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BETTING, LOTTERIES AND GAMING ACT

CHAPTER 131

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CHAPTER 131

BETTING, LOTTERIES AND GAMING ACT

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CHAPTER 131

BETTING, LOTTERIES AND GAMING ACT

[Date of assent: 11th March, 1966.]

[Date of commencement: Part II—1st November, 1966.]

Remainder—1st January, 1967.]

An Act of Parliament to provide for the control and licensing of betting and gaming premises; for the imposition and recovery of a tax on betting and gaming; for the authorizing of public lotteries; and for connected purposes

[Act No. 9 of 1966, Act No. 9 of 1967, Act No. 20 of 1967, Act No. 8 of 1968, Act No. 2 of 1975, Act No. 10 of 1981, Act No. 14 of 1982, Act No. 8 of 1985, Act No. 18 of 1986, Act No. 10 of 1987, Act No. 22 of 1987, Act No. 13 of 1988, Act No. 4 of 1999, Act No. 9 of 2000, Act No. 38 of 2016, Act No. 15 of 2017, Act No. 10 of 2018.]

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Betting, Lotteries and Gaming Act.

2. Interpretation

In this Act, unless the context otherwise requires—

“**authorized race meeting**” means a race meeting in respect of which a permit authorizing bookmaking to take place thereat has been issued under section 23;

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

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

“**bookmaker**” means a person who, whether on his own account or as servant or agent to another person, carries on, whether occasionally or regularly, the business of receiving or 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 or negotiates bets, so however 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 section 18; 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 licence has been issued under section 22;

“Collector” means the Commissioner-General appointed under the Kenya Revenue Authority Act;

“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;

“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 machine” means a machine for playing a game of chance, being a game which requires no action by a player other than the actuation or manipulation of the machine;

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

“gaming revenue” means gross turnover less the amount paid out to customers as winnings;

“horse race” includes a pony race;

“instruments of gaming” means cards, dice, counters, coins, tickets, gaming tables, boards, boxes, or other things devised, or birds and animals used, for the purpose of gaming;

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

“licensed gaming premises” means premises licensed under this Act as premises to which the public may resort for the purpose of gaming;

“licensee” means a person issued with a licence under any of sections 16, 18, 22 and 46;

“lottery” includes a sweepstake, a raffle and any scheme 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 of dice, or by the withdrawing of tickets, cards, lots, numbers or figures, or by means of a wheel, or otherwise howsoever;

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

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

“permit-holder” means the holder of a permit issued under any sections 23, 36, 39, 54 and 58;

“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;

“premises” includes any place, and in sections 14, 35, 45, 50, 53 and 58 also includes any vessel;

“racecourse” means a place used for the purpose of holding a race meeting;

“race day” means a 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 horse races or other races;

“tax” means any charges, fees, levies or impositions imposed under this Act;

“the Board” means the Betting Control and Licensing Board established by section 3;

“the Permanent Secretary” means the Permanent Secretary of the Ministry for the time being responsible for Betting, Lotteries and Gaming;

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

“to bet” means to wager or stake any money or valuable thing by or on behalf of any person or, expressly or impliedly to undertake, promise or agree 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;

“totalisator” means the instrument, machine or contrivance commonly known as a totalisator, or any other instrument, machine or contrivance of a 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 a 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 racing;

“unlawful game” means a game of chance the chances of which are not alike favourable to all the players, including the banker or other person or persons 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.

[Act No. 10 of 1981, Sch., Act No. 10 of 1987, s. 40, Act No. 4 of 1999, s. 44, Act No. 9 of 2000, s. 66, Act No. 38 of 2016, s. 79.]

PART II – BETTING CONTROL AND LICENSING BOARD

3. Establishment of Board

(1) There is hereby established a board, to be known as the Betting Control and Licensing Board, which shall consist of—

- (a) a chairman, not being a public officer, to be appointed by the Minister by notice in the *Gazette*;
- (b) the Permanent Secretary to the Treasury or a person deputed by him in writing in that behalf;
- (c) the Permanent Secretary of the Ministry for the time being responsible for the Police or a person deputed by him in writing in that behalf;
- (d) the Permanent Secretary of the Ministry for the time being responsible for Betting, Lotteries and Gaming or a person deputed by him in writing in that behalf; and
- (e) such other persons, not exceeding five in number, as the Minister may, by notice in the *Gazette*, appoint.

(2) Before the Minister makes an appointment under this section, he may require the person to be so appointed to declare whether he has any, and if so what, financial interest in any betting undertaking operating in Kenya.

(2A) The members referred to in paragraphs (a) and (e) of subsection (1) shall hold office for a period of three years from the date of their appointment, but shall be eligible for re-appointment.

(3) In the event of the chairman being absent from any meeting of the Board, the members present shall choose one of their number to act as chairman for that meeting.

(4) At all meetings of the Board, the chairman or the person chosen to act as chairman under subsection (3) together with three other members of the Board shall form a quorum.

(5) Meetings of the Board shall be held at least once in every three months and at such other times, on such occasions and at such places as the chairman may determine.

(6) The chairman or the person chosen to act as chairman under subsection (3) shall have a deliberative vote and, in the case of equality of votes, shall also have a casting vote.

