**(Published 14th October, 2022)**

**Act**

**No. 34 of 2022**

I assent

Dr. Lazarus McCarthy Chakwera
President
6th October, 2022

ARRANGEMENT OF SECTIONS

PART I

Preliminary

SECTION

1. Short title and commencement
2. Interpretation

PART II

The Malawi Gaming And Lotteries Authority

3. Establishment of the Malawi Gaming and Lotteries Authority
4. Functions of the Authority
5. Powers of the Authority
6. Composition of the Authority
7. Tenure of office
8. Vacancies
9. Meetings
10. Committees of the Authority
11. Declaration of interest
12. Allowances
13. Secretariat
14. Confidentiality
15. Non-liability of members and employees
16. Seal of the Authority
17. Annual report

SECTION

PART III

LICENSING OF GAMING

18. Gaming licences
19. Types of gaming licences
20. Location and extent of gaming premises
21. General conditions of gaming licence
22. Duration of a gaming licence
23. Books to be kept by licensee
24. Authorization to organize and manage gaming on premises
25. Licensing of the use of gaming machines
26. Internet gaming
27. Sports betting
28. Gaming fees and levy

PART IV

LICENSING OF LOTTERIES

29. Requirement of incorporation of promoters
30. Licensing of promoters and conductors of lotteries
31. National Lottery Licences
32. Application for National Lottery Licence
33. Factors for grant or renewal of National Lottery Licence
34. Requirements and conditions for National Lottery Licence
35. Variation of conditions of National Lottery Licence
36. Enforcement of conditions of National Lottery Licence
37. Suspension and revocation of National Lottery Licence
38. Grounds for suspension or revocation of National Lottery Licence
39. Notices of suspension or revocation of National Lottery Licence
40. Representations by a licensee
41. Promotional competitions
42. Bookmaker's licence
43. Lotteries for charitable causes
44. Powers of the Authority in respect of lotteries for charitable causes
45. Utilization of gross proceeds of lottery for charitable causes
46. Invalid conditions by promoters of lotteries for charitable causes
47. Lotteries incidental to certain entertainment
48. Private lotteries

SECTION

49. Unspecified lotteries
50. Commercial bingo games licence
51. Video lottery terminal games or gaming

PART V

General Licensing Provisions

52. Determination of beneficial owner
53. Establishment of electronic monitoring system
54. Obligation to connect with electronic monitoring system
55. Failure to connect with electronic monitoring system
56. Obligations of licensees
57. Surrender of licence on suspension or revocation
58. Submission of accounts by licensees
59. Licences not transferable
60. Inspectors
61. Restrictions on credit, loans, etc.
62. Risk-based approach
63. Advertisement
64. Change in ownership or management of licensee or permit holder

PART VI

Financial Provisions

65. Funds of the Authority
66. Accounts and audit
67. Financial year of the Authority

PART VII

The Gaming And Lotteries Fund

68. Gaming and Lotteries Fund
69. Vesting and administration of Fund
70. Objects of the Fund
71. Bank accounts
72. Investment of money not immediately required by Fund
73. Allocation of funds

PART VIII

Offences And Penalties

74. Obtaining of money by cheating at a game
75. Penalties for late payment of levy, etc.
76. Offences related to licensed gaming premises

SECTION

77. Gaming, betting and lottery with children
78. Offences related to gaming machines
79. Gaming in streets
80. Offences by body corporate
81. Unauthorized lotteries
82. General offences relating to lotteries
83. Offences relating to National Lottery
84. Making false statement or declaration on licence application, renewal, etc.
85. Failure to pay winners
86. General penalty
87. Forfeiture
88. Revocation of licence upon conviction
89. Administrative penalties

PART IX

MISCELLANEOUS PROVISIONS

90. Review of decisions of the Authority
91. Regulations
92. Repeal and savings
93. Agreements, licences, permits, etc.
94. Transfer of assets, funds, liabilities, etc.
95. Transfer of employees

SCHEDULES

**An Act to provide for the regulation of gaming and lotteries; for the establishment of the Malawi Gaming and Lotteries Authority and its functions and powers; for the establishment, management and control of the Gaming and Lotteries Fund; repeal of the Gaming Act and the Lotteries Act; and to provide for matters connected therewith**

ENACTED by the Parliament of Malawi as follows—

Short title and commencement

**1.** This Act may be cited as the Gaming and Lotteries Act, 2022, and shall come into force on a date to be appointed by the Minister, by notice published in the *Gazette*.

Interpretation

**2.** In this Act, unless the context otherwise requires—

"Authority" means the Malawi Gaming and Lotteries Authority established under section 3;

"bet" means to stake any money or thing of value or to stake on behalf of any person, or expressly or impliedly, to undertake, promise or agree to stake on behalf of any person, any money or thing of value on any event or contingency other than the contingency involved in gaming and "betting" shall be construed accordingly;

"bingo" means a game of chance in which the player uses a bingo score sheet or a score card, or an electronic representation thereof bearing numbers, and is played by marking or covering numbers from one to ninety, both numbers inclusive, as are identical to numbers drawn by chance, whether manually or electronically, and won by the player who first marks or covers the "line" which is achieved when, during one game, for the first time all five numbers on one horizontal row on one scorecard are drawn; or the "house" or "bingo" which is achieved when, during one game, for the first time all the fifteen numbers on one scorecard are drawn;

"bingo hall" means premises in respect of which a bingo hall licence has been granted to hold commercial bingo games therein;

"casino" means premises where casino games are played or available to be played for money or any other valuable consideration gambled on the possibility of winning a prize;

"casino game" means any game, played with playing cards, dice, machines or devices used to bring about the result of a wager by determining win or loss for money, property, cheque, electronic credit or anything of value, other than an opportunity to play a further game, including, without derogating from the generality of the foregoing, roulette, blackjack and baccarat, but excluding any lottery;

"Chairperson" means a person designated as Chairperson of the Authority under section 6 (5);

"commercial bingo hall licence" means a licence to operate commercial bingo games in a bingo hall, granted by the Authority under section 50 to a company incorporated in Malawi, and includes an annual bingo hall licence, and a seasonal bingo hall licence, and "bingo hall licensee" shall be construed accordingly;

"committee" means a committee of the Authority established in accordance with section 10;

"competent authority" means an authority established under law and having the competences to discharge functions under any written law;

"date" means, in relation to a lottery, the date on which the winners of that lottery are determined;

"Fund" means the Gaming and Lotteries Fund established under section 68;

"game" includes a game of chance and a game of chance and skill, and although it includes a sport bet and any other game of chance and game of chance and skill, the operation or playing of which depends on a sport event or a set of sport events or the result or outcome thereof of any other game, but excludes a sport event;

"game of chance" means any game played with, or by means of, cards or dice or any mechanical, electro-mechanical or electronic device, component or machine, any computer hardware or software or any gaming device, which upon payment of money, a token, electronic credit, debit or electronic chip or similar object, or upon payment, whether directly or indirectly, by a player of any consideration whatsoever, is available to be played or operated, and the playing or operation of which, whether by reason of the skill of the player or operator or the element of chance or both, may entitle or deliver to the person playing the game money, merchandise, property, cheques, electronic credit, debits, tokens, tickets or anything of value, other than a single opportunity to play a further game, whether the payoff is made automatically or in any other manner whatsoever;

"gaming" means the playing of a game of chance for winnings in money or money's worth;

"gaming device" means any electrical, electronic or mechanical device which is used or intended for use in connection with the operation, promotion or sale of a game and, or in gaming, and includes a totalizator, a video lottery terminal and a video lottery terminal central computer;

"gaming licence" means a licence issued by the Authority which authorizes the person named therein to engage in gaming, or to deal, operate or conduct any gaming device or gaming machine;

"gaming machine" means any mechanical, electrical, video, electronic, electro-mechanical or other device, contrivance or machine which, upon insertion of a coin, bank note, electronic

credit, credit card, debit card, smart card, token or similar object, or upon payment of any consideration whatsoever, is available to be played or operated and the playing or operation of which, whether by reason of the skill of the player or operator or application of the element of chance, or both, may deliver or entitle the person playing or operating the machine, or any other person, to receive cash, property, cheques, merchandise, credit, electronic credits, debits, tokens, tickets or anything of value but does not include an amusement machine in so far as it is otherwise regulated in terms of this Act;

"gaming premises" means premises which are kept or used, whether on one occasion or more, for gaming, and to which the public has access for the playing therein of a game of chance, whether the game of chance is an unlawful game or not;

"licensed gaming premises," means premises licensed in accordance with section 24 as premises which the public may use for the purpose of gaming;

"lottery" includes any game, scheme, arrangement, system, plan or device of distributing prizes by lot or chance, and any game, scheme, arrangement, system, plan, competition or device, other than any activity in which there is no subscription, which the Minister may, by notice published in the *Gazette*, declare to be a lottery;

"member" means a member of the Authority appointed in accordance with section 6;

"money" includes a cheque, bank note, postal order or money order, and any other legal tender instruments;

"National Lottery" means generally all such games as are prescribed to form part of a National Lottery by virtue of the licence issued under this Act, and the terms and conditions of which are further prescribed by regulations or set out in a National Lottery licence;

"National Lottery Licence" means a licence to operate a National Lottery granted under section 31, to a company incorporated in Malawi, and "National Lottery licensee" shall be construed accordingly;

"participant" in relation to a lottery, means a person who is in possession of a valid ticket in that lottery;

"place" means any place, whether or not it is a public place, and includes any premises, building, dwelling, flat, room, office, shop, structure, vehicle, vessel or aircraft;

"political office" means the office of the President or the Vice President, the office of Cabinet Minister, member of Parliament, a councillor, an independent politician, or an active member or member of a committee of a political party at district, regional or national level, as the case may be;

"prize" means money or money's worth awarded to a winner in relation to gaming or a lottery;

