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BILLS
SUPPLEMENT No. 10

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BILLS SUPPLEMENT

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Bill No. 15

Lotteries And Gaming Bill

2013

THE LOTTERIES AND GAMING BILL, 2013.

MEMORANDUM

1. The object of this Bill is to reform the law relating to the conduct of lotteries, gaming and casinos; to establish the National Lotteries and Gaming Board; to establish the lottery and gaming fund; to provide for licensing and regulation of lotteries and gaming; to provide for taxation of casinos and gaming activities; to repeal the National Lotteries Act, Cap.191 and the Gaming and Pool Betting (Control and Taxation) Act, Cap.292; and for related matters.
2. At present lotteries are regulated separately from casinos and gaming activities. Whereas the law relating to lotteries is contained in the National Lotteries Act, Chapter 191 of the Laws of Uganda, casinos are regulated under the Gaming and Pool Betting (Control and Taxation) Act, Cap 292.
3. The two laws are presently administered by the National Lotteries Board on behalf of the Treasury.
4. The two laws were enacted in 1967 and 1968 respectively. Due to the passage of time, many aspects of the law relating to lotteries and gaming have become outdated especially in light of the developments in technology.
5. The Bill therefore seeks to rationalize the law and merge the two legal regimes into one law applicable to lotteries, casinos and gaming.

6. The Bill has IX Parts and 4 Schedules.

7. PART I - PRELIMINARY

Deals with preliminary matters of interpretation.

The Bill defines—

- (a) a “casino” to mean a private club, or a room in a club, hotel, or other establishment, where gambling takes place or place where people gamble by playing card games, roulette, or slot machines which has been issued with a licence;
- (b) “gaming” as the playing of a game of chance for winnings in money or money’s worth;
- (c) “lottery” to include any game, scheme or arrangement, system, plan, promotional competition or device for distributing prizes or property by lot or chance, whether by throwing or casting of dice, tickets, cards, lots, numbers or figures.

8. PART II – NATIONAL LOTTERIES AND GAMING BOARD

Clauses 2 to 8 establish a National Lotteries and Gaming Board to replace the existing National Lotteries Board. The functions of the Board include—

- (a) assisting the Minister to regulate the conduct of lotteries, casinos and gaming in Uganda;
- (b) promoting, facilitating and supervising lotteries, casinos and gaming;
- (c) receiving and processing all applications for licences relating to lotteries, casinos and gaming.

9. PART III- FINANCES OF THE BOARD

This Part relates to the finances of the Board. Clause 10 establishes a Lottery and Gaming Fund into which shall be paid all the proceeds from the national lottery, after deducting the expenses of conducting the lottery and one percent of the annual turnover of every licensed lottery or gaming business.

10. PART IV - LICENSING AND REGULATION OF LOTTERIES

Clauses 19 to 22 provide for the Minister to conduct a national lottery or to license another person to conduct a national lottery on behalf of the Minister.

The Bill also provides for the Minister to license any other person to conduct a public lottery.

All lotteries are required to be conducted in accordance with clear rules which must be issued before the lottery commences. Clause 22 requires a person conducting a lottery to specify in the rules among other things, the amount payable for subscription, entry or acceptance of entries into the lottery, the restrictions on persons below eighteen years participating in the lottery, the form and manner of entering the lottery, the minimum or maximum number of entries that may be made in the lottery, etc.

11. PART V- CASINO AND GAMING LICENCES

Clauses 22 to 35 relate to licensing of casinos and gaming machines.

The Bill requires the Board at the time of investigating and inquiring into an application for a license to operate a casino, to consider and approve the suitability of the premises for conducting casino and gaming activities. (Clause 26)

12. The general conditions relating to the licensing of both lotteries and gaming activities are contained in Part VII. These include the procedure for applying, the categories of licenses, capital requirements in respect of casinos and gaming activities, duration and renewal of licences.

13. PART VIII- TAXATION OF CASINOS AND GAMING ACTIVITIES

Clause 46 requires an operator of a casino or gaming activity issued with a licence to pay tax. The rate of tax is specified in Schedule 4. The Bill also provides for the incidental matters related to taxing including, interest on unpaid tax, penal tax, assessment, objections to assessment, remission of tax, recovery of unpaid tax and interest and collection of tax by Uganda revenue Authority. (Clauses 47 to 53)

14. PART IX – MISCELLENEANEOUS

This Part deals with the miscellaneous matters relating to the Bill, including appeals, offences and regulations. Clauses 54 to 57 provide extensive restrictions on minors to prevent persons under eighteen years from participating in casinos and gaming activities.

