

THE BETTING, LOTTERIES AND GAMING ACT, 1966

No. 9 of 1966

Date of Assent: 11th March 1966

Date of Commencement: By Order

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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 purposes incidental to and connected with the matters aforesaid

ENACTED by the Parliament of Kenya, as follows:—

PART I—PRELIMINARY

1. This Act may be cited as the Betting, Lotteries and Gaming Act, 1966, and shall come into operation on such date as the Minister, by order, appoints and the Minister may appoint different dates in relation to different provisions of this Act.

Short title and commencement.

Interpretation.

2. In this Act, except where the context otherwise requires—

“authorized race meeting” means a race meeting authorized in terms of section 23 of this Act;

“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 any horse race, or other race, fight, game, sport, lottery or exercise or any other event or contingency; and the expression “betting” shall be construed accordingly;

“betting premises” means any 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 same, or any person procured or employed by or acting for or on behalf of such owner, occupier or keeper, or person using the same, 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 such 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;

“the Board” means the Betting Control and Licensing Board established under section 3 of this Act;

“bookmaker” means any person who, whether on his own account or as servant or agent to any other 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 of this Act; or
- (b) that he carries on, or is employed in a business that is wholly concerned with, a pool betting scheme in respect of which a licence has been issued under section 22 of this Act;

and the expression “bookmaking” shall be construed accordingly;

“coupon”, in relation to any pool betting scheme or proposed pool betting scheme, includes any 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 any 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 any player other than the actuation or manipulation of the machine;

“gaming premises” means any 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 any game of chance, whether such game of chance be an unlawful game or not;

“horse race” includes a pony race;

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

“licensed gaming premises” means any premises duly licensed in terms of this Act as premises to which the public may resort for the purpose of gaming;

“licensee” means a person issued with a licence under sections 16, 18, 22 or 46 of this Act;

“lottery” includes a sweepstake, 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 any journal, magazine or other periodical publication;

“the Permanent Secretary” means the Permanent Secretary to the Ministry for the time being responsible for betting, lotteries and gaming and, for the purposes of sections 30, 31, 32 and 49 of this Act, a person appointed in writing by him;

“permit-holder” means the holder of a permit issued under sections 23, 36, 39 or section 54 of this Act;

“pool betting” means the making of bets (other than bets made by means of totalisator), whether such 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 any 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 and 53 of this Act, also includes any vessel;

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

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

“race meeting” means any gathering of the public or of the members of any association of persons to watch horse races or other races at which the Board may authorize the attendance of bookmakers in accordance with the provisions of section 23 of this Act;

“tax” means the tax payable under sections 30, 31, 32 and 49 of this Act;

“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;

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

“turf club” means any 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 any 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 any reference to the amount or to the payment of winnings shall be construed accordingly.

PART II—BETTING CONTROL AND LICENSING BOARD

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

Establishment
of Board.

- (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 any person deputed by him in writing in that behalf;
- (c) the Permanent Secretary to the Ministry for the time being responsible for internal security or any person deputed by him in writing in that behalf;

- (d) the Permanent Secretary to the Ministry for the time being responsible for betting, lotteries and gaming or any person deputed by him in writing in that behalf;
- (e) such other persons, not exceeding five in number, as the Minister may, by notice in the Gazette, appoint.

(2) Before the Minister makes any 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.

(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) of this section 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) of this section 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 every such 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.

4. (1) The Board shall have power—

Powers of
the Board.

(a) to issue licences and permits in accordance with the provisions of this Act and of any regulations made thereunder;

(b) during the subsistence of such licence or permit, to vary, or for good cause to suspend or cancel, it:

Provided that the Board shall not suspend any licence or permit for more than fourteen days and shall not vary or cancel any licence or permit without giving the licensee or permit-holder opportunity to show cause against the variation or cancellation;

(c) to inquire into complaints against licensees or permit-holders.

(2) Subject to the provisions of 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:

Provided that the exercise of such powers shall, to the extent required by the Board, be reported by the chairman without unreasonable delay to a meeting of the Board.

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

Application
for licences
and permits.

(2) On receipt of an application in terms of subsection (1) of this section 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 such application.

(3) After making such investigations and considering such information or declaration as may have been required in terms of subsection (2) of this section, the Board may either grant, renew or vary a licence or permit or refuse such 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 such a 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 such licence to the local authority within whose area of jurisdiction the applicant proposes to conduct his business and has given such local authority reasonable opportunity to object to, or make recommendations with respect to, the application.

(4) Any person who knowingly makes any false statement or declaration in any 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 a term of imprisonment not exceeding six months or to both such fine and such imprisonment.

6. (1) In every case where a licence is issued under this Act the Board shall impose as a condition thereto 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 such 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 deemed to be forfeited under section 64 of this Act.

Applicant to
furnish Board
with security.

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

(3) In determining the amount of such security the Board shall take into account the known business of the applicant and the amount, if any, by which such 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 terms of this section if it is satisfied that, having regard to the known scale of business of the licensee concerned, such variation is reasonable.

7. (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 in accordance with this Act.

Requirements of licences and permits.

(2) Any 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) of this section the Board may vary the said 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. (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.

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

(2) On notification to any 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) Any person who without reasonable cause or excuse fails to comply with the provisions of 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 a term of imprisonment not exceeding three months or to both such fine and such imprisonment.

