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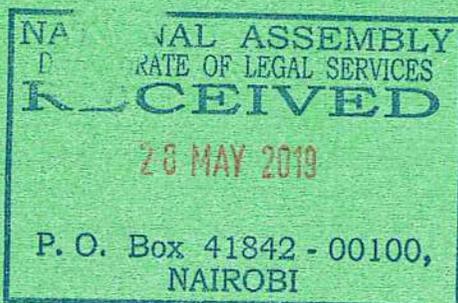
NATIONAL ASSEMBLY BILLS, 2019

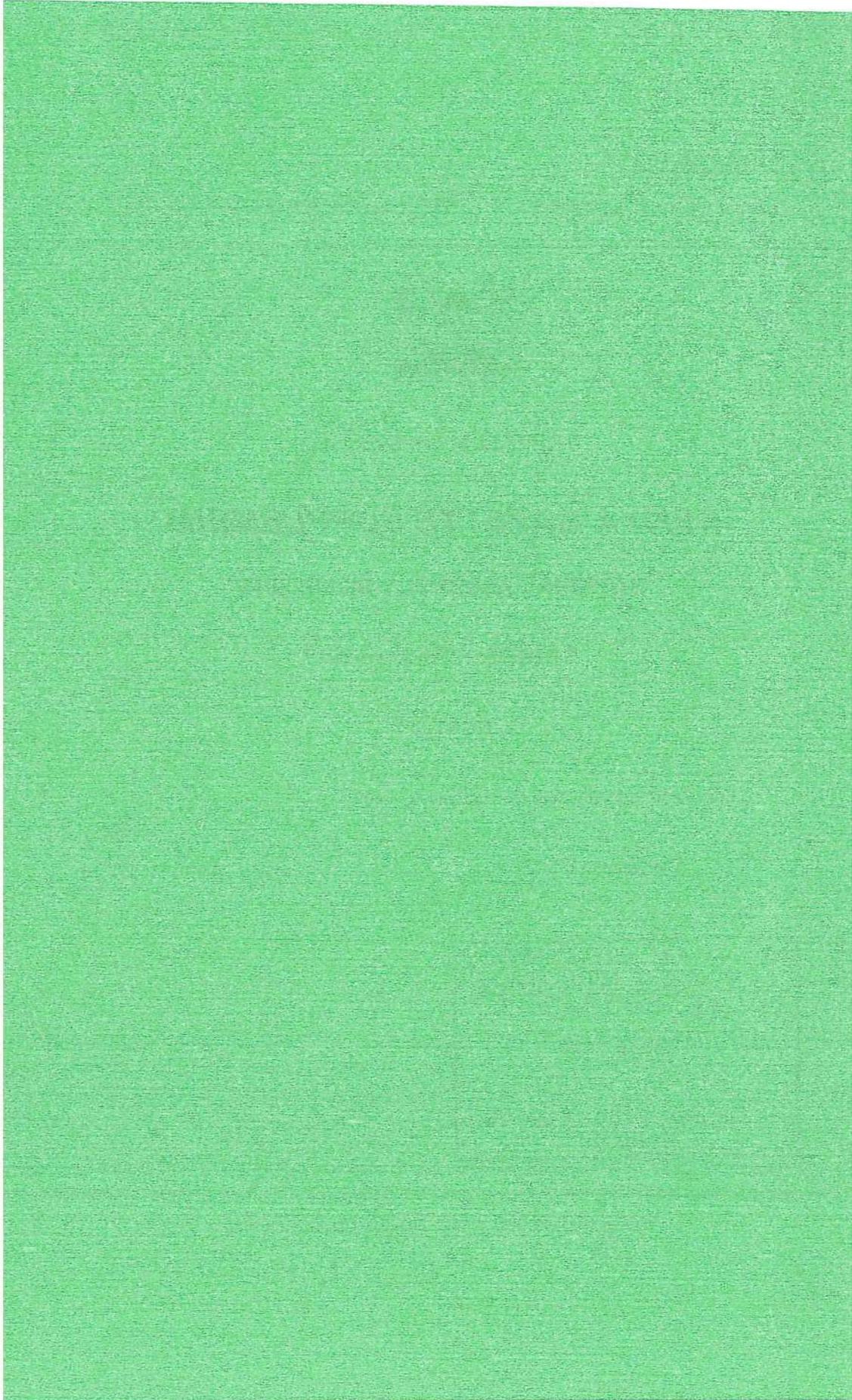
NAIROBI, 27th May, 2019

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THE GAMING BILL, 2019**A Bill for**

AN ACT of Parliament to provide for the control and licensing of betting, casinos and other forms of gaming; authorization of prize competitions and public lotteries; for the establishment of the National Lottery; for the imposition and recovery of a tax on betting and other forms of gaming, and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Gaming Act, 2019.

Short title.

2. In this Act, unless the context otherwise requires—

Interpretation.

“Authority” means the National Gaming Authority established under section 6;

“authorized race meeting” means a race meeting in respect of which a permit authorizing bookmaking to take place has been issued under section 48;

“amusement game” means a game that is played by means of an amusement machine with a restricted prize;

“amusement machine” means a machine or a device whether operated electronically or manually or otherwise on which an amusement game is played exclusively for amusement purposes and is operated by insertion of money or amusement machine token;

“bet” means a wager or stake of money or any other valuable thing by or on behalf of any person; agreement to wager or stake by or on behalf of any person money or a valuable thing on a horse race, fight, game, sport, lottery or exercise or any other event, race or contingency;

“betting premises” means premises to which the public has or may have access to and which is kept or used for the purposes of betting;

“betting transaction” includes the collection or payment of winnings on a bet and any transaction in which one or more of the parties is acting as a bookmaker;

“bingo” means a game where a player marks off numbers on cards or screens as the numbers are drawn randomly, the winner being the first to mark off all the numbers required and includes the playing by electronic means or by online communication;

“Board” means the Board of the Authority constituted under section 7 of this Act;

“bookmaker” means a person who, whether on his own account or as a servant or agent to another person, carries on, whether occasionally or regularly, the business of receiving and negotiating bets and shall not include—

- (a) a person who carries on, or is employed to operate a totalisator in respect of which a licence has been issued under section 46 of this Act; or
- (b) a person employed in a business that is wholly concerned with a pool betting scheme in respect of which a licence has been issued under section 47 of this Act;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to gaming;

“casino” means any designated premise, part of a premise, approved virtual or online platform or a site where a person may participate in a game approved by the Board;

“casino employee” means a person employed or having a function in or in relation to a casino;

“casino gaming” means a range of casino gaming licensed by the Board under this Act;

“casino operation” means—

- (a) the conduct of gaming in a casino;
- (b) the management and supervision of gaming in a casino;
- (c) accounting procedures related to a casino;
- (d) money counting in relation to a casino;
- (e) the use of storage areas within a casino premise; and
- (f) any other matter affecting or arising out of an activity in a casino;

“chain letter” means a scheme or an investment promising a high rate of return made up of money from a gaming operator or licensee luring a player into a bigger risk;

“chip” means a token used instead of money for the purpose of gaming and includes a voucher or any other instrument with a fixed monetary wagering value;

“county law” means a law made by a county government in relation to betting, casinos or any other form of gaming;

“coupon” in relation to a pool betting scheme or proposed pool betting scheme, includes a document connected with or designed to assist in the making of a bet by way of pool betting;

“date” in relation to a lottery or a prize promotion means the date on which winners are determined;

“Director General” means the Director of the Authority appointed under section 15 of this Act;

“electronic device” means an electrical, digital, magnetic, wireless, optical, or electro-magnetic device used in gaming;

“electronic monitoring system” means any electronic, computer, communications system or device that is used, or adapted to send or receive data from a gaming equipment in relation to security, accounting, monitoring, evaluation or operation of gaming and gaming equipment;

“electronic table game” means a gaming machine used for the purpose of playing a game played at tables and includes any electronic device through which bets may be placed on a game played at a table;

“excluded person” means a person restricted from entering or taking part in any gaming activity under the Act;

“fixed-odds bet” means a bet on a contingency in which odds are agreed at the time the bet is placed;

“Fund” means the National Lottery Distribution Trust Fund established under section 89 of this Act;

“game of chance” includes a game of chance and skill combined but does not include an athletic game or sport;

“gaming” means the playing of a game of chance for prize winning and includes lottery and betting;

“gaming employee” means a person a person who is employed or authorized to make a decision that regulates the operations of a casino, bookmaker, lottery, race course or any other form of gaming;

“gaming equipment” means any software, device, instrument, including a chip, tokens dice, counter, ticket, gaming table, board, box, bird or an animal used for purposes of gaming or capable of being used for or in connection with gaming and includes—

- (a) a linked jackpot equipment;
- (b) an electronic monitoring system;
- (c) any online gaming machine; or
- (d) part of a replacement or part of any gaming machine equipment or system;

“gaming machine” means any device which is operated electronically or mechanically or both and is designed for—

- (a) placing of bets for playing a game of chance, being a game which does not require action by a player other than the manipulation of the machine;
- (b) playing a game of chance, being a game which requires no action by a player other than the manipulation of the machine; or
- (c) the purpose of playing a game of chance or a game of fixed chance and skill which may result in payable winnings.

“gaming premise” means a premise which is kept or used for gaming and to which the public has access for the playing a licensed gaming;

“gaming service” means any service that is required for any component of an activity for gaming and may be provided by an intermediary;

“good cause” means a charitable cause or an event for charity as set out under this Act;

“gross gaming revenue” means total revenue received from a gaming activity before any deductions are made;

“horse race” includes a pony race;

“jackpot” means the highest prize resulting from a combination of letters, numbers, symbols or representations displayed or advertised in a game of chance and payable either from fixed prize schedule or accumulates as contributions are made to a special prize pool;

“licensee” means a person issued with a licence under this Act;

“licensed betting premises” means premises duly licensed where bets may be made and settled;

“lottery” includes a sweepstake, a raffle and any scheme, arrangement, system plan or device for the sale, gift, disposal or distribution of any property depending upon or as determined by a slot or a chance, whether by throwing or casting a dice, or by withdrawing of a ticket, card, slot, numbers or figures, or by means of a wheel.

“lottery ticket” means any document or electronic evidence entitling a person to participate in a lottery chance;

“manufacturer” means a person whose business is to manufacture, import, sell, lease, make available, distribute, maintain or repair a gaming device and may include—

- (a) a supplier;
- (b) a person who does maintenance of gaming equipment; or
- (c) provider;

“National Lottery” means the national lottery established pursuant to section 70 of this Act;

“net gaming revenue” means the gross gaming revenue after the operating costs have been deducted;

“odd” means a gaming chance;

“online gaming” means any form of gaming by means of a remote communication;

“person” includes a partnership, association, trust, or a juristic person established by operation of any other law;

“permit holder” means the holder of a permit issued under this Act;

“player” means a person who is in possession of a valid ticket relating to a lottery or a promotional competition;

“pool betting” means the making of a bet whether the bet is made through a fixed odd by a person on agreed terms in reference to stake money paid or agreed to be paid by the parties;

“pool betting scheme” means a scheme involving the receiving or negotiating of bets made by way of pool betting;

“Principal Secretary” means the Principle Secretary in the State Department for the time being responsible for betting, lottery and gaming;

“prize” means the prize awarded to a winner of a lottery or a prize promotion;

“racecourse” means an approved ground used or intended for use for the purpose of horse racing or a related race;

“race day” means an approved day in which a race meeting is held;

“race meeting” means a gathering of the public or of members of an association of persons to watch an authorized horse race or any other related race;

“record” includes any book, account, document, paper or other source of information compiled, recorded, stored in written form or on micro film, or by electronic process, or in any other matter or by any other means;

“security” means any deposit provided for under section 33;

“stake” means money that a player may hazard to make a bet or buy into a gambling game;

“testing agent” means a person licensed under this Act to test and calibrate gaming machines, equipment or devices;

“totalisator” means an instrument, a machine, a contrivance, or a scheme for enabling any number of persons to make bets on any event or contingency and includes a device showing the number and amount of bets staked in a race;

“ticket” in relation to any lottery or game of chance, includes any written or electronic document evidencing the claim of a person to participate in a chances of a lottery or a game of chance;

“Tribunal” means the Gaming Appeals Tribunal established under section 111; and

“winning” includes a prize of any kind.

3. The objects and purpose of this Act is to—

Objects and
purpose of the
Act.

- (a) provide a framework for regulation and control of gaming activities;
- (b) promote the development of a responsible gaming industry;
- (c) delineate the functions of the National Government and the county governments in relation to betting, lotteries and gaming;
- (d) establish the National Gaming Authority and the National Lottery Trust Fund; and
- (e) provide for mechanisms of resolution of disputes related to gaming.

PART II—FUNCTIONS OF NATIONAL AND COUNTY GOVERNMENTS

4. The national government shall—

Functions of the
national
government.

- (a) establish policies, norms and standards for the conduct of betting, lotteries, casinos and other forms of gaming;
- (b) provide for the co-ordination of national, county and concurrent national functions relating to betting, lotteries, casinos and other forms of gaming in accordance with this Act;

- (c) licence all forms of gaming including online gaming;
- (d) licence national lotteries;
- (e) conduct security checks, vetting and due diligence in respect of gaming activities;
- (f) enforce compliance with this Act;
- (g) provide capacity building and technical assistance to counties; and
- (h) regulate the gaming industry.

5. A county government shall—

Functions of the county governments.

