

AS TABLED IN THE HOUSE OF ASSEMBLY

A BILL

entitled

CRUISE SHIPS (CASINOS) ACT 2013

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	Designated Ports

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SCHEDULE 2 Licence Fees

WHEREAS it is expedient to make provision for the operation of casinos on board a cruise ship while berthed in a designated port in Bermuda to encourage the growth and development of tourism in Bermuda; and to amend the Prohibition on Gaming Machines Act 2001 and the Criminal Code Act 1907 to exempt licensed cruise ships from gaming restrictions;

Be it enacted by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and the House of Assembly of Bermuda, and by the authority of the same, as follows:

Citation

1 This Act may be cited as the Cruise Ships (Casinos) Act 2013.

Interpretation

2 In this Act—

“berth” means to moor or anchor a ship at a dock, pier, wharf or anchorage;

“casino” means any room or place on a cruise ship which is kept and managed for gain by any person and in which persons may engage in gaming;

“cruise ship” means a vessel that—

- (a) operates for not less than 120 days each year, anywhere in the world;
- (b) provides cruises of not less than 60 hours in length for persons holding tickets entitling them to travel on board the vessel; and
- (c) provides on board the vessel overnight accommodation for not less than 500 passengers, or such other number of passengers as the Minister may by order specify.

“designated port” means a port or anchorage specified in Schedule 1;

“game of chance” includes a game of chance and skill combined and a pretended game of chance or of chance and skill combined;

“gaming” means the playing of a game of chance for winnings in money or money's worth whether any person playing the game is at risk of losing any money or money's worth or not;

“inspector” means a person appointed by the Minister under section 12(1);

“licence” means a licence issued under section 6(1);

“licensed cruise ship” means a cruise ship licensed by the Minister under section 6(1) to operate a casino;

“licensee” means a person granted a licence to operate a casino under section 6(1);

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“Minister” means the Minister responsible for lotteries;

“passenger capacity” means the maximum number of passengers a cruise ship can carry.

Licensing of a Casino

Prohibition on operating a casino on a cruise ship without a licence

3 No person shall operate a casino on a cruise ship berthed in a designated port unless that person has applied for and has been granted a licence by the Minister.

Eligibility for a licence to operate a casino

4 A licence will only be granted to a cruise ship that is scheduled to remain at a designated port in Bermuda overnight for a minimum period of 12 continuous hours arriving at the designated port no later than 6 p.m. and departing no earlier than 6 a.m. the following day.

Application for a licence to operate a casino

5 (1) The owner of a cruise line may make an application for a licence to the Minister at least one month prior to the date of the intended operation of the casino, or such circumstances as the Minister may permit.

(2) Where an agent has been appointed to act on behalf of a cruise line, the written application for a licence to operate a casino shall be accompanied by a letter of authorisation signed by the owner of the cruise line.

(3) In considering whether an application should be approved, the Minister may, without prejudice to his power to refuse the approval, have regards to the commitments which the applicant undertakes in respect of—

- (a) opportunities for employment which would be created for Bermudians;
- (b) the promotion and advertising of Bermuda as a tourist resort including promoting land and sea tours, attractions in Bermuda and viewing promotional films of Bermuda.

(4) In this section—

“Bermudian” means a person who possesses Bermudian status under the Bermuda Immigration and Protection Act 1956;

“cruise line” means a company which owns or operates a cruise ship and includes an agent of that company.

Licensing of a casino on a cruise ship

6 (1) The Minister may, on consultation with the Minister responsible for tourism, and on written application made to him, grant a licence to operate a casino on a cruise ship while it remains berthed in a designated port, subject to any terms and conditions of a licence and to the provisions of this Act.

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- (2) A licence granted under subsection (1)—
- (a) shall be issued subject to any terms and conditions the Minister sees fit;
 - (b) shall be issued to a named cruise ship as provided and described in the licence;
 - (c) shall remain in force for one cruise ship season;
 - (d) may be renewed from time to time for a further cruise ship season or any part thereof;
 - (e) is not transferable.
- (3) In this section “cruise ship season” means 1 April to 30 November each year.

Licence Fee

- 7 (1) Before a licence is issued there shall be paid into the Consolidated Fund, in respect of such licence, the fee as prescribed in Schedule 2.
- (2) Notwithstanding subsection (1), a cruise ship with a passenger capacity not exceeding 2,000 passengers shall not be charged a licence fee.