(7) The Board may co-opt to serve on it for such length of time as it thinks fit any person or persons whose assistance or advice it may require, but a person so co-opted shall not be entitled to vote at any meeting of the Board or be counted as a member for the purpose of forming a quorum.

(8) The chairman of the Board may, with the approval of the Minister, appoint such persons to act as officers and servants of the Board as he considers requisite to enable it to discharge its duties under this Act.

(9) The chairman, members, officers and servants appointed under this section shall be paid out of moneys provided for that purpose by Parliament such salaries, remuneration and allowances, if any, as the Minister may determine.

(10) All permits and licences issued under this Act and all communications from the Board shall be under the hand of the chairman or of some person duly authorized by the chairman, notification of that authorization being published in the *Gazette* under the hand of the chairman.

(11) The chairman shall submit to the Minister for publication an annual report of the proceedings of the Board containing particulars with respect to such matters as the Minister may direct.

(12) No member of the Board, nor any officer or servant thereof, shall be personally liable for any act or default done or omitted to be done in good faith in the course of his duties under this Act.

[Act No. 13 of 1988, Sch.]

4. Powers of the Board

(1) The Board shall have power—

- (a) to issue licences and permits in accordance with this Act and any regulations made thereunder;
- (b) during the subsistence of a licence or permit, to vary, or for good cause to suspend or cancel it; but the Board shall not suspend a licence or permit for more than fourteen days and shall not vary or cancel a licence or permit without giving the licensee or permit-holder opportunity to show cause against the variation or cancellation; and
- (c) to inquire into complaints against licensees or permit-holders.

(2) Subject to this Act and to any general or special direction by the Minister, the Board shall regulate its own procedure.

(3) The Board may authorize the chairman to exercise on its behalf, at any time when it is not meeting, such of its powers as it may from time to time specify; but the exercise of those powers shall, to the extent required by the Board, be reported by the chairman without unreasonable delay to a meeting of the Board.

5. Application for licences and permits

(1) A person who desires to obtain, renew or vary a licence or permit under this Act shall make application to the Board in the form and manner prescribed.

(2) On receipt of an application under subsection (1), the Board may make such investigations or require the submission of such declaration or further information as it may deem necessary in order to enable it to examine the application.

(3) After making investigations and considering any information or declaration as may have been required in terms of subsection (2), the Board may either grant, renew or vary a licence or permit or refuse a licence or permit or renewal or variation thereof without reason given:

Provided that—

- (i) no licence or permit shall be issued under this Act unless and until the Board has satisfied itself that the applicant is a fit and proper person to hold the licence or permit and that the premises, if any, in respect of which the application is made are suitable for the purpose;
- (ii) no licence shall be issued under this Act unless the Board has sent a copy of the application for the licence to the local authority within whose area of jurisdiction the applicant proposes to conduct his business and has given the local authority reasonable opportunity to object to, or make recommendations with respect to, the application.

(4) A person who knowingly makes a false statement or declaration in an application for, or a renewal or variation of, a licence or permit shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both.

5A. Fit and proper criteria for casinos

(1) The Board shall, in determining whether an applicant is suitable to hold a licence or permit under this Act, 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, of that 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, chief executive, management or the personnel are shareholders of the company.

(2) Without prejudice to the generality of subsection (1), the Board may, in considering whether an 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 by persons engaged in transacting with marketable securities;
 - (ii) was a director of a licensed person who has been liquidated or is under liquidation or statutory management;
 - (iii) has taken part in any business practice which, in the opinion of the Board, was fraudulent, prejudicial to the market or public interest, or was otherwise improper, which would otherwise discredit the applicant's methods of conducting business;
 - (iv) has taken part or has been associated with any business practice which casts doubt on the competence or soundness of judgment of that applicant; or
 - (v) has acted in such a manner as to cast doubt on the applicant's competence and soundness of judgment;
- (b) take into account any information in the possession of the Board, whether provided by the applicant or not, relating to—
 - (i) any person who is to be employed by, associated with, or who shall be acting for or on behalf of, the applicant for the purposes of a regulated activity, including an agent; and
 - (ii) where the applicant is a company in a group of companies, any other company in the same group of companies, or any substantial shareholder or key personnel of the company or any company referred to under this subparagraph;

- (c) take into account whether the applicant has established effective internal control procedures and risk management systems to ensure its compliance with all applicable regulatory requirements; and
- (d) have regard to the state of affairs of any other business which the applicant carries on or purports to carry on.

(3) 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.

(4) 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 five thousand shillings or to imprisonment for a term not exceeding six months, or to both.

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

[Act No. 10 of 2018, s. 52.]

6. Applicant to furnish Board with security

(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, or such other security as the Board may approve, of a sum not exceeding forty thousand shillings and that security shall be refunded or cancelled on the expiration or cancellation of the licence in respect of which it has been deposited or given unless it is forfeited under section 64.

(2) In the case of a partnership, only one security in respect of the partnership shall be required, notwithstanding that licences under any of sections 16, 18, 22 and 46 have been issued in respect of the partnership.

(3) In determining the amount of security the Board shall take into account the known business of the applicant and the amount, if any, by which that business may reasonably be 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 known scale of business of the licensee concerned, the variation is reasonable.