Clause 70 seeks to repeal Cap 191 and Cap 292.

MARIA KIWANUKA,
Minister of Finance, Planning and Economic Development.

THE LOTTERIES AND GAMING BILL, 2013

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A Bill for an Act

ENTITLED

THE LOTTERIES AND GAMING ACT, 2013

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

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY

1. Interpretation.

In this Act, unless the context otherwise requires—

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

“betting” means making or accepting a bet on—

- (a) the outcome of a race, competition or other event or process;
- (b) the likelihood of anything occurring or not occurring; or
- (c) whether anything is or is not true.

“Board” means the National Lotteries and Gaming Board;

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

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

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

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

“Fund” means the Lottery and Gaming Fund established under section 11;

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

“licence” means a licence issued under this Act;

“licensee” means the holder of a licence;

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

"Minister" means the Minister responsible for finance;

"minor" means a person below eighteen years;

"National lottery" means the lottery conducted in accordance with a licence issued under section 20;

"numbers" include—

(a) symbols;

(b) a single number or symbol;

(c) a group or groups of numbers or of symbols or of numbers and symbols;

(d) a combination or combinations of numbers or of symbols or of numbers and symbols; or

(e) a distribution or distributions of numbers or of symbols or of numbers and symbols; and

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

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

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

"prize" means the prize awarded to the winner of a lottery;

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

"public lottery" includes—

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

PART II—NATIONAL LOTTERIES AND GAMING BOARD

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

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

(2) The Board shall consist of—

- (a) the Permanent Secretary of the Ministry responsible for finance or his or her representative;
- (b) the Permanent Secretary of the Ministry responsible for internal affairs or his or her representative;
- (c) the Solicitor General or his or her representative; and
- (d) two persons, not being public officers who are knowledgeable or experienced in matters relating to the administration of lotteries, casinos or gaming, finance, law, accounting, economics or business administration.

(3) The members of the Board shall be appointed by the Minister.

(4) The Minister shall appoint a chairperson from among the members appointed under subsection (2) (d).

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

(6) The persons appointed to the Board shall be persons of high moral character and proven integrity.

3. Tenure of office of members of the Board

(1) The members of the Board shall hold office for three years and shall be eligible for reappointment for one term.

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

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

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

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

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

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

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

4. Functions of the Board

(1) The functions of the Board are—

- (a) to assist the Minister to regulate the conduct of lotteries, casinos and gaming in Uganda;
- (b) to promote, facilitate and supervise lotteries, casinos and gaming in accordance with this Act;
- (c) to receive and process all applications for licences relating to lotteries, casinos and gaming;
- (d) to recommend to the Minister applications for the issue of licences required by this Act;
- (e) to administer and manage the Lottery and Gaming Fund in accordance with the laws relating to public finance and accountability;
- (f) to advise and make recommendations to the Minister on matters relating to lotteries, casinos and gaming;
- (g) to recommend to the Minister the charitable, sports, recreational, social responsibility programmes or other good causes to benefit from the Fund;

- (h) to receive, investigate and arbitrate complaints relating to lotteries, casinos and gaming and take appropriate action; and
- (i) to do all other things as directed by the Minister in writing direct.

(2) The Minister may, in writing, give policy directives to the Board regarding the performance of its functions.

5. Meetings of the Board.

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

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

6. Remuneration of members of the Board.

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

Staff of the Board

7. Staff of the Board.

(1) The Board shall have a secretariat which shall be responsible for the day-to-day operations of the Board and implementing the decisions of the Board.

(2) The secretariat shall be headed by a secretary appointed by the Board on terms and conditions determined by the Board.

(3) The Board may appoint other officers and staff as may be necessary for the effective discharge of its functions.

(4) The Minister may, at the request of the Board and after consultation with the Public Service Commission, second a public officer to the Board.

(5) The staff appointed under this section shall hold office on terms and conditions determined by the Board.

8. Consultants

The Board may engage consultants as may be useful and appropriate for the Board to discharge its responsibilities.

