

# **TOBIQUE GAMING ACT 2023**

**Version 2.0**



**TOBIQUE GAMING COMMISSION, APRIL 2024**

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## **PART I PRELIMINARY**

### **1 Title and commencement.**

- (1) This Gaming Act may be cited as TOBIQUE GAMING ACT 2023.
- (2) Pursuant to the Tobique First Nation's inherent right to self-government as recognized and affirmed by Section 35 of the *Constitution Act, 1982*, this Gaming Act shall come into force on a day to be appointed by the Chief and Council and different days may be so appointed for different provisions and different purposes.

### **2 Purpose.**

- (1) The purposes of this Gaming Act are:
  - (a) to provide a legal basis for the regulation of gaming and gaming related activities based in or offered from within the Territory, including interactive gaming involving players situated both within and outside the Territory as a means of promoting and preserving economic development, self-sufficiency and peace, order and good government within the Territories;
  - (b) to establish the "Tobique Gaming Commission" for the purpose of, subject to the provisions of this Gaming Act and the regulations or rules derived from this Gaming Act, issuing such licenses, authorizations and permits as are necessary to ensure proper and effective regulation of gaming based in and offered from within the Territory; and
  - (c) to ensure that gaming and gaming related activities licensed within the Territories are conducted fairly, honestly and in the best interests of the members of Tobique First Nation.

### **3 Application.**

- (1) This Gaming Act and the regulations or rules derived from this Gaming Act apply to all gaming based in and offered from within the Territory, including interactive gaming involving players situated both within and outside the Territory.

### **4 Paramountcy.**

- (1) This Gaming Act and the regulations or rules derived from this Gaming Act are paramount over any other legislative act or regulation touching or concerning gaming and gaming related activities as it purports to relate to Tobique First Nation including any act or regulation of the Parliament of Canada, the legislative assembly of any province of Canada and of any other governments.



## 5 Interpretation.

(1) For the purpose of this Gaming Act:

“**Betting**” means making or accepting a bet on:

- (a) the outcome of a race, competition or other event of any description;
- (b) the likelihood of anything occurring or not occurring; or
- (c) whether anything is or is not true;

but does not include any bet made or stake hazarded in the course of or incidental to any wagering and the expressions bet, betting and bookmaking shall be construed accordingly.

“**Betting intermediary**” means a person who carries on, whether occasionally or regularly, the business of providing a service designed to facilitate the making or acceptance of bets between others, but is not a party to any such bet and does not include a person who acts as servant or agent to another person who is the holder of a current bookmaker’s license, pools promoter’s license or remote gambling license.

“**Bookmaker**” means any person or entity who:

- (a) whether on its own account or as servant or agent to any other person, carries on, whether occasionally or regularly, the business of receiving or negotiating bets or conducting pool betting operations; or
- (b) by way of business in any manner holds himself out, or permits himself to be held out, as a person who receives or negotiates bets or conducts such operations;

and the expression “**bookmaking**” shall be construed accordingly.

“**Chief**” means the elected leader of Tobique First Nation.

“**Commission**” means the Tobique Gaming Commission established pursuant to this Gaming Act.

“**Contravenes**” in relation to any requirement of this Gaming Act includes any failure to comply with that requirement, and cognate expressions shall be construed accordingly.

“**Council**” means the elected officials of Tobique First Nation.

“**Direct Licensee**” means a person or persons approved by the Commission to carry out any of the functions designated by the Commission as set forth in this Gaming Act or the regulations or rules derived from this Gaming Act.

“**Executive manager**” or “**key person**” means any person who has the control or management of the whole or a substantial part of the business conducted by a



license holder or Direct Licensee.

“**Gaming**” means Gambling, Skill Gaming and Social Gaming

“**Game of chance**” means:

- (a) a game that involves an element of chance;
- (b) a game that involves an element of chance and an element of skill where the element of chance is greater than the element of skill.

