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**NAIROBI CITY COUNTY BETTING, LOTTERIES AND GAMING
ACT, 2021**

No. 2 of 2021

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FIRST SCHEDULE

SECOND SCHEDULE

**THE NAIROBI CITY COUNTY BETTING, LOTTERIES AND
GAMING ACT, 2021**

AN ACT of the Nairobi City County Assembly for the control and licensing of betting, gaming and totalisator premises, and other forms of gaming within the County; for authorization of prize competitions and public lotteries within the County; for the imposition of the entertainment tax and for connected purposes.

ENACTED by the Nairobi City County Assembly, as follows—

PART I— PRELIMINARY

Short title

1. This Act may be cited as the Nairobi City County Betting, Lotteries and Gaming Act, 2021

Interpretation

2. In this Act—

“amusement machine” means a machine or a device whether operated electronically or manually or otherwise on which an amusement game is played exclusively for amusement purposes and is operated by insertion of money or amusement machine token;

“bet” means a wager or stake of money or any other valuable thing by or on behalf of any person; agreement to wager or stake by or on behalf of any person money or a valuable thing on a horse race, fight, game, sport, lottery or exercise or any other event, race or contingency;

“betting premise” means premise to which the public has or may have access to and to which is kept or used for the purpose of betting;

“billiard” means a game played on a large table in which one uses a long stick called cue to hit the ball against each other or into pockets around the sides of the table;

“bingo” means a game where a player marks off numbers on cards or screens as the numbers are drawn randomly, the winner being the first to mark off all the numbers required and includes the playing by electronic means or by online communication;

“Board” means the Board established under section 5 of the Act;

“bookmaker” means a person who, whether on his own account or as a servant or agent to another person, carries on, whether occasionally or regularly, the business of receiving and negotiating bets and shall not include—

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- (a) a person who carries on, or is employed to operate a totalisator in respect of which a licence has been issued under this Act; or
- (b) a person employed in a business that is wholly concerned with a pool betting scheme in respect of which a licence has been issued under this Act.

“casino” means any designated premise, a public room or building where games of chance/gambling takes place; the designated place is accessible to any member of the public and a person may participate in a game approved under this Act;

“child” means a person under the age of eighteen;

“County” means the Nairobi City County;

“County Executive Committee Member” means the County Executive Committee Member for the time being responsible for matters related to Betting, Lotteries and Gaming in the County;

“County Lottery” means a lottery established pursuant to Section 40 of this Act;

“director” means the person appointed as such under Section 11 of this Act;

“draw” means an act of selecting names/tickets randomly to decide the winners in a lottery from opponents in a sporting activity or for promotion of a Company/legal entity;

“Entertainment tax” means tax levied on betting, lotteries and gaming activities pursuant to Article 209 (3) (b) of the constitution;

“funfair” means an event held in a park, field or indoors at which a person pays to ride a machine or to participate in a game for a pre-determined prize;

“gaming inspector” means an authorised officer of the County government charged with the responsibility of regulating casino games, betting and lotteries, enforce standards and norms, oversee gaming activities in and out of gaming premises;

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

“lottery” includes a sweepstake, a raffle and any scheme, arrangement, system plan or device for the sale, gift, disposal or distribution of any property depending upon or as determined by a slot or a chance, whether by throwing or casting a dice, or by withdrawing of a ticket, card, slot, numbers or figures, or by means of a wheel.

“permit” is a short term warrant or authority granting the holder opportunity to carry out specified activities varied for a period not exceeding three months as per this Act.

“pool table” means a billiard table on which a pool game is played;

“pool betting scheme” is a form of gambling, specifically a variant pari-mutuel betting where gamblers pay a fixed price into a pool from which taxes and a house “stake” are removed and a selection is made on the outcome where the winner takes it all;

“public gaming premise” means a premise which is kept or used for gaming and to which the public has access for the playing a licensed gaming;

“public place” has the meaning assigned to it under the Interpretation and General Provisions Act;

“totalisator” means an instrument, a machine, a contrivance, or a scheme for enabling any number of persons to make bets on any event or contingency and includes a device showing the number and amount of bets staked in a race to facilitate the division of the total among those backing the winner, the machine registers bets and divides the total amounted bet among the winners;

“totalisator premise” means a public place where the totalisator is placed or operated;

“tombola” means a game where a player pays for a ticket whose prize is pre-assigned and involves drawing the ticket from a hat or tombola drum to find the winning ticket.

Application

3. (1) This Act shall apply to any person who desires to acquire, occupy, use or permit the use of a premise for—

- (a) betting;
- (b) establishment of a casino; or
- (c) use of a totalisator.

(2) All betting, lotteries and gaming activities conducted within the County.

(3) Any person who possesses or permits the use of a pool table or amusement machine, in a public place.

Objects and purpose of the Act

4. The objects and purpose of this Act is to—
- (a) provide for the implementation of National Government policy, standards and norms in relation to betting, lotteries and gaming in the County;
 - (b) give further effect to paragraph 4 of the Fourth Schedule to the Constitution which mandates the County Government with the function of betting, lotteries and gaming regulation and licensing;
 - (c) to provide for the County institutions and for procedures applicable to the regulation and licensing of betting, lotteries and gaming within the County; and
 - (d) make provision for periodic monitoring and evaluation of betting, lotteries and gaming activities within the County.

PART II—ADMINISTRATION OF BETTING, LOTTERIES AND GAMING ACTIVITIES IN THE COUNTY.**Establishment of the Board****5.**

- (1) There is established a Board to be known as Nairobi City County Betting, Lotteries and Gaming Control Board which shall consist of—
- (a) a non-executive chairperson knowledgeable in matters of business, trade, betting and gaming appointed by the Governor;
 - (b) the Chief Officer for the time being responsible for Security, Compliance and Disaster Management or a representative designated in writing who shall not be below the level of Director;
 - (c) the Chief Officer for the time being responsible for Finance or a representative designated in writing who shall not be below the level of Director;
 - (d) the Chief Officer for the time being responsible for Trade or a representative designated in writing who shall not be below the level of Director;
 - (e) six persons appointed by the Governor who shall be persons conversant and with 5 years' experience' in Trade or Finance matters; and

- (f) the Director in charge of Betting, Lotteries and Gaming in the County who shall be the Secretary to the Board and an *ex officio* member of the Board.

