensee must, immediately after the draw, prepare a certified statement setting out the results of the draw, and must provide the statement to the Chief Executive Officer within 48 hours of the lottery being drawn.
- (2) The statement prepared under subsection (1) shall be the official result of the draw once it is approved by the Chief Executive Officer, and the prizes must be paid or distributed in accordance with that result.
- (3) The official result of the drawing of any lottery must be advertised or notified in such a manner as the Chief Executive Officer directs.

*Gaming Control Act 2017***33. Offences relating to lotteries:**

- (1) A person who organises or promotes, or assists in the organisation or promotion of an unlicensed lottery commits an offence and is liable upon conviction to a fine not exceeding 100 penalty units or to a term of imprisonment not exceeding one (1) year, or both.
- (2) A licensee or other person responsible for the conduct of a licensed lottery who fails to comply with a condition applicable to the licence commits an offence and is liable upon conviction to a fine not exceeding 50 penalty units imprisonment for a term of imprisonment not exceeding three (3) months, or both.

34. Sales of tickets in illegal lotteries:

A person who purchases a ticket from an unlicensed lottery may claim for the return of his or her money or other consideration paid for the ticket from the person responsible for the unlicensed lottery.

PART 7**BINGO****35. Application for a bingo licence:**

- (1) An application for approval to conduct bingo in which gambling is undertaken by participants must be made to the Chief Executive Officer and must meet all of the following requirements:
 - (a) it must be in the approved form and be accompanied by the prescribed fee;

Gaming Control Act 2017

- (b) it must be accompanied by an approved authorised purpose statement;
 - (c) it must identify the organisation which is to organise the bingo, or for whose benefit the proceeds of the bingo will be applied;
 - (d) it must nominate an authorised representative of the organisation;
 - (e) it must be accompanied or supported by any information required by the Chief Executive Officer, or any verification of information provided to the satisfaction of the Chief Executive Officer.
- (2) Subject to subsection (3), the Chief Executive Officer has authority to grant or refuse an application for a bingo licence, and must issue the licence in the name of the nominated authorised representative.
- (3) The Chief Executive Officer must not grant a licence under this section unless the Chief Executive Officer is satisfied that the profits of the bingo concerned are to be applied only for an authorised purpose in accordance with the approved authorised purpose statement applying to the bingo.
- (4) The Chief Executive Officer, in granting a licence under this section, has authority to impose conditions.
- (5) The Chief Executive Officer has authority to revoke a licence issued under this section.

Gaming Control Act 2017

- (6) No person is permitted to conduct a game of bingo, or assist in conducting a game of bingo, in which gambling is undertaken by participants except pursuant to a licence granted under subsection (1).

36. Lapse of licence:

A licence to play bingo is considered no longer effective if either of the following apply:

- (a) no statement is provided to the Chief Executive Officer as required by section 41;
- (b) no game of bingo is played pursuant to that licence within a period determined by the Chief Executive Officer at the time the licence is granted, or at any time after its grant.

37. Bingo suppliers to be licensed:

- (1) Any person providing bingo supplies for the purpose of conducting a game of bingo licensed under this Part must be licensed.
- (2) A person intending to provide bingo supplies must apply to the Chief Executive Officer for a licence permitting such sale or supply, and the Chief Executive Officer has authority to grant or refuse the licence.
- (3) The Chief Executive Officer has authority to impose such conditions applicable to a licence issued under this section.
- (4) The Chief Executive Officer has authority to revoke a licence issued under this section for any reason and on any grounds.

Gaming Control Act 2017

- (5) Any company supplying bingo supplies must have control systems in place to track cards imported into Samoa.
- (6) A person who breaches subsection (1) or (5) commits an offence and is liable upon conviction:
 - (a) in the case of a company, to a fine not exceeding 50 penalty units; or
 - (b) in any other case, to a fine not exceeding 20 penalty units.
- (7) For the purpose of this section, “bingo supplies” are cards, papers and any other material or device that is used for conducting the game of bingo.

38. Appointment of organiser:

An organisation which has been granted a licence under this Part must, before conducting any game or session of bingo, appoint one (1) or more of its members, or a voluntary caller who is not a member of the organisation, as the appointed organiser and caller to conduct the game or session.