"promoter" means a person promoting any lottery other than a National Lottery;

"promotional competition" means a game which is organized to promote or encourage the sale of goods or services, and which does not constitute an economic activity in its own right, and where any payments required to be made by the participant serve only to acquire the promoted goods or services and not to participate in the game, although it may be a condition that a person purchases the promoted goods or services in order to participate in the game;

"promotional competition licence" means a licence to conduct a promotional competition granted by the Authority to a person under section 41, and "promotional competition licensee" shall be construed accordingly;

"qualifying shareholding" means a direct shareholding in a company which represents five per centum or more of the share capital issued by such company or of the voting rights attaching to such share capital or which makes it possible to exercise a significant influence over the management of the company, and "qualifying shareholder" shall be construed accordingly;

"risk-based approach" means the Authority's, the licensee's or permit holder's identification, assessment and understanding of the money laundering and terrorist financing risks to which they are exposed and measures taken to mitigate the risks in accordance with the level of the risk;

"software" means a set of instructions fixed or stored in any manner and which, when used directly or indirectly in a computer, directs its operation to bring about a result;

"stake" means the economic value which the player of a game, or any third party on his behalf, has to commit in order for the player to participate in such game and which he can lose, wholly or in part, following the result of the game;

"ticket" means, in relation to a lottery, any symbol, sign, token, coupon, warrant, card, printed paper, document or list or any

other means or device which confers or purports to confer the right to take part in a lottery and which is issued by, or on behalf of, the lottery in question;

"video lottery terminal" means a gaming machine for the playing of a game or a number of games where the winning chances mainly depend on chance and where the winning combination is determined through a random number or symbol generator installed in the machine itself, which delivers winnings only in the form of video lottery terminal payout vouchers, which is connected to a video lottery terminal central computer and which contains at least the following components, namely a protective cabinet divided into separate parts, such as the video lottery terminal central processing unit, printer unit, and the cashbox, with unique locking devices to the said different parts, a video display unit, a central processing unit which processes the game or different games which can be played by means of the video lottery terminal, a slot for coins , or bank notes or other means of receiving payment of the relevant stake, a cashbox, a printer, or other means of producing legible data on documentary format, and an electronic link to the video lottery terminal central computer; and

"winning" includes any kind of prize, and a reference to the payment of winnings shall be construed accordingly.

## PART II

### The Malawi Gaming And Lotteries Authority

Establishment of the Malawi Gaming and Lotteries Authority

**3.**—(1) There is hereby established a body to be known as the Malawi Gaming and Lotteries Authority (in this Act otherwise referred to as the "Authority" ) which shall be the principal agency for the regulation of betting, gaming and lotteries in Malawi.

(2) The Authority shall be—

(*a*) a body corporate with perpetual succession; and

(*b*) capable of doing or performing all other things or acts as body corporates do, for the proper administration of this Act.

Functions of the Authority

**4.**—(1) The Authority shall be responsible for the regulation of betting, gaming and of lotteries in Malawi and shall carry out any other functions assigned to it by, or in pursuance of the provisions of this Act or any other written law.

(2) Without prejudice to the generality of subsection (1), the Authority shall—

(*a*) issue licences and permits, on a risk-based approach, to operate activities related to gaming, betting and lotteries;

(*b*) supervise and oversee the operation of licensees or permit holders on a risk-based approach to ensure that licensees comply with the terms and conditions of their licences, the provisions of this Act and any regulations made under it, and any applicable rules, directives and guidelines issued by the Authority under this Act;

(*c*) designate categories of licences, certificates or permits that may be issued by the Authority;

(*d*) vet licensees and the main suppliers of the licensees;

(*e*) prevent and investigate any criminal activity related to this Act, and where necessary, report such activities to relevant competent authorities;

(*f*) ensure that all games are operated and advertised in accordance with the law;

(*g*) licence the importation, manufacture, supply and maintenance of relevant gaming devices, and ensure that the devices are secure and satisfactory for their intended use;

(*h*) supervise, attend, oversee or validate the draws of all lotteries and games;

(*i*) oversee prompt payment of winnings; and

(*j*) perform any other function in relation to the regulation of betting, gaming and lottery as it may deem appropriate for achieving the purposes of this Act.

Powers of the Authority

**5.** The Authority shall have the power to—

(*a*) make rules, guidelines and issue directives under this Act;

(*b*) collect any fees prescribed under this Act;

(*c*) receive and investigate any complaint by any person relating to the operation or conduct of betting, gaming or lotteries in Malawi;

(*d*) impose administrative penalties and fines on licensees;

(*e*) recruit employees for the Authority;

(*f*) receive money, grants and other donations;

(*g*) borrow money necessary for the attainment of the objects of this Act;

(*h*) make recommendations, from time to time, to the Minister for the better control of lotteries with particular regard to the protection of the public from fraud; and

(*i*) do all things and activities that are necessary or expedient for, or conducive to, the proper administration and achievement of the objects of this Act.

Composition of the Authority

**6.**—(1) The Authority shall consist of—

(*a*) six members appointed by the Minister as follows—

(i) one person with proven work experience in betting, gaming or lotteries, for not less than five years;

(ii) one qualified and practising accountant who has been in practice for not less than five years;

(iii) one qualified and practising legal practitioner who has been in practice for not less than five years;

(iv) one person with qualifications in the tourism or hospitality industry, with proven work experience of not less than five years;

(v) one qualified mental health practitioner with not less than five years' experience; and

(vi) one person with qualifications in information and communication technology, with proven work experience of not less than five years; and

(*b*) the following *ex-officio* members or their designated representatives—

(i) the Secretary responsible for tourism;

(ii) the Secretary to Treasury; and

(iii) the Inspector General of Police.

(3) When making an appointment in accordance with this section, the Minister shall require the person to be appointed to declare—

(*a*) whether the person has an interest in any gaming or lottery undertaking operating in Malawi; and

(*b*) the nature of the interest in the gaming or lottery undertaking.

(4) A person shall not be appointed as a member of the Authority, other than an *ex-officio* member, unless that person—

(*a*) is a Malawian of not less than twenty-five years of age;

(*b*) is a holder of a minimum qualification of a Bachelor's Degree;

(*c*) has not been declared bankrupt for the past seven years immediately preceding his appointment;

(*d*) has not been convicted of a criminal offence and sentenced to a term of imprisonment without an option of a fine for the past seven years immediately preceding his appointment;

(*e*) is not in gainful employment, or holds a stake, in a betting, gaming or lotteries operation; and

(*f*) is not a holder of a political office.

(5) The Minister shall designate one of the members, other than an *ex-officio* member, as Chairperson of the Authority.

Tenure of office

**7.** A member of the Authority, other than an *ex-officio* member, shall hold office for a period of three years, and shall be eligible for re-appointment for one term of three years.

Vacancies

**8.**—(1) The office of a member, other than an *ex-officio* member, shall become vacant if the member—

(*a*) dies;

(*b*) is adjudged bankrupt;

(*c*) has been convicted of an offence and sentenced to a term of imprisonment without the option of a fine;

(*d*) is certified to be mentally or physically incapacitated;

(*e*) is guilty of conduct which renders him unsuitable to continue to hold office as a member of the Authority and is duly notified in writing by the Minister; or

(*f*) has been absent from three consecutive meetings of the Authority, of which he has had notice, without a reasonable excuse.

(2) A member of the Authority, other than an *ex-officio* member, may at any time resign from his office by giving a written notice to the Minister.

(3) The Minister shall, where the office of a member becomes vacant, appoint another member to fill the vacancy for the remainder of the term, but no person shall be appointed to fill a vacancy of the remainder of a term of office, where the remainder of the term is less than six months.

(4) The period served by a person appointed under subsection (3) shall not be regarded as a term for the purposes of section (7), but where a member serves for a period of more than two years, such period shall be considered as a term.

Meetings

**9.**—(1) Meetings of the Authority shall be held at least once in every three months in ordinary sessions, however, the Chairperson, on request from at least five members, shall determine any other times when the Authority may meet.

(2) The Chairperson shall preside over any meeting of the Authority, and in the absence of the Chairperson, the members present and forming a quorum shall elect from among their number, a person to preside over that meeting.

(3) The quorum for any meeting of the Authority shall be a majority of all its members.

(4) The decision of a majority of members present at a meeting of the Authority shall constitute a decision of the Authority.

(5) The Chairperson or, in the absence of the Chairperson, any member presiding over a meeting of the Authority shall, in the case of an equality of votes, have a casting vote in addition to his deliberative vote.

(6) The Authority may invite any person, whose knowledge or advice it requires, to attend any meeting of the Authority or of any of its committees, but the person so invited shall not be entitled to vote at the meeting, or be counted as a member for the purpose of forming a quorum.

(7) Minutes of each meeting of the Authority and a committee of the Authority shall be kept by the Director General of the Authority and shall be confirmed at the succeeding meeting.

(8) Subject to this Act, the Authority may make rules to regulate its proceedings and business or the proceedings and business of any of its committees.

Committees of the Authority

**10.**—(1) The Authority may, for the purpose of performing its functions under this Act, establish committees, and delegate to any committee hereby established any of its functions as it considers necessary.

(2) The Authority shall appoint a chairperson for each committee established under subsection (1) from amongst the members of the Authority.

(3) The Director General shall act as secretary to committees of the Authority or may, with the approval of the Chairperson, delegate senior members of staff to act as secretaries to the committees.

(4) Every committee shall act in accordance with any directions given to it, in writing, by the Authority.

(5) The provisions of this Act relating to meetings of the Authority shall apply, with the necessary modifications, to meetings of its committees.

Declaration of interest

**11.**—(1) Where a person is present at any meeting of the Authority or of any of its committees, at which any matter for which that person or a member of his immediate family is directly or indirectly interested in a private capacity is the subject of consideration, he shall, as soon as practicable, soon after the commencement of the meeting, disclose that interest and shall not, unless the Authority otherwise directs, take part in any consideration or discussion of, or vote on, any question touching that matter.