PART III—FINANCES OF THE BOARD

9. Funds of the Board

(1) The funds of the Board shall consist of—

- (a) application and license fees;
- (b) moneys from the fund approved by the Minister for the expenses of the Board;
- (c) money appropriated by Parliament for the purposes of the Board;
- (d) grants, gifts or donations from Government or other sources made with the approval of the Minister;
- (e) any other fees charged for services and activities rendered by the Board under this Act; and
- (f) any other monies that the Minister may approve.

(2) The funds of the Board may be applied—

- (a) for payment or discharge of its expenses, obligations or liabilities incurred in connection with the performance of its functions or exercise of its powers under this Act; and
- (b) for the payment of any remuneration or allowances payable under this Act.

10. Lottery and Gaming Fund.

(1) There is established a Lottery and Gaming Fund into which shall be paid—

- (a) all monies referred to in section 9(1);
- (b) the proceeds from the national lottery, after deducting the expenses of conducting the lottery; and
- (c) one percent of the annual turnover of every lottery or gaming business licensed under this Act.

(2) The Fund shall be managed and controlled by the Board for the purposes of—

- (a) defraying the approved expenses of the Board;
- (b) supporting, contributing to or participating in good causes in accordance with this Act; and
- (c) finance any other purpose approved by the Minister in writing.

11. Power to open bank accounts

The Board shall with the approval of the Minister open and maintain such bank accounts as are necessary for the exercise of its functions and shall pay into them—

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

12. Borrowing powers

The Board may, with the approval of the Minister, borrow money from any source as may be required for meeting the obligations, or discharging the functions of the Board under this Act.

13. Estimates of income and expenditure

The Board shall within three months before the end of each financial year, cause to be prepared and submitted to the Minister for approval estimates of the income and expenditure of the Board and operating plan of the Board for the next financial year.

14. Financial year of the Board

The financial year of the Board is the period of twelve months beginning on the 1st day of July in each year, and ending on the 31st day of June in the next calendar year.

15. Accounts

The Board shall—

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

16. Audit of accounts

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

(2) The Board shall, within three months after the end of each financial year, submit the accounts and estimates of income and expenditure of the Authority to the Auditor General or an auditor appointed by the Auditor General.

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

17. Annual reports

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

18. Investment of surplus funds

(1) The Board shall declare to the Minister any surplus funds that the Board may have at the end of the financial year.

(2) Any funds of the Board not immediately required for any purpose under this Act, may be invested—

- (a) on a fixed deposit account with a bank approved by the Board;
- (b) in treasury bills and securities of the Government;
- (c) in any other manner determined by the Board with the approval of the Minister, other than in the business licensed under this Act.

PART IV—LICENSING AND REGULATION OF LOTTERIES.*National lottery***19. Power to conduct a national lottery.**

(1) The Minister may conduct a national lottery.

(2) The Minister may, on the recommendation of the Board, by licence, authorise a person to conduct a national lottery on behalf of the Minister.

20. Licence to conduct the national lottery.

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

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

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

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

Public lotteries

21. Licence to conduct a public lottery

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

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

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

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

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

Regulation of lotteries

22. Lottery rules.

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

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

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

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

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

PART V—CASINO AND GAMING LICENCES

23. Casino and gaming licence.

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

24. Minister to issue licences.

(1) The Minister may on the recommendation of the Board issue a casino or gaming licence.

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

- (a) a licence to operate a casino, or a casino operating licence;
- (b) a licence to provide facilities for playing bingo, or a bingo operating licence;
- (c) a licence to provide facilities for betting other than pool betting, or a general betting operating licence;
- (d) a licence to provide facilities for pool betting, or a pool betting operating licence;
- (e) a licence to act as a betting intermediary, or a betting intermediary operating licence;
- (f) a licence to make gaming machines available for use in a gaming centre or a gaming machine general operating licence;

- (g) a licence to manufacture, supply, install, adapt, maintain or repair a gaming machine, or a part of a gaming machine or a gaming machine technical operating licence; or
- (h) a licence to manufacture, supply, install or adapt gambling software or a gambling software operating licence.

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

(4) The Minister may by regulations prescribe different classes in respect of each category of licence under sub section (2), in accordance with section 41.

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

25. Licence to operate a casino.

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

(2) The licence may include a condition—

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

26. Suitability of premises.

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

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

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

27. Specific licence conditions.

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

28. Licensing of certain casino employees.

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

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

unless that person is licensed.

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

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

29. Casino games and rules.

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

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

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

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

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

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

30. Gaming equipment within the casino.

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

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

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

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

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

PART VI—SPECIFIC PROVISIONS RELATING TO GAMING MACHINES.