(2) In appointment of the chairperson and members under this Section, the appointing authority shall ensure regional balance, gender parity and representation of the youth and persons with disability.

(3) The appointment of the chairperson and members appointed under subsection (1) (a) and (e) shall be by notice in the *Kenya Gazette*.

(4) The chairperson and members of the Board appointed under subsection (1) (a) and (e) shall hold office for a term of three years and shall be eligible for re-appointment for one further term.

Functions of the Board

6.

The Board shall —

- (a) promote the implementation of National policies, norms and standards in relation to betting, lotteries and gaming activities in the County;
- (b) coordinate with the National Betting Control and Licensing Board on matters of mutual interest;
- (c) advise the County Executive Committee Member on best practices in licensing and control of betting and gaming;
- (d) recommend for issuance of lottery licenses for betting, lotteries and gaming activities within the County;
- (e) consider and determine appeals against the decisions of the Director;
- (f) act as the trustee and manager of the fund established under section 52 of this Act;
- (g) prescribe guidelines, policies and procedures for the conduct of games comprising the County lottery; and
- (h) arbitrate and mediate on any dispute arising from the licensing and control of betting, lotteries and gaming activities in the County.

Vacancy in the Board

7. (1) The office of the chairperson or a member of the Board appointed under section 5 (1)(a) and (e) shall become vacant if the holder—

- (a) dies;
- (b) resigns from office by notice in writing to the County Executive Committee Member;
- (c) is convicted of an offence and is sentenced to imprisonment for a term exceeding six months;
- (d) has been absent from three consecutive meetings of the Board without a notice to the chairperson; or
- (e) is removed in accordance with subsection (2).

(2) A member of the Board may be removed from office for—

- (a) violation of the Constitution or any other law;
- (b) gross misconduct, whether in the performance of the member's or office holder's functions or otherwise;
- (c) physical or mental incapacity to perform the functions of the office;
- (d) incompetence; or
- (e) bankruptcy.

(3) The County Executive Committee Member shall ensure that where a vacancy occurs in Board, it is as soon as it is practicable be filled in accordance with the provisions of the Act.

Conduct of business and affairs of the Board

8. The procedure of conduct of business and affairs of the Board shall be conducted in accordance with the First Schedule, but subject thereto, the Board may regulate its own procedure.

Remuneration

9. The Chairperson and members of the Board shall be paid such remuneration or allowances as the County Executive Committee Member, may, on the advice of the Salaries and Remuneration Commission determine.

Directorate of betting, Lotteries and Gaming

10. (1) There is established a Directorate of Betting, Lotteries and Gaming activities within the County.

- (2) The functions of the Directorate shall be to—
 - (a) regulate, control and licence gaming activities within the County;
 - (b) implement the policies and standards for betting, lotteries, casinos and other forms of gambling within the County;

- (c) issue licenses in accordance with this Act and on the basis of clearly defined and transparent criteria;
- (d) advising the County Executive Committee Member on matters affecting the gaming industry in the County;
- (e) establish and maintain a register of all gaming machines and devices in the County;
- (f) establish a central electronic real time gaming monitoring system;
- (g) ensuring compliance with the provisions of this Act;
- (h) carrying out inspections and enforcement for the purpose of this Act;
- (i) undertake and coordinate research and surveys within the County in relation to gaming industry;
- (j) supervise any draws for prize competitions conducted within the County;
- (k) investigate, monitor and evaluate compliance of policies and regulations for betting, lotteries and gaming activities established to ensure compliance with this Act; and
- (l) performing such other functions as may be assigned by the County Executive Committee Member.

Director of Betting, Lotteries and Gaming

11. (1) There shall be a Director of Betting, Lotteries and Gaming activities who shall be appointed by the County Public Service Board.

(2) The Director of Betting, Lotteries & Gaming shall be the head of the Directorate.

(3) A person shall be eligible for appointment as a Director of Betting, Lotteries and Gaming if the person—

- (a) possesses a university degree in any area related to trade, business administration, sociology, economics or commerce from a university recognized by the Commission for University Education;
- (b) has at least 10 years' working experience in the gaming and betting industry;

- (c) is a person of integrity and meets the requirements of Chapter 6 of the Constitution of Kenya; and
- (d) is not convicted of any criminal offence whose penalty does not exceed six (6) months.

Power of the Director

12. The Director shall have power to—

- (a) approve or reject applications for licenses under this Act;
- (b) issue licenses under this Act and any other legislation applicable;
- (c) suspend licenses issued under this Act; and
- (d) cancel licenses issued under this Act.

Appointment of Gaming Inspectors No. 17 of 2012

13. (1) Pursuant to Section 59(1) of the County Governments Act, the County Public Service Board shall recruit such number of gaming inspectors, as may be necessary, for the purpose of enforcing the provisions of this Act.

(2) The County Executive Committee Member shall, by notice in the *Kenya Gazette*, gazette the officers appointed under sub section (1).

Duties of a Gaming Inspector

14. A gaming inspector shall —

- (a) carry out inspections of betting, gaming and totalisator premises to ensure compliance with the set standards in respect to licensing;
- (b) inspect pool tables, funfairs and amusement machines to ensure compliance with the set standards in respect to licensing;
- (c) preside over public lotteries and prize competitions draws conducted within the County;
- (d) monitor and report to the Director on trends and innovations within the industry;
- (e) conduct investigations to prevent illegal betting and gaming within the County;
- (f) conduct inspections to identify and eliminate illegal betting and gaming within the County;
- (g) enforce measures to ensure responsible gambling'

- (h) resolve disputes arising from gaming and betting activities conducted in casinos;
- (i) verify daily opening and closing of the casino floats, casino promotional draws, jackpots and refill of slot machines; and
- (j) conduct daily supervision of casinos and generation of casino returns.

