



REPUBLIC OF KENYA

PARLIAMENT

NATIONAL ASSEMBLY BILLS

(Bill No. 70 of 2023)

THE GAMBLING CONTROL BILL, 2023

(A Bill published in the Kenya Gazette Supplement No. 70 of 2023 and passed by the National Assembly, with amendments, on December 6th, 2023)

N.A. /B/No. 70/2023

THE GAMBLING CONTROL BILL, 2023

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THE GAMBLING CONTROL BILL, 2023

A Bill for

AN ACT of Parliament to provide for the regulation of betting, casinos and other forms of gambling; authorization of prize competitions and public lotteries; for the establishment of the Gambling Regulatory Authority of Kenya; for the imposition of tax on betting and other forms of gambling, and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Gambling Control Act, 2023.

Short title.

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

Interpretation.

“Authority” means the Gambling Regulatory Authority of Kenya established by section 6;

“authorized race meeting” means a race meeting in respect of which a permit authorizing bookmaking has been issued under this Act;

“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, 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, and includes pool tables;

“beneficial owner” has the meaning assigned to it in the Companies Act;

No. 17 of 2015.

“bet” means a wager or stake of money or money’s worth, 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 used for the purposes of betting to which the public has access and which are kept or used, on one or more occasions, for the

purpose of—

- (a) bets being made therein between persons resorting to the premises and the owner, occupier or keeper thereof, or any person using the premises, or any person procured or employed by or acting for or on behalf of the owner, occupier, keeper or person using the premises, or of any person having the care or management or in any manner conducting the business thereof; or
- (b) any money or valuable thing being received by or on behalf of the owner, occupier, keeper or person aforesaid as or for the consideration for any assurance, undertaking, promise or agreement, express or implied, to pay or give, or for securing the paying or giving by some other person of, any money or valuable thing on any horse race, or other race, fight, game, sport, lottery or exercise, or any other event or contingency;

“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 playing by electronic means or by online communication;

“Board” means the Board of the Gambling Regulatory Authority of Kenya constituted in accordance with 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 excluding—

- (a) a person who carries on, or is employed to

operate a totalisator in respect of which a licence has been issued under 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 this Act;

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

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

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

“Collector” means the Commissioner-General appointed under section 11 of the Kenya Revenue Authority Act, 1995;

No. 2 of 1995

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

“Director-General” means the Director-General of the Authority appointed under section 16;

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

“Fund” means the National Lottery Fund established by section 44 of the National Lottery Act, 2023;

“gambling” means the playing of a game of chance for prize winning and includes lottery betting, prize competitions, and media promotions with prizes;

“gambling equipment” means any software, device, instrument, including a chip, a token, a voucher or any other instrument with a fixed monetary wagering value used instead of money for the purpose of gambling, tokens dice, counter, ticket, gambling table, board, box, bird or an animal used for purposes of or capable of being used for or in connection with gambling and includes—

- (a) a linked jackpot equipment;
- (b) an electronic monitoring system including any electronic, computer, communications system or device used or adapted to send or receive data from a gambling equipment in relation to security, accounting, monitoring, evaluation or operation of gambling and gambling equipment;
- (c) any online gambling machine; or
- (d) part of a replacement or part of any gambling machine equipment or system;

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

- (a) placing bets for playing a game of chance which does not require action by a player other than the manipulation of the machine;
- (b) playing a game of chance 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;

“gambling premises” means premises which are kept or used, whether on one or more than one occasion, for gaming, and to which the public has or may have access for the playing therein of a game of chance, whether the game of chance be an unlawful game or not;

“gambling platform” means a system that offers a full range of services for effecting a gambling activity;

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

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

“good cause” means a charitable cause or an event for charity;

“gross gambling revenue” means total revenue received from a gambling 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 a 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 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;

- (a) to supplier;
- (b) to performs maintenance of gambling equipment;
or
- (c) provider of gambling services;

“manufacture” means to produce, import, sell, lease, make available, distribute, maintain or repair a gambling device and may include—

- (a) to supply;
- (b) to perform maintenance of gambling
equipment; or
- (c) to provide gambling services;

“National Lottery” means the national lottery established under section 22 of the National Lottery Act, 2023;

“odd” means a gambling chance;

“online bookmaker” means a person who carries on any form of betting by means of remote communications, including virtual games, virtual sports as well as other forms of gambling;

“online gambling” means any form of gambling in which persons participate by the use of remote communication and on the internet;

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

“pool betting” means the making of bets, other than bets made by means of totalisator, whether the bets are made on the system known as a fixed odds betting or otherwise, by a number of persons on terms that the winnings of such of those persons as are winners shall be, or be a share of, or be determined by reference to, the stake money paid or agreed to be paid by those persons;

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

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

“punter” means a person who is in possession of a valid ticket or other kind of valid receipt issued by a licensee relating to gambling;

“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;

“reporting institution” has the meaning assigned to it in the Proceeds of Crime and Anti-Money Laundering Act;

“security” means any deposit provided as security under this Act;

“slot machine” means any mechanical, electrical or other device, contrivance or machine that is metered and which is able to record history of play, which, upon insertion of a coin, token or similar object, or upon payment of any consideration, is available to play or operate, the play or operation of which, whether by reason of the skill of the operator in playing a gambling game which is presented for play by the machine or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine to receive cash, premiums, merchandise, tokens or anything of value, whether the payoff is made automatically from the machine or in any other manner;

“stake” means money or money’s worth that a player may risk to make a bet or buy into a gambling game;

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

“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 lottery or a game of chance;

“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; and

“Tribunal” means the Gambling Appeals Tribunal established in section 88.

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

- (a) provide a framework for regulation and control of gambling activities;
- (b) authorise some gambling activities and prohibit the rest as unlawful gambling;
- (c) promote the development of a responsible

Objects and
purpose of the
Act.

gambling industry;

- (d) minimize social harm associated with gambling;
- (e) ensure integrity and fairness in licensed gambling activities; and
- (f) provide for the establishment of mechanisms for resolution of disputes relating to gambling.

PART II—FUNCTIONS OF THE NATIONAL GOVERNMENT AND COUNTY GOVERNMENTS

4. (1) 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 gambling;
- (b) regulate the gambling industry in accordance with Act;
- (c) licence gambling activities including online gambling in accordance with this Act;
- (d) licence national lotteries;
- (e) conduct security checks, vetting and due diligence in respect of gambling activities;
- (f) enforce compliance with this Act;
- (g) conduct anti-money laundering risk-based inspections and inspections to combat financing of terrorism through casinos and any other forms of gambling;
- (h) pursuant to sections 2A, 36A, 36B and 36C of the Proceeds of Crime and the Anti-money Laundering Act, 2009, regulate and supervise the reporting institutions licensed under this Act;
 - (i) provide capacity building and technical assistance to county governments; and
 - (j) perform any other function as may be prescribed under this Act or any other written law.

No. 9 of 2009.

(2) In the discharge of its mandate under subsection

(1), the Authority shall collaborate with county governments and county gambling regulatory authorities in the discharge of functions relating to betting, lotteries, casinos and other forms of gambling.

5. A county government shall—

Functions of
county
governments.

- (a) implement and ensure compliance to this Act;
- (b) issue trade permits for gambling premises;
- (c) implement policy standards and norms of gambling within its jurisdiction; and
- (d) ensure periodic monitoring and evaluation of betting, lotteries and gaming trade permits issued by county governments;
- (e) handle complaints and facilitate arbitration; and
- (f) perform such other functions as are incidental to the exercise of any or all of the county government functions provided for under this Act.

PART III—ESTABLISHMENT OF THE GAMBLING REGULATORY AUTHORITY OF KENYA

6. (1) There is established an Authority to be known as the Gambling Regulatory Authority of Kenya.

Establishment of
the Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name 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 shall be the successor of the Betting Control and Licensing Board established under section 3 of

the Betting, Lotteries and Gaming Act.

Cap. 131.

(4) The headquarters of the Authority shall be in Nairobi, but the Authority may establish offices at such other places in Kenya as may be necessary for the execution of its mandate.

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

Board of the Authority.