39. Particulars required by the Chief Executive Officer:

- (1) An organiser appointed under section 38 must give to the Chief Executive Officer not less than seven (7) clear days notice of all of the following:
 - (a) the date, time and premises fixed for the conduct of game of bingo;

Gaming Control Act 2017

- (b) the hours during which the game will be conducted;
 - (c) the charges proposed to be made for each card or entry into a game;
 - (d) the maximum prizes (including the prizes of jackpots) proposed to be given, and the maximum commission proposed to be levied;
 - (e) the name and addresses of the person who will be responsible for conducting the games and furnishing the statement of receipts under section 41;
 - (f) the name and address of the caller or callers to be used;
 - (g) confirmation that the bingo supplies have been obtained from a licensed bingo supplier.
- (2) In the case of a series of sessions of bingo extending over the approved period of the life of a licence, it is sufficient compliance with subsection (1) if one notice giving the required particulars in respect of all the sessions is given not less than seven (7) clear days before the date of the first session.

40. Conditions of play:

- (1) The Authority may make rules applicable to the conditions of play for bingo.
- (2) A person conducting a session of bingo shall have rules available for inspection upon request.

Gaming Control Act 2017

- (3) The rules made under this section are deemed to be a condition applicable to every licence granted under section 35.
- (4) If a breach of a rule made under this section occurs at a bingo, the person holding the licence issued under section 35 for that bingo, commits an offence and is liable upon conviction to a fine not exceeding 5 penalty units.

41. Statement of receipts and payments:

- (1) A person holding a licence issued under section 35 must give to the Chief Executive Officer a statement in the approved form detailing the receipts and payments in respect of that game or games.
- (2) A statement must be provided under this section in accordance with any condition applicable to the licence, or at any time that the Chief Executive Officer requires the statement to be provided.
- (3) A final statement under this section must be provided within 14 days of the expiration of the licence.
- (4) A person holding a licence issued under section 35 who fails to comply with this section commits an offence and is liable upon conviction to a fine not exceeding 10 penalty units.

42. Records and evidence of conduct of bingo:

- (1) For each game of bingo conducted, a person holding a licence issued under section 35 must

Gaming Control Act 2017

maintain a written record of all of the following matters:

- (a) the number of cards issued, or entries permitted;
 - (b) the amount which each person has been required to pay for each card or entry;
 - (c) the amount of prizes paid, including any jackpot;
 - (d) the commission received.
- (2) Such written records must be kept by the licensee for a period of not less than 12 months from the date the game was conducted, or in the case of a series of games, for a period of not less than 12 months from the date the last game of the series was conducted.
- (3) All records maintained under this section must be available for inspection by the Chief Executive Officer or an inspector.
- (4) An inspector has authority to do all of the following in relation to gambling on bingo games:
- (a) to enter into any premises in which bingo is being played, or within a reasonable time after the completion of the games;
 - (b) to examine any equipment, books of account, records or other documents;
 - (c) to demand from any persons conducting such games such information related to those games as the inspector considers necessary.

Gaming Control Act 2017

PART 8
SALES PROMOTION SCHEMES

43. Conduct of sales promotion schemes:

- (1) In this Part, a “sales promotion scheme” means gambling that is used by a creator, distributor, or vendor of goods or services to promote the sale of those goods or services and both of the following apply:
 - (a) participation in the scheme requires a person to purchase goods or services;
 - (b) the outcome is determined randomly or wholly by chance, or partly by chance (whether chance plays the greater or lesser part) and partly by the application of some knowledge or skill.
- (2) For a sales promotion scheme to be legal, and for a licence to permit the scheme to be issued under this Part, all of the following must apply to it:
 - (a) participation in the scheme must not require a person to purchase the goods or services promoted for a price that exceeds the usual retail price;
 - (b) the date or period on or over which the outcome of the scheme will be determined must be clear to the participant at the time and place of sale;
 - (c) a person participating in the scheme must not be required to pay direct or

Gaming Control Act 2017

- indirect consideration other than to purchase the goods or services promoted as their usual retail price;
- (d) the outcome must determine randomly or wholly by chance, or partly by chance (whether chance plays the greater or lesser part) and partly by the application of some knowledge or skill.
- (3) The entry requirements for participation in a sales promotion scheme must be consistent with this section and are subject to approval by the Chief Executive Officer.
- (4) A person who promotes or conducts a sales promotion scheme that breaches subsection (2) commits an offence and is liable upon conviction to a fine not exceeding 100 penalty units or to imprisonment for a term not exceeding six (6) months, or both.
- (5) A sales promotion scheme must be licensed in accordance with this Part and conducted in the manner determined by the Chief Executive Officer, who in the exercise of all powers under this Part must apply any policy or process applicable to sales promotion schemes which is approved by the Authority.
- (6) Regulations may be made under this Act to prescribe any requirement applicable to licensed sales promotion schemes or to the control and regulation of sales promotion schemes.