Where poker which shall be deemed to be a game of chance.;

“**Game of skill**” means: a game when a player invests time in learning, practicing and refining their skill to participate for a fee in a particular game in which success depends predominately upon the superior knowledge, training, attention, experience and skill set of the player and where the successful party is entitled to winnings.

“**Gambling**” means:

- (a) betting (including pool betting) and bookmaking;
- (b) wagering; and
- (c) promoting or entering a lottery.

“**Wagering**” means paying a fee in the form of money or money’s worth to participate in a game of chance for winnings.

“**Wagering establishment**” means any place opened, kept or used for the purposes of wagering by or with persons resorting thereto where any one or more of the following conditions are fulfilled, that is to say:

- (a) the wagering involves playing or staking against a bank, whether the bank is held by one of the participants or not;
- (b) the nature of the wagering is such that the chances are not equally favorable to all participants;
- (c) the nature of the wagering is such that the chances in it lie between the participant and some other person, or (if there are two or more participants) lie wholly or partly between the participants and some other person and those chances are not as favorable to the participant or participants as they are to that other person; or
- (d) any commission or percentage is charged in connection with the wagering, the stakes or the winnings.

“**Wagering machine**” means a machine constructed or adapted for playing a game of chance by means of the machine which:

- (a) has a slot or other aperture for the insertion of money or money's worth in the form of cash or tokens; and



(b) requires no action by the player other than the actuation or manipulation of the machine or apparatus in order to play the game of chance;

and, for this purpose, “machine” includes any apparatus; “instruments of gambling” includes all articles, apparatus or equipment used for the purpose of, or in connection with any gambling.

“**Gaming Software**” means a software which is critical in determining the outcome of game or games forming part of the remote gaming service, and, or an indispensable component in the administration and management of remote gaming service (such as gaming platforms)

“**Gaming software aggregator**” means a supplier of proprietary and third-party gaming software and/or platforms where the aggregator entity enters into agreements with these third parties to supply their content onto the aggregator’s operator customers subject to an in accordance with the license issued to it by the Commission.

“**License**” means a license of a description specified in section 23 issued by the Commission to a commercial enterprise granting permission to engage in gaming or gaming related activities based in or offered from within the Territory.

“**License holder**,” means a person who is the holder of a current license that has been given by the Commission on the recommendation of a Direct Licensee.

“**Management Company**” means the company recognized as possessing the required expertise to assist the Commission in fulfilling the objects of this Gaming Act and appointed to do so pursuant to a resolution of the Chief and Council.

“**Member**” means a member of Tobique First Nation.

“**Minimum permitted age**” in relation to gambling of any description, has the meaning given by section 37.

“**Money**” means all forms of cheques, bankers drafts, digital assets, banknotes, currency notes, postal orders, money orders or negotiable instruments of any kind, whether or not transmitted or sent by electronic or other means.

“**Money laundering**” has the same meaning as it has for the purposes of this, that this Act to say, the meaning given section 34;

“**Participant**”, in relation to a game of chance, includes a person who discharges an administrative or other function in relation to the game;

“**Person**” means an individual, sole proprietor, corporation, body corporate, partnership, joint venture, association, trust, unincorporated organization or any other entity, or any trustee, executor, administrator or other legal representative thereof.

“**Pool betting**” means betting made on terms that all or part of any winnings:

(a) shall be determined by reference to the aggregate of stakes paid or agreed to



- be paid by the persons betting,
- (b) shall be divided among the winners, or
- (c) shall or may be something other than money;

“**Premises**” includes the whole or part of a building, any place (whether open or enclosed) and any ship, boat or other vessel or a vehicle of any description;

“**Prescribe**” means prescribe by regulations made by the Chief and Council;

“**Registered participant**”, in relation to the holder of a current remote gambling license, means a person who, in accordance with this Act, is registered with the holder;

“**Remote gaming**” means gaming in which persons participate by means of remote communication, that is to say, communication using:

- (a) the internet,
- (b) telephone,
- (c) television,
- (d) radio, or
- (e) any other kind of electronic or other technology for facilitating communication.

