

INTERACTIVE GAMBLING ACT, 2003

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INTERACTIVE GAMBLING ACT, 2003

(Act 3 of 2003)

I assent



A handwritten signature in black ink, appearing to read "F.A. René".

F.A. René
President

30th July, 2003

AN ACT to regulate interactive gambling and to provide for connected matters.

ENACTED by the President and the National Assembly.

Part 1 - Preliminary

1. This Act may be cited as the Interactive Gambling Act, 2003 and shall come into operation on such date as the Minister may appoint by notice published in the Gazette.

Short title and commencement

Interpretation

2. In this Act —

“auditor” means a person who is qualified for appointment as an auditor under section 157(1) of the Companies Act and is approved by the Director;

“authorised game” means an interactive game that a licensee is authorised to conduct under this Act;

“Director” means the Director of Interactive Gambling appointed under section 38;

“executive associate” in relation to a licensee, means a person who occupies or acts in a managerial position in the operations of the licensee;

“game” includes a scheme or arrangement;

“player” means a person who participates in an interactive game;

“interactive game” means a game in which —

- (a) a prize consisting of money or something else is offered, or can be won, under the rules of the game, and
- (b) a player —
 - (i) enters, or takes a step in, the game by means of a telecommunication device; and
 - (ii) gives or undertakes to give a monetary payment or other valuable consideration to enter, in the course of, or for, the game; and
- (c) the winner of a prize is decided —
 - (i) wholly or partly by chance; or

- (ii) by a competition or other activity in which the outcome is wholly or partly dependant on the player's skill,

and it includes a game declared by regulation to be an interactive game having regard to the nature, value or frequency of prizes offered in the game and other relevant matters;

“licensee” means a person licensed under this Act to conduct interactive games.

Part II - Regulation of Interactive Games

3. (1) An application for a licence to conduct interactive games shall be made in the prescribed form accompanied by the prescribed application fee.

Application
for licence to
conduct games

(2) The Minister may by written notice require an applicant to furnish the Minister with further information that would be necessary to deal with the application.

(3) An application by an individual shall contain a declaration that the applicant agrees to the applicant's photograph and fingerprints being taken.

(4) Where a person who is a non-Seychellois or a corporate body incorporated outside Seychelles applies for a licence the person or body shall appoint an individual who is a resident of Seychelles to be the authorised agent of the person or body.

(5) The individual nominated shall declare that he or she accepts the appointment.

(6) If a licence is granted to a person or body referred to in subsection (4) the authorised agent shall, for all purposes, be treated as the licensee and the references in this Act to a licensee shall be read and construed as references to such authorised agent.

4. The Minister may grant an application under section 3 if the Minister is satisfied that —

Granting of
licence

- (a) the applicant is a fit and proper person to hold the licence; and
- (b) each business associate or executive associate of the applicant is a fit and proper person to be associated with the licensee's operations.

Matters
considered
before grant of
licence

5. In deciding to grant or refuse to grant an application for a licence, the Minister may have regard to the following matters—

- (a) the applicant's character or business reputation;
- (b) the applicant's current financial position and financial background;
- (c) the ownership or corporate structure of the applicant where the applicant is not an individual;
- (d) the availability of appropriate resources and services with the applicant;
- (e) the character or business reputation and the current financial position and financial background of any body corporate or unincorporate with which the applicant has a business association.

For the purpose of this section, "appropriate resources" means financial resources that are, in the opinion of the Minister, sufficient to ensure the financial viability of operations under a licence under this Act and are not tainted with illegality.

Suitability of
licence's
associate

6. The Minister may have regard to the following matters when deciding whether a business or executive associate of an applicant is a fit and proper person to be associated with a licensee's operations:—

- (a) the character or business reputation of such associate;
- (b) the current financial position and financial background of such associate; and

- (c) the character, business reputation, current financial position and financial background of any body corporate or unincorporate with which such associate has a business association.

7. (1) A licence under section 4 shall be subject to such general conditions as may be prescribed and such special conditions as may be included in the licence by the Minister.

Conditions of
a licence

(2) The Minister may by notice addressed to the licensee change any condition of, or add any condition to, a licence if the Minister considers it necessary to do so for the proper conduct of authorised games.

(3) A notice under subsection (2) shall take effect on the day the notice is served on the licensee or on such later date as may be specified in the notice.