Gaming Control Act 2017

- (7) The Chief Executive Officer has authority to determine the manner in which unclaimed or undistributed prizes in a sales promotion scheme are to be dealt with.

44. Sales promotion scheme licences:

- (1) An application for approval to conduct a sales promotion scheme must be made to the Chief Executive Officer and must meet both of the following requirements:
 - (a) it must be in the approved form and be accompanied by the approved fee;
 - (b) it must be accompanied or supported by any information required by the Chief Executive Officer, and any verification of the information provided to the satisfaction of the Chief Executive Officer.
- (2) Subject to subsection (3), the Chief Executive Officer has authority to grant or refuse an application for a sales promotion scheme licence.
- (3) The Chief Executive Officer, in granting a licence under this section, has authority to impose such conditions as the Chief Executive Officer determines.
- (4) The Chief Executive Officer has authority to revoke a licence issued under this section.

*Gaming Control Act 2017***45. Method of drawing sales promotion schemes:**

- (1) A sales promotion scheme must be drawn in such manner as the Chief Executive Officer directs.
- (2) A sales promotion scheme must not be drawn until all conditions relevant to its conduct have been complied with.
- (3) A sales promotion scheme must be drawn in the presence of persons who the Chief Executive Officer requires to be present for the drawing.
- (4) The drawing of sales promotion scheme must be open to the public, and the time and place of that drawing must be advertised or notified in a manner approved by the Chief Executive Officer.

46. Official result:

- (1) A licensee must, immediately after the draw, prepare a certified statement setting out the results of the draw, and must provide the statement to the Chief Executive Officer within 48 hours of the sales promotion scheme being drawn.
- (2) The statement prepared under subsection (1) shall be the official result of the draw once it is approved by the Chief Executive Officer, and the prizes must be paid or distributed in accordance with that result.

Gaming Control Act 2017

- (3) The official result of the drawing of any sales promotion scheme must be advertised or notified in such a manner as the Chief Executive Officer directs.
- 47. Offences relating to sales promotion schemes:**
- (1) A person who organises or promotes, or assists in the organisation or promotion of a sales promotion scheme without a licence under this Part commits an offence and is liable upon conviction to a fine not exceeding 100 penalty units or to a term of imprisonment not exceeding one (1) year, or both.
- (2) A licensee or other person responsible for the conduct of a licensed sales promotion scheme who fails to comply with a condition applicable to the licence commits an offence and is liable upon conviction to a fine not exceeding 50 penalty units or to a term of imprisonment not exceeding three (3) months, or both.

PART 9
GAMING BY TELECOMMUNICATIONS
SERVICE PROVIDERS

- 48. Gaming activities by service providers:**
- (1) In this Part, unless the contrary intention appears:
- “electronic data” means any representation of facts, concepts, information (either texts,

Gaming Control Act 2017

sounds or images, or machine readable code or instructions,) in a form suitable to cause an electronic system to perform a function;

“opt out mechanism” is a mechanism that allows a subscriber to a service provider to unsubscribe from receiving texts that encourage participation in gambling activities;

“service provider” means a person regulated as such under the Telecommunications Act 2005 to provide telecommunications service to the public, or who owns or operates a telecommunications network used to provide telecommunications services to the public in Samoa;

“telecommunication device” means any of the following:

- (a) a computer adapted for communicating by way of the internet or another communications network;
- (b) a television receiver adapted to allow the viewer to transmit information by way of a cable television network or other communications device;
- (c) a telephone;
- (d) any other electronic device or thing for communicating at a distance.

- (2) Gaming and gambling activities through the use of a telecommunication device and electronic data must be licensed in accordance with this

Gaming Control Act 2017

Part, and must be conducted in the manner determined by the Chief Executive Officer, who in the exercise of all powers under this Part must apply any policy or process applicable to sales promotion schemes which is approved by the Authority.

- (3) Regulations may be made under this Act to prescribe any requirement applicable to licensed gaming and gambling activities through the use of a telecommunication device and electronic data.
- (4) The Chief Executive Officer has authority to determine the manner in which unclaimed monies or undistributed prizes related to licensed gaming and gambling activities through the use of a telecommunication device and electronic data are to be dealt with.