Powers of a gaming inspector

15. In performing the functions under this Act, a gaming inspector shall—

- (a) require a person to produce a licence issued under this Act for purposes of inspection and verification;
- (b) open or require the owner of a property or the person in charge to open any part of a building that the inspector believes on reasonable grounds that betting, lotteries or gaming activities are taking place;
- (c) seize any machine or instrument which, the gaming inspector believes, on reasonable grounds, that it has been used to contravene this Act;
- (d) conduct any test or analysis or take any measurements as may be necessary to determine whether there is a contravention of the provisions of this Act by any person; and
- (e) require a person to produce for inspection any written or electronic information that is relevant to the administration or enforcement of this Act.

PART III— LICENCES AND PERMITS

Licensing betting, lotteries and gaming activities

16. The Director shall issue betting, lotteries and gaming licences under this Act with respect to—

- (a) all premises conducting the following activities—
 - (i) Public gaming (casinos);
 - (ii) Betting; and
 - (iii) Totalisators.
- (b) pool tables;
- (c) amusement machines;

- (d) a pool betting scheme;
- (e) a *bingo*;
- (f) price competitions held within the County;
- (g) public lotteries conducted within the county;
- (h) all gaming equipment;
- (i) funfairs;
- (j) any other betting, lotteries and gaming activities where a draw is conducted within the County.

Requirements for a licence

17. (1) A person who intends to operate any betting, lotteries or gaming activities within the County shall obtain a licence.

(2) A person who operates any business under sub section (1) without a licence commits an offence and shall be liable on conviction as per Part X.

Application for licence

18. (1) An application for the grant of a licence shall—

- (a) be lodged with the Director;
- (b) be in the approved form;
- (c) contain such information and be accompanied by such documents as are required by the approved form;
- (d) be signed in a manner specified in the approved form; and
- (e) be accompanied by the prescribed application fee in the Second Schedule.

(2) An application may be made in an electronic format approved by the Directorate.

(3) The Director may, before dealing with an application, require the applicant to furnish such additional information or documents as is necessary to enable the application to be dealt with.

(4) The Director may grant a licence upon considering all the requirements under this Section.

(5) The Director shall keep and maintain an updated database of all licence holders.

- (6) The prescribed application fee shall not be refundable.

Validity of a licence or permit of this Act

19. (1) A licence issued under this Act shall be valid for a period of one year from the date of issue, unless revoked under the terms of this Act.

(2) A permit issued under this Act shall be valid for a period of three months from the date of issue unless revoked under the terms set out in this Act.

Renewal of a licence

20. (1) The Director may, on application by a licensee, renew a license for a further period of one year.

(2) An application under this section shall—

- (a) be made in the prescribed form and forwarded to the Director together with the prescribed fee;
- (b) be lodged with the Director at least three months prior to the expiry of the license; and
- (c) be considered in accordance with the provisions of section 18.

Refusal to grant or renew a licence

21. (1) The Director may refuse to grant or renew a license or permit if he is satisfied that—

- (a) the information contained in the application is false or untrue in any material particulars; or
- (b) the application does not meet any of the requirements for the issue or renewal of a license or permit.

(2) Where the Director refuses to grant or renew a license or permit, it shall forthwith notify the applicant in the prescribed form specifying the reasons for such refusal.

(3) A person aggrieved by the decision of the Director under this section may, within twenty-one days from the day of notification of reasons under subsection (2), lodge an appeal at the Board.

Suspension of a licence

22. The Director may suspend a licence issued under this Act for a period not exceeding six months where a licensee is charged with any offence involving fraud, dishonesty or any offence related to gaming.

Revocation of a licence

23. (1) The Director may revoke a license issued under this Act—

- (a) where a licensee is in breach of any of the provisions of this Act;

- (b) where he discovers that a licensee made a statement in connection with the application which he knew to be false or untrue;
- (c) where the gaming business is wound up or dissolved; or
- (d) if the licensee is in breach of any condition attached to the license.

(2) Where the revocation of a license is contemplated under subsection (1), the Director shall serve the licensee with a notice of revocation in the prescribed form.

(3) A notice under subsection (2) shall be served not less than twenty one days before the date of the intended revocation and shall specify the grounds for such revocation.

(4) The revocation of a license shall take effect upon the expiry of the notice under subsection (3).

(5) A licensee whose license is revoked shall surrender the license to the Director and shall not be eligible to hold a license under this Act for a period of five years starting from the effective date of the revocation.

Display of a licence

24. (1) A license shall, during the period of its validity, be prominently displayed by the licensee or permit holder at a place of business, in a place to which the public has access.

(2) Where the license allows for the establishment of a branch, a copy of the license shall be similarly displayed at such branch.

Transfer of a licence or Permit

25. (1) The holder of a license issued under this Act may apply after a period of five years to transfer a licence or a permit to any person who may qualify to be a licensee under this Act upon payment of the prescribed fees.

(2) The Director shall, upon receipt of application to transfer, carry out an investigation on the suitability of the proposed licensee.

(3) The Director may require for purposes of subsection (2), the submission of further information as it may deem necessary, including—

- (a) a written authorization from the applicant permitting the Director to procure information directly from third parties;
- (b) a report from relevant investigative agencies ; and
- (c) any other information as the Director may deem appropriate.

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

Investigation by the Director

26. (1) The Director may from time to time and on its own motion or upon receipt of information from any person, investigate the conduct of a licensee under this Act in any gaming premise for which a license has been granted.

(2) The Director may direct any person who is investigated pursuant to subsection (1) to take such action as may be necessary to rectify any shortcomings discovered, and may take such action, including revocation or cancellation of a license, as may be appropriate where the licensee fails or refuses to comply with directions issued by the Director.

Duplicate licence

27. A licensee whose license is lost, destroyed or mutilated may make an application for a duplicate in the prescribed form upon payment of fifty thousand Kenya shillings.