8. A licence under section 4 shall not be transferable.

Licence non-
transferable

9. (1) A licensee may surrender the licence by written notice given to the Minister.

Surrender of
licence

(2) The surrender of a licence shall take effect —

- (a) 3 months after notice is given to the Minister; or
- (b) on a later day specified in the notice; or
- (c) on a day earlier than 3 months after notice is given if that day is approved by the Minister.

10. A licence may be revoked or suspended if the licensee—

Grounds for
revocation or
suspension of
licence

- (a) is not, or is no longer, a fit and proper person to hold the licence;
- (b) has a business or executive associate who is not, or is no longer, a fit and proper person to be associated in the licensee's operations;
- (c) has been convicted of an offence against this Act or an indictable offence;

- (d) has contravened a condition of the licence;
- (e) has failed to discharge the financial commitments for the licensee's operations;
- (f) is bankrupt;
- (g) is affected by any restriction under the Companies Act;
- (h) has obtained the licence by making a false or misleading representation.

Opportunity to
show cause

11. The Minister shall, before revoking a licence under section 10 give the licensee written notice of the proposed revocation and the grounds therefor, and require the licensee to show cause before a specified date why the licence should not be revoked.

Suspension of
licence

12. (1) The Minister may suspend a licence immediately if the Minister believes it is in the public interest to do so.

(2) Where the Minister suspends a licence, a written notice of the suspension shall be given to the licensee, which shall also specify a date before which representations may be made against the suspension of the licence.

(3) The suspension shall operate until it is withdrawn or the licence revoked having regard to such representations.

Direction to
rectify matter

13. (1) The Minister may, as an alternative to the revocation or suspension of a licence, by written notice, direct the licensee to rectify any matter within a period specified in the notice.

(2) A licensee shall comply with a direction given under subsection (1).

Audit
programme

14. (1) The Minister may approve an audit programme for the periodic investigation of licensees and their business and

executive associates for the purposes of this Act, and appoint an officer (hereinafter referred to as "authorised officer") to conduct the audit programme.

(2) The authorised officer may, by written notice given to any person, require the person to give the authorised officer any information or document that the authorised officer considers necessary for the conduct of the audit programme and such person shall comply with the requirements of such notice.

15. The Minister may, on application made by a licensee authorise, in writing, the licensee to conduct a particular interactive game subject to such conditions as may be specified in the authorisation.

Authorisation
of interactive
games

(2) The Minister has an absolute discretion to grant or refuse an application for an authorisation.

(3) The Minister shall inform every applicant of the decision on the application.

16. (1) The Minister may, by written notice given to a licensee, change the conditions of an authorisation under section 15 where—

Change of
conditions of
authorisation

- (a) the conditions are not sufficiently stringent to prevent cheating or other contravention of this Act;
- (b) compliance with the conditions cannot be effectively monitored or enforced; or
- (c) there is some other good reason to change the conditions.

(2) The Minister may change any condition under this section only after giving the licensee written notice of the proposed change and allowing the licensee an opportunity to make representations if any.

Revocation of
authorisation

17. The Minister may revoke an authorisation given under section 15 after giving the licensee written notice of the proposed revocation and the reasons for it and after allowing the licensee an opportunity to make representations if any.

Prohibition of
conduct of or
participation
in unauthorised
games

18. (1) A person shall not conduct an interactive game wholly or partly in Seychelles or allow any other person to participate in an interactive game, unless

- (a) the game is an authorised game; and
- (b) the person is licensed under this Act to conduct the game.

(2) A person in Seychelles shall not participate, or encourage or facilitate participation by another person, in an interactive game knowing that it is not an authorised game.

Player
registration

19. (1) A licensee shall not permit a person to participate as a player in an authorised game unless the person is registered with the licensee as a player.

(2) A person shall not participate as a player in an authorised game unless the person is registered as a player with the licensee who conducts the game.

Player's
account

20. An account (hereinafter referred to as "player's account") may be established in the name of every player at a financial institution or other prescribed body —

- (a) against which account the licensee has a right to debit the amount of a wager in an authorised game; and
- (b) which account may be operated by the player only to obtain the balance of the funds in the account and close the account or to obtain the whole or part of the amount paid into the account as a prize in an authorised game, or as authorised by the licensee.

