



REPUBLIC OF BOTSWANA

**GAMING AND GAMBLING POLICY
FOR
BOTSWANA**

MINISTRY OF TRADE AND INDUSTRY

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1.0 INTRODUCTION

- 1.1 Governments across the world, including the Government of Botswana recognise the important role played by the gaming and gambling sector in contributing to the achievement of socio-economic development objectives. The gaming and gambling sector provides entertainment, creates jobs and generates revenue for central and other levels of governments. However, these socio-economic benefits are tarnished by social ills such as addictive gambling, organised crime, money laundering and unfair business practices, including defrauding consumers, all of which are associated with gaming and gambling. Experience shows that in order to maintain a socially acceptable balance between the benefits and social ills generated by gaming and gambling activities, Governments need to put in place palliative measures to mitigate the negative effects of gaming and gambling on society.
- 1.2 Although the gaming and gambling industry in Botswana remained a one-casino operation between 1972 until 1995, it has since experienced a phenomenal growth. In fact the number of licensed casino operations increased from 1 to 8 between 1995 and 1999, following the Casino Control Board's decision to open the industry to competition. This development resulted, on the one hand, in the increase in the levels of investment, Government revenue and the demand for other forms of gaming and gambling such as commercial lotteries and internet gambling. On the other hand, it exposed the inadequacies of Botswana's regulatory environment for the gaming and gambling industry.
- 1.3 Over the years, the laws and regulations governing gaming and gambling operations or activities have become outdated and ineffective to facilitate and guide gaming and gambling development. This situation was exacerbated by the absence of a gaming and gambling policy for the country and posed challenges for the Ministry of Trade, Industry, Wildlife and Tourism and the Ministry of Labour and Home Affairs, which separately administer the Casino Act, [CAP.19:01] and the Lotteries and Betting Act [CAP.19:02], respectively. It was in recognition of these challenges that, in December 1999, the two Ministries collaboratively commissioned a study on the formulation of a Gambling and Gaming Policy. The study also covered the review of the Casino Act [CAP.19:01] and the Lotteries and Betting Act [CAP. 19:02].

1.4 During the study, extensive consultations were held with all key stakeholders such as relevant Government Ministries, urban and district representatives, the private sector and Non-Governmental Organisations (NGOs). Furthermore, a consultative stakeholders workshop was held in May 2000 to deliberate on the draft recommendations of the study.

1.5 Subsequent to the approval of the Report, the two Ministries jointly produced this Policy document based on the study's findings and some of its recommendations. This document, therefore, constitutes the first explicit Gaming and Gambling Policy with which Government will facilitate and guide the responsible growth and development of Botswana's gaming and gambling sector.

2.0 DEFINITIONS

2.1 The following definitions are adopted for the purposes of this policy:

- a) **Betting:** an agreement or understanding, usually between two parties, to the effect that the party whose prediction about an outcome turns out to be incorrect will forfeit to the party whose prediction is correct, a specified amount of money or something of value.
- b) **Casino:** a public room or building for gambling and other forms of entertainment that normally include all or a combination of: slot machines, table games such as roulette, video games, card games and other such games.
- c) **Gambling:** the placing of money in a machine-based or non-machine based game with a chance to win a specified amount of money, a prize or to get satisfaction from games played.
- d) **Gaming:** an activity in the context of entertainment, including entertainment games such as snooker, pool, juke box and other various machine-based or non-machine based games in which betting takes place with the expectation of winning or losing on the bet(s), usually in the form of money, something of specified value or satisfaction from the games played.
- e) **Lottery:** a gaming scheme for the distribution of prizes by lot or chance, especially in which one or more tickets bearing particular numbers draw prizes and the rest of the tickets are blanks.
- f) **Race:** any foot-race, horse-race, donkey-race, dog-race, cycle-race, motor-race, boat-race and any other race that the Minister may, by order, publish in the Government Gazette.

