

**ACTS SUPPLEMENT**

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**Act 7**

*Lotteries and Gaming Act*

**2016**

THE LOTTERIES AND GAMING ACT, 2016

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**THE LOTTERIES AND GAMING ACT, 2016.**

**An Act to reform the law relating to the conduct of lotteries, gaming, betting and casinos; to establish the National Lotteries and Gaming Regulatory Board; to provide for licensing and regulation of lotteries, gaming and betting; to provide for taxation of casinos, gaming and betting activities; to repeal the National Lotteries Act, Cap. 191 and the Gaming and Pool Betting (Control and Taxation) Act, Cap. 292; and for related matters.**

DATE OF ASSENT: 28th December, 2015.

*Date of Commencement:* 8th April, 2016.

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY

**1. Interpretation.**

In this Act, unless the context otherwise requires—

“agent of a licensee” means an agent appointed or approved in accordance with the conditions of the licence held by the licensee;

“betting” means making or accepting a bet on—

- (a) the outcome of a race, competition or other event or process;

- (b) the likelihood of anything occurring or not occurring;  
or
- (c) whether anything is or is not true.

“Board” means the National Lotteries and Gaming Regulatory Board;

“casino” means a private club, or a room in a club, hotel, or other establishment, where gambling takes place or place where people gamble by playing card games, roulette, or slot machines which has been issued with a licence under this Act;

“Commissioner” means the Commissioner General appointed under the Uganda Revenue Authority Act, Cap 196;

“conducting a public lottery” includes promoting, organising and operating a public lottery;

“currency point” has the value assigned to it in Schedule 1;

“gaming” means the playing of a game of chance for winnings in money or money’s worth and for the avoidance of doubt, includes gambling;

“gaming and betting machine or device” means any equipment or mechanical, electromechanical or electronic contrivance, component or machine; or software used remotely or directly in connection with gaming and betting or any game which affects the result of a wager by determining a win or loss;

“licence” means a licence issued under this Act;

“licensee” means the holder of a licence;

“lottery” includes any game, scheme or arrangement, system, plan, promotional competition or device for distributing prizes or property by lot or chance, whether by throwing or casting of dice, tickets, cards, lots, numbers or figures;

“Minister” means the Minister responsible for finance;

“minor” means a person below twenty five years;

“National lottery” means lottery conducted by or on behalf of the Minister responsible for finance with the view of raising funds for a purpose defined by the Minister;

“numbers” include—

- (a) symbols;
- (b) a single number or symbol;
- (c) a group or groups of numbers or of symbols or of numbers and symbols;
- (d) a combination or combinations of numbers or of symbols or of numbers and symbols; or
- (e) a distribution or distributions of numbers or of symbols or of numbers and symbols; and

a person chooses numbers if the person chooses the numbers personally or if the numbers are chosen for the person;

“pool” means any competition organized for gain, in which for monetary or other material regard, the public is invited to forecast or tell the result of any game, race, or event and includes a pool operated on the system known as fixed odds betting on the results of that game, race or event;

“pool bet” means any stake or wager in a pool, whether in money or money’s worth and includes any portion of that stake or wager;

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

“promotional competition” means a lottery, game or contest conducted for the purpose of promoting the sale or use of any goods or services;

“public lottery” includes—

- (a) a game of chance, including a game such as draw lottery or bingo, in which—
  - (i) a person chooses or is allocated numbers;
  - (ii) certain numbers are subsequently selected at random as prizewinning numbers, and
  - (iii) prizes are distributed to persons holding the prizewinning numbers;
- (b) a game of chance including an instant lottery in which—
  - (i) certain numbers are designated as prize winning numbers;
  - (ii) persons are allocated numbers that have previously been selected at random;
  - (iii) prizes are distributed to persons holding the prize winning numbers;
- (c) a game of chance such as lotto, keno or powerball in which persons choose or attempt to forecast, from designated numbers, fewer numbers to be drawn on a random basis; or
- (d) the game known as soccer football pool in which persons choose or attempt to forecast, from designated numbers, fewer numbers that represent the outcome of soccer football matches;

“wager” means a sum of money or representative of value that is risked on an occurrence for which the outcome is uncertain.



## PART II—NATIONAL LOTTERIES AND GAMING REGULATORY BOARD

*The National Lotteries and Gaming Regulatory Board***2. Establishment of the National Lotteries and Gaming Regulatory Board.**

(1) There is established a Board, known as the National Lotteries and Gaming Regulatory Board.

(2) The Board is a body corporate with perpetual succession and a common seal and may for the discharge of its function under this Act—

- (a) sue and be sued in its corporate name;
- (b) acquire, hold, manage and dispose of movable and immovable property; and
- (c) do all acts and things a body corporate may lawfully do.

(3) The application of the seal of the Board on any document shall be authenticated by the signatures of the Chairperson of the Board and the Chief Executive Officer, and in the absence of the Chairperson, by any two members of the Board, and the Chief Executive Officer.

(4) Every document purporting to be an instrument issued by the Board, sealed with the seal of the Board and authenticated in accordance with subsection (3), shall be deemed to be an instrument of the Board and shall be received in evidence without further proof.

**3. Objective of the Board.**

The objective of the Board is to supervise and regulate the establishment, management and operation of lotteries, gaming betting and casinos in Uganda, and to protect the citizens from the adverse effects of gaming and betting in Uganda.