- 21.** A licensee may accept a wager from a player in an authorised game only if—
- Acceptance of wagers
- (a) the player's account has sufficient funds to cover the amount of the wager; or
 - (b) the funds in respect of the wager are provided in a manner authorised by regulations.
- 22. (1)** A licensee may conduct an authorised game only if—
- Approved control system for game
- (a) the licensee has an approved control system; and
 - (b) the game is conducted under that system.
- 23. (1)** A licensee may make a submission of a control system to the Director for approval.
- Submissions of control system etc.
- (2) The submission shall be made in writing —
 - (a) at least 90 days before the licensee proposes to start conducting interactive games; or
 - (b) if the Director allows a submission to be made at a later time, within the time so allowed.
 - (3) The submission shall describe and explain the proposed control system.
 - (4) The submission shall include information about —
 - (a) the following things to be used for conducting interactive games:
 - (i) accounting systems, procedures and charts of accounts;
 - (ii) administrative system and procedures;
 - (iii) computer software;
 - (iv) standard forms and terms;

- (b) general procedures to be followed in conducting interactive games;
- (c) procedures and standards for the maintenance, security, storage and transportation of equipment used in conducting interactive games;
- (d) procedures for recording and paying prizes won in interactive games; and
- (e) procedures for using and monitoring security facilities.

Submission for approval of change of system

24. (1) A licensee may make a submission in writing to the Director for approval to change the licensee's approved control system.

(2) A submission under subsection (1) shall be made at least 90 days before the licensee proposes to start conducting games under the approved control system as changed.

Consideration of and decision on submissions

25. (1) The Director shall consider every submission and either approve or refuse to approve the proposed control system or the proposed change of such system, as the case may be.

(2) The Director may for the purpose of subsection (1) call for further information from the licensee or require the licensee to agree to subject the proposed control system or the system as proposed to be changed to a test.

(3) The Director may refuse to give an approval if the licensee fails to comply with a requirement under subsection (2) without a reasonable excuse.

(4) The Director shall give written notice of the Director's decision to give or refuse to give an approval.

(5) If the Director decides to refuse to give an approval, the notice shall state the reasons for the decision and if the

submission can be rectified to enable the Director to give the approval the notice may state how the submission can be rectified and request the licensee to present the submission again after making the appropriate changes.

26. (1) The Director may by written notice direct a licensee to change the approved control system within the time and in the manner specified in the notice.

Direction to change system

(2) The licensee shall comply with such a direction.

(3) If the licensee fails to comply with such direction the approval for the licensee's control system shall be deemed to be cancelled.

27. A licensee shall at the request in writing made by a player in whose name a player's account is established remit funds standing to the credit of the account as directed by the player not later than the first business day after the request is received.

Funds in player's account to be remitted on request

28. A licensee shall not provide credit to a player or a player's account.

Licensee not to provide credit

29. A licensee shall not have recourse to funds in a player's account except as follows: —

Licensee's limited recourse to player's account

- (a) debit to the account a wager made by the player or an amount the player indicates as the player's wager in the course of a game;
- (b) remit the funds to the credit of the account to the player on request; or
- (c) as otherwise authorised under this Act.

30. If no transaction is recorded for a period of three months the licensee shall remit any balance remaining in a player's account —

Inactive player's account

- (a) to the player, or
- (b) if the player cannot be found, to an account maintained by the Director for the purpose.

Licensee to
keep proper
accounts

31. A licensee shall —

- (a) keep accounting records that correctly record and explain the transactions and financial position of the licensee's operations; and
- (b) prepare financial statements and accounts including trading accounts if applicable and profit and loss accounts for each financial year and a balance sheet as at the end of such year.

Director may
call for reports

32. (1) The Director may by written notice require a licensee to furnish a report to the Director in respect of the licensee's operations.

(2) The licensee shall comply with the requirements of such notice within the time specified in the notice.

(3) A licensee shall not give the Director a report containing information the licensee knows to be false, misleading or incomplete in a material particular.

Licensee's duty
to have a
special bank
account

33. (1) A licensee shall keep an account with a financial institution to be used for all banking or similar transactions for the operations under the licence.

(2) A licensee shall not use an account kept as required by subsection (1) other than for a purpose referred to in that subsection.

Audit of
licensee's
accounts

34. (1) A licensee shall soon after the end of a financial year, cause the books of accounts and financial statements relating to the operations conducted under the licence during the financial year to be audited by an auditor at the licensee's expense.

