

GAMING ACT, 1998

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FIRST SCHEDULE

Taxation

I assent

(L.S.)

UGO MIFSUD BONNICI
President

27th March, 1998

ACT No. X of 1998

An Act to make provision in place of the Kursaal Ordinance for the licensing of the Casinos, for the setting up of a Gaming Board and for the purposes connected therewith or ancillary thereto.

BE IT ENACTED by the President, by and with the consent of the House of Representatives, in this present Parliament assembled and by the authority of the same as follows:—

**PART I
PRELIMINARY**

1. This Act may be cited as the Gaming Act, 1998 and shall come into force on such date as the Minister responsible for finance may by notice in the Gazette appoint and different dates may be so appointed for different provisions and different purposes thereof.

Short title and
commencement.

2. In this Act, unless the context otherwise requires:

Interpretation.

“authorised game” means a game specified by the Board under section 29 to be an authorised game for the purposes of this Act;

“authorised machine” means a machine used for the purpose of gaming as specified under subsection (1) of section 31 of this Act;

“Board” means the Gaming Board established by section 5 of this Act;

“casino” means such premises in relation to which the Minister has granted a concession under section 3 of this Act;

“casino employee” means any receptionist, dealer, *chef de table*, cashier, supervisor, watcher, machine engineer, manager, or any other person who, in the view of the Board, is involved in the gaming operations of a casino;

“casino licence” means a licence granted under section 15 of this Act;

“chips” means any tokens used or capable of being used in a casino in the conduct of gaming in the place of money and approved for this purpose by the Board;

“gaming” means the playing of a game of chance for money or money’s worth;

“gaming equipment” means any electrical, electronic or mechanical device, cards or any other thing, other than chips, used, or suitable for use, in connection with gaming;

“gaming machine” means any machine which is constructed or adapted for playing a game of chance or chance and skill combined as may be prescribed by the Minister;

“inspector” means a person appointed under section 8 of this Act to be an inspector;

“junket” means an arrangement the purpose of which is to induce any person, selected or approved for participation therein on the basis of his ability to satisfy a financial qualification obligation related to his ability or willingness to gamble, or on any other basis related to his propensity to gamble, to come to a licensed casino for the purpose of gambling and pursuant to which, and as a consideration for which, any or all of the costs of transportation, food, lodging, and entertainment for said person is directly or indirectly paid by a casino licensee;

“Minister” means the Minister responsible for finance.

PART II CONCESSIONS

Concession to open
and operate casino.

3. (1) It shall be lawful for the Minister to grant concessions to persons to open and operate casinos.

(2) A concession under this section shall be granted for such consideration including the payment of any sums of money to the general revenues, for such period and upon such terms and conditions as the Minister thinks fit.

(3) The grant of a concession under this section shall not dispense any person opening or operating a casino from the requirement of any licence by the Board under this Act.

(4) Notwithstanding the other provisions of this section, the Minister may from time to time designate a company owned wholly directly or indirectly by the Government as the Government Casino Operator and such company shall, whenever the Minister so directs, take over the operation of a casino owned directly or indirectly by the

Government whenever the person to whom a concession has been granted to run such casino for any reason abandons such concession or has his licence revoked or suspended under this Act.

4. Subject to the requirement of any other licence under this Act or any other law and to the other provisions of this Act where a concession has been given by the Minister under section 3, or where the Minister has directed a company as therein referred to operate a casino, then notwithstanding the provisions of any other law it shall be lawful during the period of such concession;

Playing of games in casino.

(a) for the person to whom such concession has been granted or for any person to whom such concession has been assigned in accordance with the terms and conditions thereof, or for the company so directed, to permit the use of the premises specified in the concession as a casino for the playing therein of such games of chance for money or money's worth and for such stakes as may be specified in the casino licence and to encourage the playing therein by such persons of any such games for any such stake; and

(b) for any person to take part therein in any such game for any such stake.

PART III GAMING BOARD AND INSPECTORS

5. (1) The Minister shall, by notice in the Government Gazette, appoint a Gaming Board, consisting of a Chairman, the Director of Lotto and four other members for the purpose of performing the functions assigned to such Board by the provisions of this Act.

Establishment of Board.

(2) A person shall not be qualified to be appointed or remain a member of the Board if:

- (a) he is an undischarged bankrupt; or
- (b) he has been convicted of an offence punishable by imprisonment for a period of 6 months or more; or
- (c) he has been found guilty of an offence under this Act; or
- (d) he is a member of the House of Representatives; or
- (e) he is a member of the judiciary.

6. (1) The functions of the Board shall be:

Functions of the Board.