**4. Functions of the Board.**

The Board shall—

- (a) regulate and supervise the establishment, management and operation of lotteries, gaming, betting and casinos in Uganda;
- (b) license casinos in Uganda;
- (c) license persons operating in a casino and any other employee of a casino;
- (d) approve devices or equipment for lotteries, gaming, betting and casinos;
- (e) designate and license premises for lotteries, gaming, betting and casinos;
- (f) collect lottery, gaming, betting, and the casino tax from both the owners and the gamblers;
- (g) approve games that may be made available for casinos lotteries, gaming, betting and casinos;
- (h) approve and set standards for the supply, installation or adaptation of gaming and betting software;
- (i) participate and contribute to good causes in accordance with this Act;
- (j) protect members of the public from adverse effects of gaming and betting including the promotion of transparency and accountability;
- (k) implement Government policy relating to lotteries, gaming, betting and casinos;
- (l) promote public awareness of the gaming and betting industry;

- (m) receive, investigate and arbitrate complaints relating to lotteries, gaming, betting and casinos and take appropriate action;
- (n) advise and make recommendations to the Minister on matters relating to lotteries, gaming, betting and casinos; and
- (o) perform any other function conferred upon it under this Act.

#### **5. Powers of the Board.**

To carry out its objectives, the Board may exercise, perform and discharge any of the following powers—

- (a) control, supervise and administer the assets of the Board in such manner and for such purposes to promote the purpose for which the Board is established;
- (b) conduct any investigation or inquiry relevant to the gaming and betting industry in Uganda;
- (c) conduct any inspection and examination of books of accounts, records, returns and any document or premises of a licensed person;
- (d) issue guidelines, directives or instructions to any licensed person for the proper management of a casino, lottery, or game;
- (e) search the premises of any licensed person in accordance with this Act;
- (f) delegate any of its powers other than the powers of revocation, licensing, delegation or variation of such delegation; and
- (g) do such other things to ensure efficiency in the management of casinos, lottery, or gaming.

**6. Composition of the Board.**

(1) The Board shall consist of—

- (a) a representative of the Ministry responsible for finance appointed by the Permanent Secretary;
- (b) a representative of the Ministry responsible for internal affairs appointed by the Permanent Secretary;
- (c) three persons, not being public officers, who are knowledgeable and experienced in matters relating to the administration of casinos, gaming, betting and private sector management; and
- (d) the Chief Executive Officer who is an ex officio member.

(2) A person shall not be eligible for appointment if such person is an employee or director of any company, firm or institution where such employment or directorship may lead to a conflict of interest.

(3) The Minister shall appoint a Chairperson from among the members appointed in subsection (1) (c).

(4) The members of the Board shall hold office on terms and conditions specified in their instruments of appointment.

(5) The Minister shall, in appointing the members of the Board, ensure that there is a balance of gender, skills and experience.

(6) The members of the Board shall be persons of high moral character, proven integrity and shall be fit and proper persons.

**7. Tenure of office of members of the Board**

(1) A member of the Board, other than the Chief Executive Officer, shall hold office for three years and shall be eligible for reappointment for only one more term.

(2) A member of the Board may, at any time, resign his or her office in writing addressed to the Minister.

(3) A member of the Board may be removed from office by the Minister for —

- (a) inability to perform the functions of his or her office arising from infirmity of body or mind;
- (b) misbehavior or misconduct;
- (c) incompetence or conflict of interest;
- (d) absence, without prior permission of the chairperson, or without reasonable cause to the satisfaction of the Minister for more than four consecutive meetings of the Board, or absence from Uganda for more than six months;
- (e) being bankrupt or insolvent or entering into a composition scheme with his or her creditors; or
- (f) being convicted of a criminal offence, in Uganda or outside Uganda, in respect of which the maximum penalty exceeds six months imprisonment without the option of a fine.

(4) A person representing an institution may be withdrawn from the Board by that institution in accordance with the laws governing that institution.

(5) Where a member of the Board resigns, dies, is removed from office or ceases to be a member of the institution or body which he or she represents on the Board, the chairperson shall notify the Minister of the vacancy and the Minister shall appoint another person to hold the office for the unexpired portion of the member's term of office.

(6) Where the member of the Board referred to in subsection (5) is the chairperson, the secretary to the Board shall notify the Minister of the vacancy and the Minister shall appoint another person, being a member of the Board, to hold office for the unexpired portion of the chairperson's term of office.

(7) Where a member of the Board is under investigation for an offence involving dishonesty, fraud or moral turpitude, the member shall not perform his or her duties as a Board member until investigations are concluded.

### **8. Meetings of the Board.**

(1) The Board shall meet at least once every three months for the purposes of discharging its functions.

(2) The meetings of the Board shall be conducted in accordance with Schedule 2.

### **9. Remuneration of members of the Board.**

A member of the Board shall be paid allowances determined by the Minister.

#### *Staff of the Board*

### **10. Secretariat of the Board.**

(1) The Board shall have a secretariat, headed by a Chief Executive Officer.

(2) Subject to section 11(1), the Board shall appoint other staff as may be necessary for the proper and efficient discharge of the objects and functions of the Board under this Act.

(3) The secretariat shall have such functions as may be assigned to it by the Board.

(4) The staff appointed under subsection (1) shall be paid such remuneration and allowances as the Board may determine.

**11. Chief Executive Officer.**

(1) The Board shall have a Chief Executive Officer who shall be appointed by the Minister on recommendation of the Board, on terms and conditions specified in the instrument of appointment.

(2) A person shall not be appointed Chief Executive Officer unless that person—

- (a) has academic or professional qualifications in accounting, finance, economics, law, taxation and private sector corporate management with experience and competence to manage the affairs of the Board ; and
- (b) is a person of high moral character and proven integrity.

(3) The Chief Executive Officer shall be an ex officio member of the Board.

**12. Functions of the Chief Executive Officer.**

(1) The Chief Executive officer is responsible for the day to day operations and administration of the Board.

