

**STATE OF ANJOUAN
UNION OF COMOROS**

THE COMPUTER GAMING LICENSING ACT 007 OF 2005

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STATE OF ANJOUAN

THE COMPUTER GAMING LICENSING ACT 007 OF 2005

AN ACT to legalize gaming by computer internet; to provide for the licensing of computer service operators who provide computer internet users with the facility to wager against each other on sporting events or other games of chance; and to provide for the matters connected therewith or incidental thereto.

PART I PRELIMINARY

Short Title

1. This Act may be cited as the Computer Gaming Licensing Act 007 of 2005.

Interpretation

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

“Bank” means any financial institution which is licenced to carry on banking business in Anjouan under the Banking Act;

"Board" means the Anjouan Computer Gaming Licensing Board established under section 3 of this Act;

“Computer Internet” means any publicly accessible data transmission network, or privately-owned data transmission network which is authorized to transmit such data;

“computer user” or “user” means any person who is accessing information through the computer internet;

“computer gaming service” means any computer service which allows computer users to wager on sporting events or other games of chance against each other through the Computer Internet;

“dollars” mean United States Dollars

“Licence” means a licence issued under this Act authorizing the operation or provision of a computer gaming service;

“Licence holder” means a person who has been granted a licence under this Act;

“Minister” means the Minister for the time being responsible for computer gaming.

PART II CONTROL OF COMPUTER WAGERING

Provision of a computer gaming service without a licence unlawful

3. (1) No person shall provide, or in any way assist in providing a computer gaming service unless he obtains a licence so to do in accordance with this Act and in such manner and in compliance with such conditions as may be prescribed by the Board;
- (2) Any person who contravenes the provisions of subsection (1) above shall be guilty of an offence.

Establishment of a Computer Gaming Licensing Board

4. (1) There shall be established for the purposes of this Act a board called the “Anjouan Computer Gaming Licensing Board”, consisting of the Accountant General, the Auditor General, the Permanent Secretary to the Ministry for the time being responsible for computer wagering, and three other persons appointed by the Minister, one of whom shall be appointed on the recommendation of the Leader of the Opposition.
- (2) The two members appointed by the Minister under subsection (1) of this section shall hold office for such period as may be specified in their instruments of appointment, except that their membership may be terminated by the Minister for just cause. Provided that the member who was appointed on the recommendation of the leader of the Opposition shall not be removed by the Minister except at the request of the Leader of the Opposition.
- (3) The Chairman of the Board shall be appointed by the Minister in his discretion from among the members.
- (4) The Chairman shall preside at all meetings of the Board and in his absence the members present may elect a chairman to preside at that meeting.
- (5) Four members of the Board shall form a quorum and each member shall have one vote except that in the event of an equality of votes, the chairman of that meeting shall have a second or casting vote.
- (6) The Minister shall appoint a Secretary to the Board who may issue under his hand licences approved by the Board.

- (7) Any application for a licence and all other matters connected therewith shall be made or referred to the Board.

Functions of the Board

5. (1) The duties and powers of the Board shall be to control and regulate persons who provide computer wagering services.
- (2) For the purpose of performing its functions under subsection (1) the Board shall have power:-
- (a) to grant written licences to such persons to provide a computer wagering service;
 - (b) to make regulations for the following purposes:-
 - (i) prescribing the conditions to be observed by the person providing such computer wagering service and the liability of such person;
 - (ii) prescribing the form and contents of the application for a licence to provide such computer wagering service and of any other document connected therewith;
 - (iii) controlling and regulating all matters connected with or incidental to the provision of computer wagering services licenced under this Act;
 - (iv) prescribing the manner in which disputes between computer users and licence holders may be determined.
- (3) Regulations made by the Board under this Act shall not come into force until they have been approved by the Minister.
- (4) Such regulations may provide that any breach thereof shall be punishable on summary conviction by a fine not exceeding five thousand dollars, or by imprisonment for a term not exceeding one year, or by both such fine and imprisonment.

PART 111
LICENCE APPLICATION

Application for a Licence

6. (1) Every person who intends to provide computer wagering service must, before taking steps for that purpose, apply to the Board for a licence to do so.
- (2) Subject to the provisions of this Act, the Board may grant any fit and proper person:-
- (a) a licence to provide a computer wagering service;
 - (b) with the prior approval of the Minister, an exclusive licence to provide computer wagering service for a period not exceeding two years;
- (3) A licence to provide a computer wagering service shall not be granted to any person who-
- (a) is under the age of 18 years; or
 - (b) has been convicted in a court of law (whether in Anjouan or elsewhere) in the three years immediately preceding the date of his application of any offence involving dishonesty; or
 - (c) is known to be of bad character; or
 - (d) in the opinion of the Board, is for good reason an undesirable person, the Board stating its reasons for the opinion at the time of refusing the licence.
- (4) A person who is aggrieved by the refusal of the Board to grant him a licence to provide a computer gaming service may appeal to the Minister whose decision thereon shall be final.

Fees Payable

7. (1) Upon application to provide a computer gaming service, the applicant shall pay to the Board:-

- (a) in respect of a licence to provide a computer gaming service, fees as per schedule
- (2) An annual licence shall commence on the date of its grant.
- (3) The fees received by the Board under this Act shall be paid to the credit of the treasury;

Provided that where an application is refused, any fee which has been paid under subsection (1) above shall be refunded subject to the deduction of a reasonable administrative charge levied by the Board.