- (a) to supervise the operation of casinos;
- (b) to issue licences to own and/or operate casinos under section 15 of this Act;
- (c) to issue licences to the casino employees, including the managers thereof, and junket leaders, proposed to be engaged by a casino licensee to work in relation to gaming;
- (d) to issue licences to inspectors for the purposes of section 8 of this Act;
- (e) to inquire into the suitability of:
 - (i) casino owners and operators, licensees or persons nominated as proposed casino licensees; and
 - (ii) the employees, including the management and junket leaders, proposed to be engaged by the casino licensee;
- (f) to regulate by licence the importation, supply and maintenance of gaming machines and gaming equipment for casinos;
- (g) to advise the Minister on the making of regulations, in accordance with the provisions of section 50 of this Act, on matters relating to the control of casinos or of the operation of casinos, or, generally to gaming in casinos;
- (h) to perform any of the functions that is or may be assigned to it by this or any other law.

(2) The Minister shall appoint a senior officer in the Department of Lotto to be the Secretary of the Board.

(3) The Board shall act through the Secretary who shall act in accordance with instructions of the Board in matters falling within the functions of the Board.

Proceedings.

7. (1) Subject to such regulations that may be made by the Minister, the Board shall have power to regulate its own procedure.

(2) The Board may also prescribe the manner in which it shall be convened and the place where it shall hold its meetings.

Inspectors.

8. (1) The Minister may appoint such number of Public officers as he deems necessary to be inspectors for the purposes of this Act. Such inspectors shall have such powers and functions as are or may be assigned to them by this or any other law. No person may enter into his duties as inspector until and unless he holds a licence for that purpose

by the Board. Inspectors may, in carrying out their functions under this Act, be assisted by or accompanied with such experts as the Secretary may direct.

(2) The inspectors shall act under the instructions of the Secretary and shall in matters falling under the functions of the Board report to the Board through the Secretary.

(3) Any person acting as an inspector without a licence issued by the Board in his favour shall be guilty of an offence against this Act.

9. (1) The Board shall cause to be issued to each inspector an identity card which shall specify the name and appointment of the inspector and which shall also contain a recent photograph of the inspector. Identity cards.

(2) A person appointed to be an inspector shall, upon ceasing to be an inspector, return his identity card to the Board.

10. An inspector may at any time upon production of his identity card enter and remain in a casino for the purposes of: Rights of inspectors.

(a) viewing gaming;

(b) observing any of the operations of the casino or, generally, of gaming;

(c) ascertaining whether the operation of the casino or, generally of gaming, is being properly conducted, supervised and managed;

(d) ascertaining whether the provisions of this Act are being complied with; and

(e) in any other respect, exercising his powers or performing his duties.

11. (1) An inspector may for the purpose of ascertaining that the provisions of this Act are being complied with and that the full amount of tax under this Act is being paid: Powers of inspectors.

(a) require any person whom the inspector believes, on reasonable grounds, to be in possession or have under his control any gaming equipment or chips:

(i) to produce the equipment or chips to the inspector for inspection or testing; or

(ii) to attend before the inspector at a reasonable time and place specified by the inspector and there to answer such questions, or to supply such information, relating to the equipment or chips as the inspector specifies;

(b) require a casino licensee or a person acting on behalf of a casino licensee:

(i) to produce to the inspector for inspection such book or document in his custody or control relating to the operation of the casino as the inspector specifies; or

(ii) to attend before the inspector at a reasonable time and place specified by the inspector and there to answer such questions, to supply such information, or to produce such book or document, relating to the operation of the casino as the inspector specifies;

(c) inspect or test any gaming equipment or chips or inspect such book or document, and take copies of, or make notes in relation to, such book or document, relating to the operation of the casino as the inspector considers necessary;

(d) direct a casino licensee not to use any gaming equipment or chips that the inspector considers to be unsatisfactory for use;

(e) receive and, if the inspector thinks fit, investigate a complaint with respect to any aspect of the operation of a casino and to make a report of the result of such investigation to the Secretary;

(f) call to the inspector's assistance:

(i) another inspector; or

(ii) a casino employee who, in the belief of the inspector, is competent to assist the inspector in the exercise of his powers or performance of his duties; and

(g) require any person entering or to be found at a casino to produce identification documents.

(2) A requirement under paragraphs (a) or (b) of subsection (1) of this section or a direction under paragraph (d) of the same subsection shall be made by notice in writing or orally as the inspector deems fit in the circumstances.

(3) An inspector shall be present at the opening and closing of any gaming table, when any adjustment is made to the table float, when the count of money and tokens is undertaken, and at the opening and closing of any gaming machine and to verify jackpot wins.

(4) Any person who, without reasonable excuse, hinders or fails to assist the inspector in the discharge of his duties under subsection (1) of this section, shall be guilty of an offence under this Act.

(5) An inspector shall make a report on the exercise of his functions under this Act to the Secretary.