(2) Subject to this Act and to the general supervision and control of the Board, the Chief Executive officer is responsible for—

- (a) implementing the objectives, policies and programmes of the Board ;
- (b) the proper management of the funds and property of the Board ;
- (c) the organization, control and discipline of the staff of the Board;
- (d) the development of an operational plan to guide the Board
- (e) the development of an economic, efficient and cost effective internal management structure; and

- (f) performing any other function which may be assigned to him or her by the Board.

(3) The Chief Executive Officer is, in the performance of his or her functions, answerable to the Board.

### **13. Tenure of office of Chief Executive Officer**

(1) The Chief Executive Officer shall hold office for five years and is eligible for re-appointment for only one more term.

(2) The Chief Executive Officer shall cease to hold office if—

- (a) he or she resigns;
- (b) he or she is declared bankrupt or insolvent, or has made an arrangement with his or her creditors;
- (c) he or she is convicted of an offence involving dishonesty, fraud or moral turpitude;
- (d) he or she is removed from office by the Minister on the recommendation of the Board for—
  - (i) inability to perform the functions of his or her office
  - (ii) infirmity of body or mind;
  - (iii) misbehaviour or misconduct; or
  - (iv) incompetence.

### **14. Exemption from personal liability.**

A member or staff of the Board shall not, in his or her personal capacity, be liable in civil proceedings in respect of any act or omission done in good faith in the performance of his or her functions under this Act.



## PART III—FINANCES OF THE BOARD

**15. Funds of the Board**

(1) The funds of the Board shall be appropriated by Parliament for the purposes of the Board.

(2) The Board shall collect—

- (a) the proceeds from the national lottery after deducting the expense of conducting the lottery.
- (b) one per cent of the annual turnover of every lottery, gaming or betting business licenced under this Act;
- (c) licence, application fees and any other fees.

(3) The monies collected in subsection(2) shall be remitted to the Consolidated Fund in accordance with the Public Finance Management Act, 2015.

**16. Power to open bank accounts**

The Board shall with the approval of the Minister and in accordance with the Public Finance Management Act, 2015 open and maintain such bank accounts as are necessary for the exercise of its functions; and shall pay into them—

- (a) all monies received from Government for the purposes of this Act; and
- (b) all other monies received by the Board in the exercise of its functions under this Act.

**17. Borrowing powers**

The Board may, in accordance with the Public Finance Management Act, 2015 borrow money from any source as may be required for meeting the obligations, or discharging the functions of the Board under this Act.

**18. Estimates of income and expenditure**

The Board shall in accordance with the Public Finance Management Act, 2015 cause to be prepared and submitted to the Minister for approval, estimates of the income and expenditure of the Board and the operating plan of the Board for the next financial year.

**19. Financial year of the Board**

The financial year of the Board is the period of twelve months beginning on the 1st day of July in each year, and ending on the 30th day of June in the next calendar year.

**20. Accounts**

The Board shall—

- (a) keep books of accounts in accordance with generally accepted accounting practice;
- (b) prepare an annual financial statement stating the basis of accounting indicating any significant departure from the accounting practice and the reasons for the departure.

**21. Audit of accounts**

(1) The accounts of the Board shall, in each financial year, be audited and reported upon by the Auditor General or an auditor appointed by the Auditor General.

(2) The Board shall, in accordance with the Public Finance Management Act, 2015 submit the accounts and estimates of income and expenditure of the Authority to the Auditor General or an auditor appointed by the Auditor General.

(3) The auditor shall have access to all books of accounts, vouchers and other records of the Board and is entitled to any information and explanation required in relation to those records.

**22. Annual reports**

The Board, shall at the end of each financial year, submit to the Minister, an annual report on the operations of the Board during the preceding year, which shall include an audited financial statement.

## PART IV—LICENSING AND REGULATION OF LOTTERIES.

*National lottery***23. Licence to conduct the national lottery.**

(1) The Board shall before recommending to the Minister to issue a licence to conduct the national lottery satisfy itself that the person is fit and proper to conduct a national lottery.

(2) For the purposes of satisfying itself that a person is fit and proper to conduct a national lottery, the Board shall take into account the following—

- (a) the experience and knowledge of the person relating to lotteries or the conduct of national lotteries;
- (b) the adequacy of financial and other resources of the person;
- (c) the character or experience of any person who is likely to manage the lottery;
- (d) the ability of the person to protect the interests of the public during the conduct of the national lottery;
- (e) whether granting the licence is in the public interest; and
- (f) any other matter prescribed by the Minister.

(3) A licence to conduct the national lottery shall be in the prescribed form and shall be issued subject to terms and conditions prescribed by regulations made under this Act.

*Public lotteries***24. Licence to conduct a public lottery**

(1) A person shall not conduct a public lottery without a licence issued by the Board.

(2) An application for a licence to conduct a public lottery shall be made to the Board in accordance with regulations made by the Board and shall be accompanied by the prescribed fees.

(3) A licence to conduct a public lottery shall be issued subject to terms and conditions prescribed by regulations made under this Act.

(4) This section does not apply to a lottery promoted as an incident of a bazaar, sale of work, dinner, dance, sporting event, fete or other entertainment of a similar character where—

- (a) none of the prizes in the lottery is in monetary terms;
- (b) the total value of the prizes does not exceed fifty currency points;
- (c) the proceeds of the entertainment, including the proceeds of the lottery, after deducting—
  - (i) the expenses of the entertainment, excluding expenses other than for prizes incurred in connection with the lottery; and
  - (ii) the expenses incurred in printing tickets of the lottery, shall be devoted to a social, charitable or sporting purpose and not for private gain;
- (d) the result of the lottery is declared on the premises on which the entertainment takes place and during the progress of the entertainment.

*Regulation of lotteries***25. Lottery rules.**

(1) A person licensed to conduct a lottery under this Act, shall before conducting the lottery make rules regulating the conduct of the lottery.