Register of licences

28. The Director shall keep a register of licenses in such form as he may determine and shall record in respect of every license—

- (a) particulars of the gaming activity to which a license relates;
- (b) the name, identity and registration number of a licensee;
- (c) the date of expiry of the license;
- (d) particulars of any revocation or suspension of the license;
- (e) particulars of any amendment to a license; and
- (f) any other particulars that the Director may require to be recorded.

Appeals

29. A person aggrieved by any decision of the Director under this Act may appeal to the Board within twenty-one days from the date upon which such decision is conveyed to a licensee.

Books to be kept by a licensee

30. (1) The Director shall prescribe books of accounts to be kept by a licensee.

(2) A licensee shall enter or cause to be entered regularly particulars of entries on the books of accounts as prescribed by the Director.

Submission of accounts by a licensee

31. (1) A licensee shall submit to the Director properly audited statement of accounts at least once in every twelve months.

(2) Accounts submitted under this section shall be audited by an auditor whose appointment to audit the accounts shall be approved by the Board.

Entertainment tax on betting, lotteries and gaming activities

32. (1) Pursuant to Article 209 (3) (b) of the Constitution, there shall be an entertainment tax on all betting, lotteries and gaming activities licensed under this Act chargeable at a rate of 10% on the gross winnings of all betting, lotteries and gaming activities.

(2) The entertainment tax under subsection (1) shall be paid by all the licensees under this Act to the County Revenue Fund upon assessment by the Director, not later than the 20th day of the month following the month of collection.

(3) The entertainment tax payable by a licensee under this Act shall be a debt due to the County Government and failure to remit the tax shall lead to suspension of the licence under Section 22 of this Act.

PART IV – CONTROL AND LICENSING OF BETTING AND LOTTERIES

License required to conduct totalisator

33. (1) No person shall conduct the business of a totalisator in any premise within the County without a totalisator licence.

(2) A totalisator licence shall, subject to any condition imposed under this Act, authorise the conducting of the categories of totalisators specified in the licence.

(3) The holder of a totalisator licence shall conduct totalisators in accordance with rules made by such licence which shall be approved by the Director.

(4) Every transaction effected by means of a totalisator shall be recorded in such a manner as may be prescribed by the Director to ensure that as far as practicable the record is in an uninterrupted view of the public.

Authorization of a public lottery for charitable purpose

34. (1) The Director shall, upon recommendation by the Board, issue a license authorizing the promotion and conduct of a lottery within the County intended to raise funds for charitable purposes which may include charitable activities for social service, public welfare, relief of distress, patriotic purposes, recreational or sporting purposes.

(2) The Director shall set a minimum of twenty five and a maximum of forty five per centum of the gross revenue of a county public lottery to be devoted to the object for which a lottery is promoted.

(3) The promotion of a lottery under this section shall be granted to an individual or a body corporate.

A promoter of a lottery authorized under this section who devotes proceeds of the lottery to activities not permitted or to a purpose other than expenses and prizes permitted commits an offence and shall be liable upon conviction to a fine not exceeding twenty million shillings or to imprisonment for a term not exceeding five years or to both.

Powers of the Director with respect to a public lottery

35. (1) The Director shall, in respect of any public lottery impose such conditions as it may deem necessary to ensure that a lottery is promoted and conducted efficiently for the purpose for which it is being promoted.

(2) In conducting a lottery under subsection (1), a promoter—

- (a) may deduct operating expenses not exceeding twenty per centum of gross proceeds of the lottery;
- (b) shall take reasonable measures to ensure that a purchaser of a ticket or a chance in a lottery is protected against fraud;
- (c) shall guarantee the expected proceeds, or any part thereof of the lottery;
- (d) shall ensure proper and equitable distribution of the charitable funds of the lottery; and
- (e) shall take such steps as it may deem necessary to ensure that any conditions imposed by the Director are complied with. Lottery conducted for charitable, sporting or other purposes.

36. (1) A lottery may be promoted and conducted on behalf of a society established for—

- (a) charitable purposes;

- (b) participation in a sport, support of athletics, or cultural activities; or
- (c) purposes for raising money to be applied for purposes of public good and are not for private gain or purposes of commercial undertaking.

(2) The Director may, upon the issue of a license under this section impose such conditions to the manner in which a person issued with a license may conduct the promotion and conduct of a lottery under this section, including—

- (a) requiring a promoter to be a member of a society duly authorized to act as such;
- (b) prohibiting the payment of remuneration to a promoter or any person who operates on a betting premises or a person engaged by way of business or employed in the promoter's organization in connection with Lottery incidental to entertainment the lottery;
- (c) capping the prize of a ticket to twenty thousand shillings;
- (d) a ticket or chance shall be sold for a price not exceeding twenty shillings;
- (e) requiring the application of the whole proceeds, upon deduction of sums lawfully appropriated on account of expenses or for the provision of prizes, to purposes of the society, as described in subsection (1);
- (f) requiring the amount of proceeds appropriated on account of expenses not to exceed fifteen per cent of the whole proceeds;
- (g) capping the amount of the proceeds appropriated for the provision of prizes not to exceed one half of the whole proceeds;
- (h) requiring the price of each ticket or a chance and to be the same on all the tickets;
- (i) capping the value of tickets or chances to not more than one million shillings;
- (j) requiring every ticket, notice of a lottery lawfully exhibited, distributed or published to specify the name of the society sponsoring the lottery, the name and address of the promoter and the date on which the draw, determination or event to which the prize winners are ascertained is expected to take place;

- (k) prohibiting the delivery of a ticket through post to a person who is not a member of the society;
- (l) prohibiting the admittance a person to participate in a lottery except upon payment to the promoter of the whole price of the ticket or chance;
- (m) prohibiting a promoter from receiving money for or on account of a ticket or chance; and
- (n) requiring payment for expenses or prizes out of proceeds of the lottery.