(2) The auditor shall, on completion of the audit, send a copy of the audit report to the Director and the licensee.

(3) The Director may by written notice, require the licensee to provide the Director with further information on any matter mentioned in the audit report and the licensee shall comply with such requirement.

35. (1) An employee of a licensee shall not take part in an authorised game if the employee is directly involved in functions related to the conduct of the game.

Employees or officers not to participate as players

(2) Any officer under the administrative control of the Director shall not participate in an authorised game, except with the written permission of the Director.

(3) A prize won by a person in an authorised game contrary to this section shall be forfeited to the State.

36. A licensee shall not allow a person below 18 years of age to participate in, or in the conduct of, authorised games.

Exclusion of minors

37. (1) A licensee shall not, unless authorised under subsection (2)—

Disclosure of identity etc. of players

(a) disclose information about the name or other identifying particulars of a player; or

(b) use information about a player for a purpose other than that for which the information is given.

(2) The disclosure and use referred to in subsection (1) is authorised—

(a) if the player has consented;

(b) if necessary for the conduct of authorised games;

(c) if required for the administration or enforcement of this Act or a corresponding law; or

- (d) if otherwise required by law.

Part III - Miscellaneous

Director of
Interactive
Gambling

38. (1) There shall be appointed, by name or office, a Director of Interactive Gambling.

(2) The Director shall, under the general direction of the Minister, be responsible for the administration of this Act.

(3) The Minister shall provide the Director with the staff, office accommodation and other matter necessary for carrying out the functions of the Director under this Act.

Inspectors

39. The following persons are inspectors for the purposes of this Act —

- (a) the Director;
- (b) a person appointed as inspector under this Act;
- (c) a person authorised in writing by the Director to act as an inspector.

Appointment
of inspectors

40. The Minister may appoint by name or office persons to be inspectors under this Act.

Inspector to
produce identity

41. (1) The Director shall give each inspector an identity card.

(2) The identity card shall —

- (a) contain a recent photograph of the inspector;
- (b) be signed by the inspector; and
- (c) shall include the date of issue and the expiry date of the identity card.

(3) An inspector may exercise a power in relation to a person only if the inspector at the first reasonable opportunity produces the inspector's identity card for that person's inspection.

- 42.** An inspector may at any reasonable time enter —
- (a) a public place;
 - (b) a place where an authorised game is conducted;
 - (c) a place where a licensee carries on gaming business

Inspector's
power of entry

for the purpose of discharging an inspector's functions under this Act.

43. (1) An inspector may apply to a judge or magistrate for a warrant to enter any place other than a place referred to in section 42.

Entry warrant

(2) The application shall be accompanied by an affidavit that states the grounds on which the warrant is sought.

(3) The judge or magistrate may issue a warrant if the judge or magistrate is satisfied that there are reasonable grounds for suspecting —

- (a) that there is a thing or activity that may provide evidence of an offence against this Act; and
- (b) that the evidence is at the place or may be at the place within the next seven days.

(4) The warrant shall authorise the inspector, with reasonable help and force, to enter the place and exercise the powers of an inspector under this Act, and shall specify the date, within 14 days after the issue of the warrant, on which the warrant expires.

44. An inspector who enters a place for enforcing compliance with this Act may —

Powers of
search etc.

- (a) search any part of the place;
- (b) inspect, measure, test, photograph or film any part of the place;
- (c) take a thing or a sample from a thing for analysis or testing;
- (d) copy a document;
- (e) access, electronically or in some other way, a system used at the place for any interactive game or for administrative purposes related to the conduct of any game;
- (f) take into the place any person, equipment or materials the inspector requires for exercising a power under this Act;
- (g) require the occupier of the place or any other person at the place to give the inspector reasonable help to exercise the inspector's powers under paragraphs (a) to (f);
- (h) require the occupier of the place or any other person at the place to give the inspector information to help the inspector ascertain whether this Act is complied with.

Persons required
to assist
inspector

45. (1) A person required to give reasonable help under section 44(g), or information under section 44(h), shall comply with the requirement unless the person has a reasonable excuse.

(2) If a requirement is to be complied with by a person giving information or producing a document, other than a document required to be kept by the person under this Act, it is a reasonable excuse for failing to comply with the requirement if so complying might tend to incriminate the person.