- (a) a Chairperson who shall be appointed by the President;
- (b) the Principal Secretary in the ministry for the time being responsible for matters relating to gambling or a representative designated in writing;
- (c) the Principal Secretary in the ministry for the time being responsible for the National Treasury or a representative designated in writing;
- (d) the Attorney-General or a representative designated in writing
- (e) three persons, not being public officers, appointed by the Cabinet Secretary, being persons with background in finance, law, betting and lotteries or business management, provided that—
 - (i) one shall represent persons with disabilities; and
 - (ii) one shall represent faith-based organizations;
- (f) one person nominated by the Council of Governors and appointed by Cabinet Secretary; and
- (g) the Director-General who shall be an *ex officio* member.

(2) The appointment of the Chairperson and members appointed under subsection (1)(a), (e) and (f) shall be by name and notice in the *Gazette*.

(3) The Chairperson and members of the Board appointed under subsection (1)(a), (e) and (f) shall hold office for a term of three years and shall be eligible for re-

appointment for one further term of three years based on satisfactory performance.

(4) In appointing the members of the Board under subsection (1)(e), the Cabinet Secretary shall—

- (a) ensure that not more than two-thirds of the members are of the same gender;
- (b) observe the principle of regional and ethnic balance; and
- (c) have due regard to the principle of fair competition and merit as the basis for the appointments.

(5) The members of the Board shall be appointed at different times so that the respective expiry dates of their terms of office fall at different times.

8. (1) A person shall be qualified for appointment as the Chairperson or a member of the Board, if the person—

Qualification for appointment to the Board.

- (a) is a Kenyan citizen;
- (b) holds a university degree from a university recognized in Kenya;
- (c) has a minimum of ten years working experience in a relevant field;
- (d) was not a director, employee, or shareholder of a gambling operator in the preceding five years;
- (e) meets the requirements of Chapter Six of the Constitution; and
- (f) has submitted to the Cabinet Secretary a written declaration stating that the person does not have any interests in the gambling sector or an interest in a business or enterprise that may conflict or interfere with the proper performance of the duties of a member of the Board.

(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 and sentenced to imprisonment for a term exceeding six months without the option of a fine;

- (c) at the time of appointment holds a political office;
- (d) has previously been removed from a public office on account of misconduct or any other lawful reasons; or
- (e) in the last twelve months immediately preceding the appointment, had personal direct or indirect commercial interest in the sector regulated under this Act.

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

Vacancy in the Board.

- (a) dies;
- (b) resigns from office by notice in writing, in case of the Chairperson, to the President and, in case of a member, to the Cabinet Secretary;
- (c) is convicted of an offence and 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 functions of the office of a member or otherwise;
- (c) physical or mental incapacity to perform the functions of the office of a member;
- (d) incompetence; or
- (e) bankruptcy.

(3) The Cabinet Secretary shall ensure that any vacancy in the Board is filled as soon as practicable in accordance with the provisions of the Act.

10. The Authority shall—

Functions of the Authority.

- (a) develop standards and norms for betting, lotteries, casinos and other forms of gambling;

- (b) regulate and control gambling activities;
- (c) issue licences for gambling activities prescribed under this Act;
- (d) develop policies for placing of bet for betting, lotteries and gambling that include a savings component for social health insurance or social retirement benefit;
- (e) monitor the implementation of gambling policies at the national and county level;
- (f) establish and maintain a register of all gambling machines and devices, and other relevant data on licensed gambling activities;
- (g) conduct security checks, vetting and due diligence in respect of gambling activities, licensees, their shareholders, directors and staff;
- (h) establish an electronic central real time gambling monitoring system to monitor compliance with regulatory requirements;
- (i) monitor socio-economic patterns of gambling activities at the national and county level including to undertake research and identify factors relating to, and patterns, causes and consequences of—
 - (i) the socio-economic impact of gambling;
 - (ii) addictive or compulsive gambling; and
 - (iii) any other matter that is relevant to the gambling sector;
- (j) coordinate research and surveys relating to the gambling industry;
- (k) monitor and alleviate illegal cross border gambling activities in collaboration with county governments;
- (l) advise county governments on matters relating to the regulation of gambling activities;
- (m) receive and make determination on complaints from companies and the public on matters pertaining to games of chance; and
- (n) establish programmes to improve the capacity of

county governments on matters relating to the regulation of gambling activities; and

- (o) perform any other functions conferred by this Act or any other written law.

11. (1) The Cabinet Secretary shall, in consultation with the Authority, prescribe guidelines of practice on the manner in which facilities for gambling are operated, whether by the holder of a licence under this Act or by any other person.

Gambling
operation
Guidelines.

(2) A guideline issued under subsection (1) shall describe arrangements that should be made by a person providing facilities for gambling for the purposes of—

- (a) ensuring that gambling is conducted in a fair and open way;
- (b) protecting children and other vulnerable persons from being harmed or exploited by gambling;
- (c) making assistance available to persons who are or may be affected by problems related to gambling;
- (d) protecting of vulnerable gamblers;
- (e) information and data protection in accordance with the Data Protection Act;
- (f) online payment protection;
- (g) creation of secure online gambling environment;
- (h) ethical and responsible marketing;
- (i) safety measures against criminal activities, anti-money laundering and terrorism; and
- (j) public awareness and education campaigns.

(3) The Cabinet Secretary may, in consultation with the Authority, review the guidelines issued under this section.

(4) Before issuing or revising the guidelines under this section, the Cabinet Secretary and the Authority shall

consult—

- (a) any person who represents licensing authorities;
- (b) the body responsible for the protection of the best interests of the child, as established in the Children Act;
- (c) any person who represents the Inspector General of Police;
- (d) any person who represents the interests of punters; and
- (e) the members of public in such manner as the Authority considers appropriate.

No. 29 of 2022.

12. (1) The Board shall have all powers necessary for the proper performance of its functions under this Act.

Powers of the Board.

(2) Without prejudice to the generality of subsection (1), the Board shall have power to—

- (a) control, supervise and administer the assets of the Authority in such manner as best promotes the purpose for which the Authority is established;
- (b) receive any grants, gifts, donations or endowments made to the Authority and make disbursements therefrom in accordance with the provisions of this Act;
- (c) conduct such investigations as may be necessary for the enforcement of this Act;
- (d) approve the opening, operation and closing of the bank accounts of the Authority with the approval of the National Treasury;
- (e) conduct such investigations as may be necessary for the implementation of the Act;
- (f) inquire into any complaint against a licensee; and
- (g) undertake any activity necessary for the fulfilment of any of the functions of the Board.

13. (1) The procedure for the conduct of the business and affairs of the Board shall be as provided in the First Schedule.

Conduct of business and affairs of the Board.

(2) Subject to the First Schedule, the Board shall

regulate its own procedure.

14. The Board may establish such committees as it may consider necessary to assist it in the performance of its functions and the exercise of any of its powers.

Committees of the Board.

15. The members of the Board shall be paid such allowances and disbursements, for expenses, as may be determined by the Cabinet Secretary on the advice of the Salaries and Remuneration Commission.

Remuneration of the Board.

16. (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, on the advice of the Salaries and Remuneration Commission, determine.

Director-General.

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

- (a) is a citizen of Kenya;
- (b) holds a degree from a university recognized in Kenya;
- (c) has at least ten years' experience in senior management in a public or a private institution; and
- (d) satisfies the requirements of Chapter Six of the Constitution.

(3) The Director-General shall be—

- (a) the Chief Executive Officer of the Authority;
- (b) the custodian of all the records of the Authority;
- (c) responsible for—
 - (i) the day-to-day management of the affairs and staff of the Authority;
 - (ii) facilitating, coordinating and ensuring execution of the mandate of the Authority;
 - (iii) the management and maintenance of efficiency of the staff of the Authority;
 - (iv) the execution of decisions of the Board;
 - (v) preparing and submitting for approval, by the Board, programmes of work for the

achievement of the mandate of the Authority; and

(vi) the performance of such other duties as may be assigned by the Board or any written law.

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

17. (1) The Director-General may be removed from office by the Board in accordance with the terms and conditions of service for—

Removal of the Director-General.

(a) gross misconduct or misbehavior;

(b) bankruptcy;

(c) incompetence or neglect of duty;

(d) violation of the Constitution or any other written law; or

(e) inability to perform the functions of office by reason of physical or mental incapacity.

