



GREEN PAPER

on Gaming For Bermuda



GOVERNMENT OF BERMUDA
The Cabinet Office

GAMING FOR BERMUDA THE GREEN PAPER

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A REGIONAL OVERVIEW

A. Saint Kitts & Nevis

Bermuda and the Federation of Saint Kitts and Nevis are inextricably linked. Three in every five Bermudian families can claim some ancestry from St. Kitts in particular.

With the kind permission of Mr. Jan Dash Esq., L.E.C., TEP of Liburd and Dash Attorneys at Law, Charlestown, Nevis, there follows a comprehensive overview of gaming in St. Kitts and Nevis.

**Saint Kitts and Nevis – A Regulatory Overview
2 January, 2008. In an effort to diversify its developing economy, Saint Kitts and Nevis has enacted a modern and comprehensive gambling legislation.**

1. Background

The Islands of Saint Kitts and Nevis are located in the Caribbean Sea, two miles apart from each other and approximately 250 miles southeast of Puerto Rico. The islands were colonized by the British in the 1620s, who introduced African slavery and a sugar cane based economy. In 1983, Saint Kitts and Nevis received its Independence from Britain and is now officially known as the Federation of Saint Kitts and Nevis (the “Federation”). Under the current Constitutional arrangement between the Islands, both Nevis and the Federation are each allowed to enact their own laws.

The twin pillars of the Federation’s economy are tourism and offshore financial services. A popular vacation destination, approximately 350,000 people flock annually to Saint Kitts and Nevis to enjoy its sun, sands and shores. Nevis and the Federation each have their own financial services legislation, and they each have laws which encourage the establishment of banks, mutual funds, captive insurance companies, corporations, trusts and the registration of ships. The sugar cane industry which was the mainstay of the economy for centuries was closed by the Federation’s Government in 2005 after decades of losses.

The Federation uses the Eastern Caribbean Dollar (“EC\$”) which is shared with several other islands and territories throughout the Caribbean. The Eastern Caribbean Dollar has been pegged to the United States Dollar (“US\$”) at a

rate of EC\$2.70 to US\$1.00 since 1976. The US\$ is also widely accepted throughout the Federation.

The population of the Federation is approximately 42,000, with 10,000 living on Nevis and the balance living on Saint Kitts. Persons from Nevis are known as “Nevisians” and persons from Saint Kitts are known as “Kittitians”. The overwhelming majority of population is of Afro-Caribbean descent, the remainder is comprised of retirees from around the World and workers in the financial services industry. English is both the official and spoken language of the Federation. The Federation has a reported literacy rate of 96%, which is the highest in the Western Hemisphere.

Saint Kitts was one of the hosts of the 2007 Cricket World Cup and is the home of the Eastern Caribbean Central Bank and the Eastern Caribbean Securities Exchange. Nevis is the birthplace of Alexander Hamilton, a signatory to America’s Declaration of Independence and the face on the US\$10.00. The Island is also the home to the Four Seasons Nevis, the only five-star hotel in the Caribbean.

2. Regulatory Environment

The political structure for the Federation is based on the Westminster Parliamentary system; however, Nevis has a certain level of autonomy as it has its own laws, Parliament and Premier. Depending on the venue of a dispute, adjudications would be resolved in the High Courts of either St. Kitts or Nevis. Any appeals from decisions of the High Courts would be taken to the Eastern Caribbean Supreme Court in St. Lucia, with final appeals to the Privy Council in London. Neither the Federation nor Nevis is currently a signatory to the Caribbean Court of Justice in Trinidad.

3. Legislation

The law which allows gambling to be carried on from and within the Federation is the Betting and Gaming (Control) Act, 1999 (the “Act”). The Act authorises the business of “... physical gaming, computer internet gaming, horse and greyhound betting or sports book betting...”.

Under the Act, physical gaming is defined as a, “... game in which a player is physically present in ...[a] casino and wagers on a sporting event or ...game of chance”. Internet gaming is defined as a game in which, “a player gives ... valuable consideration ... to enter the game... by means of an electronic or telecommunication device [and] a prize...”.

can be won under the rules of the game...”. Sports book betting is “betting done exclusively by telephone”.

To be issued a gaming license under the Act, an applicant must submit a business proposal along with an application to the Ministry of Industry, Commerce and Consumer Affairs (the “Ministry”).

If the applicant is a natural person, the application must be accompanied by a police report, copy of passport and a sworn declaration that they are not the owner of a bank. If the applicant is a corporation, a company must first be incorporated and registered under The Companies Act, 1996. The application must include a police report about the officers and shareholders and a sworn statement that none of the officers and shareholders is an owner of a bank.

All applications must include character and bank references and a processing fee of US\$2,000.00 for any natural person, shareholder or officer. After the application, business proposal and fees have been submitted, the Ministry reserves the right to request further information. After approval has been granted by the Ministry and a license has been issued, a concession fee is due. A gaming tax must also be paid on an annual basis. The current concession fee is US\$80,000.00 and the annual gaming tax is US\$40,000.00. Every licensee is required to maintain a daily record of the monies collected and the type of gambling from which this income was earned.

The Act provides that a license to carry on the business of physical gaming will only be granted if the applicant owns or manages a hotel of at least 200 rooms. The applicant must have a gaming room within the hotel which gives tourists the freedom to use its facilities. The applicant must also prove that neither they, nor any officer or shareholder if it is a corporate applicant, have been convicted of a crime of moral turpitude in any country.

Any licensee that engages in sports book betting or internet gaming must establish accounts with a bank within Saint Kitts which is licensed under the Banking Act, 1991, to process player transactions. The maximum service fee that a licensee can charge a player is the greater of US\$20.00 or five percent of an individual transaction. The Ministry must also approve all of the content of any advertising placed on the entity’s website.

Under the Act, no licensee is allowed to provide credit. All internet gaming players must deposit sufficient monies

with their account to cover all wagers. All physical gaming players must have sufficient funds on hand or on deposit with the licensee.

If there are any non-Kittitians or non-Nevisians who would work for the licensee, work permits must be approved by the Ministry of National Security for such persons. Unless employed by or working for a licensee, or acting on behalf of the Ministry, Kittitians and Nevisians are not permitted to enter licensed gaming premises. No employee of a licensee, regardless of citizenship; shall be permitted to play in a game conducted by their employer. Online access to the website of any licensee must be blocked from all residents of the Federation. All licensees must ensure that any person who participates in a game must be at least 18 years of age.

Any change in the shareholding or Directorate of an entity must be immediately reported to the Ministry. All licensees shall submit audited financial statements to the Ministry on an annual basis.

4. Recent Developments

The gambling industry in the Federation is almost completely in Saint Kitts. Both of the hotels which are physical gaming licensees, Jack Tar Village and the Saint Kitts Marriott are located in Frigate Bay. There are currently seventeen licensees which engage in internet gaming and sports book betting and they are also all on Saint Kitts. There is a horse and greyhound racing track called Beaumont Park Race Track currently under construction in Dieppe Bay, Saint Kitts. There is also a horseracing track called Indian Castle Race Track in Gingerland, Nevis but it is only open on holidays.

The gambling industry in Saint Kitts is heavily dependent on the patronage of US residents and tourists. Internet gaming is used primarily by US residents, and tourists from around the World are the ones who engage in physical gaming. Internet gaming was hurt by the enactment of the Unlawful Internet Gambling Enforcement Act of 2006, by the US federal government. This law prohibits American credit card companies and financial institutions from sending payments to online gaming sites located outside of the US. Only one online gaming site registered in Saint Kitts accepts American players.

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