7. Provisions of licences and permits

(1) Every licence or permit issued under this Act shall state the precise location and extent of the premises, if any, to which it relates and shall be endorsed with every condition 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.

(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 premises previously licensed.

8. Display of licence and permit and surrender of same on suspension of cancellation

(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 have

access, and a copy thereof shall be similarly displayed at each of the branches of the licensee or permit-holder.

(2) On notification to a person that his licence or permit has been cancelled or suspended, that person shall forthwith surrender his licence or permit, as the case may be, to the Board.

(3) 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, shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding three months or to both.

9. Duration of licence and permit

Every licence or permit issued under this Act shall, unless therein otherwise provided, expire on the 30th June next following the date of issue.

10. Books to be kept by licensee

(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 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, shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year or to both.

[Act No. 9 of 1967, Sch.]

11. Submission of accounts by licensees and permit-holders

(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 Board may require a permit-holder, other than a holder of a permit issued under section 23, section 54 or section 58, to render accounts to the Board in such form and within such period as it may specify.

(3) The Board may require accounts submitted to it under this section to be the 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.

(4) 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 shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year or to both.

[Act No. 9 of 1967, Sch., Act No. 10 of 1981, Sch.]

12. Licences and permits not to be transferred

No licence or permit issued under this Act shall be transferable to any person, and a person who transfers or purports to transfer a licence or permit shall be guilty of an offence and liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding two months, or to both.

13. Fees

There shall be paid to the Board for every licence and permit issued by the Board such fee as may be prescribed.

PART III – CONTROL AND LICENSING OF BETTING

14. Offences relating to unlicensed betting premises

(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 betting 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 betting premises; or
- (c) has the care or management of, or in any manner assists or is engaged in the management of, premises kept or used as unlicensed betting premises; or
- (d) 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 are opened, kept or used as unlicensed betting premises, or in any manner invites or solicits any person to bet in unlicensed betting premises; or
- (e) advances, furnishes or receives money for the purpose of establishing or conducting the business of unlicensed betting premises,

shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year or to both.

(2) A person who bets in unlicensed betting premises shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to a term of imprisonment for a term not exceeding six months, or to both; and a person found in unlicensed betting premises or found escaping therefrom on the occasion of their being entered under this Act shall be presumed, until the contrary is proved, to be or to have been betting therein.

(3) 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 proved, to have permitted that place to be so kept or used.

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

15. Prohibition against unlicensed bookmaking

(1) A person who acts or carries on business as a bookmaker otherwise than under and in accordance with the terms of a licence issued under this Act shall, without prejudice to his liability (if any), to be proceeded against under section 14, be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year, or to both; but nothing in this section shall apply to an employee of a person issued with a licence under section 16 acting in the course of his 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 money's 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.

16. Bookmakers licences

(1) The Board may, in respect of bookmakers, issue—

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

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

(3) In the case of a partnership of bookmakers, only one licence shall be required but each partner shall be named in the application for the licence.

(4) In considering the suitability of betting premises for the purpose of proviso (i) to section 5(3), 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.

(5) The Board may, upon the issue 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 licence applies and the hours during which the premises may be open for business.

17. Betting by means of unlicensed totalisator an offence

A person who—

- (a) effects a betting transaction by means of a totalisator other than by means of a totalisator in respect of which a 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 18,

shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year or to both.

18. Totalisator licences

(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 named therein; or
- (c) a licence authorizing a 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) The Board may authorize a person issued with a licence under subsection (1)(a) to enter into betting transactions through his agents off the course, in respect of a totalisator to be used on the course; but no person shall act as an agent under this subsection unless he has been appointed as such in writing by the person issued with a licence under subsection (1)(a) and a copy of the appointment is delivered to, and approved by, the Board.

19. Laying of totalisator adds, etc., prohibited

(1) A person who, in connexion with a totalisator in respect of which a licence has been issued under section 18—

- (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 purchase 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,

shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both.

(2) The provisions of paragraphs (a) and (b) of subsection (1) shall not apply to an agent or employee of a person issued with a licence under section 18 who is engaged in the lawful conduct of a totalisator in a manner approved by the Board.

20. Betting transaction on totalisator after time of race prohibited

Subject to any manner approved by the Board and to any regulations made by the Minister, a person who, in connection with a totalisator in respect of which a licence has been issued under section 18—

- (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 that 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; or
- (d) makes, authorizes or permits the payment to any person any money which is not calculated in accordance with section 31,

shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both.

21. Offences relating to pool betting schemes

(1) A person who—

- (a) promotes a pool betting scheme within Kenya otherwise than under and in accordance with the terms of a licence issued under section 22; or

- (b) in furtherance of a pool betting scheme or on behalf of a promoter of such a scheme or his agent, receives or negotiates bets or otherwise acts as an agent of a promoter otherwise than under and in accordance with the terms of a principal agent's or agent's licence issued under section 22,

shall, without prejudice to his liability, if any, to be proceeded against under section 14, be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year, or to both; but notwithstanding the provisions of any other written law, where a person is charged with an offence under this subsection, and the Court is of opinion that he is not guilty of that offence but that he is guilty of another offence under this subsection, 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 for use in such a scheme; or
 - (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; or
 - (c) distributes, or has in his possession for the purpose of distribution—
 - (i) an advertisement of the scheme; or
 - (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; or
 - (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; or
 - (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 or 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 of relating to the issue of a coupon or of a dividend connected with the scheme,

shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year or to both.