- (a) enforce compliance of this Act and other applicable laws;
- (b) issue permits for gaming premises;
- (c) monitor and evaluate gaming activities in the within its jurisdiction;
- (d) implement policy standards and norms of gaming within its jurisdiction; and
- (e) perform such other functions as are incidental to the exercise of any or all of the county functions provided for under this Act.

PART III—ESTABLISHMENT OF THE GAMING AUTHORITY

6. (1) There is established an Authority to be known as the the National Gaming Authority.

Establishment of the Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal and in its corporate name shall, be capable of—

- (a) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
- (b) borrowing money;
- (c) entering into contracts;

- (d) suing and being sued; and
- (e) doing or performing all such other acts necessary for the performance of its functions under this Act which may be lawfully done or performed by a body corporate.

(3) The Authority may for the purposes of ensuring access to its services in accordance with Article 6 of the Constitution, establish such office as it deems necessary for its operations.

7. (1) The management of the Authority shall vest in a Board which shall consist of—

Board of the Authority.

- (a) a chairperson nominated by the Cabinet Secretary and appointed by the President;
- (b) the Principal Secretary responsible for matters related to gaming or a representative designated in writing;
- (c) the Principal Secretary responsible for matters related to security or a representative designated in writing;
- (d) the Principal Secretary responsible for the National Treasury or a representative designated in writing;
- (e) the Principal Secretary responsible for matters related to information, communication and technology or a representative designated in writing;
- (f) three persons appointed by the Cabinet Secretary who shall hold a university degree in a relevant field from a university recognized in Kenya;
- (g) one person appointed by the Council of County Governors; and
- (h) the Director General who shall be an *ex officio* member and secretary to the Board.

(2) In appointment of the chairperson and members under this section, the appointing authority shall ensure regional balance, gender parity and representation of the youth and persons with disability.

(3) The appointment of the chairperson and members appointed under subsection (1) (a), (f) and (g) shall be by notice in the *Gazette*.

(4) The chairperson and members of the Board appointed under subsection (1)(a),(f) and (g) shall hold office for a term of three years and shall be eligible for re-appointment for one further term.

8. (1) A person shall be appointed as a chairperson or a member of the Board if the person—

Qualification for appointment to the Board.

- (a) holds a university degree in a relevant field from a university recognized in Kenya; and
- (b) meets the requirements of Chapter Six of the Constitution.

(2) A person shall not be appointed as a chairperson or member of the Board if the person—

- (a) is an undischarged bankrupt;
- (b) has been convicted of a criminal offence in involving fraud and dishonest;
- (c) at the time of appointment holds a political office; or
- (d) has previously been removed from a public office on account of misconduct.

9. (1) The office of the chairperson or a member of the Board appointed under section 7(1)(a), (f) and (g) shall become vacant if the holder—

Vacancy in the Board.

- (a) dies;
- (b) resigns from office by notice in writing to the Cabinet Secretary;
- (c) is convicted of an offence and is sentenced to imprisonment for a term exceeding six months;
- (d) has been absent from three consecutive meetings of the Board without a notice to the chairperson; or
- (e) is removed in accordance with subsection (2).

(2) A member of the Board may be removed from office for—

- (a) violation of the Constitution or any other law;
- (b) gross misconduct, whether in the performance of the member's or office holder's functions or otherwise;
- (c) physical or mental incapacity to perform the functions of the office;
- (d) incompetence; or
- (e) bankruptcy.

(3) The Cabinet Secretary shall ensure that where a vacancy occurs in the Board, it is as soon as it is practicable be filled in accordance with the provisions of the Act.

10. (1) The functions the Authority shall be to—

Functions of the Authority.

- (a) regulate, control and licence gaming activities;
- (b) supervise and co-ordinate all matters relating to gaming at national and county level;
- (c) establish policies and standards for betting, lotteries, casinos and other forms of gaming in collaboration with the Ministry responsible for matters related to gaming;
- (d) supervise implementation of gaming policies at the national and county level;
- (e) establish and maintain a register of all gaming machines and devices;
- (f) establish a central electronic real time gaming monitoring system;
- (g) issue licences in accordance with this Act;
- (h) monitor and evaluate when necessary, the issuance of permits by the counties to ensure compliance with this Act;
- (i) investigate, monitor and evaluate compliance of policies and regulations established under this Act by the counties;
- (j) undertake and coordinate research and surveys in the gaming industry;

- (k) monitor socio-economic patterns of gaming activities;
- (l) assist counties in alleviating illegal cross border gaming activities;
- (m) advise counties on matters relating to gaming operations; and
- (n) improve the capacity of counties in matters relating to gaming.

11. The Authority shall have the powers necessary for the proper performance of its functions under this Act and, in particular but without prejudice to the generality of the foregoing, the Authority shall have power to—

Powers of the Authority.

- (a) manage, control and administer the assets of the Authority in such manner and for such purposes as best promotes the purpose for which the Authority is established;
- (b) receive any gifts, grants, donations or endowments made to the Authority or any other moneys in respect of the Authority and make disbursements therefrom in accordance with the provisions of this Act;
- (c) open a banking account with the authority of the National Treasury; and
- (d) offer services to any person upon such terms as the Authority may from time to time determine.

12. The procedure of conduct of business and affairs of the Board shall be as provided in the First Schedule, but subject thereto, the Board may regulate its own procedure.

Conduct of business and affairs of the Board.

13. The Board may, by resolution either generally or in any particular case, delegate to any committee of the Board or to any member, officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of the functions or duties of the Board under this Act or under any other written law.

Delegation of powers of the Board.

14. The members of the Board shall be paid such allowances and disbursement for expenses as may be approved by the Cabinet Secretary in consultation with the Salaries and Remuneration Commission.

Remuneration of the Board.

Director
General.

15. (1) There shall be a Director General of the Authority who shall be appointed by the Board through an open, transparent and competitive process on such terms and conditions as the Board may determine.

(2) A person shall be qualified for appointment as the Director General if the person—

- (a) is a citizen of Kenya;
- (b) has a university degree in procurement, finance, accounting, engineering, economics, community development, law or a related field from a university recognized in Kenya;
- (c) has at least five years post qualification experience in the relevant field; and
- (d) satisfies the requirements of Chapter Six of the Constitution;

(3) The Director General shall be—

- (a) the secretary to the Board ;
- (b) the custodian of all the Authority's records;
- (c) responsible for the day to day management of the affairs of the Board and staff of the Authority;
- (d) responsible for the management and maintenance of efficiency of the staff of the Authority;
- (e) responsible for—
 - (i) executing decisions of the Board;
 - (ii) facilitating, coordinating and ensuring execution of the Authority's mandate;
 - (iii) preparing and submitting for approval, by the Board, programmes of work for the achievement of the mandate of the Authority; and
 - (iv) the performance of such other duties as may be assigned by the Board or by any other written law.

(4) The Director General shall be appointed for a term of three years and shall be eligible for re-appointment for one further term.

16. (1) The Board may appoint such officers and staff as are necessary for the proper discharge of its functions under this Act or any other written law.

Staff of the Authority.

(2) The Board shall, in the appointment of staff, ensure that—

- (a) at least one-third of the staff are of either gender; and
- (b) the appointment reflects the ethnic and regional diversity of the people of Kenya and shall include youth and persons with disability.

(3) The staff of the Authority shall be engaged on such terms and conditions of service as may be determined by the Board with the advice of the Salaries and Remuneration Commission.

17. (1) The common seal of the Authority shall be kept in the custody of the Director General or such other person as the Board, may direct and shall not be used except upon the order of the Board.

Seal of the Authority.

(2) The common seal of the Authority, when affixed to a document and duly authenticated, shall be judicially and officially noticed and unless the contrary is proven, any necessary order or authorisation by the Board under this section shall be presumed to have been duly given.

(3) The common seal of the Authority shall be authenticated by the signature of the chairperson of the Board and of the Director General.

Provided that the Board shall, in absence of either the chairperson or the Director General, in any particular matter, nominate one member of the Board to authenticate the seal of the Authority on behalf of either the chairperson or the Director General.

18. Subject to section 19, no matter or act done by a member of the Board or any officer, employee or agent of the Authority shall, if the matter or thing is done in good faith in the course of executing the functions, powers or duties of the Authority under this Act, render the member, officer, employee or agent or any person acting on their directions personally liable for any action, claim or demand whatsoever.

Protection from personal liability.

19. The provisions of section 18 shall not relieve the Authority of any liability to pay compensation or damages to any person for any injury occasioned on the person or the person's property or any interests caused by the exercise of any power conferred by this Act or any other written law or by failure, wholly or partially, of any duties.

Liability of the Authority for damages.

PART IV—LICENCES AND PERMITS

20. The Board shall have authority to issue gaming licences under this Act with respect to—

Licensed gaming activities.

- (a) a public gaming for conducting a table game and generating slot machine;
- (b) the national lottery;
- (c) a bookmaking;
- (d) a totalisator;
- (e) a prize competition;
- (f) *a bingo*;
- (g) a pool betting scheme;
- (h) a public lottery;
- (i) an online gaming;
- (j) gaming equipment repair and servicing;
- (k) key gaming employee;
- (l) accreditation licence for a person engaged in non-gaming activity within a gaming premise; and
- (m) any other form of gaming as it deems fit.

(2) The Board shall classify licences in such a manner as it may be prescribe.

21. A person shall not be licenced to offer any gaming or betting activity under this Act unless the person—

Requirements for licensing.

- (a) is a body corporate in which a minimum of thirty per centum of shares are held by Kenyan citizens; and
- (b) maintains an account with an authorized financial institution into which it pays all monies relating to the licenced gaming and lottery activity.

22. (1) An application for a licence shall be made in the prescribed form and shall be accompanied with—

Application for a licence.

- (a) a licence fee as prescribed under the Second Schedule;
- (b) sufficient evidence to show that the applicant is in possession of, or commands the prescribed gaming capital;
- (c) security by way of cash deposit in the Board's account as prescribed under the Act or regulations;
- (d) information from the applicant of the proximity of the intended premise to a learning institution;
- (e) declarations as provided for in the Third Schedule; and
- (f) such information as it may deem necessary to enable the Board to examine the application.

(2) The Board shall within fourteen days of receipt of an application under this section, transit a copy of the application to the respective county government within whose jurisdiction the applicant proposes to conduct the business.

(3) The county government shall within twenty one days make representation to the Board regarding the application.

(4) The Board may grant a licence upon considering all the requirements under this section.

23. (1) The Board may, on application by a licensee, renew a licence for a further period provided for in subsection (3).

Renewal of a licence.

(2) An application under this section shall—

- (a) be made in the prescribed form and forwarded to the Board together with the prescribed fee;
- (b) be lodged with the Board at least three months prior to the expiry of the licence; and
- (c) be considered in accordance with the provisions of section 22.

(3) The Board shall renew a gaming licence after a period prescribed under the Fourth Schedule and upon payment of the renewal fee prescribed thereon.

24. (1) The Board may refuse to grant or renew a licence if it is satisfied that—

Refusal to grant or renew a licence.

- (a) the information contained in the application is false or untrue in any material particulars; or
- (b) the application does not meet any of the requirements for the issue or renewal of a licence.

(2) Where the Board refuses to grant or renew a licence, it shall forthwith notify the applicant in the prescribed form specifying the reason for such refusal.

(3) A person aggrieved by the decision of the Board under this section may, within twenty one days from the day of notification of reasons under subsection (2), lodge an appeal at the Tribunal.

25. The Board may suspend a licence issued under this Act for a period not exceeding six months where a licensee is charged with any offence involving fraud, dishonesty or any offence related to gaming.

Suspension of a licence.

26. (1) The Board may revoke a licence issued under this Act—

Revocation of a licence.

- (a) where a licensee is in breach of any of the provisions of this Act;
- (b) where it discovers that a licensee made a statement in connection with the application which he knew to be false or untrue;
- (c) where the gaming business is wound up or dissolved; or
- (d) if the licensee is in breach of any condition attached to the licence.

(2) Where the revocation of a licence is contemplated under sub section (1), the Board shall serve the licensee with a notice of revocation in the prescribed form.

(3) A notice under subsection (2) shall be served not less than twenty one days before the date of the intended revocation and shall specify the grounds for such revocation.

(4) The revocation of a licence shall take effect upon the expiry of the notice under subsection (3).

(5) A licensee whose licence is revoked shall surrender the licence to the Board and shall not be eligible to hold a licence under this Act for a period of five years starting from the effective date of the revocation.

(6) A person aggrieved by the decision of the Board under this section may appeal to the Tribunal within twenty one days from the date upon which such decision is conveyed to a licensee.

27. The duration of every licence issued under this Act shall vary for each gaming and betting activity subject to the provisions of section 23.

Duration of a licence.

28. (1) A licence shall, during the period of its validity, be prominently displayed by the licensee or permit holder at a place of business, in a place to which the public has access.

Display of a licence.

(2) Where the licence allows for the establishment of a branch, a copy of the licence shall be similarly displayed at such branch.

29. (1) The holder of a licence issued under this Act may apply after a period of five years to transfer a licence or a permit to any person who may qualify to be a licence-holder under this Act upon payment of shillings one hundred thousand to the Board.

Transfer of a licence.

(2) The Board shall, upon receipt of application to transfer, carry out an investigation on the suitability of the proposed licensee.

(3) The Board may require for purposes of subsection (2), the submission of such declaration as provided in the Third Schedule or further information as it may deem necessary, including—

- (a) a written authorization from the applicant permitting the Board to procure information directly from third parties;
- (b) a report from relevant investigative agencies and the county government; and
- (c) any other information as the Board may deem appropriate.