(2) Before the Director General is removed under subsection (1), the Director-General shall be given—

(a) sufficient notice of the allegations made against him or her; and

(b) an opportunity to present his or her defence against the allegations.

18. (1) The Authority shall competitively recruit a person qualified, in terms of the law governing the practice of public secretaries in Kenya, to serve as the Secretary to the Board.

Corporation Secretary.

(2) The Secretary to the Board shall—

(a) provide guidance to the Board on the Board's duties, responsibilities and powers;

(b) ensure that Board follows its procedures and complies with the respective laws and

regulations;

- (c) prepare the Board's work plans and assist the Chairperson to organise the activities of the Board including meetings, agendas of meetings, issuing notices to other members of the Board, circulating Board papers before meetings, keeping a record of attendance at meetings;
- (d) take and keep the minutes of the meetings of the Board, and circulating the minutes to the members of the Board;
- (e) keep a record of the usage of the seal of the Authority;
- (f) keep a record of the appointment letters, notices of appointment and the written acceptance of appointment by members of the Board;
- (g) keep a record of conflicts of interest declared by each member of the Board; and
- (h) perform such other duties as the Board may direct.

19. The Authority may appoint such number of professional, technical and administrative staff for the Authority as it may consider necessary for the discharge of its functions, on such terms and conditions as the Board may determine, on the advice of the Salaries and Remuneration Commission.

Staff of the Authority.

20. 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.

21. (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 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.

(3) 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 authorization by the Board under this section shall be presumed to have been duly given.

22. 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) the moneys paid by the operator of the National Lottery under section 43(1)(c) of the National Lottery Act, 2023;
- (c) 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;
- (d) such license fees, charges and penalties as may be prescribed and approved by the Cabinet Secretary in consultation with the Cabinet Secretary responsible for National Treasury;
- (e) interest from the investment of money standing to the credit of the Authority; and
- (f) all monies from any other source provided for, donated or lent to the Authority.

23. The financial year of the Authority shall be the period of twelve months ending on the thirtieth June in every year.

Financial year.

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

Annual estimates.

(2) The annual estimates shall make provisions for all estimated expenditure of the Board for the financial year concerned, and in particular shall provide for the—

- (a) payment of salaries, allowances and other charges in

- respect of the staff of the Board;
- (b) payment of pensions, gratuities and other charges in respect of former staff of the Board;
- (c) proper maintenance of the buildings and grounds of the Board;
- (d) maintenance, repair and replacement of the equipment and other property of the Board;
- (e) payment of allowances of the members of the Board and the members of the Board; and
- (f) creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance, replacement of buildings or equipment, or in respect of such other matters as the Board may deem fit.

25.(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.

Accounts and audit.

(2) The accounts of the Authority shall be prepared and audited in accordance with the Public Finance Management Act, 2012 and Public Audit Act, 2015.

No. 18 of 2012.
No. 34 of 2015.

26.(1) The Authority shall prepare quarterly and annual financial and non-financial reports in a format prescribed by the Public Sector Accounting Standards Board and submit the same to the National Treasury with copies to the Controller of Budget and the Commission on Revenue Allocation.

Reports of the Authority.

(2) The Authority shall continuously and on a regular basis monitor and report on its performance and on the performance of all of its licensees on a quarterly basis, with a summary of performance reported through Authority's annual report on the basis of a clear outcome-based performance framework developed by the National Government.

27. No matter, thing or act done by a member of the Board, an 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 of member of the Board,

Protection from personal liability.

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.

PART IV—LICENCES AND PERMITS

28. (1) A person shall not offer any gambling activity or service unless the activity or service is licensed under this Act.

Licensed
gambling
activities.

(2) The Authority shall issue gambling licences under this Act with respect to—

- (a) a public gambling for conducting a table game and operating a slot machine;
- (b) the national lottery;
- (c) a bookmaking;
- (d) licensing of on-the course and off-the course totalisators;
- (e) a prize competition;
- (f) a bingo;
- (g) a pool betting scheme;
- (h) public lotteries as under section 50(2);
- (i) an online gambling;
- (j) gambling equipment and device manufacture or assembling;
- (k) gambling equipment and device sale or distribution;
- (l) gambling equipment testing;
- (m) provision of any gambling software or platform;
- (n) gambling equipment repair and servicing;
- (o) key gambling employees;
- (p) accreditation licence for a person engaged in non-gambling activity within a gambling premise; and
- (q) all media promotions with prizes and prize

competitions cutting across several counties;

- (r) any other form of gambling as may be prescribed in regulations.

(3) The Cabinet Secretary shall in consultation with the Authority, make regulations for the classification of licenses issued under this Act.

(4) In this section, “gambling employee” means a person who is employed or authorized, to make a decision that regulates the operations of a casino, bookmaker, lottery, racecourse or any other form of gambling.

29. A person shall not be licensed to offer any gambling or betting activity under this Act unless that person—

Requirements for licensing.

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

30. (1) An application for a licence shall be made in the prescribed form and, be accompanied by—

Application for a licence.

- (a) the application fee prescribed by the Cabinet Secretary in regulations;
- (b) sufficient evidence to show that the applicant is in possession of, or commands the prescribed gambling capital;
- (c) security by way of such insurance bond or bank guarantee as security as may be 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 Second Schedule;
- (f) such other information as it may consider necessary to enable the Authority to determine the application; and

- (g) a declaration of the good causes the applicant intends to undertake and the proposed budget devoted to the good causes.

(2) The Authority shall vet all applications for a licence under this Act.

(3) The Authority shall, in determining whether an applicant is suitable to hold a licence or permit under this Act, consider, in relation to the body corporate and its directors, as applicable—

- (a) the financial status or solvency of the person;
- (b) the educational or other qualifications or experience of the applicant having regard to the nature of the functions which, if the application is granted, the person shall perform;
- (c) the status of any other licence or approval granted to the applicant by any financial sector regulator;

(4) Without prejudice to the generality of subsection (1), the Authority may, in considering whether an applicant is fit and proper—

- (a) take into account whether the applicant or the directors of the body corporate—
 - (i) has contravened any law in Kenya or elsewhere designed for the protection of members of the public against financial loss due to dishonesty, incompetence or malpractice by persons engaged in transacting with marketable securities;
 - (ii) was a director of a licensed person who has been liquidated or is under liquidation or statutory management;
 - (iii) has taken part in any business practice which, is proven to be fraudulent, prejudicial to the market or public interest, or was otherwise improper, which would otherwise discredit the applicant's methods of conducting business;
 - (iv) has taken part or has been associated with any business practice which casts doubt on the competence or soundness of judgment of

that applicant; or

- (v) has acted in such a manner as to cast doubt on the applicant's competence and soundness of judgment;
- (b) take into account any information in the possession of the Authority, whether provided by the applicant or not, relating to—
 - (i) any person who is to be employed by, associated with, or who shall be acting for or on behalf of, the applicant for the purposes of a regulated activity, including an agent; and
 - (ii) where the applicant is a company in a group of companies, any other company in the same group of companies, or any substantial shareholder or key personnel of the company or any company referred to under this subparagraph;
- (c) take into account whether the applicant has established effective internal control procedures and risk management systems to ensure its compliance with all applicable regulatory requirements; and
- (d) have regard to the state of affairs of any other business which the applicant carries on or purports to carry on.

(5) The Authority shall give the applicant an opportunity to be heard before determining whether the applicant is fit and proper for the purposes of this Act.

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

(7) For the purposes of this section, “group of companies” means any two or more companies, one of which is the holding company of the others.

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

(9) The Authority shall within fourteen days of issuance of a license under this section, transmit a copy of the licence to the relevant county government.

31. (1) The Authority 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 Authority together with the prescribed fee;
- (b) be lodged with the Authority at least three months prior to the expiry of the licence; and
- (c) be considered in accordance with the provisions of section 30.

(3) A gambling licence issued under this section shall be valid for a period of twelve months from the date of issue or for such other period as may be prescribed in regulations.

32. (1) The Authority 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;
- (b) the application does not meet any of the requirements for the issuance or renewal of a licence; or
- (c) the application is not in conformity with the obtaining policy regarding use of any software system as prescribed by the Cabinet Secretary in consultation with the Authority and the Communications Authority of Kenya.