(2) The rules shall be kept or exhibited in a conspicuous place of the licenced premises.

(3) The lottery rules shall provide for the matters specified in Schedule 3.

(4) Rules made under this section shall not be issued unless they are approved by the Board.

(5) All rules regulating the conduct of a lottery shall be published by the person conducting the lottery at least fourteen days before the lottery, in a newspaper widely circulating in the area where the lottery is to be conducted.

## PART V—CASINO, GAMING AND BETTING LICENCES

**26. Casino, gaming and betting licence.**

A person shall not establish or operate a casino or provide a gaming or betting machine without a licence issued under this Act.

**27. Board to issue licences.**

(1) The Board may issue a casino, gaming or betting licence.

(2) The Board may issue the following operating licences—

(a) a licence to operate a casino, or a casino operating licence;

(b) a licence to provide facilities for playing bingo, or a bingo operating licence;

- (c) a licence to provide facilities for betting other than pool betting, or a general betting operating licence;
- (d) a licence to provide facilities for pool betting, or a pool betting operating licence;
- (e) a licence to act as a betting intermediary, or a betting intermediary operating licence;
- (f) a licence to make gaming or betting machines available for use in a gaming or betting centre or a gaming or betting machine general operating licence;
- (g) a licence to manufacture, supply, install, adapt, maintain or repair a gaming or betting machine, or a part of a gaming or betting machine or a gaming or betting machine technical operating licence; or
- (h) a licence to manufacture, supply, install or adapt gambling software or a gambling software operating licence.

(3) The Board may, in accordance with this Act issue licences to persons employed in a casino or other gaming and betting facility licensed under this Act.

(4) The Board may by regulations prescribe different classes in respect of each category of licence under sub section (2), in accordance with section 43.

(5) For the avoidance of doubt, two or more licences may be combined and issued in one operating licence.

## **28. Licence to operate a casino.**

(1) A licence to operate a casino shall specify the premises to which the licence applies.

(2) The licence may include a condition—

- (a) specifying the minimum number of persons that may be employed in the casino;

- (b) restricting the class of casino game that may be made available; or
- (c) specifying rules for the playing of a casino game or another game of chance.

**29. Suitability of premises.**

(1) The Board shall at the time of investigating and inquiring into an application for a licence to operate a casino, consider and approve the suitability of the premises for conducting casino and gaming or betting activities.

(2) For the purposes of subsection (1), the Board may approve plans, diagrams and specifications for—

- (a) the situation within the casino of gaming or betting tables and gaming and betting equipment, counting rooms, cages and other facilities provided for the operations of the casino;
- (b) the communication facilities provided for persons monitoring operations in the casino; or
- (c) the position and description of a surveillance system for direct visual monitoring of the operations within the casino.

**30. Specific licence conditions.**

A licence to operate a casino or provide gaming or betting machines may include conditions specified by the Board in accordance with this Act and regulations made under this Act.

**31. Licensing of certain casino employees.**

(1) A casino shall not employ a person to—

- (a) manage the casino or in a managerial capacity;
- (b) conduct gaming and betting within the casino;
- (c) move money or chips to patrons or within the casino;
- (d) operate, maintain, construct or repair gaming or betting equipment,

unless that person is licensed.

(2) The application for a licence for the persons referred to in this section may be made at the time of applying for a casino operating licence.

(3) The application shall be in the prescribed form and shall be accompanied by the prescribed fee, the documents evidencing the competence of the person and other information that may be prescribed.

### **32. Casino games and rules.**

(1) The Board may, by statutory order, approve the games that may be made available in a casino and the rules applying to those games.

(2) Without prejudice to subsection (1), the Board may approve the games in respect of a particular casino at the time of considering the application for a licence to operate a casino.

(3) A casino operator shall make a copy of the rules applicable to a game available to a patron, upon request, for inspection.

(4) The rules shall be kept or exhibited in a conspicuous place in a casino.

(5) An operator of a casino who makes available or allows a game which is not approved to be played in the casino commits an offence and is liable on conviction to ninety six currency points or imprisonment not exceeding forty eight months or both.

(6) Where a court convicts a person under subsection (5) the court shall in addition order the forfeiture to the State of all equipment employed in the commission of the offence.

### **33. Gaming and betting equipment within the casino.**

(1) The Board may, in writing, approve the gaming or betting devices and equipment for use in a casino.



(2) The Board may approve particular devices and equipment or a specified class or description of devices and equipment and may approve the devices and equipment subject to conditions determined by the Board.

(3) The Board may investigate the devices and equipment available within a casino or proposed to be available for the purpose of determining the suitability of the devices and equipment for use in a casino.

(4) A casino operator shall at all times keep the gaming or betting devices and equipment in a suitable condition.

(5) For the purposes of keeping gaming or betting equipment within the casino in a suitable condition, the Board may, in writing, direct a casino operator to repair, rectify or dispose of gaming or betting equipment to the satisfaction of the Board.

PART VI—SPECIFIC PROVISIONS RELATING TO GAMING OR BETTING MACHINES.

**34. Specific conditions for gaming or betting machines licence.**

A licence to operate or make available gaming or betting machines may include conditions—

- (a) regarding the number or categories of gaming or betting machines that may be made available for use in accordance with the licence; and
- (b) that a specified gaming or betting machine may not be made available for use unless the use of the machine is approved by the Board.

**35. Registration of gaming and betting machines or devices.**

Every gaming or betting machine or device shall be registered with the Board in accordance with this Act.