49. Licences for gaming using telecommunications devices:

- (1) An authorised representative of a service provider may make an application to the Chief Executive Officer for a licence to conduct gaming or gambling activities through the use of a telecommunication device and electronic data.
- (2) An application under this Part must be made in the approved form and be accompanied by the approved fee.
- (3) An approved authorised activity statement must be provided when an application is made under this section.

Gaming Control Act 2017

- (4) The Chief Executive Officer may require that information be provided in support of an application, and can require the applicant to provide verification of any matter relevant to an application.

50. Granting a licence:

- (1) The Chief Executive Officer may grant a licence made under this section or to refuse the grant of a licence under this Part.
- (2) The Chief Executive Officer must not grant a licence under subsection (1) unless the Chief Executive Officer is satisfied that all the profits from a gaming or gambling activity is used for an authorized purpose.
- (3) The Chief Executive Officer may impose conditions on any licence granted under this section at any time during which a licence is current.
- (4) The Chief Executive Officer may revoke a licence granted under subsection (1) at any time and on any grounds, and when making such a decision, the Chief Executive Officer may apply any requirements relevant to the winding up of the licensed activities and the manner in which monies and prizes are to be distributed or dealt with.
- (5) It is a condition of a licence granted under this Part that a licensed service provider must not carry out gaming or gambling activities for commercial profit, and that all profits must be applied to an approved purpose.

*Gaming Control Act 2017***51. Distribution of profits:**

- (1) Subject to subsection (2), any funds raised through the licensed activities under this Part must be applied in accordance with the approved authorised purpose statements, and must be distributed in full within six (6) months from the time the funds are raised.
- (2) A service provider may apply to the Chief Executive Officer for a dispensation from distributing funds within six (6) months from the date it was raised if the funds are required to be accumulated over a period of time to raise a large sum of money for a specific charitable purpose.

52. Approval for games:

- (1) A licensed service provider must submit each game to be used under the licence to the Chief Executive Officer for approval, and such submissions must provide details of all of the following:
 - (a) the name of the game;
 - (b) the date that the game starts and the last date on which the game is played;
 - (c) the expected percentage of money raised that is to be returned by way of prizes;
 - (d) details of any approval fee paid by the service provider for the game;
 - (e) the method through which draws are to be conducted or winners determined;
 - (f) details of how and when results are to be published.

Gaming Control Act 2017

- (2) The service provider must retain all records relevant to a licensed game for a minimum period of five (5) years.
- (3) Rules relating to each game may be determined and approved by the Chief Executive Officer for any licensed game.

53. Opting out of games:

- (1) A service provider must make available an opt out mechanism for each subscriber or user of a telecommunications device which might be used for a licensed game.
- (2) If a subscriber uses the opt out mechanism, and the relevant service provider continues to encourage participation in gambling activities through the use of electronic data to that subscriber, the service provider commits an offence and is liable upon conviction to a fine not exceeding 50 penalty units and to a further fine of 10 penalty units for every day a subscriber continues to receive electronic data promoting the participation in gambling activities after he or she has used the opt out mechanism.

54. Offences against this Part:

- (1) A person who conducts or assists in the conduct of any gaming or gambling activity through the use of a telecommunication device and electronic data without holding a valid and

Gaming Control Act 2017

current licence issued under this Part commits an offence and is liable upon conviction:

- (a) in the case of a company, to a fine not exceeding 500 penalty units; or
 - (b) in any other case, to a fine not exceeding 10 penalty units.
- (2) A licensee who conducts or assists in the conduct of any gaming or gambling activity through the use of a telecommunication device and electronic data in breach of a requirement under this Part or a condition applying to the licence, and for which no other penalty is applied under this Part, commits an offence and is liable upon conviction:
- (a) in the case of a company, to a fine not exceeding 500 penalty units; or
 - (b) in any other case, to a fine not exceeding 10 penalty units.

PART 10**CONTROLS OVER GAMING HOUSES****55. Gaming houses:**

- (1) In this Part, “gaming house” includes a house, room, place or space, private gaming den of any kind which is used for gaming or gambling that is not licensed under this Act.
- (2) A person must not operate a gaming house.
- (3) A person who breaches subsection (2) commits an offence and is liable upon conviction to a fine

Gaming Control Act 2017

not exceeding 250 penalty units, or to a term of imprisonment not exceeding 12 months, or both.