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

(3) A person aggrieved by the decision of the Authority under this section may, within twenty-one days from the day of notification under subsection (2) lodge an

appeal before the Committee.

33. (1) The Authority may revoke a licence issued under this Act—

Revocation of a licence.

- (a) where the holder 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 gambling business is wound up or dissolved; or
- (d) if the licensee is in breach of any condition prescribed in the Act and which is required for the issuance of a licence.

(2) Where the Authority intends to revoke a licence under subsection (1), the Authority shall serve the licensee with the notice of the intended revocation specifying the grounds for such revocation and require the licensee to, within fourteen days of service of the notice, give reasons why the licence should not be revoked.

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

(5) If reasons are furnished by the licensee, the Authority, as the case may be, shall after considering such reasons—

- (a) decide whether or not to revoke the licence; or
- (b) call upon the licensee to appear before it on a specified date to make oral representations in support of any written representations made by the licensee or to answer any questions which the Authority, as the case may be, regarding such written representations, thereafter the Authority shall determine whether or not to revoke the licence.

(6) The revocation of a licence shall not prejudice any liability or obligation incurred under or in relation to the licence prior to its revocation.

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

(8) A licensee whose licence has been revoked shall surrender the licence to the Authority and shall not be eligible to hold a licence under this Act for a period not exceeding five years with effect from the effective date of the revocation.

(9) A person aggrieved by the decision of the Authority under this section may appeal to the Committee within twenty-one days with effect from the date upon which such decision was conveyed to a licensee.

34. (1) The Authority may suspend a licence issued under this Act if the holder of the licence contravenes the provisions of the Act upon giving notice and giving the licensee an opportunity to be heard.

Suspension of licence.

(2) The procedure under section 33 shall apply with the necessary modifications when the Authority is considering the suspension of a licence.

(3) Where the Authority suspends a licence under subsection (1), it shall forthwith inform the public through a notice in the *Gazette*, and two newspapers of nationwide circulation or any media of national coverage.

(4) Where a licence ceases to be valid under subsection (1), the Authority shall inform the licensee in writing the date upon which the licence was suspended.

(5) The suspension of a licence shall not prejudice any liability or obligation incurred under or in relation to the licence prior to its suspension.

35. The duration of every licence issued under this Act shall vary for each gambling and betting activity subject to the provisions of section 31(3).

Duration of a licence.

36. (1) A licensee shall display the licence issued under this Act at a place that is visible to the public during the period of validity of the licence.

Display of a licence.

(2) Where the licence allows for the establishment of a branch, a copy of the licence shall be displayed at the branch at a place that is prominently visible to the public during the period of validity of the licence.

(3) A holder of an online gambling license shall display the license issued under this Act in their online platform.

37. (1) The Authority may from time to time and on its own motion or upon receipt of information from any person, investigate the conduct of a licensee under this Act.

Investigation by the Authority.

(2) The Authority 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 other action as may be appropriate where the licensee fails or refuses to comply with directions issued by the Authority.

38. The Authority may issue a duplicate licence to a licensee whose licence is lost, destroyed or mutilated upon application for a duplicate in the prescribed form and payment of the prescribed fees to the Authority.

Duplicate licence.

39. (1) The Authority shall keep and maintain a register of licences in such form as it may determine and shall record in the register in respect of every licence—

Register of licences.

- (a) the name, identity and registration number of a licensee;
- (b) particulars of the gambling activity to which a licence relates;
- (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 Authority may consider necessary.

(2) The register maintained by the Authority shall be open to the public at reasonable times and upon payment of the prescribed fee.

40. (1) The Authority shall require a licensee to

Security for

deposit an insurance security bond or bank guarantee equivalent to cover the amounts provided in the Third Schedule. gambling activity.

(2) The insurance security bond or bank guarantee deposited under this section may be used by the Authority to defray a licensee's liability, which may arise from the licensed activity.

(3) The Authority shall prescribe applicable insurance security bond or bank guarantee for a gambling activity prescribed under section 28(2)(r).

(4) The Cabinet Secretary may by notice in the *Gazette* revise the Third Schedule.

41. (1) Each licensee shall provide proof of adequate gambling capital to set up the licensed operations. Gambling capital.

(2) The Authority shall, in consultation with the Cabinet Secretary, determine and publish by notice in the *Gazette* the amount of capital for each gambling activity regulated under this Act.

42. (1) The Authority shall prescribe books of accounts to be kept by a licensee. Books to be kept by a licensee.

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

43. (1) A licensee shall submit to the Authority audited statement of accounts within three months after the end of a financial year. Submission of accounts by a licensee.

(2) The accounts of a licensee submitted under this section shall be audited by an auditor approved by the Authority.

44. A licensee shall ensure that their gambling machines— Control of gambling machines.

- (a) are located in premises in which the respective county government has issued a permit;
- (b) are sourced from a certified source with international certification standards;
- (c) have an import certificate issued by the Authority indicating the model and the functions of the machine; and

- (d) undergo standards verification after every three months.

45. (1) A holder of a gambling licence issued by the Authority under section 28 shall apply for a trade permit from the respective county government for a premise within which the person intends to carry out the licensed gambling activity.

Application for a permit.

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

- (a) the fee prescribed by the respective county government;
- (b) a licence issued by the Authority; and
- (c) such other information as the county government may consider necessary for the determination of the application.

(3) A county government shall grant a permit upon determining the suitability of the intended premises for which the application is made and considering the requirements set out in subsection (2).

(4) A permit issued under this Act shall not be transferable.

46. 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 Authority and respective county government.

Endorsement of permit.

47. (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 Authority has revoked a licence of a permit holder.

(2) Where a county government intends to revoke a permit under subsection (1), the county government shall

serve the permit holder with the notice of the intended revocation specifying the grounds for such revocation and require the person to, within fourteen days of service of the notice furnish reasons why the permit should not be revoked.

(3) Where the person fails to give reasons within the period specified, the permit shall cease to be valid.

(4) If the person furnishes reasons, the county government, shall after considering such reasons—

- (a) decide whether or not to revoke the permit; or
- (b) call upon the permit holder to appear before it on a specified date to make oral representations in support of any written representations made by the permit holder or to answer any questions which the county government may have, regarding the written representations, and thereafter the county government shall determine whether or not to revoke the permit.

(5) The revocation of a permit shall not prejudice any liability or obligation incurred under or in relation to the permit prior to its revocation.

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

(7) 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.

(8) The revocation of a permit shall take effect after twenty-one days upon expiry of a notice issued under this section (7).

(9) The holder of a permit that 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 not exceeding five years with effect from the effective date of the revocation.

(10) A person aggrieved by the decision of the county government under this section may appeal to the

Committee within twenty-one days from the date of receipt of the decision.

48. 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 has been prescribed under this Act.

Duration of a permit.

49. A holder of a permit issued under this Act shall, during the period of its validity display the permit within the business or premise at a place that is prominently visible to the public.

Display of a permit.

PART V—CONTROL AND LICENSING OF LOTTERIES

50. (1) The Authority shall issue a licence authorizing the promotion and conduct of a public lottery intended to raise funds for charitable purposes which may include charitable activities for—

Authorization of a public lottery for charitable purpose.

- (a) social service;
- (b) public welfare;
- (c) relief of distress;
- (d) recreational purposes;
- (e) sporting purposes;
- (f) any other purpose that may be assigned to it by the Authority.

(2) The authorization by the Authority under subsection (1) shall be for public lotteries where the promotion and lottery activities are undertaken countrywide, across more than one county or through media.

(3) The county governments may licence the promotion and conduct of a public lottery intended to raise funds for the charitable activities set out in subsection (1), where the promotion and the lottery activities are confined within the respective counties.

(4) The license issued under sub-section (3) shall be for a period not exceeding one year.

(5) The Cabinet Secretary shall in consultation with the Authority, set the percentage of the gross revenue of a

public lottery that shall be devoted to the object for which the lottery was promoted.

(6) Despite section 30(1)(g), the percentage set by the Cabinet Secretary under subsection (5), shall not be less than thirty per cent of the gross revenue of the public lottery, but in no case shall the Authority require a proportion greater than forty-five per cent of the gross proceeds.

(7) The Authority shall grant a licence for the promotion of a lottery under this section only to a body corporate.

(8) 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 twenty years, or to both.