“**Social Gaming**” means playing in a game of chance for a prize or a game of skill where no money or money’s worth is hazarded or paid in order to participate.

“**Term**”, in relation to a license, includes a condition or restriction of any description;

“**Territory**” and “**Territories**” means:

- (a) the lands now held under the mandate of the Tobique First Nation;
- (b) any and all lands that may be added to the lands now held under the mandate of the Tobique First Nation through the negotiation and resolution of land grievances;
- (c) any and all lands that may be added to the lands now held under the mandate of the Tobique First Nation as the result of any other means.

“**Winnings**” includes any kind of prize (whether or not in money or money’s worth) and any reference to the payment of winnings shall be construed accordingly;

(2) For the purposes of this Gaming Act:

- (a) references to printing shall be construed as including references to writing and other modes of representing or reproducing words in a visible form whether electronically or otherwise; and
- (b) documents or other matters shall be deemed to be distributed if they are distributed to persons or places whether within or outside the Tobique First Nation and the expression “distribution” shall be construed accordingly.





## **PART II**

### **GAMING COMMISSION**

#### **6 Creation of Tobique Gaming Commission.**

- (1) There is established a body to be known as the Tobique Gaming Commission.
- (2) The Commission will have the powers and duties provided in this Gaming Act and will administer this Gaming Act in the best interests of the people of Tobique First Nation in accordance with the highest principles of honesty and integrity.

#### **7 Structure of Commission.**

- (1) The Commission will consist of three (3) to five (5) members appointed at the discretion of the Council in accordance with this Gaming Act or the regulations or rules derived from this Gaming Act.
- (2) Until such time as a Commission is appointed pursuant to the provisions of this Gaming Act, a body of three (3) persons will function as an interim Commission. The interim Commission shall be appointed by the Chief and Council. In addition, the Chief shall serve as an ex-officio member of the interim Commission.
- (3) Until such a time that the permanent Commission is established in accordance with the provisions of this Gaming Act, sections 11 to 16 of this Gaming Act do not apply.

#### **8 Eligibility.**

- (1) No person is eligible for appointment, or to continue service on, the Commission or interim Commission, who:
  - (a) is not a member of Tobique First Nation, over the age of eighteen (18) years;
  - (b) has any financial interest in, or management responsibility for, an establishment involved in gaming or gaming related activities within the Territories;
  - (c) has been convicted of an indictable offence, except when a full pardon has been granted, or;
  - (d) has the status of bankrupt.

#### **9 Appointment.**

- (1) Except as provided in this Gaming Act, the Council has the exclusive authority to make appointments to the Commission.



- (2) Any eligible member may express their interest for an appointment to the Commission, however not all expressions of interest will be accepted.
- (3) Every member who submits an expression of interest will be subject to an internal and external security check conducted by Tobique First Nation.

#### **10 Interim Commission.**

- (1) The interim Commission shall have all of the powers and duties provided by this Gaming Act to the Commission.

#### **11 Chairperson.**

- (1) The Commission will, by majority vote, appoint one of its members as Chairperson. The Chairperson will preside over meetings of the Commission and will ensure the Commission follows the principles and procedures provided in this Gaming Act and the regulations enacted pursuant to this Gaming Act.

#### **12 Vice-Chairperson.**

- (1) The Commission will, by majority vote, appoint one of its members as Vice-Chairperson. The Vice-Chairperson will serve as Chairperson during meetings of the Commission in the absence of the Chairperson.
- (2) The Chairperson and Vice-Chairperson will be considered members of Commission for all purposes under this Gaming Act.

#### **13 Tenure.**

- (1) Members of the Commission will serve a term of office of three (3) years.
- (2) Upon expiry of a member's term of office, subject to the other provisions of this Gaming Act, the member is eligible to be re-appointed for another term of office. There is no limitation on the number of consecutive terms of office a member may serve.