(4) The Board shall not grant the transfer of a licence where it has reason to believe that the transfer is likely to result in the grant of a licence to a person who is not eligible to hold a licence under this Act.

(5) A report under subsection (3) may include the particulars of any convictions recorded against a person to the extent that those particulars are relevant for the purpose of determining whether the proposed licensee is qualified to hold interest in a licensed premises or the business to which a licence relates.

30. (1) The Board may from time to time and on its own motion or upon receipt of information from any person, investigate the conduct of a person holding a licence under this Act in any gaming premise for which a licence has been granted.

Investigation
by the Board.

(2) The Board may direct any person who is investigated pursuant to subsection (1) to take such action as may be necessary to rectify any shortcomings discovered, and may take such action, including revocation or cancellation of a licence, as may be appropriate where the licensee fails or refuses to comply with directions issued by the Board.

31. A licensee whose licence is lost, destroyed or mutilated may make an application for a duplicate in the prescribed form upon payment of one hundred thousand shillings.

Duplicate
licence.

32. The Board shall keep a register of licences in such form as it may determine and shall record in respect of every licence—

Register of
licences.

- (a) particulars of the gaming activity to which a licence relates;
- (b) the name, identity and registration number of a licensee;
- (c) the county or counties to which a licence relates;
- (d) the date of expiry of the licence;
- (e) particulars of any revocation or suspension of the licence;
- (f) particulars of any amendment to a licence; and

- (g) any other particulars that the Board may require to be recorded.

33. (1) The Board may require a licensee to pay such security as provided for in the Fifth Schedule.

Security for gaming activity.

(2) The security under this section shall be deposited in the Board's bank account and shall be refunded to a licensee upon the expiry or cancellation of a licence in respect of which it has been issued unless it is forfeited under section 157.

(3) The Board shall prescribe applicable security for a gaming activity not provided for under this Act.

(4) Security deposited under this section may be used by the Board to defray a licensee's liability which may arise from the licenced activity.

34. (1) Each licensee shall provide proof of adequate gaming capital to set up the operation for which a licence has been applied.

Gaming capital.

(2) The Board shall in consultation with the Cabinet Secretary determine and *gazette* the amount of capital for each gaming activity regulated under this Act.

(3) Notwithstanding subsection (2)—

- (a) the capital for starting a casino business shall be one hundred million shillings; and
- (b) the capital for starting an online gaming business shall be two hundred million shillings.

35. (1) The Board shall prescribe books of accounts to be kept by a licensee.

Books to be kept by a licensee.

(2) A licensee shall enter or cause to be entered regularly particulars of entries on the books of accounts as prescribed by the Board.

36. (1) A licensee shall submit to the Board properly audited statement of accounts at least once in every twelve months.

Submission of accounts by a licensee.

(2) Accounts submitted under this section shall be audited by an auditor whose appointment to audit the accounts shall be approved by the Board.

37. (1) There shall be a tax to be known as gaming tax chargeable at the rate of fifteen per cent of all gaming activities unless a different tax is prescribed under this Act.

Gaming tax.

(2) The tax under subsection (1) shall be paid to the collector not later than fourteen days of the expiry of the month in respect of which the tax is payable.

38. (1) A holder of a gaming licence shall apply for a permit from the respective county government for a premise within which the person intends to carry out gaming.

Application for a permit.

(2) An application for a gaming permit shall be in such manner as may be prescribed by a respective county government and shall be accompanied by—

- (a) such fee as may be prescribed by the respective county government;
- (b) a licence as issued by the Board; and
- (c) any information as it may deem necessary to enable the county examine the application.

(3) A county government may grant a permit upon determining the suitability of the intended premises in which the application is made and considering all the requirements under subsection (1).

(4) A permit issued under this Act shall not be transferable unless with the authority of the Board.

39. A permit issued under this Act shall state the location of the premise to which it relates, and shall be endorsed with all conditions imposed by the Board and respective county government.

Form of a permit.

40. (1) A county government may revoke a permit issued under this Act where—

Revocation of a permit.

- (a) the holder is in breach of any condition attached to the permit; or
- (b) the Board has revoked a licence of a permit holder.

(2) Where a licence is revoked by the Board under subsection (1), a county government shall serve the permit holder with a notice of revocation of a permit in the prescribed form.

(3) A notice under subsection (2) shall be served not less than twenty one days before the date of the intended revocation and shall specify the grounds for such revocation.

(4) The revocation of a permit shall take effect after twenty one days upon expiry of a notice under subsection (3).

(5) A permit holder whose permit is revoked shall surrender the permit to the county government and shall not be eligible to hold a permit under this Act for a period of five years starting from the effective date of the revocation.

(6) A person aggrieved by the decision of the county government under this section may appeal to the Tribunal within twenty one days from the date upon which such decision is conveyed to a licensee.

41. Every permit issued by the county government shall be valid for a period of twelve months from the date of issue unless a different duration is prescribed under the Act.

Duration of a permit.

42. (1) A holder of a permit issued under this Act may transfer such permit to any person who may qualify to be a permit-holder under this Act upon approval by the county government and upon payment of requisite fee.

Transfer of a permit.

(2) A county government shall, upon receipt of an application to transfer, carry out an investigation on the suitability of a proposed permit holder.

(3) A county government shall not grant the transfer of a permit where it has reason to believe that the transfer is likely to result in the grant of a permit to a person who is not eligible to hold a licence under this Act.

43. A holder of a permit issued under this Act shall, during the period of its validity display the permit at a place within the business or premise to which the public can view.

Display of a permit.

PART V—CONTROL AND LICENSING OF BETTING

44. The Board may, in respect of bookmaking, issue—

Bookmaker's licence.

- (a) an on-the-course licence authorizing a person to carry out the business of a bookmaker at any authorized race meeting;

- (b) an off-the-course licence authorizing a person to carry on the business of a bookmaker at an authorized betting premises;
- (c) a licence authorizing a person to carry on the business as a bookmaker of both on and off the course race; or
- (d) an online bookmakers licence.

45. (1) The Board may, in respect of each totalisator, issue— Totalisator licence.

- (a) an on-the-course licence authorizing a person to operate a totalisator on specified a course;
- (b) an off-the-course licence authorizing a person to operate a totalisator at a specified betting premise; or
- (c) a licence authorizing a person to operate a totalisator both on and off the course.

(2) A licence under this section may be issued in respect of each race day or for a period not exceeding one year.

(3) Every transaction effected by means of a totalisator shall be recorded in such a manner as may be prescribed by the Board to ensure that as far as practicable the record is in an uninterrupted view of the public.

46. (1) The Board may prescribe make totalisator's rules. Laying of totalisator, betting pools and odds.

(2) A holder of a totalisator licence shall conduct a totalisator or a betting pool in accordance with totalisator rules issued by the Board.

(3) The aggregate of returns by a holder of a totalisator licence or a person who has made a winning bet on any event or combination of events shall not be less than eighty-five percent of the total amount pooled or such other amount as may be approved by the Board in respect of an event or combination of events.

(4) A person who participates in a totalisator's bet shall not—

- (a) bet upon the result of a horse race or any other race;

- (b) sell or offer for sale, or purchase from a person a ticket or card entitling a purchaser or a holder thereof to an interest in the result of the working of a totalisator on a horse race or any other race;
- (c) make a contract or bargain of any kind to pay or to receive money upon an event determined or to be determined by the result of the working of a totalisator on a horse race or any other race;
- (d) receive or permit receipt of a betting transaction in respect of a totalisator in respect of a horse race or any other race after the start of the race;
- (e) register on a totalisator after the start of a horse race or any other race any money received in respect of the race; or
- (f) take into account in the calculation or payment of a betting transaction which has not been registered on a totalisator.

(5) The provisions of subsection 4(a) and (b) shall not apply to an employee engaged in the lawful operation of a totalisator in a manner approved by the Board.

(6) A person who contravenes the provisions of this section commits an offence and shall be liable upon conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year or both.

47. (1) The Board shall issue a promoter's licence in respect to a pool betting scheme authorizing a promoter to provide a pool betting scheme within Kenya.

Promoter's licence in respect of a pool betting scheme.

(2) A licence issued under this section shall apply to one pool betting scheme.

48. (1) A promoter of a race meeting who desires bookmakers to be permitted to carry out book making at a race meeting shall apply to the Board for a licence in the prescribed form.

Authorization of a bookmaking at a race meeting.

(2) The Board may, upon receipt of an application under subsection (1), issue a licence authorizing bookmaking to take place at a race meeting held on a race course and on a day specified in the permit.

(3) A licence issued under this section shall specify the number of race meetings which may be held within a year on a licensed premise.

PART VI—CONTROL AND LICENSING OF LOTTERIES

49. (1) The Board shall issue a licence authorizing the promotion and conduct of a lottery intended to raise funds for charitable purposes which may include charitable activities for social service, public welfare, relief of distress, patriotic purposes, recreational or sporting purposes.

Authorization of a public lottery for charitable purpose.

(2) The Board shall set a minimum of twenty five and a maximum of forty five per centum of the gross revenue of a public lottery to be devoted to the object for which a lottery is promoted.

(3) The promotion of a lottery under this section shall be granted to a body corporate.

(4) A promoter of a lottery authorized under this section who devotes proceeds of the lottery to activities not permitted or to a purpose other than expenses and prizes permitted commits an offence and shall be liable upon conviction to a fine not exceeding twenty million shillings or to imprisonment for a term not exceeding five years or to both.

50. (1) The Board shall, in respect of any public lottery impose such conditions as it may deem necessary to ensure that a lottery is promoted and conducted efficiently for the purpose for which it is being promoted.

Power of the Board with respect of a public lottery.

(2) In conducting a lottery under subsection (1), a promoter—

- (a) may deduct operating expenses not exceeding twenty per centum of gross proceeds of the lottery;
- (b) shall take reasonable measures to ensure that a purchaser of a ticket or a chance in a lottery is protected against fraud;
- (c) shall guarantee the expected proceeds, or any part thereof of the lottery;

- (d) shall ensure proper and equitable distribution of the charitable funds of the lottery; and
- (e) shall take such steps as it may deem necessary to ensure that any conditions imposed by the Board are complied with.

51. (1) The Board may issue a licence authorizing promotion of a lottery relating to a horse race, promoted within or outside Kenya.

Authorization of a lottery relating to horse racing.

(2) The Board may, in respect of a lottery to be promoted and conducted in Kenya under this section, issue—

- (a) an on-the-course permit authorizing the promotion and conduct of a lottery on a course specified; or
- (b) a licence authorizing the promotion and conduct of a lottery off the course.

52. (1) A lottery may be promoted and conducted on behalf of a society established for—

Lottery conducted for charitable, sporting or other purposes.

- (a) charitable purposes;
- (b) participation in a sport, support of athletics, or cultural activities; or
- (c) purposes for raising money to be applied for purposes of public good and are not for private gain or purposes of commercial undertaking.

(2) The Board may, upon the issue of a licence under this section impose such conditions to the manner in which a person issued with a licence may conduct the promotion and conduct of a lottery under this section, including—

- (a) requiring a promoter to be a member of a society duly authorized to act as such;
- (b) prohibiting the payment of remuneration to a promoter or any person who operates on a betting premises or a person engaged by way of business or employed in the promoter's organization in connection with the lottery;
- (c) capping the prize of a ticket to twenty thousand shillings;

- (d) a ticket or chance shall be sold for a price not exceeding twenty shillings;
- (e) requiring the application of the whole proceeds, upon deduction of sums lawfully appropriated on account of expenses or for the provision of prizes, to purposes of the society, as described in subsection (1);
- (f) requiring the amount of proceeds appropriated on account of expenses not to exceed fifteen per cent of the whole proceeds;
- (g) capping the amount of the proceeds appropriated for the provision of prizes not to exceed one half of the whole proceeds;
- (h) requiring the price of each ticket or a chance and to be the same on all the tickets;
- (i) capping the value of tickets or chances to not more than one million shillings;
- (j) requiring every ticket, notice of a lottery lawfully exhibited, distributed or published to specify the name of the society sponsoring the lottery, the name and address of the promoter and the date on which the draw, determination or event to which the prize winners are ascertained is expected to take place;
- (k) prohibiting the delivery of a ticket through post to a person who is not a member of the society;
- (l) prohibiting the admittance a person to participate in a lottery except upon payment to the promoter of the whole price of the ticket or chance;
- (m) prohibiting a promoter from receiving money for or on account of a ticket or chance; and
- (n) requiring payment for expenses or prizes out of proceeds of the lottery.

(3) Where any condition set out in subsection (2) is contravened, any person including a promoter of a lottery commits an offence and shall be liable upon conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

53. (1) The Board may, issue a licence for a lottery promoted and conducted as an incident of entertainment

Lottery incidental to entertainment.

(2) The Board may, upon the issue of a licence under this section impose such conditions to the manner in which a person issued with a licence may conduct the lottery, including—

- (a) requiring that the ticket or chance to be sold or issued in a premise which the lottery may take place;
- (b) requiring that the result of the lottery is declared on the premises in which the lottery took place;
- (c) requiring that the facility provided for participating in a lottery or the gaming entertainment is not held for private gain;
- (d) requiring that a prize in a lottery is in the custody and disposal of a promoter of a lottery;
- (e) requiring that a ticket or chance in a lottery is issued or allotted upon the receipt of the full price;
- (f) requiring the price of a ticket or chance to be the on each ticket;
- (g) prohibiting money prize in a lottery; and
- (h) capping the price of a ticket or a chance to not more than fifty shillings.