- (4) The fees payable under this section may from time to time be varied by the Minister by Order published in the *Official Gazette or in any official publication or on the official Government web site.*

Security for Performance of Obligations by the Licencee

- 8. (1) Every person to whom a licence is granted under this Act shall for the performance by him of every obligation of whatever kind in connection with the computer wagering services, and for the payment of any fine, make a cash deposit of five hundred thousand dollars.
- (2) In case the licence holder fails to pay wagers won by the computer users, or any tax or other sum due from him in connection with the computer wagering service, or to perform any other obligations which he is bound to perform, the Board may deduct an appropriate sum from the cash deposit made by such person or may recover from that person by such other means as the law allows.

Maintenance of accounts and computer users deposits

- 9. (1) Every licence holder shall establish an account with a bank for the purpose of processing the transactions of computer users.
- (2) Each computer user shall place on deposit in the said account funds sufficient to cover any wager the computer user may place.
- (3) The licence holder shall identify, by such means as may be acceptable to the Board, the funds on deposit for each computer user.
- (4) There shall be no cash deposits by any computer user and funds may be placed on deposit only by cheque, cashier's cheque, money order, wire transfer or other electronic means.

- (5) No funds shall be paid to any computer user in cash out of his deposit and shall be payable only by cheque, cashier's cheque, money order, wire transfer or other electronic means.
- (6) There shall be no limit on the amount of funds a computer user may deposit into his account.
- (7) There shall be no limit on the amount which a computer user may wager against other users of Computer Internet provided that the total of all wagers placed by a computer user at any given time does not exceed the total amount of funds he has deposited into his account.
- (8) The licence holder may be required by the Board to provide a daily account of all computer user transactions and balances of each computer user.
- (9) The licence holder may charge a service fee for the processing of each computer user's transactions of an amount not exceeding 5% of each transaction by a computer user, or the sum of \$20.00, whichever is greater. The service fee so imposed may be deducted from the computer user's funds on deposit at the time a wager is confirmed.

OFFENCES AND PENALTIES

Offences in connection with computer wagering services

- 10 (1) Every person who contravenes or fails to comply with any provision of this Act shall be guilty of an offence.
- (2) Every person who provides or assists in providing a computer wagering service without being licenced to do so under this Act shall be liable to a fine not exceeding \$50,000.00, or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.
- (3) Subject to subsection (2) above, every person who violates any other provision of this Act shall, unless any other penalty is specifically provided be liable to a fine not exceeding \$25,000.00 or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment.
- (4) Where a person convicted of an offence under this Act is a body corporate every person who at the date of the commission of the offence was a director or officer of the body corporate shall be so deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge.
- (5) All proceedings for offences under this Act shall be taken under and in accordance with the legislation of the Court's jurisdiction.

GENERAL

Revocation of Licence

11. (1) A licence granted under this Act may at any time be revoked by the Board without compensation, for breach of any provision of this Act, of any regulations made thereunder, or of any condition attached to the licence, without prejudice to any other penalties imposed by or under the Act.
- (2) Any person who is aggrieved by the decision of the Board to revoke the licence may appeal to the Minister whose decision thereon shall be final.

Collection of income tax on wagers

12. (1) Every person who pays any wagers, winnings or prize won by computer users shall, before paying any such wagers, winnings or prizes, deduct therefrom tax at the rate of [fifteen] percent of such wagers, winnings or prize, and shall forthwith pay over to the [Commissioner of Income Tax] the amount of tax so deducted, and every such amount shall be a debt owing from him to [the Government] and shall be recoverable as such.
- (2) Whoever fails or neglects to deduct the tax or to pay the same to the [Commissioner of Income Tax] as provided in subsection (1) above, shall, without prejudice to any other remedy available to the [Commissioner of Income Tax], be guilty of an offence and shall be liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

Validity of Contracts

13. (1) Notwithstanding anything contained in any rule of law, no objection to any contract, bill of exchange, cheque, promissory note or other transaction of any kind relating to a computer wagering service licenced under this Act shall be taken or allowed in any court of law on the ground that such contract, bill of exchange, cheque promissory note, or other transaction is under any law in force in Anjouan directly or indirectly tainted with illegality or is against public policy.
- (2) Any person to whom any wagers, winnings, prize money or money's worth of any kind becomes due and payable from any computer wagering service licenced under this Act may recover the same from the person liable to pay and shall be

entitled to bring any proceedings necessary to recover such wagers, winnings, prize money or money's worth.

Power to issue search warrant

- 14 (1) Any Judge who is satisfied by information on oath that there is reasonable ground to suspect that any premises are being used for the purpose of the commission of an offence under this Act in connection with a computer wagering service or proposed computer wagering service, may grant a warrant under his hand authorizing any police officer at any time or times within fourteen days from the date thereof to enter, if necessary by force, the said premises and every part thereof, and to search for, seize and remove any documents, money or valuable thing therein which he has reasonable ground to suspect are on those premises for any purpose which constitutes an infringement of any provision of this Act or regulations made thereunder.
- (2) The court before which a person is proved to have committed any offence under this Act in relation to a computer wagering service or proposed computer wagering service shall order to be forfeited any money or valuable thing produced to the court which is shown to the satisfaction of the court to be related to the offence and shall order to be destroyed all documents produced to the court which are shown to the satisfaction of the court to relate to the computer wagering service.

Regulations

15. The Minister may, after consultation with the Board, make regulations for the better carrying out of the provisions of this Act and for prescribing anything that needs to be prescribed.

Commencement

16. This Act shall come into force on a day to be appointed by the Minister by Order published in the *Official Gazette* or on the *Official Government website*