Duration of
licence and
permit.

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

Books to be
kept by
licensee.

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

(2) Any licensee who contravenes this section or knowingly or recklessly keeps any book, record or account required to be kept under this section, which is false in any material particular, or makes or causes to be made in any such book or in any return to the Board any 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 a term of imprisonment not exceeding one year or to both such fine and such imprisonment.

Submission of
accounts by
licensees and
permit-holders.

11. (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 sections 23 and 54 of this Act, to render accounts to the Board in such form and within such period as it may specify.

(3) The Board may require any 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) Any 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 a term of imprisonment not exceeding one year or to both such fine and such imprisonment.

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

Licences and permits not to be transferred.

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

Fees.

PART III—CONTROL AND LICENSING OF BETTING

14. (1) Subject to the provisions of this Act, any person who—

Offences relating to unlicensed betting premises.

- (a) being the owner or occupier or having the use temporarily or otherwise thereof, keeps or uses any unlicensed betting premises; or
- (b) permits any 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, any 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 any premises are opened, kept or used as unlicensed betting premises, or in any manner invites or solicits any person to bet in any unlicensed betting premises; or
- (e) advances, furnishes or receives money for the purpose of establishing or conducting the business of any unlicensed betting premises,

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

(2) Any person who bets in any 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 not exceeding six months or to both such fine and such imprisonment:

Provided that any person found in any unlicensed betting 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 betting therein.

(3) Any person who occupies or has the use temporarily of any premises which are kept or used by another person as unlicensed betting premises shall be presumed until the contrary is proved to have permitted such 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 of this Act.

Prohibition
against
unlicensed
bookmaking.

15. (1) Any 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, however, to his liability, if any, to be proceeded against under section 14 of this Act, be guilty of an offence and shall be liable to a fine not exceeding ten thousand shillings or to a term of imprisonment not exceeding one year or to both such fine and such imprisonment:

Provided that nothing in this section shall apply to any employee of a person issued with a licence under section 16 of this Act acting in the course of such employment at the licensed betting premises of such person or at an authorized race meeting.

(2) Any 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 connexion 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) Any 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. (1) The Board may, in respect of bookmakers, issue—

Bookmakers' licences.

- (a) an on-the-course licence authorizing any person to carry on his business as a bookmaker at any authorized race meeting;
- (b) an off-the-course licence authorizing any person to carry on his business as a bookmaker at the betting premises named therein;
- (c) a licence authorizing any 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 in accordance with proviso (i) to section 5 (3) of this Act the Board shall take into account the desirability of keeping such 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 any 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. Any 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 of this Act; 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 of this Act,

Betting by means of unlicensed totalisator an offence.

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

Totalisator
licences.

18. (1) The Board may, issue—

- (a) an on-the-course licence authorizing any person to operate a totalisator on the course specified therein;
- (b) an off-the-course licence authorizing any person to operate a totalisator at the betting premises named therein;
- (c) a licence authorizing any 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) of this section to enter into betting transactions, through his agents off the course, in respect of a totalisator to be used on the course :

Provided that 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 the said subsection (1) (a) and a copy of such appointment is delivered to, and approved by, the Board.

Laying of
totalisator odds,
etc., prohibited.

19. (1) Any person who, in connexion with a totalisator in respect of which a licence has been issued under section 18 of this Act—

- (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 said 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 said race; or
- (b) sells or offers for sale, or who purchases from any person referred to in paragraph (a) of this subsection, any ticket, card, or other thing entitling or purporting to entitle the purchaser or holder thereof to any interest in the result of the working of that totalisator on any horse race or other race; or
- (c) makes any 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 any horse race or other race,

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

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

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

Betting transaction on totalisator after time of race prohibited.

- (a) receives or permits to be received any betting transaction on that totalisator in respect of any horse race or other race after the start of such race; or
- (b) registers on that totalisator after the start of any horse race or other race any moneys received in respect of that race; or
- (c) takes into account in the calculation or payment of any 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 the provisions of section 31 of this Act,

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

21. (1) (a) Any person who—

- (i) promotes a pool betting scheme within Kenya otherwise than under and in accordance with the terms of a licence issued under section 22 of this Act; or
- (ii) in furtherance of any pool betting scheme or on behalf of any promoter of such scheme or his agent receives or negotiates any bets or otherwise acts as an agent of such promoter otherwise than under and in accordance with the terms of a principal agent's or agent's licence issued under section 22 of this Act,

Offences relating to pool betting schemes.

shall, without prejudice to his liability, if any, to be proceeded against under section 14 of this Act, be guilty of an offence and shall be liable to a fine not exceeding ten thousand shillings or to a term of imprisonment not exceeding one year or to both such fine and such imprisonment.

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

(2) Any person who, in connexion with any unauthorized pool betting scheme—

(a) prints any coupon for use in such 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, any coupon relating to such scheme; or

(c) distributes, or has in his possession for the purpose of distribution—

(i) any advertisement of the scheme; or

(ii) any 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 any 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 any coupon in the scheme; or

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

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

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

(3) In this section—

(a) “agent” means any person who acts in furtherance of the promotion of any pool betting scheme;

(b) “unauthorized pool betting scheme” means—

(i) where any pool betting scheme is promoted or proposed to be promoted in Kenya, any such scheme promoted by a person who is not the holder of a promoter’s licence issued under section 22 of this Act;

(ii) where any pool betting scheme is promoted or proposed to be promoted outside Kenya, any such scheme promoted by a person who has not within Kenya an agent or representative holding a principal agent’s licence issued under section 22 of this Act;

(c) references to printing shall be construed as including references to writing and other modes of representing or reproducing words in a visible form.

