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GOVERNMENT OF NAGALAND
DEPARTMENT OF JUSTICE & LAW
KOHIMA, NAGALAND

NOTIFICATION

Dated Kohima the 22nd April 2016.

NO.LAW/BILL/44/2016 :: The Nagaland Prohibition of Gambling and Promotion and Regulation of Online Games of Skill Act, 2015 (Act No.3 of 2016), duly assented by the Governor of Nagaland on 07/04/2016 is published herewith for general information.

Sd/

NGAMJOK KONYAK

Addl. Secretary to the Govt. of Nagaland.

An Act

to prohibit gambling and regulate and promote online games of skill.

1. **Short title, extent and commencement.-**

(1) This Act may be called the 'Nagaland Prohibition of Gambling and Promotion and Regularisation of Online Games of Skill Act, 2015'.

(2) It extends to the State of Nagaland

(3) It shall come into force with effect on such date as the Government may, by notification in the State Gazette, appoint.

2. **Definitions.-** In this Act, unless the context otherwise requires -

(1) "Gambling" means and includes wagering or betting on games of chance but does not include betting or wagering on games of skill.

Explanation: Once a license has been obtained under this Act, wagering or betting on online 'games of skill' or making profit by providing a medium for playing 'games of skill' shall not amount to gambling so long as they are being provided to players and are being accessed by players operating from territories where 'games of skill' are exempted from the ambit of gambling

(2) "Territory" shall mean any territory in India which "games of skill" are permitted, and are recognised as being exempt from the ambit of "gambling".

(3) "Games of skill" shall include all such games where there is preponderance of skill over chance, including where the skill relates to strategising the manner of placing wagers or placing bets or where the skill lies in team selection or selection of virtual stocks based on analyses or where the skill relates to the manner in which the moves are made, whether through deployment of physical or mental skill and acumen.

Explanation: For the purposes of this Act -

- (i) All Games provided in Schedule A of this Act shall fall under the category of "Games of Skill"
 - (ii) 'Games' which have been declared or determined to be 'games of skill' by Indian or international courts or other statutes, or games where there are domestic and international competitions and tournaments, or games which can be determined to be 'games of skill' shall further be entitled to be included in Schedule A
 - (iii) Games of skill may be (a) Card based and (b) action / virtual sports / adventure / mystery and (c) calculation / strategy / quiz based
- (4) "Games of Chance" shall, subject to the provisions of sub section (3) above, mean all such games where there is a preponderance of chance over skill.
- (5) "Wagering" or "Betting" shall mean the staking of money or virtual currency, whether or not it is equivalent to a recognised currency
- (6) "Matchplay shall mean any game of skill played between two or more players or between a player and the computer
- (7) "Peer to Peer Challenge" shall mean a game which is played only between two or more players, where 1 player issues a challenge to another player specifically or in general, and another player accepts the challenge on the terms proposed
- (8) "Tournament" shall mean a contest in a game of skill among a number of competitors.
- (9) "Competition" shall mean an event in which individuals or teams contest on the basis of their skill and ability.
- (10) Virtual means games played online by means of computer automation and exercise of skill.
- (11) Licensing Authority shall mean the Finance Commissioner or any other authority designated and empowered on his behalf for this purpose

(12) "Licensee" means a person or company or limited liability company which has applied for and obtained a license as provided under the Act

(13) "Stake" means Indian Rupee. It shall not mean or include virtual currencies.