Suspension, refusal, revocation, or variation of a licence

- 8 (1) The Minister may, on consultation with the Minister responsible for tourism—
- (a) refuse to grant or renew a licence where a licensee fails to comply with any provision of this Act, any regulations made under this Act and any of the terms and conditions of a licence;
 - (b) when receiving an application for a licence, vary the licence on such terms and conditions as the Minister thinks fit;
 - (c) subject to subsection (2), suspend or revoke a licence where—
 - (i) the licence is obtained as a result of any misleading, false or fraudulent representation;
 - (ii) the licensee fails to comply with any provision of this Act, any regulations made under this Act and any of the terms and conditions of a licence.
- (2) Prior to suspending, revoking or refusing to grant or renew a licence the Minister shall inform the licensee or applicant in writing of the grounds for the suspension, refusal or revocation of a licence and require the licensee to give reasons in writing within a specified time why the licence should not be suspended, revoked or refused.
- (3) If the licensee fails to comply with the requirement in subsection (2) within the specified time or the reasons provided by the licensee are shown to be inadequate, the Minister, on consultation with the Minister responsible for tourism, may suspend or revoke a licence.

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(4) The Minister shall send notice of the suspension, revocation or refusal to grant or renew a licence to the licensee by registered post at the last known postal address of the licensee.

Appeals

9 (1) Any person applying for a licence or a licensee aggrieved by a decision of the Minister to suspend, revoke or refuse to grant or renew a licence may appeal to the Supreme Court on any point of law within one month of being notified of it.

(2) The practice and procedure on an appeal under this section shall be governed by the rules of the Supreme Court.

Operation of a Casino

Licence to be displayed on ship

10 A licensee shall cause the licence to be displayed in a conspicuous place near the entrance to any casino on a cruise ship.

Conditions of operation of a casino

11 (1) A licensed cruise ship shall only operate a casino between the hours of 9 o'clock in the evening and 5 o'clock in the morning when the cruise ship is berthed in a designated port.

(2) No person other than a passenger of a cruise ship shall be allowed to access a casino on a cruise ship for the purpose of gaming.

(3) In this section, "passenger" means a person contracted to be carried and accommodated on a cruise ship while it visits a port or ports.

Inspections

12 (1) The Minister may appoint any public officer as an inspector to board any cruise ship berthed in a designated port to ensure compliance with the licence and the provisions of this Act.

(2) An inspector may—

- (a) inspect any casino situated on board a cruise ship;
- (b) require the operator of any casino on board a licensed cruise ship to provide any information as is required to perform his duties.

Offences and Penalties

Operation of a casino on an unlicensed ship or contrary to a licence

13 Any person who operates a casino on a cruise ship—

- (a) in respect of which there is no licence under this Act;
- (b) contrary to the terms and conditions of a licence,

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is guilty of an offence and liable on summary conviction to a fine of \$20,000.

Wrongfully procuring a licence

14 Any person who procures or attempts to procure a licence by representation or declaration, orally or in writing, which to his knowledge is false is guilty of an offence and is liable on summary conviction to a fine of \$10,000.

Failing to comply with an inspector

15 Any person who—

- (a) refuses to provide access to an inspector while performing his duties;
- (b) fails to comply with any requirement made by an inspector,

is guilty of an offence and liable on summary conviction to a fine of \$5,000.

Failing to display licence

16 Any licensee who fails to post his licence in a conspicuous place near the entrance to any casino on licensed cruise ship is guilty of an offence and liable on summary conviction to a fine of \$1,000.

Police powers

17 A police officer may arrest without warrant any person whom he reasonably believes is committing an offence under this Act.

Miscellaneous Provisions

Regulations

18 The Minister may make regulations generally for carrying out the purposes and provisions of this Act.

Amendment of Schedules

19 (1) The Minister may by order amend the Schedules to this Act.

(2) The negative resolution procedure shall apply to regulations made under section 18 and to orders made under subsection (1).

