

THE GAMING BILL, APRIL 2019

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THE GAMING BILL 2019

A Bill for

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

ENACTED by the Parliament of Kenya as follows-

PART I - PRELIMINARY

- Short Title 1. This Act may be cited as the Gaming Act, 2017 and shall come into operation on such date as the Cabinet Secretary may by notice in the Gazette appoint, and different dates may be appointed for the coming into operation of different provisions.
- Interpretation. 2. In this Act, unless the context otherwise requires-
- “advertisement” includes-
- (a) any statement, communication, representation or reference aimed at the public and designed to promote or publicise a game of chance or service to encourage or promote participation in gambling or draw attention to the perceived benefits, advantages of participating in the activity;
 - (b) the use of any advertisement or promotion aimed at the public to promote a licensee’s, economic status, name, business, gaming product or service;
 - (c) display of any kind, shape or size;
- “applicant” means any person who has applied for a license or permit under this Act;
- “Authority” means the National Gaming Authority established under section 4 of this Act;
- “authorized race meeting” means a race meeting in respect of which a permit authorizing bookmaking to take place thereat has been issued under section 36 of 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 device whether operated

electronically or manually or otherwise on which an amusement game may be played exclusively for amusement purposes and not for gambling purposes, and which is operated by insertion of money or amusement machine token and where in the operation thereof a successful player neither receives nor is offered any benefit other than the opportunity, if any afforded by the automatic action of the machine to play the game again without insertion of other money or tokens;

“bet” means a wager or stake of money or any other valuable thing by or on behalf of any person or, an express or implied undertaking or any promise; agreement to wager or stake by or on behalf of any person, any money or valuable thing on a horse race, or other race, fight, game, sport, lottery or exercise or any other event or contingency, and the expression “to bet” shall be construed accordingly;

“betting premises” means premises to which the public has or may have access and which are kept or used (whether on one occasion or more than one) for the purpose of:-

- (a) bets being made therein between persons resulting 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 bookmaker;

“bingo” means a game where players mark off numbers on cards or screens (whether or not they pay an amount before the game commences) as the numbers are drawn randomly, the winner being the first to mark off all the numbers on the card or screen that are required to win and it includes any version of that game, by whatever name called, including the playing of the game by electronic means or by remote communication;

“Board” means the board of the Authority appointed under section 4 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, or who in any manner holds himself out, or permits himself to be held out in any manner, as a person who receives and negotiates bets:

Provided that a person shall not be deemed to be a bookmaker by reason only of the fact-

- (a) that he carries on, or is employed in operating, a totalisator in respect of which a licence has been issued under this Act; or
- (b) that he carries on, or is employed in a business that is wholly concerned with, a pool betting scheme in respect of which a license has been issued under section 37 of this Act;

“Cabinet Secretary” means the Cabinet secretary in state department for the time being responsible for matters relating to betting, lotteries and gaming;

“casino” means any designated premises, or part of premises or a designated or approved virtual or online platform or site where persons may participate in one or more games approved by the Board;

“casino employee” means an employee having functions in or in relation to a casino;

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

“casino operation” means-

- (a) the conduct of gaming in a casino;
- (b) the management and supervision of gaming in a casino;
- (c) accounting procedures in, and in relation to, a casino;
- (d) money counting in, and in relation to the casino;
- (e) the use of storage areas within the Casino premises; and
- (f) any other matters affecting or arising out of activities in the casino;

“chairman” means the chairman of the Board appointed under Section 6 of this Act;

“chain letter ” means a scheme or an investment promising high rate of returns, made up of money from new investors on an initial investment luring the victims into bigger risks;

“chips” means any tokens used instead of money for the purpose of gaming and includes any voucher or other instrument that has a fixed monetary wagering value;

“county government” means the county government provided for under Article 176 of the Constitution;

“county law” means a law made by a county government concerning betting, casinos and other forms of gambling; “county licence” means a licence or a permit issued by a county licensing authority under the applicable county gaming law;

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

“data” means information recorded in a format in which it can be processed by equipment operating automatically in response to instructions given for that purpose, and includes representations of facts, information and concepts held in any removable storage medium;

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

“Director” means the Director of the Authority appointed under section 10 of this Act;

“electronic” means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities, and “electronic form” shall be construed accordingly;

“electronic monitoring system” means any electronic or computer or communications system or device that is so designed that it may be used, or adapted to send or receive data from gaming equipment in relation to the security, accounting or operation of gaming equipment;

“excluded person” means a person barred from entering, or remaining on any gaming premises or taking part in any gaming activity under the Act;

“electronic table game” means a gaming machine used for the purpose of playing a game traditionally played at tables, and includes any electronic device through which bets may be placed on a game played at a table;
“fixed-odds bet” means a bet on one or more contingencies in which odds are agreed at the time the bet is placed;

“Fund” means the National Lottery Distribution Trust Fund established by section 79 of this Act;

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

“gaming” means the playing of a game of chance for winnings in money or money’s worth;

“gaming equipment” means any software, device, instrument, including chips, tokens, dice, counters, tickets, gaming tables, boards, boxes, birds and animals used for purposes of gaming or capable of being used, for or in connection with gaming and includes-

- (a) a gaming machine or table;
- (b) linked jackpot equipment;
- (c) an electronic monitoring system;
- (d) any computer-based gambling machine or
- (e) a part of, or a replacement part for, any such machine, equipment or system;

“gaming inspector” means an officer appointed under section 13 of this Act;

“gaming machine” means any device, whether wholly or partly mechanically or electronically operated, that is designed-

- (a) for the placing of bets for playing a game of chance, being a game which requires no action by a player other than the actuation or the manipulation of the machine;
- (b) for playing a game of chance, being a game which requires no action by a player other than the actuation or the manipulation of the machine;
- (c) that it may be used for the purpose of playing a game of chance or a game of fixed chance and skill; and as a result of making a bet on the device, winnings may become payable, and includes any machine.

“gaming premises” means premises which are kept or used whether on one occasion or more than once for gaming, and to which the public has or many have access for the playing therein of a licensed game of chance;

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

“good causes” means the good causes set out of this Act.

“gross revenue” means total revenues received before any deductions except any applicable taxes;

“horse race” includes a pony race;

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

“key gaming employee” means a person who:-

- (a) is employed or working in a managerial capacity or who is authorized to make decisions, involving the exercise of his discretion that regulates the operations of a casino, bookmaker, lottery, racecourse; or

(b) is employed or working in any capacity relating to any of the following activities:-

- (i) the conduct of gaming;
- (ii) the movement of money or chips about a gaming premises;
- (iii) the exchange of money or chips to patrons;
- (iv) the counting of money or chips;
- (v) security and surveillance;
- (vi) the operation, maintenance, construction or repairing of gaming equipment;
- (vii) the supervision of any of the above activities; and
- (viii) any other activity relating to the operation of gaming that is specified by the Board for the purpose of this definition by notice in writing given to the casino or public gaming operator.

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

“licensed betting premises” means premises duly licensed in terms of this Act as premises wherein bets may be made and settled;

“life style advertising” under this Act means advertising that associates a gaming product or service with or evokes a positive emotion about or image of, a way of life such as one that includes glamour, economic or monetary success, excitement, taking risk or daring ;

“licensed gaming premises” means the specific premises named and described in terms of this Act to which the public may resort to for the purpose of gaming;

“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 to be determined by lot or chance, whether by the throwing or casting dice, or by the withdrawing of tickets, cards, lots, numbers or figures, or by means of a wheel, or otherwise howsoever;

“lottery tickets” means any document including electronic evidencing the claim of a person to participate in chances of the Lottery;

“ manufacturer, supplier or maintenance provider ” means a person whose business is to manufacture, import, sell, lease, make available, distribute, maintain or repair a gaming device;

“money” includes a cheque, bank note, postal order, money order or electronic money;

“national government” means the national government as envisaged in Article 186 of the Constitution;

“National Lottery” means the national lottery established pursuant to Part VI of this Act;

“newspaper” includes a journal, magazine or other periodical publication;

“odds” means chances;

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

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

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

“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;

“public gaming premises” means any premises within a designated site where persons may participate in one or more games of chance approved by the board under this Act;

“premises” includes any place, land, building, structure, ship, boat, vessel, aircraft or an electronic site.

“principal secretary” means the accounting officer for the time being responsible for betting, lotteries and gaming;

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

“promotion” means a representation, including an advertisement, whether direct or indirect, including any communication of information about a product or service; and its price, distribution that is likely to influence and shape attitudes, beliefs or behavior about games of chance or that is intended to or has the effect of inducing the public to participate in gaming or underestimate the dangers of gambling or create recognition of or goodwill for an holder of a gaming licence or permit holder under this Act;

“racecourse” means an approved ground used or intended for use for the purpose of racing with horses and, or other races;

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

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

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

“regulation” means a regulation made under Section 147 of this Act;

“remote gaming” means any form of gaming by means of distance communications;

“security” means any deposit provided for under Section 15 of the Act;

“testing agent” means a person licensed in terms of this Act to test and calibrate gaming machines, equipments and devices;

“totalisator” means the instrument, machine or contrivance commonly known as a totalisator, or any other instrument, machine or contrivance of similar nature, or a scheme for enabling any number of persons to make bets on any event or contingency whatsoever with one another or principles of similar nature;

“turf club” means a club, or association or other body of persons (whether incorporated or unincorporated) established for the purpose of promoting, conducting and controlling the sport of horse or dog racing;

“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 the chances of the lottery or game of chance;

“tribunal” means the betting, lotteries and gaming appeals tribunal established under section 139 of this Act;

“unlawful game” means a game of chance in which the chances are not favorable to all the players equally, including the banker or other person by whom the game is managed or against whom the other players stake, play or bet;

“winnings” includes winnings of any kind and a reference to the amount or to the payment of winnings shall be construed accordingly.

Guiding principles

3. The guiding principles for the implementation of this Act shall be the following-

- (a) the need to prevent gambling from becoming a source of crime or disorder, being associated with crime or being used to support crime;
- (b) to ensure gambling is conducted in a fair and open way;
- (c) to ensure children and other vulnerable persons are protected from exploitation by the activity of gambling;

- (d) ensure gambling opportunities are controlled to a level which does not harm the public;
- (e) that gambling operations are not owned, operated, or infiltrated by persons involved in crime;
- (f) ensure gambling licences are privileged and revocable and no holder acquires any vested right in such a licence, in order to protect the public interest;
- (g) to ensure gambling is conducted in a verifiably fair and open fashion in order to protect the interests of consumers;
- (h) to prevent gambling from being associated with or used for money laundering and financing of terrorism or other unlawful activities;
- (i) maximize the economic benefits derived from gambling to fund social causes;
- (j) provide for an efficient and effective regulatory oversight framework for regulating national and county gambling.

PART II— THE NATIONAL GAMING AUTHORITY

Establishment of the Authority.

4. (1) There is hereby established a body to be known as the National Gaming 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) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing and lending money; and
- (d) doing or performing all other things or acts for the furtherance of the provisions of this Act which may be lawfully done or performed by a body corporate.

(3) The headquarters of the Authority shall be in Nairobi but the Authority may establish such other offices in the counties as may be necessary for the proper performance of its functions under this Act.

Functions of the Authority.

5. (1) The main functions of the Authority shall be to-

- (a) exercise general supervision and co-ordination over all matters relating to gaming at national and county levels and to be the principal agency at both levels of government in the implementation of all policies relating to gaming;
- (b) establish overall policies, norms and standards for the conduct of betting, casinos and other forms of gaming;
- (c) co-ordinate national, county and concurrent national and county functions

relating to betting, casinos and other forms of gaming in accordance with this Act.

- (2) In the performance of its functions under this Act, the Authority shall-
- (a) establish and maintain at the national level:-
 - (i) a probity register;
 - (ii) a national register of games, gaming machines and devices;
 - (iii) the national central electronic gaming monitoring system;
 - (iv) the national register of excluded persons ,and
 - (v) a central registry of gaming information including data relating to betting, casinos and other forms of gambling in the country;
 - (b) issue licences and permits in accordance with this Act;
 - (c) issue conditions of national gaming licences and permits issued in accordance with this Act and regulations made there under and enforce compliance therewith;
 - (d) conduct security checks, vetting and due diligence in respect of gaming activities;
 - (e) define standards, principles and procedures in respect of operations, premises, equipment ,personnel, supplies of services and enforcing compliance therewith;
 - (f) monitor and evaluate ,when necessary, the issuance of licences and permits by the counties to ensure compliance with this Act;
 - (g) investigate, monitor and evaluate compliance with this Act by counties, entering into agreements with those counties in respect of steps to be taken to correct any deficiencies, and making recommendations to the Cabinet Secretary in relation to such matters;
 - (h) undertake and coordinate research and surveys in the field of gaming, and monitor socio-economic patterns of gaming activities within the country and in particular research and identify factors relating to, and patterns, causes, and consequences of-
 - (i) the socio-economic impact of gaming; and

(ii) addictive or compulsive gaming;

~~(j)~~(i) conduct oversight evaluations of the performance of county licensing so as to ensure national norms and standards established by this Act are applied uniformly and consistently throughout the country;

(k) assist counties to ensure unlicensed gaming activities which might be occurring across county borders are detected and dealt with as appropriate;

(l) during the subsistence of a licence or permit, cancel, suspend or vary such licence or permit after giving the licensee or a permit-holder opportunity to show cause against the cancellation or variation;

(m) coordinate the various gaming activities being authorized by county governments and promote the linkage and objectives of gaming as set out in the national gaming policy;

(n) advise counties on matters relating to gaming operations;

(o) prepare and distribute manuals and standard documents to be used in connection with betting, lotteries and gaming;

(p) improve the capacity of counties in matters relating to their gaming functions;

(q) register and issue annual gaming personnel licenses in the country;

(r) collaborate with the Ministry in the formulation of policy direction for purposes of this Act;

(s) promote co-operation and linkage among county governments, public departments, private sector and the regional and international organizations engaged in the regulation of gaming;

(t) handle complaints and arbitrations, on matters arising under this Act;

(3) Without prejudice to the generality of sub-sections (1) and (2) the Authority shall be the agency responsible for executing the National Government functions relating to betting, casinos and other forms of gambling under the Fourth Schedule of the Constitution.

(4) For the avoidance of doubt, the performance of functions relating to betting casinos and other forms of gambling between the National and County governments shall be as set out in the First Schedule.

Membership of the Board.

- 6.** (1) The Authority shall be managed by a Board which shall consist of-
- (a) a Chairman, not being a public officer, appointed by notice in the gazette by the Cabinet Secretary in the Ministry for the time being responsible for betting and gaming;
 - (b) the Principal secretary in the Ministry responsible for matters relating to security;
 - (c) the Principal Secretary responsible for the National Treasury;
 - (d) the Principal Secretary in the Ministry responsible for matters related to gaming;
 - (e) not more than three persons who in the opinion of the Cabinet Secretary, possess knowledge and experience in gaming activities, law and other aspects of management;
 - (f) one person nominated by the Council of Governors;
 - (g) The Director appointed under Section 9, who shall be an *ex officio* member.
- (2) The persons referred to in paragraphs (b) (c) and (d) of subsection (1) may depute suitable persons to represent them on the Board.

Qualification for appointment

- 7.** A person shall be qualified for appointment as the chairperson or a member of the Board if such person-
- (a) is a Kenyan citizen;
 - (b) holds a degree from a University recognized in Kenya in: -
 - (i) finance;
 - (ii) law or;
 - (iii) any other field relevant to the work of the Authority.
 - (c) is not an undercharged bankrupt;
 - (d) has not been convicted of any criminal offence;
 - (e) does not hold any political office, and
 - (f) has not previously been removed from a public office on account of misconduct.

Tenure of office.

- 8.** (1) The Chairperson and members of the Board shall hold office for a period of three years and shall be eligible for reappointment for another one term.
- (2) The office of the Chairperson or a member of the Board shall become vacant if the holder-

- (a) resigns by notice in writing addressed to the Cabinet Secretary;
- (b) is unable to perform the functions of office by reason of prolonged physical or mental incapacity;
- (c) is adjudged bankrupt or enters into a composition or scheme of arrangement with his creditors;
- (d) is convicted of a criminal offence and sentenced to imprisonment for a term of more than six months;
- (e) is absent from three consecutive meetings of the Board without the permission of the chairperson, or, in the case of the chairperson, the permission of the Cabinet Secretary; or
- (f) is removed by the Cabinet Secretary on grounds of gross misconduct or where there is proof of a financial or other conflict of interest with the Board.
- (g) is in breach of Chapter Six of the Constitution.

(2) A resignation under sub-section (2) shall be effective upon being received, and if not declined by the Cabinet Secretary.