51. (1) The Authority or county government shall, in respect of any public lottery, impose the conditions prescribed in the Act or in regulations to ensure that a lottery is promoted and conducted efficiently for the purpose for which it is being promoted.

Conduct of a
public lottery.

(2) In conducting a public lottery under this Act, a promoter—

- (a) may deduct operating expenses not exceeding twenty per cent of gross proceeds of the lottery;
- (b) shall provide insurance bond or bank guarantee for the conduct of the lottery;
- (c) shall ensure proper and equitable distribution of the charitable funds of the lottery;
- (d) shall take reasonable measures to ensure that a purchaser of a ticket or a chance in a lottery is protected against fraud; and
- (e) shall take such steps as it may deem necessary to ensure that any conditions imposed by the Authority are complied with.

(3) In this section, the term “gross proceeds” means

the total proceeds received from a lottery prior to any deductions.

52. (1) A county government 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 Authority 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.

53. (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 Authority may, upon the issuance 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 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 of at least 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 to be the same on all the tickets;
- (i) 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;
- (j) prohibiting the delivery of a ticket through post to a person who is not a member of the society;
- (k) prohibiting the admittance of a person to participate in a lottery except upon payment to the promoter of the whole price of the ticket or chance; and
- (l) requiring payment for expenses or prizes out of proceeds of the lottery.

(3) A person, including a promoter of a lottery who contravenes any of the conditions set out in subsection (2) 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.

54. (1) The Authority may issue a licence for a lottery promoted and conducted as an incident of entertainment countrywide, across more than one county or through the media.

Lottery incidental
to entertainment.

(2) A county government may issue a licence for a lottery promoted and conducted as an incident of

entertainment confined within the respective county.

(3) The Authority or a county government may, upon the issuance of a licence under this section, impose such conditions on the manner in which a person issued with a licence may conduct the lottery, including—

- (a) requiring that the ticket or chance is 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 gambling 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) directing that the price of a ticket or chance shall be displayed 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.

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

(5) A person who contravenes any of the conditions set out in subsection (3) commits an offence and, shall upon conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

55. (1) The Authority 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 Authority 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 gamble against fraud;
- (e) measures to ensure responsible gambling; and
- (f) payment of admission fees for persons gambling 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.

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56. (1) The Authority may issue a licence for a private lottery.

Private Lottery.

(2) The Authority 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 or part thereof 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 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 anything of

value received by a promoter; or

- (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 million shillings or to imprisonment for a term not exceeding one year, or to both.

57. A promoter and a beneficiary of a lottery promoted or conducted under this Act shall be required to submit audited accounts and make returns in such form and within such period as the Authority or respective county government may specify.

Submission of audited accounts and returns in respect to a lottery.

PART VI—CONTROL AND LICENSING OF BETTING

58. The Authority 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 any 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.

59. (1) The Authority may issue any of the following licences for each totalisator—

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 manner as may be prescribed by the Authority to ensure that as far as is practicable, the record is in an uninterrupted view of the public.

(4) In this section, "race day" means an approved day in which a race meeting is held.

60. (1) The Cabinet Secretary may, in consultation with the Authority, make rules for the operation of totalisators.

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 Authority.

(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 per cent of the total amount pooled or such other amount, as may be approved by the Authority, 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 subsections (4)(a) and (b) shall not apply to an employee engaged in the lawful operation of a totalisator in a manner approved by the Authority.

(6) A person who contravenes the provisions of this section 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.

61. (1) The Authority 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 at a time.

62. (1) A promoter of a race meeting who intends to permit a bookmaker to carry out bookmaking at a race meeting shall upon payment of the prescribed fees, apply to the Authority for the relevant licence in the prescribed form.

Authorization of a bookmaking at a race meeting.

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

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

(4) In this section, "racecourse" means an approved ground used or intended for use for the purpose of horse racing or a related race.

63. (1) A licensee shall ensure that their betting machines—

Control of betting machines.

- (a) are sourced from a certified source with international certification standards;
- (b) have an import certificate issued by the Authority indicating the model and the functions of the machine; and

(c) undergo standards verification after every three months.

(2) The standards verification referred to in subsection (1)(c) and developed by the Authority shall be conducted by the Kenya Bureau of Standards.

(3) A person shall not operate a betting machine unless the person has been issued with a valid bookmaker's licence.

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

PART VII—CASINO, SLOT MACHINE AND OTHER FORMS OF GAMBLING

64. (1) A person may be granted a licence to operate a casino and other forms of gambling upon meeting the requirements set out in section 29.

Casinos and other forms of gambling.

(2) The Cabinet Secretary may in consultation with the Authority and the Council of Governors, make regulations prescribing the number of casinos, amusement machines, slot machines and other forms of gambling that may be operated within the counties.

(3) The Cabinet Secretary shall consider the following in making the regulations under subsection (2)—

- (a) the number and geographic distribution of existing licensed casinos, slot machines and other forms of gambling at the time;
- (b) the presence of tourists in a county;
- (c) the cultural and religious distribution of the residents of each county;
- (d) the incidence and social consequences of compulsive and addictive gambling;
- (e) the promotion of —
 - (i) job creation within the gambling industry;
 - (ii) diversity of ownership within the gambling industry;
 - (iii) efficiency of operation in the gambling industry; and

(iv) competition within the gambling industry.

(4) The Cabinet Secretary shall, in consultation with the Authority, make regulations prescribing the places where gambling machines shall be placed including the distance to—

- (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 twenty shillings.

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

Powers of the Authority 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 Authority; and
- (f) take such steps as may be reasonably necessary to protect all gambling players.

66. The Authority shall ensure that its officers are present in all casinos for purposes of ensuring compliance with the Act and the conditions imposed by the Authority under the relevant licence.

Officers of the Authority to be present.

PART VIII — ONLINE GAMBLING

67. (1) A person who desires to operate, sell or promote online gambling in Kenya, shall apply, in the prescribed form, for a licence from the Authority for the following—

Licensing of
online gambling.

- (a) an online bookmakers licence;
- (b) an online lottery licence; or
- (c) an online casino licence.

(2) A person making an application for an online gambling licence under subsection (1) shall submit to the Authority a proposed gambling control system, which shall be duly considered by the Authority with or without variation.

(3) In granting a licence under this section, the Authority shall require an applicant to deposit with the Authority such security as prescribed under the Act.

68. (1) A person licensed to carry out an online gambling activity shall conduct the activity under a gambling control system approved by the Authority.

Control of online
gambling.

(2) The Authority shall not approve a system under subsection (1) unless the licensee provides for—

- (a) online security of information;
- (b) safety and security against criminal activities;
- (c) online payment system;
- (d) protection measures against under age gambling;
- (e) protection measures against vulnerability in gambling;
- (f) awareness and education;
- (g) responsible advertising; and
- (h) data protection measures under the Data Protection Act, 2019.

No. 24 of 2019.

(3) The Authority shall impose the requirement of an approved gambling control system as a condition of the licence granted under subsection (1) which the licensee shall be required to comply with.

(4) The failure by the licensee to comply with the requirements of the approved gambling control system shall lead to revocation of the licence and offence.

(5) The Authority shall establish a framework to facilitate real time monitoring of casinos and online gambling activities, which shall be accessible for monitoring by the Communications Authority of Kenya and any other relevant government agency.

(6) In order to facilitate the real time monitoring of gambling, an operator shall be required to provide the Authority with—

- (a) the platforms for participation which may, where applicable, include—
 - (i) all visual and audio communication channels; or
 - (ii) an online website platform;
- (b) particulars of the charges to be levied by an operator;
- (c) particulars and the location of servers of the operator's system to show how a player may be registered and deregistered on the system;
- (d) particulars and the location of all other servers;
- (e) a valid telecommunication licence; and
- (f) any other information required by the Authority.

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

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

69. An online gambling transaction shall commence when a player's account is debited with an amount of a bet and shall conclude 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 gambling
transaction.

70. (1) Where a player in an online gambling 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 Kenya where the prize may be collected.

(3) If a non-monetary prize is not collected within a period of six 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 Authority.

(4) The proceeds of sale under subsection (3) may be used to pay for the cost of disposal of the prize, and any remainder be deposited in the Fund.

(5) Any claim against a licensee for uncollected prize shall lapse after six months from the date of declaration of the winnings.