12. (1) Without prejudice to any power exercisable by virtue of the preceding provisions of this Act, the Board may at any time serve on a casino licensee a notice requiring him, in such manner and within such reasonable time as may be specified in the notice:

Powers of the Board.

(a) to produce for inspection by or on behalf of the Board books or documents relating to the casino, as specified in the notice which the Board reasonably requires to inspect for the purpose specified in subsection (1) of section 11 of this Act, and

(b) to furnish the Board with information relating to the premises as specified in the notice which the Board reasonably requires for that purpose.

(2) If without reasonable excuse any requirement imposed in relation to a casino by a notice served by virtue of subsection (1) of this section is not complied with, the casino licensee shall be guilty of an offence under this Act.

13. Without prejudice to the provisions of the Professional Secrecy Act, 1994, any information disclosed to an inspector, the Secretary of the Board and any document produced in pursuance of sections 11 or 12 of this Act shall be secret and confidential and may not be disclosed or produced other than for the purposes of this Act or any prosecution for an offence against this Act or an offence committed against or in a casino.

Professional secrecy.
Act XXIV of 1994.

PART IV

GRANT OF CASINO LICENCE

Requirement of
licence.

14. No person may open or operate a casino unless he is in possession of a licence by the Board.

Grant of casino
licence.

15. (1) It shall be lawful for the Board by licence to authorise a person to open and operate a casino in Malta.

(2) The Board shall not issue such licence to a person unless that person is a company registered in Malta and unless it appears to the Board that:

(a) the relevant voting share capital of the proposed casino licensee is owned, directly or indirectly, by a person or persons of integrity;

(b) the director or directors of the company or of any affiliate thereof are persons of integrity;

(c) the proposed casino licensee has the financial means and expertise available to operate the casino and to fulfill all its obligations under this Act.

(3) A casino licence remains in force for ten years and shall be subject to the annual payment of a licence fee. Subject to compliance with the provisions of this Act, the licence, unless it is sooner surrendered or cancelled, may be renewed by the Board. A casino licence shall, in all cases, be conditional to there being a concession by the Minister in favour of the licensee in accordance with the provisions of Part II of this Act.

(4) The casino licence shall be in a form approved by the Board and:

(a) shall specify inter alia:

- (i) the date of its issue;
- (ii) the date of its expiration;
- (iii) the name of the licensee;
- (iv) an address in Malta specified by the licensee for the service of documents on the licensee;
- (v) the address of the casino;
- (vi) the maximum number of tables that can be operated under the licence;

- (vii) the maximum number of machines allowed to be used under the licence;
- (viii) the minimum opening hours;
- (ix) such other particulars relating to the casino as the Board considers necessary; and
- (x) such other particulars as may be prescribed;

(b) shall identify the area or areas by reference to plans designated to be the casino.

(5) (a) A licensee shall within fourteen days of any change in the ownership of any share capital of the company or of its affiliates and of any change in the management or Board of Directors of the company or of its affiliates inform the Board of such change.

(b) If pursuant to any change as is referred to in paragraph (a) of this subsection a situation is brought about that had it existed at the time of the application for the licence, would have disqualified the company from obtaining a licence in accordance with subsection (2) of this section, the Board shall by notice inform the licensee accordingly and if the situation shall not have been remedied within one calendar month from the notice to that effect by the Board, the Board shall revoke the licence:

Provided that the Board shall not issue a notice as aforesaid later than three calendar months after being informed by the licensee of the change in accordance with paragraph (a) of this subsection.

(6) Failure to comply with the provisions of subsection (5) of this section shall constitute an offence against this Act.

(7) A licence under this section may not be assigned.

16. (1) The Board shall, on the basis of the costs incurred by the Board in carrying out its functions under this Act, determine the casino licence fee, in the casino licence, for the purposes of this Act. Casino licence fee.

(2) The casino licence fee is payable in advance to the Secretary on behalf of the Government on each anniversary of the licence by the casino licensee.

(3) Determinations under subsection (1) of this section shall not be made at intervals of less than 12 months and in any case shall only be varied upon the grant or renewal of a casino licence.

Surrender of casino licence.

17. (1) The casino licensee may surrender the casino licence at any time by giving notice in writing to the Board not less than one year prior to the date of the surrender of the licence.

(2) The surrender of any casino licence shall not dispense the person surrendering the licence from any obligation incurred under sections 16 and 37 of this Act.

(3) If the casino licensee surrenders the casino licence without giving the notice specified in subsection (1) of this section, the gaming equipment and machines to be found in the casino shall be forfeited to the Secretary on behalf of the Government.

Cancellation of casino licence - grounds.