(2A) Any person, other than the holder of valid principal agent's licence, who takes or sends out of Kenya (whether by post or otherwise) money or money's worth or any coupon, in connection with any pool betting scheme authorized under section 22 shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding three months or to both.

(3) For the purposes of subsection (2)(f), the publication of an advertisement or notice in a newspaper printed outside Kenya and normally circulating within Kenya shall not be an offence if the scheme to which the advertisement or notice refers is promoted outside Kenya.

(4) A person, other than the holder of valid principal agent's licence, who takes or sends out of Kenya (whether by post or otherwise) money or money's worth or a coupon, in connection with a pool betting scheme authorized under section 22 shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding three months or to both.

(5) In this section—

- (a) “**agent**” means a person who acts in furtherance of the promotion of a pool betting scheme;
- (b) “**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 promoter's licence issued under section 22;
 - (ii) where a pool betting scheme is promoted or proposed to be promoted outside Kenya, a scheme promoted by a person who has not within Kenya an agent or representative holding a principal agent's licence issued under section 22;
- (c) reference to printing shall be construed as including references to writing and other modes of representing or reproducing words in a visible form.

[Act No. 8 of 1968, Sch.]

22. Licences in respect of pool betting schemes

(1) The Board may, in respect of a pool betting scheme, issue—

- (a) a promoter's licence, authorizing the holder to provide a pool betting scheme within Kenya;
- (b) a principal agent's licence, authorizing the holder to act as the principal agent in Kenya of the promoter of a pool betting scheme promoted outside Kenya;
- (c) an agent's licence, authorizing the holder to act as an agent of the promoter of a pool betting scheme promoted within Kenya, or of any principal agent of the promoter of a pool betting scheme promoted outside Kenya.

(2) No licence issued under this section shall be applicable to more than one pool betting scheme, promoter of a scheme, principal agent or agent.

23. Authorization of bookmaking at race meetings

(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 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 thinks 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 in 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) shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding three months or to both.

24. Prohibition against touting

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 shall be guilty of an offence and liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding two months or to both.

25. Prohibition against advertising of betting

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; or
- (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 other notice,

shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding three months or to both; but nothing in this section shall prohibit the printing, reproduction and publication of circulars giving information relating to betting on an intended horse race or other race in Kenya or elsewhere, if the circulars are issued by a person granted a licence under this Part.

26. Prohibition against liquor on licensed premises

A person who, upon licensed betting premises other than at an authorized race meeting, sells or supplies or consumes or permits the sale or supply or consumption of alcoholic liquor shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding three months or to both.

27. Prohibition against playing games of chance on licensed premises

A person who upon licensed betting premises plays or permits the playing of a game of chance shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or imprisonment for a term not exceeding six months or to both.

28. Betting with young persons an offence

(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,

shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding three months 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.

29. Betting in public places an offence

(1) Subject to this Act, a person who frequents or loiters in a street or public place, on behalf either of himself or of any other person, for the purposes of bookmaking, betting, agreeing to bet, or paying, receiving or settling bets shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months 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 doorway and entrances of premises abutting upon ground adjoining and open to a street shall be treated as forming part of the street.

29A. Betting tax

(1) There shall be a tax to be known as betting tax chargeable at the rate of fifteen per cent of the gaming revenue.

(2) The tax shall be paid to the Collector by the licensed bookmaker on the 20th day of the month following the month of collection.

[Act No. 38 of 2016, s. 80, Act No. 15 of 2017, s. 29, Act No. 10 of 2018, s. 53.]

30. *Repealed by Act No. 9 of 2000, s. 67.*

31. *Repealed by Act No. 9 of 2000, s. 68.*

32. *Repealed by Act No. 9 of 2000, s. 69 .*

33. *Repealed by Act No. 9 of 2000, s. 70.*

34. *Repealed by Act No. 9 of 2000, s. 71 .*

PART IV – CONTROL AND LICENSING OF LOTTERIES

35. Unauthorized lotteries and offences relating to same

(1) A lottery promoted or conducted otherwise than in accordance with this Part shall be deemed to be an unauthorized lottery and unlawful.

(2) A person who opens, keeps or uses, or causes or knowingly permits the use of, premises for carrying on an unauthorized lottery shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year or to both.

(3) 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 of or relating to the sale of a ticket or chance in any such lottery shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding three months or to both:

Provided that the publication of such an advertisement or notice in a newspaper outside Kenya and normally circulating within Kenya shall not be a contravention of this subsection if the lottery to which the advertisement or notice refers is promoted and conducted outside Kenya.