- (4) A person found in any gaming house commits an offence and is liable upon conviction to a fine not exceeding 5 penalty units, unless the person was there for any lawful purpose.
- (5) A person who has responsibility for any aspect of the management, care or control of a gaming house is taken to be a keeper of that gaming house and is liable for the offence under subsection (2).
- (6) If any implements or appliances for gaming or gambling are found on any premises suspected to be used as a gaming house, the finding of such items is evidence, until the contrary is proven:
 - (a) that such premises are used as a gaming house; and
 - (b) that the persons found in the part of the premises where implements or appliances for gaming have been found were gaming in such premises.
- (7) Subsection (5) applies even if no gaming is actually taking place on the premises when the implements or appliances are found.
- (8) The Authority or officers or inspectors or police officers may raid a gaming house and may do any of the following:
 - (a) to inspect and examine the gaming house;
 - (b) to stop gaming and gambling activities conducted in a gaming house.

*Gaming Control Act 2017***56. Advancing money for a gaming house:**

A person who advances or furnishes money for the purpose of establishing or conducting the business of a gaming house, or who profits from the establishment or conduct of such business, commits an offence and is liable upon conviction to a fine not exceeding 100 penalty units, or to a term of imprisonment not exceeding 12 months, or both.

57. Gambling in a public place:

- (1) A person found gaming or gambling in a public place commits an offence and is liable upon conviction to a fine not exceeding 20 penalty units.
- (2) A police officer may arrest without a warrant a person found gaming or gambling in a public place, and may seize all implements or appliances for gaming found in such public place or on the persons of those arrested under this section.
- (3) In any proceeding for an offence against this section the Court may direct that all implements or appliances seized under subsection (2) be destroyed or disposed of by the Authority.
- (4) If any money or other valuable thing is used in the game of chance or mixed chance and skill in any public place, the player is presumed, until the contrary is proven, to be, or to have been, gaming.

Gaming Control Act 2017

PART 11
INQUIRIES, AUDITS AND AUTHORISED
EXPENSES

58. Information to be provided by licensees:

- (1) A licensee must do all of the following:
 - (a) submit all documents requested by the Chief Executive Officer within the time required by the Chief Executive Officer;
 - (b) disclose to the Chief Executive Officer all documentation requested in writing;
 - (c) provide the name and full contact details of any person associated with the licensed gaming or gambling activities under the licence;
 - (d) retain details of all tickets and other items relevant to the licensed gaming or gambling activities which have been sold or supplied by the licensee, including the names of any person to whom they were sold or supplied, and their contact details and the age of the person.
- (2) A licensee who fails to comply with subsection (1) commits an offence and is liable upon conviction to a fine not exceeding 100 penalty units.
- (3) Failure to comply with this section is grounds upon which a licence may be suspended or cancelled by the Authority.

*Gaming Control Act 2017***59. General Audit:**

- (1) The Authority may serve a notice on a licensee requiring the licensee, as soon as practicable after the end of the financial year nominated in the notice, to have the accounts, records and statements of the licensee's gaming or gambling activities for that financial year audited by an inspector or an auditor approved by the Authority.
- (2) A licensee who is served with a notice under subsection (1) must submit the audited accounts to the Authority within the time stipulated in the notice.
- (3) The costs of conducting an audit required under subsection (1) must be paid by the licensee.
- (4) All money found by an audit to have been obtained by way of illegal gambling activities are forfeited to the Authority.

60. No commission of costs to be withheld:

- (1) Subject to subsection (2) a person is prohibited from withholding money or money's worth received from a gambling activity unless it is approved as an authorised expense by the Chief Executive Officer.
- (2) An authorised expense must be approved by the Chief Executive Officer before it is used as such for an authorised purpose.
- (3) Any person who breaches subsection (1) commits an offence and is liable upon conviction:

Gaming Control Act 2017

- (a) in the case of a company to a fine not exceeding 100 penalty units; or
- (b) in any other case to a fine not exceeding 50 penalty units.