Conduct of the business and affairs of the board

9. The Second Schedule shall apply with respect to the conduct of the business and affairs of the Board.

Appointment of Director.

10. (1) There shall be a Director-General of Gaming who shall be appointed by the Board on such terms and conditions as the Board may on the advice of the Salaries and Remuneration Commission determine.

(2) A person shall be qualified to be appointed as the Director-General if he is a holder of minimum of a Masters' degree from a University recognized in Kenya and has adequate knowledge and experience in matters related to gaming and management.

(3) The Director-General shall be the chief executive officer of the Board and responsible to the Board for the day-to-day management of the affairs of the Authority.

(4) The Director General shall hold office for a term of three years and shall be eligible for reappointment for one further term of three years.

Procedure of Meetings.

11. The Second Schedule shall apply with respect to the conduct of the business and affairs of the Board.

Appointment of Staff.

12. There shall be such other officers and staff of the Board, including gaming inspectors, as may be necessary for the performance of the functions of the

Authority, and who shall be appointed by the Board on such terms and conditions as the Board may, with the advice of the Salaries and Remuneration Commission, determine.

Gaming
Inspectors.

13. (1) A gaming inspector shall have the following functions-

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

(2) In the performance of the functions specified under subsection (1) a gaming inspector shall have the powers to-

- (a) require any person in possession of, or having control of , any machinery, equipment , device or records relating to the operations of gaming to produce the same for inspection and to answer questions or provide information relating thereto ;
- (b) inspect any such machinery, equipment , device or records and take copies of, extracts from or notes relating to, those records;
- (c) to seize any such machinery, equipment, device or records where the inspector considers it necessary to do so for the purpose of obtaining evidence of the commission of an offence;
- (d) stop any game conducted in any licensed gaming premises where in the opinion of the inspector the game is conducted in contravention of the provisions of this Act;
- (e) require, by written notice any licensee , any employee of the licensee or any other person associated with the operations or management of any gaming premises the inspector is authorized to enter, to attend before the inspector at a specified time and place and to answer questions, or to provide information within a reasonable period specified in the notice, with respect to any activity regulated by this Act;

- (f) examine and test any machinery, device or equipment referred to in paragraph (a) and order the person in charge thereof to withdraw it from use if it is unsatisfactory for use;
- (g) investigate any complaint from a patron of a licensee relating to the conduct of any activity regulated by this Act; and
- (h) do any other thing authorized to be done by the Board under this Act.

(3) If an inspector seizes anything under this section, it may be retained by the inspector until the completion of any proceedings (including proceedings on appeal) in which it may be evidence but, in the case of records, the person from whom the records were seized shall be permitted to inspect and make copies thereof.

(4) Subsection (2) shall cease to have effect in relation to things seized if, on the application of a person aggrieved by the seizure, the court in which proceedings referred to in that Subsection are instituted so orders.

PART III—LICENCES AND PERMITS

Application for
Licenses and
Permits

14. (1) No person shall conduct any betting, lotteries, gaming or any activities related thereto unless such person applies for and obtains a licence or permit from the Board.

(2) A person who desires to obtain, renew or vary a licence or permit under this Act shall make application to the Board in the prescribed form set out in the Fourth Schedule.

(3) On receipt of an application under subsection (2), the Board shall make such investigations or require the submission of such declarations or further information as it may deem necessary in order to enable it to examine the application.

(4) Upon making investigation and considering any information or declaration as may have been required in terms and subsection (3), the Board may either grant, renew or vary a licence or permit or refuse to grant a licence or permit or renewal or variation thereof and shall, where the issuance or renewal is refused, furnish the applicant with the reasons for such refusal:
Provided that-

- (a) no licence or permit shall be issued under this Act until the Board satisfies itself that-
 - (i) the applicant is a fit and proper person to hold the licence or permit, and
 - (ii) that the premises, if any, in respect of which the application is made are suitable for the purpose and
 - (iii) that the activity in which the license is sought is legitimate under this

Act;

(5) For purposes of this section, “fit and proper person” means a person who has not committed offences involving any of the following -

- (a) fraud;
- (b) money laundering;
- (c) dishonesty;
- (d) violence;
- (e) drugs and drug trafficking;
- (f) any form of organized crime; or

(g) any other conduct as the board may determine.

(6) The board in determining whether an applicant is suitable to hold a licence or permit under this Act shall consider-

- (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;
- (d) the ability of the applicant to carry on the regulated activity competently, honestly and fairly and
- (e) the reputation, character, financial integrity and reliability-
 - (i) in the case of a natural person; or
 - (ii) in the case of a company, of the company ,its chairperson ,directors, chief executive, management and all other personnel ,including all duly appointed agents , and any substantial shareholder of the company, if the chairperson, director or the personnel are shareholders of the company.

(7) Without prejudice to the generality of subsection(6) the Board may, in considering whether the applicant is fit and proper –

- (a) Take into account whether the applicant –
 - (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 in gaming or other business;

(ii) was a director of a liquidated entity;

(iii) has taken part in any business practice which, in the opinion of the board, was fraudulent, prejudicial to public interest, or was otherwise improper, which would otherwise discredit the applicants 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) denied any gaming licence or permit in any country.

(b) Take into account any information in the possession of the board whether provided by the applicant or not relating to –

(i) Any person who is to be employed with, or 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.

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

(9) an applicant 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 three years, or to both.

Submission of Security.

- 15.** (1) Whenever a licence is issued under this Act the Board shall impose as a condition thereof a requirement that- the applicant shall furnish the Board with security by means of a deposit of cash, or such other security as the Board may approve, of a sum to be determined by the Board depending on the nature of the licensed activity and that security shall be refunded on the expiration or cancellation of the licence in respect of which it has been deposited or given unless it is forfeited under provisions of this Act.
- (2) The security deposited with the Board under subsection (1) shall be used by the Board for settling any liability of the licensee which may arise from the licensed activity.
- (3) In determining the amount of security under this section the Board shall take into account the known business of the applicant and the amount, if any, by which that business is reasonably expected to increase in the ensuing year.
- (4) The Board may at any time vary the amount of any security given in pursuance of this section if it is satisfied that, having regard to the nature of the licensed activity and the known scale of business of the licensee concerned or where the variation is reasonable.

Provisions of Licenses and Permits.

16. (1) Every licence or permit issued under this Act shall state the location and extent of the premises, if any, to which it relates, and shall be endorsed with all conditions imposed by the Board under this Act.

(2) A licensee who wishes at any time to transfer the conduct of his business to premises other than those authorized in terms of his licence may apply to the Board for authority to do so upon payment of the requisite fee.

(3) Upon receipt of an application in accordance with subsection (2) the Board may vary the licence so as to authorize the conduct of the licensee's business at the premises the subject of the application in substitution for the for the premises previously licensed.

Display of Licenses and Permits.

17.(1) Every licence or permit issued by the Board under this Act shall, during the period of its validity, be prominently displayed by the licensee or permit holder at his principal place of business, if any, in a part thereof to which the public has access, and where the licence or permit allows the establishment of branches, a copy thereof shall be similarly displayed at each of the branches of the licensee or permit holder.

(2) A person who without reasonable cause or excuse fails to comply with this section, or who displays a licence or permit which is not currently valid, commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

Duration of Licenses and Permits.

18. (1) Subject to subsection (2), every licence or permit issued under this Act shall, unless therein otherwise provided, be valid for a period of twelve months from the

date of issue.

(2) The holder of a licence or permit may apply to the Board for the renewal of the licence or permit three months before the date of expiry thereof.

(3) Where the Board discovers that the holder of a licence has not commenced any operations for the activities in respect of which the licence is issued for a period of three years since the date of issue the Board shall-

(a) forthwith withdraw the licence, and

(b) impose on the holder a penalty equivalent to two times the amount of annual fee payable in respect of the licence.

Transferability of
Licence or Permit.

19.(1) The holder of a licence or permit issued under this Act may after a period of five years, with the approval of the Board transfer such licence or permit to any person who would be qualified to be a licence-holder under this Act upon payment of the requisite fees.

(2) Before granting approval for the transfer of a licence under subsection (1), the Board shall cause investigations to be carried out as to the suitability of the transferee at the cost provided for under the Act.

(3) For the purpose of subsection (2), the Board may require the submission of such declaration or further information as it may deem necessary, including, but not limited to-

(a) written authorization from the applicant permitting the Board to procure information directly from third parties and authorizing such third parties to provide such information; or

(b) a report from:-

(i) the Kenya Police Service, or

(ii) such other relevant authority as the Board may consider appropriate.

(4) Without prejudice to the generality of subsection (1) the Board may, where a licensee is an individual transfer the licence -

(a) where the licensee has died, to his or her heirs or beneficiaries;

(b) where the licensee has become subject of any legal disability to his or her legal representative, or

(c) where a person acquires the business in respect of which the licence is issued or acquires a controlling interest in a licence.

(5) Any licensee who transfers a licence in contravention of the provisions of this section 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 two years or to both.

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

(7) A report requested in terms of subsection (3) may include the particulars of any convictions recorded against a person to the extent that those particulars are relevant for the purpose of determining whether in terms of this Act, that person is disqualified from holding an interest in a licensed premises or the business to which a license relates.

Continuous investigation by the Board.

20.(1) The Board may from time to time on its on motion or upon receipt of information from any person carry out continuous investigation of persons holding a license under this Act and into the conduct of gaming operations for which the licence is granted.

(2) The Board may direct any person who is investigated pursuant to subsection (1) to take such action as may be necessary to rectify any shortcomings discovered in the course of the investigation under subsection (1), and may take such action, including revocation or cancellation of the license, as may be appropriate where the licensee fails or refuses to comply with the direction so given.

Books to be kept by Licensee.

21.(1) A licensee shall enter or cause to be entered regularly in a book kept for the purpose all such particulars as may be prescribed.

(2) A licensee who contravenes the provisions of subsection (1), or who knowingly or recklessly keeps any book, record or account required to be kept under this section which is false in any material particular, or who makes or causes to be made in any such book an entry which is false in a material particular, commits an offence and is liable to a imprisonment for a term not exceeding five years.

Submission of Accounts by Licensees and permit holders.

22.(1) The Board may at any time, and shall, at least once in every twelve months require a licensee to submit to the Board a properly audited statement of accounts.

(2) The accounts submitted under this section shall be subject of audit by an accountant whose appointment as auditor shall be notified by the licensee or permit holder, as the case may be, to the Board and approved by it.

(3) A person who refuses or fails to submit a statement of accounts as and when required by the Board, or who knowingly submits a false or misleading statement, commits an offence and is liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding five years or to both.

Fees.

23. (1) There shall be paid to the Board for every licence or permit issued by the Board a fee and gaming levy set out in the Third Schedule.

levy

24. (1) There shall be a monthly levy to be known as gambling levy which shall be paid by a licensee or permit holder in an amount to be prescribed by the Cabinet

Secretary and which shall not exceed 1% of the gross monthly gaming revenue.

(2) The levy collected in under sub section (1) shall be paid into a special account to be operated by the Board.

(3) The levy prescribed by subsection (1) shall be paid not later than ten days of the expiry of the month in respect of which the levy is payable.

(4) A person who fails to pay levy prescribed under subsections (1) and (2) or makes late payment shall be liable to pay to the board all outstanding amounts of levy together with a penalty of two hundred thousand shillings for each such payment.

Operating without a licence or permit prohibited.

25. (1) No person shall operate any form of gaming unless he or she has a valid licence or permit issued by the Board.

(2) A person who contravenes the provisions of subsection(1) commits an offense and is liable on conviction-

(a) for a first offence, to a fine not exceeding three million shillings or to imprisonment for a term not exceeding ten years or to both; and

(b) for a second or subsequent offence to a fine not exceeding five million shillings or to imprisonment for a term not exceeding fifteen years or both.

Types of Licences and Permits.

26.(1) The following types of licences and permits shall be issued by the Board under this Act-

- (a) Public Gaming License for conducting table games and slot machines;
- (b) The national lottery,
- (c) Bookmakers,
- (d) Totalisator,
- (e) Prize competitions with national participation,
- (f) Bingo,
- (g) Pool betting schemes,
- (h) Public lotteries,
- (i) Remote gaming,
- (j) Gaming equipment and devices manufacture license,
- (k) Gaming equipment and devises sellers or distributor licenses,
- (l) Gaming equipment testing laboratory licenses,
- (m) Gaming equipment repair and servicing license,
- (n) Key gaming employee card,
- (o) Accreditation license for a person engaged in non-gaming activity within a gaming premises,
- (p) Such other licenses as generated by the board under the Act.

(2) License in respect of the use of gaming or betting premises will be issued by the authority after issuance of a public gaming or betting license under this Act.

Duplicate licence or permit.

27. A licensee whose license is lost, destroyed or mutilated may make an application for a duplicate in such form and on payment of such fees as may be prescribed.

Suspension or cancellation of licence or permit.

28. (1) The Board may suspend or cancel a licence or permit issued under this Act where the holder is found to be in breach of any of the provisions of this Act.

(2) Before the Board suspends a licence or permit under this section it shall inform the holder of its intention to do so and give such holder an opportunity to be heard before the Board.

(3) The holder of a licence or permit which is suspended or cancelled under subsection (1) shall forthwith surrender it to the Board.

(4) A licence or permit which is suspended may be reinstated upon application by the holder after fulfilling such conditions as may be prescribed by the Board.

PART IV —CONTROL AND LICENSING OF BETTING

Offences relating to unlicensed Betting premises and electronic sites.

29.(1) Subject to this Act, a person who-

- (a) being the owner or occupier or having the use temporarily or otherwise of such premises or electronic site, uses or allows such premises to be used as unlicensed betting premises;
- (b) has the care or management of, or in any manner assists or is engaged in the management of, electronic site or premises kept or used as unlicensed betting premises;
- (c) announces or publishes or causes to be announced or published, either orally or by means of any print, writing, design, sign, or otherwise, that premises or site are opened, kept or used for betting or in any manner invites or solicits any person to bet in unlicensed betting premises or site; or
- (d) advances, furnishes or receives money for the purpose of establishing or conducting the business of unlicensed betting premises or site, commits an offence and shall be liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year or to both.

(2) A person who bets in unlicensed betting premises 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;

(3) A person found in unlicensed betting premises or found escaping therefrom during an inspection under this Act shall be presumed, until the contrary is proven, to be or to have been betting therein.

(4) A person who occupies or has the use temporarily of premises which are kept or used by another person as unlicensed betting premises shall be presumed, until the contrary is proven, to have permitted that place to be so kept or used.

(3) In this section, “unlicensed betting premises” means betting premises or Site in respect of which no licence is issued under this Part.

The approval of gaming premises shall be done by respective county in consultation with the board.

Prohibition against unlicensed bookmaking.

30. (1) A person who acts, facilitates or carries on business as a bookmaker otherwise than under and in accordance with the terms of a licence issued under this Act commits an offense 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:

Provided that nothing in this section shall apply to an employee of a person issued with a licence under section 31 acting in the course of employment at the licensed betting premises of that person or at an authorized race meeting.

(2) A person who accepts or receives bets or settles or pays money or moneys worth in respect of bets, or is found in possession of any books, accounts, documents or other articles which are used or appear to have been used or intended to be used in connection with or which relate or appear to relate to the business of a bookmaker, shall be presumed, until the contrary is proved, to be acting as a bookmaker.

(3) A person who settles or pays money or money’s worth in respect of any betting shall also be presumed, until the contrary is proved, to be acting as a bookmaker.

Bookmaker’s licence.

31. (1) The Board may, in respect of bookmakers, issue-

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

(2) A fee shall be paid to the relevant county in respect of each betting premises where the person issued with a licence under this Act conducts his business.

(3) In considering the suitability of betting premises the Board shall take into account the desirability of keeping those premises at a proper and sufficient distance from premises licensed for the sale and consumption of liquor, security establishment, worship, school or area frequented by young persons.

(4) The Board may, upon issuing of a licence under this section, impose conditions relating to the manner in which a person issued with a licence under this section may conduct his business and to the suitability, condition and conduct of the betting premises to which the license applies and the hours during which the premises may be open for business.

Betting by means of unlicensed totalisator an offence.

32.A person who-

- (a) effects a betting transaction by means of a totalisator in respect of which no licence has been issued under this Part; or
- (b) uses or permits the use of a totalisator otherwise than under and in accordance with the terms of a licence issued to him under section 33, Commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year or both.

Totalisator licence

33.(1) The Board may issue-

- (a) an on-the-course licence authorizing a person to operate a totalisator on the course specified therein;
 - (b) an off-the-course licence authorizing a person to operate a totalisator at the betting premises specified therein; or
 - (c) a license authorizing the person to operate a totalisator both on and off the course.
- (2) A licence shall be issued in respect of each totalisator to be used.
- (3) A licence issued under this section may be issued in respect of each race day or for a period not exceeding one year.
- (4) Every transaction effected by means of a totalisator shall be recorded in such a manner as may be approved by the Board to ensure that as far as practicable the record is in the uninterrupted view of the public.
- (5) A person who is in charge of or having control of totalisator or any assistant of such a person shall not accept any money from or issue a ticket or pay any winnings to a person under the age of eighteen years.