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

- (a) prints a ticket for use in the lottery; or
- (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; or
- (c) distributes, or has in his possession for the purpose of distribution—
 - (i) an advertisement of the lottery; or
 - (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; or
- (d) brings, or invites any person to send, into Kenya for the purpose of sale or distribution a ticket in, or advertisement of, the lottery; or
- (e) sends or attempts to send out of Kenya any money or 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,

shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year or to both.

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

36. Authorization of public lotteries for charitable purposes

(1) The Board may issue a permit authorizing the promotion and conduct of a lottery (not being a lottery promoted and conducted under section 40, section 41 or section 42)—

- (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 proceeds of which is 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 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 centum of the gross proceeds.

(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 proviso 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 guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both.

37. Powers of Board with respect to public lotteries

(1) The Board may in respect of any authorization granted under section 36—

- (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 that any conditions imposed under paragraph (a) have been or are being complied with; and
- (c) guide and co-ordinate the proper and equitable distribution of the charitable funds of a lottery authorized by it.

(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) *deleted by Act No. 38 of 2016, s. 81(a)*;
- (b) providing for the protection of 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 provision by the promoters of the lottery of guarantors to cover the expected proceeds, or any part thereof, of the lottery.

(3) *Deleted by Act No. 38 of 2016, s. 81(b)*.

(4) If any condition imposed under 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, shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both; but it shall be a defence 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 offence occurred without his consent or connivance and that he exercised all due diligence to prevent it.

[Act No. 38 of 2016, s. 81.]

38. Power of Board to require incorporation of promoters of public lotteries

Before authorizing the promotion of a lottery under section 36, the Board may require the promoters of the lottery to become a body corporate under any law for the time being in force relating to incorporation.

39. Board may authorize lotteries relating to horse racing, etc

(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) Section 31 shall apply to every lottery in respect of which a permit under subsection (2)(a) is issued, and accordingly references in section 31 to “totalisator” and to “licensee” shall be construed as including references to lottery on the course and to permit-holder.

(4) Sections 36, 37 and 38 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.

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

(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 athletic sports or games or cultural activities;
- (c) purposes which, not being described in paragraph (a) or paragraph (b), are neither purposes of private gain nor purposes of a commercial undertaking,

and is 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 the lottery—

- (a) the promoter of the 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 carries on a betting business or is otherwise engaged by way of business in the organization of betting;
- (c) no prize shall exceed five thousand shillings in amount or value, and no ticket or chance shall be sold at a price exceeding five 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, being purposes described in paragraphs (a), (b) and (c) of 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 a ticket shall be stated on the ticket;
- (g) the total value of the tickets or chances sold shall not exceed fifty thousand 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 the tickets or chances sold in those lotteries taken together shall not exceed fifty thousand 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 or chances 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 or 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, 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 will take place;
- (j) no ticket shall be sent through the post to a person not being 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 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 proceeds of the lottery.

(3) If any condition required by subsection (2) is contravened, the promoter of the lottery and any other person who is party to the contravention shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or imprisonment for a term not exceeding six months or to both:

Provided that—

- (i) 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;
- (ii) it shall be a defence for a person charged with an offence in respect of an appropriation or payment made in contravention of paragraph (e) or paragraph (l) of subsection (2) to prove that—

- (a) the proceeds of the lottery fell short of the sum reasonably estimated; and
 - (b) the appropriation or payment was made in respect of expenses actually incurred, or in order to fulfil an unconditional undertaking as to prizes given in connection with the sale of the relevant tickets or chances; and
 - (c) the total amount appropriated or paid in respect of expenses and prizes did not exceed the amounts which could lawfully be 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) in construing subsection (1)(c), a purpose for which a society is established or conducted which is calculated to benefit the society as a whole shall not be held to be a purpose of private gain by reason only that action in its fulfilment would result in benefit to any person as an individual; and
 - (b) in construing subsection (2)(d), where a payment 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 purposes of private gain; and accordingly the reference to any such charge falling to be so determined; and
 - (c) “**society**” includes a club, institution, organization or association of persons, by whatever name called, and any separate branch or section of that club, institution, organization or association.

[Act No. 22 of 1987, Sch.]

41. Exemption of small lotteries incidental to certain entertainments

(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 entertainment excluding expenses incurred in connection with the lottery; and
 - (ii) the expenses incurred in printing tickets in the lottery; and
 - (iii) such sum, if any, not exceeding one 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 on which the entertainment takes place and during the progress of the entertainment;
- (c) the facilities provided for participating in lotteries, or those facilities together with either or both of the following—
 - (i) facilities offered by virtue of section 52 for taking part in gaming;
 - (ii) the opportunity to win prizes at amusements to which section 56,
 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 the 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 a 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 that 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 ten shillings.

(2) If any of the conditions specified in subsection (1) is contravened, every person concerned in the promotion or conduct of the lottery shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months 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 diligence 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 part thereof or extending over two or more days.

(4) So much of section 29 as relates to betting in a place other than a street shall not apply to this section.

[Act No. 22 of 1987, Sch.]

42. Private lotteries

(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 which are purposes of the society, or, as to 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 is contained in the tickets, if any;
- (c) the price of each ticket or chance shall be the same, and the price of a ticket shall be stated on the ticket;
- (d) 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 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 prize 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 and upon 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 five thousand shillings or to imprisonment for a term not exceeding six months or to both:

Provided that it shall be a defence 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 diligence 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; or
 - (ii) persons all of whom work on the same premises; or
 - (iii) persons all of whom reside on the same premises,

and which is promoted by persons each of whom is a person to whom, under subparagraphs (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.