#### **14 Removal from Office.**

- (1) A member of the Commission may be removed from office prior to the expiry of his or her term of office by unanimous resolution of the other members.

#### **15 Resignation.**

- (1) A member of the Commission may resign from office prior to the expiry of his or her term of office by giving a written notice to the Commission and to the Council of Tobique First Nation at least thirty (30) days prior to the date on which the



resignation is effective.

#### **16 Vacancy.**

- (1) In the event a member of the Commission is removed, resigns or is unable to continue performing his or her duties for any reason, the member's position will, by resolution of the Commission, be declared vacant and will be filled at discretion of the Council.

#### **17 Quorum.**

- (1) Subject to the provisions of this Gaming Act, a quorum of the Commission will consist of three (3) members, one of whom must be either the Chairperson or the Vice-Chairperson. A quorum of the interim Commission will be a simple majority of the total number of its members, one of whom must be either the Chairperson or the Vice-Chairperson.

#### **18 Meetings.**

- (1) The Commission will meet at the call of the Chairperson or a majority of its members, but, in any event, will meet at least once every thirty (30) days.
- (2) Notice of a meeting of the Commission, with particulars of the agenda, will be provided to all members of the Commission and the Management Company, not less than ten (10) days prior to the date of the meeting.
- (3) Meetings or portions of meetings of the Commission may, at the sole discretion of the Chairperson, be open to the Management Company, public, or conducted in camera.

#### **19 Hearings.**

- (1) The Commission may, in its sole discretion, hold hearings before exercising the powers conferred on it under this Gaming Act and the regulations enacted pursuant to this Gaming Act.
- (2) The Commission may prescribe, by regulation, rules for the practice and procedure to be observed in hearings before it.

#### **20 Powers of the Commission.**

- (1) In addition to any other powers that may be provided to it in this Gaming Act, the Commission will have the power:
  - (a) to issue, suspend or revoke the permits, licenses or authorizations as provided in this Gaming Act and the regulations enacted hereunder;



- (b) to regulate, monitor and inspect all gaming and gaming related activities within the Territories;
- (c) to take such steps as are necessary to ensure the provisions of this Gaming Act and the regulations enacted pursuant to this Gaming Act are observed,
- (d) to appoint and license Direct Licensees to carry out any of the functions set forth in this Gaming Act and the regulations enacted pursuant to this Gaming Act, for and on behalf of the Management Company and Commission; and
- (e) any other matters necessary to carry out the functions of the Commission.

## **21 Remuneration.**

- (1) Members of the Commission may receive remuneration for the time required to provide the services associated with their offices, as determined by the Council.

## **22 Regulations.**

- (1) The Council may enact such regulations and codes of practice as it considers necessary to implement the provisions of this Gaming Act, including regulations respecting:
  - (a) the form and content of applications for the Commission's appointment of one or more Direct Licensees to carry out any of the functions set forth in this Gaming Act or the regulations or rules derived from this Gaming Act, for and on behalf of the Commission;
  - (b) the conditions and criteria for appointing Direct Licensees;
  - (c) the form and content of applications for licenses from the Commission;
  - (d) the conditions and criteria for granting licenses;
  - (e) the fees to be charged for licenses;
  - (f) the carrying or posting of licenses;
  - (g) the identification of those activities that will, for the purposes of this Gaming Act, be deemed to be "gaming related activities";
  - (h) background and security investigations and credential verifications of personnel, staff and companies contracted to conduct business with or on behalf of the Commission or licensed wagering establishments; and
  - (i) any other regulation or codes of practice necessarily related to the conduct and operation of gaming or gaming related activities within the Territories.