3.0 GAMING AND GAMBLING IN BOTSWANA

Contribution of Gaming and Gambling to the Economy

- 3.1 Between 1995 and 1999, the number of licensed casino operations in Botswana increased from 1 to 8. According to the Casino Control Board Annual Report 2000, as at December 2000, casino operations directly employed 314 people of which 291 are citizens of Botswana and 23 are expatriates. The Report also shows that gross revenue generated by the industry grew from P20 221 312 to P74 482 181 for the five-year period 1995 – 2000, a growth of 268% or an annual average growth rate of 53.6%.
- 3.2 A 15% license levy and the 50% of entrance fees paid to Government grew from P3 317 431 to P11 494 833 for the period 1995 - 2000. Although statistical data on the level of investment in the development of casinos is not readily available, there is no doubt that there has been a considerable increase, especially given that the industry is influenced by both regional and globalisation developments as well as technological advancements.
- 3.3 The Lotteries and Betting Act [CAP. 19:02] deliberately outlaws lotteries set up for purposes of private gain or commercial undertaking. Consequently, only charitable organisations are allowed to undertake lotteries and betting activities. The Botswana Red Cross is the most active through its “kgobola” (scratch) cards, which it sells to the public to raise funds. Although there is no data to show the contribution of the lottery and betting activities to socio-economic objectives, the money the Botswana Red Cross raises supports projects that address humanitarian needs locally, regionally and internationally. For example, the Botswana Red Cross supported victims of: the Gulf War in Iraq in the early 1990s; the Somali civil strife in the Horn of Africa; and the 1999/2000 floods here in Botswana, just to mention a few.
- 3.4 It is important, therefore, to recognise the contribution of gaming and gambling towards Botswana’s socio-economic development. Its contribution to the economy can further increase if the growth and development as well as the potential of other forms of gaming and gambling such as the establishment of a national lottery and sport or race betting, are properly facilitated and guided.

Constraints in the Gaming and Gambling Sector

- 3.5 The business of gaming and gambling is associated with the problems of excessive gambling, unethical business practices, organised crime, money laundering, etc. In Botswana, the negative impact of the irresponsible use of hard-earned income in gaming and gambling, which deprives families of better living standards, exacerbates poverty and destroys the fabric and fibre of society remains an issue of concern to Government.
- 3.6 The tight gaming and gambling laws in neighbouring countries make Botswana an easy target for dumping technologically outdated machines and equipment, which may either be obsolete or fail to meet the required quality and operational standards in other countries. This situation negatively affects the quality of gaming and gambling services offered to local consumers.
- 3.7 The passage of time, the prevailing and unfolding technological advancements as well as development trends and changes in the regional and global environment have made the laws, which currently govern gaming and gambling in Botswana outdated and inadequate. For example, Section 3 of the Lotteries and Betting Act [CAP. 19:02] deliberately outlaws lotteries set up for purposes of private gain or commercial undertaking whilst the Casino Control Act [CAP. 19:01] was promulgated to facilitate the establishment of only one casino. These laws cannot, in their current form, adequately meet the challenges and opportunities the fast changing gaming and gambling environment continues to usher in.

Current Government Policies and Programmes for Gaming and Gambling

- 3.8 Currently, there is no explicit Government policy on gaming and gambling. However, the Lotteries and Betting Act [CAP. 19:02] and Casino Control Act [CAP. 19:01] govern the operations of the industry. The reason for the absence of an explicit Government policy on gaming and gambling may be attributed to the fact that when these laws were promulgated, the development of gaming and gambling was not a priority.

The Need for Policy

- 3.9 Since the enactment of the Lotteries and Betting Act [CAP. 19:02] and Casino Control Act [CAP.19:01], considerable developments and changes, which impact on the gaming and gambling industry have taken place and continue to take place. The challenges and opportunities alluded to above also point to the need for policy and it is for this reason that Government has developed this policy framework and guiding principles to circumscribe the industry in Botswana.
- 3.10 The policy sets out a broad framework within which Government will respond to challenges and opportunities in the gaming and gambling environment, provide palliative measures aimed at maintaining an effective and equitable balance between the pursuit of socio-economic interests and the imperative need to ensure that the industry's operations comply with and adhere to socially and internationally acceptable operating requirements and standards.