22. (1) The Board may, in respect of any pool betting scheme, issue—

(a) a promoter’s licence, authorizing the holder to provide any 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 any pool betting scheme promoted outside Kenya;

(c) an agent’s licence, authorizing the holder to act as an agent of the promoter of any pool betting scheme promoted within Kenya, or of any principal agent of the promoter of any pool betting scheme promoted outside Kenya.

Licences in
respect of pool
betting schemes.

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

Authorization
of bookmaking
at race
meetings.

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

(2) Such application shall be in writing in the prescribed form.

(3) Upon receipt of an application in terms of subsection (1) of this section 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 said permit.

(4) Any person who permits a bookmaker to carry on business at any race meeting otherwise than in accordance with this section shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or to a term of imprisonment not exceeding three months or to both such fine and such imprisonment.

Prohibition
against
touting.

24. Any 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 any bookmaker shall be guilty of an offence and liable to a fine not exceeding two thousand shillings or to a term of imprisonment not exceeding two months or to both such fine and such imprisonment.

Prohibition
against
advertising
of betting.

25. Any person who, in connexion 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 any 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 a term of imprisonment not exceeding three months or to both such fine and such imprisonment:

Provided that nothing in this section contained shall be deemed to prohibit the printing, reproduction and publication of circulars giving information relating to betting on any intended horse race or other race in Kenya or elsewhere, if such circulars are issued by a person granted a licence under this Part of this Act.

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

Prohibition
against
liquor on
licensed
premises.

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

Prohibition
against
playing games
of chance on
licensed
premises.

28. (1) Any person who—

(a) bets with a young person;

(b) employs any young person on any licensed betting premises or in connexion with any pool betting scheme or in the effecting of any betting other than—

(i) the effecting of any betting by post; or

(ii) the carriage of a communication relating to any betting for the purpose of its conveyance by post;

(c) receives or negotiates any bet through a young person;

(d) sends to any young person any circular, notice, advertisement, letter or other document relating to any betting,

Betting with
young persons
an offence.

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

(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 the said age.

Betting in
public places
an offence.

29. (1) Subject to the provisions of this Act, any person who frequents or loiters in any 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 a term of imprisonment not exceeding six months or to both such fine and such imprisonment:

Provided that this subsection shall not apply to anything done on any 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 in any such place aforesaid and whom he suspects, with reasonable cause, to be committing an offence under this section.

(3) (a) In this section "street" includes any 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 any ground adjoining and open to, a street shall be treated as forming part of the street.

Tax on bets
made with
bookmaker.

30. (1) There shall be charged, levied and paid, in respect of every bet made with a bookmaker, issued with a licence under section 16 of this Act, at a place other than an authorized race meeting, a tax—

(a) in the case of a losing bet, at the rate of five per centum of the amount or value of the stake;

(b) in the case of a winning bet, at the rate of five per centum of the amount or value of the winnings (excluding any returnable stake).

(2) A bookmaker may, notwithstanding any contract to the contrary between himself and the person making the bet, reimburse himself out of the winnings for the amount of any tax payable by him in respect of a winning bet.

(3) Every bookmaker shall make a statement in the prescribed form showing all such particulars as may be required and such statement shall be transmitted to the Permanent Secretary at such intervals as may be prescribed.

(4) The tax provided for in subsection (1) of this section shall be paid by the bookmaker to the Permanent Secretary at such intervals, within such periods and in such manner as may be prescribed.

(5) No betting made by way of any totalisator or pool betting in respect of which a tax is payable under sections 31 and 32 of this Act shall be liable to tax under this section.

(6) In this section "bet" includes a bet taken by one bookmaker from another bookmaker where such bet is taken solely for the purpose of covering the whole or some portion of his commitment in respect of any bet made or to be made by him on a winning horse or other thing in a particular race; and "commitment" means the amount a bookmaker will have to pay out in respect of a certain horse or other thing in a particular race irrespective of the stake-money held by him on such a race.

31. (1) Where any totalisator is operated under this Part of this Act the licensee concerned with that totalisator shall—

Tax on
totalisators.

(a) distribute or cause to be distributed the whole of the moneys staked by means of the totalisator on any race among the persons winning bets made by means of the totalisator after deducting or causing to be deducted—

(i) an amount equal to fifteen per centum of those moneys as commission for that licensee; and

- (ii) a tax of an amount equal to five per centum of the commission as provided for in paragraph (a) (i) of this subsection to be payable to the Permanent Secretary; and
 - (iii) where the totalisator is operated by a turf club for charitable purposes as specified in section 36 (1) (a) of this Act, or purposes conducive to the improvement of breeds of horses, the sport of horse racing or the advancement or encouragement of veterinary services or veterinary education, such percentage to be devoted to the aforesaid purposes as the Board may from time to time determine either generally or with respect to any particular racecourse or race;
- (b) make a statement in the prescribed form showing all such particulars as may be required and such statement shall be transmitted to the Permanent Secretary within twenty-one days after each race on which a totalisator was operated.