## PART III APPLICATIONS AND LICENSING

### 23 Licenses.

- (1) For the purposes of this Gaming Act, the Commission may, giving consideration to the recommendation of the Management Company and its delegate Direct Licensees, grant licenses of the following descriptions:
  - (a) A Direct Licensee authorization;
  - (b) a bookmaker's license;
  - (c) a betting intermediary's license;
  - (d) a wagering operator's license;
  - (e) a wagering machine license;
  - (f) a lottery promoter's license;
  - (g) a pools promoter's license;
  - (h) a gaming software license;
  - (i) a gaming software aggregator license
  - (j) a social gaming license;
  - (k) a game of skill license;
- (2) All of the licenses in paragraphs (a) to (k) of subsection 23(1) authorize any form of remote gambling.
- (3) A remote gaming license does not authorize any form of gaming other than remote gambling.
- (4) Every license shall be personal to the license holder and not transferable. A remote gaming license holder may have several URL addresses, the Commission shall determine if the nature and scope of each business activity associated with the URL address require additional approvals and or applications.
- (5) Every license shall specify, in addition to the name of the license holder, the premises on which the activities concerned are authorized; and any reference to premises covered by such a license shall be construed accordingly.
- (6) The Commission may, giving consideration to the recommendation of the Management Company or an authorized Direct Licensee, in exceptional circumstances issue a temporary license to an applicant whilst the Management Company or Direct Licensee processes the application. Such a license may be issued



to an applicant considered a foreign operator and may be issued for a maximum validity period of six (6) months. No two consecutive temporary licenses may be issued.

- (7) A license is not valid unless and until the prescribed license fee has been paid in full.
- (8) A license holder, including Direct Licensee, shall be guilty of an offence if it contravenes any term to which the license, authorization, or permit it is subject to.
- (9) A license, authorization, or permits issued in accordance with this Gaming Act will be in the form prescribed by the Commission and may, in addition to any other matter which the Commission deems to be appropriate, specify:
  - (a) the name, address, telephone number, fax number and email address of the license holder, authorization or permit holder;
  - (b) the address of the premises from which the license holder will conduct gaming related activities;
  - (c) commencement and termination dates of the license, authorization or permit;
  - (d) any other terms and conditions that are in the public interest and that the Commission, in their sole discretion, consider necessary or desirable for the proper conduct of gaming and gaming related activities;
  - (e) a clause stating that the Chief and Council, Commission, Management Company and their members, officers, directors, employees and agents are not liable for any damages, losses, costs or liabilities incurred by a license holder, Direct Licensee, or other authorization or permit holder; and
  - (f) a clause stating that the license, authorization or permit holder, including Direct Licensee, has agreed to indemnify the Commission and Management Company against any claims, demands or actions and any resulting damages, awards or costs (including legal costs) brought by any third party against the Commission or Management Company in relation to the acts or omissions of a license, authorization or permit holder.

## **24 Approved Vendors.**

- (1) For the purposes of this Gaming Act, the Commission may grant approved vendor status to the following service providers and businesses, namely, and without limiting the generality of the foregoing:
  - (a) a payment service provider;
  - (b) a security software service provider;
  - (c) a hosting service provider;
  - (d) an alternative dispute resolution service provider;



- (e) an electronic money institution (EMI) service provider;
- (f) a digital currency service provider;
- (g) a corporate service provider;
- (h) a gaming software and/or gaming platform provider;
- (i) a provider of critical customer facing services, including but not limited to fraud and risk, customer services, VIP account management.; and
- (j) an aggregator service provider for any services and operations provided for in paragraphs (a) to (i) above.

## **25 Applications.**

- (1) The Commission may, upon receiving an application in the prescribed form, issue a license granting an establishment permission to conduct wagering or gaming related activities within the Territories.