A person who contravenes the provisions of subsection (4) and (5) commits an offence and liable to a fine not exceeding three hundred thousand shillings or to imprisonment for a term of exceeding one year or to both.

(6) There shall be payable by the licensee, to the Board at the end of each month on which a totalisator has been used a levy under Section 24.

Laying of Totalisator, betting pools betting odds,e.t.c prohibited.

34. (1) A person who, in connection with a totalisator in respect of which a licence has been issued under section 31-

- (a) makes or enters into a bet upon the result of a horse race or other race, whereby he agrees to pay to the other party to the bet, if the latter should win the bet, a sum of money the amount of which is dependent upon the result of the working of that totalisator on the race; or
- (b) sells or offers for sale, or purchases from a person referred to in paragraph (a) a ticket, card or other thing entitling or purporting to entitle the purchaser or holder thereof to an interest in the result of the working of that totalisator on a horse race or other race; or
- (c) makes a contract or bargain of any kind to pay or receive money upon an event determined or to be determined by the result of the working of that totalisator on a horse race or other race,

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

(2) The provisions of paragraphs 1 (a) and (b) shall not apply to an employee of a person issued with a licence under section 31 who is engaged in the lawful operation of a totalisator in a manner approved by the Board.

(3) The holder of a totalisator licence shall conduct totalisator and betting pools in accordance with rules made by such holder which have been approved by the Board.

(4) The aggregate of the returns by the holder of a totalisator licence to those persons who have made winning bets on any event or combination of events shall not be less than eighty five percent of the total amount pooled or such other amount as shall be approved by the Board in respect of that event or combination of events.

Prohibition against late bets.

35. Subject to any approval by the Board and to any regulations made by the Cabinet Secretary, a person who, in connection with a totalisator in respect of which a licence has been issued under this Act-

- (a) receives or permits to be received a betting transaction on that totalisator in respect of a horse race or other race after the start of the race; or
- (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 on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year or both.

Offences relating to pool betting Schemes.

36. (1) A person who-

- (a) promotes a pool betting scheme within Kenya otherwise than under and in accordance with the terms of a license issued under the Act; or
- (b) in furtherance of a pool betting scheme or on behalf of a promoter of such a scheme, receives or negotiates bets

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

(2) Notwithstanding the provisions of any other written law, where a person is charged with an offence under this subsection, and the court is of the opinion that such person is not guilty of that offence but of another offence thereunder, he may be convicted of that other offence although he was not charged with it.

(2) A person who, in connection with an unauthorized pool betting scheme-

- (a) prints a coupon to use in such a scheme;
- (b) sells or distributes or offers or advertises for sale or distribution, or has in his possession for the purpose of sale or distribution, a coupon relating to such a scheme;
- (c) distributes or has in his possession for the purpose of distribution-
 - (i) an advertisement of the scheme;
 - (ii) a list (whether complete or not) of prize winners or winning coupons in the scheme; or
 - (iii) any such matter descriptive of the determination or intended determination of prize winners, or otherwise relating to the scheme, as is calculated to act as an inducement to persons to participate in that scheme;
- (d) brings, or invites any person to send into Kenya for the purpose of sale or distribution a coupon relating to, or advertisement of, the scheme;
- (e) 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; or

- (f) prints or publishes, or causes to be printed or published, an advertisement or other notice of or relating to the scheme or to the issue of a coupon or a dividend connected with the scheme,

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

(3) Any person, other than the holder of a licence under this section, who takes or sends out of Kenya money or money's worth in connection with any pool betting scheme authorized under the Act, commits an offence and shall be liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding three months or to both.

(6) In this section-

(a) "unauthorized pool betting scheme" means:-

- (i) where a pool betting scheme is promoted or proposed to be promoted in Kenya, a scheme promoted by a person who is not the holder of a license issued under the Act;
- (ii) where a pool betting scheme is promoted or proposed to be promoted outside Kenya, a scheme promoted by a person who is not an agent or representative within Kenya holding a license issued under the Act;
- (c) references to printing shall be construed as including references to writing and other modes of representing or reproducing words in a visible form.

Licences in respect of pool betting schemes.

37. (1) The Board may, in respect of a pool betting scheme issue a promoter's licence, authorizing the holder to provide a pool betting scheme within Kenya.

(2) No licence issued under this section shall be applicable to more than one pool betting scheme.

Authorization of Bookmaking at race meeting.

38. (1) The promoters of a race meeting shall, if they desire bookmakers to be permitted to carry on business at that race meeting, apply to the Board for a permit for that purpose.

(2) An application under subsection (1) shall be in writing in the prescribed form.

(3) Upon receipt of an application under subsection (1), the Board may, after making such inquiries as it deems fit, issue a permit authorizing bookmaking to take place at the race meeting held on the race course and on the day or days specified on the permit.

(4) A person who permits a bookmaker to carry on business at a race meeting otherwise than under the authority of a permit issued under subsection (3) commits an

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

Unauthorized racing
unlawful

39. (1) A licence issued for the purpose of this Part shall specify the number of race meetings which may be held per year on the premises that shall be specified on that licence.

(2) A person shall not hold a race meeting or own or operate a race course unless he or she has a valid licence.

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

(4) In a prosecution for an offence referred to in subsection (3)-

- (a) any person who organized, arranged or assisted in organizing a race meeting; and
- (b) any gathering of persons attending a race meeting shall be deemed to have taken place as a result of a public advertisement or private invitation.

Prohibition of
touting.

40. A person who, except within licensed betting premises or at an authorized race meeting, touts or otherwise personally solicits the patronage of members of the public with a bookmaker commits an offence and shall be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

Prohibition of
advertising of Betting.

41. (1) A person who, in connection with any licensed betting premises, licensed bookmaking or licensed pool betting scheme, without the approval of the Board-

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

Commits an offence and shall on conviction be liable 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 on licensed
betting premises.

42. A person who, upon licensed betting premises plays or permits the playing of a game of chance, 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.

Prohibition of Betting with young persons.

43. (1) A person who-

- (a) bets with a young person; or
- (b) employs a young person on licensed betting premises or in connection with a pool betting scheme or in the effecting of any betting other than-
 - (i) the effecting of betting by post; or
 - (ii) the carriage of a communication relating to betting for the purpose of its conveyance by post; or
- (c) receives or negotiates a bet through a young person; or
- (d) sends to a young person any circular, notice, advertisement, letter, or other document relating to betting;

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

(2) In this section, “young person” means a person-

- (a) who is under the age of eighteen years and whom the person committing an offence in relation to him under this section knows, or ought to know, to be under that age; or
- (b) who is apparently under that age.

Betting in public place an offence.

44.(1) Subject to this Act, a person who frequents or loiters in a street or other public place without the approval of the board to solicit for bets on behalf either of himself or any other person, for the purposes of bookmaking, betting, agreeing to bet, or paying, receiving or settling bets commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both, but this subsection shall not apply to anything done on ground used, or adjacent to ground used, for the purpose of an authorized race meeting.

(2) A police officer may arrest without warrant anyone whom he finds in a street or public place and whom he suspects, with reasonable cause, to be committing an offence under this section.

(3) In this section-

- (a) “street” includes a bridge, road, lane, footway, square, court, alley or passage, whether a thoroughfare or not, which is for the time being open to the public; and
- (b) the doorways and entrances of premises abutting upon ground adjoining and open to a street shall be treated as forming part of the street.

Gaming in counties

45. For purposes of this Act a county government shall be responsible for-

- (a) approving gaming premises;
- (b) enforcing compliance of this Act and other relevant laws within the county;
- (c) monitoring and evaluation of the conduct of gaming activities in the counties;
- (d) authorizing and issuing permits in respect of the following within the county-
 - (i) pool tables;
 - (ii) prize competition for promotions;
- (e) conducting spot-checks on forms of gambling licensed under paragraph (d).

Sharing of information.

46. For the purposes of this section, a county government shall at least once every month submit a monthly report to the Authority on the conduct within the county of all matters licensed within the county.

PART V—CONTROL AND LICENSING OF LOTTERIES

Offences relating to Unauthorized Lotteries.

47.(1) A person who opens, keeps, or uses, or causes or knowingly permits the use of, premises for carrying on an unauthorized lottery 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 three years or to both.

(2) A person who prints or publishes or causes to be printed or published an advertisement or other notice of or 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 to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years or to both.

(3) A person who, in connection with an unauthorized lottery promoted or proposed to be promoted in either Kenya or elsewhere-

- (a) prints a ticket to be used in the lottery;
- (b) sells or distributes, or offers or advertises for sale or distribution, or has in his possession for the purpose of sale or distribution, tickets or chances in the lottery;
- (c) distributes, or has in his possession for the purpose of distribution-
 - (i) an advertisement of the lottery;
 - (ii) a list (whether complete or not) of prize winners or winning tickets in the lottery; or
 - (iii) any matter descriptive of the drawing or intended drawing of the

lottery, or otherwise relating to the lottery, which is calculated to act as an inducement to persons to participate in that lottery or in other lotteries.

- (d) brings, or invites any person to send, into Kenya for the purpose of sale or distribution of tickets, or advertisement of, the lottery;
- (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; or
- (f) causes or procures any person to do any of the above-mentioned acts, 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 three years or to both.

(5) In this section, references to printing includes references to print, electronic and other modes of representing or reproducing words in a visible form.

Authorization of public Lotteries for charitable purposes.

48. (1) The Board may issue a permit authorizing the promotion and conduct of a lottery-

- (a) which is intended to raise funds for social service, public welfare, relief of distress or patriotic purposes or to provide recreational or sporting facilities; and
- (b) at least twenty five per centum of the gross revenue of which is intended to be devoted to the object for which the lottery is promoted:

provided that the Board may require as a condition that a specified proportion of greater than twenty five per centum of the gross proceeds be devoted to the object for which the lottery is promoted, but in no case shall the Board require a proportion greater than forty-five per cent.

(2) Where in the case of a lottery authorized under this section less than twenty-five per centum, or less than the proportion provided by the Board under the provisory to subsection (1), of the gross proceeds of the lottery is devoted to the object for which the lottery is promoted, or any of the proceeds are devoted to a purpose, other than expenses and prizes, which is not such an object, each promoter of the lottery shall be deemed to have committed an offence and liable on conviction to a fine not exceeding twenty million shillings or to imprisonment for a term not exceeding five years or to both.

Powers of the Authority with respect to public lotteries.

49. (1) The Board may in respect of any authorization granted to promote a lottery-

- (a) impose such conditions as it may deem necessary in order to ensure that the lottery concerned is promoted and conducted as efficiently as possible in the interests of the purpose for which it is being promoted and of the public in general;
- (b) take such steps as it may deem necessary in order to ensure any conditions

imposed under paragraph (a) have been or are being complied with; and

- (c) guide and coordinate the proper and equitable distribution of the charitable funds of the lottery.

(2) Without prejudice to the generality of subsection (1) (a), the Board may, in respect of a lottery authorized by it, impose conditions under that paragraph—

- (a) providing for the amount, not exceeding twenty per centum of gross proceeds of the lottery, which the promoters thereof may deduct from the proceeds in respect of operating expenses;
- (b) providing for the protection of the purchasers of tickets or chances in the lottery against fraud;
- (c) restricting the amount of the proceeds of the lottery which may be used for the purposes of the lottery outside Kenya, which amount shall not exceed twenty per centum of the total amount devoted to the object for which the lottery is promoted;
- (d) relating to the provisions by the promoters of the lottery of guarantors to cover the expected proceeds, or any part thereof, of the lottery.

(4) If any condition imposed in this section is contravened, each of the promoters of the lottery concerned, and where the person by whom the condition is broken is not one of the promoters, that person also, 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 three years or to both:

Provided that it shall be a defense for a person charged with an offence under this section only by reason of his being a promoter of a lottery to prove that the offence occurred without his consent or connivance and that he exercised all due diligence to prevent it.

Incorporation of promoters of public lotteries.

50. Before authorizing the promotion of a lottery under section 47, the Board may require the promoters of the lottery to establish themselves as a body corporate under any law for the time being in force relating to incorporation.

Authorization of Lotteries relating to Horse racing, e.t.c.

51. (1) The Board may issue a permit authorizing the promotion of a lottery relating to a horse race or other race, whether promoted in Kenya or elsewhere.

(2) Under this section the Board may, in respect of a lottery to be promoted and conducted in Kenya, issue –

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

(3) the provisions of the Act relating to lotteries shall apply to every lottery in respect of which a permit under subsection (2) (b) of this section is issued, and accordingly references

in those sections to “lottery” shall be construed as including references to lottery off the course.

Exemption of certain types of lotteries conducted for charitable, sporting or other purposes.

52. (1) A lottery may be promoted and conducted on behalf of a society, being a society established and conducted wholly or mainly for one or more of the following purposes—

- (a) charitable purposes;
- (b) participation in or support of athletics, other sports or games or cultural activities;
- (c) purposes not described in paragraph (a) or (b), and which are neither purposes of private gain nor purposes of commercial undertaking, and are so promoted for raising money to be applied for purposes of the society.

(2) The following conditions shall be observed in connection with the promotion and conduct of a lottery—

- (a) the promoter of a lottery shall be a member of the society authorized in writing by the governing body of the society to act as the promoter;
- (b) no remuneration shall be paid in respect of the lottery to the promoter or to any person employed by the promoter in connection with the lottery, who operates on a betting premises or is otherwise engaged by way of business in the organization of betting;
- (c) no prize shall exceed twenty thousand shillings in amount or value, and no ticket or chance shall be sold at a price exceeding twenty shillings;
- (d) the whole proceeds, after deducting sums lawfully appropriated on account of expenses or for the provision of prizes, shall be applied to purposes of the society, as described in subsection (1);
- (e) the amount of the proceeds appropriated on account of expenses shall not exceed the expenses actually incurred, or fifteen per centum of the whole proceeds, whichever is the less, and the amount of the proceeds appropriated for the provision of prizes shall not exceed one half of the whole proceeds;
- (f) the price of each ticket or chance shall be the same, and the price of the ticket shall be stated on the ticket;
- (g) the total value of tickets or chances sold shall not exceed one million shillings, and if, on any day on which tickets or chances in the lottery are on sale, tickets or chances are on sale in another lottery promoted and conducted on behalf of the society under this section, the total value of tickets or chances sold in that other lottery taken together shall not exceed one million shillings; and for the purposes of this paragraph tickets or chances in a lottery shall be deemed to be on sale on each day between the dates on which those tickets are first and last sold, whether or not any such ticket or chance is sold on that day;
- (h) no written notice or advertisement of the lottery shall be exhibited, published or distributed except —
 - (i) a notice or advertisement exhibited on the premises of the society, or published and distributed exclusively to members of the society;
 - (ii) such notice or advertisement as may be contained in the tickets, if any;
- (i) every ticket and every notice or advertisement of the lottery lawfully exhibited,

distributed or published shall 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 by or by reference to which the prize winners are ascertained is expected to take place;

- (j) no ticket shall be sent through the post to a person who is not a member of the society;
 - (k) no person shall be admitted to participate in the lottery in respect of a ticket or chance except after the payment to the promoter of the whole price of the ticket or chance, and no money received by the promoter for or on account of a ticket or chance shall in any circumstances be returned; and
 - (l) no payment on account of expenses or prizes shall be made out of moneys of the society other than the proceeds of the lottery.
- 3) Where any condition set out in subsection (2) is contravened, every person being the promoter of the lottery and any other person who is party to the contravention shall be deemed to commit an offence and liable on conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding six months or to both-

Provided that-

- (a) it shall be a defence for a person charged with an offence under this section only by reason of his being the promoter to prove that the contravention occurred without his consent or connivance and that he exercised all due diligence to prevent it; or
- (b) it shall be a defence for a person charged with an offence in respect of an appropriation or payment made in contravention of paragraph (2)(e) or paragraph (1) to prove that-
 - (i) the proceeds of the lottery fell short of the sum reasonably estimated; and
 - (ii) the appropriation or payment was made in respect of expenses actually incurred or in order to fulfill an unconditional undertaking as to prizes given in connection with the sale of the relevant tickets or chances; and
 - (iii) the total amount appropriated or paid in respect of expenses and prizes did not exceed the amounts which could lawfully have been appropriated out of the proceeds of the lottery under subsection (2) (e) if the proceeds had amounted to the sum reasonably estimated.