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

(3) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine of K20,000,000 and to imprisonment for five years.

Allowances

**12.** The Minister shall, from time to time, determine the allowances payable to members of the Authority.

Secretariat

**13.**— (1) The Secretariat of the Authority shall consist of the Director General and other employees of the Authority appointed in accordance with this Act.

(2) The Authority shall, on terms and conditions that it may determine, appoint a Director General, who shall be the controlling officer of the Authority and shall—

(*a*) be responsible for the day-to-day administration of the Authority;

(*b*) perform any duties as the Authority shall assign to him; and

(*c*) ensure the effective administration and implementation of this Act.

(3) The office of the Director General shall be a public office.

(4) The Director General or any other employee of the Authority that the Director General may designate, shall attend meetings of the Authority and may address the meetings, but shall not vote on any matter.

(5) The Authority shall employ, on terms and conditions as it may determine, other employees subordinate to the Director General as may, from time to time, be considered necessary for the due and efficient discharge of the functions of the Authority.

(6) The Authority may delegate to the Director General, the appointment of employees of such junior ranks that the Authority may specify and that the Director General shall report to the Authority at its next meeting every appointment made pursuant to this subsection.

Confidentiality

**14.**—(1) Every member, employee, consultant or agent of the Authority or other person in the service of the Authority shall not—

(*a*) in any way disclose any information submitted by a person in connection with an application for a licence, a permit, or an appointment under this Act; or

(*b*) publish any information obtained in contravention of paragraph (*a*), unless that person is—

(i) ordered to do so by a court; or

(ii) authorized, in writing, by the person who made the application.

(2) Every member, employee, consultant or agent of the Authority or other person in the service of the Authority, shall, upon assumption of office, take an oath or affirmation of secrecy as prescribed in the *Third Schedule*.

(3) A person who contravenes subsection (1) commits an offence.

Non-liability of members and employees

**15.** A member or any employee of the Authority shall not be personally liable for any act or default done or omitted to be done, in good faith, in the course of his duties under this Act.

Seal of the Authority

**16.**—(1) The seal of the Authority shall be kept by the Director General at a registered office.

(2) The application of the seal of the Authority shall be authenticated by the signature of the Chairperson or any other person in the Authority duly authorized by the Chairperson to authenticate the application of the seal.

Annual report

**17.**—(1) The Authority shall, within four months after the end of each financial year, furnish to the Minister the full report on the exercise and performance of its functions during that year and the report shall include financial statements duly audited, the report of the auditors and other information as the Minister may by notice, in writing, to the Authority, require.

(2) The Minister shall after receiving the annual report, lay the report before the National Assembly at the next meeting of the National Assembly.

## PART III

### Licensing of Gaming

Gaming licences

**18.**—(1) A person shall not engage in, or conduct, a gaming activity, unless that person first obtains a gaming licence in accordance with this Part.

(2) The Authority may, on an application in a prescribed manner, issue, renew, or vary a gaming licence.

(3) On receipt of an application under subsection (2), the Authority may conduct investigations or require the submission of a declaration or further information that it deems necessary to enable it examine the application.

(4) After concluding the investigations and considering a declaration or any information that may have been required in accordance with subsection (3), the Authority may grant, renew or, with reasons, vary a licence, or refuse to issue a licence or to renew or vary a licence.

(5) The Authority shall not issue a licence under this Act, unless—

(*a*) the Authority has satisfied itself that the applicant is a fit and proper person to hold the licence, and that the premises in respect of which the application is made are suitable for the purpose;

(*b*) the Authority has sent a copy of the application for the licence to the local authority within whose area of jurisdiction the applicant proposes to conduct business and, has given the local authority reasonable opportunity, in any event not later than thirty days, to make representations with respect to the application; and

(*c*) the applicant has paid the prescribed application fee.

Types of gaming licences

**19.**—(1) The Authority shall have the power to issue any of the licences listed in the *First Schedule*.

(2) The Minister may, by order published in the *Gazette*, amend the *First Schedule*.

(3) The Minister may, by regulations, prescribe the activities authorized under each type of gaming licence and any other matter relating to each gaming licence.

Location and extent of gaming premises

**20.**—(1) A licence issued under section 19 shall state the precise location and extent of the premises, if any, to which it relates, and shall be endorsed with every condition imposed by the Authority under this Act.

(2) A licensee who wishes to transfer his business to premises other than those authorized in accordance with his licence may apply to the Authority for authorization to do so.

(3) Upon receipt of an application in accordance with subsection (2), the Authority may vary the licence so as to authorize the conduct of the business of the licensee at other premises specified in the application.

General conditions of gaming licence

**21.**—(1) The Authority may, in respect of a gaming licence and in addition to any other conditions contained in this Act or any other law, impose conditions that the Authority considers appropriate, and may, in particular, include conditions that—

(*a*) relate to—

(i) games that may be played;

(ii) methods of operation of any game;

(iii) the days on which, and hours during which, gaming may be conducted;

(iv) the installation and maintenance of surveillance systems gaming approved by the Authority;

(v) the provision of a guarantee for the liabilities of the licensee, as determined by the Authority;

(vi) the maximum number of gaming devices and the maximum number of each type of gaming device which the licensee may keep on the licensed premises; and

(vii) the importation, movement and ownership of gaming machines, equipment and devices;

(*b*) ensure that the gaming authorized under this Act is decent, noble, not offensive and is honest; and

(*c*) require—

(i) keeping of books, accounts, records and other information relating to any gaming operation;

(ii) certain minimum standards in relation to the premises on which gaming is to be conducted; and

(iii) submission of reports and returns to the Authority, relating to gaming operation as the Authority may, from time to time, require.

(2) The Authority may, at any time, suspend, withdraw or amend any condition imposed under subsection (1), by notice, delivered or tendered to the holder of a particular licence.

(3) Where the Authority intends to suspend, withdraw or amend any condition under subsection (2), the Authority shall serve a written notice on the licensee, stating—

(*a*) that the Authority intends to suspend, withdraw or amend any condition imposed under subsection (1), as the case may be;

(*b*) that the licensee may, within thirty days after the date of the written notice,—

(i) make written representations about the matter to the Authority; or

(ii) notify the Authority, in writing, of his intention to make oral representations; and

(*c*) the reasons for the action.

(4) Where, within the period specified under subsection (3)(*b*), the Authority does not receive either the written representations or written notification from the licensee stating his intention to make oral representations, the Authority shall suspend, withdraw or amend the condition, as the case may be, and that the suspension, withdrawal or amendment shall take effect immediately after the expiry of the period of thirty days.

(5) The Authority shall not, retrospectively, put into effect a condition of a licence—

(*a*) imposed under subsection (1); or

(*b*) suspended, withdrawn or amended under subsection (2).

(6) The Authority may, if any circumstances come to its notice which increase the risk of a licensee failing to provide a guarantee for any liability in accordance with subsection (1)(*a*) (*v*), require the licensee to furnish guarantees other than, or in addition to, those guarantees contemplated in that subsection.

Duration of a gaming licence

**22.** —(1) Every gaming licence shall, unless otherwise provided therein, expire at the end of the financial year, next following the date of issue and may be renewed for further periods as may be prescribed under this Act.

(2) The validity period of a licence shall be recorded on the face of the licence.

(3) A person intending to renew a gaming licence under this Act shall apply to the Authority, for renewal, at least three months prior to the end of the financial year.

Books to be kept by licensee

**23.**—(1) A licensee shall enter, regularly, in a book kept for that purpose, all particulars which the Authority may prescribe.

(2) A licensee who—

(*a*) contravenes the provisions of subsection (1);

(*b*) keeps any book, record or account required to be kept under this section which is false in a material particular; or

(*c*) makes in any such book an entry which is false in a material particular,

commits an offence and shall, on conviction, be liable to a fine of K20,000,000 and to imprisonment for five years.

Authorization to organize and manage gaming on premises

**24.**—(1) The Authority may issue a licence authorizing a person to organize and manage gaming, on premises to which the public may resort for the purpose of gaming.

(2) A licence shall be issued in respect of each premises to be used for gaming and any licence to be issued under this section shall state the game or games which the licensee may, on the premises named therein, organize and manage.

(3) The Authority shall, in respect of a licence issued under this section, impose conditions providing for—

(*a*) the manner in which a person may conduct his business and the suitability, conditions and conduct of the premises and the hours during which the premises may be open for business;

(*b*) the protection of persons taking part in the gaming against fraud;

(*c*) allowable stakes risked in order to play the game;

(*d*) number of gaming machines on the premises; and

(*e*) any other conditions that the Authority may impose.

(4) Where an admission fee is charged by a licensee under subsection (3)(*e*), that fee shall be subjected to a levy payable to the Authority.

(5) A person who organizes and manages gaming, on unlicensed premises commits an offence.

Licensing of the use of gaming machines

**25.**—(1) The Authority may issue a licence for use of a gaming machine on premises approved by it.

(2) A licence issued under this section shall be on condition that—

(*a*) not less than ninety per centum of stakes risked are applied in the payment of winnings to a player of the game;

(*b*) the premises on which the gaming machine is used are not wholly or mainly used by persons under the age of eighteen years;

(*c*) the machines comply with the approved standards on gaming machines; and

(*d*) the Authority may impose any other conditions it deems fit.

(3) A person who contravenes any conditions provided for in subsection (2), or imposed by the Authority, commits an offence and shall, on conviction, be liable to a fine of K4,000,000 and to imprisonment for twelve months.

Internet gaming

**26.**—(1) The Authority may grant a licence to a company incorporated in Malawi to conduct internet gaming in accordance with this Act.

(2) For purposes of this Act, a person shall be regarded as conducting or providing facilities for internet gaming in, or from, within Malawi, if at least one piece of internet gaming equipment used in the provision of the facilities is situated in Malawi.