(2) The tax provided for in subsection (1) (a) (ii) of this section shall be paid within such intervals, within such periods and in such manner as may be prescribed.

Tax on pool betting.

32. (1) There shall be charged, levied and paid on every receipt of a bet made by way of pool betting a tax equal to ten per centum of the gross amount of the receipt:

Provided that—

- (i) no such bet shall be liable to tax more than once, notwithstanding that it is received by more than one person in the course of its transmission to or to the account of the promoter of the pool betting scheme;
- (ii) for the purpose of this section, where any money or credit held by a promoter of a pool betting scheme, principal agent or agent on account of any person is appropriated to such bet, such appropriation shall be deemed to be a receipt.

(2) The promoter of a pool betting scheme, the principal agent or agent shall make statements in the prescribed form showing all such particulars as may be required and such statements shall be transmitted to the Permanent Secretary at such intervals as may be prescribed.

(3) The tax provided for in subsection (1) of this section shall be paid to the Permanent Secretary by such persons, within such period or intervals and in such manner as may be prescribed:

Provided that where the Minister is satisfied that arrangements of a reciprocal nature or effect have been made by the legislature of Tanzania or Uganda, he may, notwithstanding section 69 of this Act, by order require the Permanent Secretary to remit directly to the Government of that country the sums collected by way of tax on bets made by way of pool betting received in Kenya from that country, after deduction of the cost of such collection.

(4) The Minister may, by order, exempt from the tax any specified bet made by way of pool betting or any specified class of such bets, whether relating to a particular pool betting scheme or not.

33. Any person who—

- (a) makes default in transmitting any statement required to be transmitted under section 30 (3), 31 (1) (h) or section 32 (2) of this Act within the time prescribed;
or
- (b) transmits any such statement which he knows or may be reasonably considered to know to be false in any material particular; or
- (c) is knowingly concerned in, or in the taking of, any steps with a view to, the fraudulent evasion of any tax payable under this Part,

Offences relating to statements required to be transmitted by, and evasion of tax payable by, licensee.

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

34. (1) Where any person, other than a public officer, has been appointed by the Permanent Secretary for the purpose of collecting any tax under this Part of this Act such person (in this section referred to as the collector) shall, at such intervals, within such periods and in such manner as the Permanent Secretary may require—

Collector to remit tax to Permanent Secretary and to receive commission.

- (a) remit to the Permanent Secretary the tax which he has collected together with a copy of any return submitted to him; and

(b) submit to the Permanent Secretary an audited statement showing in respect of any period specified by the Permanent Secretary the total amount received by him during and in respect of such period, together with details of expenditure wholly or exclusively incurred by him, whether on capital or revenue account, in collecting tax.

(2) Upon receiving tax remitted to him by the collector under subsection (1) of this section, the Permanent Secretary shall, out of moneys provided for that purpose by Parliament, pay to the collector a sum equal to such proportion of the sum remitted as may be prescribed:

Provided that where the Permanent Secretary is satisfied, from the statement submitted by the collector, that the sum so paid is either excessive or insufficient, having regard to the trouble and expense to which the collector has been put, he shall report accordingly to the Minister, who may direct that the sum be reduced or increased, as he thinks fit, and upon such direction the collector shall refund the excess or be paid the amount of the increase as the case may be.

PART IV—CONTROL AND LICENSING OF LOTTERIES

35. (1) Any lottery promoted or conducted otherwise than in accordance with the provisions of this Part of this Act shall be deemed to be an unauthorized lottery and unlawful.

(2) Any person who opens, keeps or uses, or causes or knowingly permits the use of any 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 a term of imprisonment not exceeding one year or to both such fine and such imprisonment.

(3) Any person who prints or publishes or causes to be printed or published any advertisement or other notice of or relating to an unauthorized lottery or of or relating to the sale of any 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 a term of imprisonment not exceeding three months or to both such fine and such imprisonment:

Provided that the publication of any such advertisement or notice in a newspaper outside Kenya and normally circulating within Kenya shall not be a contravention of the provisions

of this subsection if the lottery to which such advertisement or notice refers is promoted and conducted outside Kenya.

(4) Any person who, in connexion with any unauthorized lottery promoted or proposed to be promoted either in Kenya or elsewhere—

- (a) prints any 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, any tickets or chances in such lottery; or
- (c) distributes, or has in his possession for the purpose of distribution—
 - (i) any advertisement of the lottery; or
 - (ii) any list (whether complete or not) of prize winners or winning tickets in the lottery; or
 - (iii) any such matter descriptive of the drawing or intended drawing of the lottery, or otherwise relating to the lottery as is calculated to act as an inducement to persons to participate in that lottery or in other such lotteries; or
- (d) brings, or invites any person to send, into Kenya for the purpose of sale or distribution any 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 any document recording the sale or distribution, or the identity of the holder, of any 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 a term of imprisonment not exceeding one year or to both such fine and such imprisonment.

(5) In this section references to printing shall be construed as including references to writing and other modes of representing or reproducing words in a visible form.

Authorization
of public
lotteries for
charitable
purposes.