PART 12
HEARINGS BY THE AUTHORITY

61. Appeals and re-hearings:

- (1) Appeals may be lodged to the Minister to review and decide upon any of the following decisions or actions:
 - (a) a decision by the Chief Executive Officer to reject an application for a licence under this Act;
 - (b) a decision by the Chief Executive Officer to decline to approve an authorised purpose statement under section 10;
 - (c) a decision by the Chief Executive Officer under section 50(4) to revoke a license;
 - (d) any other matter for which the Regulations made under this Act provide a right of appeal.
- (2) An application may be made to the Minister to reconsider any decision made by the Authority under this Act.
- (3) Appeals and applications made under this section must be lodged with the Minister within 30 days of the date of the decision or service of a notice under this Act.

Gaming Control Act 2017

- (4) Appeals and application under this section must be in the approved form stating all grounds upon which the appeal or application is made, and must be accompanied by the approved fee.
- (5) An application for a re-hearing under subsection (2) must provide all relevant information that was not provided or available at the time the original decision was made.
- (6) The Minister may do all or any of the following:
 - (a) to require that further information be provided in support of the grounds of the appeal or application for a re-hearing;
 - (b) to direct that an inspection be undertaken and a report be provided by an officer of the Authority;
 - (c) to reject the appeal and confirm the decision;
 - (d) to uphold the appeal or application and reverse or modify the decision, and attach any conditions to be complied with by the appellant or applicant.

62. Inspectors to investigate complaints:

- (1) The Chief Executive Officer and an inspector may investigate a complaint from any person regarding the conduct of any gaming or gambling activity.
- (2) If, as a result of the investigation, an inspector is satisfied that any of the events in subsection (3) may have occurred, the inspector must provide a written report to the Chief Executive Officer.

Gaming Control Act 2017

- (3) The events to which subsection (2) applies are as follows:
 - (a) the conduct of any gaming or gambling activity that has contravened a condition of a licence under this Act, or an approved rule or standard applicable to that activity;
 - (b) there has been a breach of this Act or any other Act;
 - (c) the objectives of this Act have been compromised by the activity.
- (4) If, as a result of the inspector's report, the Chief Executive Officer intends to take an action against a licensee under this Part, a copy of the report, and details of the proposed action to be taken by the Chief Executive Officer must be provided to the licensee.
- (5) A complainant must be informed of the result of the investigation and of any action taken in accordance with this section.

63. Promotion of responsible gambling:

- (1) The Authority has power to conduct a hearing into any gaming or gambling activity or operation to ensure that responsible gaming and gambling is promoted.
- (2) The Authority may determine that a hearing should be conducted under this section on its own motion or in response to a complaint made to it in writing which may relate to any of the following:

Gaming Control Act 2017

- (a) an alleged breach of this Act or of conditions applicable to a licence;
 - (b) the manner in which the licensed activities, operations or premises are conducted, operated or managed;
 - (c) the behaviour of persons involved with the conduct, operation or management of gaming or gambling activities, or who use such gaming or gambling services;
 - (d) any other matter the Authority determines to warrant a hearing.
- (3) A complaint to be heard under subsection (2) can relate to more than one licensed operation or activity, and the hearing can be extended to include any other licensees if the Authority considers it appropriate.

64. Hearings in relation to complaints:

- (1) Notice of the time and place for a hearing under this Part must be given to all complainants and the licensees affected by the complaint.
- (2) After giving each complainant and licensee a reasonable opportunity to be heard in relation to the complaint, the Authority has authority to do any of the following:
 - (a) to vary or revoke the conditions of the licence;
 - (b) to suspend the licence for a specified period in accordance with this Part;
 - (c) to cancel the licence in accordance with this Part;

Gaming Control Act 2017

- (d) to issue a reprimand and warning to the licensee;
 - (e) to impose a penalty not exceeding 100 penalty units;
 - (f) to reject the complaint and take no action in relation to the licence or the licensee.
- (3) The Authority may impose any conditions on the licence to address the issues which have been determined to have justified the complaint, including conditions to promote responsible gambling.

65. Suspension of licences:

- (1) After conducting a hearing under this Part, the Authority may suspend a licence issued under this Act if the Authority is satisfied that any of the following apply:
- (a) the licensee has contravened a provision of this Act;
 - (b) the licensee has contravened a condition of the licence;
 - (c) the licensee has been charged or convicted of an offence under this Act or any other relevant law.
- (2) The Authority must determine the period for which the licence is suspended, and can determine that the suspension applies until the licensee complies with a specific direction given by the Authority.
- (3) If it considers it appropriate to do so, the Authority may, by written notice given to the

Gaming Control Act 2017

licensee, extend the period of suspension for a further specified period.