18. The Board may, order the cancellation of a casino licence on any of the following grounds:

(a) any director or manager of the casino licensee is convicted of an offence against this Act or of theft, receiving stolen property, fraud or any crime against public trust;

(b) the casino licensee contravenes a provision of this Act or is in breach of a licence condition;

(c) the casino licensee knowingly or recklessly supplies to the Board information that is false or misleading in a material particular;

(d) the casino licensee fails to fulfill the licensee's financial commitments when they become due and payable;

(e) the casino licensee fails to maintain the formal gaming reserve as specified in section 39 of this Act;

(f) the licensee is being wound up; or

(g) the Board is satisfied that the casino licensee is not, or has ceased to be, a suitable person to be the licensee of a casino.

Cancellation of casino licence - procedures.

19. (1) Where a ground for cancellation of the casino licence arises under section 18 of this Act the Board, by notice in writing, shall request the casino licensee, and may request any other person who in its opinion has an interest in the licence, to show cause, within such period, being not less than 21 days after the issue of the notice, as is specified in the notice, why the casino licence should not be cancelled on such ground as stated in the notice.

(2) The Board shall have regard to any response made under subsection (1) of this section and:

(a) where the matter is resolved to its satisfaction shall take no further action;

(b) where although the matter is not resolved to its satisfaction, it considers that further action is not warranted, it shall, in writing, caution the casino licensee; or

(c) where the matter is not resolved to its satisfaction and it is satisfied that further action is warranted, it may –

(i) by notice in writing, give such direction as it considers appropriate; or

(ii) suspend for such period as it thinks fit, or cancel, the casino licence.

(3) Where a direction given by the Board under subparagraph (i) of paragraph (c) of subsection (2) of this section is not complied with within the time specified in the notice, the Board shall cancel the casino licence.

20. (1) No person shall employ or work as a –

Licence for
employees.

- (i) casino employee;
- (ii) casino manager; or
- (iii) junket leader,

without a licence from the Board, wherever such licence shall be required by any regulations under this Act.

(2) Any person who shall do anything referred in subsection (1) of this section wherever a licence therefor is required under subsection (1) hereof, without being in possession of the relative licence or not in accordance with such licence shall be guilty of an offence against this Act.

PART V OPERATION OF CASINO

21. (1) It shall be lawful for a casino licensee to require persons entering the casino premises to pay a fee therefor. Such fee shall be fixed by the licensee with the approval of the Board.

Entrance fee.

(2) Such approved fee is to be clearly displayed at the entrance to the premises. All such fees received shall be recorded.

Maintenance of facilities.

22. (1) A casino licensee shall:

(a) maintain the facilities and amenities of the casino in a condition to the satisfaction of the Board;

(b) ensure that the casino is at all times properly and competently conducted;

(c) ensure that all casino installations, equipment and procedures for security are available and are tested, used, operated and applied effectively; and

(d) ensure the gaming equipment and chips approved by the Board for use in the casino are maintained in good order and condition.

(2) The casino licensee shall not operate the casino unless the layout of the casino is in accordance with plans and diagrams approved by the Board.

Security.

23. The casino licensee shall, for the purpose of ensuring security within the premises of the casino install and keep in good working order such camera and audio system, in such numbers and locations, and which shall be monitored by such number of persons adequately trained to be employed as professional security staff as may be approved by the Board.

Operating times.

24. The Board shall, in the casino licence, establish a schedule of minimum operating times for the casino setting out the days on which, and hours during which, the licensee shall operate the casino. The Board may also establish the days during which casinos shall remain closed.

Identification.

25. (1) It shall be the duty of the casino licensee to ensure that persons entering the casino premises are identified and may at any time request such persons to produce their identification card or passport for inspection.

(2) The casino licensee shall cause the particulars of persons entering the casino together with details of identification card or passport produced to be registered in a register kept at the casino premises for such purpose.

Exclusion of certain persons from a casino.

26. (1) A person shall not enter a casino during the hours of operation of the casino, if the person:

(a) is requested by a licensed casino employee not to enter the casino or other gaming premises, as the case may be, on the

ground that the person has previously contravened the approved rules of an authorised game or rules of conduct of gaming in force;

(b) is a person in relation to whom a Court order under subsection (1) of section 27 of this Act is in force;

(c) is in the case of a citizen of Malta under the age of 25 years;

(d) is in the case of any other person under the age of 18;

(e) has asked for a ban or restriction on his own admission;

(f) upon a request to do so by a licensed casino employee, fails to produce his identification card or passport; or

(g) appears to be under the influence of alcohol or a drug or is acting in a disorderly manner:

Provided that, any ban or restriction of admission shall, under paragraph (e) of this subsection, have effect during the period requested by the person concerned, which shall not be less than 6 months and not more than 1 year. Any such ban or restriction cannot be cancelled before its expiry.

