

# GAMING CONTROL BILL 2017

## SAMOA

### Explanatory Memorandum

#### 1.0 Object and reasons:

- 1.1 The Gaming Control Bill 2017 ("Bill") seeks to regulate gaming and gambling activities and consolidate such matters as was dealt with under the Acts that are to be repealed by this Bill.
- 1.2 The objects of the Bill are:
- (a) to control operation of gaming and gambling activities;
  - (b) prevent and minimize the harm caused by gaming and gambling;
  - (c) authorize certain types of gaming and gambling activities and prohibit other types of gaming and gambling;
  - (d) promote responsible and fair gaming and gambling; and
  - (e) limit opportunities for crime and dishonesty associated with gaming and gambling activities; and
  - (f) ensure money gained from gaming and gambling is applied to community purposes.

**Clauses:**

**PART 1  
PRELIMINARY**

- Clause 1:** - provides for the short title and commencement date of the Bill.
- Clause 2:** - provides for the objectives of the Bill, namely to control gaming and gambling, preventing and minimising harm caused by gaming and gambling, authorise and promote gaming and gambling and so forth.
- Clause 3:** - provides for definitions of certain terms used within the Bill.

**PART 2  
AUTHORITY TO REGULATE GAMBLING**

- Clause 4:** - provides for the functions and powers of the Authority.
- Clause 5:** - provides for the powers of the Chief Executive Officer.
- Clause 6:** - empowers the Chief Executive Officer to delegate any or all of his or her powers under the Bill to an officer of the Authority.

**PART 3  
CONTROLS OVER GAMBLING**

- Clause 7:** - provides for the types of gaming and gambling activities that are permissible and prohibited under the Bill.

- Clause 8:** - prohibits a person under the age of 21 from gambling.
- Clause 9:** - prohibits certain items and services from being used as prizes or rewards for gambling activity, this includes, tobacco products, alcohol, firearms, sexual services, customary land, credits for mobile telecommunication devices, title in land and historical items.
- Clause 10:** - provides that any person intending to conduct a gaming or gambling activity must provide an “authorised purpose statement” to the Authority. Authorise purpose means gaming or gambling for a charitable purpose, to support a church or religious organisation, a non-commercial purpose that is beneficial to the whole or a section of the community, a club or association that raises money for the benefit of its members and any other purpose prescribed by Regulations.

#### **PART 4**

#### **TOTALISATOR BETTING**

- Clause 11:** - provides for the conduct of a totalisator, that a person has to provide an “authorised purpose statement” for such. It also provides for definition of terms in relation to conduct of totalisator betting. Furthermore, it also provides that the Authority may enter into an agreement with another country to conduct or provide totalisator betting.

- Clause 12:** - allows totalisator betting to be made in the specified places apart from on racecourses within Samoa.
- Clause 13:** - provides that the Authority may only accept totalisator betting at an authorised office or agency of the Authority and circumstances and instances that the Authority may accept totalisator betting from a person.
- Clause 14:** - provides for circumstances or instances where the Authority or licensed totalisator may place a bet accepted by it under the Bill.
- Clause 15:** - provides that a person may apply to the Authority for a licence to operate a totalisator and empowers the Authority to grant an application and issue the licence.
- Clause 16:** - provides for conditions relating to betting through the Authority.
- Clause 17:** - prohibits a person under the age of 21 from making a bet through the Authority or a licensed totalisator.
- Clause 18:** - obligates the Authority and a licensed totalisator to pay dividend as soon as practicable after a race.
- Clause 19:** - provides that if there is no winning bet on a race, the amount that would have been available for distribution as dividends may form part of amount available for distribution as dividends on other bets.
- Clause 20:** - makes it an offence, if a person permits payment of a dividend or a refund not in accordance with the Bill.

- Clause 21:** - provides that a person may as the Authority determines, establish a credit account with the Authority.
- Clause 22:** - provides that the Authority or any licensed totalisator must keep and account called the "Dividend Equalization Account" for any unclaimed dividends that the Authority or licensed totalisator is not liable to distribute under this Part.

## **PART 5**

### **NATIONAL LOTTO**

- Clause 23:** - provides for the Authority's right to conduct the national lotto games and in manner the Authority thinks fit.
- Clause 24:** - empowers the Authority to appoint selling agents for approved national lotto games and Authority is to pay commission or remuneration to such selling agents.
- Clause 25:** - provides that expenditures in relation to conduct of national lotto games may be paid out of the funds of the Authority.

## **PART 6**

### **LOTTERIES**

- Clause 26:** - provides that conduct of a lottery must be licensed in accordance with the Bill and conducted in a manner determined by the Chief Executive Officer. It also empowers the Chief Executive Officer to determine, approve and apply certain conditions in relation to conduct of lottery.