**36. National register of gaming or betting machines and devices.**

The Board shall—

- (a) establish and maintain, in the prescribed manner, a national register of every gaming or betting machine or gaming or betting device manufactured within or imported into Uganda;
- (b) assign a permanent and unique registration number for each machine or device, which number co-relates to—
  - (i) the name of the manufacturer or importer of that machine or device;
  - (ii) the date of manufacture of that machine or device; and
  - (iii) the unique serial number assigned to that machine or device by the manufacturer;
- (c) prescribe for each gaming or betting machine or device, record the name, licence number and other particulars of—
  - (i) the registered owner; and
  - (ii) any other person who has leased that machine or device.

**37. Technical standards for gaming or betting machines.**

(1) The Board may, determine and set standards in respect of the manufacture, supply, installation, adaptation, maintenance or repair of gaming or betting machines.

- (2) The standards under subsection (1) may provide for—
  - (a) the nature of a game that a machine is designed to be used to play;
  - (b) the way in which the results of a game are to be determined or presented;

- (c) the nature of images or information displayed by or on a machine;
- (d) the process of establishing results for a specified class of gaming or betting machines.

(3) The Board may—

- (a) make arrangements with any person for the purposes of testing gaming or betting machines to ensure compliance with the required standards;
- (b) require the holder of a gaming or betting machine technical operating licence to submit to a test and to produce specified evidence of the result of the test;

(4) For the purpose of considering whether to grant an application for a gaming or betting machine operator's licence, require the holder of or an applicant for a gaming or betting machine technical operating licence to submit a machine to a test in accordance with this section.

### **38. Gaming or betting software standards.**

The Board may, set standards in respect of supply, installation or adaptation of gaming or betting software.

## PART VII—GENERAL PROVISIONS ON LICENCING

### **39. Minimum capital requirements.**

The Minister may by regulations prescribe minimum capital requirements for a licence under this Act.

### **40. Bond.**

(1) The Minister may by statutory instrument require licensees of a specified category or class of licence to provide a security bond in the nature and amount specified by the Minister.

(2) The security bond shall be used by the Board to pay taxes or employees of the licensee or persons participating in any activity organized or provided by the licensee in the case of default.

#### **41. Application for a licence.**

(1) An application for a licence under this Act shall be made to the Board.

(2) The application shall be in the prescribed form and shall—

- (a) specify the activity for which a licence is required and the type of licence;
- (b) where the applicant is an individual, state the age of the applicant;
- (c) where the applicant is a company, the age of the shareholders;
- (d) specify the address of the applicant;
- (e) be accompanied by the prescribed fee; and
- (f) be accompanied by the prescribed information or documents.

#### **42. Processing of application by the Board.**

(1) In considering an application for a licence under this Act, the Board shall examine the application and—

- (a) shall take into account the suitability of the applicant to carry on the activities for which the licence is required;
- (b) may consider the suitability of any gaming and betting machine proposed to be used in connection with the activities for which the licence is required; or

- (c) may consider the suitability of any other equipment proposed to be used in connection with the activities for which the licence is required.

(2) For the purposes of subsection (1) (a) the Board shall, take into account—

- (a) the integrity of the applicant or of a person relevant to the application;
- (b) the competence of the applicant or of a person relevant to the application to carry on the licensed activities in a manner consistent with this Act;
- (c) the financial and other circumstances of the applicant or of a person relevant to the application, including, the resources likely to be available for the purpose of carrying on the licensed activities.

(3) After investigating and inquiring into the matters stated in the application, the Board shall within twenty one days after receiving an application—

- (a) approve the application and issue a licence;
- (b) reject the application; or
- (c) approve the application and issue a licence in respect of one or more of the activities specified in the application and reject it in respect of the others.

(4) Where the Board rejects an application in whole or in part, the Board shall within fourteen days notify the applicant of the rejection, and specify the reasons.

(5) A person aggrieved by a the decision of the Board, shall appeal to the Minister.

(6) For the purposes of subsection (3), the chairperson of the Board shall sign the licence where the Board recommends that a licence may be issued.

(7) The Board shall make a report to the Minister on licenses issued and applications rejected.

(8) The Board shall gazette licenses issued and applications rejected.

(9) The Minister shall prescribe the procedure for the appeal.

#### **43. General licence conditions.**

(1) The Minister may, by regulations, specify the conditions to be attached to—

- (a) each operating licence; or
- (b) each operating licence falling within a specified class.

(2) For the purposes of subsection (1)(b) a class may be defined wholly or partly by reference to—

- (a) the nature of the licensed activities;
- (b) the circumstances in which the licensed activities are carried out; or
- (c) the nature or circumstances of the licensee or of another person involved or likely to be involved in the conduct of the licensed activities.

(3) A condition may have the effect of restricting the activities that may be carried on by the holder of the licence by referring to—

- (a) the nature of the activities;

- (b) the circumstances or extent to which they are carried out;
  - (c) the facilities that shall be provided in connection with the licensed activities;
  - (d) the manner in which facilities are provided;
  - (e) the number of persons that may be employed to provide the facilities;
  - (f) the financial resources available for particular purposes to the person providing the facilities;
  - (g) maintaining financial reserves to cater for potential liabilities;
  - (h) advertising or describing the licensed activities;
  - (i) recording the identity of users of the licensed activities;
  - (j) the nature, number and specification of equipment to be used in connection with the licensed activities; or
  - (k) the premises where the licensed activities may be carried out.
- (4) For the purposes of this section “equipment” includes—
- (a) a computer;
  - (b) a device for the playing of a casino game; and
  - (c) any other piece of equipment but does not include a gaming and betting machine.

**44. Form of licence.**

An operating licence shall be in the prescribed form and shall specify—

- (a) the person to whom it is issued;
- (b) the period during which it is valid; and
- (c) any condition attached to a licence under this Act or prescribed by statutory instrument.

**45. Duration of licence.**

Every licence issued under this Act is valid until 31st day of December of the year in which it is issued.