4.0 POLICY FRAMEWORK FOR GAMING AND GAMBLING

- 4.1 At the outset, the Gaming and Gambling Policy for Botswana must take into account the following two important phenomena:

Globalisation

- 4.2 Globalisation impacts negatively and positively on the domestic, regional and international gaming and gambling environment. On the negative side, globalisation makes the gaming and gambling industries more prone to infiltration by criminal elements because casinos often provide ideal conditions for organised crime and money laundering. This stretches the already limited expert capacity of small developing countries such as Botswana in dealing with the complexities of gaming and gambling.
- 4.3 From a positive perspective, globalisation ushers in opportunities for accessing regional and international markets, thus enhancing business growth prospects. It also engenders product and service competitiveness as well as the availability of consumer choices.

Technological Advancements

- 4.4 Like globalisation, technological advancements also impact both negatively and positively on markets. The inadequacy of the current pieces of legislation governing gaming and gambling in Botswana has made the country an easy target for dumping technologically outdated machines and equipment that may either be obsolete or fail to meet the prevailing operational requirements and standards in other countries.
- 4.5 From a positive perspective, developing countries such as Botswana can benefit from technological advancements in that they can access technologically advanced quality machines and equipment for use in business, monitoring and surveillance, information communications networking with gaming and gambling control authorities in the region and elsewhere around the world to access intelligence and early warning information on the movements of criminal elements associated with gaming and gambling.

5.0 SCOPE OF THE GAMING AND GAMBLING POLICY

- 5.1 The Gaming and Gambling Policy for Botswana lays down broad parameters within which the gaming and gambling operations will be administered. Its scope covers various forms and aspects of gaming and gambling, including guiding principle, policy objectives, strategy for achieving policy objectives and strategic policy considerations, which encompass: creation of an enabling environment; market growth, diversification and expansion; forms of gaming and gambling; regulatory framework; institutional framework; skills training and capacity building; social considerations as well as policy and programme implementation.

6.0 GUIDING PRINCIPLES

- 6.1 Against the backdrop of the ever changing environment in which Botswana's gaming and gambling industry operates, and taking into account Botswana's firm commitment to the pursuit of sustainable socio-economic development objectives, Government has identified the following guiding principles for the Gaming and Gambling Policy for Botswana:

- a) clarity of policy goals and objectives;
- b) guidance and facilitation of an orderly development of gaming and gambling industry;
- c) compliance with and adherence to socially and internationally acceptable operational requirements and standards; and
- d) mutual social responsibility to ensure prevention of excessive gambling and rehabilitation of gambling addicts.

7.0 POLICY OBJECTIVES

7.1 The objectives of the Gaming and Gambling Policy are as follows:

- a) to create an enabling environment in which various types of gaming and gambling businesses can develop and thrive;
- b) to facilitate further market growth, diversification and expansion of the gaming and gambling industry;
- c) to provide a guideline for the responsible and orderly development of the gaming and gambling industry;
- d) to ensure compliance with and adherence to socially and internationally acceptable operational requirements and standards;
- e) to establish an appropriate institutional framework for administering the governance and regulation of the gaming and gambling industry's operations;
- f) to ensure the development of local capacity and transfer of skills to citizens in support of other Government's citizen empowerment policies, strategies and initiatives;
- g) to mitigate the negative social impacts that are associated with gaming and gambling activities; and
- h) to promote mutual social responsibility between Government and stakeholders to ensure prevention of excessive gambling and rehabilitation of addicted gamblers.