- Clause 27:** - provides that application for approval to conduct a lottery must be made to the Chief Executive Officer and must meet requirements provided in this provision. It also empowers the Chief Executive Officer to grant or refuse an application for a lottery licence.
- Clause 28:** - provides that lottery must be drawn in a manner directed by the Chief Executive Officer.
- Clause 29:** - provides that a lottery must not be drawn until all tickets have been sold. The only exception is if the Chief Executive Officer is satisfied that unsold tickets were lost in transit to a selling agent and empowers the Authority to waive this requirement.
- Clause 30:** - provides that lotteries must be drawn in the presence of 2 police officers and one must hold the rank not lower than senior sergeant.
- Clause 31:** - provides that drawing of lottery must be open to the public and time and place must be advertised or notified in a manner approved by the Chief Executive Officer,
- Clause 32:** - provides that a licensee must prepare a certified statement setting out results of the draw and provide it to the Chief Executive Officer immediately after the draw. Once approved by Chief Executive Officer it will become the official result and prizes must be paid in accordance with the result and must be advertised and notified in a manner directed by the Chief Executive Officer.
- Clause 33:** - makes it an offence, if a person organises, promotes or assists in organising an unlicensed lottery or if a licensee fails to comply with a condition of a licence.

- Clause 34:** - provides that only a purchaser of a ticket in an unlicensed lottery may claim for the return of his or her money or other consideration for the ticket he or she paid.

## **PART 7 BINGO**

- Clause 35:** - provides for procedures and requirements a person must undertake when applying for a licence to conduct bingo and empowers the Chief Executive Officer to grant or refuse an application to conduct a bingo game.
- Clause 36:** - provides for conditions whereby a licence to play bingo is no longer effective.
- Clause 37:** - provides that a person providing bingo supplies must be licensed. It also empowers the Chief Executive Officer grant, refuse or revoke a licence and impose conditions applicable to a licence.
- Clause 38:** - provides that an organisation that has been granted a licence to conduct bingo must appoint a voluntary caller or an organiser to conduct a bingo game.
- Clause 39:** - provides that an organiser of a bingo game must give the Chief Executive Officer not less than 7 days' notice of certain particulars required by the Chief Executive Officer.
- Clause 40:** - empowers the Authority to make rules applicable to the conditions of play for bingo and person conducting a session of bingo shall have such rules available for inspection upon request.

- Clause 41:** - provides an obligation on a licensee to give to the Chief Executive Officer a statement of receipts and payments in respect of bingo games conducted.
- Clause 42:** - provides an obligation on a licensee to conduct bingo to maintain written record of matters provided in this provision. Such information must be kept for not less than 12 months from the date the game was conducted. Such information must be available for inspection to the Chief Executive Officer and empowers an inspector to inspect bingo premises.

## **PART 8**

### **SALES PROMOTION SCHEMES**

- Clause 43:** - defines what “sales promotion scheme” is and that it must be licensed and conducted in a manner determined by the Chief Executive Officer.
- Clause 44:** - provides that an application for approval to conduct a sales promotion scheme must be made to the Chief Executive Officer and meet the requirements provided in this provision. It also empowers the Chief Executive Officer to grant or refuse an application for such.
- Clause 45:** - provides for the method or manner in which a sales promotion scheme must be drawn, which is method or a manner approved by the Chief Executive Officer.



- Clause 46:** - provides that a licensee must prepare a certified statement setting out results of the draw and provide it to the Chief Executive Officer immediately after the draw. Once approved by Chief Executive Officer it will become the official result and prizes must be paid in accordance with the result and must be advertised and notified in a manner directed by the Chief Executive Officer.
- Clause 47:** - makes it an offence, if a person organises or promotes or assists in the organisation or promotion of a sales promotion scheme without a licence and if a person fails to comply with a condition applicable to a licence issued under this Part.

**PART 9**  
**GAMING BY TELECOMMUNICATIONS**  
**SERVICE PROVIDERS**

- Clause 48:** - defines terms in relation to gaming by telecommunications service providers and provides that such gaming and gambling activities must be licensed in accordance with this Part and in the manner determined by the Chief Executive Officer.
- Clause 49:** - provides that 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 or electronic data.
- Clause 50:** - empowers the Chief Executive Officer to grant or refuse a licence under this Part.

- Clause 51:** - provides that any funds raised through the licensed activities under this Part is to be used in accordance with the approved authorised purpose statement and must be distributed within 6 months from the time the funds were raised.
- Clause 52:** - provides an obligation on the licensed service provider to submit each game to be used under the licence to the Chief Executive Officer for approval.
- Clause 53:** - makes it mandatory for a service provider to make available an opt out mechanism for each subscriber or user of a telecommunications device used for a licensed game. It is an offence if a service provider continues to encourage participation in gambling activities when a subscriber has used the opt out mechanism.
- Clause 54:** - makes it an offence for a person who conducts or assists in the conduct of any gaming or gambling activity through the use of a telecommunication device or electronic data without holding a valid and current licence issued under this Part and a licensee who conducts or assists in the conduct of such in breach of a requirement under this Part.