(3) In this section, "internet gaming equipment" means, subject to subsections (4) and (5), electronic or other equipment used by, or on behalf of, a person providing facilities for internet gaming, to—

(*a*) register a person's participation and to store information relating thereto;

(*b*) present, to persons who are participating or may participate in the gaming, a virtual game, virtual race or other virtual event or process by reference to which the gaming is conducted;

(*c*) determine all or part of, or the effect of, a result relevant to the gaming and to store information relating thereto;

(*d*) accept payment in respect of the gaming; or

(*e*) authorize payment of any winnings in respect of the gaming.

(4) For the purposes of this section—

(*a*) a computer which is used by a person to participate in internet gaming shall not be regarded as "internet gaming equipment" unless it is provided by, or on behalf of, the person who is conducting or providing facilities for the internet gaming; and

(*b*) "internet gaming equipment" shall not include equipment operated in the ordinary course of providing banking, telecommunications, and payment processing services or such other services as may be prescribed.

(5) Without prejudice to the generality of the terms which may be imposed on the grant or renewal of a gaming licence, an internet gaming licence may be granted or renewed subject to a term that all

or such part as may be specified in the licence of the internet gaming equipment which is used in the conduct or the provision of the facilities for the internet gaming, shall be situated in Malawi.

(6) A person shall not conduct internet gaming unless the person acquires a valid internet gaming licence from the Authority.

(7) A person who contravenes the provisions of subsection (6) commits an offence.

Sports betting

**27.**—(1) The Authority may, by licence, authorize the conduct of sports betting.

(2) A licence referred to under subsection (1) shall specify the description and conduct of sports betting which it authorizes.

(3) A person shall not conduct sports betting, unless the person acquires a valid sports betting licence from the Authority.

(4) A person who contravenes the provisions of subsection (3) commits an offence.

(5) For the purposes of this section, "sports betting" means a bet on a sporting event or a set of sporting events and includes a racecourse bet.

Gaming fees and levy

**28.**—(1) The Authority shall prescribe gaming fees and gaming levy to be paid to the Authority under this Act.

(2) The Authority may issue gaming fees that shall—

(*a*) be payable annually, in advance;

(*b*) in the case of an applicant for a licence or registration, be paid upon submission of an application; and

(*c*) not be refundable where the licence or registration is terminated for any reason.

(3) The Minister shall prescribe gaming levy which shall be payable in a prescribed manner.

(4) Any payment of a gaming levy referred to in subsection (3) shall be accompanied by a return in a prescribed form and there shall be no grace period for payment of the gaming levy.

(5) Where the levy referred to in subsection (3) is not paid on the prescribed date, the Authority shall suspend the licence until the levy, and the penalty payable under section 75, have been paid.

(6) The Authority shall, from time to time, by notice published in the *Gazette*, prescribe a portion of the levies payable annually to the Fund.

## PART IV

### Licensing Of Lotteries

Requirement of incorporation of promoters

**29.** The Authority shall require the promoters of a lottery to become a body corporate under any written law for the time being in force relating to incorporation, before authorizing the promotion or conducting of a lottery under this Part.

Licensing of promoters and conductors of lotteries

**30.**— (1) A person who wishes to promote or conduct any lottery, under this Act, shall apply for a licence or a permit, as the case may be, in accordance with this Part.

(2) The Authority shall have the power to issue any of the licences listed in the *Second Schedule.*

(3) The Minister may, by order published in the *Gazette*, amend the *Second Schedule*.

(4) The Minister may, by regulations, prescribe the activities authorized under each type of lottery licence and any other matter relating to each lottery licence.

(5) A lottery promoted or conducted otherwise than in accordance with this Act shall be deemed to be an unauthorized lottery.

National Lottery Licences

**31.**—(1) The Authority may issue National Lottery Licences to, suitable legal persons to operate National Lotteries for such periods the Authority may prescribe in the National Lottery Licences.

(2) A National Lottery Licence may be renewed by the Authority for any further term as the Authority may determine.

Application for National Lottery Licence

**32.**—(1) The Authority shall, by notice published in the *Gazette*, and in at least two newspapers of widest circulation in Malawi, invite applications in writing, for a National Lottery Licence.

(2) An application for a National Lottery Licence shall be made to the Authority by, or on behalf of, or in respect of, a person incorporated, or to be incorporated in Malawi, the sole object of which is, or shall be, the operation of a National Lottery pursuant to a National Lottery Licence under this Act, and the doing of all other things that are incidental or conducive to the attainment of the object and the carrying out of other activities that may be specified in the licence.

(3) Where the applicant is not yet incorporated in Malawi, the application shall be accompanied by an undertaking by the applicant to incorporate a legal person in Malawi, as provided in subsection (1), as soon as a decision is communicated by the Authority that the licence shall be granted to the legal person when formed.

(4) On the submission of an application for the grant of a National Lottery Licence, the Authority may require the applicant to provide other information, in addition to that provided together with the application, as it deems necessary, for the purpose of determining the application.

Factors for the grant or renewal of National Lottery Licence

**33.**—(1) The Authority shall, before granting a National Lottery Licence, be satisfied that—

(*a*) the applicant has sufficient and appropriate knowledge and experience to conduct a National Lottery, or has unconstrained and continuous access thereto, and shall ably conduct a National Lottery in accordance with this Act;

(*b*) the applicant has the necessary financial and other resources to conduct a National Lottery; and

(*c*) the applicant is not funded by a political party or political party office bearer and that a political party or political party office bearer has no financial or other interest in the applicant or is not a shareholder of the applicant.

(2) In considering whether to grant a National Lottery Licence, the Authority shall take into account—

(*a*) whether the applicant is a fit and proper person to do so;

(*b*) whether a person for whose benefit that business is likely to be conducted is a fit and proper person to benefit from it; and

(*c*) whether a person who is likely to manage the business or any part of the business of the National Lottery under the licence, shall—

(i) do so with all due propriety and strictly in accordance with any written law, together with any agreement pertaining to the licence;

(ii) ensure that the interests of every participant in a National Lottery are adequately protected; and

(iii) subject to subparagraphs (i) and (ii), ensure that the net proceeds of a National Lottery are as large as possible.

(3) Where the Authority makes a preliminary decision to issue a National Lottery Licence to a particular person, the Authority shall, before the issue of the licence, cause a notice to be published in the *Gazette* and in at least two newspapers of widest circulation in Malawi, calling upon any interested party to make representations, if any, objecting to the issuance of the licence to the person.

(4) An objection under subsection (3) shall be in writing and shall contain good and justifiable reasons, and shall be received by the

Authority within twenty-one days from the date of the publication of the notice in the *Gazette*.

(5) The Authority shall consider any objection submitted to it as aforesaid before making any final decision as to the issuance of the licence.

(6) The grant of a National Lottery Licence shall not exonerate the licensee from obtaining any other licence, permit or authorization which may be required under any other written law.

(7) A National Lottery Licence shall include the conditions contemplated in section 34.

(8) The renewal of a National Lottery Licence by the Authority shall be subject to—

(*a*) the compliance by the licensee, during any term of the licence—

(i) with the provisions of this Act;

(ii) any directive issued by the Authority under this Act; or

(iii) the terms and conditions of the licence; and

(*b*) the acceptance by the Authority of the written application for the renewal made by the licensee to the Authority—

(i) by a date before expiry of the original term of the licence as specified in the licence; and

(ii) containing any information as specified in the licence to be necessary to enable the Authority to determine whether to renew the said licence.

(9) Where a situation arises that had it existed at the time of the application for the grant of a National Lottery Licence, it would have disqualified the licensee from obtaining a licence under this section, the Authority shall, by notice, inform the licensee accordingly, and if the situation is not remedied within thirty days from the date of the notice given by the Authority, to the satisfaction of the Authority, the Authority shall revoke the licence without complying with the provisions of sections 39 and 40(1).

(10) The Minister shall publish, in the *Gazette*, in at least two newspapers of widest circulation in Malawi and the website of the Authority, an award or renewal of a licence issued under this section.

Requirements and conditions for National Lottery Licence

**34.**—(1) A National Lottery Licence shall specify the conditions attached to it.

(2) The conditions contemplated in subsection (1) shall, in particular, require the licensee to—

(*a*) obtain the consent of the Authority before doing anything specified in the licence;

(*b*) refer specific matters to the Authority, as the case may be, for approval;

(*c*) comply with the requirements specified in licence and penalties imposed by the Authority;

(*d*) provide the Authority, on request, with information that the Authority may require;

(*e*) make any arrangements that may be specified in the licence for the payment into the Fund or to the Authority, of any sums out of the net proceeds of the National Lottery and at a specified time;

(*f*) do things under the licence, including the transfer of property or any rights, excluding intellectual property rights or proprietary software as the Authority may require, upon the expiration of the licence;

(*g*) obtain the approval of the Authority for any lottery and the rules thereof before the lottery is conducted under a National Lottery Licence;

(*h*) allow the Authority or a person designated by it to enter any premises or facility belonging to or under control of the licensee or a member of the management of the licensee or, premises to which the licensee has a right of access at any reasonable time, if the entry is necessary for the protection of the integrity of a National Lottery and to—

(i) examine or inspect an item, machine, document, thing or data captured in any form, excluding proprietary software, found on or in the premises or facility, and make copies of or make extracts from that thing, machine, document or data;

(ii) seize, for the purpose of further examination or security, any information, machine, document or data, excluding proprietary software, on or in the premises or facility which has a bearing on the conduct of a National Lottery;

(iii) seal or otherwise secure any premises, facility, thing or machine on or in which any document or data which has a bearing on the conduct of a National Lottery is stored or captured;

(iv) take any steps that are reasonably necessary to protect the integrity and conduct of a National Lottery; and

(v) secure a valid and enforceable undertaking, in writing, from the person controlling the licensee, in any way whatsoever, not to—

(*aa*) change the control of the licensee for the duration of the licence without the consent of the Authority; and

(*bb*) cede or in any other way encumber the licence to another person.