46. (1) An inspector who enters a place under this Act may seize a thing at the place if the inspector reasonably believes that the thing is evidence of an offence against this Act.

Inspector's powers of seizure etc.

(2) An inspector shall return a thing that is seized to its owner —

- (a) at the end of 6 months; or
- (b) if proceedings for an offence involving the thing is started within 6 months, at the end of the proceedings and any appeal from the proceedings.

(3) Subject to subsection (2) the inspector shall promptly return a thing seized as evidence to its owner when the inspector is no longer satisfied that its continued retention as evidence is necessary.

47. (1) Where the inspector reasonably believes that —

- (a) a thing used in the conduct of an authorised game, is unsatisfactory for the purpose for which it is used; and
- (b) the continued use of the thing may adversely affect the integrity of the conduct of authorised games;

Direction to stop using certain things

the inspector may, by written notice, direct the person who has control over the thing to stop using the thing in the conduct of authorised games.

(2) A person to whom a direction under subsection (1) is given shall comply with the direction.

48. (1) Where an inspector finds —

- (a) a person committing an offence against this Act;
- or

Requirement to give name, address in certain circumstances

- (b) a person in circumstances that lead the inspector to suspect that the person has just committed an offence against this Act,

the inspector may require the person to state the person's name and residential address.

(2) A person of whom a requirement is made under subsection (1) shall comply with the requirement.

Production of documents for inspection

49. (1) An inspector may require a person to produce for inspection by the inspector at a reasonable time and place nominated by the inspector —

- (a) a document issued to the person under this Act;
- (b) a document required to be kept by the person under this Act;
- (c) if the person is a licensee, a document relating to the conduct of authorised games.

(2) The inspector may keep the document to copy it and return the document after copying it.

Requiring attendance by persons

50. (1) An inspector may require a person or an executive officer of a corporation to attend before the inspector to answer questions or give information about any document produced by such person or officer.

(2) An inspector may require any of the following persons to attend before the inspector to answer questions or give information about the operation of a licensee —

- (a) a licensee, or if the licensee is a corporation an executive officer of the licensee corporation;
- (b) an employee of the licensee;
- (c) an agent of the licensee or if the agent is a corporation an executive officer of such corporation;

- (d) an employee of an agent mentioned in paragraph (c);
- (e) any person associated with the operation or management of a licensee.

(3) A requirement under this section shall be made by written notice and shall state a reasonable time and place for the person's attendance.

(4) It shall be the duty of a person of whom a requirement is made under this section to attend before the inspector and answer any question truthfully.

51. The Minister may make regulations for the better carrying into effect of the provisions of this Act and, without prejudice to the generality of the foregoing, make regulations—

Regulations

- (a) prescribing the form and manner of registration of players and authentication of player's identity, by licensees;
- (b) specifying the general conditions attached to a licence to conduct interactive games;
- (c) requiring licensees to submit returns of particulars of the licensee's employees to the Director;
- (d) prescribing the fees payable under this Act;
- (e) regulating the conduct of authorised games and the prizes in such games;
- (f) requiring the place where authorised games are to be conducted and the equipment to be used in such games to be approved by the Director; and such equipment to be kept at such place;
- (g) providing for the monitoring of licensees' operations;

- (h) relating to the payment and collection of prizes in authorised games and the disposal of unclaimed prizes;
- (i) relating to the interruption of games due to failure of operating system or telecommunication system and the duties of a licensee upon such interruption;
- (j) providing for the prevention of irresponsible gambling;
- (k) providing for the safekeeping of gambling records;
- (l) exempting any class of licensees from the application of any provision of this Act or regulations made under this Act.

Offences

52. (1) Any person who acts in contravention of any of the provisions of sections 6, 7, 22, 27 to 36 and 44 is guilty of an offence and is liable on conviction to a fine not exceeding R250,000.

(2) Subject to subsection (3) any person who contravenes any regulation made under this Act is guilty of an offence and is liable on conviction to a fine not exceeding R250,000.

(3) Notwithstanding subsection (2), a regulation made under section 51 may provide for a fine not exceeding R250,000 in respect of the offence of contravening that regulation.

I certify that this is a correct copy of the Bill which was passed by the National Assembly on 15th July, 2003.



Mrs. Sheila Banks
Clerk to the National Assembly