**46. Suspension and revocation of licence.**

(1) The Board may, suspend or revoke a licence issued under this Act.

(2) Without prejudice to the general effect of subsection (1), the Board may suspend or revoke a licence on the following grounds—

- (a) serious and repeated breach of the licence conditions;
- (b) any fraud or intentional misrepresentation by the person who applied for the licence.

(3) Before suspending or revoking a licence, the Board shall give the licence holder fourteen days' written notice with reasons of the intended recommendation for suspension or revocation, during which the licence holder shall have an opportunity to make representations to the Board.

(4) After considering any representations made by the licence holder, the Board may—

- (a) prescribe a time during which the licence holder is required to remedy the offending act or conduct; or
- (b) require the licence holder to pay a fine not exceeding ninety six currency points.



(5) Where the Board is satisfied that the measures under subsection (4) are not sufficient, the Board may recommend to the Minister to—

- (a) suspend the licence for a specified period of time; or
- (b) revoke the licence.

#### **47. Renewal of licence.**

An application for renewal of a licence issued under this Act shall be made at least two months before the expiry of the licence.

### PART VIII—TAXATION OF CASINOS, GAMING AND BETTING ACTIVITIES

#### **48. Tax on casinos, gaming or betting.**

(1) An operator of a casino, gaming or betting activity issued with a licence under this Act shall, in addition to taxes prescribed by law, pay a gaming tax at the rate prescribed in Schedule 4.

(2) The amount of tax levied under subsection (1), the intervals and the time within which it shall be paid shall be determined by the Minister.

#### **49. Interest on unpaid tax.**

Any person who does not pay tax due on the due date shall, in addition to the tax, pay interest equal to two per cent of the outstanding amount for each week or part of the week that the tax remains unpaid.

#### **50. Returns.**

(1) A taxable person shall lodge a tax return with the Commissioner for each tax determined under section 48 by the 15th day of the following month.

(2) The tax return shall be in a form prescribed by the Commissioner.

**51. Assessment.**

(1) A tax return submitted by a promoter, a principal or a person licenced under this Act shall be treated as a self assessment issued by the Commissioner.

(2) The Commissioner may make an assessment of the tax payable where—

- (a) a tax payer defaults in furnishing a return under this Act;
- (b) the Commissioner is not satisfied by a return made by a promoter or principal or a person licenced under this Act.

(3) Where the Commissioner makes an assessment under subsection (2) (b), the Commissioner shall state the reasons why the Commissioner is not satisfied.

**52. Objection to assessment.**

(1) A person may object to an assessment within forty five days from the date the assessment is served on that person.

(2) The objection shall be addressed to the Commissioner and shall state the grounds on which the objection is based.

- (3) The Commissioner shall consider the objection and may—
- (a) allow the objection and amend the assessment;
  - (b) reject the objection and maintain the assessment.

(4) Where a person objects to an assessment in part, the person shall pay the tax which is not in dispute or a lesser amount determined by the Commissioner, until the objection is determined.

**53. Remission of tax.**

(1) The Commissioner may refer a taxpayer's case to the Minister, where the Commissioner is of the opinion that the tax due or any part of it cannot be effectively recovered due to hardship, impossibility, undue difficulty or the excessive cost of recovery.

(2) Where the Minister is satisfied that the tax due in respect of the case referred by the Commissioner cannot be effectively recovered, the Minister may remit or write off the tax.

#### **54. Recovery of unpaid tax and interest.**

(1) Tax due and any interest in respect of the tax is a debt due to the Government and may be recovered as a civil debt.

(2) Without prejudice to subsection (1), the Commissioner may recover tax due and any interest by—

- (a) sealing the premises used by the principal, agent or a person licensed under this Act for the purposes of a casino or gaming and betting;
- (b) an agency notice requiring any person owing or holding money for or on behalf of the taxpayer (principal or agent) to pay the money to the Commissioner;
- (c) distress proceedings on the financial, movable or immovable property of the taxpayer.

(3) For the purposes of subsection (2) (c), a person making a payment to the Commissioner in accordance with a notice issued by the Commissioner shall be taken as acting under the authority of the person liable to pay the tax and is absolved in respect of the amount paid.

(4) The Commissioner may at any time enter any premises or house specified in the distress order.

#### **55. Penal tax.**

(1) A person who fails to lodge a tax return within the time specified under this Act is liable to a penal tax of ten currency points.

(2) A person who fails to maintain proper records in accordance with regulations made under this Act is liable to a penal tax equal to double the amount of the tax payable.

(3) Where a person pays a penal tax under this section and the tax to which it relates is refunded, the penal tax or the part which relates to the tax refunded shall be refunded.

**56. Commissioner to collect tax.**

The Commissioner shall collect all the tax required to be paid under this Act.

PART IX—GENERAL

*Restrictions on minors*

**57. Licensee or agent not to accept entry or payment from minor.**

(1) A licensee shall not accept payments from a minor.

(2) A licensee shall not accept a minor to access or enter into a casino or gaming and betting premises.

(3) A licensee or his or her agent who accepts payment from a minor or allows the minor to access or enter a casino or gaming and betting premises, whether personally, by mail, by electronic means or otherwise, a subscription to a public lottery commits an offence and is liable on conviction to a fine not exceeding one thousand currency points or to imprisonment for a term not exceeding four years or both.

**58. Adults not to enter or subscribe to public lottery on behalf of minor.**

A person who, on behalf of a minor, subscribes to a public lottery commits an offence and is liable on conviction to a fine not exceeding one thousand currency points or to imprisonment for a term not exceeding four years or both.

**59. Display of notice prohibiting minors from entering lottery.**

(1) A licensee or agent shall display a notice to the effect that minors are prohibited from entering a public lottery.