- (4) Before taking action under subsection (3), the Authority must give the licensee a reasonable opportunity to be heard.
- (5) Any decision made by the Authority under this section must be communicated in writing to the licensee by the Chief Executive Officer, and public notification of the suspension, and the period for which it applies, must be given as directed by the Authority.
- (6) An infringement notice can be issued for any offence for which suspension has been ordered under this section, or the licensee can be prosecuted for any such breach.
- (7) The Authority may delegate any power under this section to the Chief Executive Officer.

66. Cancellation of licences:

- (1) After conducting a hearing under this Part, the Authority may cancel a licence issued under this Act if the Authority determines that it is in the public interest to do so.
- (2) Without limiting subsection (1), in determining whether it is in the public interest to cancel a licence, the Authority, must consider whether any of the following apply:
 - (a) the licensee has contravened a provision of this Act;
 - (b) the licensee has contravened a condition of the licence;

Gaming Control Act 2017

- (c) the licensee has been convicted of an offence under this Act or any other relevant law;
 - (d) the circumstances of such contraventions are such that the licence should be cancelled.
- (3) In addition to the matters set out in subsection (2), the Authority may consider any of the following matters:
 - (a) whether the licensee is a fit and proper person to hold a licence;
 - (b) whether the premises used for the gaming or gambling activities are fit and proper premises for the purposes of the licence;
 - (c) whether the licensed activities and operations are inconsistent with the objective of this Act to promote responsible gambling;
 - (d) the nature of any complaints made to the Authority in relation to the licensee;
 - (e) whether the licence has previously been suspended under this Act.
- (4) Any decision made by the Authority under this section must be communicated in writing to the licensee by the Chief Executive Officer, and public notification of the cancellation must be given as directed by the Authority.
- (5) An infringement notice can be issued for any offence for which cancellation has been ordered under this section, or the licensee can be prosecuted for any such breach.

*Gaming Control Act 2017***PART 13**
ENFORCEMENT PROVISIONS**67. Obstruction of inspectors:**

- (1) A person must not wilfully and without reasonable excuse, obstruct an inspector in the execution or performance of the inspector's powers or duties under this Act.
- (2) A person must not refuse:
 - (a) entry to an inspector to any place to which the inspector is empowered to enter under this Act; or
 - (b) to give to an inspector any information, books, papers or documents that an inspector has requested under this Act.
- (3) A person who breaches this section commits an offence, and:
 - (a) is liable upon conviction to a fine not exceeding 5 penalty units in the case of an individual;
 - (b) is liable upon conviction to a fine not exceeding 10 penalty units in the case of a company.

68. Bribery and false information offences:

- (1) A person who knowingly gives a false statement or information to a police officer or inspector during the performance of the duties of that inspector or police officer commits an offence.

Gaming Control Act 2017

- (2) A person who bribes or attempts to bribe a police officer or an inspector during the performance of the duties of that inspector or police officer commits an offence.
- (3) A person convicted of an offence under subsection (1) or (2) is liable as follows:
 - (a) in the case of an individual, to a fine not exceeding 50 penalty units or a term of imprisonment not exceeding six (6) months, or both;
 - (b) in the case of a company, to a fine not exceeding 200 penalty units.
- (4) An inspector or police officer who accepts a bribe from any person while performing his or her duties, commits an offence and is liable upon conviction to a fine not exceeding 50 penalty units or a term of imprisonment not exceeding six (6) months, or both.

69. Infringement notices:

- (1) An inspector or a police officer may serve an infringement notice on a person who has committed an offence under this Act or Regulations made under this Act.
- (2) An infringement notice issued under this section must be in a form approved by the Authority which must specify
 - (a) the offence by which the infringement notice is issued;
 - (b) the amount of the fine; and
 - (c) the time limit in which the fine must be paid.

Gaming Control Act 2017

- (3) An infringement notice may be served:
 - (a) by delivering it, or a copy of it, personally to the person alleged to have committed the infringement offence; or
 - (b) by sending it, or a copy of it, by post addressed to the person at his or her known place of business or postal address.
- (4) A person who has been served with an infringement notice may:
 - (a) in accordance with the infringement notice pay the fine within the specified time; or
 - (b) not pay the fine and exercise that person's right to be tried in court, for the offence alleged against the person.

70. Infringement penalty:

- (1) The penalty to be specified in an infringement notice must be an amount being one-fifth of the maximum fine prescribed for the offence.
- (2) The payment of a fine under this Part must be made to the Authority.