## **26 Powers of the Commission.**

- (1) The Commission shall be responsible for ensuring that all license, authorization, or permit holders and approved Direct Licensees conduct their undertakings:
  - (a) in accordance with the terms of their licenses, authorizations, or permits;
  - (b) in accordance with any other provisions made by or under this Gaming Act; and
  - (c) in such a manner as to maintain the good reputation of the Tobique First Nation.
- (2) In determining for the purposes of subsection 26(1)(c) what is required to maintain the good reputation of the Tobique First Nation, the Commission shall consult with and act on the advice of the Chief and Council.
- (3) For the purposes of achieving the objects of this Gaming Act, in addition to any other powers that may be provided to it in this Gaming Act, the Commission shall have the power:
  - (a) to issue, suspend or revoke the permits, licenses or authorizations as provided in this Gaming Act and the regulations enacted hereunder;
  - (b) to regulate, monitor and inspect all wagering and gaming related activities within the Territories;
  - (c) to take such steps as are necessary to ensure the provisions of this Gaming Act and the regulations enacted hereunder are observed;
  - (d) to bring or defend proceedings in any court (including applying to a court for



any warrant that may be required);

- (e) to at any time conduct an investigation to determine whether a license holder or one or more of its executive managers or key persons is suitable to continue to hold a license or act as an executive manager or key person, as the case may be;
  - (f) to, in connection with an investigation under subparagraph 26(3)(e) by notice in writing require a license holder or on, executive manager one or more of its executive managers or key persons to provide it with information or documentation, including financial statements, relevant to the investigation;
  - (g) to, with the consent of the Chief and in consultation with any Direct Licensees and after consultation with license holders, draw up and publish codes of practice as to good practice in the conduct of their gambling undertakings by the license holders;
  - (h) to liaise with such persons or organizations as the Commission considers would be useful or necessary for the performance of its functions; and,
  - (i) to do all other things necessary for or ancillary or reasonably incidental to the exercise of his powers and the carrying out of its functions under this Gaming Act.
- (4) Where a code of practice has been published in accordance with this Gaming Act, the provisions of that code may be considered in determining relevant issues in connection with:
- (a) any proceedings before a court; and
  - (b) any matter to be determined by the Commission or a Direct Licensee.





## PART IV OBLIGATIONS OF ALL LICENSE HOLDERS

### **27 Application.**

- (1) The obligations set out in this Part IV apply to the holder of every description of license and are without prejudice to any obligations which, under any other provision of this Gaming Act, are relevant only to a particular description of license.

### **28 Responsible gambling.**

- (1) Any remote gambling website operated by or on behalf of a license holder shall contain on the home page a direct link to the websites of at least one organization dedicated to assisting problem gamblers.
- (2) The Chief and Council, upon the recommendation of the Commission, may by regulations make further provisions relating to responsible gambling.
- (3) A license holder shall ensure that systems are in place:
  - (a) to enable a person to request to be self-excluded from gambling with the license holder;
  - (b) to designate a named person to be responsible for formulating responsible gambling policies, including, but not limited to, providing training for staff on the implementation of those policies;
  - (c) to warn persons that they should not gamble beyond their means to pay and to discourage them from so doing;
  - (d) to cooperate with the applicable Direct Licensee, Commission and other license holders to establish and refine techniques to identify and discourage problem gambling; and
  - (e) to seek to prevent a person from participating in any remote gambling activity who is under the minimum permitted age.

### **29 Registration of participants.**

- (1) A license holder shall not permit a person to participate in any gambling activity, unless that person has registered with the license holder in the form specified by the Commission or Direct Licensee, giving his full name, residential address, age and any other particulars which may from time to time be so specified.
- (2) A license holder shall inform every person who is a registered participant that it is that person's responsibility to ensure that, under the laws of the jurisdiction to which he is personally subject (by virtue of residence or otherwise), it is lawful for him to use the facilities provided by the license holder.



- (3) A license holder shall take all reasonable steps to ensure that any information supplied by a registered participant is kept up to date.

### **30 Information with respect to operation of participants' accounts.**

- (1) A license holder shall provide the Commission, with such information concerning the accounts of its registered participants as the Commission may reasonably require.

### **31 Confidentiality.**

- (1) Information provided by, or relating to, a registered participant may not be disclosed to a third party or used for a purpose other than the purpose for which it was given or obtained unless the disclosure or use is 
  - (a) approved in writing by the participant;
  - (b) reasonably necessary for the conduct of the activities authorized under the license; or
  - (c) required in order to comply with a provision made by or under this or any other Act or is related to an official investigation.