8.0 STRATEGY FOR ACHIEVING POLICY OBJECTIVES

8.1 The Department of Trade and Consumer Affairs in the Ministry of Trade and Industry is the arm of Government that will be responsible for the implementation of this Policy. The following strategy will be adopted to achieve the aforementioned objectives:

- a) provision of clear policy guidelines for operational requirements and standards;
- b) replacement of outdated laws and streamlining of operational procedures and reduction of bureaucratic constraints;
- c) frequent monitoring, surveillance and impromptu inspections;
- d) the provision of support for education, training and capacity building initiatives;
- e) efficient and effective enforcement of the law;
- f) proactive use of intelligence and early warnings information; and
- g) review of this Policy and its related Act every five years following an evaluation of its implementation and effectiveness, unless the situation demands otherwise.

9.0 STRATEGIC POLICY CONSIDERATIONS

9.1 The following strategic policy considerations are critical for the success of the Gaming and Gambling Policy:

Creation of an Enabling Environment

9.2 Government will, within its overall policy and strategy for achieving sustainable socio-economic development and prosperity through investment promotion and in partnership with the private sector, continue to create an enabling environment in which various types of gaming and gambling businesses can develop and thrive.

Market Growth, Diversification and Expansion

- 9.3 Government will develop a *National Gaming and Gambling Plan* to guide and facilitate the promotion of further market growth, diversification and expansion of the gaming and gambling industry, including the development of other forms of gaming and gambling such as lotteries, bingo, lotteries, lottos, sports pools, sport betting, horse racing, dog racing, race betting, games rooms as well as electrically and/or electronically-based amusements and any other new ones that may be introduced in the market.
- 9.4 The *National Gaming and Gambling Plan* will serve as a guideline for approving or rejecting the development and establishment of additional gaming and gambling operations taking into account factors such as market capacity to absorb the volume of the proposed business and the appropriateness of location in terms of the levels of incomes and geographical proximity to villages and towns. The need to restrict the mushrooming and proliferation of gaming and gambling operations everywhere in Botswana will also be taken into consideration.

Forms of Gaming and Gambling

- 9.5 The development and establishment of all forms of gaming and gambling activities such as bingo, casino, lotteries, lottos, sports pools, sport betting, horse racing, dog racing, race betting, games rooms, electrically and/or electronically-based amusements as well as any other new ones that may be introduced on the market will be guided, licensed and regulated in accordance with the provisions of this Policy and its related regulatory framework.

Casinos

- 9.6 The development and location of casino operations, which are a major form of gaming and gambling in Botswana, will be subject to detailed market and social impact studies as well as market capacity under the National Gaming and Gambling Plan.

Lotteries

- 9.7 Government will establish a National Lottery, which will be managed and operated on a commercial basis like other private gaming and gambling operations under the auspices of the Gaming and Gambling Authority.
- 9.8 The management and operations of the National Lottery will be contracted out to the private sector on a competitive bidding basis. The National Lottery will be subject to the prevailing law governing the operations of the gaming and gambling industry.
- 9.9 Some of the net proceeds of the National Lottery will be apportioned to finance projects of good causes in Botswana for the benefit of members of the public or society such as excessive gambling prevention and rehabilitation educational programmes and the palliation of the HIV/AIDS impact on people.
- 9.10 The Gaming and Gambling Authority will, in consultation and collaboration with relevant Ministries, Local Authorities, the private sector, civil society and NGOs, develop clear criteria or guidelines for assessing and selecting projects for funding consideration.
- 9.11 The Authority will also, in consultation and collaboration with relevant Ministries, Local Authorities, the private sector, civil society and NGOs, put in place modalities and measures for project monitoring and reviews to ensure proper implementation and achievement of intended goals and objectives of the funded projects.
- 9.12 Depending on the size of the market, location and other social considerations, private lotteries may be established in accordance with the provisions of this Policy and its related regulatory framework.