(3) An applicant or the licensee, as the case may be, shall pay to the Authority a prescribed fee, on—

(*a*) requesting a copy of any document under this Part;

(*b*) applying for the licence under section 32 (2); or

(*c*) granting or renewal of the National Lottery Licence.

Variation of conditions of National Lottery Licence

**35.**—(1) The Authority may vary any condition in a National Lottery Licence—

(*a*) to the extent provided for in section 34; or

(*b*) other than a condition contemplated in paragraph (*a*) only if the licensee consents to that variation and if—

(i) that variation is provided for under this Act or to the extent provided for in the licence; and

(ii) the licensee has been given a reasonable opportunity to make representations to the Authority, as the case may be, in respect of the intended variation.

(2) Where the Authority, after consideration of the representations that the licensee makes to it, decides to vary a condition in accordance with the licence, the Authority shall cause a notice to be served on the licensee in which the licensee shall be informed of the variation and the date on which that variation shall take effect, which date shall not be less than thirty days after the date of service of the notice, unless the licensee agrees to a shorter period, in writing.

(3) Subject to the provisions of this section, the Authority shall have power to impose additional conditions to the licence.

Enforcement of conditions of National Lottery Licence

**36.**—(1) Where a licensee has contravened a condition in the licence granted under this Part, and the Authority is of the opinion that contravention can easily be remedied by the licensee, the Authority shall direct the licensee to take any steps the Authority considers necessary to remedy the contravention.

(2) Where a licensee has contravened a condition of a licence, the Authority may suspend the licence until the contravention has been remedied.

(3) Where there is a continuation of the contravention of a condition of a licence, the Authority shall revoke the licence.

(4) The liability of the licensee to pay prize money in accordance with this Act shall not be affected by the revocation of the licence and such prize money may not be set off by the licensee against any amount due and payable to the winner.

Suspension and revocation of National Lottery Licence

**37.** —(1) The Authority may order a suspension, or a revocation, of a National Lottery Licence, as the case may be, in accordance with this Act.

(2) Where the Authority has suspended or revoked a National Lottery Licence under this Part, it shall specify, in the notice of suspension or revocation, as the case may be, the date from which the suspension or revocation takes effect.

(3) The licence shall immediately be revoked where it is suspended for a second time.

Grounds for suspension or revocation of National Lottery Licence

**38.** The Authority may suspend or revoke a National Lottery Licence, if—

(*a*) the licensee is no longer a fit and proper person to conduct a National Lottery;

(*b*) a material condition contained in the licence has been contravened;

(*c*) any information given by the licensee, any person who in any way controls the licensee or an agent or representative of the licensee to the Authority—

(i) in or in connection with the application for the licence;

(ii) in accordance with a condition in the licence; or

(iii) in making representations under section 40 (1), in respect of financial matters regarding the National Lottery or in respect of any aspect of the management of the National Lottery, is materially false;

(*d*) a person who is managing the business or any part of the business of the licensee or who is a supplier of goods or services to the licensee is not a fit and proper person to do so, unless the licensee immediately takes steps to effectively disassociate himself or itself from that person;

(*e*) a person for whose benefit the licence has been acquired or who is a holding company of the licensee or who in any other way controls the licensee, is not a fit and proper person to benefit from the licence;

(*f*) the licensee has failed to take adequate steps to prevent the commission of fraud by employees, agents, representatives, suppliers of the licensee or participants in a National Lottery after having been alerted to, or becoming aware of, conditions conducive to the commission of fraud or to instances of fraud or dishonesty;

(*g*) the licensee or any employees, agents, representatives or suppliers of the licensee contravenes section 34(2)(*h*);

(*h*) an application has been made to the High Court for the sequestration or liquidation, as the case may be, of a person who in any way controls the licensee;

(*i*) the licensee or his representative contravenes this Act; or

(*j*) the licensee or his representative gives information in the application for a licence or on financial matters regarding the lottery which is materially false.

Notice of suspension or revocation of National Lottery Licence

**39.**—(1) Where the Authority is satisfied that grounds exist for the suspension or revocation of a National Lottery Licence, it shall notify the licensee, in writing, of the existence of the grounds, sent to the registered physical address of the licensee, and call upon the licensee to furnish reasons within fourteen days of service of that notice, as to why the licence should not be suspended or revoked, failing which the licence shall be suspended or revoked upon the expiration of the period of fourteen days.

(2) Where the Authority decides to suspend or revoke a National Lottery licence pursuant to subsection (1), the Authority shall by written notice, served at the registered head office of the licensee, notify the licensee of—

(*a*) the suspension or revocation of the licence;

(*b*) the grounds for the suspension or revocation;

(*c*) the date on which the suspension or revocation takes effect; and

(*d*) in the event of a suspension, the conditions upon which the suspension will be lifted.

Representations by a licensee

**40.**—(1) Where the licensee furnishes reasons in accordance with section 39, the Authority, shall, after considering the reasons—

(*a*) decide whether or not to suspend or revoke the licence; or

(*b*) call upon the licensee to appear before the Authority on a specified date to make oral representations, in support of any written representations made by the licensee or to answer any questions which the Authority may have with regard to the written representations.

(2) Where the Authority has heard the representations made under subsection (1) (*b*), it shall consider the matter and decide whether or not to suspend or revoke the licence.

(3) Where the Authority revokes a National Lottery Licence in accordance with this section, the Authority shall inform the Minister, in writing, of that fact and of the grounds for the revocation and shall publish, in the *Gazette* and in at least two newspapers of widest circulation in Malawi, a suspension or revocation of a licence issued under this Part.

Promotional competitions

**41.**—(1) The Authority may, issue a licence to a person to conduct a promotional competition under this Act.

(2) A person shall not conduct a promotional competition, unless the person is in possession of a valid promotional competition licence.

(3) A person who contravenes subsection (2) commits an offence and shall, on conviction, be liable to a fine of K10,000,000 and to imprisonment for two years.

Bookmaker's licence

**42.**—(1) A person shall not act as a bookmaker, unless that person is the holder of a valid bookmaker's licence issued by the Authority, in accordance with this Act.

(2) A person who acts or purports to act as a bookmaker without a bookmaker's licence commits an offence and shall, on conviction, be liable to a fine of K10,000,000 and to imprisonment for two years.

(3) For the purposes of this section, "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 or negotiating bets, or who in any manner holds himself out, or who receives or negotiates bets.

Lotteries for charitable causes

**43.**—(1) The Authority may authorize the promotion and conduct of a lottery which is intended to raise funds for social service, public welfare, relief of distress, or provision of recreational or sporting facilities.

(2) The Authority may authorize the promotion and conduct of a lottery of which at least one-half of the gross proceeds is to be devoted to a charitable object for which the lottery is promoted.

(3) The Authority may authorize the promotion and conduct of a lottery in respect of which an application, which shall state in detail the charitable purposes for which the lottery is to be promoted, is made by the intended promoters to the Authority.

(4) A person who contravenes subsections (1), (2), or (3) commits an offence and, shall, on conviction, be liable to a fine of K4,000,000 and to imprisonment for twelve months.

(5) In any criminal proceedings under this section, it shall be a defence for a person charged only by reason of his being a promoter of the lottery to prove that the offence was committed without his knowledge.

Powers of the Authority in respect of lotteries for charitable causes

**44.**—(1) The Authority may investigate or require the submission of information that it deems necessary, in order to enable it grant the authorization referred to under section 43 (1).

(2) The Authority may impose, in respect of any authorization granted under section 43 (1), any conditions—

(*a*) that it deems necessary in order to ensure that the lottery concerned is promoted and conducted as efficiently as possible in the interest of the purposes for which it is being promoted;

(*b*) providing for the amount, not exceeding twelve and a half per centum of the gross proceeds of the lottery, which the promoters thereof may deduct from the proceeds in respect of operating expenses;

(*c*) providing for the protection of purchasers of tickets or chances in the lottery against fraud;

(*d*) providing for the submission of accounts to the Authority by the promoters of the lottery;

(*e*) restricting the amount of the proceeds of the lottery which may be used for the purposes of the lottery outside Malawi, which amount shall not exceed one-fifth of the total amount devoted to the object for which the lottery is promoted; and

(*f*) relating to the provision by the promoters of the lottery of guarantors to cover the expected proceeds, or any part thereof, of the lottery.

(3) The Authority may take any steps, as it deems necessary, in order to ensure that the conditions imposed under subsection (2) have been, or are being, complied with.

(4) The Authority may require any licensee to render accounts to the Authority in a prescribed form and period.

(5) The Authority may guide and co-ordinate the proper and equitable distribution of the charitable funds from the lottery.

(6) In the case of a series of lotteries proposed to be promoted by the same persons, the Authority may, in its discretion, allow the

deduction of an amount in excess of the percentage referred to under subsection (2) (*b*) in respect of all or any of the lotteries drawn within the period of twelve months from the date of the draw of the first lottery in the series.

Utilization of gross proceeds of lottery for charitable causes

**45.**—(1) Where the promoters of a lottery for charitable causes wish to—

(*a*) build up a reserve fund for prize stabilization;

(*b*) create a reserve to meet extraordinary expenditure not attributable to any particular draw;

(*c*) acquire premises for the purposes of providing office or staffaccommodation; or

(*d*) incur capital expenditure, they shall apply to the Authority for permission to do so, setting out in the application, details of their proposal.

(2) Where an application is made to the Authority under subsection (1), the Authority may, if it is satisfied that the application is made in respect of a recurrent lottery and that the lottery concerned would, if the application were approved, be promoted and conducted more efficiently in the interest of the purpose for which it is being promoted and of the public in general, approve the application.