(3) Where any condition set out in subsection (2) is contravened, any person including a promoter of a lottery commits an offence and shall be liable upon conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

37. (1) The Board may, issue a license for a lottery promoted and conducted as an incident of entertainment.

(2) The Board may, upon the issue of a license under this section impose such conditions to the manner in which a person issued with a license may conduct the lottery, including—

- (a) requiring that the ticket or chance to be sold or issued in a premise which the lottery may take place;
- (b) requiring that the result of the lottery is declared on the premises in which the lottery took place;
- (c) requiring that the facility provided for participating in a lottery or the gaming entertainment is not held for private gain;
- (d) requiring that a prize in a lottery is in the custody and disposal of a promoter of a lottery;
- (e) requiring that a ticket or chance in a lottery is issued or allotted upon the receipt of the full price;
- (f) requiring the price of a ticket or chance to be the on each ticket;
- (g) prohibiting money prize in a lottery; and
- (h) capping the price of a ticket or a chance to not more than fifty shillings.

(3) This section shall apply to entertainments including bazaars, sales of work, fetes, dinners, dances, sporting or athletic events limited to one or more days.

(4) Any person who participates in the promotion and conduct of a lottery under this section, who contravenes the conditions specified in subsection (2) commits an offence and shall upon conviction be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

Private Lottery

38. (1) The Director may, issue a license for a private lottery.

(2) The Director may, upon the issuance of a license under this section impose such conditions to be met by a person issued with a license, including—

- (a) requiring the net proceeds of lottery to 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 to the purposes of the society;
- (b) requiring a notice or advertisement of a lottery, to be exhibited on a premise or the club of the members whom the lottery is promoted;
- (c) requiring the price of each ticket or a chance and to be the same on all the tickets;
- (d) requiring each ticket to bear the name and address of a promoter of the lottery and a statement of a person to whom the sale of the tickets or chances is restricted;
- (e) requiring a ticket or a chance to be issued or allotted by a promoter by way of sale upon receipt of a full price;
- (f) prohibiting the return of money or any valuable thing received by a promoter; and
- (g) prohibiting delivery of a ticket in a lottery through the post office.

(3) A person or a promoter of a lottery who contravenes the conditions specified in subsection (2) commits an offence and shall upon conviction be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

Submission of accounts and returns in respect to a lottery

39. A promoter and a beneficiary of a lottery promoted or conducted under this Act shall be required to submit accounts and make returns in such form and within such period as the Director may specify.

PART V—THE NAIROBI CITY COUNTY LOTTERY**Establishment of the County Lottery**

40. There is established the Nairobi City County Lottery.

Licensing of County Lottery

41. (1) The Director shall issue one license authorizing a competent person to operate a County Lottery subject to such conditions as it may deem fit to impose.

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

(3) The Director shall, before granting a license, satisfy himself that—

- (a) the applicant has appropriate knowledge or experience to conduct a county lottery in accordance with this Act and any condition imposed on the license;
 - (b) the applicant has the necessary financial and other resources to conduct the lottery;
 - (c) there is no direct financial interest on any applicant by a member of a governing council of a political party; and
 - (d) the applicant is a fit and proper person to conduct the lottery.
- (4) An applicant issued with a license under subsection (1), shall—
- (a) conduct the County Lottery in accordance with this Act, all other applicable laws and the conditions attached to the license issued by the Director; and
 - (b) ensure that the interests of every participant in the county lottery are adequately protected.

Duration of licence

42. (1) A license for a County lottery shall be valid for a period of seven years or for such period as may be prescribed by the Act.

(2) The Director may, where a license has been granted for more than seven years, at least one year before expiry thereof, extend that license for such a period that would cumulatively with the initial period amount to ten years.

Obligations of a licensee

43. A licensee shall—

- (a) ensure that such requirements as the Director may from time to time, determine or approve are complied with;
- (b) provide such information regarding the conduct of a county lottery as the Director may require from time to time;
- (c) make such arrangements as may be specified in a license for the payment of such sums out of the gross proceeds of the lottery as may be specified by the Director;
- (d) do such things within the terms of a license, including the transfer of property or any rights, other than intellectual property rights as the Director may require, upon the expiration of a license;
- (e) obtain the approval of the Director for any lottery and the rules thereof before a lottery is conducted;
- (f) allow a gaming inspector or any person designated by the Director to enter any premises or facility belonging to or under the control of a licensee or a member of the management of the licensee, or, premises to which a licensee has a right of access, at any reasonable time, if such entry is necessary for the protection of the integrity of the lottery, to—
 - (i) examine or inspect any machine, document or data in a licensed premise or facility and make copies or extracts from it;
 - (ii) seize, for the purpose of examination of information any machine, document or data, on the conduct of a County lottery;
 - (iii) seal or otherwise secure any such premise, facility or machine on or in which any document or data which has a bearing on the conduct of a County lottery is stored or captured;
 - (iv) secure a valid and enforceable written undertaking from a person controlling a licensee in any way not to change, transfer, cede the control of a licence or in any way encumber the licence to another person without the consent of the Director; and
 - (v) take such steps as may be reasonably necessary to protect the integrity and conduct of a lottery.

Enforcement of conditions of a licence

- 44.** (1) Where the Director has reason to believe that—

- (a) a person has contravened a condition in a license which cannot be remedied; or
- (b) there is a reasonable likelihood that the contravention in a license is of a continuous nature,

the Director may apply to the High Court for an order prohibiting the contravention, or, requiring a licensee or any other person to take such steps as the Court may direct.

(2) The liability of a licensee to pay any money under this Act shall not be affected by a license ceasing to be valid for any reason.