36. (1) The Board may issue a permit authorizing the promotion and conduct of a lottery, not being a lottery held under sections 40, 41 or 42 of this Act—

- (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 this section, of the gross proceeds of the lottery is devoted to the object for which such lottery is promoted or any of the proceeds are devoted to any purpose other than expenses and prizes, which is not such an object, each promoter of such lottery shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to a term of imprisonment not exceeding six months or to both such fine and such imprisonment.

Powers of
Board with
respect to public
lotteries.

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

- (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) of this subsection have been or are being complied with;
- (c) guide and co-ordinate the proper and equitable distribution of the charitable funds of any lottery authorized by it.

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

- (a) providing for the amount, not exceeding twenty per centum of the gross proceeds of the lottery which the promoters thereof may deduct from such proceeds in respect of operating expenses;
- (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 such 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 such lottery.

(3) For the purposes of subsection (2) (a) of this section, any fee paid in respect of the authorization of a lottery shall be deemed to be part of such operating expenses.

(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 a term of imprisonment not exceeding six months or to both such fine and such imprisonment:

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 offence occurred without his consent or connivance and that he exercised all due diligence to prevent it.

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

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

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

Board may authorize lotteries relating to horse racing, etc.

(2) Under the provisions of 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;
- (b) a permit authorizing the promotion and conduct of a lottery off the course.

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

(4) The provisions of sections 36, 37 and 38 of this Act shall apply to every lottery in respect of which a permit under subsection (2) (b) of this section is issued, and accordingly references in the said sections to “lottery” shall be construed as including references to lottery off the course.

40. (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) of this subsection, are neither purposes of private gain nor purposes of any 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 connexion 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 connexion with the lottery who carries on a betting business or is otherwise engaged by way of business in the organization of betting;

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

- (c) no prize shall exceed two thousand shillings in amount or value, and no ticket or chance shall be sold at a price exceeding one shilling;
- (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) of this section;
- (e) the amount of the proceeds appropriated on account of expenses shall not exceed the expenses actually incurred, or ten 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 every ticket or chance shall be the same, and the price of any ticket shall be stated on the ticket;
- (g) the total value of the tickets or chances sold shall not exceed fifteen 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 fifteen 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) of this section 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 to a term of imprisonment not exceeding six months or to both such fine and such imprisonment:

Provided that—

- (i) it shall be a defence for a person charged with any 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 any person charged with an offence in respect of an appropriation or payment made in contravention of paragraphs (e) and (l) of subsection (2) of this section to prove that the proceeds of the lottery fell short of the sum reasonably estimated, that 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 connexion with the sale of the relevant tickets or chances and that 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 the said subsection (2) (e) if the said proceeds had amounted to the sum reasonably estimated.

(4) In this section—

- (a) in construing subsection (1) (c), any purpose for which any 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 any payment falls to be made by way of hiring, maintenance or other charge in respect of any 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 expenses shall not include a reference to any such charge falling to be so determined.
- (c) “society” includes a club, institution, organization or association of persons, by whatever name called, and any separate branch or section of such club, institution, organization or association.

41. (1) A lottery may be promoted and conducted as an incident of an entertainment to which this section applies provided that the following conditions are observed in connexion with the promotion and conduct of such lottery—

Exemption of small lotteries incidental to certain entertainments.

- (a) the whole proceeds of the entertainment (including the proceeds of the lottery) after deducting—
 - (i) the expenses of entertainment excluding expenses incurred in connexion with the lottery; and
 - (ii) the expenses incurred in printing tickets in the lottery; and
 - (iii) such sum, if any, not exceeding two hundred shillings as the promoters of the lottery think fit to appropriate on account of any 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 of this Act for taking part in gaming;
 - (ii) the opportunity to win prizes at amusements to which section 56 of this Act applies,
 shall not be the only, or the only substantial, inducement to persons to attend the entertainment;
- (d) the prizes in the lottery must 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 any ticket shall be stated on the ticket;
- (g) there shall not be exhibited, published or distributed any 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 such lottery to advertise the lottery in any other manner approved by it;

- (h) none of the prizes in the lottery shall be money prizes.

(2) If any condition imposed under subsection (1) of this section 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 a term of imprisonment not exceeding six months or to both such fine and such imprisonment:

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, fêtes, 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 of this Act as relates to betting in a place other than a street shall not apply to this section.

42. (1) A private lottery may be promoted and conducted provided that the following conditions are observed in connexion with the promotion and conduct of such lottery—

Private
lotteries

- (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 as aforesaid or to purposes which are purposes of the society, or, as to part to the provision of prizes as aforesaid and, as to the remainder, to such purposes as aforesaid;
- (b) there shall not be exhibited, published or distributed any 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 any 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) of this section is broken, 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 a term of imprisonment not exceeding six months or to both such fine and such imprisonment:

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) of this paragraph, 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. (1) No ticket or chance in any lottery promoted and conducted under the provisions of this Part of this Act shall be sold by or to a person under the age of sixteen years.

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

(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 a term of imprisonment not exceeding three months or to both such fine and such imprisonment:

Provided that—

- (i) 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;
- (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. (1) The Board may require the promoters of any lottery which is promoted or conducted under this Part of this Act to submit accounts and make returns in such form and within such period as it may specify.

Submission of accounts and returns in respect of lotteries.

(2) Any person who—

- (a) makes default in submitting any accounts or making any returns required to be submitted or made under this section within the time prescribed; or
- (b) submits any accounts or makes any return which he knows or may be reasonably considered to know to be false in any material particular,

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

PART V—GAMING

Offences relating
to unlicensed
gaming
premises.