(6) An operator shall require proof of age of majority prior to the remittance of the prize to the registered player.

71. (1) A player in an online gambling activity shall not bet an amount of less than twenty shillings in a competition.

Minimum amount a person can bet online.

(2) The minimum amount set under subsection (1) shall be inclusive of such saving component for the player as shall be determined by the Authority in consultation with the Cabinet Secretary.

(3) An operator who permits a person to engage in an online gambling activity for an amount less than the amount 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 five years, or to both.

72. (1) A licensee shall not allow any person to participate as a player in an authorized game conducted by

Registration of a player.

a licensee unless the person is registered as a player and holds an account with the licensee.

(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) An operator shall require proof of age of majority prior to the registration of every player.

(4) The Authority may make regulations for the prevention of the registration of a child from an online game, lottery or bet.

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

(6) A licensee shall avail the following to a player—

- (a) all the rules relating to authorized games conducted by a licensee; and
- (b) the particulars of any processing fee which may be incurred by the player.

(7) A licensee shall not induce, facilitate or aid a player to place a wager or a bet by advancing credits, the use of credit cards or meeting third party costs incurred by a player:

Provided that this provision shall not apply to free bets and bonus bets conducted in the ordinary course of business.

73. (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 subsection (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) A licensee may receive funds from a player through—
 - (a) a debit card;
 - (b) an electronic funds transfer;
 - (c) mobile money transfer;
 - (d) cash deposits; or
 - (e) any other method as may be approved by the Authority from time to time.

74. (1) A licensee shall not—

- (a) provide credit to a player or on a player's account or act as an agent for a credit provider to facilitate the provision of credit to a player;
- (b) make an offer designed to induce persons to participate or increase their participation in licensed activities;
- (c) participate in arrangements for inducing persons to gamble.

Restriction on credit and inducements.

(2) A person who breaches the provisions of subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five million shillings or imprisonment for a term not exceeding five years.

(3) Nothing in this section shall be construed as limiting an operator from offering free bets and bonus bets in the ordinary course of business.

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

- (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

Restriction on dealing with a player's money.

funds withdrawn.

76. (1) A licensee shall deposit all the player's money in a bank account or mobile money or, upon a player's request, make a cash payment to the player: Player's account.

Provided that a licensee shall maintain a register of all monies paid out to a punter.

(2) Any money in a player's account, including money in transit or in the process of being cleared 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 licensee holding a player's bank account shall—

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

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

(2) Where the whereabouts of a player remain unknown for a period of five years, the monies standing to the credit of the player's account shall be presumed abandoned and the licensee shall remit such monies to the Unclaimed Financial Assets Authority.

(3) A licensee shall maintain a register of all monies remitted under subsection (2).

78. 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 for the financial year;
- (d) the good causes they implemented as part of the license conditions.

79. (1) A gambling operator based in a foreign country shall only be issued with an online gambling licence where the operator—

Restriction on foreign operators.

- (a) is registered in Kenya;
- (b) has a physical address registered in Kenya;
- (c) intends to carry on the online gambling business in Kenya; and
- (d) meets the requirements prescribed by the Authority in regulations.

(2) In addition to the requirements under subsection (1), a gambling operator based in a foreign country shall be required to provide its audited books of accounts for the immediately preceding year.

(3) A foreign based gambling operator who provides online gambling services in Kenya without a licence commits an offence and shall, upon conviction—

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

80. A party to a dispute arising out of an online

Dispute resolution.

gambling activity, may appeal to the Tribunal for resolution of the dispute within fourteen days from the date of the dispute.

PART IX—AMUSEMENTS WITH PRIZES, PRIZE COMPETITIONS, CHAIN LETTERS AND GAMBLING MACHINES

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

Provision of amusements 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 million shillings or to imprisonment for a term not exceeding one year or to both.

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

Provision of amusements 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 government 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 gamble 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 breaches the conditions specified in this section commits an offence and shall upon conviction be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

83. (1) A county government may issue an amusement

Amusement
machines.

machine licence authorizing the use of an amusement machine in a licensed premise.

- (2) A person commits an offence if the person—
 - (a) uses or permits the use of an amusement machine in respect of which a licence has not been issued under subsection (1); or
 - (b) contravenes or allows the contravention of any condition provided for or imposed by the county government.

(3) A person who commits an offence under subsection (2) shall be liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

(4) In this section, “amusement machine” means a machine, other than a gambling machine—

- (a) which is operated by the insertion of a coin or coins or other equivalent into the machine;
- (b) whereby a successful player neither receives nor is offered any benefit other than—
 - (i) opportunity afforded by the automatic action of the machine to play the game again without insertion of a coin; or
 - (ii) the delivery by the machine of a coin or coins of a value not exceeding that required in order to play the game once.

84. (1) The Authority may, issue a licence authorizing the promotion and conduct of prize competitions cutting across several counties.

Authorization of prize competitions.

(2) A county government may issue a licence authorizing the promotion and conduct of prize competitions confined to a county.

(3) A person who promotes or advertises any prize licence issued under this section shall be subject to such conditions as shall be prescribed in regulations by the Authority and county governments, and in every case, to the condition that no person under the age of eighteen years shall play an amusement machine unless in the presence of,

and with the permission of the parent or guardian.

85. (1) A person shall not, without a license issued by the Authority, conduct a media promotion with prizes.

Authorization of media promotions with prizes.

(2) A person who undertakes media promotion in either electronic or print media with prizes licensed under this section shall be subject to the conditions prescribed by the Authority in regulations.

(3) The conditions referred to in subsection (2) shall include—

- (a) eligibility of participants;
- (b) costs of participation;
- (c) dates of the promotion;
- (d) prizes to be won;
- (e) verification of winnings by the Authority;
- (f) process of claiming prizes won; and
- (g) publication of prize awards.

86. 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 one million shillings or to imprisonment for a term not exceeding one year, or to both.

Chain letters.

PART X — ADVERTISEMENT OF GAMBLING ACTIVITIES

87. (1) A person shall not, without the approval of the Authority, promote the advertisement of a gambling activity on electronic medium or any other form of communication by—

Advertisement of gambling.

- (a) holding himself out by advertisement, promotion, notice or public placard with the aim of enticing

members of the public to participate in gambling;

- (b) displaying any written or printed placard or notice relating to any form of game of chance in any shape or form so as to be visible in a public street or place;
- (c) printing or publishing, or causing to be printed or published, any advertisement or notice;
- (d) using a prominent personality or celebrity, public vehicle or lifestyle advertising to promote gambling;
- (e) advertising gambling by organizing, promoting or sponsoring a sporting event, trade fairs, exhibitions, shows, cultural, artistic, recreational, educational or entertainment programmes or any other event.

(2) A gambling advertisement shall—

- (a) indicate the addictive nature of gambling;
- (b) notify players to play responsibly;
- (c) prohibit children from playing;
- (d) not use false, misleading or deceptive message likely to create an erroneous positive impression of gambling;
- (e) not be featured or broadcasted on television or radio between six o'clock in the morning and ten o'clock in the evening unless during a live sporting event;
- (f) not be erected on an advertisement billboard of close proximity to a learning institution; and
- (g) dedicate twenty per cent of aired advertisement towards promotion of responsible gambling.

(3) The Cabinet Secretary may, in consultation with the Authority, make regulations providing for—

- (a) the circumstances under which the national lottery and licensed gambling activities may be advertised;
- (b) information that is to appear in an advertisement;
- (c) the places where, circumstances or manner in

which signs relating to a national lottery or gambling activity may be displayed;

- (d) conditions requiring advertisements about the gambling service authorised by the licence including—
 - (i) publication only to certain classes of persons;
 - (ii) the content which may require specified words to be included in the advertisement;
 - (iii) content not to be included in an advertisement;
 - (iv) content not to be published in certain types of publications or media; and
 - (v) requirement for the content of the advertisement to be approved by the Authority.

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

PART XI — THE GAMBLING APPEALS TRIBUNAL

88. (1) There is established a body to be known as the Gambling Appeals Tribunal.

The Gambling
Appeals Tribunal.