Revocation of county lottery licence

45. The Director may revoke a County Lottery license where—

- (a) in his opinion, a licensee or his or her representative has grossly violated the provisions of this Act;
- (b) a person licensed is no longer a fit and proper person to conduct a County lottery;
- (c) a condition contained in the license has been materially contravened;
- (d) any information given to the Director by a licensee, or by any person who in any way controls a licensee or any agent or representative of a licensee is materially false in—
 - (i) connection with the application for the license;
 - (ii) accordance with a condition in the license; or
 - (iii) making representations in respect of financial matters regarding a County lottery or in respect of any aspect of the management of the lottery.
- (e) any person who is managing a business or any part of a business of a licensee or who is a supplier of goods or services to a licensee and connected to a lottery operation is in the opinion of the Director not a fit and proper person to do so due to insolvency, liquidation, imprisonment or for any other sufficient reason;
- (f) a licensee has failed to take adequate steps to prevent a commission of fraud by his or her employees, agents, representatives, suppliers or by participants in a lottery;
- (g) a licensee or any of his or her employees, agents, representatives or suppliers has prevented the Director or any person designated

by the Director in carrying out their duties as contemplated under the Act; or

- (h) a person who in any way controls a licensee is declared insolvent or is liquidated.

Suspension of a license

46. (1) The Director may order a suspension of a license in the notice under section 45 from the date of service of the notice for a period not more than thirty days after the licensee has furnished the reasons why the license should not be revoked.

(2) Where the Director suspends a license under subsection (1), it shall inform the County Executive Committee Member who shall forthwith inform the public through a *Gazette* notice.

(3) Where a license for a county lottery ceases to be valid under subsection (1), the Director shall inform the licensee in writing the date upon which the license was suspended.

PART VI—CONDUCT OF THE COUNTY LOTTERY

County lottery games

47. (1) A licensee may with the approval of the Director, conduct such games as it may consider appropriate for purposes of a county lottery.

(2) The Board shall prescribe guidelines, policies and procedures for the conduct of games comprising a County lottery.

(3) Guidelines issued under subsection (2) shall include—

- (a) the type and number of games to be conducted by a licensee;
- (b) the method and location of setting up or validating winning tickets;
- (c) the manner of payment of prizes to holders of winning ticket
- (d) the frequency of games and draws or determination of winning tickets;
- (e) the method to be used in selling tickets, which may include the use of electronic or mechanical devices;
- (f) the prizes of each ticket, the number and value of prizes;
- (g) the conduct of draws and determination of winners of each game;

- (h) requirements governing lottery tickets; and
- (i) any other guideline necessary to ensure the efficient and effective operation of county lottery games.

Persons prohibited from participating in a county lottery

48. (1) A ticket purchased for value or awarded as a prize in a lottery is prohibited for sale to—

- (a) a child;
- (b) a director, agent or employee of a licensee;
- (c) a member or employee of the Board or Directorate;
- (d) a person who prints county lottery tickets or an employee of such a person, or a director of such company; or
- (e) a person who supplies computers or other electronic devices of any kind or parts for the same, or equipment or programming or instructions for use, or who operates, maintains or repairs any such devices used by a licensee.

(2) The prohibition under subsection (1) shall cease to apply to a person specified in paragraphs (b), (c), (d) and (e) after the expiry of two years from the period their directorship, agency or employment with a licensee or the Board or Directorate.

Offences relating to county lottery tickets

49. (1) Any person who knowingly allows a person prohibited to participate in unauthorized lottery commits an offence and shall be liable upon conviction to a fine not exceeding one million shillings or imprisonment for a term not exceeding two years or to both.

(2) In addition to the penalty imposed under subsection(1), in a case where a county lottery ticket is held in contravention of the provisions of section 47—

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

(3) Where a prize to which paragraph (2)(b) applies is not returned as required such a prize or an amount of money equal to its value may be recovered by a licensee through a civil suit.

Draws

50. (1) All draws conducted within the County shall be held within a licensee's premise and prize draws shall be open to members of the public.

(2) Draws for all games comprising of a lottery shall be conducted at such times as may be determined by the licensee with the approval of the Director.

(3) A gaming inspector shall supervise the selection of winning entries in all draws.

(4) Any equipment used in a public draw to select a winning number or entry for a prize shall be examined and tested by the Director together with an internal auditor of a licensee or a designated representative prior to and after each public draw.

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

Apportionment of the proceeds of the County lottery

51. (1) The gross revenue of a county lottery shall be distributed as follows—

- (a) forty five per centum to the holders of winning tickets;
- (b) twenty per centum to the licensee to meet its administrative costs;
- (c) fifteen per centum to the Fund established under section 52 for distribution to good causes; and
- (d) twenty per centum to agents and retailers of the Lottery.

(2) Monies payable to the Fund under this section shall be remitted by a licensee to the Fund within fourteen days after such draw or at such other time as the Director may require, whichever is earlier.

PART VII—FINANCIAL PROVISIONS**Establishment of the Fund**

52. (1) There is hereby established a Fund to be known as the County Lottery Distribution Trust Fund, which shall vest in and be administered by the Board.

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

(3) The County Executive Committee Member for Finance shall appoint the administrator of the Fund.

(4) The administrator of the Fund shall allocate 1.5% of the fund for administrative expenses.

(5) The Fund shall consist of—

(a) sums paid to the Fund under section 51;

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

(c) such monies or assets as may accrue to or vest in the Fund in the course of the exercise of its powers or the performance of its functions under this Act; and

(d) all monies from any other source provided for or donated or lent to the Board.

Annual Budget and Estimates

53. (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared budget estimates of the Fund for that year.

(2) The Board shall approve the annual estimates at least ninety days before the commencement of the financial year to which they relate and, once approved, the sum provided in the estimates shall be submitted to the County Executive Committee Member for final approval.

No expenditure shall be incurred for the purposes of the Board except in accordance with the annual estimates approved under subsection (3), or in exceptional circumstances, in accordance with an authorization of the Board given with prior written approval of the county executive committee member.

Books of Accounts

54. (1) The Board shall cause to be kept proper books of accounts and records of the Fund.

(2) The accounts and financial statements and records of the Board shall be audited and reported upon in accordance with provisions of the Public Audit Act.

Annual programmes and reports

55. (1) The Board shall submit reports and programmes to the County Executive Committee Member at the beginning of each financial year indicating—

- (a) the amount of money likely to be available for distribution in that year;
- (b) the priority programs to be allocated money in that year; and
- (c) the criteria to be applied in making allocations.