43. Sale of ticket by or to a person under sixteen an offence

(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 sixteen 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 three thousand shillings or to imprisonment for a term not exceeding three months or to both:

Provided that—

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

44. Submission of accounts and returns in respect of lotteries

(1) The Board may require the promoters of a lottery which is promoted or conducted under sections 40, 41 and 42 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,

shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding three months or to both.

[Act No. 9 of 1967, Sch.]

44A. Lottery tax

(1) There shall be a tax to be known as lottery tax chargeable at the rate of fifteen per cent of the lottery turnover.

(2) The tax shall be paid to the Collector by a person authorized to promote the lottery on the 20th day of the month following the month of collection.

[Act No. 38 of 2016, s. 82, Act No. 15 of 2017, s. 30, Act No. 10 of 2018, s. 54.]

PART V – GAMING

45. Offences relating to unlicensed gaming premises

(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

- (c) has 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
- (d) 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
- (e) advances, furnishes or receives money for the purpose of establishing or conducting the business of unlicensed gaming premises,

shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one year or to both.

(2) A person who games in unlicensed gaming premises shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both; and a person found in unlicensed gaming premises, or found escaping therefrom 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 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 premises**” means gaming premises in respect of which no licence is issued under this Part.

46. Board may license public gaming premises

(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 50 or section 52, 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 premises to be used for gaming and any licence 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 licence 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) the payment of 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 Entertainments Tax Act (Cap. 479).

[Act No. 9 of 1967, Sch.]

47. Offences relating to licensed gaming premises

(1) If a person issued with a licence under section 46 uses or permits the use of licensed gaming premises for the playing of games not authorized by the Board or 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 favourable 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 45(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 the gaming to prove that the contravention of a condition imposed under section 46(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 under section 45(2), 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; or
- (b) displays a written or printed placard or notice relating to gaming so as to be seen in a public street or place; or
- (c) prints or publishes, or causes to be printed or published, an advertisement or other notice,

shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding three months or to both.

48. Gaming with young persons an offence

(1) A person who, on licensed gaming premises—

- (a) plays a game with, or permits the playing of a game by, a young person; or
- (b) allows a young person to come on to licensed gaming premises, whether for the purpose of gaming or otherwise; or
- (c) employs a young person in the organization or management of gaming,

shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding three months or to both.

(2) In this section, “**young person**” has the meaning assigned to it in section 28(2).

49. *Repealed by Act No. 9 of 2000, s. 72.*

50. Small gaming parties

(1) Subject to this Act, gaming on premises (not being gaming 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 favourable to all the players; or

- (ii) the gaming is so conducted that the chances therein are equally favourable 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 of 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 person under the age of eighteen years is included among the players unless—
 - (i) the gaming takes place in a private dwelling-house or in the presence of a parent or guardian of that person; and
 - (ii) any such person taking part in the gaming does so with the permission, whether general or special, of a parent or guardian of that person.

(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 favourable to all the players, and that ten or more persons were present at the gaming; or
- (b) that a 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 51, 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 by virtue of subsection (1), or is held by virtue of subsection (2) 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,

shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months 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 shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or to imprisonment for a term not

exceeding three months 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.

51. Saving for clubs

In proceedings under section 50, 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; and
- (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; and
- (d) that not more than two *bona fide* 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.

52. Gaming at entertainments not held for private gain

(1) Games of chance or of chance and skill combined promoted and conducted as an incident to an entertainment to which this section applies shall be lawful provided all the following conditions are observed—

- (a) either—
 - (i) the chances in the game are equally favourable to all players; or
 - (ii) the gaming is so conducted that the chances therein are equally favourable 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 five 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 four hundred 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; and

- (e) the amount 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 person under the age of eighteen years is included among the players unless—
 - (i) the gaming takes place in the presence of a parent or guardian of that person; and
 - (ii) any such person taking part in the gaming does so with the permission, whether general or special, of a parent or guardian of that person.

(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 by 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 other 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 favourable 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 five 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 at the entertainment—

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

shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both; and for the purposes of this subsection, a person who took part in procuring the assembly of 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 three thousand shillings or to imprisonment for a term not exceeding three months 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 the purpose 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 purpose 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 five shillings and that he neither knew nor had reasonable cause to suspect that 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 payments 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 falls 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 to be 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 55 as relates to gaming in a place other than a street shall not apply to this section.

53. Gaming machines

(1) A person who—

- (a) uses or permits the use of an unauthorized gaming machine; or
- (b) knowingly allows premises to be used for the purpose of gaming by means of an unauthorized gaming machine; or
- (c) knowing or having reasonable cause to suspect that premises would be used for gaming by means of an unauthorized 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,

shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both.

(2) In this section, “**unauthorized gaming machine**” means a gaming machine in respect of which a permit has not been issued under section 54.

54. Board may authorize use of gaming machine

(1) The Board may, subject to any regulations made under this Act, issue a permit authorizing the use of a gaming machine on premises approved by it.