(4) In this section-

- (a) a purpose for which a lottery is conducted under subsection (1) (c) and which is calculated to benefit a society as a whole shall not be held to be a purpose of private gain by reason only that action in its fulfillment would result in benefit to any person as an individual; and
- (b) where a payment under subsection (2) (d) falls to be made by way of hiring, maintenance or other charge in respect of equipment for holding the lottery and the amount of that charge falls to be determined wholly or partly by reference to the extent to which that or some other equipment is

used for the purpose of that lottery, then that payment shall be held to be an application of the proceeds for the purposes of private gain; and accordingly the references to expenses shall not include a reference to such charge falling to be so determined; and

(c)“society” includes a club, organization, institution or association of persons, by whatever name called, and any separate branch or section of that club, organization, institution or association.

Exemption of small lotteries incidental to entertainment.

53. (1) A lottery may be promoted and conducted as an incident of an entertainment to which this section applies provided the following conditions are observed in connection with the promotion and conduct of the lottery-

- (a) the whole proceeds of the entertainment (including the proceeds of the lottery) after deducting-
 - (i) the expenses of the entertainment including expenses incurred in connection with the lottery; and
 - (ii) the expenses incurred in printing tickets in the lottery; and
 - (iii) the sum, if any, not exceeding ten thousand shillings, as the promoters of the lottery think fit to appropriate on account of expenses incurred by them in purchasing prizes in the lottery, shall be devoted to purposes other than private gain:

Provided that the proceeds of the entertainment (including the proceeds of the lottery) shall not be held to be devoted to purposes of private gain by reason only that their application for purposes other than private gain resulted in benefit to any person as an individual;

- (b) tickets or chances in the lottery shall not be sold or issued, nor shall the result of the lottery be declared, except on the premises in which the lottery takes place and during the progress of the entertainment;
- (c) the facilities provided in participating in lotteries, or those facilities together with either or both of the following-
 - (i) facilities offered for taking part in gaming at entertainments not held for private gain; or
 - (ii) the opportunity to win prizes at amusements to which provision of amusements with prizes at certain non commercial entertainments shall not be the only, or the only substantial, inducement to persons to attend the entertainment;
- (d) the prizes in the lottery shall be in the possession and custody of and at the disposal of promoters of the lottery;
- (e) no ticket or chance in the lottery shall be issued or allotted except by way of sale upon the receipt of the full price thereof;
- (f) the price of each ticket or chance shall be the same, and the price of the ticket shall be stated on the ticket;
- (g) there shall not be exhibited, published or distributed a written notice or advertisement of the lottery, other than a notice thereof exhibited on the premises on which the entertainment takes place and such announcement or advertisement

thereof as is contained in the tickets, if any:-

Provided the Board may, on receiving an application in writing, permit the promoters of the lottery to advertise the lottery in any other manner approved by it;

- (h) none of the prizes in the lottery shall be money prizes; and
- (i) No ticket or chance shall be sold at a price exceeding fifty shillings.

(2) If any of the conditions specified in subsection (1) is contravened, every person concerned in the promotion and conduct of the lottery shall on conviction be liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding one year or to both:

Provided that it shall be a defence for a person charged with an offence under this section to prove that the contravention occurred without his consent or connivance and that he exercised all due intelligence to prevent it.

(3) The entertainments to which this section applies are bazaars, sales of work, fetes, dinners, dances, sporting or athletic events and other entertainments of a similar character, whether limited to one day or one part thereof or extending over two or more days.

(4) So much of as it relates to betting in a place other than a street shall not apply to this section.

Private Lotteries. **54.** (1) A private lottery may be promoted and conducted provided the following conditions are observed in connection with the promotion and conduct of the lottery-

- (a) the whole proceeds, after deducting only expenses incurred for printing and stationery, shall 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 either to the provision of prizes or to purposes of the society, or, as part to the provision of prizes and, as to the remainder, to purposes of the society.
- (b) There shall not be exhibited, published or distributed a written notice or advertisement of the lottery, other than –
 - (i) a notice thereof exhibited on the premises of the club for whose members it is promoted or, as the case may be, on the premises on which the persons for whom it is promoted work or reside;
 - (ii) such announcement or advertisement thereof as it is contained in the tickets, if any;
- (d) The price of each ticket or chance shall be the same, and the price of the ticket shall be stated on the ticket;

(e) Every ticket shall bear upon the face of it the names and addresses of each of the promoters of the lottery and a statement of the persons to whom the sale of the tickets or chances by the promoters is restricted, and a statement that no prize won in the lottery shall be paid or delivered by the promoters to any person other than the person to whom the winning ticket or chance was sold by them, and no price shall be paid or delivered except in accordance with that statement;

(e) No ticket or chance shall be issued or allotted by the promoters except by way of sale upon the receipt of the full price thereof and no money or valuable thing so received by a promoter shall in any circumstances be returned; and

(f) No ticket in the lottery shall be sent through the post.

(2) If any of the conditions specified in subsection (1) is contravened, each of the promoters of the lottery, and where the person by whom the condition is broken is not one of the promoters that person also shall be guilty of an offence and liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both:

Provided that it shall be a defense for a person charged with an offence under this section only by reason of his being a promoter of the lottery to prove that the contravention occurred without his consent or connivance and that he exercised all due intelligence to prevent it.

(3) In this section-

(a) "private lottery" means a lottery in Kenya which is promoted for, and in which the sale of tickets or chances by the promoters is confined to, either-

- (i) members of one society established for social or recreational purposes only;
- (ii) persons who work on the same premises; or
- (iii) persons whom reside in the same premises,

and which is promoted by persons each of whom is a person to whom, under paragraphs (i), (ii) and (iii), tickets or chances may be sold by the promoters and, in the case of a lottery promoted for the members of a society, is a person authorized in writing by the governing body of the society to promote the lottery;

(b) "society" includes a club, institution, organization or other association of persons by whatever name called, and each local or affiliated branch or section of a society shall be regarded as a separate and distinct society.

Prohibition of sale of Tickets to persons under 18 years.

55. (1) No ticket or chance in a lottery promoted and conducted under this part shall be sold by or to a person under the age of eighteen years.

(2) In the case of a contravention of this section, each of the promoters of the lottery concerned, and where the person by whom this section is contravened is not a promoter that person also shall be guilty of an offence and liable to a fine not

exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year or to both

Provided that-

- (a) it shall be a defense for a person charged with an offence under this section only by reason of his being a promoter of the lottery to prove that the contravention occurred without his consent or connivance and that he exercised all due intelligence to prevent it.
- (b) it shall be a defense to prove that the person charged neither knew nor had reasonable cause to suspect that the person was under the age of sixteen years.

Submission of accounts and return in respect of Lotteries.

56. (1) The Board may require the promoters and beneficiaries of a lottery which is promoted or conducted under the Act to submit accounts and make returns in such form and within such period as it may specify.

(2) A person who-

- (a) makes default in submitting accounts or making returns required to be submitted or made under this section within the time specified; or
- (b) submits accounts or makes a return which he knows or may be reasonably considered to know to be false in a material particular, commits an offence and shall on conviction be liable to a fine not exceeding five million shillings or to imprisonment for a term not exceeding one year or to both.

Authorization of Electronic Messaging lotteries.

57. The Cabinet Secretary shall prescribe appropriate regulations on the conduct of lotteries using electronic messaging or related technology.

PART VI — THE NATIONAL LOTTERY

Establishment of National Lottery.

58. There shall be established a National Lottery to be operated in the Republic of Kenya.

Board to issue one license.

59. (1) The Board may issue one licence at a time authorizing a competent person to operate the National Lottery.

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

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

- (a) the applicant has sufficient and appropriate knowledge or experience to conduct the National Lottery strictly in accordance with this Act and any agreement pertaining to the licence;
- (b) the applicant has the necessary financial and other resources to conduct the national lottery, and

(c) no member of a governing council of a political party has any direct financial interest in the applicant.

(4) In considering an application under subsection (2), the Board shall take into account-

- (a) whether the applicant is a fit and proper person to conduct the National Lottery;
- (b) whether the applicant shall conduct the national lottery with all due propriety and strictly in accordance with the Constitution, this Act, all other applicable laws and the conditions attached to the licence issued by the Board together with any agreement pertaining to the license; and
- (c) whether the applicant shall ensure that the interests of every participant in the national lottery are adequately protected.

(5) A licence granted under this section shall be subject to such conditions as the Board may deem fit to impose.

(6) A licence contemplated in subsection (1) may with the written approval of the Board, allow the licensee to designate another suitably qualified person to conduct certain lotteries of the National Lottery on behalf of the licensee.

Duration of licence .

60. (1) A licence granted under this Part shall be valid for a period of seven years or such longer period not exceeding ten years as the Board may deem fit.

(2) The Board may, in a case where the licence has been granted for more than seven years, and at least one year before expiry thereof, extend that license for such further period as would, together with the initial period, amount to an aggregate period of ten years.

Obligations of the licensee.

61. A licensee shall-

- (a) obtain the consent of the Board before undertaking any activity related to the Lottery which is not specified in the licence;
- (b) ensure that such requirements as the Board may from time to time, determine or approve in terms of the licence are complied with, including the payment of penalties in the event of the licensee not complying with any provisions of this Act or conditions of the licence;
- (c) provide such information regarding the conduct of the National Lottery as the Board may require from time to time.
- (d) make such arrangements as may be specified in the licence for the payment of such sums out of the gross proceeds of the National Lottery as may be so specified to the Fund or the Authority, at such times as may be specified;

- (e) do such things in terms of the licence, including the transfer of property or any rights, other than intellectual property rights or proprietary software, as the Board may require, upon the expiration of the licence;
- (f) obtain the approval of the Board for any Lottery and the rules thereof before the Lottery is conducted under the licence;
- (g) allow the Board or any person designated by it to enter any premises or facility belonging to or under the control of the licensee or a member of the management of the licensee, or, premises to which the licensee has a right of access, at any reasonable time, if such entry is necessary for the protection of the integrity of the National Lottery, and to-
 - (i) examine or inspect any thing, machine document or data captured in any form found on or in the premises or facility, and make copies of or make extracts from that thing, machine, document or data;
 - (ii) seize, for the purpose of further examination or security information, any thing, machine, document or data, on the conduct of the National Lottery;
 - (iii) seal or otherwise secure any such premises, facility, thing or machine on or in which any document or data which has a bearing on the conduct of the National Lottery is stored or captured; and
 - (iv) take such steps as may be reasonably necessary to protect the integrity and conduct of the National Lottery.
- (v) Secure a valid and enforceable written undertaking from the person controlling the licensee in any way whatsoever not to-
 - (a) change the control of the licensee for the duration of the licence without the consent of the Board; and
 - (b) transfer, cede or in any way encumber the licence to another person without the consent of the Board.

Variation of conditions of license.

62. (1) The Board may vary any condition in the licence-

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

- (2) If the Board, after consideration of the licensee's representations to it, decides to vary a condition in accordance with that licence but without the consent of the licensee, the Board shall cause a notice to be served on the licensee, in which case the licensee shall be informed of the variation and the date on which the variation shall take effect, which date shall not be less than twenty - one working days after the date of

service of the notice unless the licensee agrees to a shorter period in writing.

(3) The provisions empowering the Board to vary a condition in the licence under subsection (1) may allow it to add a condition to the licence.

Enforcement of conditions of licence.

63. (1) If the Board has reason to believe-

- (a) that a person has contravened a condition in the licence;
- (b) that a person has contravened such a condition and there is a reasonable likelihood that the contravention is of a continuous nature; or
- (c) that a person has contravened such a condition and that the contravention can be remedied,

The Board may apply to the High Court for an order prohibiting the contravention, or, as the case maybe, requiring the licensee and any other person who appears to the court to have been a party to the contravention, to take such steps as the court may direct.

(2) The liability of the licensee to pay any money in terms of the Act or the licence or agreement pertaining thereto shall not be affected by the licence ceasing to be valid for any reason, and such money may not be set off by the licensee against any amount due and payable.

Grounds of revocation of licence.

64. The Board may revoke National Lottery licence-

- (a) if in its opinion, the licensee or its representative has grossly violated the law or is no longer a fit and proper person to conduct the National Lottery, whether because of the commission of an act of insolvency, liquidation or on any other reasonable ground;
- (b) if a condition contained in the licence has been materially contravened;
- (c) if any information given to the Board by the licensee, or by any person who in any way controls the licensee or any agent or representative of the licensee-
 - (i) in or in connection with the application for the licence;
 - (ii) in accordance with a condition in the licence; or
 - (iii) in making representations in respect of financial matters regarding the National Lottery or in respect of any aspect of the management of the National Lottery, is materially false;
- (d) if any person who is managing the business or any part of the business of the licensee or who is a supplier of goods or services to the licensee and connected to the Lottery operation is in the opinion of the Board not a fit and proper person to do so, whether because of the commission of an act of insolvency, liquidation, imprisonment or for any other relevant reason, unless the licensee immediately takes steps to effectively disassociate himself or herself from that person;

- (e) if any person for whose benefit the licence has been acquired or who is a holding company of the licensee, or who in any other way controls the licensee, is in the opinion of the Board not a fit and proper person to benefit from it, whether because of insolvency, liquidation, incarceration in a prison or other institution or for any other relevant reason;
- (f) if the licensee has failed to take adequate steps to prevent the commission of fraud by its employees, agents, representatives, suppliers or by participants in the National Lottery after having been alerted to or becoming aware of conditions conducive to the commission or fraud or to instances of fraud or dishonesty;
- (g) if the licensee or any of its employees, agents, representatives or suppliers prevents the Board or any person designated by it from exercising his or its rights contemplated under the Act;
- (h) if a person who in any way controls the licensee is declared insolvent by a court of competent jurisdiction; or
- (i) the licensee or his representative gives information in the application for a licence or any financial matters regarding the National Lottery which is materially false.

Notice of Revocation.

65. (1) If the Board is satisfied that grounds exist for the revocation of a license, it shall by letter sent to the registered physical address of the licensee, notify the licensee in writing of the existence of such grounds and call upon the licensee to furnish reasons, within fourteen days of service of that notice, as to why the licence should not be revoked, failing which the licence shall cease to be valid.

(2) If the licence for the National Lottery ceases to be valid in terms of subsection (1), the Board shall forthwith inform the licensee in writing of that fact and of the date upon which the licence ceased to be valid.

Suspension of a license

66.(1) The Board may order a suspension of a licence in the notice contemplated in section 65 as from the date of service of that notice for a period of not more than thirty days after the licensee has furnished those reasons.

(2) If the Board decides to suspend the licence under subsection (1), it shall inform the Cabinet Secretary accordingly, and the Cabinet Secretary shall forthwith inform the relevant Committee of Parliament of that fact and of the grounds for the suspension, and if Parliament is not then in session it shall be so informed on the first day of the next session of Parliament.

PART VII - CONDUCT OF THE LOTTERY

National Lottery games

67. (1) The licensee may with the approval of the Board in each case, conduct such games as it may consider appropriate for the purposes of the National Lottery.

(2) The Board may prescribe guidelines, policies and procedures for the conduct of the games comprising the National Lottery.

(3) Guidelines given under subsection (2) shall indicate-

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

Disclosure of odds

68. The licensee shall make adequate disclosure of the odds with respect to each National Lottery game by clearly stating the odds in its advertisements or by posting the same at each point of sale of the National Lottery tickets.

Sales of lottery tickets.

69.(1)The licensee shall print all Lottery tickets bearing its approved imprint and logo in such a manner that the authenticity of the Lottery tickets is assured and each ticket shall have a serial number, a draw date, draw number and a designated space for the signature(or other identifying mark) of the holder.

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

(3) The sale of the National Lottery tickets shall be the responsibility of the licensee and it may after consultation with the Board authorize such suitably qualified persons to act as its agents as it may determine for the sale of the National Lottery tickets.

(4) An agent's authorization under subsection (3) shall be in writing and shall be subject to such terms and conditions as may be determined by the licensee with the consent of the Board.

(5) No person, other than the licensee, shall sell, offer or expose for sale or invite an offer to buy, or possess for sale a National Lottery ticket unless the person is authorized to do so under subsection (4).

(6) The licensee shall not authorize as an agent for purposes of subsection (3) any person under eighteen years of age.

(7) Lottery tickets shall not be sold by or to any person under eighteen years of age.

(8) The licensee shall determine the form and price of the Lottery ticket sold under this Act.

Persons prohibited from participating in National lottery

70. (1) The following persons are prohibited from holding a National Lottery ticket or any part of such ticket purchased for value or awarded as a prize in the National Lottery-

- (a) any person under eighteen years of age;
- (b) a director, agent or employee of the licensee ;
- (c) a member or employee of the Board;
- (d) a person who prints National Lottery tickets or the employee of such a person, or if the person is a company, a director of that company;
- (e) a person who supplies computers or other electronic devices of any kind or parts for the same, or equipment or programming or instructions for use, or who operates, maintains or repairs any such devices used by the licensee; or
- (f) an employee of the persons specified herein.