(2) The notice referred to in subsection (1) shall be displayed in a conspicuous place where entries are accepted at the time the licensee or his or her agent accepts any entry in a public lottery.

## **60. Prohibited items**

The items listed in Schedule 5 are not permitted in a casino, gaming or betting premise.

### *Electronic monitoring system*

## **61. National central electronic monitoring system.**

(1) The Board shall establish and maintain a national central electronic monitoring system for the purpose of—

- (a) detecting and monitoring significant events associated with a casino, gaming and betting machine or gaming and betting activity licensed under this Act;
- (b) analysing and reporting that data in accordance with the prescribed requirements

(2) The Board may contract with any person to supply any or all of the products or services required to fulfill its obligations under this section.

(3) The Minister may, on the recommendation of the Board issue guidelines for—

- (a) the operation of the national electronic monitoring system;
- (b) the collection and analysis of data through that system;
- (c) the frequency and nature of reports to be produced by the Board; and
- (d) other matters related to the functioning of the national central electronic monitoring system.

(4) Every gaming and betting machine that is made available for play shall be electronically linked to the national central electronic monitoring system.

### **62. Display of licence.**

A person issued with an operator's licence shall display a copy of the licence prominently in a conspicuous place at the premises where the casino or gaming and betting activity is carried on.

#### *Appeals*

### **63. Appeals.**

(1) A person aggrieved by a decision relating to tax under Part VIII of this Act may, within thirty days after notice of the decision, appeal to the Tax Appeals Tribunal.

(2) A person aggrieved by a decision made under this Act, other than a decision made under section 42(5) and Part VIII may, within thirty days after notice of the decision, appeal to the High Court.

(3) A person who intends to appeal against a decision under this Act shall serve a copy of the notice of appeal on the Board and the Minister.

#### *Offences and penalties*

### **64. Conducting a lottery or related competition without a licence.**

A person who conducts a lottery in which prizes are offered for predicting the result of an event, without a licence, commits an offence and is liable on conviction to a fine not exceeding one thousand currency points or imprisonment not exceeding four years or both.

### **65. Promoting or advertising unlicensed lottery.**

Any person who promotes or advertises a lottery which is not licensed under this Act commits an offence and is liable on conviction to a fine not exceeding five hundred currency points or imprisonment not exceeding two years or both.

**66. Forging tickets or selling forged tickets.**

A person who—

- (a) forges or fraudulently changes any ticket or any other document relating to a lottery;
- (b) sells a forged ticket or other document relating to a lottery;
- (c) with intent to defraud, alters any number or figure on any ticket or other document relating to a lottery,

commits an offence and is liable on conviction to a fine not exceeding two hundred currency points or imprisonment not exceeding two years or both.

**67. Offences relating to casinos, gaming and betting.**

(1) A person who—

- (a) operates a casino;
- (b) provides facilities for the playing of bingo;
- (c) makes a gaming and betting machine available for use;
- (d) provides other facilities for gaming and betting; or
- (e) provide facilities for betting, whether by making or accepting bets, by acting as a betting intermediary or by providing other facilities for the making or accepting of bets;

without a licence, commits an offence and is liable on conviction to a fine not exceeding forty eight currency points or imprisonment not exceeding two years or both.

(2) A person who, in the course of a business manufactures, supplies, installs or adapts gaming and betting software without a licence, commits an offence and is liable on conviction to a fine not exceeding two hundred currency points or imprisonment not exceeding two years or both.

(3) In this section “gaming or betting software” means computer software for use in connection with gaming and betting but does not include anything for use solely in connection with a gaming and betting machine.

### **68. Offences relating to tax.**

A person who knowingly or recklessly—

- (a) does not make a return as required by this Act;
- (b) makes a statement or declaration which is false or misleading, to the Commissioner or a person authorized by the Commissioner;
- (c) omits from a statement or declaration any matter or thing without which, the statement or declaration is misleading and the tax payable by the person exceeds the tax assessed,

commits an offence and is liable on conviction to a fine not exceeding forty eight currency points or imprisonment not exceeding two years or both.

### **69. Amendment of Schedules**

(1) The Minister may, with the approval of Cabinet, by statutory instrument, amend Schedule 1 of this Act.

(2) The Minister may, with the approval of Parliament by statutory instrument, amend Schedule 2 and 3 of this Act.

### **70. Regulations.**

(1) The Minister may, on the recommendation of the Board by statutory instrument, make regulations to give effect to this Act within a period of six months from the date of assent.

(2) Without prejudice to sub section (1) the Minister may make regulations for—



- (a) the keeping of records in respect of gaming and betting machines, including the form, transfer and inspection of the records;
- (b) the fees required to be prescribed or for the services rendered by the Board;
- (c) the transfer or movement of gaming and betting machines and equipment;
- (d) advertising of casinos and gaming and betting;
- (e) the facilities and amenities to be made available to patrons in a casino or gaming and betting premises;
- (f) the form of applications for a licence under this Act;
- (g) the power and manner of inspection and investigation persons licensed under this Act;
- (h) the provision of assistance to persons who are or may be affected by problems related to gambling;
- (i) establishing the identity of users of a casino or gaming and betting facilities;
- (j) recording the identity of users of a casino or gaming and betting facilities;
- (k) restricting gaming and betting facilities to persons registered in respect of the facilities in advance;
- (l) the handling of complaints and determination of disputes under this Act;
- (m) the disposal of unclaimed prizes;
- (n) regulating the appointment and use of agents by a person licensed to conduct a lottery;

- (o) regulating the holding of a draw for a lottery;
- (p) the mode and time of payment of fees or money payable under this Act;
- (q) requiring licence holders to restrict access of premises to children including—
  - (i) taking specified steps to ensure that a child does not enter the premises;
  - (ii) ensuring that each entrance to the premises is supervised by a person whose responsibilities include ensuring that a child does not access the premises; and
  - (iii) requiring evidence of age to be produced by any person seeking admission to the premises,
- (r) any other matter that is necessary or incidental to giving effect to this Act.

