



*EXTRAORDINARY*  
**OFFICIAL GAZETTE**  
**THE BAHAMAS**  
PUBLISHED BY AUTHORITY

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NASSAU

2<sup>nd</sup> August, 2019

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# GAMING (AMENDMENT) ACT, 2019

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No. 32 of 2019

**GAMING (AMENDMENT) ACT, 2019**

**AN ACT TO AMEND THE GAMING ACT**

**[Date of Assent - 2<sup>nd</sup> August, 2019]**

**Enacted by the Parliament of The Bahamas**

**1. Short title.**

This Act, which amends the Gaming Act, 2014, may be cited as the Gaming (Amendment) Act, 2019.

**2. Amendment of section 2 of the principal Act.**

Section 2 of the principal Act is amended in subsection (1) —

- (a) in the definition of “**numbers game**”, by the deletion of paragraph (a) and the substitution of the following —

“(a) under which any single combination or series of numbers, symbols or letters as may be approved by the Board, may be wagered upon by a player at odds which are fixed at the time of conclusion of the wager; or”; and

- (b) by the insertion in the appropriate alphabetical order, of the following new terms and their corresponding definitions—

“**Internet Service Provider**” means any person that makes available to any other person access to the internet for the purpose of offering interactive gaming, to include the numbers game, in The Bahamas;”

“**Secretary**” has the meaning set out in section 8(1)(a);”.

**3. Insertion of new sections 10A - 10C into the principal Act.**

The principal Act is amended by the insertion immediately after section 10 of the following new sections —

“**10A. Jurisdiction of the Board.**

The jurisdiction of the Board shall extend to any matters concerning gaming, including persons conducting gaming activities for which it did not grant a licence and that is not sanctioned under any other law.

**10B. Establishment of Special Investigation Unit.**

- (1) The Board shall establish a special investigation unit comprised of authorised investigation officers to investigate any non-compliance with this Act by any licensed or unlicensed person or any person involved in gaming activity.
- (2) An authorised investigation officer shall have appropriate training and shall have all the powers of a peace officer.

**10C. Warrants.**

- (1) The Secretary may apply to the Supreme Court for a warrant authorising an authorised investigation officer to enter any premises described in the warrant for the purpose of investigating any non-compliance with the Act.
- (2) The authorised investigation officer may be authorised —
  - (a) to search within such premises and any person within that premises;
  - (b) to seize any documents whether digital or otherwise or gaming devices or cash that may be necessary to prove that a non-compliance of the Act has occurred; and
  - (c) to sequester or secure such premises; and
  - (d) to arrest any person in or near such premises where there is reasonable grounds for believing that such person has committed an offence under the Act.
- (3) The Secretary to the Board shall only apply for a warrant where he is satisfied, based on the information before the Board, regardless of whatever the source, that there is reasonable grounds to believe that gaming activity may have been carried on or is being carried on without a licence.”.

**4. Amendment of section 11 of the principal Act.**

Section 11 of the principal Act is amended—

- (a) in subsection (2)—
  - (i) in paragraph (b) by the deletion of the word “thereto”;
  - (ii) by the renumbering of paragraphs “(c) and (d) as paragraphs “(d) and (e) respectively;
  - (iii) by the insertion of a new paragraph (c) as follows—

- “(c) by an authorised investigation officer specified under section 10B(2);
- (b) by the deletion of subsection (3) and the substitution of the following—
- “(3) The Secretary of the Board shall issue to every person authorised under subsection 2(b) and (c) a certificate of authorisation, and in the exercise of his powers and the performance of his duties the authorised officer and authorised investigation officer shall on demand produce such certificate.”
- (c) in subsection (5) by the deletion of the words “subsections (2)(b) and (c)” and the substitution of the words “authorised officer under subsections (2)”;
- (d) by the renumbering of subsections (6) and (7) as subsections (7) and (8) respectively;
- (e) by the insertion of the following new subsection (6)—
- “(6) An authorised investigation officer under subsection (2)(c) may, where authorised by a warrant obtained by the Secretary under section 10C and subject to the provisions of any other law—
- (a) with the assistance, and in the presence, of a police officer—
- (i) enter premises —
- (aa) in or on which any article, document or other object connected with or reasonably suspected to be connected with gaming or any activities incidental thereto is, or is reasonably suspected to be; or
- (bb) in or on which it is reasonably suspected that any of the provisions of this Act are being contravened; or
- (cc) which are occupied or used for the purposes of gaming or any activities incidental thereto;
- (ii) in respect of those premises, seize any article, document or other object referred to in subsection (4) and do everything set out in subsection (4) which shall apply, with the necessary changes;

- (b) inspect any account of any person at any bank or other financial institution which may afford evidence of the commission of an offence under this Act; and
- (c) report to the Commissioner of Police any evidence found tending to show the commission of any identified risk activity under the Proceeds of Crime Act, 2018 by any occupant of such premises or any person found therein.”.