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

Distribution of funds

56. The Board shall, in consultation with the County Executive Committee Member, prescribe the amount and manner in which the money in the Fund shall be distributed to different good causes related to sports.

Administration of the Fund

57. The County Executive Committee member for finance shall prescribe regulations setting out the administration and management of the Fund.

PART VIII—PUBLIC GAMING PREMISES (CASINO) LICENSE

Casinos and other forms of gaming

58. (1) A person may be granted a licence to operate within the county upon satisfying the conditions under section 18 of this Act.

(2) In considering an application for a public gaming premises licence under sub section (1), the Director shall determine—

- (a) whether the casino will enhance the neighbourhood and environment;

- (b) the extent to which the casino will promote tourism at the premises where the casino is to be located and the county in general;
 - (c) the extent to which the casino will promote sustainable employment in the county;
 - (d) the extent to which the applicant intends to provide such opportunities for women, youth and persons living with disability within the county; and
 - (e) any other factors which may affect the question whether it is desirable to grant such application or to attach any such condition or requirement.
- (3) Gaming machines including slot machines shall be located in a permitted premise and shall not be near—
- (a) learning institutions; and
 - (b) religious establishment; and residential areas.

Officers of the Directorate to be present

59. The Director shall designate a gaming inspector to be present in all casinos for purposes of ensuring compliance of the Act and conditions imposed on any licence by the Director.

PART IX—AMUSEMENTS WITH PRIZES, PRIZE COMPETITIONS, GAMING MACHINES AND POOL TABLES

Amusement Machines

60. (1) The Director shall issue a permit authorizing the use of an amusement machine in an approved premise within the county.

(2) The permit issued under this Section shall be subject to such conditions as the Director may impose.

Authorization of prize competitions

61. (1) The Director may, in accordance with any regulations made under this Act, issue a permit authorizing the promotion and conduct of prize competitions within the county.

(2) Any person who promotes or advertises any prize competition in connection with any trade or business or the sale of any article to the public without a permit commits an offence and shall be liable upon

conviction to a fine not exceeding two million shillings or to imprisonment for a term not exceeding five years or both.

Control of betting and gaming machines

62. (1) Betting and gaming machines shall only be operated within the county by a person with a betting and gaming licence issued by the Director.

(2) Betting and gaming machines shall—

- (a) be located in a licensed public gaming premises (casino) only;
- (b) be sourced from a certified source with international standard certification;
- (c) have an import certificate issued by the Board indicating the model and the functions of the machine; and
- (d) undergo standards verification after every three months.

(2) A betting machine shall only be operated by a person issued with a valid bookmaker's license.

A single bet in a gaming machine shall be a minimum of twenty shillings only.

Appeal

63. A person aggrieved by the decision of the Director may appeal to the County Executive Committee Member within fourteen days from the date of the decision.

PART X—OFFENCES AND PENALTIES

Use of unlicensed public gaming premises

64. (1) A person who, being the owner, occupier or having the temporary use of a premise, establishes, operates, or permits the use of the premise, for public gaming, without a licence, commits an offence, and is liable, on conviction to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding five years, or to both.

(2) A person who knowingly plays a game of chance or otherwise uses an unlicensed premise commits an offence, and is liable on conviction to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

Use of totalisators in unlicensed premises

65. (1) A person who, being the owner, occupier or having the temporary use of a premise, establishes, operates, or permits the use of the

premise for totalisators, without a licence, commits an offence, and is liable on conviction to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding five years, or to both.

(2) A person who knowingly makes or accepts a bet in a totalisator, within an unlicensed premise commits an offence, and is liable on conviction to a fine not exceeding fifty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

Conduct of Unlicensed prize competitions

66. (1) A person who, conducts a prize competition without a permit commits an offence, and is liable on conviction to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding five years, or to both.

(2) A person who knowingly participates in an unlicensed prize competition commits an offence, and is liable on conviction to a fine not exceeding fifty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

Conduct of Unlicensed lottery

67. (1) A person who, promotes or conducts a lottery, within the County, without a permit, commits an offence, and is liable on conviction to a fine not exceeding one million shillings, or to imprisonment for a term not exceeding five years, or to both.

(2) A person who knowingly participates in an unlicensed lottery commits an offence, and is liable on conviction to a fine not exceeding fifty thousand shillings, or to imprisonment for a term not exceeding six months, or to both. Conduct of unlicensed funfair

Conduct of unlicensed funfair

68. (1) A person who conducts a funfair without a permit, commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding three months or to both.

(2) A person who knowingly participates in unlicensed Funfair commits an offence and is liable to conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding one month or to both.

Use of unlicensed pool tables and amusement machines

69. (1) A person who, permits the use of a pool table in a public place without a licence commits an offence, and is liable on conviction to a fine

not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding two months, or to both.

(3) A person who knowingly plays a game of pool on an unlicensed billiard commits an offence, and is liable on conviction to a fine not exceeding five thousand shillings, or to imprisonment for a term not exceeding one month or to both.

(4) A person who uses or permits the use of an amusement machine in respect of which a permit has not been issued commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings, or to imprisonment for a term not exceeding two months, or to both.

Issuance of false statements

70. (1) A person who knowingly makes a false statement or declaration in an application for, or a renewal or variation of, a licence or permit, commits an offence and is liable on conviction, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

Prohibition against touting

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

Protection of minors

72. A person who—

- (a) bets with a minor;
- (b) receives or negotiates a bet through a minor; or
- (c) sends to a minor any circular, notice, advertisement, letter or other document relating to betting, commits an offence and is liable on conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding three months or to both.

Register of licenses and permits

73. The Director shall—

- (a) maintain a register of licences and permits issued under this Act together with such other information as may be prescribed; and
- (b) make the register and information available for inspection by members of the public at a reasonable cost.

Regulations

74. (1) The County Executive Committee Member may prescribe regulations for the better carrying into effect of the provisions of this Act.