3. So long as the Licensee is acting in accordance with the terms and conditions of the license and is not providing the 'games of skill' to players from territories they are prohibited or considered to be gambling under any law applicable to that territory, the same shall be considered to be a genuine business venture not amounting to gambling.
4. The Licensing Authority shall be entitled to determine and add to the list of games which are 'games of skill' based on the aforementioned parameters.
5. Subject to the provisions of sub-section (3) of Section (2), the Finance Commissioner or any authority empowered on his behalf may add any game to the schedule of 'games of skill' either suo moto or on the representation of any party.
6. The State Government, may, by notification, designate an authority or body to monitor and regulate the activities of all licensees to ensure compliance with the provisions of this Act, and to settle all disputes arising from the activities conducted under this Act.
7. **Procedural set-up for licensing and terms and conditions.-**
A license under this Act shall be issued in the following manner:-
 - (1) In order for any entity to offer "games of skill" on their website, mobile platform, television or any other online media, and earn revenue from the same whether by means of advertising revenue or taking a percentage of winnings of gameplay or charging fixed fee for membership or for downloading the game etc., it shall be necessary for the entity to obtain a valid license as prescribed under this Act.
 - (2) The license may be issued to any person or entity upon due satisfaction of the terms and conditions prescribed in the license, and the satisfaction of the issuing authority.

- (3) A license under this Act shall be issued only to a person or entity which is incorporated in India, and has a substantial holding and controlling stake in India. The executive decision making powers and process would be required to be performed from within the territorial boundaries of India and the technology support provision including hosting and management of website, placement of servers etc. shall remain in India.
- (4) A license under this Act shall be issued only to a person/Company/entity/firm which has no interest in any online or offline gambling activities, in India or abroad.
- (5) The State Government may, by notification prescribe the manner and format for the applications for license, including the terms and conditions of the license to be issued under this Act.
- (6) The State Government may, if so required, frame rules for proper implementation of the Act. Such rules may also determine the terms and conditions under which a license may be issued to an applicant.

8. **Procedures for termination of license.-**

- (1) In case of breach of the terms and conditions of the license, the Licensing authority shall issue a notice to show cause as to why the license should not be cancelled, and the license holder shall be granted the right to make a written as well as oral representation.

Provided that the violation of the license terms may be compounded if the breach is remedied within 30 days of the breach having been established to the satisfaction of the Licensing Authority.

- (2) If there is any delay in payment of license fee, the said breach may be compounded by payment of penalty calculated @ 12% per annum.

9. **Refusal to issue license.-**

- (1) The licensing Authority shall be required to decide on the issue of issue of license within 6 months from the date an application has been received applying for the same. The licensing authority shall be entitled to seek details to satisfy itself of the antecedents and eligibility criteria satisfaction of the person, individual or firm applying for the same.

- (2) Any decision of the Licensing Authority to refuse issue of license to any applicant for any game shall be communicated through a speaking order stating the reasons thereof for the refusal.
10. The State Government may make amendments to the Rules by way of issue of notification, including notifying further games of skill
11. **Provisions relating to operations of companies holding a valid license under this Act in any State or Union Territory.-**
- (1) If a State Government is of the opinion that the licensee is operating in its State in violation of the provisions of the Act and these rules, or in violation of the provisions of its local statutes, it may immediately bring the violations to the notice of the Licensing Authority of the State of Nagaland along with the details of such violations or irregularities noticed.
- (2) The licensing Authority of the State of Nagaland shall send a suitable response on the issues raised by the State, Government under sub-rule (1), and take steps to resolve the issues raised.
12. (1) In case any person or entity or license holder is found to be engaging in 'games of chance' or gambling activities, he or such entity shall be liable to a fine of Rs. 20 lakhs in the first instance and if not remedied thereafter, to a simple imprisonment of 6 months. It is clarified that playing of "games of skill" for stakes as per the license would not amount to gambling.
- (2) In case any party is found to have made a deliberate mis-declaration to the Licensing Authority in order to obtain a license, the person(s) in charge of the said company or the individual concerned shall be liable to be convicted and sentenced for a period of upto six (6) months or fine of upto Rs. 20 lakhs.
- (3) Any person or entity found guilty of violation of the above provisions shall not be eligible for renewal of license and shall be further liable for immediate termination of the existing license.
- (4) All offences under this Act shall constitute an offence as per the provisions of the Code of Criminal Procedure 1973 (As amended).