(3) This section shall apply to entertainments including bazaars, sales of work, fetes, dinners, dances, sporting or athletic events limited to one or more days.

(4) Any person who participates in the promotion and conduct of a lottery under this section, who contravenes the conditions specified in subsection (2) commits an offence and shall upon conviction be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

54. (1) The Board may, issue a licence for a private lottery.

Private Lottery.

(2) The Board may, upon the issuance of a licence under this section impose such conditions to be met by a person issued with a licence, including—

- (a) requiring the net proceeds of lottery to be devoted to the provision of prizes for purchasers of tickets or chances, or, in the case of a lottery promoted for the members of the society shall be devoted to the purposes of the society;
- (b) requiring a notice or advertisement of a lottery, to be exhibited on a premise or the club of the members whom the lottery is promoted;
- (c) requiring the price of each ticket or a chance and to be the same on all the tickets;
- (d) requiring each ticket to bear the name and address of a promoter of the lottery and a statement of a person to whom the sale of the tickets or chances is restricted;
- (e) requiring a ticket or a chance to be issued or allotted by a promoter by way of sale upon receipt of a full price;
- (f) prohibiting the return of money or any valuable thing received by a promoter; and
- (g) prohibiting delivery of a ticket in a lottery through the post office.

(3) A person or a promoter of a lottery who contravenes the conditions specified in subsection (2) commits an offence and shall upon conviction be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

55. A promoter and a beneficiary of a lottery promoted or conducted under this Act shall be required to submit accounts and make returns in such form and within such period as the Board may specify.

Submission of accounts and returns in respect to a lottery.

PART VII — ONLINE GAMING

56. (1) A person who desires to operate, sell or promote online gaming in Kenya shall apply for a licence from the Board for the following—

Licensing of online gaming.

- (a) an online book makers license;
- (b) an online lottery license; or
- (c) an online casino license.

(2) In granting a licence under this section the Board shall require an applicant to deposit with the Board such security as prescribed under sections 33 and 34 of this Act.

57. (1) A person licensed to carry out an online gaming activity shall conduct the activity under a gaming control system approved by the Board.

Control of
online gaming.

(2) The Board shall establish a framework to facilitate real time monitoring of casinos and online gaming activities which shall be accessible for monitoring by the Communications Authority of Kenya.

(3) To facilitate the real time monitoring of gaming, an operator shall be required to provide the Board with—

- (a) the platforms for lottery participation which may where its applicable include—
 - (i) all visual and audio communication channels;
or
 - (iii) an online website platform;
- (b) particulars of the charges to be levied by an operator;
- (c) particulars of the operators system to show how a player may be registered and de-registered on the system;
- (d) particulars and the location of servers; and
- (e) any other information as may be required by the Board.

(4) In the case of mobile online gaming, lottery or a betting licence, particulars of network connectivity with two links to mobile operators shall be provided to the Board.

(5) An operator shall maintain a customer care center within Kenya to monitor and respond to issues raised by consumers.

58. An online gaming transaction commences when a player's account is debited with an amount of a bet and concludes when a player's account is credited with an amount of winnings in the case of a winning bet or when a player loses the game.

Online gaming
transaction.

59. (1) Where a player in an online gaming transaction wins a monetary prize, a licensee shall within two days credit the amount to the player's account.

Payment of prizes and remittance of winning.

(2) Where a player wins a non-monetary prize, the licensee shall—

- (a) deliver the prize to the player within seven days; or
- (b) notify the player in writing of an address within the Republic where the prize may be collected.

(3) If a non-monetary prize is not collected within a period of twelve months after the winner has been notified of the place where the prize may be collected, a licensee may dispose of the prize by public auction or in a manner approved by the Board and the proceeds of sale may be used to pay for the cost of disposal of the prize and any remainder may be deposited in a player's account.

(4) Any claim against a licensee for uncollected prize shall lapse after one year.

60. (1) A player in an online gaming activity shall not bet an amount of less than fifty shillings in a competition.

Minimum amount a person can bet online.

(2) A person who engages in an online gaming activity for an amount than that prescribed under subsection (1) commits an offence and shall be liable upon conviction to a fine of not less than five million shillings or to imprisonment for a term not exceeding six years.

61. (1) A licensee shall not allow any person to participate as a player in an authorized game conducted by a licensee unless the person is registered as a player and holds an account with the licensee.

Registration of a player.

(2) An operator shall put in place mechanisms to ensure that a child is not registered for an online game, lottery or bet for which they are licensed to operate.

(3) Where a licensee becomes aware that a person has provided false information, the licensee shall not register such person and where a person has already been registered, the licensee shall immediately cancel the person's registration.

- (4) A licensee shall make available to a player—
 - (a) all the rules relating to authorized games conducted by a licensee; and
 - (b) the particulars of any processing fee that may be incurred by a player.

(5) A licensee shall not induce, facilitate or aid a player to place a wager or a bet by advancing credits or meeting third party costs incurred by a player.

62. (1) A licensee shall establish and maintain a player's account for each player who is registered by the licensee.

Player's account to be kept.

(2) A licensee shall credit to an account established under sub-section (1) in respect of a registered player all funds -

- (a) received by a licensee from or on behalf of a player; or
- (b) owed by a licensee to the player.

(3) A licensee shall not accept a wager from a player unless—

- (a) there are adequate funds in the player's account to cover the amount of the wager; and
- (b) the funds necessary to cover the amount of the wager are approved by the player.

(4) Funds may be received from a player through—

- (a) a credit cards;
- (b) a debit cards;
- (c) an electronic fund transfer; or
- (d) any other method approved by the Board.

(5) A licensee shall not provide credit to a player or on a player's account or act as agent for a credit provider to facilitate the provision of credit to a player.

63. A licensee shall not deal with any amount standing to the credit of a player's account except—

Restriction on dealing with a players money.

- (a) to debit to the account a wager made by a player or an amount as directed by a player for purposes of a wager;

- (b) to remit funds standing to the credit of an account of a player at the player's request; or
- (c) to pay bank charges for deposits received and funds withdrawn.

64. (1) Where a transaction has not been recorded on a player's account for thirty months, a licensee shall remit the balance in the account to a player.

Inactive
account.

(2) Where a player may not be satisfactorily located, the money may be remitted to the Unclaimed Financial Assets Authority.

Provided that no claim shall lie against a licensee who has remitted money in a player's account under this section to the Unclaimed Financial Assets Authority.

65. (1) A licensee shall deposit all the player's money in a player's account to be held and operated in a bank approved by the Board.

Player's
account.

(2) Any money in a player's account, including money in transit or in the process of being cleared through the banking system or by credit card processing companies, shall at any time be at least equal to the aggregate amount standing to the credit of players' accounts held by a licensee.

Provided that where funds standing to the credit of a player's account falls below the aggregate total of the amount standing to the credit of a players' accounts, the licensee shall make good the shortfall from the licensee's own money within a period of thirty days from the end of the month in which the shortfall occurs.

(3) A bank holding a client's account shall—

- (a) not enforce or execute, any charge, write-off, set-off or other claim against a client's account;
- (b) not combine the account with any other account in respect of any debt owed to it by a licensee; or
- (c) credit any interest payable on a client's account, only to the account.

66. A licensee shall at the end of each financial year submit audited financial reports to the Authority indicating—

Financial
reporting by a
licensee.

- (a) its gross revenue for the financial year;
- (b) its net revenue for the financial year;
- (c) the amount remitted to the collector of taxes for the financial year.

67. (1) A person in Kenya may only access servers hosted in Kenya for purposes of playing online games which includes betting, lottery, casino games or any other form of online gaming.

Restriction on foreign servers.

(2) The Board shall not issue any online gaming or betting license to any foreign or local operator who has no local physical location and servers located within Kenya.

(3) The Communications Authority of Kenya shall ensure that no foreign operators offering online gaming services shall have access to recruit and offer services to players domiciled in Kenya.

(4) The Board and the Communications Authority of Kenya shall continually monitor all online gaming activities to meet the prescribed conditions and any operator found to be in contravention with the provisions of this section, shall be blocked immediately and prosecuted accordingly.

68. (1) A person in Kenya may not use a telecommunication platform for purposes of playing online games which includes betting, lottery, casino games or any other form of online gaming.

Restriction on use of a telecommunication platform for online gaming.

(2) A person who knowingly breaches the provisions of subsection (1) commits an offence and shall upon conviction—

- (a) if a natural person be liable to a fine not exceeding two million shillings or to imprisonment for a term not exceeding two years or both; or
- (b) if a corporate person be liable to a fine not exceeding fifty million shillings.

69. Where there is a dispute arising out of an online gaming activity, a party may, within fourteen days appeal to the Tribunal for resolution.

Dispute resolution.

PART VIII – THE NATIONAL LOTTERY

70. There shall be established a National Lottery to be operated within the Republic of Kenya.

Establishment of the National Lottery.

71. (1) The Board shall issue one licence authorizing a competent person to operate a National Lottery subject to such conditions as it may deem fit to impose.

Licensing of National Lottery.

(2) The issuance of a licence under subsection (1) shall be through an open and competitive bidding process.

(3) The Board shall, before granting a licence, satisfy itself that—

- (a) the applicant has appropriate knowledge or experience to conduct a national lottery in accordance with this Act and any condition imposed on the licence;
- (b) the applicant has the necessary financial and other resources to conduct the lottery;
- (c) there is no direct financial interest on any applicant by a member of a governing council of a political party; and
- (d) the applicant is a fit and proper person to conduct the lottery.

(4) An applicant issued with a licence under subsection (1), shall—

- (a) conduct the National Lottery in accordance with this Act, all other applicable laws and the conditions attached to the licence issued by the Board; and
- (b) ensure that the interests of every participant in the national lottery are adequately protected.

72. (1) A licence for a National lottery shall be valid for a period of seven years or for such period as may be prescribed by the Act.

Duration of licence.

(2) The Board may, where a licence has been granted for more than seven years, at least one year before expiry thereof, extend that licence for such a period that would cumulatively with the initial period amount to ten years.

73. A licensee shall—

Obligations of a licensee.

- (a) ensure that such requirements as the Board may from time to time, determine or approve are complied with;
- (b) provide such information regarding the conduct of a national lottery as the Board may require from time to time;
- (c) make such arrangements as may be specified in a licence for the payment of such sums out of the gross proceeds of the lottery as may be specified by the Board;
- (d) do such things within the terms of a licence, including the transfer of property or any rights, other than intellectual property rights as the Board may require, upon the expiration of a licence;
- (e) obtain the approval of the Board for any lottery and the rules thereof before a lottery is conducted;
- (f) allow the Board or any person designated by the Board to enter any premises or facility belonging to or under the control of a licensee or a member of the management of the licensee, or, premises to which a licensee has a right of access, at any reasonable time, if such entry is necessary for the protection of the integrity of the lottery, to—
 - (i) examine or inspect any machine, document or data in a licensed premise or facility and make copies or extracts from it;
 - (ii) seize, for the purpose of examination of information any machine, document or data, on the conduct of a national lottery;
 - (iii) seal or otherwise secure any such premise, facility or machine on or in which any document or data which has a bearing on the conduct of a national lottery is stored or captured;
 - (iv) secure a valid and enforceable written undertaking from a person controlling a

licensee in any way not to change, transfer, cede the control of a licence or in any way encumber the licence to another person without the consent of the Board; and

- (v) take such steps as may be reasonably necessary to protect the integrity and conduct of a lottery.

74. (1) The Board may vary any condition in a licence—

Variation of conditions of licence.

- (a) with the consent of a licensee; or
- (b) without the consent of the licensee, where—
 - (i) a variation is provided for in this Act or to the extent provided for in the licence; and
 - (ii) a licensee has been given a reasonable opportunity to make representation to the Board in respect of the intended variation and the representation is considered by the Board as insufficient.

(2) The Board shall, where it deems fit to vary the conditions of a licence without the licensee's consent under this section, cause a notice to be served on a licensee informing him or her of the variation and the date on which the variation takes effect which shall not be less than twenty-one working days after the date of service of the notice unless a licensee agrees to a shorter period in writing.

(3) The Board may, in varying the conditions of a licence issue new conditions to the licence.

75. (1) Where the Board has reason to believe that—

Enforcement of a conditions of licence.

- (a) a person has contravened a condition in a licence which cannot be remedied; or
- (b) there is a reasonable likelihood that the contravention in a licence is of a continuous nature,

the Board may apply to the High Court for an order prohibiting the contravention, or, requiring a licensee or any other person to take such steps as the Court may direct.

(2) The liability of a licensee to pay any money under this Act shall not be affected by a licence ceasing to be valid for any reason.

76. The Board may revoke a National Lottery licence where—

Revocation of licence.

- (a) in its opinion, a licensee or his or her representative has grossly violated the provisions of this Act
- (b) a person licensed is no longer a fit and proper person to conduct a national lottery;
- (c) a condition contained in the licence has been materially contravened;
- (d) any information given to the Board by a licensee, or by any person who in any way controls a licensee or any agent or representative of a licensee is materially false in—
 - (i) connection with the application for the licence;
 - (ii) accordance with a condition in the licence; or
 - (iii) making representations in respect of financial matters regarding a national lottery or in respect of any aspect of the management of the lottery;
- (e) any person who is managing a business or any part of a business of a licensee or who is a supplier of goods or services to a licensee and connected to a lottery operation is in the opinion of the Board not a fit and proper person to do so due to insolvency, liquidation, imprisonment or for any other sufficient reason;
- (f) a licensee has failed to take adequate steps to prevent a commission of fraud by his or her employees, agents, representatives, suppliers or by participants in a lottery;
- (g) a licensee or any of his or her employees, agents, representatives or suppliers has prevented the Board or any person designated by the Board in carrying out their duties as contemplated under the Act; or

- (h) a person who in any way controls a licensee is declared insolvent or is liquidated.