45. (1) Subject to the provisions of this Act, any person who—

- (a) being the owner or occupier or having the use temporarily or otherwise thereof, keeps or uses any unlicensed gaming premises; or
- (b) permits any 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, any 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 any unlicensed gaming premises; or
- (e) advances, furnishes or receives money for the purpose of establishing or conducting the business of any unlicensed gaming premises,

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

(2) Any person who games in any unlicensed gaming premises shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to a term of imprisonment not exceeding six months or to both such fine and such imprisonment:

Provided that any person found in any 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) Any person who occupies or has the use temporarily of any premises which are kept or used by another person as unlicensed gaming premises shall be presumed until the contrary is proved to have permitted such 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 of this Act.

46. (1) The Board may, subject to any regulations made under this Act, issue a licence authorizing any person to organize and manage gaming, other than gaming organized and managed under sections 50 and 52 of this Act, on any premises to which the public may resort for the purpose of playing therein at any games not being unlawful games.

Board may
license public
gaming premises.

(2) Any licence issued under this section shall state the game or games which the licensee may organize and manage.

(3) The Board may, in respect of any licence issued under this section, impose conditions providing for—

(a) the manner in which any person may conduct his business and to 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 any admission fee is charged under subsection (3) (c) of this section, such admission fee shall be subject to the payment of duty under the Entertainments Tax Act.

Cap. 479.

47. (1) If any person issued with a licence under section 46 of this Act uses or permits the use of any licensed gaming premises for the playing of any 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 such a manner that the chances therein are not equally favourable to all the players, or contravenes or fails to comply with any condition

Offences
relating to
licensed gaming
premises.

imposed by the Board or by any regulations made under this Act then it shall be held that the gaming was unlawful gaming and such person shall be guilty of an offence under section 45 (1) of this Act :

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 any condition imposed under section 46 (3) of the Act occurred without his consent or connivance and that he exercised all due diligence to prevent it.

(2) Any person who is present at any gaming such as is mentioned in subsection (1) of this section for the purpose of taking part therein shall be guilty of an offence under section 45 (2) of this Act, and for the purpose of this subsection proof that any person was present at any such gaming shall be evidence that he was present for the purpose of taking part therein unless he proves to the contrary.

(3) Any person who, in connexion with any 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 any game of chance;
- (b) displays any written or printed placard or notice relating to gaming so as to be seen in any 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 a term of imprisonment not exceeding three months or to both such fine and such imprisonment.

Gaming with
young persons
an offence

48. (1) Any person who, on any licensed gaming premises—

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

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

(2) In this section "young person" has the meaning assigned by section 28 (2) of this Act.

49. (1) Where any gaming authorized by the Board under section 46 of this Act is conducted the licensee concerned with that gaming shall—

Tax on gaming
in public
gaming premises.

(a) ensure that, in respect of any 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—

(i) an amount equal to ten per centum of that money's worth is deducted as his commission;

(ii) a tax of an amount equal to five per centum of his commission is deducted from that commission and paid to the Permanent Secretary;

(iii) such money or money's worth after deducting his commission is not disposed of otherwise than by payment to a player as winnings;

(b) make a statement in the prescribed form showing all such particulars as may be required and such statement shall be transmitted to the Permanent Secretary at such intervals, within such periods and in such manner as may be prescribed.

(2) The tax provided for in subsection (1) (a) (ii) of this section shall be paid within such intervals, within such periods and in such manner as may be prescribed.

(3) Any person who—

(a) contravenes or fails to comply with subsection (1) (a) (iii) of this section; or

(b) makes default in transmitting any statement required to be transmitted under subsection (1) (b) of this section within the time prescribed or transmits any such statement which he knows or may be reasonably considered to know to be false in any material particular; or

- (c) is knowingly concerned in, or in the taking of any step with a view to, the fraudulent evasion of any tax payable under this section,

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

Small gaming parties.

50. (1) Subject to the provisions of this Act, gaming on any premises (not being gaming premises) shall be lawful but only if such gaming is conducted in accordance with the following conditions—

(a) that 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) that 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) that no other payment in money or money's worth is required for a person to take part in the gaming; and

(d) that 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 any proceedings under this section evidence is adduced that gaming took place on any 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 such 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) of this section was contravened,

then, subject to section 51 of this Act, 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) of this section; and in respect of a contravention of subsection (1) (d) of this section, 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) (a) If any gaming takes place on any premises which is by virtue of subsection (1) of this section, or is held by virtue of subsection (2) of this section 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—

(i) allowed the premises to be used for the purposes of gaming; or

(ii) let the premises, or otherwise made the premises available to any person by whom an offence in connexion with the gaming has been committed,

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

(b) For the purpose of this subsection any 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) Any person who is present at any gaming such as is mentioned in subsection (3) of this section 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 a term of imprisonment not exceeding three months or to both such fine and such imprisonment.

(b) For the purposes of this subsection proof that any person was present at any 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 connexion with the gaming, or making bets with respect to the gaming :

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

Saving for clubs.

51. In any proceedings under section 50 of this Act, 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.

Gaming at entertainments not held for private gain.