(2)The prohibition imposed by subsection (1) shall cease to apply to the persons specified in paragraphs (b), (c), (d), (e) and (f) after the expiry of two years from the period their directorship, agency or employment with the licensee or the Board, as the case may be, or their business relationship with either the Board or the licensee, ceases.

Offences relating to National Lottery tickets.

71.(1)Any person specified in section 68 who is found to be the owner of the whole or part of a Lottery ticket, commits an offence and shall be liable upon conviction to a fine not exceeding five million shillings or imprisonment for a term not exceeding two years or both.

(2) In addition to the penalty imposed above, and in all cases where a National Lottery ticket is held in contravention of the provisions of section 69-

- (a) the National Lottery ticket in respect of which the offence is committed shall not be entered in the Lottery draw, and if it is so entered and is drawn as the winning ticket, the owner of such ticket shall not be entitled to be awarded any prize in respect of the ticket; and
- (b) where a prize is awarded in the National Lottery to the owner or owners of such a ticket, the prize shall be returned to the licensee within one month after its receipt.

(3) If a prize to which paragraph (2)(b) applies is not returned as required thereunder, such prize, or an amount of money equal to its value, may be recovered by the licensee from the owner or owners thereof in any court of competent jurisdiction.

(4) It shall be a defense for a person charged with an offence under this section to prove that the ticket was purchased for him without his knowledge or consent, and that as soon as possible after becoming

aware of its purchase, he informed the company of the fact and notified the licensee that he was not entitled to hold such a ticket under this Act.

Disclosure by agents

- 72.** (1) An agent in any bid or proposal for a contract to supply Lottery equipment, tickets or other material or services to the licensee for use in the operation of the National Lottery shall furnish the licensee with the business name and address and the names and addresses of the following with respect to the principal-
- (a) if a partnership, all the general and limited partners;
 - (b) if a trust, the trustees and all persons entitled to receive income or benefit from the trust;
 - (c) if an Association, the members, officers and directors, or
 - (d) if a corporation, the officers, directors and each owner or holder, directly or indirectly, of any equity, security or other evidence of ownership of any interest in the corporation:

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

Draws.

- 73.** (1) All draws shall be held within the licensee's premises and prize draws shall be open to members of the public.

(2) The draws for all games comprising the Lottery shall be conducted at such times as may be determined by the licensee and with the approval of the Board.

(3) At all draws under this Part, an officer of the Board shall supervise the selection of the winning entries.

(4) The draw for a prize of more than five hundred thousand shillings shall be conducted and recorded for public viewing in at least two television stations of national viewership, and all draw results shall be published in at least two newspapers of national circulation.

(5) Any equipment used in public draws to select winning numbers or entries for prizes shall be examined and tested by the Board together with the internal auditor of the licensee or a designated representative prior to and after each public draw.

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

Payment of prizes

- 74.**(1) No prizes shall be awarded upon a ticket purchased or sold in violation of this Act.

(2) The licensee shall stand discharged from all liability to winners upon payment of prizes in accordance with the terms and conditions of the National

Lottery.

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

Unclaimed prizes

75.(1) Prizes not claimed within the time specified by the Board shall be forfeited and be paid into the Fund.

(2) The right to a prize shall not be assignable but prizes may be paid to a deceased winner's estate or to a person designated by the determination of a Court.

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

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

(5) Any person who loses a National Lottery ticket shall forthwith report the loss to the licensee before the draw in respect thereof is conducted.

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

Audit of the lottery.

76.(1) The Board may from time to time appoint one or more suitably qualified persons to generally audit the conduct of the National Lottery and report thereon to the Board.

(2) The person appointed under subsection (1) shall, with respect to the National Lottery, audit, among other things-

(a) its organization, management and procedures;

(b) the system for selecting winning tickets and the methods employed to prevent fraud or manipulation thereof and to ensure its fairness, accuracy, efficiency and reliability;

(c) the manner of the recruitment, organization and supervision of the staff of the licensee engaged in:-

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

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

(d) the observance of this Act and any regulations made thereunder in relation

to the National Lottery.

- (3) A person appointed under this section shall report to the Board-
- (a) at such intervals as the Board may require in relation to any of the matters specified in sub-section (2) ; and
 - (b) from time to time in relation to any other matters relating to the National Lottery which the person considers should be reported to the Board.
- (4) A person appointed under subsection (1) may enter and remain on the premises of the licensee at all reasonable times and shall have access to and may inspect any National Lottery tickets or any records kept by the licensee whether in documentary or in electronic form relating to the National Lottery, and may take copies or extracts from the records.
- (5) Directors and employees of the licensee who are involved in the conduct of the Lottery, shall give to a person appointed under this section such information in their possession relating to the National Lottery as may be required by that person.
- (6) Any director, employee or agent of the licensee who fails or refuses to comply with a request duly made under this section in relation to any information in his or her possession, or who obstructs or hinders a person appointed to perform his functions under this section commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

Apportionment of the proceeds of the National lottery.

77. The gross revenue of the National Lottery shall be distributed as follows-

- (a) fifty percent ,to the holders of winning tickets;
- (b) ten percent to the licensee to meet its administrative costs;
- (c) twenty –five percent to the Fund established under section 78 for distribution to good causes; and
- (d) fifteen percent to agents and retailers of the Lottery.

Remittance of funds.

78. The twenty-five percent of the National Lottery payable to the Fund under section 77 shall be remitted by the licensee to the Fund within fourteen days after such draw or at such other time as the Board may require, whichever is earlier.

PART VIII— THE NATIONAL LOTTERY DISTRIBUTION TRUST FUND

Establishment of Fund.

79.(1) There is hereby established a fund to be known as the National Lottery Distribution Trust Fund, which shall vest in and be administered by the Board of Trustees established under subsection (3).

(2) The Fund shall consist of-

- (a) the sums paid to the Fund in terms of section 77;

(b) interest and dividends derived from the investment of money standing to the credit of the Fund; and

(c) any other money lawfully paid into the Fund.

(3) There is hereby established a Board of Trustees to be appointed by the Cabinet Secretary in accordance with section 80.

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

Establishment and membership of the Board of Trustees.

80.(1) The Board of Trustees referred to in section 79(3) shall consist of-

- (a) a chairperson, not being a public officer and knowledgeable in finance or commerce, appointed by the President;
- (b) the Principal Secretary in the Ministry for the time being responsible for gaming or his representative;
- (c) the Principal Secretary in the Ministry for the time being responsible for finance or his representative;
- (d) one representative of the Council of Governors;
- (e) two trustees appointed by the Cabinet Secretary with experience in trust law, accounts, sports or financial management; and
- (f) the Managing Trustee who shall be appointed by the Board of Trustees.

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

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

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

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

(5) The headquarters of the Board of Trustees shall be in Nairobi

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

Disqualifications for appointment.

81. (1) A person shall not be qualified for appointment as a trustee if the person-

- (a) whether personally ,through a spouse ,immediate family member, business partner or associate has or has had a direct or indirect financial interest in any lottery or gaming or associated activity, in the three years immediately preceding the time of appointment;
- (b) has any interest in a business or enterprise that may conflict or interfere with the proper performance of that person’s functions as a trustee;
- (c) is a member of a governing council of a political party;
- (d) has been declared bankrupt or has committed an act of bankruptcy;
- (e) has at any time been ,or is, removed from an office of trust on account of misconduct; or
- (f) has at any time been convicted ,whether in Kenya or any other country ,of a criminal offense and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;
- (g) is incapacitated by prolonged physical or mental illness or is otherwise unable to discharge his duties as a trustee; or
- (h) fails to comply with the provisions of this Act relating to disclosure.

Filling of a vacancy.

82. Whenever the office of a Trustee appointed under section 78(3) becomes vacant before the expiry of the trustee’s term of office, the President or Cabinet Secretary, as the case may be, shall appoint a person similarly qualified to fill the vacancy.

Functions of the Board of Trustees.

83. The functions of the Board of Trustees shall be to-

- (a) receive and credit into its account, all monies payable into the Trust Fund under this Act;
- (b) make all disbursements required to be made out of the Trust Fund under this Act;
- (c) distribute its apportionment of the revenue of the National Lottery;
- (d) manage ,control and administer the assets of the Fund in such manner and for such purposes as to best promote the purpose for which the Fund is established;
- (e) receive any gifts ,grants donations or endowments made to the Fund or any other moneys lent in respect of the Fund and make disbursements therefrom in accordance with the provisions of this Act;
- (f) raise funds through investments and any other means approved by the Cabinet Secretary and the National Treasury;
- (g) advise the Cabinet Secretary on matters relating to the distribution and application of its apportionment of the revenue of the National Lottery and any other matter which the Cabinet Secretary may require advice or general direction;

- (h) set a ceiling of the amount of money that may be spent from the Fund on administrative expenses ,which shall not exceed one percent of the total proceeds remitted to the Fund by the licensee under section 77 of this Act;
- (i) ensure that in any financial year, the distribution of the proceeds and the expenditure from the Fund shall not exceed the annual income of the Fund and any surplus income brought forward from the previous year, and
- (j) perform such other functions as may lawfully be performed by a Board of Trustees.

Annual Program and Reports.

84. (1) The Board of Trustees shall indicate to the Cabinet Secretary at the beginning of its financial year-

- (a) the amount of money likely to be available for distribution to good causes in that year;
- (b) the priorities, if any, in monies allocated in that year ;and
- (c) the criteria to be applied in making allocations.

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

Powers of the Board of Trustees.

85. The Board of Trustees shall have all the powers necessary for the proper performance of its functions under this Act and in particular the Board of Trustees shall have the power to make such regulations in consultation with the Cabinet Secretary and the Board as in its opinion are necessary or expedient for the due performance of its functions in relation to the Trust Fund.

Distribution of funds.

86. The Board of Trustees, in consultation with the Cabinet Secretary, shall Prescribe the amounts and manner in which the money in the Fund shall be distributed to different Good Causes for the welfare of the public and contribution to the national economy.

Financial Year.

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

Annual estimates of the Fund.

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

(2) The annual estimates shall make provision for all the estimated expenditure of the Fund for the financial year, and in particular but not limited to-

- (a) the payment of salaries or allowances and other charges in respect of the staff of and the members of the Board of Trustees; and
- (b) any other expenditure that may be necessary for the carrying out of their respective objects of the Fund.

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

(4) After the Cabinet Secretary's approval, the Authority shall not increase the annual estimates without the consent of the Cabinet Secretary.

Exemption.

89. Notwithstanding any other provisions of this Act, the following sections of this Act shall not apply to the National Lottery, and the National Lottery Distribution Trust Fund-

- (a) Section 18 Duration of licenses and permits ;
- (b) Section 48 Authorization of public lotteries for charitable purposes;
- (c) Section 52 Exemption of certain kinds of lotteries conducted for charitable, sporting and other purposes;
- (d) Section 53 Exemption of small lotteries incidental to certain entertainments;
- (e) Section 54 Private lotteries.

PART IX— GAMING

Maximum number of casinos.

90. (1) The Cabinet Secretary, may , by regulations made in accordance with this Act and after considering the criteria set out in this section, prescribe the number of casino licenses that may be granted in the Country, and in each County.

(2) Before making regulations under subsection (1), the Cabinet Secretary may consult the Competition Authority of Kenya, and shall consider, amongst other things the following criteria-

- (a) the number and geographic distribution of-
 - (i) existing licensed casinos and other gaming operators within the country, and the duration of the licenses under which they operate;
 - (ii) additional casino licenses available in terms of the maximum numbers then in force; and
 - (iii) the social , cultural and economic status of a particular county;
- (b) whether it is desirable to alter the maximum numbers of casino licenses, in the country as a whole, or within any particular county, in order to-
 - (i) address the incidence and social consequences of compulsive and addictive gambling;
 - (ii) protect gambling from being a source of crime, disorder and insecurity;
- (c) promote-
 - (i) job creation within the gaming industry;
 - (ii) new entrants to the gaming industry;

- (iii) diversity of ownership within the gaming industry;
- (iv) efficiency of operation of the gaming industry; or
- (v) Competition within the gaming industry.

Offences relating to unlicensed gaming premises.

91. (1) Subject to this Act, a person who—

- (a) being the owner or occupier or having the use temporarily or otherwise thereof, keeps or uses unlicensed gaming premises; or
- (b) permits premises of which he is the owner or occupier, or of which he has the use temporarily or otherwise, to be used as unlicensed gaming premises; or as the care or management of, or in any manner assists or is engaged in the management of, premises kept or used as unlicensed gaming premises; or announces or publishes or causes to be announced or published, either orally or by means of any print, writing, design, sign, or otherwise, that any premises are opened, kept or used as unlicensed gaming premises, or in any manner invites or solicits any person to play in unlicensed gaming premises; or
- (c) advances, furnishes or receives money for the purpose of establishing or conducting the business of unlicensed gaming premises commits an offence and shall on conviction be liable to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding five years or to both.

(2) A person who games in an unlicensed public gaming or casino premises shall be guilty of an offence and liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding one year or to both; and a person in unlicensed gaming premises, or found escaping there-from on the occasion of its being entered under this Act, shall be presumed until the contrary is proved to be or to have been gaming therein.

(3) A person who occupies or who has the use temporarily of premises which are kept or used by another person as unlicensed gaming premises shall be presumed until the contrary is proved to have permitted that place to be so kept or used.

(4) In this section “unlicensed gaming or casino premises” means gaming premises in respect of which no license is issued under this Part.

Board may license public gaming premises.

92. (1) The Board may, subject to any regulations made under this Act, issue a licence authorizing a person to organize and manage gaming, other than gaming organized and managed under section 96 or section 97 on premises to which the public may resort for the purpose of playing games, not being unlawful games.

(2) A licence shall be issued in respect of each premise to be used for gaming and any license to be issued under this section shall state the game or games which the licensee may, on the premises named therein, organize and manage.

(3) the Board may, in respect of a license issued under this section, impose conditions providing for-

- (a) The manner in which a person may conduct his business and the suitability, condition and conduct of the premises and the hours during which the premises may be open for business;
- (b) the protection of persons taking part in the gaming against fraud;
- (c) measures to ensure responsible gaming;
- (d) payment of taxes and admission fees for persons resorting to the premises.

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

Offences relating to licensed gaming premises.

93. (1) If a person issued with a licence uses or permits the use of licensed gaming premises for the playing of games not authorized by the Board or of a variant of or of a similar nature to a game sanctioned by the Board which is played in a manner that the chances therein are not equally favorable to all the players, or contravenes or fails to comply with any condition imposed by the Board or by any regulations made under this Act, then it shall be held that the gaming was unlawful gaming and the person shall be guilty of an offence under section 91(1).

Provided that it shall be a defence for a person charged with an offence under this section only by reason of his being concerned with the conduct of gaming to prove that the contravention of a condition imposed under section 91(3) occurred without his consent or connivance and that he exercised all due diligence to prevent it.

(2) A person who is present at gaming mentioned in subsection (1) for the purpose of taking part therein shall be guilty of an offence and for the purpose of this subsection proof that a person was present at the gaming shall be evidence that he was present for the purpose of taking part therein unless he proves to the contrary.

(3) A person who, in connection with licensed gaming premises, without the approval of the Board-

- (a) holds himself out by advertisement or notice or public placard as willing to provide members of the public with premises for the playing of a game of chance;
- (b) displays a written or printed placard or notice relating to gaming so as to be seen in a public street or place;
- (c) prints or publishes, or causes to be printed or published, an advertisement or other notice; commits an offence and shall on conviction be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years or both.

(4) Any licensee who fails to pay a winner the entire winnings in any gaming activity on demand commits an offence and shall be liable on conviction to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years or both.

PART X — PROTECTION OF MINORS

Gaming with young person an offence.

94.(1) Notwithstanding any exceptions in this Act, no person shall offer, permit, entice, invite or induce a minor to participate in a game which must, in terms of this Act or any other regulatory instrument, solely be offered to persons who are not minors, whether by means of allowing entrance into gaming premises whether for the purpose of gaming or otherwise, plays a game of chance with, or permits the playing of a game by, a young person selling a gaming ticket, employment of a young person in the organization and management of gaming or engagement in the provision of a gaming service, advertising or promotion of a gaming service or by any other means whatsoever.

(2) A person who violates the provisions of subsection(1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding two million shillings or to imprisonment for a term not exceeding three years or both.

PART XI — ADVERTISING OF GAMING

Prohibition of advertisement and promotion of gaming.