(2) A person shall not remain in a casino during the hours of operation of the casino if the person :

(a) when requested to do so by a licensed casino employee, refuses or fails to produce evidence of his age;

(b) has been requested by a licensed casino employee to leave the casino on the ground that the person :

(i) appears not to understand fully the nature or consequences of gaming as it relates to the application of the approved rules of authorised games and the potential for financial loss;

(ii) appears to be under the influence of alcohol or a drug;

(iii) is affecting the orderly functioning of the operations of the casino or, generally, of gaming whether because of the influence of alcohol or drugs or otherwise;

(iv) appears to be disturbing the peace or affecting the orderly functioning of the operations of the casino;

(v) appears to be cheating, or attempting to cheat, in the casino; or

(vi) has previously contravened the approved rules of an authorised game or rules of conduct in force in a casino;

(c) is a person in relation to whom a Court order under section 27 of this Act is in force.

(3) Without prejudice to the other provisions of this Act, admission to a casino shall be at the discretion of the licensee who shall ensure that persons who may have a problem of pathological gambling are not given access to the gaming area:

Provided that no person shall be refused admission to a casino by reason of his race, place of origin, political opinion, colour, creed, sex or physical infirmity.

Power of Court to prohibit persons from entering casino.

27. (1) Where any person is convicted by a Court of an offence which in the opinion of the Court is of such nature, or where the circumstances under which it was committed were such that it is undesirable that the person so convicted should be permitted to enter a casino, the court may in addition to any other power under any other law make an order prohibiting the person convicted from entering a casino as specified in such order, for such period as may be specified therein.

(2) The Board as well as all casino licensees shall, as soon as practicable, be notified with such order by the Registrar of Court.

(3) The casino licensee shall keep a list of the names, together with any other available identification details of those persons, in relation to whom a Court order has been made as provided in subsection (1) of this section.

(4) A casino licensee shall make the said list available for inspection by the Board and by inspectors licensed under this Act.

Enforcement.

28. (1) A person who is:

(a) a police officer; or

(b) for the time being in charge of the casino; or

(c) an agent or an employee of the casino licensee,

may, with such assistance as is necessary and reasonable and using such force as is necessary and reasonable, cause any person who, under section 26 of this Act, may not enter, or remain in, the casino:

- (i) to be prevented from entering the casino; or
- (ii) to be removed promptly from the casino as the case requires.

(2) A person who, without reasonable excuse, obstructs or hinders a person in the exercise of a power conferred on the latter person under subsection (1) of this section, shall be guilty of an offence under this Act.

(3) The casino licensee who, knowingly or recklessly, permits to enter, or fails to remove from, the casino a person who is not entitled to be in such premises by virtue of the provisions of section 26 of this Act, shall be guilty of an offence under this Act.

29. (1) The Board shall, in the casino licence issued or to be issued under this Act, specify the game or games to be designated as authorised games for the purposes of the Act. Authorised games.

(2) The Board may at any time alter the list of the designated authorised games and the approved rules of a game as specified in the casino licence.

(3) In carrying out its functions under subsections (1) and (2) of this section, the Board shall seek the agreement of the casino licensee thereon.

30. The Minister may make regulations specifying in a general manner the terms and conditions according to which gaming is to be conducted in a casino. The Board may in a casino licence specify in a particular manner terms and conditions, being terms and conditions not prohibited by regulations, according to which gaming is to be conducted in a casino. Gaming in the casino.

31. (1) The Board shall, in a casino licence, specify the number of authorised machines that may be installed and kept for use on the casino premises, and may in the licence subject the keeping of such machines to any conditions as may be specified by the Board in the licence. Use of machines by virtue of licence.

(2) Subject to any limitation in the concession granted by the Minister under section 3 of this Act the Board may, either on its own initiative or upon a request by the casino licensee, upon the renewal of

a casino licence, vary the number of, and the terms and conditions regulating, authorised machines permitted to be installed in the casino:

Provided that the Board shall not refuse the request made by the casino licensee under this subsection unless there are reasonable grounds for such refusal. The acceptance or refusal of any such request shall be made in writing.

Offences relating to gaming machines.

32. (1) No gaming machine of any description shall be kept for use in a casino:

(a) contrary to the conditions specified in the casino licence;
or

(b) without the machine being registered in accordance with any regulations issued under this Act and in force from time to time.

(2) If any gaming machine is kept for use in the casino in contravention of subsection (1) of this section, the casino licensee shall be guilty of an offence under this Act.

(3) Any person who manufactures, imports, keeps or supplies a gaming machine for use as a casino under this Act shall without prejudice to any other liability under any other law be guilty of an offence under this Act:

Provided that the Minister may under such conditions as he may deem appropriate give a permit for the manufacture of gaming machines for export, and any machines manufactured in accordance with such a permit shall not be deemed to be manufactured in contravention of this subsection.

(4) If, in any proceedings for an offence under subsections (2) and (3) of this section, it is proved that a gaming machine was on the premises of a casino, it shall be presumed unless the contrary is shown that the machine was kept on the premises of the casino for use on those premises.