77. (1) Where the Board is satisfied that a ground exists for revocation of a licence, it shall by letter sent to the registered physical address of a licensee, notify the licensee in writing of the existence of such grounds and shall require the licensee to furnish reasons, within fourteen days of service of the notice why the licence should not be revoked.

Notice of
revocation.

(2) Where a licensee fails to give reasons within the period stated, the licence shall cease to be valid.

(3) Where a licence for a national lottery ceases to be valid under this section, the Board shall forthwith inform the licensee in writing of the date upon which the licence ceased to be valid.

78. (1) The Board may order a suspension of a licence in the notice under section 77 from the date of service of the notice for a period not more than thirty days after the licensee has furnished the reasons why the licence should not be revoked.

Suspension of a
licence.

(2) Where the Board suspends a licence under subsection (1), it shall inform the Cabinet Secretary who shall forthwith inform the public through a *Gazette* notice.

(3) Where a licence for a national lottery ceases to be valid under subsection (1), the Board shall inform the licensee in writing the date upon which the licence was suspended.

PART IX – CONDUCT OF A NATIONAL LOTTERY

79. (1) A licensee may with the approval of the Board, conduct such games as it may consider appropriate for purposes of a national lottery.

National lottery
games.

(2) The Board shall prescribe guidelines, policies and procedures for the conduct of games comprising a national lottery.

(3) Guidelines issued under subsection (2) shall include—

- (a) the type and number of games to be conducted by a licensee;

- (b) the method and location of setting up or validating winning tickets;
- (c) the manner of payment of prizes to holders of winning tickets;
- (d) the frequency of games and draws or determination of winning tickets;
- (e) the method to be used in selling tickets, which may include the use of electronic or mechanical devices;
- (f) the prizes of each ticket, the number and value of prizes;
- (g) the conduct of draws and determination of winners of each game;
- (h) requirements governing lottery tickets; and
- (i) any other guideline necessary to ensure the efficient and effective operation of national lottery games.

80. (1) A licensee shall print all lottery tickets bearing its approved imprint and logo.

Disclosure of odds.

(2) Each ticket shall have—

- (a) a serial number;
- (b) a draw number;
- (c) a draw date; and
- (d) a designated space for the signature.

(3) The Board shall issue guidelines with respect to the purchase of electronic tickets.

(4) The sale of a national lottery ticket shall be the responsibility of a licensee and it may after consultation with the Board, authorize such suitably qualified persons to act as its agents as it may determine for the sale of national lottery tickets.

(5) Agent authorization under subsection (3) shall be in writing and shall be subject to such terms and conditions as may be determined by a licensee with the authority of the Board.

(6) A licensee shall determine the form and prize of a lottery ticket sold under this Act.

(7) A person, other than a licensee who willfully sells offers or exposes for sale or invites an offer to buy or possess for sale a national lottery ticket commits an offence and shall be liable upon conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding five years or to both.

81. (1) A ticket purchased for value or awarded as a prize in a lottery is prohibited for sale to—

Persons prohibited from participating in national lottery.

- (a) a child;
- (b) a director, agent or employee of a licensee;
- (c) a member or employee of the Board;
- (d) a person who prints national lottery tickets or an employee of such a person, or a director of such company; or
- (e) a person who supplies computers or other electronic devices of any kind or parts for the same, or equipment or programming or instructions for use, or who operates, maintains or repairs any such devices used by a licensee.

(2) The prohibition under subsection (1) shall cease to apply to a person specified in paragraphs (b), (c), (d) and (e) after the expiry of two years from the period their directorship, agency or employment with a licensee or the Board.

82. (1) Any person who knowingly allows a person prohibited to participate in unauthorized lottery commits an offence and shall be liable upon conviction to a fine not exceeding five million shillings or imprisonment for a term not exceeding two years or to both.

Offences relating to national lottery tickets.

(2) In addition to the penalty imposed under subsection(1), in a case where a national lottery ticket is held in contravention of the provisions of section 81—

- (a) a ticket in respect of which the offence is committed shall not be entered in the lottery draw, and if it is so entered and is drawn as the winning ticket, the owner of such a ticket shall not be entitled to any prize in respect of the ticket; and

- (b) where a prize is awarded in the lottery to the owner of such a ticket, the prize shall be returned to the licensee within one month after receipt.

(3) Where a prize to which paragraph (2)(b) applies is not returned as required such a prize or an amount of money equal to its value may be recovered by a licensee through a civil suit.

83. (1) An agent in any bid or proposal for a contract to supply lottery equipment, tickets or any material or service to a licensee for use in the operation of a national lottery shall furnish a licensee with the names and addresses of the following with respect to the principal—

Disclosure by agent.

- (a) if a partnership, all the general and limited partners;
- (b) if a trust, the trustees and all persons entitled to receive income or benefit from the trust;
- (c) if an association, the members, officers and directors; or
- (d) if a corporation, the officers, directors and each owner or holder, directly or indirectly of any equity, security or other evidence of ownership of any interest in the corporation:

Provided that in the case of owners or holders of publicly held equity securities of a publicly traded corporation, only the names and addresses of those owning or holding ten per cent or more of such securities shall be disclosed.

84. (1) All draws shall be held within a licensee's premise and prize draws shall be open to members of the public.

Draws.

(2) Draws for all games comprising of a lottery shall be conducted at such times as may be determined by the licensee with the approval of the Board.

(3) An officer of the Board shall supervise the selection of winning entries in all draws.

(4) Any equipment used in a public draw to select a winning number or entry for a prize shall be examined and tested by the Board together with an internal auditor of a licensee or a designated representative prior to and after each public draw.

(5) A licensee shall adopt rules, policies and procedures to conduct fair and equitable draws and establish a system for verifying validity of tickets presented for the awarding of prizes.

85. (1) A prize shall not be awarded upon a ticket purchased or sold in violation of this Act.

Payment of prize.

(2) A licensee shall stand discharged from all liability to winners upon payment of prizes in accordance with the terms and conditions of a national lottery.

(3) A licensee may provide for payment of prizes by agents where prizes are of such amount as a licensee may specify, whether or not the agents sold the winning tickets.

86. (1) A prize that is not claimed within the time specified by the Board shall be forfeited and be paid to the Fund.

Prizes and tickets.

(2) The right to a prize shall not be assignable but prizes may be paid to the administrator of a deceased winner's estate.

(3) A ticket shall be deemed to be owned by a person whose signature or mark appears on it, and if no such signature or mark appears, by the bearer of the ticket.

(4) A licensee shall not be responsible for any lost or stolen tickets.

(5) A person who loses a national lottery ticket shall report the loss to the licensee before a draw is conducted.

(6) Where a ticket which is reported lost under subsection (5) is picked as a winning ticket at a draw, the person reporting the loss shall be entitled to claim the prize payable upon meeting such conditions as a licensee may specify.

87. (1) The Board may from time to time appoint a suitably qualified person to audit the conduct of a national lottery and report to the Board.

Audit of a lottery.

(2) A person appointed under subsection (1) shall, audit—

- (a) the organization's management and procedures;
- (b) the system for selecting winning tickets and the methods employed to prevent fraud or manipulation;

(c) the manner of the recruitment, organization and supervision of the staff of a licensee engaged in—

(i) handling or processing and the selection of winning tickets; and

(ii) installation, operation, maintenance, or repair of computers or other electronic devices, or devices of any kind used for the purpose of a lottery or the supervision; and

(d) the compliance of this Act and any regulations made thereunder in relation to a national lottery.

(3) A person appointed under this section shall report to the Board—

(a) at such intervals as the Board may require in relation to any of the matters specified in subsection (2); and

(b) from time to time in relation to any matter relating to a lottery which the person considers should be reported to the Board.

(4) A person appointed under subsection (1) may enter the premises of a licensee at all reasonable times and shall have access to and may inspect any tickets or any records kept by a licensee whether in documentary or in electronic form relating to a national lottery and may take copies or extracts from records.

(5) Directors and employees of a licensee who are involved in the conduct of a lottery, shall give to a person appointed under this section such information in their possession relating to the lottery as may be required by that person.

(6) Any director, employee or agent of a licensee who knowingly fails or refuses to comply with a request made under this section in relation to any information in his or her possession, or who obstructs or hinders a person appointed to perform his or her functions under this section commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

88. (1) The gross revenue of a national lottery shall be distributed as follows—

Apportionment of the proceeds of the National lottery.

- (a) forty five per centum to the holders of winning tickets;
- (b) twenty per centum to the licensee to meet its administrative costs;
- (c) fifteen per centum to the Fund established under section 89 for distribution to good causes; and
- (d) twenty per centum to agents and retailers of the Lottery.

(2) Monies payable to the Fund under this section shall be remitted by a licensee to the Fund within fourteen days after such draw or at such other time as the Board may require, whichever is earlier.

PART X—THE NATIONAL LOTTERY DISTRIBUTION TRUST FUND

89. (1) There is hereby established a Fund to be known as the National Lottery Distribution Trust Fund, which shall vest in and be administered by a Board of Trustees established under section 91.

Establishment of the Fund.

(3) The object of the Fund shall be to retain, and distribute the proceeds of the National Lottery in such manner as may be prescribed by this Act.

(2) The Fund shall consist of—

- (a) sums paid to the Fund under section 88;
- (b) interest from the investment of money standing to the credit of the Fund;
- (c) such monies or assets as may accrue to or vest in the Fund in the course of the exercise of its powers or the performance of its functions under this Act; and
- (d) all monies from any other source provided for or donated or lent to the Board.

90. There shall be a Board of Trustees of the Fund which shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

Powers of the Board of Trustees.

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property; and
- (c) doing or performing all such other things or acts necessary for the proper performance of its functions under this Act, which may lawfully be done by a body corporate.

91. (1) The Board of Trustees shall consist of—

Membership of
the Board of
Trustees.

- (a) a chairperson nominated by the Cabinet Secretary and appointed by the President;
- (b) the Principal Secretary responsible for matters related to gaming or a designated representative;
- (c) the Principal Secretary responsible for National Treasury or a designated representative;
- (d) one person nominated by the Council of Governors;
- (e) two persons appointed by the Cabinet Secretary with experience in trust law, accounts, sports or financial management; and
- (f) a Managing Trustee who shall be appointed by the Board of Trustees.

(2) The appointment of the Trustees shall be by notice in the *Gazette*.

(3) A trustee appointed under this section shall, in relation to the Fund, have the duties and obligations of a trustee, and be accountable in accordance with the provisions of the Trustee Acts (Cap. 167).

(4) The business of the Board of Trustee shall be conducted according to the Second Schedule with necessary modification.

92. (1) The headquarters of the Board of Trustees shall be in Nairobi.

Headquarters of
the Board.

(2) The Board of Trustees shall ensure access to its services in all parts of Kenya in accordance with Article 6(3) of the Constitution.

93. The functions of the Board of Trustees shall be to—

Functions of the Board of Trustees.

- (a) make all disbursements required to be made out of the Fund;
- (b) apportion revenue of the National Lottery;
- (c) manage, control and administer the assets of the Fund in such manner and for such purposes as to best promote the purpose for which the Fund is established;
- (d) receive any gifts, grants donations or endowments made to the Fund or any other moneys lent to the Fund and make disbursements therefrom in accordance with the provisions of this Act;
- (e) raise funds through investments approved by the National Treasury in writing;
- (f) advise the Cabinet Secretary on matters relating to the distribution and application of its apportionment of the revenue of the National Lottery and any other matter which the Cabinet Secretary may require advice or general direction;
- (g) set a ceiling of the amount of money that may be spent from the Fund on administrative expenses, which shall not exceed five per centum of the total funds;
- (h) ensure that in any financial year, the distribution of the proceeds and the expenditure from the Fund shall not exceed the annual income of the Fund and any surplus income brought forward from the previous year; and
- (i) perform such other functions as may be lawfully performed by the Board of Trustees.

94. (1) A person shall be qualified for appointment as a chairperson or a member of the Board of Trustees if the person—

Qualifications for appointment to the Board of Trustees.

- (a) possesses a university degree in a relevant field from a university recognized in Kenya;

- (b) meets the requirements of Chapter Six of the Constitution;
- (c) is not an undischarged bankrupt;
- (d) has never been convicted of any criminal offence of economic crimes or fraud;
- (e) does not hold any political office at the time of appointment; and
- (f) has not previously been removed from a public office on account of misconduct.

(2) A person shall not be qualified for appointment as a trustee if the person—

- (a) whether personally, through a spouse, immediate family member, business partner or associate has or has had a direct or indirect financial interest in any lottery or gaming or associated activity, in the three years immediately preceding the time of appointment;
- (b) has any interest in a business or enterprise that may conflict or interfere with the proper performance of that person's functions as a trustee;
- (c) is unable to discharge his duties as a trustee; or
- (d) fails to comply with the provisions of this Act relating to disclosure.

95. (1) The office of the chairperson or a member of the Board of Trustees shall become vacant if the holder—

Vacation from office.

- (a) dies;
- (b) resigns from office by notice in writing to the Cabinet Secretary;
- (c) is convicted of an offence and is sentenced to imprisonment for a term exceeding six months;
- (d) has been absent from three consecutive meetings of the Board without a notice to the chairperson; or
- (e) is removed in accordance with subsection (2).