95. (1) No person shall promote a gaming activity without the approval of the Board on any medium of electronic or any other form of communication by -

- (a) holding himself out by advertisement, promotion, notice or public placard as willing or with an aim of enticing members of the public to participate in gaming;
- (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; or
- (c) printing or publishing, or causes to be printed or published, any advertisement or notice.
- (d) uses a prominent personality, public vehicle or use of lifestyle advertising to promote gaming;
- (e) uses false, misleading or deceptive or message likely to create an erroneous positive impression of gaming;
- (f) uses a testimonial or endorsement displayed or communicated, that is misleading or incapable of informing consumers of the hazards of gaming, without evoking a conflicting message or impression;
- (g) advertise gaming by organizing, promoting or sponsoring a sporting, trade fairs exhibitions shows, cultural, artistic, recreational, educational or entertainment programmes, activity or any other event.

(2) The Board may also determine where, when and how gaming is to be advertised.

(3) A person who contravenes the provisions of this section or on behalf of another person, with or without consideration, publish, broadcast or otherwise disseminate any promotion or advertisement that is prohibited under this part commits an offence and shall on conviction be liable to a fine not exceeding one million shillings or to imprisonment for

a term not exceeding one year or to both.

PART XII— REMOTE GAMING

Offence to operate or promote, remote gaming without a license.

- 96.** (i) It shall be an offence for any person to operate or promote or sell or abet Remote gaming in or from the country unless such person is in possession of a valid licence issued by the board.
- (ii) Any person who contravenes the provisions of this section commits an offence and shall be liable on conviction to a fine not exceeding five million shillings or to imprisonment for a term not exceeding five years or to both.

Remote gaming.

- 97.** (1) In this Act remote gaming means gambling in which persons participate by the use of remote communication.
- (2) In this Act remote communication means communication using-
- (a) the internet;
 - (b) telephone;
 - (c) television;
 - (d) radio;
 - (e) any other kind of electronic or other technology for facilitating communication.
- (4) The Cabinet Secretary may by regulations provide that a specified system or method of communication is or is not to be treated as a form of remote communication for the purposes of this Act.

Qualifications for licensing.

- 98.** To qualify for a license, an applicant must be a body corporate incorporated in Kenya in terms of the Companies Act.

Applications.

- 99.** (1) Any person who wants to obtain a remote gaming licence shall apply in writing to the Board.
- (2) Without prejudice to any other provision of this Act, applications for a licence must be made on forms provided by the board and shall include information concerning the following:
- (i) personal background information;
 - (ii) financial information;
 - (iii) participation in legal activities, including but not limited to, any interest or equity in any other commercial activity;
 - (iv) criminal record information;
 - (v) information concerning all pecuniary, equity and other interests in the applicant; and

(vi) any other information required by the board, for every director, key official and chief executive officer of the applicant and for every shareholder with two per centum or more ownership of, or controlling interest in the applicant:

Provided that the board may, at its discretion, require that all beneficial owners of shares in the applicant provide the above information.

(3) The applicant shall pay to the board the relevant license fees, renewal fees, approval fees and any other administrative fees set out in the Third Schedule.

(4) The board may, require applicants or licensees to pay the actual costs and any other expenses incurred in conducting analyses, inspections and investigations into their backgrounds, suitability and qualifications to obtain and maintain a licence.

Conditions of remote gaming license.

100. (1) In granting a license the Board may subject it to such conditions as it may deem appropriate, and after the grant of such license it may from time to time vary or revoke any conditions so imposed or impose new conditions.

Provided that whenever the board deems appropriate to vary any condition or impose any new condition in the license, it shall be by notice in writing informing the licensee of the variation or imposition of a new condition or variation.

- (2) A license granted by the Board may impose conditions relating to interalia:-
- (a) the proper operation of interactive games;
 - (b) the protection of players;
 - (c) the prevention of money laundering;
 - (d) exigencies of public interest.

Revocable privilege.

101. (1) Without prejudice to any provision of this Act or such other law, the granting of a license is a revocable privilege and no holder thereof shall be deemed to have acquired any vested rights therein or there under.

(2) The burden of proving the licensee's qualifications to hold a license shall rest at all times on the licensee.

Assignment and transfer prohibited.

102. (1) A remote gaming license granted by the Board may not be assigned or transferred in any way whatsoever to any other person without the prior written consent of the board and any such assignment or transfer to any other person without its consent and pay payment of requisite fees shall be considered null and void and shall constitute sufficient ground for the cancellation of the license.

(2) Without prejudice to the regulations of this part it shall be the duty of the licensee to notify the Board forthwith of :-

- (a) any proposed change in the board of directors or management of the licensee or any material changes in the licensee;

(b) any resolution or intended resolution or any application or intended application to the court or any other action for the dissolution and winding up of the licensee as soon as they become aware of such changes, resolutions or intended resolutions, applications or intended applications or actions.

(3) Notwithstanding anything contained in any other law the approval in writing of the board shall be required before any person may lawfully: –

(a) transfer a qualifying shareholding in the licensee;

(b) increase an existing holding which is not a qualifying shareholding so as to cause it become a qualifying shareholding in such licensee;

(c) increase an existing qualifying shareholding in such license so as to cause it to equal or exceed five per centum of the share capital issued by the licensee or of the voting rights attaching to such share capital, or cause the licensee to become that person's subsidiary;

(d) reduce an existing qualifying shareholding in such licensee so as to cause it to fall below five per centum of the share capital issued by the licensee or of the voting rights attaching to such share capital;

(e) reduce an existing qualifying shareholding in such licensee so as to cause it to cease to be qualifying shareholding in such licensee.

(4) It shall also be the duty of the licensee to obtain the prior approval in writing of the board before taking any of the following actions:

(a) the sale or any other disposition by the licensee of the business;

(b) the merger of the licensee with another company;

(c) the reconstruction of the nominal or issued share capital of the licensee or the increase or reduction of the voting share capital or any material change in voting rights in such licensee;

(d) entering into any contractual arrangements with any supplier or entity providing services, if such supplier or entity will receive a percentage of the profits of the remote gaming operation or commission, pursuant such an agreement ;

(e) the surrender of the license by the licensee during the licence term.

(5) Where the licensee or another person takes any activities set out in (3) (a) to(e) and 4(a) to (e) above without the prior approval in writing of the board or is in the breach of any terms and conditions specified by it in any such approval the board may without prejudice to its powers-

(a) issue a directive declaring such action or transfer to be void and of no effect which directive shall be effective against all persons involved in such action or transfer notwithstanding the provisions of any other law and ,or

(b) issue a directive to such licensee or as the case may be ,to such person to do or refrain from doing any act which the board may deem appropriate in the circumstances;

and such licensee or as the case may be, such person shall comply with any such directive issued to it by the board in terms of (b) above failure to which one shall be guilty of an offence under the Act and liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year or to both.

Notice by the board.

103. (1) Where a licensee has sought approval from the board to surrender a licence, the board shall within a reasonable time not exceeding thirty days inform in writing the licensee or such person seeking approval, of its decision including reasons for any objection.

(2) The board may before reaching any decision request the person or licensee seeking approval to provide any information or documents it may reasonably require in order to make a decision.

(3) An approval granted by the board shall be effected within three months from the date of approval and necessary documentations filed with the board.

(4) (a) Where the licensee has sought the approval to surrender its licence, the board shall not approve the request unless it is shown to its satisfaction that the licensee is not in breach of any provisions of the Act, regulations, or any directive issued or conditions of the licence, at the time when such request for approval has been made.

(b) the board shall also require evidence that player's monies have been duly refunded or alternative arrangements in respect of such monies have been made to its satisfaction including depositing the funds with the board for disbursement.

Suspension and cancellation of remote licence.

104.(1) Without prejudice to any other provisions in this Act relating to cancellation, revocation or suspension of licenses, the board may order the suspension or cancellation if:

(a) any person who has an interest in the licence or any key employee in relation to the licence is convicted in any country or territory of an offence which is punishable in that country or territory by imprisonment;

(b) the licensee has failed without reasonable cause being shown to comply with any material term or condition of the licence;

(c) the licensee has failed to discharge financial commitments for the licence holders operations or the board has reason to believe that such failure is imminent;

- (d) the licence holder is insolvent or is being wound up;
- (e) the licence holder applies for an order or is compelled by any means or for any reason to discontinue or to wind up its operations;
- (f) the remote gaming licence was obtained by a materially false or misleading representation or in some other improper way;
- (g) the licence holder is in breach of the laws or regulations at any time in force for the prevention of money laundering;
- (h) the licence holder has failed to meet commitments to players;
- (i) the licence holder has failed to pay in a timely manner all gaming or betting taxes due to the government;
- (j) the board in its sole discretion, has determined that there is material and sufficient reason for suspending or revoking the licence;
- (k) the board reasonably deem it necessary in the national interest to cancel or suspend a licence;
- (l) and the board is reasonably satisfied that the licensee presents a danger and reputation of gaming in the country.

(2) (a) the suspension, revocation or expiration of the licence shall not affect any liability of the licence holder for anything done or omitted to be done before the date of suspension, revocation or expiration.

(b) the liability of the licence holder to pay any fee shall continue during any period when the licence is suspended

Renewal of
license.

105. A remote gaming licence may be renewed by the board provided that any such renewal shall in all cases be subject to the continued compliance by the licensee, during the preceding term of the license with the provisions of the licence, of the Act and regulations, and any directive issued by the board in terms of the Act or regulations applicable to the licence.

- (i) The board shall not issue or renew a remote gaming license unless it is reasonably satisfied that all persons involved in the applicant company are fit and proper persons.
- (ii) In determining whether the applicant is a fit and proper person under this Act, the board shall have regard to the following matters:

(a) the character of the persons vested with executive powers in the applicant, and the business reputation of such persons;

(b) the current financial position, financial background and business

reputation of the applicants promoters, shareholders and directors;

- (c) whether the applicant has the appropriate business ability to conduct remote gaming successfully;
- (d) whether the applicant has ,or is able to obtain, appropriate resources and is able to maintain minimum required reserves as may be set by the board in order to ensure that players shall have winnings paid and deposits returned ;
- (e) the commitment of the applicant to maintain a physical presence in Kenya;
- (f) whether the applicant is, in the boards opinion untainted with illegality;
- (g) whether the applicant has followed policies and will take affirmative steps to prevent money laundering and other suspicious transanctions;and
- (h) whether the applicant has the capacity and the internal control structures to enable it to comply with the policies and directives which the board deems appropriate.

Notice of suspension, cancellation or Renewals.

106. (1) Where a ground of suspension or cancellation of a licence or permit arises, the board shall by notice in writing ,request the licensee and or any other person who in its own opinion has an interest in the licence to show cause ,within such period being not less than twenty –one days after the issue of the notice why the licence or permit should not be cancelled or suspended on ground stated in the notice:

Provided that the board may, in the same notice ,require the person on whom the notice is served to tender any information or documents it may deem necessary in the circumstances.

(2) the board shall have regard to any representations under (1) above in such a manner that:

- (a) where the matter is resolved to its satisfaction it shall take no further action in relation to the matter in consideration and shall inform the licensee in writing accordingly;
- (b) where although the matter is resolved to its satisfaction it considers that further action is not warranted, it shall caution the licensee in writing ; or
- (c) Where the matter is not resolved to its satisfaction and it is satisfied that further action is unwarranted, it may:
 - (i) by notice in writing give such direction to the licensee as it considers appropriate; or
 - (ii) suspend the licence for such period as it thinks fit or cancel such licence ;or

(iii) levy a fine for the said breach as the board may prescribe from time to time to enforce compliance.

(3) Where a direction given by the board is not complied with within the time specified in the notice, the board shall cancel the licence.

Key official or employee.

107. (1) Without prejudice to any other provision in the Act requiring the licensing of employees by the board, a licensee shall appoint at least one key official or employee whose appointment shall be approved by the board after determining their suitability to:

- (a) personally supervise the operation of the licensee of which he is a key official;
- (b) ensure that the licence holder shall comply with all applicable laws and regulations, the conditions of the licence and any directive issued by the board to the licensee.

(2) the appointment and approval of a key official or employee by the board shall be a condition of the licence.

Application, cancellation and duration of key official or employee licence.

108. (1) An application for the appointment of a key official or employee shall be made to the board in writing, or in an approved form.

(2) the board shall not issue a licence or an approval to an applicant for key official or employee unless it is satisfied that such person is fit and proper to fulfill his obligations and discharge his duties.

(3) the board shall cancel a key employee licence if such an official or employee if ceases :

- (i) to be resident of Kenya;
- (ii) a director or employee of the licensee;
- (iii) to be in the board's sole discretion, a fit and proper person.

(4) the board may cancel the licence of a key official if such an official is convicted in any country or territory of an offence punishable with imprisonment.

(5) a key official licence shall remain valid until it is cancelled by the board under any of the grounds set out in this Act or surrendered to it by its holder.

Provided that a key official licence cannot be surrendered without the written consent of the board.

Player accounts and payment of winnings.

109. (1) A licensee shall establish and maintain a player account in relation to each player who is registered with the licensee and shall protect and refund player deposits on demand.

(2) the licensee shall credit to the player account all funds-

- (a) received by the licensee from or on behalf of the player; or

(b) owned by the licensee to the player.

- (3) a licensee shall not accept a wager from a player unless:
- (a) a player's account has been established in the name of the player and there are adequate funds in the account to cover the amount of the wager; or
 - (b) the funds necessary to cover the amount of the wager are provided in an approved way.

- (4) if no transaction is recorded in a player's account for two months, the licensee shall remit the balance in that account to the player, or if the player cannot be satisfactorily located to the board.

Players monies
to be kept in
separate account.

- 110.** (1) A licensee shall keep player funds separately from the licensee's own account held with a financial institution approved by the board.

(2) The player's funds in the client's account shall at any time be at least equal to the aggregate of the amount standing to the credit of player accounts held by the licensee; and

(3) Where accounts fall below the aggregate total of the amounts standing to the credit of the player accounts, the licensee shall make good the shortfall from its own funds within a period of five days; failure to do so will result in an administrative penalty against the licensee.

(4) The board may, at its discretion, consider funds held in other accounts belonging to or controlled by the licensee to be included with funds in the client's accounts for the purposes of this provision.

- (5) Monies held in the client's account shall not be subject to any execution, any charge, write-off, set-off or other claim by any person or any financial institution until all client deposits, funds or winnings are settled or refunded; or;
- (6) Combine the client's account with any other account in respect of any debt owed by the licensee to a bank or any other person or institution;
- (7) Without prejudice to any provision of this Act relating to submission of a deposit, the board may for the purposes of protecting player funds order a licensee to take out a bank guarantee in its favour of such amount and for such period and a licensee who fails within five days to comply with the directive, the board may suspend the licence and levy an administrative penalty to enforce compliance.
- (8) (i) A licensee shall instruct and authorize the financial institution holding client accounts or any mobile telephone operator or such third party handling client funds to disclose any information as requested by the board in respect of any transactions relating to the licensee's operation;
- (ii) failure to fulfil the above will be a ground for denial or cancellation of a licence.

PART XIII— CONTROL AND GAMING SYSTEM FOR REMOTE GAMING

Specifications of control system.

111. (1) An applicant for a licence shall submit in writing to the board for the purposes of approval the specifications of the control system he intends to use during operations.

(2) such submission shall include detailed information relating to:

- (a) the operation of remote gaming;
- (b) general procedures to be followed for the operation of remote gaming;
- (c) computer software where applicable;
- (d) procedures for recording and paying prizes won in remote gaming;
- (e) accounting systems and procedures;
- (f) procedure to be followed to play a game;
- (g) procedures and standards for the maintenance, security, stoppage and transportation of equipment to be used to conduct remote gaming;
- (h) procedures for the setting up and maintenance of security facilities including general compliance and internal controls to access to critical systems;
- (i) a disaster recovery plan;
- (j) an adequate system of data backup;
- (k) any other information that the board may require:

Provided that the provisions of this Act shall apply when a licensee intends to change a control system which had been previously approved by the board.

Testing of control system.

112. (1) The board may at its sole discretion, submit or direct the applicant or licensee to submit the proposed control system or an approved control system, to an audit.

(2) The costs incurred for such audit shall be borne by the applicant or the licensee as the case may be.

Approval of control system.

113. In considering whether to grant the approval mentioned above the board shall have regard to the following matters:

- (a) whether the proposed control system or the proposed changes to the control system satisfy all the requirements of the Act and regulations;
- (b) whether the proposed control system or the proposed changes are capable of providing satisfactory and effective control over the operation of remote gaming.

Notice by the Authority.

114. (1) The board shall by written notice inform the applicant or licensee of its decision and where approval has not been granted give reasons for its refusal to grant approval:

Provided that in cases where an approval is granted it shall have the right to direct the applicant or licensee to change or modify the approved control system in any

manner whatsoever, within a period of time which shall not be less than twenty –one days from the date on which the directive is issued on the applicant or licensee.