### **32 Aborted transactions.**

- (1) If a registered participant's participation in a remote gambling transaction is interrupted by a failure of the license holder's equipment in such a manner as to prevent the participant from continuing with the transaction, the license holder shall refund any amount staked or wagered by that participant in respect of that particular transaction to his account as soon as practicable or, if possible, ensure that the transaction is resumed as soon as practicable if this may be done without detriment to the participant.
- (2) If a transaction is interrupted as a result of a failure of the license holder's equipment and, as a result, a detriment is caused to a registered participant or there is a suspicious circumstance, the license holder shall:
  - (a) promptly inform the Commission or applicable Direct Licensee of the circumstances of the failure; and
  - (b) not conduct a further transaction if that transaction is likely to be affected by the same failure.
- (3) If a license holder has reason to believe or to suspect that an interruption to, or the result of, a transaction has been caused or affected by any illegal activity, the license holder may withhold any winnings that might otherwise be due pending investigation.
- (4) If a license holder withholds any winnings under subsection 32(3), the license holder shall:



- (a) immediately inform the Commission or applicable Direct Licensee of the circumstances of the alleged illegal activity; and
  - (b) suspend all further transactions if a recurrence of the interruption or alleged illegal activity is likely.
- (5) If the Commission decides to carry out an investigation into any alleged illegal activity, the Commission may by notice in writing to the license holder:
- (a) direct the license holder to pay any winnings withheld under subsection 32(3); or
  - (b) confirm the license holder's decision to withhold the winnings but direct the license holder to refund amounts staked or wagered by any registered participant affected thereby.

### **33 Information to be included in websites and advertising.**

- (1) The home page of any remote gambling website maintained by a license holder shall contain a link to a page which displays the following information:
- (a) the full name of the license holder and the address from which he carries on business under the license;
  - (b) a statement that the license holder is licensed by the Commission and is regulated under this Gaming Act; and
  - (c) a statement in the prescribed form to the effect that persons under the minimum permitted age, are not permitted to participate in the gambling activities provided by the license-holder.
- (2) The Chief and Council, upon the advice of the Gaming Commission, may prescribe rules governing the advertising of the gambling activities authorized under a license.
- (3) Without prejudice to the generality of subsection 33(2) any such rules may prohibit under penalty advertisements that are:
- (a) indecent, pornographic or offensive;
  - (b) false, deceptive or misleading;
  - (c) intended to appeal specifically to persons under the minimum permitted age;  
or
  - (d) in breach of copyright laws.

### **34 Money laundering and other illegal acts.**

- (1) If a license holder become aware, or has reason to suspect, that a registered participant has obtained a benefit for himself or another person by any illegal conduct, the license



holder may take all reasonable and proportionate steps in relation to that person's account, including the immediate suspension or closure of that account.

- (2) If, in connection with any gambling activity, a license holder becomes aware, or has reason to suspect, that any money laundering or other activity which is illegal has taken or is about to take place, the license holder shall within twenty four (24) hours or as soon as is reasonably practicable give written notification of the alleged money laundering or other activity to the Commission advising it of all the facts known in relation to this matter.
- (3) In any case where the Commission receives a notification under subsection 34(2) the Commission shall send a copy of the notification to any law enforcement authority which it thinks appropriate.
- (4) Where under subsection 34(2) a license holder is required to give a notification of any money laundering or other illegal activity and an investigation into the money laundering or other activity is being or is to be carried out by the Commission, a Direct Licensee or any other law enforcement body, the license holder shall, if called upon to do so, co-operate in that investigation.

### **35 Duty to publicize rules.**

- (1) Each license holder shall ensure that its rules are so displayed that they may readily be seen by those who enter his premises, or in the case of the holder of a remote gambling license that they may readily be accessed by persons visiting his remote gambling website.