71. Effect of payment of fine:

- (1) The payment of a fine specified in an infringement notice is sufficient to discharge any criminal liability for the offence stipulated in the notice.
- (2) No conviction is to be recorded against the person served with an infringement notice if he or she elects to pay the specified fine.

Gaming Control Act 2017

- (3) If an infringement notice is served on a person by both a police officer and an inspector for the same offence arising from the same circumstances, the payment of the fine specified in either one of the notices is a final discharge of that person's liability under both notices.

PART 14**MISCELLANEOUS****72. Approved forms and fees:**

- (1) The Chief Executive Officer has authority to approve forms for any purpose under this Act.
- (2) The Authority may propose fees for any purpose under this Act and the proposed fees is subject to the consideration and approval of the National Revenue Board under the Public Finance Management Act 2001.

73. Immunities for persons exercising powers under this Act:

The Authority and its members, the Chief Executive Officer, and inspectors and police officers, are not subject to any civil or criminal liability to any person affected by the lawful exercise of a power under this Act or Regulations made under this Act.

74. Regulations:

- (1) The Head of State, acting on the advice of Cabinet, may make regulations which are necessary for, or incidental to, the implementation of this Act.

Gaming Control Act 2017

- (2) Without limiting subsection (1), regulations may be made for the following:
- (a) to regulate permissible forms of gambling and gaming, by imposing safeguards, applying conditions, regulating conduct and by any other means;
 - (b) to minimise and address the harm which is caused by or which arises from gambling and gaming;
 - (c) to enforce prohibitions on illegal forms of gambling and gaming;
 - (d) to promote responsible gambling;
 - (e) to apply measures to promote the integrity and fairness of permissible gambling and gaming;
 - (f) to respond to and prevent crime and dishonesty associated with gambling and gaming;
 - (g) to regulate the use of proceeds from permissible gambling, and to ensure that they are applicable for community purposes;
 - (h) to provide for additional powers of inspection and enforcement;
 - (i) to prescribe other types of prizes which must not be offered in relation to permissible forms of gambling and gaming;
 - (j) to prescribe fees for all gambling activities licensed under this Act;

Gaming Control Act 2017

- (k) to provide for any other matter to promote the objectives of this Act.

75. Savings and transitional provisions:

- (1) A licence or permit which was validly issued under the repealed Acts and which is in force as at the commencement of this Act continues to have full force and effect under the corresponding provisions of this Act until such time as the licence expires, or is cancelled under the provisions of this Act.
- (2) All decisions, determinations and resolutions taken by the respective Boards under the repealed Act are deemed to be valid and continue to have full force and effect until otherwise determined by the Authority under this Act.
- (3) Any offence which was committed under the repealed Acts that took place prior to the commencement of this Act can be prosecuted under the relevant repealed Act, and the relevant provisions of the repealed Act that are relevant to such a prosecution are deemed to be in full force and effect for the purposes of such a prosecution.
- (4) Despite any other provision of this Act, the Authority may issue a notice to any person who holds a current licence or permit saved by this section, requiring that application is to be made for a new licence in accordance with any procedures or requirements applying under this Act, and the notice can specify the time within which the application must be made, and the date on which the saved licence or permit will expire or terminate.

Gaming Control Act 2017

- (5) Any person conducting a gambling activity that is illegal under this Act, but for which a current licence issued under a repealed Act applies, must cease within six (6) months of the commencement of this Act, and is subject to prosecution at the discretion of the Authority within six (6) months after the commencement of this Act.

76. Repeal of Acts:

The following Acts are repealed:

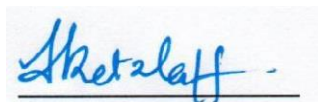
- (a) Betting (Totalisator Agency) Act 1990;
- (b) Gaming Act 1978;
- (c) National Lotteries Act 1978.

REVISION NOTES 2018

This is the official version of this Ordinance as at 31 December 2018.

This Act has been revised in 2018 by the Legislative Drafting Division under the authority of the Attorney General given under the *Revision and Publication of Laws Act 2008*.

The only general revision made to this Act was the insertion of the assent and commencement date. This Act is included in the Consolidation of Laws 2018 as it commenced in May 2018.



Lemalu Hermann P. Retzlaff
Attorney General of Samoa

*The Gaming Control Act 2017 is administered
by the Gambling Control Authority.*