(2) failure to comply with the above provision shall constitute ground for the board not to issue a licence or suspend or cancel such licence as the case may be.

Gaming to be conducted under control system.

115. All remote gaming shall be conducted under the control system which has been approved by the Authority.

Gaming system certification.

116. (1) An applicant for a licence or a licensee shall before use of a new gaming system provide adequate certification to the board in respect of the Minimum technical specifications set out under the fifth schedule.

(2) The certification submitted to the board for approval to the board shall where the system is based on computer software include the following information:

- (a) the name of the owner of the software;
- (b) the name of the testing and certification organizations ;
- (c) individuals involved and their credentials;
- (d) the process, rules and parameters of the games;
- (e) the server and communication protocols including other specifications which are part of the gaming system architecture;
- (f) information about the security of the system;
- (g) which models affect processes, rules and parameters of the game if the source –code is changed;
- (h) any other information that is of material importance to the specific software;
- (i) a detailed description of the set-up and functionality of the application architecture and system architecture.

Approval required to change gaming system.

117. There shall be no changes to the gaming system without the approval of the board and additional certification of compliance.

Further testing of the gaming system.

118. Not Withstanding that the system has been approved for operation, the board may at any time direct the licensee to submit at the licensee’s cost, the systems software for further testing, checking or verification.

General provision on gaming equipment.

119. No gaming equipment may be used in the operation of an authorized game without the approval of the board and the board may by written notice require a licensee to submit gaming equipment for certification by an approved company or organization.

General Prohibitions.

120. (1) It shall be an offence for any person at any gaming premises to-

- (a) use a device for calculating probabilities;
- (b) use counterfeit or unapproved chips or tokens or coins or devices;
- (c) cheat in an established gaming activity;
- (d) card counting;
- (e) alter, or modify any equipment or devices;
- (f) manufacture, sell, mark or distribute any cards, chips, dice, game, or device which is intended to be used in contravention of any provision of this Act.

(2) It shall be unlawful for any person to mark, alter, or otherwise modify any gaming equipment or device in such manner as to-

- (a) affect the result of a wager by determining win or loss; or
- (b) Alter the normal criteria of random selection, which affects the operation of a game or which determines the outcome of a game.

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

Small gaming parties.

121. (1) Subject to this Act, gaming on premises other than licensed premises shall be lawful only if it is conducted in accordance with the following conditions-

- (a) Either-
 - (i) the chances in the game are equally favorable to all the players; or
 - (ii) the gaming is so conducted that the chances therein are equally favorable to all the players; and
- (b) no money or money's worth which any of the players puts down as stakes, or pays by way of losses, or exchanges for tokens used in playing the game, is disposed off otherwise than by payment to a player as winnings; and
- (c) no other payment in money or money's worth is required for a person to take part in the gaming; and
- (d) no young person is included among the players.

(2) If in proceedings under this section evidence is adduced that gaming took place on premises and-

- (a) that the game was, or was a variant of or of a similar nature to, a game which is capable of being played in accordance with the ordinary rules thereof in a manner that the chances therein are not equally favorable to all the players, and that ten or more persons were present at the gaming; or
- (b) that the payment of money or money's worth was required in order to obtain access to the premises; or
- (c) that subsection (1) (d) was contravened, then, subject to section 98, it shall be held that the gaming was unlawful gaming unless it is proved that the gaming was conducted in accordance with the conditions set out in paragraphs (a), (b)

and (c) of subsection (1) and, in respect of a contravention of subsection (1) (d), that the person charged neither knew nor had reasonable cause to suspect that any of the players was under the age of eighteen years.

(3) If on any premises gaming takes place which is unlawful by virtue of subsection (1), or subsection (2) any person concerned in the organization or management of the gaming, and any other person who, knowing or having reasonable cause to suspect that unlawful gaming would take place on those premises-

- (a) allowed the premises to be used for the purposes of gaming; or
- (b) let the premises, or otherwise made the premises available, to any person by whom an offence in connection with the gaming has been committed.

commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both; and for the purposes of this subsection a person who took part in procuring the assembly of the players shall be deemed to have been concerned in the organization of the gaming.

(4) A person who is present at any gaming such as is mentioned in subsection (3) for the purpose of taking part therein commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both; and for the purposes of this subsection proof that a person was present at gaming shall be evidence that he was present for the purpose of taking part therein unless he proves that he was present neither for that purpose nor for purposes of taking part in the management of the gaming, operating any instrument, or other thing whatsoever used in connection with the gaming, or making bets with respect to the gaming:

Provided that for the purposes of proceedings under this subsection, paragraph (c) of subsection (1) shall be deemed to be omitted if the person charged proves that he was not required to make, or to undertake to make, a payment such as is mentioned in that paragraph and that he neither knew nor had reasonable cause to suspect any other person was so required.

Savings for clubs.

122. In proceedings under section 97, gaming shall be held to have been conducted in accordance with the condition set out in subsection (1) (c) of that section if it is proved-

- (a) that the gaming was carried on as an activity of a club and that gaming is not the only, or the only substantial activity of the club;
- (b) that apart from an annual subscription for membership of the club, the only other payment required for a person to take part in the gaming was a fixed sum of money determined before the gaming began; and
- (c) that no person took part in the gaming, who was not either-
 - (i) a member of the club in pursuance of an application or nomination for membership made and an annual subscription paid more than twenty - four hours before the gaming began; or
 - (ii) a bona fide guest of such a member;

- (d) that not more than two guests of any one member took part in the gaming; and
- (e) that the club is so constituted and conducted as not to be of a merely temporary character.

Gaming at entertainment places not held for private gain.

123.(1) Games of chance or of chance and skill combined promoted and entertainments conducted as an incident to an entertainment to which this section applies not held for private gain shall be lawful provided all the following conditions are observed-

- (a) either-
 - (i) the chances in the game are equally favorable to all players; or
 - (ii) the gaming is so conducted that the chances therein are equally favorable to all the players; and
- (b) not more than one payment (whether by way of entrance fee or stake or otherwise) is made by each player in respect of all games played at the entertainment, and no such payment exceeds fifty shillings; and
- (c) not more than one distribution of prizes or awards is made in respect of all games played at the entertainment, and, subject to subsection (2), the total value of all prizes and awards distributed in respect of the games does not exceed five thousand shillings; and
- (d) the whole of the proceeds of the payments mentioned in paragraph (b), after deducting sums lawfully appropriated on account of expenses or for the provision of prizes or awards in respect of the games, are applied for purposes other than private gain;
- (e) the amounts of the proceeds appropriated in respect of expenses does not exceed the reasonable cost of the facilities provided for the purposes of the games; and
- (f) no young person is included among the players.

(2) Where two or more entertainments are promoted on the same premises by the same persons on any day, the conditions specified in subsection (1) shall apply in relation to those entertainments as if they were a single entertainment.

(3) Except as provided in subsection (2), where a series of entertainments is held the conditions specified in subsection (1) shall apply separately to each entertainment in the series, whether or not some or all of the persons taking part in any one of those entertainments are thereby qualified to take part in any one of them; and where each of the persons taking part in the games played at the final entertainment of the series is qualified to do so by reason of having taken part in the games played at another entertainment of that series held on a previous day (being an entertainment to which this section applies)

subsection (1) (c) shall apply in relation to that final entertainment as if for the words “four hundred shillings” there were substituted the words “two thousand shillings.”

(4) If in proceedings under this section evidence is adduced that gaming took place at an entertainment and-

- (a) that a game was, or was a variant of or of a similar nature to, a game which is capable of being played in accordance with the ordinary rules thereof in a manner that the chances therein are not equally favorable to all the players; or
- (b) that more than one payment was made by any player in respect of the games played at the entertainment or that any payment made by a player exceeded fifty shillings; or
- (c) that subsection (1) (f) was contravened.

It shall be held that the gaming was unlawful gaming unless it is proved that the gaming was conducted in accordance with the conditions set out in paragraphs (a), (b), (c), (d) and (e) of subsection (1) and, in respect of a contravention of subsection (1) (f), that the person charged neither knew nor had reasonable cause to suspect that any of the players was under the age of eighteen years.

(5) If gaming takes place at an entertainment which is by virtue of subsection (1), or is held by virtue of subsection (4) to have been, unlawful gaming, any person concerned in the organization or management of the gaming, and any other person who, knowing or having reasonable cause to suspect that unlawful gaming would take place on those premises-

- (a) allowed the premises to be used for the purposes of gaming; or
- (b) let the premises, or otherwise made the premises available, to any person by whom an offence in connection with the gaming has been committed.

commits an offence and shall on conviction be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both; and for the purposes of this subsection a person who took part in procuring the assembly of the players shall be deemed to have been concerned in the organization of gaming.

(6) A person who is present at gaming such as is mentioned in subsection (5) for the purpose of taking part therein shall be guilty of an offence and liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both; and proof that a person was present at gaming shall be evidence that he was present for the purpose of taking part therein unless he proves that he was present neither for that purpose nor for purposes of taking part in the management of the gaming, operating any instrument, or other thing whatsoever used in connection with the gaming, or making bets with respect to the gaming.

Provided that for the purposes of proceedings under this subsection, paragraph (b) of subsection (1) shall be deemed to be omitted if the person charged proves that he was not required to make, or to undertake to make, more than one payment or any payment exceeding fifty shillings and that he neither knew nor had reasonable cause to suspect any other person was so required.

(7) In this section—

- (a) “entertainment” means a bazaar, sale of work, fete, dinner, dance, sporting or athletic event or other entertainment of a similar character whether limited to one day or part thereof or extending over two or more days; and
- (b) in construing paragraph (d) of subsection (1), the proceeds of the payment mentioned in that paragraph shall not be held to be applied for purposes of private gain by reason only that their application for purposes other than private gain resulted in benefit to any person as an individual.

Provided that, where a payment fails to be made by way of hiring, maintenance or other charge in respect of equipment for gaming at the entertainment and the amount of that charge falls to be determined wholly or partly by reference to the extent to which that or some other equipment is used for the purpose of the gaming, then that payment shall be held as an application of the proceeds for purposes of private gain; and accordingly the reference to expenses shall not include a reference to any such charge falling to be so determined.

(8) So much of section 102 as relates to gaming in a place other than a street shall not apply to this section.

Offence relating to the use of unlicensed gaming machines.

124.(1) A person who—

- (a) uses or permits the use of an unlicensed gaming machine;
- (b) knowingly allows premises to be used for the purposes of gaming by means of an unlicensed gaming machine; or
- (c) knowingly or having reasonable cause to suspect that premises would be used for gaming by means of an unlicensed gaming machine—
 - (i) caused or allowed the machine to be placed on the premises; or
 - (ii) let the premises or otherwise made the premises available, to a person by whom an offence in connection with the machine was committed;

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

(2) In this section “unlicensed gaming machine” means gaming machine in respect of which a permit has not been issued under section 101.

Prohibition of unlicensed gaming machine.

125. (1) Operation of unlicensed gaming machines is prohibited.

(2) A person who operates, distributes, installs, leases, plays or leases premises for use of unlicensed gaming machine commits an offence and shall be liable on conviction to

a fine not exceeding two million shillings or to Imprisonment for a term not exceeding two years or to both.

Gaming in public place an offence.

126.(1) Subject to this Act, a person who takes part in gaming in a street or other place to which, whether on payment or otherwise, the public have or may have access, commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

(2) A police officer may arrest without warrant anyone who he finds in a street or any other place referred to in subsection (1) and whom he suspects, with reasonable cause, to be committing an offence under this section.

(3) In this section, "street" has the meaning assigned to it in section 44(3).

PART XIV - AMUSEMENTS WITH PRIZES, PRIZE COMPETITIONS AND CHAIN LETTERS

Provision of amusements with prizes at certain non-commercial entertainments.

127.(1) A person may provide amusements with prizes at non-commercial entertainments provided that all the following conditions are observed-

- (a) the whole proceeds of the entertainment (including the proceeds of any amusements to which this section applies) after deducting-
 - (i) the expenses of the entertainment, including expenses incurred in connection with any such amusements;
 - (ii) such sum, if any, not exceeding one hundred thousand shillings as the persons providing the amusements think fit to appropriate on account of expenses incurred by them in purchasing prizes in connection with any such amusements, are devoted to purposes other than private gain.
- (b) the opportunity to win prizes at amusements to which this section applies, or that opportunity together with facilities offered by virtue of section 53 of the manner for participation in a lottery or by virtue of section 99 for taking part in gaming, is not the only, or the only substantial, inducement to persons to attend the entertainment.

(2) If any of the conditions specified in subsection (1) is contravened or not complied with, every person concerned in the provision or conduct of that amusement shall, unless he proves that the contravention occurred without his consent or connivance and that he exercised all due diligence to prevent it, shall be guilty of an offence and liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

(3) In this section -

- (a) In construing subsection (1) (a), the proceeds of the entertainment shall not be held to be applied for purposes of private gain by reason only that their application for

purposes other than private gain resulted in benefit to any person as an individual.

Provided that, where a payment falls to be made by way of hiring, maintenance or other charge in respect of equipment for providing the amusement and the amount of that charge falls to be determined wholly or partly by reference to the extent to which that or some other equipment is used for the purpose of the amusements, then the payment shall be held as an application of the proceeds for purposes of private gain; and accordingly the reference to expenses shall not include a reference to any such charge falling to be so determined.

(b) "Entertainment" means a bazaar, sale of work, fete, dinner, dance, sporting or athletic event or other entertainment of a similar character whether limited to one day or part thereof or extending over two or more days.

Provision of amusements with prizes at certain commercial entertainments.

128. (1) A person may, subject to subsections (2) and (3), provide for amusement with prizes—

- (a) on premises in respect of which a permit for the provision thereon of those amusements has been granted by the county authority under the relevant law and is for the time being in force; and
- (b) at a pleasure fair consisting wholly or mainly of amusements provided by traveling showmen which is 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 provided for 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 taken by way of the sale of chances in any one determination of winners, if any, of prizes shall not exceed five million shillings, and the sale of those chances and the declaration of the result shall take place on the same day and on the premises on which, and during the time when, the amusement is provided;
- (c) no money prize shall be distributed or offered which exceeds one million shillings;
- (d) the winning of, or the purchase of a chance to win, a prize shall not entitle a person, whether or not subject to a further payment by him, to any further opportunity to win money or money's worth by taking part in any amusement with prizes or in any gaming or lottery; and
- (e) in the case of a pleasure fair mentioned in subsection (1) (b), the opportunity to win prizes at amusements to which this subsection applies shall not be the only, or the only substantial, inducement to persons to

attend the fair.

(3) Where an amusement with prizes takes the form of a game played by use of a machine, being a game which is made playable by the insertion into the machine of one or more coins or tokens, then, in addition to the conditions specified in subsection (2), the following conditions shall be observed-

(a) in respect of one playing of the game, a successful player shall not receive any article other than one, and one only, of the following, namely-

(i) a money prize not exceeding one million shillings;

(ii) a prize other than money of a value not exceeding five million shillings;

(iii) one or more tokens of a nominal value exchangeable (so far as not used for further playing of the game) for prizes other than money on the basis of a prize or prizes of a value or aggregate value not exceeding five million shillings for a number of tokens equal to the maximum number of tokens which can be won at any one playing of the game; and

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

Provided that the condition set out in subsection (2) (d) shall not be contravened by a successful player receiving, in addition to a money prize, the opportunity to play the game again without the insertion of another coin or token and the aggregate amount which can be won by the player without inserting another coin or token does not exceed one hundred thousand shillings.

(4) If any of the conditions specified in subsection (2) or (3) is contravened or not complied with, every person concerned in the provision or conduct of that amusement shall, unless he proves that the contravention occurred without his consent or connivance and that he exercised all due diligence to prevent it, commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

Amusement
Machines.

129. (1) The Board or a county law may, subject to any regulations made under this Act, issue a permit authorizing the use of an amusement machine or amusement machines on premises approved by it.

(2) A permit issued under this section shall be subject to such conditions as the Board may impose 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, his parent or guardian.

(3) Any person who-

- (a) uses or permits the use of an amusement machine in respect of which a permit has not been issued under subsection (1); or
- (b) contravenes or allows the contravention of any condition provided for or imposed by the Board under subsection (2), commits an offence and shall be liable on conviction, in the case of an offence under paragraph (a), to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both and, in the case of an offence under paragraph (b) to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding two months or to both.

(4) In this section, “amusement machine” means a machine, other than a gaming machine –

- (a) which is operated by the insertion of a coin or coins or other equivalent into the machine; and
- (b) whereby a successful player neither receives nor is offered any benefit other than –
 - (i) the 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.

Prohibition against competitions or prizes involving no skill.