(2) The Tribunal shall consist of—

- (a) a Chairperson appointed by the President from among persons qualified to be judges of the High Court;
- (b) two persons appointed by the Judicial Service Commission who shall be advocates of the High Court; and
- (c) four persons appointed by the Cabinet Secretary from among persons who possess knowledge and experience in matters relating to gambling, business administration, risk management or law enforcement studies.

(3) The Chairperson and members of the Tribunal shall be appointed by the Cabinet Secretary by notice in the

Gazette.

(4) A person shall be eligible for appointment as a member of the Tribunal if that person—

- (a) meets the requirements of Chapter Six of the Constitution;
- (b) has a relevant bachelors' degree from a university recognized in Kenya;
- (c) has at least ten years' experience in a relevant sector;
- (d) is not a public officer;
- (e) has not at any time within the preceding five years been an employee of the Authority or the National Lottery Board;
- (f) has not been convicted of an offence under any law and sentenced to imprisonment for a term exceeding six months without the option of a fine;
- (g) has not been adjudged bankrupt by a court of competent jurisdiction; and
- (h) has not in the last twelve months immediately preceding the appointment, had direct or indirect personal or commercial interest in the sector regulated under this Act.

(5) The Chairperson or a member of the Tribunal shall hold office—

- (a) in case of the Chairperson, for a term not exceeding three years and shall not be eligible for re-appointment; and
- (b) in case of a member, for a term not exceeding three years and shall be eligible for re-appointment for one further term of three years based on satisfactory performance.

(6) The members of the Tribunal, other than the Chairperson, shall serve on a part-time basis.

(7) The Chairperson or member of the Tribunal shall

cease to hold office if that person—

- (a) resigns from office by notice in writing addressed to—
 - (i) the President, in the case of the Chairperson;
or
 - (ii) the Cabinet Secretary, in the case of a member;
- (b) becomes a public servant or an employee of the Authority or the National Lottery Board;
- (c) is absent from three consecutive meetings of the Tribunal without the permission of the Chairperson;
- (d) is adjudged bankrupt by a court of competent jurisdiction;
- (e) is convicted of a criminal offence under any law and sentenced to imprisonment for a term exceeding six months without the option of a fine;
- (f) is unable to perform the functions of the office by reason of physical or mental infirmity; or
- (g) is otherwise unable or unfit to discharge the functions of the office.

(8) A person appointed as the Chairperson or a member of the Tribunal shall, before assuming office, take or subscribe to the oath or affirmation before the Chief Registrar of the Judiciary.

(9) The functions of the Tribunal shall be to hear and determine appeals, from the national or county governments,—

- (a) against any decision of the Authority or the National Lottery Board;

- (b) regarding complaints arising out of the outcome of a gambling transaction;
- (c) regarding complaints arising out of the functionality of gambling machines and equipment; and
- (d) regarding any other matter as may be prescribed under this Act or referred to it by the Board.

(10) Save as expressly provided by this Act, the Tribunal shall regulate its own procedure.

(11) The Judicial Service Commission shall provide secretariat services to the Tribunal and shall assign or appoint such secretary and other support staff as may be necessary for the Tribunal to effectively perform its functions.

(12) The Cabinet Secretary shall prescribe, in regulations, the procedures for the operationalization of the Tribunal.

89. The Chairperson and the members of the Tribunal shall be paid such remuneration and allowance as shall be determined by the Cabinet Secretary on the advice of the Salaries and Remuneration Commission.

Remuneration of members of the Tribunal.

90. A person aggrieved by a decision of the Tribunal may appeal to the High Court within fourteen days from the date of the decision of the Tribunal.

Appeals from decisions of the Tribunal.

91. (1) The Chairperson shall ensure the orderly and expeditious discharge of the mandate of the Tribunal.

Conduct of business and affairs of the Tribunal.

(2) Without limiting the generality of subsection (1), the Chairperson shall—

- (a) constitute a panel to hear any matter before the Tribunal;
- (b) determine the place at which a panel may sit; and
- (c) determine the procedure for the conduct of the business of the Tribunal.

(3) A panel constituted for any proceedings shall have at least three members, one of whom shall be an advocate of the High Court.

- (4) At a hearing of a matter before the panel—
- (a) if the chairperson is a member of the panel as constituted, the Chairperson shall preside; or
 - (b) in any other case, the Chairperson shall designate one of the members of the panel who being an advocate of the High Court to preside over the proceedings.

(5) Where a member of the panel ceases to be such a member, or is not available for the proceedings, the Chairperson of the Tribunal shall assign another member to the panel and the proceedings shall continue.

PART XII — OFFENCES AND PENALTIES

92. A person who, being the owner or occupier of a licensed gambling premises or electronic site who—

Offences relating to gambling premise.

- (a) allows such premise to be used for unlicensed gambling activities;
- (b) aids in the carrying out of unlicensed management of electronic gambling 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 gambling activity or site;
- (d) advances, furnishes, or receives money for the purpose of establishing or conducting unlicensed gambling activity; or
- (e) 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 one year or both.

93. A person who 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 one year, or to both.

False declaration.

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94. A person who transfers a licence without the approval of the Authority or a county government 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.

Transfer of a licence without the approval of the Authority.

95. A licensee who 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 one million shillings or to imprisonment for a term not exceeding one year, or to both.

Failure to keep proper books of accounts.

96. A licensee who refuses or fails to submit a statement of accounts when required by the Authority, the respective county government or the Collector or submits a false or misleading statement of accounts commits an offence and shall, upon conviction, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

Failure to submit accounts.

97. A person who fails to pay a levy or any fees prescribed under this Act shall be liable to pay to the Authority and County Government all outstanding amounts of levies or fees together with interest that will accrue at the rate prescribed by the Cabinet Secretary in Regulations.

Failure to pay levy or a prescribed fee.

98. A person who operates or conducts any form of gambling 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 three 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 five years or to both.

99. A person who 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

Advertisements of unauthorized lotteries.

exceeding one year or to both.

100. A person who promotes or proposes an unauthorized lottery be promoted either in Kenya or elsewhere or—

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 unauthorized 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 one year, or to both.

101. (1) A person who acts, facilitates or carries on business 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 ten million shillings or to imprisonment for a term not exceeding ten years, or to both:

Prohibition against unlicensed bookmaking.

Provided that this section shall not apply to an employee of

a licensee acting in the course of employment, at a licensed betting premise, or at an authorized race meeting.

(2) The provisions of subsection (1) shall not apply to an employee of a person licensed to operate a totalisator who is engaged in lawful operation in a manner approved by the Authority.

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

Prohibition of 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 one million shillings or to imprisonment for a term not exceeding one year, or to both.

103. (1) A person shall not—

Promotion of unauthorized pool betting.

- (a) promote a pool betting scheme within Kenya in contravention of the terms of a licence issued under this Act; or
- (b) promote, receive or negotiate bets on behalf of a promoter of an unauthorized pool betting scheme.

(2) A person who contravenes the provisions of subsection (1) 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.

104. A person who in connection with an unauthorized pool betting scheme—

Offences relating to pool betting schemes.

- (a) prints a coupon to use in such a scheme;
- (b) sells, distributes, 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, 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 one million shillings or to imprisonment for a term not exceeding one year, or to both.

105. A person who permits a 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 million shillings or to imprisonment for a term not

Unauthorized
bookmaking.

exceeding one year, or to both.

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

Unauthorized racing.

107. A person who 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 million shillings or to imprisonment for a term not exceeding one year, or to both.

Prohibition against touting.

108. A person who permits in an unlicensed 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.

109. A person who—

Prohibition against betting with a child.

- (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 to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

110. A person who while playing with an instrument of gambling 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 gamble, 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 two million shillings or to imprisonment for a term not exceeding two years, or to

Obtaining money by cheating in lawful gambling or by wagering on any event.

both.

111. In exercising discretion on the amount of penalty to be charged or imprisonment term to be imposed on an offender, the court shall consider the following factors—

Consideration by a court.

- (a) the gambling activity in issue;
- (b) the investment amount incurred in the gambling activity in issue;
- (c) the duration of the offence; and
- (d) any other aggravating factors.

PART XIII— MISCELLANEOUS PROVISIONS

112. (1) The Authority and the county government shall appoint duly qualified officers to be inspectors of the Authority and county government, respectively for such areas units as shall be specified.

Appointment of inspectors.