Other Forms of Gaming and Gambling

- 9.13 Other forms of gaming and gambling such as bingo, lottos, sports pools, sport betting, horse racing, dog racing, race betting, games rooms, electrically and/or electronically-based amusements as well as any other new ones that investors may want to introduce in the market will be subject to detailed market and social impact studies as well as market capacity under the National Gaming and Gambling Plan.
- 9.14 Apart from the prevailing Government investment stimulation schemes, there will be no additional incentives for the gaming and gambling industry. The private sector is expected to provide the necessary capital for the development of gaming and gambling business opportunities.

Regulatory Framework

- 9.15 Government will review, amalgamate and consolidate the Lotteries and Betting Act [CAP. 19:02] and Casino Control Act [CAP. 19:02] to develop a more appropriate and comprehensive Gaming and Gambling Act to replace the two Acts. In order to ensure compliance with and adherence to socially and internationally acceptable operational requirements and standards, Gaming and Gambling Act will encompass, among others, the following rules of play:

Operational Requirements and Standards

- 9.16 The Gaming and Gambling Authority will, through the Botswana Bureau of Standards or an approved standards and quality assurance certification body, and in consultation with the industry operators, consumers and other relevant stakeholders, set technical and service operational requirements and standards.
- 9.17 The issuance of a license will incorporate conditions, operational and quality standard requirements that a license applicant or license holder will be expected to meet or maintain throughout the duration of the license. The requirements will include, amongst other attributes: honesty, reliability, integrity and propriety in all respects of the applicant or the license holder.

- 9.18 In the event of violation of the conditions, operational requirements and standards the licensee will be expected to meet, and depending on the gravity of the offence, the Gaming and Gambling Authority will warn the licensee, suspend the licensee for a specified period or indefinitely withdraw the license.

Transfer of Licenses

- 9.19 In order to ensure that undesirable elements do not easily obtain gaming and gambling business licences, no sale or transfer of licenses to other parties will be allowed without the prior written approval of the Gaming and Gambling Authority.

Conduct of License Holders

- 9.20 All licensed gaming and gambling businesses as well as their employees and agents will be under obligation to comply with and adhere to set control measures and to conduct themselves in a responsible and professional manner that safeguards the interests of the industry and those of the public, particularly on issues of mutual social responsibility.
- 9.21 In order to prevent both player and staff fraud in casinos, which fraud could cause loss of potential revenue to Government as a result of diminished licenses levies and taxes, Government will require all casino operators to have a closed circuit video surveillance systems of approved standards at their own costs. The casino operators will be under obligation to make the public aware of such devices.

Gaming and Gambling Machines and Technology

- 9.22 In order to ensure that only machines and equipment of acceptable technology and standards are allowed for use in Botswana, Government will require all machines and equipment imported from other countries or manufactured in Botswana to be serially numbered by the manufacturers and to be accompanied by the manufacturer's certificate testifying at least to its origin, year of manufacture, technology, quality and performance standards.

- 9.23 All machines and equipment destined for use in Botswana will, after installation, be tested and vetted for standard and quality assurance certification by the Botswana Bureau of Standards or an approved standards and quality assurance certification body before they can be licensed and commissioned for use. Thereafter, the Gaming and Gambling Authority or its agents will inspect licensed gaming and gambling machines and equipment as and when it deems necessary.
- 9.24 The Gaming and Gambling Authority will, subject to vetting for criminal records by both the Botswana Police Service and the Directorate on Corruption and Economic Crime, license all existing and new businesses, including their employees responsible for gaming and gambling activities.
- 9.25 The Gaming and Gambling Authority will, subject to vetting for criminal records by both the Botswana Police Service and the Directorate on Corruption and Economic Crime, also license all security and maintenance service providers for machines and equipment who may either be directly employed or contracted by gaming and gambling businesses as well as manufacturers, importers, retailers and distributors or suppliers of machines and equipment destined for use in Botswana.

Overt and Covert Surveillance

- 9.26 The Botswana Police Service and the Directorate on Corruption and Economic Crime will be permitted to conduct both overt and covert surveillance, including the use of overt circuit video surveillance on all gaming and gambling operations.
- 9.27 Government will facilitate and encourage the production of a Code of Ethics for the industry and its adoption by gaming and gambling operators.
- 9.28 All gaming and gambling operations, including their employees and agents will be under obligation to report suspicious transactions to both the Gaming and Gambling Authority, the Botswana Police Service and the Directorate on Corruption and Economic Crime.