(2) A permit issued under this section shall be subject to such conditions as the Board may impose and to the following conditions—

- (a) not more than two gaming machines are made available for play in any one building or, where different parts of a building are occupied by two or more different persons, in the part or parts of the building occupied by any one of those persons; and
- (b) the stake hazarded in order to play the game once does not exceed one shilling; and
- (c) all stakes hazarded are applied either in the payment of winnings to a player of the game or for purposes other than private gain; and
- (d) the premises on which the gaming machine is used are not wholly or mainly used by persons under the age of eighteen years.

(3) A person who contravenes any conditions provided for in subsection (2) or imposed by the Board shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding three months or to both.

(4) In this section—

- (a) in construing subsection (2)(c), stakes hazarded 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 a gaming machine and the amount of that charge falls to be determined wholly or partly by reference to the extent to which that gaming machine is used for the purposes of gaming, then that payment shall be held to be an application of the stakes hazarded for purposes of private gain;

- (b) “**building**” includes the curtilage of the building.

55. Gaming in public place an offence

(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, shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding three months or to both.

(2) A police officer may arrest without warrant anyone whom he finds in a street or 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 29(3).

55A. Gaming tax

(1) There shall be a tax to be known as gaming tax chargeable at the rate of fifteen per cent of the gaming revenue.

(2) The tax shall be paid to the Collector by a person carrying on a gaming business on the 20th day of the month following the month of collection.

[Act No. 38 of 2016, s. 83, Act No. 15 of 2017, s. 31, Act No. 10 of 2018, s. 55.]

**PART VI – AMUSEMENTS WITH PRIZES,
PRIZE COMPETITIONS AND CHAIN LETTERS**

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

(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 expense incurred in connection with any such amusements;
 - (ii) such sum, if any, not exceeding one 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 41 of the manner for participation in a lottery or by virtue of section 52 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, be guilty of an offence and liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding three months 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 any equipment for providing the amusements 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 to be 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, fête, 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.

[Act No. 22 of 1987, Sch.]

57. Provision of amusements with prizes at certain commercial entertainments

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

- (a) on premises in respect of which a permit for the provision thereon of those amusements has been granted by a local authority under section 162(f) of the Local Government Act (Cap. 265) and is for the time being in force; and
- (b) at a pleasure fair consisting wholly or mainly of amusements provided by travelling showmen which is held on any day of a year on 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 does not exceed one shilling;
- (b) the aggregate amount taken by way of the sale of chances in any one determination of winners, if any, of prizes does not exceed fifty shillings, and the sale of those chances and the declaration of the result 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 is distributed or offered which exceeds one shilling;
- (d) the winning of, or the purchase of a chance to win, a prize does 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 is not 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 means 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 does not receive any article other than one, and one only, of the following, namely—
- (i) a money prize not exceeding one shilling;
- (ii) a prize other than money of a value not exceeding five 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 of prizes of a value or aggregate

value not exceeding five 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 shilling.

(4) If any of the conditions specified in subsections (2) and (3) is contravened, every person concerned in the provision or the 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, be guilty of an offence and liable to a fine not exceeding three thousand shillings or to imprisonment for a term not exceeding three months or to both.

[Act No. 9 of 1967, Sch.]

58. Amusement machines

(1) The Board 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),

shall be guilty of an offence and liable, in the case of an offence under paragraph (a), to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both and, in the case of an offence under paragraph (b), to a fine not exceeding two 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 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.

[Act No. 10 of 1981, Sch.]

59. Prohibition against competitions or prizes involving no skill

(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 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 section 22.

(2) A person who contravenes 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 guilty of an offence and liable to fine not exceeding three thousand shillings or to imprisonment for a term not exceeding three months or to both.

(3) In this section, “**broadcasting**” means radio communication, within the meaning of section 2 of the Kenya Posts and Telecommunications Corporation Act (Cap. 411), for reception by members of the public.

59A. Prize competitions

(1) The Board may, subject to 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) 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 shall be guilty of an offence and be liable to a fine not exceeding ten thousand shillings or to a term of imprisonment not exceeding one year or both.

(3) Nothing in this section shall apply to any competition prohibited under section 59.

[Act No. 10 of 1987, s. 40.]

59B. Prize competition tax

(1) There shall be a tax to be known as prize competition tax chargeable on the cost of entry to a competition which is premium rated at the rate of fifteen per cent of the total gross turnover.

(2) The tax shall be paid to the Collector by the licensed person on the 20th day of the month following the month of collection.

[Act No. 38 of 2016, s. 84, Act No. 15 of 2017, s. 32, Act No. 10 of 2018, s. 56.]

60. Chain letters, etc

(1) A person who sends or causes to be sent or supplies or delivers any chain letter or voucher or who sends or receives money or moneys worth in connection with a chain letter or voucher 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 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.

[Act No. 18 of 1986, Sch.]

PART VII – MISCELLANEOUS PROVISIONS

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

A person who, by any fraud or unlawful device or ill-practice in playing at or with an instrument of gaming, or in taking a part in the stakes or wagers, or in betting on the sides or hands of those that are playing, or in wagering on the event of a game, sport, pastime or exercise, 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 thousand shillings or to imprisonment for a term not exceeding six months or to both.