Consequential amendments

20 The Prohibition on Gaming Machines Act 2001 is amended—

- (a) in section 3(1) by inserting the following in its proper alphabetical position—

“cruise ship” has the meaning given in the Cruise Ships (Casinos) Act 2013;”;

- (b) in section 5—

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- (i) in subsection (5) by deleting “is guilty of an indictable” and substituting “commits an”;
- (ii) by inserting the following after subsection (8)—

“(9) This section does not apply in respect of a casino on a cruise ship licensed under section 6(1) of the Cruise Ships (Casinos) Act 2013.”;

- (c) in section 6—

- (i) by repealing subsection (3) and substituting the following—

“(3) Subsection (1) shall not apply to the importation of gaming machines, their parts or accessories, by virtue of being on board—

- (a) a vessel in transit in Bermuda;
- (b) a cruise ship berthed in any designated port in Bermuda;
- (c) a vessel which arrives at any anchorage, mooring or port in Bermuda under unavoidable circumstances owing to inclement weather or any other genuine emergency;
- (d) any vessel which gets wrecked or stranded in territorial waters, any anchorage, mooring or port in Bermuda;
- (e) any vessel brought from outside Bermuda as a wreck to any anchorage, mooring or port in Bermuda.”;

- (ii) by inserting the following after subsection (3)—

“(3A) For the purposes of subsection (3)—

“designated port” has the meaning given in the Cruise Ships (Casinos) Act 2013;

“transit” means passing through territorial waters of Bermuda without stopping at any anchorage, mooring, or port in Bermuda unless the stopping at the anchorage, mooring or port is for the sole purpose of loading a ship’s stores.”;

- (d) by repealing section 6A.

Related amendment to Criminal Code Act 1907

21 The Criminal Code Act 1907 is amended in section 155 by inserting the following next after subsection (2)—

“(3) This section does not apply in respect of a casino on a cruise ship licensed under section 6(1) of the Cruise Ship (Casinos) Act 2013.”.

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Commencement

22 This Act comes into operation on such day as the Minister may appoint by notice published in the Gazette.

SCHEDULE 1

(Section 2)

DESIGNATED PORTS

- | | |
|-------------------------|--|
| 1. Royal Naval Dockyard | a) Heritage Wharf
b) King's Wharf |
| 2. Hamilton | a) Dock #1
b) Dock #5
c) Dock #6
d) Dock #7
e) Dock #8 |
| 3. St. George | a) Penno's Wharf
b) Ordnance Island |
| 4. Murray's Anchorage | |
| 5. Grassy Bay | |
| 6. Great Sound | |

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SCHEDULE 2

(Section 7)

LICENCE FEES

1. Cruise ships making 15 or more voyages to Bermuda

Class of Cruise Ship	Licence Fee
Class A- passenger capacity not exceeding 2,000	No Charge
Class B- passenger capacity more than 2,000 not exceeding 2,500	\$75,000
Class C- passenger capacity more than 2,500 not exceeding 3,000	\$90,000
Class D- passenger capacity more than 3,000 not exceeding 3,500	\$105,000
Class E- passenger capacity more than 3,500 not exceeding 4,000	\$120,000
Class F- passenger capacity more than 4,000 not exceeding 4,500	\$135,000
Class G- passenger capacity more than 4,500 not exceeding 5,000	\$150,000
Class H- passenger capacity more than 5,000 not exceeding 5,500	\$165,000
Class I- passenger capacity over 5,500	\$180,000

2. Cruise Ships making 14 or less voyages to Bermuda

Class of Cruise Ship	Licence Fee
Class A- passenger capacity not exceeding 2,000	No Charge
Class B- passenger capacity more than 2,000 not exceeding 2,500	\$5,000
Class C- passenger capacity more than 2,500 not exceeding 3,000	\$6,000
Class D- passenger capacity more than 3,000 not exceeding 3,500	\$7,000
Class E- passenger capacity more than 3,500 not exceeding 4,000	\$8,000

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Class F-	passenger capacity more than 4,000 not exceeding 4,500	\$9,000
Class G-	passenger capacity more than 4,500 not exceeding 5,000	\$10,000
Class H-	passenger capacity more than 5,000 not exceeding 5,500	\$11,000
Class I-	passenger capacity over 5,500	\$12,000

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EXPLANATORY MEMORANDUM

This Bill seeks to provide for the operation of casinos on-board a cruise ship while it is docked in a designated port in Bermuda; and amends the Prohibition on Gaming Machines Act 2001 and the Criminal Code Act 1907 to exempt licensed cruise ships from gaming restrictions.