(2) Regulations made under this section may prescribe in respect of a contravention of the regulations, a fine not exceeding forty eight currency points or imprisonment not exceeding two years.

### **71. Repeal of Cap. 191 and Cap. 292.**

(1) The National Lotteries Act and the Gaming and Pool Betting (Control and Taxation) Act are repealed.

(2) Notwithstanding subsection (1)—

- (a) a statutory instrument made under the National Lotteries Act, Cap. 191 or Gaming and Pool Betting (Control and Taxation) Act Cap. 292 and is in force at the commencement of this Act is valid until it is revoked under this Act;

- (b) a licence issued under the National Lotteries Act Cap 191 and the Gaming and Pool Betting (Control and Taxation) Act Cap 292 shall remain valid as if it were issued under this Act or until it is suspended or revoked in accordance with this Act;
- (c) the National Lotteries Board existing immediately before the commencement of this Act shall continue in existence until the Minister appoints a Board under this Act.

**SCHEDULE 1**

*Section 1, 69*

**Currency point**

One currency point is equivalent to twenty thousand shillings.

**SCHEDULE 2***Section 8***MEETINGS OF THE BOARD AND RELATED MATTERS****1. Meetings of the Board.**

(1) The chairperson shall convene every meeting of the Board at a time and place as the Board may determine, and the Board shall meet for the discharge of business at least once in every three months.

(2) The chairperson may, at any time, convene a special meeting of the Board and shall also call a meeting within fourteen days, if requested to do so in writing by two thirds of the members of the Board.

(3) Notice of a meeting of the Board shall be given in writing to each member at least fourteen working days before the day of the meeting.

(4) The chairperson shall preside at every meeting of the Board and in his or her absence the members present shall elect from among themselves, a chairperson to preside at the meeting.

**2. Quorum.**

(1) The quorum for a meeting of the Board is two thirds of the members.

(2) All decisions at a meeting of the Board shall be by majority of the votes of the members present and voting and in case of an equality of votes, the person presiding at the meeting shall have a casting vote in addition to his or her deliberative vote.

**3. Minutes of meetings.**

(1) The secretary shall record and keep, minutes of all meetings of the Board in a form approved by the Board.

(2) The minutes recorded under this paragraph shall be submitted to the Board for confirmation and where they are confirmed, shall be signed by the chairperson and the secretary in the presence of the members present at the meeting.

**4. Power to co-opt.**

(1) The Board may invite any person who, in the opinion of the Board, has expert knowledge concerning the functions of the Board, to attend and take part in a meeting of the Board.

(2) A person attending a meeting of the Board under this section may take part in any discussion at the meeting on which his or her advice is required, but shall not have a right to vote at that meeting.

**5. Validity of proceedings not affected by vacancy.**

The validity of any proceedings of the Board shall not be affected by a vacancy in its membership or by any defect in the appointment or qualification of a member or by reason that a person not entitled took part in its proceedings.

**6. Disclosure of interest of members.**

(1) A member of the Board who is in any way directly or indirectly interested in a contract made or proposed to be made by the Board, or in any other matter to be considered by the Board, shall disclose the nature of his or her interest at a meeting of the Board.

(2) A disclosure made under subparagraph (1) shall be recorded in the minutes of that meeting.

(3) A member who makes a disclosure under subparagraph (1) shall not—

(a) be present during any deliberation of the Board with respect to that matter; or

(b) take part in any decision of the Board with respect to that matter.

(4) A member who fails to disclose his or her interest under subparagraph (2) of this paragraph shall be removed from the Board.

(5) For purposes of determining whether there is a quorum, a member withdrawing from a meeting or who is not taking part in a meeting under subparagraph (3) shall be treated as being present.

**7. Official seal of the Board.**

(1) The official seal of the Board shall be in a form determined by the Board.

(2) The official seal shall, when affixed to any document, be authenticated by the signatures of the chairperson and one other member of the Board.

(3) In the absence of the chairperson, the person performing the functions of the chairperson shall sign.

(4) An instrument or contract which if executed or entered into by a person other than a body corporate would not require to be under seal may be executed or entered into on behalf of the Board by the chairperson, or by any member of the Board or any other person if that member of the Board or that other person has been duly authorised by resolution of the Board to execute or enter into the instrument or contract as the case may be.

(5) Every document purporting to be an instrument or contract executed or issued by or on behalf of the Board shall be deemed to be so executed or issued until the contrary is proved.

**8. Board may regulate its procedure.**

Subject to this Act, the Board may regulate its own procedure or any other matter relating to its meetings.

**SCHEDULE 3***Section 25***Matters to be provided for by lottery rules**

1. The amount payable for subscription, entry or acceptance of entries into the lottery;
2. Restrictions on persons below eighteen years participating in the lottery;
3. The form and manner of entering the lottery;
4. The minimum or maximum number of entries that may be made in the lottery;
5. The amount payable in respect of each entry;
6. The amount of money prizes and the nature of other prizes;
7. The number of tickets issued under the lottery;
8. Verification of tickets relating to the lottery;
9. Claiming prizes by participants;
10. Any other matter prescribed by the Minister.



**SCHEDULE 4**

*Section 48*

**Rate of tax**

Twenty percent of the total amount of money staked less the pay outs (winnings) for the period of filing returns.

**SCHEDULE 5**

*Section 60*

**Prohibited Items**

1. Guns, shotguns and machine guns
2. Saline
3. Explosives, knives and chloroform, acid.