62. Appeals from decisions of Board

A person aggrieved by a decision of the Board made under this Act may, within twenty-one days of the decision, appeal to the High Court, and a decision of a judge of the High Court shall not be the subject of appeal.

63. Power to enter and inspect land or premises

(1) It shall be lawful—

- (a) for a person authorized in writing in that behalf by the Board, on production of his authority if demanded;
- (b) for a police officer of or above the rank of Assistant Inspector,

to enter without warrant and inspect premises (including a racecourse) 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 which he has reasonable cause to suppose will afford evidence of an offence under this Act or any regulations made thereunder;
- (iii) require the owner or occupier of the premises to render such explanation and give such information relating to any betting transaction, lottery or gaming as may be reasonably required 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 Inspector unless the person authorized in writing by the Board or the Permanent 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) wilfully withholds information, or gives information knowing or having reason to believe it to be false or misleading, shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months 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 or 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.

(5) Every seizure under this section shall be reported without unnecessary delay to a magistrate.

[Act No. 4 of 1999, s. 50, Act No. 9 of 2000, s. 73.]

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

(1) If a person issued with a licence 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 licence shall be forfeited and cancelled; and if that person is convicted of an offence under Part III or Part V the Court may make such further order as to the forfeiture of his security or part thereof furnished to the Board under section 6 as it deems fit, and the provisions of Part IV of the Criminal Procedure Code (Cap. 75), in so far as they relate to forfeiture of recognizances, 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 licence is forfeited and cancelled in pursuance of an order under subsection (1) shall, by virtue of that order, be disqualified from holding or obtaining a licence or a further licence for a period of five years beginning 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) shall be guilty of an offence and liable to a fine not exceeding two thousand shillings.

65. *Repealed by Act No. 9 of 2000, s. 74.*

66. Saving in respect of offences connected with advertisements in newspapers

Where an offence is committed under any of sections 21(2)(f), 25, 35(3) and 47(3) in connection with the printing and publication of an advertisement or notice referred to therein, then, notwithstanding the provisions of those sections, no publisher, proprietor or editor or other member of the staff of a newspaper (being a

newspaper within the meaning of the Books and Newspapers Act (Cap. 111)) shall be guilty of that offence if he furnishes to the police officer investigating the occurrence the name and address of the person who caused the advertisement or notice to be published.

67. Power of court to deal with anything produced to it

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 and either destroyed or dealt with in such other manner as the Court may order.

68. Power of Board and Permanent Secretary to sue for recovery of any moneys due

Any fee due to the Board, and any penalty in respect thereof, due to the Permanent Secretary shall be deemed to be a civil debt due to the Government, and may be sued for and recovered with costs by and in the name of the Board or the Permanent Secretary, as the case may be.

[Act No. 4 of 1999, s. 51, Act No. 9 of 2000, s. 75.]

69. Revenue to be paid into Consolidated Fund

Save for the taxes provided for under sections 29A, 44A, 55A and 59B, any other monies received under this Act by or on behalf of the Board by way of fees, shall be paid into Consolidated Fund.

[Act No 4 of 1999, s. 52, Act No. 9 of 2000, s. 76, Act No. 15 of 2017, s. 33.]

69A. Taxes to be paid into fund

The Collector shall pay all the proceeds of tax paid under sections 29A (2), 44A (2), 55A (2) and 59B (2) into the Sports, Arts and Social Development Fund established under section 24 of the Public Finance Management Act, 2012.

[Act No. 10 of 2018, s. 57.]

69B. Late payment penalty and interest

(1) Subject to subsection (2), a person who fails to pay a tax imposed under sections 29A, 44A, 55A and 59B, on the due date shall be liable—

- (a) to a late payment penalty of five per cent of the tax payable; and
- (b) to a late payment interest at a rate equal to one per cent per month or part of a month on the amount unpaid for the period until the tax is paid in full.

(2) The late payment interest payable under this section shall be computed as simple interest.

(3) The late payment penalty or interest shall be payable to the Collector and shall be treated as a tax payable by the person liable for the tax.

(4) The accrued late payment interest shall not, in aggregate, exceed the principal tax liability.

(5) A person liable to a late payment penalty or interest may apply in writing to the Collector for the remission of the penalty or interest payable and such application shall include the reasons for the application.

(6) The Collector may, upon an application under subsection (5) or on his own motion remit in whole or in part, late payment penalty or interest payable by a person if satisfied that the remission is by reason of—

- (a) consideration of hardship or equity; or
- (b) impossibility or undue difficulty or expense, of recovery of tax:

Provided that—

- (i) where the amount of the penalty or interest exceeds one million five hundred thousand shillings, the collector shall seek prior approval of the Cabinet Secretary responsible for finance; and
- (ii) make quarterly reports to the Cabinet Secretary responsible for finance on the remissions granted.

[Act No. 10 of 2018, s. 57.]

70. Regulations

The Minister 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 or variation of a licence or permit issued under this Act;
- (c) the advertisement of an application for a licence 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 licence 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.

[Act No. 9 of 2000, s. 77.]