(3) Where the Authority approves an application under subsection (2), it may authorize the promoters of the lottery to utilize a portion of the gross proceeds of one or more lotteries for any of the purposes set out in subsection (1) as are referred to in the said application, however the Authority shall not authorize the promoters to utilize an amount in excess of one-twentieth of the gross proceeds of any lottery for any of the purposes as are referred to in the application.

(4) Notwithstanding section 44, any amount which the promoters are authorized to utilize under subsection (3) shall be in addition to any amount deducted from the gross proceeds of any lottery in accordance with the provisions of subsection (1)(*a*).

(5) The Authority may attach conditions to any approval or authority given under this section, which it deems necessary.

(6) Where promoters cease to promote lotteries, any assets acquired in the course of such lotteries shall be sold and the proceeds of the sale shall be used to meet the winding up expenses and where there is a surplus after any expenses or liabilities have been met, it shall be utilized in a manner that the Authority may direct.

Invalid conditions by promoters of lotteries for charitable causes

**46.** For purposes of civil proceedings brought in respect of any ticket or chance in any lottery for charitable causes, a condition imposed by the promoters of the lottery requiring that tickets or chances in the lottery shall not be sold or prizes shall not be awarded to any specified class or classes of persons shall be void.

Lotteries incidental to certain entertainment

**47.** A lottery may be promoted and conducted as an incident of any entertainment, provided that all the conditions specified in under this Act are observed in connection with the promotion and conduct of the lottery.

Private lotteries

**48.**—(1) In this section—

"private lottery" means a lottery within Malawi which is promoted for, and in which the sale of tickets or chances by the promoters is confined to, either—

(*a*) members of a club or association established for social or common interest or recreational purposes;

(*b*) workers in the same organization; or

(*c*) persons who reside in the specified locality,

and which is promoted by persons each of whom is a person to whom, under the foregoing provisions, tickets or chances may be sold to by the promoters and, in the case of a lottery promoted for the members of a club or association, is a person authorized in writing by the governing body of the club or association to promote the lottery.

(2) A private lottery shall be promoted and conducted in accordance with all conditions specified in regulations in connection with the promotion and conduct of the lottery made under this Act.

Unspecified lotteries

**49.**—(1) The Authority may, subject to any conditions that it deems appropriate, authorize the promotion and conduct of any lottery not specified in this Act, on such terms and conditions as the Authority may specify.

(2) A promoter who contravenes any condition imposed under subsection (1) commits an offence, and shall, on conviction, be liable to a fine of K4,000,000 and to imprisonment for twelve months.

(3) In any criminal proceedings under this section, it shall be a defence for a person charged, only by reason of his being a promoter of the lottery, to prove that the offence was committed without his knowledge.

Commercial bingo game licence

**50.**—(1) A company incorporated in Malawi shall not operate commercial bingo games in a bingo hall, unless the Authority, accordance with this Act, grants the company—

(*a*) a commercial bingo games licence; and

(*b*) a bingo hall licence.

(2) A person who operates commercial bingo games or bingo hall in contravention of subsection (1) commits an offence.

(3) Where the bingo hall forms part of a licensed casino complex, the age limit and prohibitions prescribed under section 25(2) shall apply.

(4) A bingo hall licensee who fails to comply with subsection (3) commits an offence.

Video lottery terminal games or gaming

**51.**—(1) A company incorporated in Malawi shall not operate video lottery terminal games or video lottery terminal gaming through a video lottery terminal, unless the Authority grants the company a video lottery terminal licence.

(2) A person shall not—

(*a*) operate a video lottery terminal;

(*b*) exchange or redeem a video lottery terminal payout voucher for video lottery terminal game prize; or

(*c*) operate or keep the means of exchanging or redeeming video lottery terminal payout vouchers for video lottery terminal game prizes, in any premises other than premises authorized to be used for the purpose under the relevant video lottery terminal licence.

(3) A person who contravenes this section commits an offence.

## PART V

## General Licensing Provisions

Determination of beneficial owner

**52.** — (1) The Authority shall not issue a licence or permit under this Act unless the beneficial owner of an applicant company has been determined to the satisfaction of the Authority.

(2) In this Act, "beneficial owner" means a natural person—

(*a*) who directly or indirectly ultimately owns or exercises substantial control over gaming or lottery operations;

(*b*) who has a substantial economic interest in or receives substantial economic benefit from gaming or lottery operation directly or indirectly whether acting alone or together with other persons;

(*c*) on whose behalf a gaming or lottery operation is conducted; or

(*d*) who exercises significant control or influence over a person or a gaming or lottery operation through a formal or informal agreement.

Establishment of electronic monitoring system

**53.** The Authority shall use the appropriate technology to establish, install, and maintain an electronic monitoring system to monitor the activities of licensees or permit holders to ensure, and enforce, compliance with this Act, licences and permits issued by the Authority.

Obligation to connect with electronic monitoring system

**54.**— (1) Where the establishment of the electronic monitoring system requires connexion between the system and a licensee's or permit holder's network, the licensee or the permit holder shall co-operate with the Authority to ensure that the licensee or the permit holder provides appropriate interface sites between the Authority's electronic monitoring system and the licensee's or the permit holder's network to ensure direct submission of data to the monitoring system.

(2) The Authority shall carry out electronic monitoring in accordance with this Act and regulations made under this Act.

Failure to connect with electronic monitoring system

**55.**— (1) A licensee or permit holder that fails to discharge its obligation under this Part commits an offence and shall, upon conviction, be liable to a fine of K40,000,000.

(2) Notwithstanding the fine imposable under subsection (1), the Authority shall reserve the right to impose any administrative penalty under this Act.

Obligations of licensees Cap.7:07

**56.**—(1) A licensee shall comply with the provisions of this Act, the Financial Crimes Act and any other written law in Malawi.

(2) A licensee shall ensure that his licence is prominently displayed at all times at his place of business.

(3) A licensee who fails to comply with this subsection (2) commits an offence and shall, on conviction, be liable to a fine of K2,000,000.

Surrender of licence on suspension or revocation

**57.** —(1) A person whose licence is suspended or revoked under this Act shall, immediately upon receiving a notice of suspension or revocation from the Authority, surrender that licence to the Authority.

(2) Where a licence is suspended or revoked in accordance with this Act, the Authority shall publish a public notice in at least two newspapers of widest circulation in Malawi, notifying the general public of such suspension or revocation.

Submission of accounts by licensees

Cap. 53:06

**58.**—(1) A licensee under this Act shall, at least once in every twelve months, submit to the Authority statement of accounts audited by a qualified auditor in accordance with the Public Accountants and Auditors Act.

(2) The provisions of subsection (1) shall only apply to the holder of a licence issued for a period in excess of twelve months.

(3) A licensee who refuses or fails to submit a statement of accounts when required by the Authority, or who submits a false or misleading statement, commits an offence and shall, on conviction, be liable to a fine of K10,000,000 and to imprisonment for two years.

Licences not transferable

**59.**—(1) No licence issued under this Act shall be transferable.

(2) A person who purports to transfer a licence to another person commits an offence and shall, on conviction, be liable to a fine of K4,000,000 and to imprisonment for twelve months.

Inspectors

**60.**—(1) The Authority may designate any of its employees to be inspectors for the purposes of this Act.

(2) The Authority shall assign functions and powers to inspectors under this Act, and may direct that, in carrying out their functions and powers, the inspectors be accompanied by an expert in a relevant field.

(3) The Authority shall issue an identity card to every inspector, which the inspector shall produce, on demand, to any interested person, when carrying out any function under this Act.

(4) An inspector shall, for the purpose of administering, monitoring, and enforcing the provisions of this Act, have power to enter, inspect and examine with, or without, prior notice, at all reasonable times, any licensed premises and every part thereof.

(5) An inspector may, for the purposes of this Act—

(*a*) enter upon any licensed or unlicensed premises which are occupied or being used for the purposes of any gaming or lottery activities or any other premises on which it is suspected—

(i) that a casino or any other gaming or lottery activity is being conducted without a licence;

(ii) that persons are being allowed to play or participate in any gaming or lottery activities or to play any gaming machine; or

(iii) that any gaming machine or any equipment, device, object, book, record, note, recording or other document used or capable of being used in connection with the conducting of

gaming games or any other gaming or lottery activity may be found,

and may, after informing the person who appears to be in charge of the premises of the purpose of his visit, conduct an investigation or enquiry that he deems necessary;

(*b*) with regard to any premises referred to in paragraph (*a*)—

(i) require the production of any licence or permit to conduct gaming or lottery activities from the person who is in control of the premises;

(ii) question any person who is on such premises, and inspect any activities in connection with the conduct of any gaming or lottery activity;

(iii) examine or inspect any gaming machine, equipment, device, object, book, record, note or other document referred to in paragraph (*a*) found on the premises and make a copy thereof or an extract therefrom;

(iv) inspect and examine all premises referred to in paragraph (*a*) or any premises where gaming devices or equipment are manufactured, sold, distributed, or serviced, or where any records of these activities are prepared or maintained;

(v) inspect all equipment and supplies, in, about, upon or around the premises;

(vi) seize summarily and remove from the premises and impound any equipment or supplies for purposes of examination and inspection;

(vii) examine, inspect and audit all books, records and documents pertaining to licensed gaming or lottery operations;

(viii) seize, impound or assume physical control of any book, record, ledger, game device, cash box and its contents, conducting room or its equipment, or gaming or lottery operations; and

(ix) search the person, and personal effects present in any gaming facility licensed under this Act, of any holder of a licence or registration issued pursuant to this Act while that person is present in the premises;

(*c*) require any person who appears to be in charge of any premises referred to in paragraph (*a*) to—

(i) identify any equipment, device or object referred to in that paragraph which is in his possession or custody or under his control;

(ii) produce for the purpose of examination, or of making copies or extracts, all books, records, notes or other documents referred to in paragraph (*a*) which are in his possession or custody or under his control; or

(iii) provide any information in connection with anything which has been pointed out or produced in accordance with subparagraph (i) or (ii); and

(*d*) seize or remove any gaming machine, equipment, device, object, book, record, note or other document referred to in paragraph (*a*) which in his opinion may furnish proof of a contravention of this Act or mark it for purposes of identification.