(2) A member of the Board of Trustees may be removed from office for—

- (a) violation of the Constitution or any other law;
- (b) gross misconduct, whether in the performance of the member's or office holder's functions or otherwise;
- (c) physical or mental incapacity to perform the functions of the office;
- (d) incompetence; or
- (e) bankruptcy.

96. Whenever the office of a trustee appointed under section 91(1)(a),(d) and (e) becomes vacant before the expiry of the trustee's term of office, the President or Cabinet Secretary, as the case may be, shall appoint a person similarly qualified to fill the vacancy.

Filling of a vacancy.

97. (1) The Board of Trustees shall submit reports and programmes to the Cabinet Secretary at the beginning of each financial year indicating—

Annual programmes and reports.

- (a) the amount of money likely to be available for distribution in that year;
- (b) the priority programs to be allocated money in that year; and
- (c) the criteria to be applied in making allocations.

(2) The Board of Trustees shall, through regular publications, inform the public of its activities and operations and ensure that such activities and operations shall be accessible to the public.

98. The Board of Trustees shall, in consultation with the Cabinet Secretary, prescribe the amount and manner in which the money in the Fund shall be distributed to different good causes related to sports.

Distribution of funds.

99. The financial year of the Fund shall be the period of twelve months ending on the thirtieth day of June in each year.

Financial Year.

100.(1) At least three months before the commencement of each financial year, the Board of Trustees shall cause to be prepared estimates of revenue and expenditure of the Fund for that year.

Annual estimates of the Fund.

(2) The annual estimates shall make provision for all the estimated expenditure of the Fund for the financial year.

(3) The annual estimates shall be approved by the Board of Trustees before the commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary who, after approving it, shall forward it to the Cabinet Secretary responsible for National Treasury.

(4) The Fund shall not increase its annual estimates without the approval of the National Assembly.

PART XI—CASINO, SLOT MACHINE AND OTHER FORMS OF GAMING

101. (1) A person may be granted a licence to operate a casino and other related gaming activities upon satisfying conditions set in section 21.

Casinos and other forms of gaming.

(2) The Cabinet Secretary may, in consultation with the Board and the Council of Governors, propose regulations on the number of casinos in the different regions of Kenya.

(3) In making the proposal under subsection (2), consideration shall be made on —

- (a) the number and geographic distribution of existing licensed casinos within the country at the time;
- (b) presence of tourists in a county;
- (c) cultural and religious distribution of a county;
- (d) the incidence and social consequences of compulsive and addictive gambling;
- (e) the promotion of —
 - (i) job creation within the gaming industry;
 - (ii) diversity of ownership within the gaming industry;
 - (iii) efficiency of operation in the gaming industry; and
 - (iv) competition within the gaming industry.

(4) Gaming machines including slot machines shall be located in a permitted premise and shall not be near—

- (a) learning institutions;

- (b) religious establishment; and
- (c) residential areas.

(5) A single bet in a casino machine shall be played for a minimum of fifty shillings.

102. A licensee shall, in respect of each premise where a casino is operated allow the Board or any person designated by the Board to—

Powers of the Board to inspect.

- (a) enter any licensed premise or facility belonging to or under the control of the licensee for purposes of inspection;
- (b) examine or inspect any machine, document or data in a licensed premises or facility, and make copies or extracts from it;
- (c) seize, for the purpose of examination, any information, machine, document or data, on the conduct of a casino;
- (d) seal or otherwise secure any such premise, facility, machine, document or data in the casino where an offence has been committed;
- (e) secure a valid and enforceable written undertaking from a person controlling a licensee in any way not to change, transfer, cede the control of a licence or in any way encumber the licence to another person without the consent of the Board; and
- (f) take such steps as may be reasonably necessary to protect all gaming players.

103. Officers of the Authority shall be present in all casinos for purposes of ensuring compliance of the Act and conditions imposed on a licence by the Board.

Officers of the Authority to be present.

104. (1) The Board may issue a licence authorizing a person to organize and manage a lottery incidental to a sport or game.

Licensing lotteries incidental to sports or games.

(2) A licence shall state the lottery incidental to the game or sport which a licensee may organize and manage.

(3) The Board may, in respect of a licence issued under this section, impose conditions on—

- (a) the manner in which a person may conduct a sport or game lottery;
- (b) the hours during which the premises may be open;
- (c) the suitability, condition and conduct of the premises;
- (d) the protection of persons taking part in the gaming against fraud;
- (e) measures to ensure responsible gaming; and
- (f) payment of admission fees for persons gaming in the premises.

(4) Where an admission fee is charged under subsection (3)(f) it shall be subject to the payment of tax under the Entertainment Tax Act (Cap 479).

PART XII—AMUSEMENTS WITH PRIZES, PRIZE COMPETITIONS, CHAIN LETTERS AND GAMING MACHINES

105. (1) A person may provide amusement with prize at non-commercial entertainment provided that the whole proceeds of the entertainment after deducting the expenses of the entertainment are devoted to purposes other than private gain.

Provision of amusement with prize at non-commercial entertainments.

(2) The opportunity to win a prize at an amusement to which this section applies shall not be the only inducement to a person to attend the entertainment.

(3) A person who breaches the conditions specified in subsection (1) commits an offence and shall upon conviction be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

106. (1) A person may, subject to subsections (2) and (3), provide for amusement with a prize—

Provision of amusement with prize at a commercial entertainment.

- (a) on a premise which a permit for the provision of an amusement has been granted by a county authority under the relevant law; and

- (b) at a pleasure fair consisting wholly or mainly of an amusement provided by travelling showmen held on any day of the year on the premises not previously used in that year on more than twenty seven days for the holding of a pleasure fair.

(2) The following conditions shall be observed in connection with amusements under this section—

- (a) the amount paid by a person for any one chance to win a prize shall not exceed five thousand shillings;
- (b) the aggregate amount issued by way of sale of a chance in a determination of a winner of a prize shall not exceed five million shillings;
- (c) the sale of a chance and a declaration of a result shall take place on the same day and on the same premise on which the amusement took place;
- (d) money prize for distribution shall not exceed one million shillings;
- (e) the winning or the purchase of a chance to win a prize shall not entitle a person to any further opportunity to win money by taking part in any amusement with prize or in any gaming or lottery; and
- (f) in the case of a pleasure fair under subsection (1)(b), the opportunity to win a prize at an amusement to which this subsection applies shall not be the only inducement to a person to attend the fair.

(3) Where an amusement with a prize takes the form of a game played by use of a machine played by insertion of a coin or a token into a machine, the following conditions shall apply—

- (a) a successful player may receive—
 - (i) a money prize not exceeding one million shillings;
 - (ii) a prize other than money of a value not exceeding five million shillings; or
 - (iii) a token of a nominal value exchangeable for a prize other than money on the basis of a prize of a value or aggregate value not

exceeding five million shillings or for a number of tokens equal to a maximum number of tokens which may be won by any one playing of the game; and

- (b) a player's success at the game shall not entitle a person to exchange any prize or token for a benefit other than those provided for under paragraph (a).

(4) A person who willfully breaches the conditions specified in this section commits an offence and shall upon conviction be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

107. (1) Each county government shall issue a permit authorizing the use of an amusement machine in an approved premise.

Amusement
Machines.

(2) A permit issued under this section shall be subject to such conditions as a county government may impose.

108. (1) The Board may, in accordance with any regulations made under this Act, issue a permit authorizing the promotion and conduct of prize competitions.

Authorization of
prize
competitions.

(2) Any person who promotes or advertises any prize competition in connection with any trade or business or the sale of any article to the public without a permit commits an offence and shall be liable upon conviction to a fine not exceeding two million shillings or to imprisonment for a term not exceeding five years or both.

109. A person who sends or causes to be sent or supplies or delivers any chain letter or who sends or receives money or money's worth in connection with a chain letter, commits an offence and shall be liable upon conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

Chain letters.

110. (1) Betting and gaming machines shall—

Control of
betting and
gaming
machines.

- (a) be located in licensed a casino only;
- (b) be sourced from a certified source with international standard certification;

- (c) have an import certificate issued by the Board indicating the model and the functions of the machine; and
- (d) undergo standards verification after every three months

(2) A betting machine shall only be operated by a person issued with a valid bookmakers licence.

(3) A single bet in a gaming machine shall be a minimum of twenty shillings only.

PART XIII—THE GAMING APPEALS TRIBUNAL

111. (1) There is hereby established a Gaming Appeals Tribunal whose function shall be resolution of disputes between parties.

Gaming
Appeals
Tribunal.

(2) Any person aggrieved by a decision of the Board made under this Act may, within twenty one days from the date of making of the decision, appeal to the Tribunal.

(3) An appeal to the Tribunal shall operate as a stay of the decision of the Board until the appeal is heard and determined.

112. The Tribunal shall consist of a Chairperson and four other members, appointed by the Judicial Service Commission.

Composition of
the Tribunal.

113. (1) A person shall be qualified to be appointed as chairperson of the Tribunal if the person —

Qualification.

- (a) is an advocate of at least ten years standing or has previously served as a judge of the High Court; and
- (b) meets the provisions of subsection (2)(a) to (f)

(2) A person shall qualify as a members of the Tribunal if the person—

- (a) possesses a university degree in a relevant field from a recognized university in Kenya;
- (b) meets the requirements of Chapter Six of the Constitution;
- (c) is not an undischarged bankrupt;
- (d) has never been convicted of any criminal offence involving fraud or dishonesty;

- (e) does not hold any political office at the time of appointment; and
- (f) has not previously been removed from a public office on account of misconduct.

(3) A member of the Board or employee of the Authority shall not be appointed as a member of the Tribunal.

(4) The chairperson and members of the Tribunal shall serve for a term of three years and shall be eligible for re-appointment for one further term.

114. The office of the chairperson or a member of the Tribunal shall become vacant where the holder—

Termination of membership.

- (a) dies;
- (b) by notice in writing to the Cabinet Secretary resigns from office;
- (c) is convicted of an offence and is sentenced to imprisonment for a term exceeding six months without the option of a fine; or
- (d) is removed in accordance with subsection (2).

(2) The Judicial Service Commission may remove a chairperson or a member from office for—

- (a) a violation of the Constitution or any other law;
- (b) gross misconduct, whether in the performance of the member's or office holder's functions or otherwise;
- (c) physical or mental incapacity to perform the functions of office;
- (d) incompetence; or
- (e) bankruptcy.

115. Members of the Tribunal shall be paid such remuneration and allowances as the Judicial Service Commission may, on the advice of the Salaries and Remuneration Commission, determine.

Remuneration and allowance.

116. Upon an appeal under this Act, the Tribunal may confirm, set aside or vary the decision or an act in question and may make such other order as the Tribunal considers appropriate, including an order with respect to the payment of costs.

Conduct of the Tribunal.

117. (1) The Director General of the Authority may give notice of a reference to a party to an appeal and the party shall be entitled to be heard by the Tribunal.

Reference to the Tribunal.

(2) The Board and the Director General shall be bound by the directions of the Tribunal on a reference, subject to any appeal to the High Court.

118. (1) The Chairperson of the Tribunal may appoint an advisor from a panel of persons with expert knowledge in specified areas to assist in the determination of a matter before the Tribunal.

Appointment of expert advisors.

(2) A member of the Board or employee of the Authority shall not be appointed as an advisor.

119. A party aggrieved by a decision of the Tribunal may appeal against the decision to the High Court.

Appeals from the Tribunal.

120. (1) The Chief Justice may make rules for regulating the practice and procedure of the Tribunal.

Practice and procedure of the Tribunal.

(2) Subject to the rules made under subsection (1), the Tribunal may regulate its own procedure.

121. (1) The Public Service Commission shall through a competitive recruitment, appoint a Secretary to the Tribunal.

Secretary to the Tribunal

(2) A person shall be qualified for appointment as a Secretary to the Tribunal if the person—

- (a) holds a degree from a university recognized in Kenya;
- (b) has proven knowledge and experience in any of the following fields—
 - (i) finance;
 - (ii) law;
 - (iii) public administration; or
 - (iv) public management;
- (c) has at least five years post qualification experience in relevant areas of expertise; and
- (d) is a person of high moral character and integrity and has satisfied the requirements of Chapter Six of the Constitution.

122. The Judicial Service Commission shall appoint such staff of the Tribunal necessary for the proper functioning of the Tribunal.

Staff of the Tribunal.

123. (1) The expenses of the Tribunal and the remuneration of the staff shall be paid out of monies allocated by the National Assembly to the Judicial Fund.

Funds of the Tribunal.

(2) The National Assembly shall allocate funds to the Judicial Fund for the administration of the Tribunal.

PART XIV—FINANCIAL PROVISIONS

124. The funds of the Authority shall comprise of—

Funds of the Authority.

- (a) such monies as may be appropriated by the National Assembly for purposes of the Authority;
- (b) such monies as may accrue to or vest in the Authority in the course of the exercise of its powers or the performance of its functions under this Act;
- (c) such levies as may be prescribed and approved by the Cabinet Secretary in consultation with the Cabinet Secretary responsible for National Treasury;
- (d) interest from the investment of money standing to the credit of the Fund; and
- (e) all monies from any other source provided for, donated or lend to the Authority.

125. (1) The financial year of the Authority shall be the period of twelve months ending on the thirtieth June in every year.

Financial year of the Authority.