Institutional Arrangements

- 9.29 The institutional arrangements for the Gaming and Gambling Policy for Botswana and its related Act and regulations will be located in the Ministry of Trade and Industry.
- 9.30 For the Gaming and Gambling Policy to succeed, it will be important to:
- a) ensure that the right institutional arrangements are in place to facilitate its efficient implementation; enforce the rules of play;
 - b) ensure acceptable operational conduct and sustenance of quality standards; and
 - c) maintain an effective and equitable balance between the interests of business and those of the public.
- 9.31 In order to achieve the above, Government will establish a Gaming and Gambling Authority that will operate as a body corporate responsible for implementing this Policy and its related Act whilst the Ministry will retain the responsibility of:
- a) reviewing and formulating policy, programmes and strategies;
 - b) setting performance targets and monitoring implementation of approved policies, programmes and strategies; and
 - c) conducting periodical performance reviews in order to ensure the delivery of expected results.
- 9.32 A General Fund for financing the operational costs of the Gaming and Gambling Authority and other costs related to the facilitation of the development of the gaming and gambling industry will be created.

- 9.33 In recognition of the numerous disputes that may arise between punters and the industry operators, Government will establish dispute settlement procedures. In this regard, the Gaming and Gambling Authority will arbitrate and settle issues of conflict or dispute before an appeal can be made to the Minister after which the party aggrieved by the Minister's decision may approach the Courts of Law in Botswana.

Skills Training and Capacity Building

- 9.34 In order to empower citizen employees with the requisite skills and build capacity for localising expatriate held positions in the gaming and gambling industry, a Training and Localisation Committee comprising public and private sector representatives will be established under the auspices of the Gaming and Gambling Authority, in consultation with the Ministry of Labour and Home Affairs.
- 9.35 The main purpose of the Committee will be to guide, monitor and evaluate the implementation of training and localisation programmes for the gaming and gambling industry to ensure the transfer of requisite skills to Botswana and the development of local capacity and expertise.

Social Considerations

- 9.36 All investors will be under obligation to advertise proposed new gaming and gambling facilities specifying the village or town where they intend to locate the project and the services to be provided therein in order to accord members of the public the opportunity to express their views about the proposed project.
- 9.37 No advertising of gaming and gambling activities will be allowed in or near facilities such as schools, hospitals, sporting grounds, civic parks, shopping areas, cinemas and places of religious worship.
- 9.38 All gaming and gambling operations will be under obligation to produce and publicise information that warns people against gambling and gaming as a socially harmful habit.

- 9.39 In addition, Government will, in consultation with the gaming and gambling industry and Non-Governmental Organisations (NGOs), establish an Excessive Gambling Prevention and Rehabilitation Committee under the auspices of the Gaming and Gambling Authority.
- 9.40 The main purpose of the Committee will be to guide and monitor the development and implementation of excessive gambling prevention and rehabilitation programmes and strategies, including considering reports of surveys, reviews and evaluations for determining the effectiveness of the programmes.
- 9.41 The development and implementation of excessive gambling prevention and rehabilitation programmes and strategies, including conducting surveys, reviews and evaluations to determine the effectiveness of programmes will be outsourced from the private sector and NGOs on a competitive bidding basis.

Policy and Programme Implementation

- 9.42 In order to ensure effective and efficient implementation, Government will devolve the responsibility for the implementation of this Policy and its related Act to the Gaming and Gambling Authority whilst the Ministry remains responsible for:
- a) reviewing and formulating policy, programmes and strategies;
 - b) setting performance targets for the Gaming and Gambling Authority;
 - c) monitoring the implementation of approved policies, programmes and strategies; and
 - d) conducting periodical performance reviews to ensure delivery of expected results.