(6) The power to act under this section may be exercised without warrant—

(*a*) if the inspector has reasonable cause to believe that the delay occasioned in obtaining a search warrant would seriously hinder him in the performance of his duties; or

(*b*) by, or under the directions of a police officer of, or above, the rank of Inspector, unless the inspector has reasonable cause to believe that the delay to be occasioned by the summoning of a police officer would defeat the purposes of this section.

(7) A person who—

(*a*) resists, hinders or obstructs an inspector or police officer in pursuance of any of the provisions of this section; or

(*b*) on a requisition under subsection (5) (*b*), willfully withholds information, or gives information knowing or having reason to believe it to be false or misleading,

commits an offence and shall, on conviction, be liable to a fine of K20,000,000 and to imprisonment for five years.

(8) The court may, in addition to the sentence provided for under subsection (7), revoke any licence issued to the licensee under this Act.

(9) An inspector or police officer, who removes any article under subsection (5)(*d*), shall furnish the person, in whose possession the article is at the time of removal, with a written receipt therefor.

Restrictions on credit, loans, etc

**61.** — (1) A licensee, agent or an operator of any game under this Act or under any arrangement with him shall not provide any loan, credit or anything of value to any person to enable that other person, the debtor or a third party to participate in authorized games.

(2) A licensee, agent or operator or any person acting on behalf of the licensee, agent or operator who contravenes the provisions of subsection (1) commits an offence.

Risk-based approach

**62.**—(1) Every licensee or permit holder shall identify, assess, and understand the money laundering, and terrorist financing risks with regard to its products, services, delivery channels as well as its customers, geographical locations and country risk.

(2) Based on the assessment in subsection (1), each licensee or permit holder shall apply a risk-based approach to ensure that measures to prevent or mitigate money laundering and terrorist financing are commensurate with the risks identified.

(3) A licensee or permit holder who contravenes this section shall be liable to administrative penalties as the Authority may determine.

Advertisement

**63.**—(1) The licensee or permit holder shall not run or display in any form advertisements that are misleading, deceptive or targeted at natural persons under the age of eighteen years.

(2) A person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to a fine of K20,000,000 and to imprisonment to five years.

(3) Notwithstanding subsection (2), the Authority may impose administrative penalties as it deems fit.

Change in ownership or management of licensee or permit holder

**64.**—(1) Before any change in ownership or management occurs, a licensee or permit holder shall notify the Authority of—

(*a*) any proposed change in the directors or management of the licensee or permit holder, as the case may be, or any material changes in the information and documentation provided pursuant to this Act or conditions attached to licence or permit; and

(*b*) any intended resolution, or any intended application to a court, or any other action, for the dissolution and winding up of the holder of a licence or permit.

(2) In the circumstances referred to in subsection (1)(*b*), the Authority may issue directives to a holder of a licence or permit, its qualifying shareholders, or its directors that it deems appropriate.

(3) A holder of a licence or permit or the qualifying shareholders or directors of the licensee or the permit holder who fails to comply with the provisions of subsection (1), or with any directive issued to them by the Authority, commits an offence.

## PART VI

## Financial Provisions

Funds of the Authority

**65.**—(1) The funds of the Authority shall consist of —

(*a*) sums that are appropriated by Parliament for the purposes of the Authority;

(*b*) fees, levies, penalties and moneys as may vest in, or accrue to, the Authority, whether in the course of its functions or otherwise;

(*c*) the proceeds of the sale, by the Authority, of any assets or equipment to which it has title; and

(*d*) grants or donations received by the Authority.

(2) Subject to the Public Finance and Management Act, the Authority may, with the approval of the Minister, borrow, either temporarily, by way of overdraft or otherwise, a sum that it requires, for meeting its obligations or discharging its functions under this Act. Act No. 4 of 2022

(3) The Authority may charge fees in respect of publications, seminars, documents, advisory and other services provided by the Authority.

(4) Subject to Public Finance Management Act, the Authority may retain some funds collected for its operations. Act No. 4 of 2022

**66.**—(1) The Authority shall cause to be kept proper accounts and other records relating thereto in respect of its funds and shall in every respect comply with the provisions of the Public Finance Management Act. Accounts and audit Act No. 4 of 2022

(2) The Authority shall appoint independent auditors to examine and audit the books of accounts of the Authority.

(3) The books of accounts referred to under this section shall be examined and audited at the end of each financial year.

**67.** The financial year of the Authority shall be a period of twelve months in line with the Government financial year. Financial year of the Authority

## PART VII

## The Gaming And Lotteries Fund

**68.**—(1) There is hereby established a fund to be known as the Gaming and Lotteries Fund (hereinafter referred to as the "Fund"). Gaming and Lotteries Fund

(2) The Fund shall consist of—

(*a*) any moneys that may accrue to it, whether in accordance with this Act or otherwise;

(*b*) such percentage of the levies, as the Minister responsible for finance may, in consultation with the Authority, determine;

(*c*) interest derived from the investment of money standing to the credit of the Fund; and

(*d*) other money lawfully paid into the Fund.

Vesting and administration

**69.**—(1) The Fund shall vest in, and be administered by, the Authority.

(2) The Minister shall include, in his report to the National Assembly referred to in section 17 (2), information regarding the operations of the Fund.

Objects of the Fund

**70.** The objects of the Fund shall be for—

(*a*) the development and marketing of tourism related activities;

(*b*) preservation and management of artistic or cultural development;

(*c*) the preservation of the environment;

(*d*) providing social service, public welfare or the relief of distress;

(*e*) promoting sporting or recreational activities; and

(*f*) any other beneficiaries or projects identified by the Authority.

Bank accounts Act No. 4 of 2022

**71.**—(1) Subject to the Public Finance Management Act, the Authority shall maintain, at a financial institution, an account to be known as the "Gaming and Lotteries Fund" where revenue of the Fund shall, pending the application thereof in accordance with this Act, be deposited into.

(2) The financial institution where the account referred to in subsection (1) is maintained, shall not in respect of any liability of the Authority, not being a liability arising out of, or in connection with, any account, have or obtain recourse to any rights, whether by set-off, counterclaim, charge or otherwise, against money standing to the credit of the account.

Investment of money not immediately required by Fund Act No. 4 of 2022

**72.**—(1) Subject to the Public Finance Management Act, the Authority may invest any money of the Fund which is not immediately required for allocation, with a financial institution or in any manner that the Authority deems fit.

(2) An unexpended balance of the money of the Fund at the end of any financial year shall be carried forward as a credit to the next financial year.

(3) Any investment made by the Authority under this section shall be done in compliance with the provisions of the Public Finance Management Act.

Act No. 4 of 2022

Allocation of funds

**73.** The Authority shall allocate sums of money from the Fund fairly and equitably amongst projects that meet the prescribed requirements for the attainment of the objects of the Fund.

## PART VIII

## Offences And Penalties

Obtaining of money by cheating at a game

**74.** A person who—

(*a*) by any fraud or unlawful device or ill-practice in playing at, or with, an instrument of gaming;

(*b*) in taking a part in the stakes or offence wagers on the sides or hands of those that are playing; or

(*c*) in wagering on lawful gaming, sport, part-time or exercise,

wins from another person for himself, or for or on behalf of another person, a sum of money or valuable thing, commits an offence and shall, on conviction, be liable to a fine of K10,000,000 and to imprisonment for two years.

Penalties for late payment of levy, etc

**75.** A licensee who fails to pay any levy, etc, due from him under this Act within the prescribed period shall be liable to pay, in addition to the amount in default, a penalty equal to five per centum of the amount for each week, or part thereof, during which the default continues.

Offences related to licensed gaming premises

**76.**—(1) A licensee who uses or allows licensed gaming premises for the playing of a game which—

(*a*) is not authorized by the Authority;

(*b*) is similar to a game authorized by the Authority and which is played in a manner that the chances therein are not equally favourable to all the players; or

(*c*) contravenes any condition imposed by the Authority under this Act,

the gaming shall be deemed unlawful gaming, and the person commits an offence.

(2) A person who is present at gaming referred to in subsection (1) for the purpose of taking part in the gaming, commits an offence.

(3) For purposes of this section, proof that a person was present at the gaming shall be evidence that he was present for the purpose of taking part in the gaming, unless he establishes a contrary intention.

(4) A person who, in connection with licensed gaming premises, without the approval of the Authority, —

(*a*) holds himself out by advertisement or notice in a public place, as willing to provide the public with premises for gaming;

(*b*) displays a written or placard notice relating to gaming so as to be seen in a public street or place; or

(*c*) prints or publishes, or causes to be printed or published, an advertisement or other notice,

commits an office and shall, on conviction, be liable to a fine of K20,000,000 and to imprisonment for five years.

Gaming, betting and lottery with children

**77.**—(1) A person who—

(*a*) plays a game, bets with, or allows the playing of a game or betting by a child;

(*b*) allows a child to come on to licensed gaming premises whether for the purpose of gaming or otherwise; or

(*c*) employs a child in the organization or management of gaming or a lottery,

commits an offence and shall, on conviction, be liable to a fine of K20,000,000 and to imprisonment for five years.

(2) In this section, "child" means a person who is under the age of eighteen years.

Offences related to gaming machines

**78.**—(1) A person who—

(*a*) uses or permits the use of an unauthorized gaming machine;

(*b*) allows premises to be used for the purpose of gaming by means of an unauthorized gaming machine; or

(*c*) knowing or having reasonable cause to believe that premises may be used for gaming by means of an unauthorized gaming machine—

(i) causes or allows the machine to be placed on the premises; or

(ii) let the premises, or otherwise made the premises available,

to a person by whom an offence in connection with the machine was committed,

commits an offence and shall, on conviction, be liable to a fine of K20,000,000 and to imprisonment for five years.