52. (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 that all the following conditions are observed—

- (a) that 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 that, subject to subsection (2) of this section, the total value of all prizes and awards distributed in respect of such games does not exceed four hundred shillings; and

(d) the whole of the proceeds of such payments as are mentioned in paragraph (b) of this subsection, after deducting sums lawfully appropriated on account of expenses or for the provision of prizes or awards in respect of the games, are applied for purposes other than private gain;

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

(b) Except as provided by paragraph (a) of this subsection where a series of such entertainments is held the conditions specified in subsection (1) of this section 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 such a 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) of this section shall apply in relation to that final entertainment as if for the words "four hundred shillings" there were substituted the words "two thousand shillings".

(3) If in any proceedings under this section evidence is adduced that gaming took place at any entertainment and—

(a) that any 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 such 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) of this section 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) of this section 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.

(4) (a) If any gaming takes place at any entertainment which is by virtue of subsection (1) of this section, or is held by virtue of subsection (3) of this section 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—

(i) allowed any premises to be used for the purpose of that gaming; or

(ii) let any premises, or otherwise made the premises available to any person by whom an offence in connexion with the gaming has been committed,

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

(b) For the purpose of this subsection any person who took part in procuring the assembly of players shall be deemed to have been concerned in the organization of gaming.

(5) (a) Any person who is present at any gaming such as is mentioned in subsection (4) of this section 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 a term of imprisonment not exceeding three months or to both such fine and such imprisonment.

(b) In this subsection, proof that any person was present at any 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 connexion with the gaming, or making bets with respect to the gaming:

Provided that for the purpose of any proceedings under this subsection, subsection (1) (b) of this section 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.

(6) In this section—

(a) “entertainments” means bazaars, sales of work, fêtes, 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; and

(b) in construing subsection 1 (d), the proceeds of such payments as are mentioned in subsection (1) (b) 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 any payment falls to be made by way of hiring, maintenance or other charge

in respect of any 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.

(7) So much of section 55 of this Act as relates to gaming in a place other than a street shall not apply to this section.

Gaming
machines.

53. (1) Any person who—

- (a) uses or permits the use of any unauthorized gaming machine; or
- (b) knowingly allows any 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 any premises would be used for gaming by means of an unauthorized gaming machine—
 - (i) caused or allowed such machine to be placed on the premises; or
 - (ii) let the premises, or otherwise made the premises available, to any person by whom an offence in connexion with such machine was committed,

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

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

Board may
authorize use
of gaming
machine.

54. (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) that the stake hazarded in order to play the game once does not exceed one shilling; and
- (c) that 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) Any person who contravenes any conditions provided for in subsection (2) of this section or imposed by the Board, shall be guilty of an offence and liable to a fine not exceeding three thousand shillings or to a term of imprisonment not exceeding three months or to both such fine and such imprisonment.

(4) In this section—

- (a) in construing subsection (2) (c), any 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 any payment falls to be made by way of hiring, maintenance or other charge in respect of any 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. (1) Subject to the provisions of this Act, any person who takes part in gaming in any 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 a term of imprisonment not exceeding three months or to both such fine and such imprisonment.

Gaming in public place an offence.

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

(3) In this section "street" has the meaning assigned by section 29 (3) of this Act.

PART VI—AMUSEMENTS WITH PRIZES, PRIZE COMPETITIONS
AND CHAIN LETTERS

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

56. (1) Any 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 any expense incurred in connexion with any such amusements;

(ii) such sum, if any, not exceeding two hundred shillings as the persons providing the amusements think fit to appropriate on account of any expenses incurred by them in purchasing prizes in connexion with any such amusements,

shall be 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 this Act of the manner for participation in a lottery or by virtue of section 52 of this Act 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) of this section is broken 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 a term of imprisonment not exceeding three months or to both such fine and such imprisonment.

(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 any 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) “entertainments” means bazaars, sales of work, fêtes, 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.

57. (1) Any person may, subject to subsections (2) and (3) of this section, provide for amusements with prizes—

Provision of amusements with prizes at certain commercial entertainments.

(a) on any premises in respect of which a permit for the provision thereon of such amusements has been granted by any local authority under regulation 162 (f) of the Local Government Regulations, 1963, and is for the time being in force; and

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(b) at any 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 such a pleasure fair.

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

(a) the amount paid by any 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 that 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 any 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 such a pleasure fair as is mentioned in subsection (1) (b) of this section, 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 any 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) of this section, the following conditions shall be observed—

- (a) in respect of one playing of the game a successful player shall not receive any article other than one, and one only, of the following, namely—
 - (i) a money prize not exceeding one shilling;
 - (ii) a prize other than money of a nominal 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 or 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;

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

Provided that the condition set out in subsection (2) (d) of this section shall not be contravened if a successful player receives, 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) of this section 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 a term of imprisonment not exceeding three months or to both such fine and such imprisonment.

58. (1) Any person may provide for the playing of a game by means of a machine, other than a gaming machine, provided that the following conditions are observed—

Amusement
machines

- (a) the game is playable by the insertion of a coin or coins into the machine by means of which it is played; and
- (b) 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 the insertion of another coin; or
- (ii) the delivery by the machine of a coin or coins of a value or aggregate value not exceeding that required in order to play the game once.