130. (1) No person shall conduct in Kenya, in or through any newspaper or broadcasting, or in connection with a trade or business or the sale of any article to the public-

- (a) a competition in which prizes are offered for forecasts of the result either of a future event, or of a past event the result of which the result is not yet ascertained or not yet generally known;
- (b) any other competition success in which does not depend to a substantial degree upon the exercise of skill.

Provided that nothing in this subsection with respect to the conducting of competitions in connection with a trade or business shall apply in relation to a pool betting scheme licensed under the Act.

(2) A person who commits an offence under this section shall without prejudice to his liability, if any, to be proceeded against under any other provision of this Act relating to betting and lotteries, be liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years or to both.

(3) In this section, “broadcasting” means radio communication, within the meaning of section 2 of the Kenya Information and Communication Act, 1998.

Authorization of prize competitions.

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

competitions success of which depends to a substantial degree upon the exercise of skill in connection with any trade or business or the sale of any article to the public.

(2) The computation of the amount to be levied for the licence shall be six per cent of the total cost of the promotion.

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

(4) Nothing in this section shall apply to any competition prohibited under section 106.

Chain Letters.

132. (1) 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 on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

(2) For the purposes of this section, "chain letter or voucher" means any document supplied or delivered from one person to another suggesting to the person to whom it is supplied or delivered—

(a) that he should send, supply or deliver a document having the same or similar purport to another person or persons; and

(b) that he should remit to a person or to an address specified in the first mentioned document money or money's worth.

(c)

PART XV— PROBLEM GAMING AND FINANCIAL PROTECTION OF PLAYERS

Responsible gaming measures.

133. The board shall ensure licensees conducting or operating any gaming business ensure their operations are carried out with due regard to responsible gaming measures as envisaged in the Act and in the Player Protection Regulations and any other regulatory instrument or applicable law.

Problem gaming warning.

134. (1) The board shall ensure licensees display at all times, in prominent place, on the entry screen of a website or such remote application, a warning of the addiction possibilities of gaming and information and links to organizations assisting compulsive gamblers.

(2) a licensee who refuses or fails to comply with the provisions of subsection (1) shall be guilty of an offence and liable to a fine not exceeding one million shillings or to imprisonment for a term of one year or to both and in addition the cancellation of the

licence.

Self exclusion.

135. (1) The board shall keep a register of all players who at their own discretion self exclude themselves from participating in any form of gaming.

(2) A player who intends to be entered in the register shall do so by filing a notice to the board and a notification shall be circulated to notify its licensees of the notice.

(3) It shall be an offence against any operator to allow a self excluded person to participate in any form of gaming and a person who allows such a person to game shall be guilty of an offence and liable to a fine not exceeding five hundred thousand shillings or to a term of imprisonment not exceeding one year or to both in addition to an administrative penalty to be imposed by the board.

(4) An self excluded player may by written notice to the board revoke the exclusion notice and the board shall communicate the notice to its licensees.

(5) Without prejudice to the above, the board may decline any notice revoking a self exclusion to protect the interest of the person or such other persons who might be affected by the decision.

Exclusion.

136. (1) The board shall have power to exclude any person from participating in any form of gaming if the person has committed an offence under the Act relating to cheating ,fraud or in the interest of the person, its licensees or such other persons.

(2) The board shall enter the name of the person in the register and circulate the name to all its licensees.

(3) It shall be an offence for a licensee to allow an excluded person to participate in any form of gaming and a person who allows such a person to game shall be guilty of an offence and liable to a fine not exceeding five hundred thousand shillings or to a term of imprisonment not exceeding one year or to both in addition to an administrative penalty to be imposed by the board.

(4) The name of an excluded person shall remain in the register for such period as it may determine, however an excluded person shall be allowed to apply for his name to be withdrawn from the list but the decision of board where it declines the request shall be final.

Limits set by players.

137. The board shall ensure a player who by a written or electronic notice to a licensee requests to set a limit on the amount of wager, limit of loss within a specified time, amount of time spend in any one session or excluding a definite or indefinite period of gaming to comply to such request and where a licensee fails, shall refund all the loses incurred by the player outside the notice in addition to an administrative penalty of Kenya shillings one million shillings to the board.

Prohibition of provision of credit.

138. It shall be an offence against this Act for a licensee or provider of a gaming service or an agent thereof to provide credit to players for participation in games.

PART XVI— THE GAMING APPEALS TRIBUNAL

Establishment of the Appeals Tribunal.

139. (1) There shall be a Gaming Appeals Tribunal for arbitrating disputes between the parties under this Act.

PART XVII –TAXATION OF GAMING

Taxation of gaming activities.

140. The following taxes shall be levied on all gaming activities-

- (1) (a) betting tax chargeable at a rate of fifteen per cent of betting revenue;
 - (b) lottery tax chargeable at a rate of fifteen per cent of the lottery turnover;
 - (c) gaming tax chargeable at a rate of fifteen per cent of gaming revenue;
 - (d) prize competition tax chargeable at a rate of seven per cent of total cost of the promotion;
- (2) The tax shall be paid to the collector by the licensed operator on the 20th day of the month following the month of collection.

PART XVIII— PREVENTING GAMBLING FROM BEING A SOURCE OF CRIME

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

141. A person who, by any fraud or unlawful device or ill practice in playing at or with an instrument of gaming, or in taking apart in the stakes or wagers, or in betting on the sides or hands of those that are playing, or in wagering on the event of a game, sport, pastime or exercise, wins from another person for himself, or for or on behalf of another person, a sum of money or valuable thing shall be guilty of an offence and liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

Power to enter and inspect land and premises.

142. It shall be lawful-

- (1) (a) For a gaming inspector or any other officer of the Authority authorized in writing in that behalf by the Board, on production of his authority if demanded or
- (b) for a police officer of or above the rank of Assistant Inspector,

to enter without warrant and inspect premises (including a race course) in which he has reason to believe that an offence under this Act, or under any regulations made thereunder, has been or is about to be committed, and therein to-

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

(2) The power to act under subsection (1) shall only be exercised without warrant if the person so acting has reasonable cause to believe that the delay occasioned in obtaining a search warrant would seriously hinder him in the performance of his duties, and the power shall be exercised only by or under the directions of a police officer of or above the rank of an Inspector unless the person authorized in writing by the Board or Principal Secretary has reasonable cause to believe that the delay occasioned in summoning a police officer would, or would tend to, defeat the purposes of this section.

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

Provided that no person may be required to answer any question the answer to which may tend to expose him to any criminal charge, penalty of forfeiture.

(4) Before removing anything under subsection (1), the person removing it shall furnish the person in whose custody or possession the article is at the time of removal with a written receipt therefore.

Forfeiture of licence and security on conviction and disqualification of licensee.

143.(1) If a person issued with a license under this Act is convicted of an offence under this Act or of an offence involving fraud or dishonesty, the court by or before which he is convicted may order that his license shall be forfeited or cancelled, and if that person is convicted of an offence under Part IV or Part VIII of the Criminal Procedure Code the court may make such further order as to the forfeiture of his security or part thereof furnished to the Board under section 12 as it deems fit, and the provisions of Part IV of the Criminal Procedure Code, in so far as they relate to the forfeiture of recognizance, shall apply *mutatis mutandis*.

Provided that no security or part thereof shall be applied in settlement of any betting or gaming entered into by that person.

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

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

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

Power of court to deal with anything produced to it.

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

PART XIX – MISCELLANEOUS PROVISIONS

Appeals from the decisions of Authority.

145. A person aggrieved by a decision made under this Act may, within twenty one days of the decision, appeal to the Tribunal, with a further appeal to the High Court.

Saving in respect of offences connected with advertisement in newspapers.

146. Where an offence is committed in connection with the printing and publication of an advertisement relating to gaming, no publisher, proprietor or editor or other member of the staff of a newspaper being a newspaper within the meaning of the Books and the Newspapers Act shall be guilty of that offence if he furnishes to the police officer or a gaming inspector investigating the occurrence the name and address of the person who caused the advertisement or notice to the public.

Regulations.

147. The Cabinet Secretary may, after consultation with the Board, make regulations generally for the better carrying out of the purposes and provisions of this Act, and, without prejudice to the foregoing generality, any such regulations may provide for-

- (a) the procedure to be followed by the Board in exercising any powers conferred upon it by this Act;
- (b) the procedure to be followed in the making of an application for the issue, renewal and variation of a license or permit issued under this Act;
- (c) the advertisement of an application for a license or permit under this Act and of

- proceedings of the Board to consider and determine any such application;
- (d) the right of a person interested to object to an application for the issue, renewal or variation of a license or permit under this Act, and for the form and manner of any such objection;
- (e) the form and manner in which returns or statements of accounts shall be furnished to the Board;
- (f) securing the payment of any fee.

PART XX— REPEALS AND TRANSITIONAL PROVISIONS

Repeal of Cap.
131.

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

Transitional
Provisions.

149. Notwithstanding section 117-

- (a) all rights duties, obligations, assets and liabilities attaching to the Government on behalf of the Betting Control and Licensing Board existing immediately before at the commencement of this Act (in this Part referred to as “the former Board”) shall be automatically and fully transferred to the Board established under section 4, and any reference to the Betting Control and Licensing Board in any contract or document shall, for all purposes, be deemed to be a reference to the Board established under section 4 of this Act;
- (b) The Chairperson and members of the former Board shall become the Chairperson and members respectively, as the case may be, of the Board for the remainder of their tenure in accordance with their appointment under section 3 of the Betting Lotteries and Gaming Act (now repealed);
- (c) for greater certainty and subject to this Act, such persons shall have and may exercise and perform all the powers and functions of Chairperson or members, as the case may be, as if they were appointed under this Act;
- (d) any person who at the commencement of this Act is the chief executive officer or other officer of the former Board, not being under notice of dismissal or resignation shall, upon such commencement and subject to this Act, be deployed to the Board as the chief executive officer or other officer thereof, on such terms and conditions as the Board may, on the advice of the Salaries and Remuneration Commission, determine, not being to the disadvantage of such officer;
- (e) until the Cabinet Secretary first makes regulations determining a maximum number of casino licences as contemplated in section 90 of this Act, the casino licences in operation immediately before the commencement of this Act shall remain valid unless revoked or cancelled under this Act.

FIRST SCHEDULE (s.5(4))

THE FUNCTIONS OF THE NATIONAL AND COUNTY GOVERNMENT

	NATIONAL GOVERNMENT		COUNTY GOVERNMENT
1.	Establish policies norms and standards for the conduct of betting, casinos and other forms of gambling.	1.	Licensing of gaming, totalisator and betting premises.
2.	To provide for the co-ordination of national, county and concurrent national functions relating to betting, casinos and other forms of gambling in accordance with this Act.	2.	Enforcing compliance of this Act and other applicable laws.
3.	Licensing of bookmakers.	3.	Periodic monitoring and evaluation of betting, lotteries and gaming activities in the counties.
4.	Licensing of public gaming (casinos)	4.	Development and implementation of county legislation on betting and other forms of gambling.
5.	Licensing of the National lottery.		
6.	Licensing of lotteries and prize competition cross cutting several counties and other forms of gambling.	5.	Implementation of policy standards and norms.
7.	Conducting security checks, vetting and due diligence in respect of gaming activities.	6.	Licensing of amusement machines.
8.	Authorizing and licensing of totalisators and other specified gaming equipment.	7.	Authorizing and issuing permits in respect of pool tables, prize competitions and lotteries within the county.
9.	Licensing remote and online gaming.	8.	Conducting spot checks on betting and other forms of gambling licensed under paragraph (4).

10.	Handling of complaints and arbitration including complaints emanating from the county level.	9.	Handling of complaints and arbitration.
11.	Enforcing this Act and other relevant laws.		
12.	Vetting, security checks and due diligence.		
13.	Capacity building and technical assistance to counties.		
14.	Regulation of the gaming industry.		
15.	Development of gaming standards and norms.		

SECOND SCHEDULE(s.10)

CONDUCT OF THE BUSINESS AND AFFAIRS OF THE BOARD

- 1.** The Board shall meet at least four times in each financial year and not more than three months shall elapse between the date of one meeting and the date of the next meeting.
- 2.** The quorum for the conduct of the business of the Board shall be five members.
- 3.** The chairperson shall preside at all meetings of the Board at which present, but in the absence of the chairperson from any meeting of the Board, members present shall elect one among themselves to preside, and such a member shall, as concerns that meeting, have all the powers of the chairperson under this Act.
- 4.** At every meeting of the Board, the chairperson or the person presiding shall have a casting as well as the deliberative vote.
- 5.** The chairperson may at any time, and within one month of receipt of a written request by at least four members of the Board shall, convene a special meeting of the Board.
- 6.** The members may appoint committees from among themselves, to carry out such general or special functions as may be specified by the Board.
- 7.** Any member who has a direct or indirect interest in any decision to be taken on any specified matter by the Board shall disclose the nature of such interest before the start of the meeting of the Board where such decision is being taken, and the disclosure shall be recorded in the minutes of the meeting, and if majority of the members of the Board believe that such member's interest in the matter is such as to influence his judgment, the member shall not participate in the deliberation or decision of the Board on such matter.
- 8.** (1) The common seal of the Authority shall be kept in such custody as the Board may direct and shall not be used except on the orders of the Board.
(2) The common seal of the Authority shall be authenticated by the signatures of the-
 - (a) The chairperson, chief executive officer of the Board; and
 - (b) one other person authorized in that behalf by the Board.
(3) The Board shall cause to be maintained a register for making entries regarding the use of the Authority's common seal.
(4) All documents made by the Authority, other than those required by law to be under seal, shall be executed by, and all decisions of the Authority shall be signified under the hand of, the chief executive officer.
(5) Any contract or instrument which, if entered into or executed by a person not being a corporate body would not be required to be under seal, may be entered into or executed on behalf of the Authority by any person having a special or general authorization of the Board for that purpose.

THIRD SCHEDULE (s.22) FEES

FOURTH SCHEDULE (s.14) FORMS

FIFTH SCHEDULE(s.107)

THE GAMING TRIBUNAL

- Membership. **1.** The Gaming Appeals Tribunal shall consist of a Chairman and four other members, appointed by the Cabinet Secretary.
- Qualifications. **2.**A person shall be qualified to be appointed as Tribunal chairman if-
- (a) the person an advocate of at least ten years' standing; or
 - (b) the person has previously served as a judge of the High Court.
- 3.** Of the four members of the Tribunal appointed under paragraph 2, one person shall be a person with knowledge and experience in matters relating to law enforcement and the other three members shall be persons with knowledge and experience in matters relating to betting, lotteries and gaming.
- 4.** No member of the Board or employee of the Authority shall be appointed as a member of the Tribunal.
- Secretary. **5.** The Cabinet Secretary shall appoint a Secretary of the Tribunal.
- Tenure of office. **6.** The Chairman and members of the Tribunal shall serve for a term of three years and shall be eligible for re-appointment for one further term.
- Termination of appointment. **7.** The Cabinet Secretary may terminate the appointment of the Chairman or any member of the Tribunal if the Chairman or member-
- (a) is unable to perform the functions of his office by reason of a mental or physical infirmity;
 - (b) has been involved in corruption as defined in the Anti-Corruption and Economic Crimes Act, 2003
 - (c) has been declared bankrupt.
- Remuneration and allowance of members. **8.**There shall be payable to the members of the Tribunal such remuneration and allowances as the Public Service Commission may, on the advice of the Salaries and Remuneration Commission, determine.
- Powers of Tribunal. **9.**Upon an appeal under this Act, the Tribunal may confirm, set aside or vary the decision or act in question and may make such other order as the Tribunal considers appropriate, including an order with respect to the payment of cost.

- Reference of Tribunal. **10.**(1) If a matter appears to involve a point of law or to be of unusual importance or complexity the Director may refer the matter to the Tribunal for a general direction.
(2) The Director shall give notice of the reference to any party to the matter and that party shall be entitled to be heard by the Tribunal.
(3) The Board and the Director shall be bound by the directions of the Tribunal on the reference, subject to any appeal to the High Court.
- Appointment of expert advisors. **11.** (1) The Chairman of the Tribunal may appoint an advisor from a panel of persons with expert knowledge in specified areas to assist in the determination of a matter before the Tribunal.
(2) No member of the Board or employee of the Authority may be appointed as an advisor.
- Appeal from Tribunal to Court. **12.** A party to proceedings before the Tribunal may appeal the decision of the Tribunal to the High Court.
- Procedure of Tribunal. **13.** (1) The Cabinet Secretary may make rules for regulating the practice and procedure of the Tribunal.
(2) Subject to the rules made under subsection (1), the Tribunal may regulate its own procedure.

SIXTH SCHEDULE

MINIMUM TECHNICAL STANDARDS FOR GAMING SYSTEM