PART VI PROVISION OF MONEY FOR GAMING

Restriction on credit.

33. It shall not be lawful for the licensee or any person acting on his behalf or under any arrangement with him, to make any loan or otherwise provide or allow to any person any credit, or release or discharge on another person's behalf, the whole or part of any debt:

(a) for enabling a person to take part in gaming at a casino; or

(b) in respect of any losses incurred by any person in gaming at a casino.

34. (1) Section 1716 of the Civil Code shall not apply with respect to a game lawfully played in a licensed casino.

Applicability of sections 1713 and 1716 of the Civil Code, Cap. 16.

(2) The provisions of section 1713 of the Civil Code shall not prejudice the right of the casino licensee to recover a debt arising from the acceptance of a cheque in accordance with section 35 of this Act and which is subsequently not honoured.

35. (1) Subject to any regulation made by the Minister or any directive that may be issued by the Board, a casino licensee or any person acting on his behalf or under any arrangement with him may, if he has reasonable grounds to believe that a cheque will be honoured upon presentation, accept a cheque and give in exchange for it cash or tokens for enabling such person to take part in the gaming as long as:

Cheques.

(a) the cheque is not a post-dated cheque; and

(b) the cheque is exchanged either for cash to an amount equal to the amount for which it is drawn, or it is exchanged for tokens at the same rate as would apply if cash, to the amount for which the cheque is drawn, were given in exchange for them.

(2) Where the conditions set out in subsection (1) of this section are fulfilled, the giving of cash or tokens in exchange for a cheque shall not be deemed to be contrary to the provisions of section 33 of this Act.

(3) Where the casino licensee or a person acting on his behalf or under any arrangement with the licensee, accepts a cheque in exchange for cash or tokens to be used by a player in gaming, he shall, not more than two banking days later, cause the cheque to be delivered to a bank for payment or collection.

36. A person may, with the consent of the casino licensee, and not later than 30 minutes from the end of a gaming session redeem any cheque accepted from the person by the casino licensee during that gaming session by presenting at the cash desk of the casino:

Redemption of cheques.

(a) an amount of money, or

(b) chips the face value of which is, or

(c) any combination of cash and chips, or

(d) where more than one cheque is being redeemed, a consolidating cheque for an amount,

equivalent to the amount for which the cheque or cheques are drawn, or the sum of the amounts of the cheques, to be redeemed.

PART VII FINANCIAL

Tax.

37. (1) The licensee shall pay to the Secretary of the Board on behalf of the Government the rate of tax based on the total gross takings of all games played at the casino specified in the First Schedule to this Act without the deduction of any expenses of any kind whatsoever, but subject to the following provisions of this section. The licensee shall not later than the seventh day of each month, effect payment to the Secretary of the Board of the tax due in respect of the preceding month.

(2) For the purpose of determining the sums due to the Secretary under subsection (1) of this section, the gross takings or gross losses, as the case may be, on all games of chance shall be those resulting at the closing of the casino each day, but the casino licensee shall be entitled to set off any gross losses on such games incurred during any two months against gross takings on such games made during the same months:

Provided that where a casino remains open for twenty-four hours in a day the closing of the casino for the purposes of this subsection shall be deemed to be 8 a.m.

(3) The gross takings or losses on all games of chance shall be calculated at the closing of the casino each day and duly appointed representatives of the Secretary shall be entitled to attend the making of such daily calculation for the purpose of verifying the same and, moreover, to attend at the playing of all games at the casino.

(4) The licensee shall further pay to the Secretary such rate of tax on the casino entrance fee as may be specified in the casino licence.

(5) For the purposes of subsection (2) of this section, the term "two months" means periods of two months, ending at the closing of the casino on the last day of February, April, June, August, October and December of each calendar year and does not include any time after the closing of the casino during which the business of the casino, commenced on the last day of the relevant two months period, is continued or concluded.

38. (1) Upon the grant of a casino licence, the Board may require the casino licensee to take out a bank guarantee issued by a bank or by a credit or financial institution licensed in Malta in favour of the Secretary on behalf of the Government in an amount not exceeding the gaming reserve and subject to such terms and conditions as may be specified in the licence. Such bank guarantee shall remain valid until the expiration of one year after the expiration of the licence.

Bank guarantee.

(2) The casino licensee may forfeit such bank guarantee in favour of the Secretary in any of the following cases:

(a) upon the surrender of the casino licence under section 17 of this Act;

(b) upon cancellation of the casino licence by the Board under section 18 of this Act;

(c) upon breach of any of the conditions in respect of maintenance of facilities in terms of section 22 of this Act;

(d) in settlement of any liability of the licensee with respect to a fine imposed under PART VIII of this Act.