### **36 Procedures and internal controls.**

- (1) In order to monitor the activities authorized under the license and, in particular, to comply with its obligations under any recognized legislation in respect of any transactions which may give rise to any suspicions of money laundering on the part of participants, a license holder shall establish and at all times maintain in operation an effective system of internal controls and procedures.

### **37 Minimum ages for gambling.**

- (1) A license holder shall take all reasonable steps to prevent any person from participating in the gambling activities provided by the license holder unless he is at least of the minimum permitted age.
- (2) In this Gaming Act "the minimum permitted age" means, subject to subsection (3), in the case of any other description of gambling, nineteen (19).
- (3) The Chief may by regulations amend subsection 37(2) so as to substitute a different age from that for the time being set out in that subsection; and different ages may be so substituted for different descriptions of gambling and different circumstances.



- (4) If the license holder becomes aware that a person under the minimum permitted age is or has used the license holder's gambling facilities or platform:
  - (a) the stake (whether by fee, stake or otherwise) paid in respect of any such gambling shall be returned to the person by the license holder as soon as is reasonably practical; and
  - (b) any winnings to be paid in respect of such gambling shall be forfeited to the Commission, provided that any winnings paid or payable to the person before the license holder became aware that the participant was under the minimum permitted age shall not be forfeited to the Commission; and
  - (c) the license holder shall not require a person to return any winnings paid in respect of such gambling before the license holder became aware that the participant was under the minimum permitted age.

### **38 Record keeping and provision of audited accounts, etc.**

- (1) A license holder shall, by notice in writing to the Commission or applicable Direct Licensee, nominate a place for the safekeeping of his transaction records.
- (2) A license holder shall keep those records in a manner that allows:
  - (a) true and fair financial statements and accounts to be prepared annually; and
  - (b) those financial statements and accounts to be audited.
- (3) A license holder shall prepare and deliver to the Commission or applicable Direct Licensee quarterly financial returns in such form as may from time to time be specified by the Commission.
- (4) A license holder shall keep transaction records for not less than five years from the date of the event giving rise to the record.
- (5) Within 28 days of their becoming available to it, a license holder shall provide the Commission and applicable Direct Licensee with a copy of the holder's audited financial statements and accounts for each financial year or other period for which the license holder makes up accounts and shall provide the Direct Licensee with such additional information as he may in writing require.

### **39 License holder to maintain approved banking and payment processing arrangements.**

- (1) For all banking or similar transactions relevant to the activities authorized under his license, a license holder shall maintain banking and payment processing arrangements of a description approved by the Commission or applicable Direct Licensee at the time the license was granted or last renewed.
- (2) A license holder shall not change the banking arrangements approved in accordance



with subsection (1) insofar as they relate to the jurisdiction in which those arrangements are established unless he obtains the prior consent in writing of the Commission or applicable Direct Licensee.

- (3) Any change by a license holder to the payment processing arrangements approved in accordance with subsection (1) shall be notified to the Commission or applicable Direct Licensee as soon as is reasonably practicable.
- (4) Before giving consent in accordance with subsection 39(2) the Direct Licensee shall consult the Commission and take into consideration any representations that he may make on the proposed alterations or changes to the approved arrangements.

#### **40 Complaints.**

- (1) A license holder shall promptly inquire into:
  - (a) any complaint made to the license holder by a participant regarding a transaction; or
  - (b) a complaint referred to the license holder by a Direct Licensee; and,
  - (c) all complaints shall be redirected to a dispute resolution office that is chosen by the Commission or applicable Direct Licensee.



**PART V**  
**PENALTIES AND ENFORCEMENT PROVISIONS**

**41 Penalties.**

- (1) A breach of any provision of this Gaming Act or the regulations enacted hereunder is an offense and on summary conviction is punishable by a fine of not more than Twenty-Five Thousand (\$25,000.00) Dollars.

**42 Enforcement.**

- (1) The Chief and Council may appoint one or more persons who shall have the sole and exclusive authority and jurisdiction to enforce the provisions of this Gaming Act and the regulations enacted hereunder.