(2) An inspector appointed under subsection (1) shall—

- (a) monitor compliance with the provisions of this Act;
- (b) monitor the operations of all licensed gambling operations;
- (c) examine equipment and devices used in gambling and scrutinize records maintained in respect of the gambling activities;
- (d) monitor the handling and counting of money on casino premises;
- (e) receive and investigate complaints from gambling patrons, licensees or members of the public in relation to gambling;
- (f) assist in any manner where necessary in the detection of offences committed under this Act on all gambling premises;
- (g) report to the Board on the conduct of gambling operations; and
- (h) perform such other functions as may be required under this Act.

113. (1) A gambling inspector on production of an authority document, may in the performance of duties under this Act, at all reasonable times enter without warrant and inspect a gambling premise or any other gambling event in which he or she has reason believe that an offence under this Act or under any regulations made thereunder, has been committed to—

Power to enter and inspect land and premises.

- (a) examine and take copies of books, accounts and documents relating or appearing to relate to any betting transaction, lottery or gambling;
- (b) 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
- (c) require the owner or occupier of the premises to render such explanation or give such information relating to any betting transaction, lottery or gambling as may be reasonably required by him or her in the performance of his or her duties.

(2) 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), withholds information or gives information knowing or having reason to believe that the information is false or misleading commits, an offence and shall be liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or to both.

114. Where an offence under this Act is committed by a body corporate, every person charged with or concerned or acting in, the control or management of the affairs, or activities of such body corporate, commits that offence and shall be liable to be punished accordingly unless it is proved by such person that the offence was not committed through no act or omission, on his part, he was not aware that the offence was being or was intended or about to be committed, or that he took all reasonable steps to prevent its commission.

Offences by body corporate.

115. (1) A person who has recognized that their gambling is harmful to himself or herself, or giving rise to

Self-exclusion.

difficulties in limiting the money or time or both, spent on gambling, leading to adverse consequences for that person, others, or for the community, may voluntarily enter a self-exclusion agreement between himself or herself and a licensee to be excluded from all gambling establishments and all controlled games, including online gambling or any other gambling activities or privileges.

(2) A person who enters an agreement under subsection (1) shall notify the Authority of the agreement.

(3) The Authority shall maintain a register of all notifications made under subsection (2) and shall notify all licensees of the self-exclusion agreement.

(4) The holder of a licence issued under this Act shall—

- (a) establish mechanisms to give effect to self-exclusion and take all reasonable steps to refuse service to a person who enters a self-exclusion agreement from participating in gambling;
- (b) as soon as practicable, take all reasonable steps to prevent any marketing material from being availed to a self-excluded customer;
- (c) take steps to remove the name, contact information and other details of a self-excluded person from any marketing databases used by the licensee within two days of receiving the completed self-exclusion notification;
- (d) close any customer accounts of an individual who has entered a self-exclusion agreement and return any funds held in the customer account; and
- (e) put into effect procedures designed to ensure that an individual who has self-excluded shall not gain access to the licensee's gambling services.

(5) An operator who fails to implement a self-exclusion request within seven days of receipt of a written notification 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.

(6) Despite the provisions of this section, the Cabinet Secretary shall prescribe regulations providing for the manner in which an affected person may petition the Authority for the application of the self-exclusion provisions on a vulnerable gambler.

116. (1) Where a person issued with a licence under this Act is convicted of an offence under this Act, the court may order forfeiture or cancellation of licence or a forfeiture of the insurance security bond or bank guarantee provided by the licensee, where applicable.

Forfeiture of licence or security.

(2) A person whose licence is cancelled in pursuance of an order under subsection (1) shall, 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 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 where it appears to the court to be just in all the circumstances.

(3) A bookmaker, promoter of a pool betting scheme, organizer or manager of licensed gambling 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 one million shillings or to imprisonment for a term not exceeding one year, or to both.

117. The police shall, in coordination with the Authority and county governments have power to seize any illegal gambling, betting and lottery machines.

Power to seize machines.

118. The Director of Public Prosecutions may appoint a duly qualified officer of the Authority, to be a public prosecutor for the purposes of any case.

Prosecution of offences.

119. (1) The Cabinet Secretary shall, 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 generality of subsection (1), regulations made under this section may provide for—

- (a) the procedure to be followed by the Authority 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, gambling machines and online gambling;
- (d) the conduct of a national lottery;
- (e) standardization of gambling machines;
- (f) the location and distribution of lotteries and gambling;
- (g) national lottery rules;
- (h) fees and levies charged under this Act;
- (i) the form and manner in which returns or statements of accounts shall be furnished to the Authority;
- (j) proximity of gambling premises and advertisements to learning institutions;
- (k) protection of winners; and
- (l) guidelines for gambler exclusion mechanisms including self-exclusion, venue-initiated request for exclusion, court ordered exclusions and request by families or initiated parties.

(3) For 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 fulfilment of the objectives specified under this

section; and

- (c) the principles and standards applicable to the rules made under this section are those set out in the Statutory Instruments Act, 2013.

No. 29 of 2013.

120. The Betting, Lotteries and Gaming Act is repealed.

Repeal of Cap. 131.

121. (1) For the purposes of this section “former Board” means the Betting Control and Licensing Board existing immediately before the commencement of this Act.

Transitional provisions.

(2) Upon the commencement of this Act, all rights duties, obligations, assets and liabilities attaching to the former Board shall be automatically and fully transferred to the Authority established under section 6, 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 6 of this Act.

(3) A person who immediately before the commencement of this Act was a member of the former Board shall, upon the commencement of this Act, be deemed to be a member of the Board for the unexpired period of their term.

(4) A person who was, immediately before the commencement of this Act, an employee of the former Board shall, upon the commencement of this Act, be deemed to be an employee of the Authority, subject to subsection (5).

(5) Despite subsection (4), all the employees of the former Board shall upon the commencement of this Act be given an option to elect to serve in the Board or be redeployed in the public service within a period of one year.

(6) Without prejudice to section 120, the provisions of sections 29A, 44A, 55A and 59B of the repealed Act shall continue to be in force until new provisions are enacted.

122. (1) All gambling activities including casinos and online gambling whose licences were issued under the repealed Act shall remain valid for the period of the

Transition of licences and permits.

licence.

(2) A person licensed under the repealed Act shall, upon expiry of the licence issued under the repealed Act, apply to the Authority for a new licence.

123. The Proceeds of Crime and Anti-Money Laundering Act, 2009 is amended in the First Schedule by deleting paragraph (c) and substituting therefor the following new paragraph—

Consequential
amendments.
No. 9 of 2009.

“(c) Gambling Regulatory Authority;”

FIRST SCHEDULE (s. 13)
CONDUCT OF BUSINESS AND AFFAIRS OF
THE BOARD

1. (1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting. Meetings.

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

(3) A meeting shall be presided over by the chairperson or in the absence of the Chairperson, the members present shall appoint one of their members to preside at the meeting.

(4) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of the votes of the members present and voting, and in any case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

(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.

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

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

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. Conflict of interest.

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

4. Subject to the provisions of this Schedule, the Board shall determine rules of procedure for the conduct of its business.

Rules of procedure.

5. The Board shall cause minutes of all resolutions and proceedings of meetings of the Board to be entered in books kept for that purpose.

Minutes.

SECOND SCHEDULE

(s. 30(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) Tax compliance certificate;
- (g) Financial reports for the preceding two years (if any);
- (h) Licensee's gambling account;
- (i) List of directors of the company;
- (j) A disclosure of its beneficial ownership information in accordance with the Companies Act, 2015;
- (k) Memorandum of association or partnership deed or a business registration certificate where applicable; and
- (l) Relevant documents showing technical specifications of hardware and software to be used to conduct the Gambling.

No. 17 of 2015

THIRD SCHEDULE (s. 40(1))
Gambling Security

Type of Gambling	Amount (Shillings)
(a) Casinos including public Gambling for conducting tables and slots machines	20,000,000
(b) online Gambling	200,000,000
(c) National lottery	200,000,000
(d) Totalisator	5,000,000
(e) Prize competition	5,000,000
(f) Non-online Gambling including non-online bookmakers, non-online casinos, non-online lotteries	20,000,000
(g) Amusement with prizes	200,000
(h) A premise or a shop operating under a licence of online Gambling including online bookmaker, online casino and online lottery	500,000