(2) If any of the conditions referred to in subsection (1) of this section is contravened, the person providing or in charge of the machine shall be guilty of an offence and liable to a fine not exceeding two thousand shillings or to a term of imprisonment not exceeding two months or to both such fine and such imprisonment.

Prohibition
against
competitions
or prizes
involving
no skill.

59. (1) It shall be unlawful to conduct in Kenya, in or through any newspaper or broadcasting, or in connexion with any trade or business or the sale of any article to the public—

- (a) any 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 connexion with a trade or business shall apply in relation to any pool betting scheme licensed under section 22 of this Act.

(2) Any person who contravenes this section shall, without prejudice, however, 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 a fine not exceeding three thousand shillings or to a term of imprisonment not exceeding three months or to both such fine and such imprisonment.

(3) In this section “broadcasting” means radio communication (within the meaning of section 2 of the East African Posts and Telecommunications Act of the Organization) for reception by members of the public.

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Chain letters.

60. (1) Any person who sends or causes to be sent any chain letter or who sends or receives any money or money's worth in connexion with any chain letter shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to a term of imprisonment not exceeding six months or to both such fine and such imprisonment.

(2) For the purposes of this section, “chain letter” means a document addressed by one person to another person suggesting to the person to whom it is addressed—

- (a) that he should send a document having the same purport to a number of other 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.

PART VII—MISCELLANEOUS

61. Any person who, by any fraud or unlawful device or ill-practice in playing at or with any 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 any game, sport, pastime, or exercise, wins from any other person for himself or for or on behalf of any other person, any sum of money or valuable thing, shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to a term of imprisonment not exceeding six months or to both such fine and such imprisonment.

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

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

Appeals from decisions of Board.

63. (1) It shall be lawful—

(a) for any person authorized in writing in that behalf by the Board, on production of his authority if demanded;

(b) for any person appointed by the Permanent Secretary for the purposes of sections 30, 31, 32 and 49 of this Act, on production of his authority if demanded; and

(c) for any police officer of or above the rank of Sub-Inspector,

Power to enter and inspect land or premises.

to enter without warrant and inspect any premises (including any 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 any books, accounts and documents relating or appearing to relate to any betting transaction, lottery or gaming;

(ii) seize, remove or detain any book, account or document which he has reasonable cause to suppose will afford evidence of any offence under this Act or any regulations made thereunder;

- (iii) require the owner or occupier of any such 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) of this section 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 such power shall be exercised only by or under the directions of a police officer of or above the rank of Sub-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 such police officer would, or would tend to, defeat the purposes of this section.

(3) Any person who resists, hinders or obstructs any person acting in pursuance of any of the provisions of this section, or who on any requisition under subsection (1) of this section wilfully withholds any information, or gives any 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 a term of imprisonment not exceeding six months or to both such fine and such imprisonment:

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) of this section, 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 therefor.

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

64. (1) If any 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 of this Act the court may make such further order as to the forfeiture of his security or part

of such security with the Board furnished under section 6 of this Act and the provisions of Part IV of the Criminal Procedure Code, in so far as they relate to forfeiture of recognizances, shall apply *mutatis mutandis*:

Cap. 75.

Provided that no such security or part of such security 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) of this section 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) Any bookmaker, promoter of a pool betting scheme or organizer or manager of licensed gaming premises, his servant or agent, who employs in his business any person known to him to be disqualified by subsection (2) of this section shall be guilty of an offence and liable to a fine not exceeding two thousand shillings.

65. Any person who fails to pay the whole of the tax due from him under this Act within the prescribed period shall be liable to pay, in addition to the amount in default, a penalty equal to five per centum of the said amount for each week, or part thereof, during which the default continues.

Penalty for late payment of tax.

66. Where an offence is committed under section 21 (2) (f), 25, 35 (3) or section 47 (3) of this Act in connexion with the printing and publication of any 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 any newspaper (being a newspaper within the meaning of the Books and Newspapers Act) 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 such advertisement or notice to be published.

Saving in respect of offences connected with advertisements in newspapers.

Cap. 111.

Power of court to deal with anything produced to it.

67. 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.

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

68. Any fee due to the Board and any tax, 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.

All moneys received by Board and Permanent Secretary to be paid into the Consolidated Fund.

69. All moneys received or recovered under this Act by or on behalf of the Board by way of fees or received or recovered by or on behalf of the Permanent Secretary by way of taxes (including any penalty in respect thereof) shall be paid into the Consolidated Fund.

Power to make regulations.

70. 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 any application for the issue, renewal or variation of a licence or permit issued under this Act;
- (c) the advertisement of any application for a licence or permit under this Act and of any proceedings of the Board to consider and determine any such application;
- (d) the right of any 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 any returns or statements of accounts shall be furnished to the Board;
- (f) securing the payment of any tax and fee.

1966

Betting, Lotteries and Gaming

No. 9

- 71.** (1) The following enactments are hereby repealed—
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| | Repeals, etc. |
| (a) the Gambling Act; | Cap. 26 (1948). |
| (b) sections 176 to 180 (inclusive) and section 182(c) of the Penal Code; | Cap. 63. |
| (c) the Pools Act; | Cap. 478. |
| (d) the Betting Tax Act, 1963. | 11 of 1963. |
- (2) Regulation 162 (f) of the Local Government Regulations, 1963, is amended by deleting the words “and games of chance open to the public” which appear therein.
- L.N. 256/1963.