126. (1) The annual estimates shall make provisions for all the estimated expenditure of the Authority for the financial year concerned and in particular shall provide for—

Annual estimates.

- (a) the payment of salaries, allowances and other charges in respect of the staff of the Authority;
- (b) payments of allowances and any other emoluments to the members of the Authority;
- (c) the payment of pensions, gratuities and other charges in respect of retirement benefits of the staff of the Authority;

- (d) the proper maintenance of buildings, other property and grounds of the Authority; and
- (e) the acquisition, maintenance, repair and replacement of the equipment and other movable or immovable property of the Authority.

(2) At least three months before the commencement of each financial year, the Authority shall cause to be prepared estimates of revenue and expenditure of the Board for the financial year.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and after the approval, the sum provided shall not be altered without the consent of the Board.

127. (1) The Authority shall cause to be kept all proper books and records of accounts relating to the income, expenditure, assets and liabilities of the Authority.

Books of
accounts.

(2) Within a period of three months after the end of a financial year, the Authority shall submit to the Auditor-General the accounts of the Authority for that year together with—

- (a) a statement of income and expenditure during the year; and
- (b) a statement of the assets and liabilities of the Authority as on the last day of that year.

(3) The accounts of the Authority shall be audited by the Auditor-General in accordance with the Public Audit Act, 2015.

No. 3 of 2015.

128. (1) The Authority shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary a report of the operations of the Authority for the immediate preceding year.

Annual reports.

(2) The Cabinet Secretary shall cause the annual report to be laid before the National Assembly within three months after the end of a financial year.

PART X—OFFENCES AND PENALTIES

129. A person, owner or occupier of a licensed gaming premises or electronic site who willfully—

Offences
relating to
gaming
premise.

- (a) allows such premise to be used for unlicensed gaming activities;

- (b) aids in the carrying out of unlicensed management of electronic site or unlicensed betting activities;
- (c) announces, publishes, cause to be announced, cause to be published, either orally or by means of any print, writing, design, sign, or otherwise or solicit any person to bet in an unlicensed gaming activity or site; or
- (d) advances furnishes or receives money for the purpose of establishing or conducting unlicensed gaming activity,

commits an offence and shall be liable upon conviction to a fine not exceeding two hundred and fifty thousand shillings or to imprisonment for a term not exceeding one year or both.

130. A person who knowingly makes a false statement or declaration in an application for issuance or renewal of a licence or permit, commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding five years or both.

False declarations.

131. A person who willfully fails to display a licence, or who displays a licence or permit which is not valid commits an offence and shall be liable upon conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

Failure to display a valid licence.

132. A person who knowingly transfers a licence without the approval of the Board commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years or to both.

Transfer of a licence without the approval of the Board.

133. A licensee who knowingly fails to keep any book, record or account required to be kept under this Act or keeps false records or information, or who makes or causes to be made any book entry which is false commits an offence and shall be liable upon conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding five years.

Failure to keep proper books of accounts.

134. A person who willfully refuses or fails to submit a statement of accounts when required by the Board, or

Failure to submit accounts by a licensee.

who knowingly submits a false or misleading statement, commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding five years or to both.

135. A person who willfully fails to pay a levy or any fees prescribed under this Act or makes late payment of a levy or prescribed fee commits an offence and shall be liable to pay to the Board all outstanding amounts of levies or fees together with a penalty of two hundred thousand shillings.

Failure to pay
levy or a
prescribed fee.

136. A person who knowingly operates or conducts any form of gaming without a valid licence commits an offence and shall be liable upon conviction —

Operating
without a
licence or
permit
prohibited.

- (a) for a first offence, to a fine not exceeding three million shillings or to imprisonment for a term not exceeding ten years or to both; and
- (b) for a second or subsequent offence to a fine not exceeding five million shillings or to imprisonment for a term not exceeding fifteen years or both.

137. A person who knowingly opens, keeps, uses, causes or permits the use of a premise for carrying on an unauthorized lottery, commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years or to both.

Unauthorized
lotteries.

138. A person who knowingly prints, publishes or causes to be printed or published an advertisement or any notice relating to an unauthorized lottery or relating to the sale of a ticket or chance in any such lottery commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years or to both.

Advertisements
on un
authorized
lotteries.

139. A person who, in connection with an unauthorized lottery knowingly promotes or proposes to be promoted either in Kenya or elsewhere knowingly —

Sale or
distribution of
unauthorized
tickets.

- (a) prints a ticket to be used in an unauthorized lottery;
- (b) sells or distributes, or offers or advertises for sale or distribution, or has in his or her possession for

- the purpose of sale or distribution, tickets or chances in a lottery;
- (c) distributes, or has in his or her possession for the purpose of distribution—
 - (i) an advertisement of an un authorized lottery;
 - (ii) a list of prize winners or winning tickets in an unauthorized lottery; or
 - (iii) any matter descriptive of the drawing or intended drawing of a lottery relating to an unauthorized lottery, which is intended to act as an inducement to persons to participate in the lottery or in other lottery;
 - (d) brings, or invites any person to send, into Kenya for the purpose of sale or distribution of a ticket or advertisement of unauthorized lottery; or
 - (e) sends or attempts to send out of Kenya any valuable thing received in respect of the sale or distribution, or a document recording the sale or distribution, or the identity of the holder, of a ticket or chance in the lottery,

commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years or to both.

140. A person who—

Unlicensed
betting premises
and electronic
sites.

- (a) being the owner or occupier of a premise or electronic site knowingly uses or allows such premise or electronic site to be used for unlicensed betting;
- (b) is willfully engaged in the management of an unlicensed electronic site or a premise kept or used as an unlicensed betting premises;
- (c) knowingly announces or publishes or causes to be announced or published, either orally or by means of any print, writing, design, sign, or otherwise or in any manner invites or solicits any

person to bet in unlicensed betting premise or site; or

- (d) willfully advances, furnishes or receives money for the purpose of establishing or conducting the business of unlicensed betting premises or site.

commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year or to both.

141. A person who knowingly bets in unlicensed betting premises commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

Betting in unlicensed premises.

142. A person who willfully acts, facilitates or carries on business as a bookmaker or otherwise contrary to the terms of a licence issued under this Act commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year or to both,

Prohibition against unlicensed bookmaking.

Provided that this section shall not apply to an employee of a person issued with a licence acting in the course of employment at a licensed betting premise or at an authorized race meeting.

143. A person who knowingly—

- (a) effects a betting transaction by means of a totalisator in respect of which no licence has been issued; or
- (b) uses or permits the use of a totalisator in contravention with the terms of a licence.

Betting by means of unlicensed totalisator an offence.

commits an offence and shall be liable upon conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year or both.

144. (1) A person who in connection with a totalisator in respect of which a licence has been issued under this Act—

Unlawful laying of totalisator.

- (a) willfully makes or enters into a bet upon the result of a horse race;
- (b) knowingly sells or offers for sale, or purchases from a person a ticket or a card entitling or purporting to entitle a purchaser or a holder to an interest as result of the working of a totalisator on a horse race; or
- (c) willfully makes a contract or bargain of any kind to pay or receive money upon an event determined or to be determined by the result of the working of a totalisator on a horse race,

commits an offence and shall be liable upon conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year or both.

(2) The provisions of section 1(a) and (b) shall not apply to an employee of a person issued who with a licence to operate a totalisator who is engaged in lawful operation in a manner approved by the Board.

145. A person who in connection with a totalisator in respect of which a licence has been issued under this Act—

Prohibition
against late bets.

- (a) receives or permits to be received a betting transaction on a totalisator in respect of a horse race or any other race after the start of the race;
- (b) registers on that totalisator after the start of a horse race or other race any moneys received in respect of that race; or
- (c) takes into account in the calculation or payment of a betting transaction which has not been registered on that totalisator,

commits an offence and shall be liable upon conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year or both.

146. A person who—

Promotion of
unauthorized
pool betting.

(a) willfully promotes a pool betting scheme within Kenya in contravention with the terms of a licence issued under this Act; or

(b) knowingly promotes, receives or negotiates bets on behalf of a promoter unauthorized pool betting scheme.

commits an offence and shall be liable upon conviction to a fine not exceeding two hundred and fifty thousand shillings or to imprisonment for a term not exceeding one year or both.

147. A person who in connection with an unauthorized pool betting scheme knowingly,—

Offences
relating to pool
betting schemes.

- (a) prints a coupon to use in such a scheme;
- (b) sells or distributes or offers or advertises for sale or distribution;
- (c) has in his or her possession for the purpose of sale or distribution a coupon relating to such a scheme;
- (d) distributes or has in his or her possession for the purpose of distribution—
 - (i) an advertisement of the scheme;
 - (ii) a list of prize winners or winning coupons in the scheme; or
 - (iii) any such matter descriptive of the determination or intended determination of a prize of a winner relating to the scheme with the intention of inducing a person to participate in the scheme;
- (e) brings, or invites any person to send into Kenya for the purpose of sale or distribution a coupon relating to an advertisement of the scheme;
- (f) sends or attempts to send out of Kenya any money or valuable thing received in respect of the sale or distribution, or any document recording the sale distribution, or the identity of the holder of a coupon in the scheme;
- (g) prints or publishes, or causes to be printed or published, an advertisement or any notice or to the issue of a coupon or a dividend relating to the scheme; or
- (h) takes or sends out of Kenya money in connection with any pool betting scheme authorized under the Act,

commits an offence and shall be liable upon conviction to a fine not exceeding two hundred and fifty thousand shillings or to imprisonment for a term not exceeding one year or both.

148. A person who willfully permits bookmaker to carry on business at a race meeting outside the scope of the conditions of permit issued commits an offence and shall be liable upon conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

Unauthorized
book making.

149. A person who knowingly holds a race meeting or owns or operates a race course without a valid licence commits an offence and shall upon conviction be liable to a fine not exceeding two million shillings or to imprisonment for a term not exceeding four years or to both.

Unauthorized
racing.

150. A person who knowingly touts or solicits the members of the public with a bookmaker outside a licensed betting premises or at an authorized race meeting, commits an offence and shall be liable upon conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

Prohibition
against touting.

151. A person who without the approval of the Board in connection with any licensed betting premises, licensed bookmaking or licensed pool betting scheme—

Prohibition
against unlawful
advertising.

- (a) holds himself or herself out by advertisement or notice or public placard as willing to bet with members of the public;
- (b) displays any written or printed placard or notice relating to betting in any shape or form so as to be visible in a public street or place; or
- (c) prints or publishes, or causes to be printed or published, any advertisement or notice,

commits an offence and shall be liable upon conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

152. A person who knowingly permits in a licensed betting premise the playing of a game of chance, commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year or to both.

Prohibition
against playing
games of chance
in unlicensed
betting
premises.

153. A person who knowingly—

- (a) bets with a child;
- (b) employs a child in a licensed betting premises or in connection with a pool betting scheme or in the effecting of any betting;
- (c) receives or negotiates a bet through a child; or
- (d) sends to a child any information, notice, advertisement, letter, or other document relating to betting,

commits an offence and shall be liable upon conviction be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

154. A person who while playing with an instrument of gaming, or in taking part in the stakes or wagers, or in betting on the sides or hands of those that are playing, or in wagering on the event of a game, sport, pastime or exercise through unlawful means wins from another person or on behalf of another person a sum of money or valuable thing commits an offence and shall be liable upon conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

155. A person who willfully allows his or her premises to be used for a machine gaming operation without a licence or a permit or contravenes any condition imposed by a county government commits an offence and shall upon conviction liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding five years or to both.

PART XVI— MISCELLANEOUS PROVISIONS

156. (1) It shall be lawful—

- (a) for a gaming inspector or any other officer of the Authority authorized in writing by the Board, on production of an authority document; or
- (b) for a police officer,

to enter without warrant and inspect premises (including a race course) in which he or she has reason to

Prohibition against betting with a child.

Obtaining money by cheating at lawful gaming or by wagering on any event an offence.

Operating a gaming machine without a licence.

Power to enter and inspect land and premises.

believe that an offence under this Act or under any regulations made thereunder, has been committed to—

- (i) examine and take copies of books, accounts and documents relating or appearing to relate to any betting transaction, lottery or gaming;
- (ii) seize, remove or detain a book, account or document or any equipment which he or she has reasonable cause to believe shall afford evidence of an offence under this Act or any regulations made thereunder; or
- (iii) require the owner or occupier of the premises to render such explanation or give such information relating to any betting transaction, lottery or gaming as may be reasonably required by him or her in the performance of his or her duties.

(2) The power to act under subsection (1) shall only be exercised without a warrant if the person so acting has reasonable cause to believe that delay may be occasioned in obtaining a search warrant.

(3) A person who resists, hinders or obstructs a person acting in pursuance of any of the provisions of this section, or who on a requisition under subsection (1) willfully withholds information, or gives information knowing or having reason to believe it to be false or misleading, commits an offence and shall be liable on conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding three years or to both.

157. (1) Where a person issued with a licence under this Act is convicted of an offence involving fraud or dishonesty, the court by or before which he is convicted may order a forfeiture or cancellation of his or her licence or a forfeiture of his or her security.

Forfeiture of a licence and security.

(2) A person whose licence is forfeited and cancelled in pursuance of an order under subsection (1) shall, by virtue of that order, be disqualified from holding or obtaining a licence or a further licence for a period of five years beginning on the date of the conviction which gave rise to the order.

Provided that, in a case where it appears to the court to be just in all the circumstances, the court may include in the order a direction that the period of disqualification shall be shorter than five years as the court may specify.