Clause 1 provides the title of the Bill.

Clause 2 provides definitions for various expressions in the Bill including the meanings of “casino”, “cruise ship”, and “licensed cruise ship”.

Clause 3 prohibits the operation of a casino on a cruise ship docked at a designated port in Bermuda without a licence.

Clause 4 provides the grounds on which a cruise ship is eligible to receive a licence.

Clause 5 provides how application for a licence can be made, specifically that the owner of a cruise ship, or an agent on behalf of the owner, may make written application to the Minister for a licence to operate a casino; and, the Minister may consider when approving an application the opportunities of employment that would be created for Bermudians on-board a cruise ship and the promotion and advertising of Bermuda as a tourist destination.

Clause 6 provides that the Minister may, on receiving a written application, grant a licence for the operation of a casino on-board a cruise ship while it is docked at a designated port in Bermuda. It also provides that (a) the licence may be granted on such terms and conditions as the Minister sees fit, and (b) the licence is valid for one cruise ship season, may be renewed for a further cruise ship season and is not transferable.

Clause 7 provides that the licence fee shall be paid into the Consolidated Fund and shall be in the amount prescribed in Schedule 2. It also provides cruise ships carrying less than 2000 passengers are not liable to pay the licence fee.

Clause 8 provides that the Minister may suspend, refuse, revoke, or vary a licence on the specified grounds of failing to comply with the terms and conditions of a licence or the provisions of the Act, for providing misleading, false, or fraudulent representation. It also provides that (a) prior to the suspension, refusal, or revocation, the cruise ship applicant or licensee must be notified why the licence is being suspended, refused, or revoked and gives the licensee or applicant an opportunity to plead, in writing, why the licence should remain valid or why the licence should be issued; and (b) that notice of any suspension revocation or refusal shall be given by registered mail to the applicant’s or licensee’s last known address.

Clause 9 provides that any applicant or licensee that does not agree with the decision of the Minister to suspend, refuse or revoke, a licence has a means of appealing that decision to the Supreme Court. The practice and procedures of any appeal made by an applicant or licensee are governed by the rules of the Supreme Court.

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Clause 10 provides that a licence shall be conspicuously displayed near any casino on a cruise ship.

Clause 11 provides the conditions of operation of a casino on a licensed cruise ship: (a) the casino can only be open between the hours of 9 p.m. and 5 a.m.; and (b) only passengers on-board a cruise ship are allowed to participate in gaming in a casino.

Clause 12 provides that Minister may appoint a public officer to act as an inspector to board a licensed cruise ship while docked in Bermuda to ensure compliance with the licence and any provisions of the Act. The public officer may inspect any casino located on-board a cruise ship and may require the operator of the casino to provide whatever information is required to carry out an inspection.

Clause 13 provides the summary offence of operating a casino without a licence or contrary to the terms or conditions of any licence, the fine being \$20,000.

Clause 14 provides the summary offence of wrongfully procuring a licence by providing false information, the fine being \$10,000.

Clause 15 provides the summary offence of failing to comply with a customs officer while attempting to perform his duties or failing to comply with any requirement made by a customs officer, the fine being \$5,000.

Clause 16 provides the summary offence of failing to display a licence at the entrance of any casino, the fine being \$1,000.

Clause 17 gives the police the power to arrest without warrant a person who is guilty of an offence under the Act.

Clause 18 provides that the Minister may make regulations to carry out the purposes of the Act.

Clause 19 provides that the Minister may, by order, amend the Schedules to the Act. Both Regulations and orders made under that Act are subject to the negative resolution procedure.

Clause 20 provides consequential amendments to the Prohibition on Gaming Machines Act 2001 by inserting the definition of "cruise ship" to distinguish between cruise ships as defined and other categories of passenger ships by adding the categories of vessels that are exempted from the prohibition on the importation of gaming machines provided in the Act.

Clause 21 makes a related amendment to the Criminal Code Act 1907. Under section 155(2) of the Criminal Code Act 1907, it is an offence to keep a gaming house. A new subsection (3) has been inserted into section 155 to exempt a person operating a casino on a cruise ship from the application of the offence provision under section 155(2).

Clause 22 provides the commencement of the Bill.