(2) Notwithstanding the generality of subsection (1) the County Executive Committee Member shall make regulations for—

- (a) the procedure for application, determination and issuance of licences and permits under this Act;
- (b) the procedure and format of making electronic application for a licence or permit under this Act;
- (c) treatment and rehabilitation of persons addicted to gaming and betting;
- (d) standards for gaming and betting premises; and
- (e) mechanisms for resolution of disputes under this Act.

Transitional provisions

75. (1) All the laws in relation to betting and lotteries activities in force immediately before the commencement date of this Act continues in force and shall be construed with the alterations, adaptations, qualifications and exceptions necessary to bring it into conformity with this Act.

(2) Upon the appointment of the Board established under section 5 —

- (a) the Nairobi City County Betting Licensing and Regulation Board is dissolved.
- (b) person who was granted a licence or permit to operate any betting and lotteries activity within the county by the Nairobi City County Betting Licensing and Regulation Board before the coming into force of this Act shall make a fresh application to the Director upon expiry of the licence currently in possession.
- (c) the County Government shall publish a notice in two local newspapers circulating within its area of jurisdiction calling for compliance with the provisions of this law.

Repeal of Nairobi City County Betting, Lotteries and Gaming Act, 2014

76. The Nairobi City County Betting, Lotteries and Gaming Act, 2014 is repealed.

FIRST SCHEDULE**THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD****1. Meetings**

The Board shall meet as often as may be necessary for the dispatch of its business but there shall be at least four meetings of the Board in any financial year.

2. Election of Vice Chairperson

At the first meeting, the Board shall elect a vice-chairperson amongst their number and regard shall be taken to ensure that the chairperson and vice-chairperson shall be of opposite gender.

3. Time and place of meetings

A meeting of the Board shall be held on such date and at such time and place as the Board may determine.

4. Special meetings

The chairperson shall, on the written application of one-third of the members, convene a special meeting of the Board.

5. Quorum

The quorum for the conduct of business at a meeting of the Board shall be any three members excluding ex-officio members of the Board.

6. Voting

The Chairperson shall preside at every meeting of the Board at which he or she is present and in the absence of the chairperson at a meeting, the vice-chairperson, shall preside and in the absence of both the chairperson and the vice-chairperson, the members present shall elect one of their number who shall, with respect to that meeting and the business transacted in that meeting, have all the powers of the chairperson.

7. Decisions of the Board

Unless a unanimous decision is reached, a decision on any matter before the Board shall be by concurrence of a majority of all the members present and voting at the meeting.

8. Validity of proceedings

Subject to paragraph 5, no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

9. Signification of instruments and decisions of the Board

Unless otherwise provided by or under any law, all instruments made by and decisions of the Board shall be signified under the hand of the Chairperson.

SECOND SCHEDULE**FEE****Betting Premises License**

<i>Item</i>	<i>Unit of Measure</i>	<i>Category</i>	<i>Charges</i>
Application/ renewal fee	Per premise	betting	10,000
Grant fee	Per premise	Betting	600,000
Annual fee	Per premise	Betting	300,000
Transfer (location fee)	Per premise	Betting	100,000

Gaming (Casino) premises license

<i>Item</i>	<i>Unit of Measure</i>	<i>Category</i>	<i>Charges</i>
Application/ renewal fee	Per premise	Gaming	10,000
Grant fee	Per premise	Gaming	1,500,000
Annual fee	Per premise	Gaming	500,000
Transfer (location fee)	Per premise	Gaming	200,000

Totalizator Premises license

<i>Item</i>	<i>Unit of Measure</i>	<i>Category</i>	<i>Charges</i>
Application/ renewal fee	Per premise	Totalizator	10,000
Grant fee	Per premise	Totalizator	500,000
Annual fee	Per premise	Totalizator	200,000
Transfer (location fee)	Per premise	Totalizator	100,000

Public lottery annual permit

<i>Item</i>	<i>Unit of Measure</i>	<i>Category</i>	<i>Charges</i>
Application/ renewal fee	Per Lottery	Public Lottery	1,000,000
Grant fee	Per Lottery	Public Lottery	4,000,000
Annual fee	Per Lottery	Public Lottery	500,000
Transfer (location fee)	Per Lottery	Public Lottery	25,000
Investigation fee	Per Lottery	Public Lottery	
Local applicant	Per Lottery	Public Lottery	500,000
Foreign applicant	Per lottery	Public Lottery	1,000,000

Public lottery permit for three months

<i>Item</i>	<i>Unit of Measure</i>	<i>Category</i>	<i>Charges</i>
Application/ renewal fee	Per Lottery	Public Lottery	2,000
Permit fee	Per Lottery	Public Lottery	3% of projected ticket sales or 75,000 whichever is less

Prize Competition permit

<i>Item</i>	<i>Unit of Measure</i>	<i>Category</i>	<i>Charges</i>
Application/ renewal fee	Per competition prize	Prize competition	2,000
Permit fee	Per competition prize	Prize competition	6% of total budget where total budget is sum of advertising, production and design cost and the cost of all prizes

Pool table license

<i>Item</i>	<i>Unit of Measure</i>	<i>Category</i>	<i>Charges</i>
Application/ renewal fee	Per table	Pool table	500
Annual fee	Per table	Pool table	10,000

Amusement machine license

<i>Item</i>	<i>Unit of Measure</i>	<i>Category</i>	<i>Charges</i>
Application/ renewal fee	Per machine	Amusement machine	500
Annual fee	Per machine	Amusement machine	10,000

Fanfair/tombola permit for three months

<i>Item</i>	<i>Unit of Measure</i>	<i>Category</i>	<i>Charges</i>
Application/ renewal fee	Per Funfair	Funfair	1000
Annual fee	Per Funfair	Funfair	20,000

Include fees/charges for Draws-Permit to conduct a draw 5000 per draw, Bingo Permit (3-month permit) 30,000 for 3 months, Entertainment Tax 10% of the gross revenue.