(3) A bookmaker, promoter of a pool betting scheme or organizer or manager of licensed gaming premises, or a servant or agent who employs in his or her business any person known to him or her to be disqualified under subsection (2) commits an offence and shall be liable on conviction to a fine not exceeding two hundred thousand shillings.

158. All gaming advertisements shall—

Gaming advertisements.

- (a) indicate the addictive nature of gambling;
- (b) notify players to play responsibly;
- (c) prohibit a child from playing;
- (d) not feature a former winner with a view to encouraging the general public to bet, play or participate;
- (e) not be featured or broadcasted on television or radio between six o'clock in the fore noon and ten o'clock in the afternoon unless during a live sporting event;
- (f) not be erected on an advertisement billboard of close proximity to a school or a place frequented by children; and
- (g) dedicate ten per centum of aired advertisement towards promotion of responsible gaming.

(3) All media companies holding licenses on gaming shall not use any of their broadcast frequencies to advertise or promote their gaming product or activities.

(4) A person who contravenes the provisions of this section commits an offence and shall be liable upon conviction to a fine not exceeding twenty million shillings or to imprisonment for a term not exceeding five years or to both.

159. (1) There shall be a tax to be known as the gaming advertisement tax chargeable at the rate of thirty five per centum for every gaming advertisement done through radio or television broadcasting.

Gaming advertisement tax.

(2) The tax under subsection (1) shall be paid to the collector not later than fourteen days of the expiry of the month in respect of which the tax is payable.

160. The court before which any person is convicted of any offence under this Act may order documents related to the commission of an offence to be produced to the court and shown to the satisfaction of the court to relate to the offence to be forfeited or either destroyed or dealt with in such other manner as the court may order.

Power of court to deal with anything produced before it.

161. The police shall in coordination with the Board have power to seize any illegal gaming, betting and lottery machines.

Power to seize machines.

PART XVII—PROVISIONS ON DELEGATED POWERS

162. (1) The Cabinet Secretary may in consultation with the Board, make regulations generally for the better carrying into effect of any provisions under this Act.

Power to make regulations.

(2) Without prejudice to the foregoing, regulations made under this section may provide for—

- (a) the procedure to be followed by the Board in exercising any powers conferred upon it by this Act;
- (b) the procedure to be followed in the making of an application for the issuance, renewal and variation of a licence or permit issued under this Act;
- (c) the conduct of casinos, gaming machines and online gaming;
- (d) the conduct of a national lottery;
- (e) standardization of gaming machines;
- (f) the location and distribution of lotteries and gaming;
- (g) national lottery rules;
- (h) the form and manner in which returns or statements of accounts shall be furnished to the Board; and
- (i) proximity of gaming premises and advertisements to learning institutions.

(3) For the purposes of Article 94(6) of the Constitution—

- (a) the purpose and objective of the delegation under this section is to enable the Cabinet Secretary to make regulations for better carrying into effect the provisions of this Act;
- (b) the authority of the Cabinet Secretary to make regulations under this Act will be limited to bringing into effect the provisions of this Act and fulfillment of the objectives specified under this section;
- (c) the principles and standards applicable to the rules made under this section are those set out in the General provisions Act (Cap 2) and the Statutory Instruments Act, 2013.

FIRST SCHEDULE (s.)

Provisions for the meetings and procedure of the Board

Meetings.

1. (1) The Board shall meet at the Authority's registered offices and the meetings shall be convened by the chairperson.

(2) The Board shall have at least twelve meetings in every financial year and not more than two months shall elapse between one meeting and the next meeting.

(3) Unless three quarters of the members otherwise agree, at least fourteen days' notice in writing of a meeting shall be given to every member.

(4) A meeting shall be presided over by the chairperson or in the absence of the chairperson, by the vice-chairperson of the Board or in the absence of both the chairperson and the vice chairperson, the members present shall appoint one of their members to preside at the meeting.

(5) The chairperson shall, on the written application of one-third of the members, convene a special meeting of the Board.

(6) The Board may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not have a vote in any decision of the Board.

Quorum. 2. (1) Subject to subparagraph (2), the quorum of the meeting shall be two thirds of the members.

(2) The quorum of the meeting shall be five members.

(3) A decision of the Board shall not be invalid by reason only of a vacancy among the members thereof.

Conflict of interest. 3. (1) If a person has a personal or fiduciary interest in any matter before the Board and is present at a meeting of the Board or any committee at which such a matter is the subject of consideration, that person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not take part in any consideration or discussion of, or vote on any question touching on such matter.

(2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

(3) No member or staff of the Authority shall transact any business or trade with the Authority.

Voting. 4. A question before the Board shall be decided by a majority of the members and the chairperson shall have a casting vote.

Rules of procedure and minutes. 5. The Board shall—

(a) determine rules of procedure for the conduct of its business; and

(b) keep minutes of its proceedings and decisions.

SECOND SCHEDULE (s. 22(1)(a))

Licensing fees

Type of gaming	Amount (shillings)
(a) All forms of online gaming	one hundred million
(b) Casinos including public gaming for conducting tables and slots machines	fifty million
(c) Non-online bookmakers	thirty million
(d) Totalisator	ten Million

- | | |
|--|-----------------------|
| (e) Prize competition | twenty million |
| (f) Non-online public lotteries, private lotteries and pool betting scheme | thirty million |
| (g) Amusement with prizes | one million |
| (h) Premises or shops operating under licences of online gaming including online bookmaker, online casino and online lottery | five hundred thousand |

THIRD SCHEDULE (s. 22(1)(e))

Declarations

- (a) A certificate of incorporation of the business;
- (b) A business plan indicating the minimum investments and sources of the funds;
- (c) A valid premium rated service provider where applicable;
- (d) A valid contract with an odds feed provider where applicable;
- (e) Income tax declarations for the preceding two years (if applicable);
- (f) Income tax compliance;
- (g) Financial reports for the preceding two years (if any);
- (h) Licensee's gaming account;
- (i) List of directors of the company;
- (j) Memorandum of association or partnership deed or a business registration certificate where applicable; and
- (k) Relevant documents showing technical specifications of hardware and software to be used to conduct the gaming.

FOURTH SCHEDULE

Renewal of licence s. 23(3)

Type of gaming	Renewal period	Renewal fee (shillings)
(a) Casinos including public gaming for	three years	thirty million

	conducting tables and slots machines		
(b)	Online gaming	three years	thirty million
(c)	Non-online bookmakers	three years	five million
(d)	Totalisator	ten Million	one million
(e)	Prize competition	three years	five hundred thousand
(f)	Non-online gaming including book makers, online casinos, online lotteries	three years	three million
(g)	Amusement with prizes	three years	Five hundred thousand
(h)	A premise or a shop operating under a licence of online gaming including online bookmaker, online casino and online lottery	one year	Three million

FIFTH SCHEDULE (s.)

Gaming security

Type of gaming	Amount (shillings)
(a) Casinos including public gaming for conducting tables and slots machines	fifty million
(b) online gaming	two hundred million
(c) National lottery	two hundred million
(d) Non-online bookmakers	thirty million
(e) Totalisator	ten Million
(f) Prize competition	twenty million
(g) Non-online gaming including	one hundred million

book makers, online casinos,
online lotteries

- | | | |
|-----|---|----------------------|
| (h) | Amusement with prizes | two hundred thousand |
| (i) | A premise or a shop operating under a licence of online gaming including online bookmaker, online casino and online lottery | one million |

SIXTH SCHEDULE

Repeals and Transition

- | | | |
|---|----|---|
| Interpretation. | 1. | The “former Board” means Betting Control and Licensing Board existing immediately before at the commencement of this Act. |
| Repeal of Cap. 131. | 2. | The Betting, Lotteries and Gaming Act is repealed. |
| Transfer of functions. | 3. | Upon the commencement of this Act, all rights duties, obligations, assets and liabilities attaching to the Government on behalf of the former Board shall be automatically and fully transferred to the Board established under section 7, and any reference to the former Board in any contract or document shall, for all purposes, be deemed to be a reference to the Board established under section 7 of this Act. |
| Rights, powers, assets and liabilities. | 4. | All property, assets, rights, powers, liabilities and duties, whether arising under any written law or otherwise, which immediately before the commencement of this Act were vested in, imposed on or enforceable against the Board. |
| Chairperson and members of the Board. | 5. | The chairperson and members of the former Board shall become the chairperson and members respectively, as the case may be, of the Board for the remainder of their tenure in accordance with their appointment under section 3 of the Betting Lotteries and Gaming Act (now repealed). |
| Chief Executive Officer and staff. | 6. | (1) Any person who at the commencement of this Act is an employee of the former Board other than the chief executive officer, not being under notice of dismissal or resignation shall, upon such commencement |

and subject to this Act, serve as an employee of the Board.

(2) A person who, immediately before commencement of this Act was serving as the chief executive officer or acting as such in former Board shall be deployed in the Public Service within three months and may be eligible for appointment as the Director General upon application to the Board.

(3) The Board shall competitively recruit a Director General within six months from the date of commencement of this Act.

Transition of all gaming activities.

7. (1) All gaming activities including casinos and online gaming whose licences were issued under the repealed Act shall stand revoked within six months from the enactment of this Act.

(2) Within six months from the commencement of this Act, a person licensed under the repealed Act shall apply to the Board afresh for a new licence.

(3) The Board shall vet afresh all applicants of licences under the provisions of this paragraph.

(4) The Board shall not charge a licensing fee to an applicant who meets the requirements of this Act whose license stands revoked under this paragraph for the period his or her licence stands valid.

MEMORANDUM OF OBJECTS AND REASONS

Statement of Objects and Reasons for the Bill

The objective of this Bill is to establish an Act of Parliament to provide for the control and licensing of betting, casinos and other forms of gaming; authorization of prize competitions and public lotteries, for the establishment of the National Lottery, for the imposition of a tax on gaming and for connected purposes.

PART I—contains the preliminary provisions.

PART II—Contains provision on the functions of National and county government.

PART III—Contains provisions for establishment of the Gaming Authority.

This Part provides for establishment of the Authority, composition of the Board of the Authority, qualification of members of the Board, appointment of Director General and gives the functions of the Authority.

PART IV— Contains provisions for licences and permits

The Part provides for: licensed gaming activities, application for licences, and permits, license fees, permits for gaming premises, permits fee, submission of security, security for casinos and online gaming, gaming capital and gaming levy among others.

PART V— Contains provisions on control and licensing of betting

The Part provides for betting premises, bookmakers licence, totalisator licence, laying of totalisator, betting pools and betting odds, promoters licence in respect of betting schemes and authorization of bookmaking at a race meeting.

PART VI—contains provisions on control and licensing of lotteries

The Part provides for authorization of public lotteries for charitable purposes, powers of the Authority in respect of public lotteries, authorization of lotteries relating to horse racing, exemption of certain types of lotteries conducted for charitable, sporting or other purposes, exemption of licence on lotteries for charitable, sporting or other specified purposes and regulation of private lotteries.

PART VII— contains provisions for online gaming

The Part provides for licensing of online gaming, conditions for grant of a licence, control of online gaming activities, conformity of online gaming systems, online gaming transactions, payment of prizes and remittance of profits and winnings, dispute resolution, maximum amounts

a person can bet online, registration of players, players accounts to be kept, dealing with players monies restricted, handling of players monies, players monies to be kept in separate accounts, financial reporting by a licensee and sharing formula of finds form online gaming.

PART VIII —contains provisions for establishment of the National Lottery

It provides for establishment of the National Lottery and regulation of the same by the Board.

PART IX —contains provisions for the conduct of a National Lottery

It provides for how a National Lottery is to be conducted and regulation of the same.

PART X —Contains provisions on the National Lottery Distribution Trust Fund

The Part provides for establishment of the Fund, membership of a Board of Trustees, functions of the Board of trustees and powers of the Board of Trustees.

PART XI —Contains provisions on casinos, slot machines and other forms gaming.

The Part prescribes the maximum number of casinos, offences relating to unlicensed gaming premises and licensing public gaming premises.

PART XII- Contains provisions on amusements with prizes, prize competitions, chain letters and gaming machines

PART XIII- Establishes the Gaming Appeals Tribunal

It provides for composition of the Tribunal, qualification, Secretary to the Tribunal and conduct of the Tribunal.

PART XIV- Contains financial provisions

Provides for the funds of the Authority, Annual Estimates, books of accounts and annual reports to be submitted by the Authority.

PART XV- Contains provisions on general offences.

PART XVI- Contains provisions on miscellaneous provisions

Schedules: The First Schedule sets the Provisions for the meetings and procedure of the Board, the Second Schedule prescribes the licensing fee for various types of gaming, the Third Schedule provides for declarations to be made by an applicant of a gaming licence, the Fourth Schedule prescribes for the Renewal of licence, the Fifth Schedule prescribes

security required during the application of a gaming licence and the Sixth Schedule provides for repeal and transition.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill delegates legislative powers under Clause 162; it however does not limit fundamental rights and freedoms.

Statement on how the Bill concerns county governments

The Bill concerns county governments in terms of Articles 110(1)(a) of the Constitution.

Statements on whether the Bill is a money Bill within the meaning of Article 114 of the Constitution

The Bill is a money Bill for purposes of Article 114 of the Constitution; the enactment of this Bill will occasion additional expenditure of public funds as it seeks to set an Authority, a Tribunal and a National Lotteries Fund.

Dated the 9th May, 2019.

VICTOR MUNYAKA,
Chairperson, Departmental Committee on Sports, Tourism and Culture.