31. Specific conditions for gaming machines licence.

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

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

Registration of gaming machines and devices.

32. Registration of gaming machines or devices.

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

(2) Subsection (1) does not apply to a gaming machine or device exempted from the requirements of this Act by the Minister by statutory order.

33. National register of gaming machines and devices.

The Board shall—

- (a) establish and maintain, in the prescribed manner, a national register of every gaming machine or gaming device manufactured within or imported into Uganda;

- (b) assign a permanent and unique registration number for each machine or device, which number co-relates to—
 - (i) the name of the manufacturer or importer of that machine or device;
 - (ii) the date of manufacture of that machine or device; and
 - (iii) the unique serial number assigned to that machine or device by the manufacturer;
- (c) prescribe for each gaming machine or device, record the name, licence number and other particulars of—
 - (i) the registered owner; and
 - (ii) any other person who has leased that machine or device.

34. Technical standards for gaming machines.

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

(2) The standards under subsection (1) may provide for—

- (a) the nature of a game that a machine is designed to be used to play;
- (b) the way in which the results of a game are to be determined or presented;
- (c) the nature of images or information displayed by or on a machine;
- (d) the process of establishing results for a specified class of gaming machines.

(3) The Board may—

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

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

35. Gaming software standards.

The Minister may, on the recommendation of the Board, by regulations, set standards in respect of supply, installation or adaptation of gaming software.

PART VII—GENERAL PROVISIONS ON LICENCING

36. Minimum capital requirements.

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

37. Bond.

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

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

38. Application for a licence.

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

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

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

39. Processing of application by the Board.

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

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

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

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

(3) After investigating and inquiring into the matters stated in the application, the Board shall make a recommendation to the Minister in respect of the application.

40. Determination of application.

(1) The Minister shall within twenty one days after receiving the recommendation of the Board in respect of an application—

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

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

(3) Where the Minister does not act within the time specified under this section, the recommendation of the Board shall be taken as the decision of the Minister.

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

41. General licence conditions.

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

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

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

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

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

- (a) the nature of the activities;
- (b) the circumstances or extent to which they are carried on;
- (c) the facilities that shall be provided in connection with the licensed activities;
- (d) the manner in which facilities are provided;

- (e) the number of persons that may be employed to provide the facilities;
- (f) the financial resources available for particular purposes to the person providing the facilities;
- (g) maintaining financial reserves to cater for potential liabilities;
- (h) advertising or describing the licensed activities;
- (i) recording the identity of users of the licensed activities;
- (j) the nature, number and specification of equipment to be used in connection with the licensed activities; or
- (k) the premises where the licensed activities may be carried on.

(4) For the purposes of this section "equipment" includes—

- (a) a computer;
- (b) a device for the playing of a casino game; and
- (c) any other piece of equipment but does not include a gaming machine.

42. Form of licence.

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

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

43. Duration of licence.

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

44. Suspension and revocation of licence.

(1) The Minister may on the recommendation of the Board suspend or revoke a licence issued under this Act.

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

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

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

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

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

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

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

45. Renewal of licence.

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

PART VIII—TAXATION OF CASINOS AND GAMING ACTIVITIES**46. Tax on casinos and gaming.**

(1) An operator of a casino or gaming activity issued with a licence under this Act shall pay tax at the rate specified in Schedule 4.

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

47. Interest on unpaid tax.

A person who does not pay the tax due within the time determined by the Minister under this Act, shall in addition to the tax, pay interest equal to one percent of the outstanding amount for each week or part of the week that the tax remains unpaid.

48. Returns.

(1) A taxable person shall lodge a tax return with the Commissioner General for each tax period determined under section 46 (2).

(2) A tax return shall be in the form prescribed by the Commissioner General.

49. Assessment.

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

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

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

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

50. Objection to assessment.

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

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

(3) The Commissioner shall consider the objection and may—

- (a) allow the objection and amend the assessment;
- (b) reject the objection and maintain the assessment.

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

51. Remission of tax.

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

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

52. Recovery of unpaid tax and interest.

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

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

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

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

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

53. Penal tax.

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

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

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

54. Commissioner to collect tax.

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

PART IX—GENERAL

Restrictions on minors

55. Licensee or agent not to accept entry or payment from minor.

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

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

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

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

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

57. Display of notice prohibiting minors from entering lottery.

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

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

Electronic monitoring system

58. National central electronic monitoring system.

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

(a) detecting and monitoring significant events associated with a casino, gaming machine or gaming activity licensed under this Act;

(b) analysing and reporting that data in accordance with the prescribed requirements.