39. (1) Upon the grant of a casino licence, the casino licensee shall establish a formal reserve in an amount to be fixed by the Board which will protect the casino against a run of gaming losses and therefore ensure that punters are paid out after a large win and which will provide comfort that the casino licensee has adequate financial resources to carry on the business of casino gaming to acceptable and proper standards and without imminent risk of closure or liquidation.

Gaming reserve.

(2) The gaming reserve shall be in the form of a deposit held with a bank established in Malta and or any other security held on the licensee's behalf by such bank acceptable to the Board. The casino licensee shall cause the bank to confirm existence of such a reserve to the Board, as and when requested by the Board, and in any case annually upon every anniversary of the licence.

(3) Should it be necessary for the reserve to be drawn upon, the casino licensee shall immediately inform the Board and shall restore the reserve within two months and shall thereupon cause the bank to confirm its restoration to the Board.

40. (1) Without prejudice to the provisions of the Prevention of Money Laundering Act, 1994, and of section 50 of this Act, the Minister responsible for finance with the concurrence of the Minister

Prevention of money laundering.
Act XIX of 1994.

responsible for justice may by order provide guidelines for conduct by a licensee, an inspector or the Board in relation to certain transactions that may give rise to suspicion of money laundering, and may in particular provide that the provisions of subsection (1) of section 9 of the Prevention of Money Laundering Act, 1994 shall apply with regards to a casino with such modifications and adaptations as may be specified in the Order.

(2) Where an inspector or a casino employee has reason to suspect that a transaction or a proposed transaction could involve money laundering, he shall act in accordance with regulations made under the Prevention of Money Laundering Act, 1994, and any regulation made under this Act, applicable thereto.

Exchange control.

41. It shall be lawful for a casino licensee, upon authorisation granted by the Central Bank of Malta and subject to such conditions as may be specified in such authorisation, to provide facilities for the exchange of foreign currency on the casino premises.

PART VIII OFFENCES

Penalty for offences
against this Act.

42. (1) Any person guilty of an offence against this Act, shall on conviction be liable to a fine (*multa*) of not less than Lm3,000 and not more than Lm100,000 or to imprisonment of not more than two years or to both such fine and imprisonment:

Provided that where the person so found guilty is the director, manager, secretary or other similar officer of a company or other undertaking the said person shall, for the purpose of this section, be deemed to be vested with the legal representation of the same company or other undertaking which accordingly shall be liable *in solidum* with the person found guilty for the payment of the said fine:

Provided further that where the Attorney General in the sanction issued in accordance with section 48 of this Act, certifies that the offence will be adequately punished with a fine(*multa*) of not less than Lm100 and not more than Lm3,000 the applicable penalty shall be a fine (*multa*) of not less than Lm100 and not more than Lm3,000.

(2) The fine referred to in subsection (1) of this section shall be recoverable as a civil debt in favour of the Government by the secretary.

Cap. 152.

(3) The provisions of the Probation of Offenders Act and of section 21 and of sections 28A to 28I of the Criminal Code shall not apply with respect to offences referred to in subsection (1) of this section.

43. (1) It shall not be lawful for a person to use, or have in his possession, in or outside a casino: Use of counterfeit chips.

(a) chips that the person knows are counterfeit chips; or

(b) cards, dice or coins that the person knows have been marked, loaded or tampered with.

(2) Whosoever shall contravene the provisions of subsection (1) of this section shall be guilty of an offence against this Act.

44. (1) It shall not be lawful for a person: Forgery.

(a) to forge or counterfeit any chips or other tokens to be used in a casino licensed under this Act, or a licence used for the purposes of this Act; or

(b) knowingly to utter counterfeit chips or knowingly utter a forged or counterfeit licence.

(2) Whosoever shall contravene subsection (1) of this section shall be guilty of an offence against this Act.

45. (1) No person shall take part in gaming at a casino: Persons gaming to be present at casino.

(a) if he is not present on the premises of the casino when gaming takes place there;

(b) on behalf of another person who is not present on the premises at the time.

(2) Any person who contravenes the provisions of subsection (1) of this section or who aids or permits any other person to contravene such provisions shall be guilty of an offence under this Act.

46. (1) Every person who in any premises not licensed under this Act or in contravention of the provisions of this Act or any regulations made thereunder or in breach of any condition imposed in any licence issued under this Act, takes part in any game of chance played for money or money's worth; or permits the use of any place for or encourages any such game; or wilfully prevents any police officer, lawfully authorised to enter into any place suspected of being used as a gaming house, from entering into such place or any part thereof, or obstructs or delays any such officer in so entering, or, by any bolt, bar, or other contrivance secures any external or internal door or means of access to any such place; or uses any means or contrivance whatsoever, for the purposes of Unlawful gaming.

preventing, obstructing or delaying the entry of such officer into any such place or any part thereof; or although not taking part in any unlawful game, shall be a partner of any player at any such game; or who is present while any such game is being played shall be guilty of an offence against this Act.