**PART 10**  
**CONTROLS OVER GAMING HOUSES**

- Clause 55:** - defines gaming houses. The intention is to ensure private gaming dens which are rooms of private homes used for gaming are captured. This provision makes it an offence for a person to keep a gaming house or a and any person who is found in a gaming house. It also empowers the Authority and its officers and police officers to raid such places.
- Clause 56:** - makes it an offence, if a person advances or furnishes money for the purpose of establishing or conducting the business of a gaming house or profits from such.
- Clause 57:** - prohibits a person to participate in gaming or gambling in a public place and empowers a police officer to arrest such a person without a warrant.

**PART 11**  
**INQUIRIES, AUDITS AND AUTHORISED EXPENSES**

- Clause 58:** - provides an obligation on a licensee to provide information to the Chief Executive Officer.
- Clause 59:** - provides that the Authority may serve a notice on a licensee to have his or her accounts, records and statements on gambling activities for a financial year to be audited by an inspector or auditor approved by the Authority.

- Clause 60:** - prohibits a person from withholding money or money's worth received from gambling activity unless it is approved as an authorised expense by the Chief Executive Officer.

## **PART 12**

### **HEARINGS BY THE AUTHORITY**

- Clause 61:** - empowers the Minister to hear appeals or re-hearings in relation to a decision of the Chief Executive Officer made under the Bill.
- Clause 62:** - empowers the Chief Executive Officer or an inspector to investigate complaints against a person regarding the conduct of any gaming or gambling activity.
- Clause 63:** - empowers the Authority to conduct a hearing into any gaming or gambling activity or operation to ensure that responsible gaming and gambling is promoted.
- Clause 64:** - provides for notice to be given on time and place for a hearing under this Part to the complainant and the licensees affected by a complaint made under this Part. Both complainant and licensee must be given reasonable opportunity to be heard. It also empowers the Authority to vary or revoke conditions of the licence, suspend, cancel, issue a warning, impose a penalty or reject the complaint.
- Clause 65:** - empowers the Authority to suspend a licence after conducting a hearing under this Part. There are certain requirements that the Authority must be satisfied of before suspending a licence under this part.

- Clause 66:** - empowers the Authority to cancel a licence after conducting a hearing under this Part. It also provide for matters to be considered by the Authority when determining whether it is in the public interest to cancel a licence under this Part.

**PART 13**  
**ENFORCEMENT PROVISIONS**

- Clause 67:** - makes it an offence, if a person wilfully or without reasonable excuse, obstructs an inspector executing or performing his or her powers or duties under the Bill.

- Clause 68:** - makes it an offence, if a person bribes an inspector or police officer who is performing his or her duties under the Bill and also makes it an offence if an inspector or police officer accepts a bribe from a person.

- Clause 69:** - empowers an inspector or police officer to serve an infringement notice on a person who has committed an offence under this Bill or Regulations and such an infringement notice must be in a form approved by the Authority.

- Clause 70:** - provides that a penalty specified in an infringement notice must be an amount that is one-fifth of the maximum fine prescribed for the offence and such fine must be paid to the Authority.

- Clause 71:** - provides that payment of fine in relation to an infringement notice discharges any criminal liability for the offence provided in the notice.

**PART 14  
MISCELLANEOUS**

- Clause 72:** - empowers the Chief Executive Officer to approve forms for purpose of the Bill and enables the Authority to propose fees for any purpose under the Bill. Such fees are subject to approval of the National Revenue Board.

- Clause 73:** - provides immunity from criminal or civil liability for persons exercising powers under this Bill.

- Clause 74:** - empowers the Head of State to make regulations on the advice of Cabinet to prescribe matters in relation to implementation of the Bill.

- Clause 75:** - provides for saving and transitional provisions in relation to licences or permits issued under the repealed Acts and any decisions, determinations and resolutions taken by the respective Boards under the repealed Acts. Such licences, permits, determinations and resolutions shall continue to be enforced unless otherwise determined by the Authority under this Bill.

**Clause 76:** - repeals the Betting (Totalisator Agency) Act 1990,  
Gaming Act 1978 and the National Lotteries Act 1978.

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(Hon TUILAEP Auelua Fatialofa Lupesoliai Lolofietele  
Neioti Aiono Galumalemana Dr. Sailele Malielegaoi)  
**PRIME MINISTER**