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

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

(a) the operation of the national electronic monitoring system;

(b) the collection and analysis of data through that system;

(c) the frequency and nature of reports to be produced by the Board; and

(d) other matters related to the functioning of the national central electronic monitoring system.

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

59. Display of licence.

A person issued with an operator's licence shall display a copy of the licence

prominently in a conspicuous place at the premises where the casino or gaming activity is carried on.

60. Acquisition of assets.

The Board may, with the approval of the Minister, purchase any property or erect buildings or acquire any other assets required for the purposes of conducting national lotteries.

61. Good causes.

(1) The Board shall participate and contribute to good causes as the Minister shall determine.

(2) The Board may request a person licensed under this Act to participate in activities of a good cause that the Board may participate or contribute to.

(3) The Board may before allocating funds to a good cause impose conditions as the Minister shall determine.

(4) For the purposes of this section "good cause" means a charitable, recreational, educational or social programme or activity for the benefit of the public.

*Appeals***62. Appeals**

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

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

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

Offences and penalties

63. Conducting a lottery or related competition without a licence.

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

64. Promoting or advertising unlicensed lottery.

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

65. Forging tickets or selling forged tickets.

A person who—

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

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

66. Offences relating to casinos and gaming.

- (1) A person who—

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

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

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

(3) In this section "gambling software" means computer software for use in connection with gaming but does not include anything for use solely in connection with a gaming machine.

67. Offences relating to tax.

A person who knowingly or recklessly—

- (a) does not make a return as required by this Act;
- (b) makes a statement or declaration which is false or misleading, to the Commissioner or a person authorized by the Commissioner;

- (c) omits from a statement or declaration any matter or thing without which, the statement or declaration is misleading and the tax payable by the person exceeds the tax assessed,

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

68. Amendment of Schedules

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

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

69. Regulations.

(1) The Minister may on the recommendation of the Board by statutory instrument, make regulations to give effect to this Act.

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

- (a) the keeping of records in respect of gaming machines, including the form, transfer and inspection of the records;
- (b) the fees required to be prescribed or for the services rendered by the Board;
- (c) the transfer or movement of gaming machines and equipment;
- (d) advertising of casinos and gaming;
- (e) the facilities and amenities to be made available to patrons in a casino or gaming premises;

- (f) the form of applications for a licence under this Act;
- (g) the power and manner of inspection and investigation persons licensed under this Act;
- (h) the provision of assistance to persons who are or may be affected by problems related to gambling;
- (i) establishing the identity of users of a casino or gaming facilities;
- (j) recording the identity of users of a casino or gaming facilities;
- (k) restricting gaming facilities to persons registered in respect of the facilities in advance;
- (l) the handling of complaints and determination of disputes under this Act;
- (m) the disposal of unclaimed prizes;
- (n) regulating the appointment and use of agents by a person licensed to conduct a lottery;
- (o) regulating the holding of a draw for a lottery;
- (p) the mode and time of payment of fees or money payable under this Act;
- (q) requiring licence holders to restrict access of premises to children including—
 - (i) taking specified steps to ensure that a child does not enter the premises;
 - (ii) ensuring that each entrance to the premises is supervised by a person whose responsibilities include ensuring that a child does not access the premises; and

(iii) requiring evidence of age to be produced by any person seeking admission to the premises,

(r) any other matter that is necessary or incidental to giving effect to this Act.

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

3. Repeal of Cap 191 and Cap. 292.

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

(2) Notwithstanding subsection (1)—

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

SCHEDULE 1

Sections 3 and 68(1)

Currency point

One currency point is equivalent to twenty thousand shillings.

SCHEDULE 2

*Sections 6 and 68(2)***MEETINGS OF THE BOARD AND RELATED MATTERS****Meetings of the Board.**

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

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

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

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

2. Quorum.

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

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

3. Minutes of meetings.

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

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

4. Power to co-opt.

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

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

5. Validity of proceedings not affected by vacancy.

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

6. Disclosure of interest of members.

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

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

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

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

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

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

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

7. Official seal of the Board.

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

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

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

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

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

8. Board may regulate its procedure.

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

SCHEDULE 3

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

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

SCHEDULE 4

Section 46

Rate of tax

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