**5. Amendment of section 44 of the principal Act.**

Section 44 of the principal Act is amended –

- (a) in paragraph (a) of subsection (2), by the deletion of the words “server maintained and located in The Bahamas” and the substitution of the words “primary and where necessary secondary backup server maintained and located at a data centre approved by the Board”;
- (b) in subsection (4)—
  - (i) in paragraph (g), by the deletion of the word “and”;
  - (ii) in paragraph (h), by the deletion of the full stop and substitution of the semicolon;
  - (iii) by the insertion immediately after paragraph (h) of the following new paragraphs as follows —
    - “(i) prescribing requirements applicable to primary, secondary or emergency servers approved by the Board utilized for the purposes of the activities authorised by a gaming house operator licence, including requirements related to physical location server mirroring data center registration criteria and technical standards; and
    - (j) prescribing requirements applicable to the use for the purposes of the activities authorized by a gaming house operator licence of virtualized and cloud environments.”;
- (c) by the insertion immediately after subsection (4) of the following new subsection (5) as follows —
  - “(5) Notwithstanding any provisions of this Act to the contrary, where an applicant for a data centre registration, on payment of the prescribed application fee —
    - (a) produces a current, valid data centre registration, certificate or similar approval for that exact physical data centre location, authorising the hosting of a

primary server utilized for purposes which the Board determines are functionally equivalent to the activities authorised by a gaming house operator licence under this Act; and

- (b) such registration certificate or similar approval is issued by a regulatory authority situated in Nevada, Pennsylvania or such other regulatory authority as the Board may recognize for the purposes of this section from time to time,

the applicant shall not be required to undergo any investigation referred to in this Act for the purposes of its application for such registration, but shall be deemed to qualify for a data centre registration for that exact physical location under this Act.”.

**6. Amendment of section 58 of the principal Act.**

Subsection (3) of section 58 is amended —

- (a) in paragraph (b), by the deletion of the words “section 56” and the substitution of the words “section 59”;
- (b) in paragraph (c), by the deletion of the words “section 57” and the substitution of the words “section 60”.

**7. Insertion of new section 63A into the principal Act.**

The principal Act is amended by the insertion immediately after section 63 of the following new section —

**“ 63A. Internet Service Provider to suspend services.**

- (1) Where the Board has reasonable grounds for suspecting that a person is carrying on gaming activities operation without a licence, the Board may apply to a judge in chambers ex parte for an order —

- (a) to direct the Internet Service Provider of that person to suspend all services to the person named in or the premises identified in the order for a period not exceeding ninety days; and
- (b) to direct the Special Investigation Unit established under section 10B and

the Royal Bahamas Police Force to commence, no later than the fifth day following the date of issuance of the order, an investigation, to include a seizure action, to determine whether the person is carrying on gaming activities without a licence and to

report its findings to the Court, in the manner specified in the order, no later than sixty days following the date of issuance of the order.

- (2) An order referred to in subsection (1) shall not be made unless the Judge is satisfied that there are reasonable grounds for the suspicion mentioned in subsection (1).
- (3) Any order made under this section may be extended for further periods as may be necessary while criminal proceedings are being contemplated or are ongoing.
- (4) At any time during a suspension made under this section a Judge may direct that the suspension be lifted if he is satisfied on an application made by the person from whom it was suspended that there are no longer, any such grounds for its suspension as are mentioned in subsection (1).” .

**8. Amendment of section 64 of the principal Act.**

Section 64 of the principal Act is amended by the deletion of the marginal note and substitution of the following —

**“64. Imposition of basic and gaming taxes.”.**

**9. Insertion of new section 64A into the principal Act.**

The principal Act is amended by the insertion immediately after section 64 of the following new section —

**“64A. Imposition of winnings tax.**

- (1) Every domestic player who is paid any amount as a result of winning a numbers game over the medium of the internet or over the counter shall pay a winnings tax on those winnings.
- (2) The winnings tax referred to in subsection (1) shall be —
  - (a) at the rates or percentages or in the amounts; and
  - (b) payable in the manner and at the times,as shall be prescribed under the Gaming House Operator Regulations, 2014<sup>1</sup>.
- (3) Unless otherwise required under this Act, or as otherwise prescribed, the Secretary shall pay the winnings tax referred to in subsection (1) into the Consolidated Fund within the period prescribed.”.

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<sup>1</sup> (S.I. 85/2014).



**10. Amendment of section 77 of the principal Act.**

Subsection (1) of section 77 of the principal Act is amended by the insertion immediately after the words "under section 63(1)(b)," of the words "63(2)(a),".