(2) In addition to any penalty under any other provision of this Act the money and effects representing the stakes as well as the instruments and articles used in gaming in contravention of subsection (1) of this section and any money found on any person committing an offence under that subsection shall be forfeited in favour of the Government.

Offences against
this Act to be tried
by Court of
Magistrates.

47. The Court of Magistrates shall be the competent court to take cognisance of offences against this Act.

Sanction of
Attorney General.

48. No proceedings for an offence against this Act shall be commenced without the sanction of the Attorney General.

PART IX MISCELLANEOUS

Advertising.

49. (1) No person shall issue or cause to be issued any advertisement:

(a) informing the public that any premises in Malta are premises on which gaming takes place or is to take place; or

(b) inviting the public to take part as players in any gaming which takes place, or is to take place, in any such premises, or to apply for information about facilities for taking part as players in any gaming which takes place, or is to take place, in Malta; or

(c) inviting the public to subscribe any money or money's worth to be used in gaming on such premises or to apply for information about facilities for subscribing any money or money's worth to be so used; or

(d) inviting the public to take part as players in any gaming which takes place, or is to take place, in any casino outside Malta or to apply for information about facilities for taking part as players in any gaming which takes place, or is to take place, outside Malta.

Provided that such restriction on advertising shall not apply to advertisements published, displayed or broadcasted outside Malta for distribution or circulation outside Malta or to advertisements as

described in subsection (1) of this section which are displayed in locations frequented mainly by tourists and are to include airports, seaports, hotels and holiday complexes but shall not include bars and restaurants.

(2) Subsection (1) of this section shall not apply to:

(a) the display in a casino in respect of which a concession has been granted by the Minister, and a casino licence has been issued by the Board, under this Act, of a sign or notice indicating that gaming takes place, or is to take place, in the casino, whether the sign or notice is displayed inside or outside the premises; or

(b) the publication of a notice in the Government Gazette where the notice is required to be published under this Act; or

(c) any advertisement authorised by the Board relating to non-gaming activities held at a casino.

(3) Any person who contravenes the provisions of subsection (1) of this section shall be guilty of an offence under this Act.

50 (1) The Minister may, on the advice of the Board, make regulations for carrying out the provisions of this Act and without prejudice to the generality of the provisions of the foregoing, may by such regulation:

Power to make regulations.

(a) regulate the issue, suspension and cancellation of a licence;

(b) regulate gaming, and stakes at a casino;

(c) regulate junkets;

(d) regulate the use of machines at a casino;

(e) prescribe the records and accounts to be kept by a casino licensee;

(f) prescribe in relation to the gaming reserve referred to in section 39; and

(g) prescribe anything that is to be prescribed under any other provision of this Act.

(2) Without prejudice to any other power under this Act, the Minister may make regulations:

(a) to regulate the tenure of office of the members of the Board; and

(b) to prescribe the procedures to be followed by the Board.

Use of hotels for gaming purposes.

Act I of 1992.

51. The use of any part of a hotel for the running of a casino licensed under this Act shall not for the purpose of the Development Planning Act, 1992 be deemed to be a change of use.

Amendment of the Criminal Code, Cap 9.

52. The Criminal Code shall be amended as follows:

(a) paragraph (h) of section 338 thereof shall be deleted; and

(b) paragraph (a) of section 344 thereof shall be deleted.

Repeal of Kursaal Ordinance, Cap. 172.

53. (1) Without prejudice to the provisions of subsection (2) of this section, the Kursaal Ordinance is hereby repealed.

(2) The Minister may by regulations made under this subsection provide for transitory provisions.

FIRST SCHEDULE

(Section 37)

TAXATION

(1) The casino licensee shall pay to the Secretary of the Board on behalf of the Government the following rates of taxation:

(a) Table Games:—

(i) On total gross takings of all table games played at the casino a sum equivalent to thirty-six per centum (36%).

(ii) On the gross takings generated by junkets approved by the Board and in accordance with any regulations applicable thereto, on all table games dedicated to the junkets a sum equivalent to fifteen per centum (15%).

(b) Gaming Machines:—

(i) On total gross takings of all gaming machines played at the casino a sum equivalent to forty per centum (40%).

(ii) On the gross takings generated by junkets approved by the Board and in accordance with any regulations applicable thereto, on all gaming machines dedicated to the junkets a sum equivalent to twenty-five per centum (25%).

(2) The tax calculated under item (1) hereof shall be assessed separately and no set-off for any tax or for any loss under any one paragraph shall be allowed.

Passed by the House of Representatives at Sitting No. 204 of the 24th March, 1998.

MYRIAM SPITERI DEBONO
Speaker

RICHARD J. CAUCHI
Clerk to the House of Representatives