(2) In this section, "unauthorized gaming machine" means a gaming machine in respect of which a licence has not been issued under this Act.

Gaming in streets

**79.**—(1) A person who—

(*a*) organizes gaming in a street to which, whether on payment or otherwise, the public have access, commits an offence and shall, on conviction, be liable to a fine of K4,000,000 and to imprisonment for twelve months; or

(*b*) takes part in gaming in a street to which, whether on payment or otherwise, the public have access,

commits an offence and shall, on conviction, be liable to a fine of K2,000,000 and to imprisonment for six months.

(2) A police officer may arrest, without warrant, any person who contravenes subsection (1) whom the police officer suspects, with reasonable cause, to be committing an offence under this section.

(3) In this section, "street" means—

(*a*) a bridge, road, lane, footway, square, court, alley or passage, which is for the time being open to the public; or

(*b*) the doorway and entrances of premises bordering upon the ground adjoining and open to a street.

Offences by body corporate

**80.** Where a person convicted of an offence under this Act is a body corporate, every person who at the date of the commission of the offence was a director or officer of the body corporate shall also be deemed to have committed the offence, unless he proves that the offence was committed without his knowledge.

Unauthorized lotteries

**81.**—(1) A lottery promoted or conducted otherwise than in accordance with this Act is an unauthorized lottery.

(2) A person who opens, keeps or uses any place for carrying on an unauthorized lottery commits an offence and, shall, on conviction, be liable to a fine of K30,000,000 and to imprisonment for seven years.

(3) A person who publishes, or causes to be published, any advertisement or other notice of, or relating to an unauthorized lottery, whether promoted within Malawi or elsewhere, or relating to the sale of any ticket or chance in any such lottery, commits an offence and shall, on conviction, be liable to a fine of K20,000,000 and to imprisonment for five years.

(4) Where a person is convicted of an offence under this section, the court may, in addition to, or in lieu of, any penalty which may be imposed, order the forfeiture of any instrument, apparatus or device used in connection with the lottery.

General offences relating to lotteries

**82.**—(1) A person who—

(*a*) participates in an unauthorized lottery; or

(*b*) conducts, facilitates, promotes or derives any benefit from an unauthorized lottery,

commits an offence.

(2) A person who—

(*a*) forges, or in any other fraudulent manner, changes any ticket or any other document or thing pertaining to any lottery;

(*b*) knowingly sells or otherwise disposes of any forged ticket or any other document or thing pertaining to any lottery;

(*c*) with intent to defraud, alters any number or figure on any ticket or any other document or thing pertaining to any lottery;

(*d*) obtains any direct or indirect financial gain which is not solely a share in the prize payout, by forming, conducting or in any other way promoting a syndicate for the purchase of a ticket;

(*e*) sells a ticket—

(i) at a price higher than that which is printed on the ticket;

(ii) on condition that the seller of the ticket shares in the prize money;

(iii) on any condition not provided for in the rules of the lottery concerned;

(iv) on credit or with the financial assistance of the seller; or

(*f*) conducts, organizes, promotes, derives or manages any an unauthorized scheme, plan, competition, arrangement, system, game or device which directly or indirectly provides for betting, wagering, or any other game of risk on any outcome of any lottery,

commits an offence.

Offences relating to National Lottery

**83.** A person who—

(*a*) purports to conduct a National Lottery without a valid licence from the Authority;

(*b*) advertises or offers the opportunity to participate in a lottery, promotional competition or game of any description and who gives, by whatever means, a false indication that it is a lottery, competition or game forming part, or is otherwise connected with, the National Lottery;

(*c*) with intent to defraud, falsely makes, forges, utters, passes or counterfeits a National Lottery ticket; or

(*d*) influences or attempts to influence the winning of a prize through the use of coercion, fraud or deception, or through tampering with lottery equipment, systems, software, data, tickets or materials,

commits an offence and shall, on conviction, be liable to—

(i) in case of a natural person, a fine of K10,000,000 and to imprisonment for two years; and

(ii) in case of a legal person, a fine of K30,000,000.

Making false statement or declaration on licence application, renewal, etc.

**84.** A person who makes a false statement or declaration in an application for, or a renewal or variation of, a licence, commits an offence and shall, on conviction, be liable to a fine of K20,000,000 and to imprisonment for five years.

Failure to pay winners

**85.**—(1) A licensee who fails to pay the winner of a gaming activity or lottery, within seven days after the date of winning, commits an offence.

(2) The licensee who is convicted of an offence pursuant to subsection (1), shall be liable, on conviction, to a fine of K20,000,000 and imprisonment for five years.

(3) In addition to the penalty imposed under subsection (2), the court shall order the convict to pay the winner of the gaming or lottery activity the prize due to them.

General penalty

**86.** A person convicted of an offence under this Act, for which no penalty is provided, shall, be liable to—

(*a*) in case of a natural person, a fine of K10,000,000 and to imprisonment for two years;

(*b*) in case of a legal person, a fine of K30,000,000.

Forfeiture

**87.**—(1) The court may, in addition to imposing a fine or a sentence, order anything produced to the court, to be forfeited to the Government and destroyed or dealt with in a manner that the court orders.

(2) When an order is made under this section, such order shall not, except where the property is subject to speedy and natural decay, be carried out until the period allowed for appealing against such order has expired or, when an appeal is brought within such period, until such appeal has been disposed of.

Revocation of licence upon conviction

**88.**—(1) Where a licensee is convicted of an offence under this Act or of an offence involving fraud or dishonesty, the court may order that his licence be revoked.

(2) A licensee whose licence is revoked in pursuance of subsection (1) shall, by virtue of that order, be disqualified from holding or obtaining a licence for a period of seven years from the date of the conviction.

(3) Where it appears to a court to be just in all the circumstances, the court may, on its own motion or on an application, order a shorter disqualification period than seven years.

(4) An organizer or manager of licensed gaming premises, or a servant or agent of his, who employs in his business any person known to him to be disqualified by subsection (2) commits of an offence and shall, on conviction, be liable to a fine of K20,000,000 and to imprisonment for five years.

Administrative penalties

**89.**—(1) Where the Authority is satisfied on reasonable grounds that licensee or permit holder issued in accordance with this Act has contravened a condition of his licence or permit as the case may be, or any directive issued by the Authority in accordance with this Act, the Authority shall impose administrative penalties on the licensee or permit holder by doing one or more of the following—

(*a*) giving licensee or permit holder a written warning;

(*b*) directing the licensee or permit holder to do a specified act, or refrain from doing a specified act, for one or more of the following purposes—

(i) to remedy the effects of the contravention;

(ii) to compensate persons who have suffered loss because of the contravention;

(iii) to ensure that the licensee or permit holder does not commit further contraventions;

(*c*) requiring the licensee or permit holder to pay a monetary penalty as may be prescribed by the Authority.

(2) A person on whom an administrative penalty has been imposed and who fails or refuses to comply with the administrative penalty commits an offence and shall, on conviction, be liable to a fine of K10,000,000 and to imprisonment for two years.

(3) In addition to subsection (2), where the administrative penalty imposed by the Authority is a monetary penalty and the person on whom the monetary penalty has been imposed does not pay the monetary penalty for a period of more than twenty-one days, from the date of first demand in writing by the Authority, the amount in respect of the monetary penalty shall be recoverable by the Authority as a civil debt.

## PART IX

## Miscellaneous Provisions

Review of decisions of the Authority

**90.** A person aggrieved by a decision of the Authority made under this Act may, within twenty-one days of the decision, apply to the High Court for review of the decision.

Regulations

**91.**—(1) The Minister may, on the recommendation of the Authority, make regulations providing for—

(*a*) the procedure to be followed by the Authority in exercising any powers conferred upon it by this Act;

(*b*) the procedure, fees, forms to be followed in the making of an application for the issue, renewal or variation of a licence issued under this Act;

(*c*) the location of premises where gaming and lotteries may be conducted, including prescribing appropriate distances of such premises from schools or places of worship;

(*d*) the advertisement of an application for a licence under this Act and of proceedings of the Authority to consider and determine any application;

(*e*) the right of a person interested to object to an application for the issue, renewal or variation of a licence under this Act, and for the form and manner of the objection;

(*f*) the form and manner in which returns or statements of accounts of licensee shall be furnished to the Authority;

(*g*) securing the payment of any fee; and

(*h*) generally, the carrying out of the provisions and purposes of this Act.

Cap.1:01

(2) Any regulation made under this Act may, notwithstanding the provisions of section 21 (*e*) of the General Interpretation Act, prescribe a fine not exceeding K20,000,000 and a term of imprisonment not exceeding two years, for an offence committed against any provision of the regulations.

Repeal and savings
Cap. 47:03
Cap. 47:04

**92.**—(1) The Gaming Act and the Lotteries Act are hereby repealed.

(2) Any subsidiary legislation made under the repealed Acts under subsection (1), in force immediately before the commencement of this Act—

(*a*) shall, unless in conflict with this Act, remain in force and be deemed to be subsidiary legislation made under this Act; and

(*b*) may be replaced, amended or repealed by subsidiary legislation made under this Act.

Agreements, licences, permits, etc

**93.**—(1) Any agreement, document, licence, or permission, made, granted or approved under any applicable law relating to gaming or lotteries shall, in so far as it is consistent with the provisions of this Act and except as otherwise expressly provided in this Act or in any other written law, continue and be deemed to have

been made, granted or approved by the Authority or the Minister, as the case may be, under the corresponding provisions of this Act.

(2) Notwithstanding subsection (1), any person duly licensed or authorized prior to the commencement of this Act to conduct and provide—

(*a*) a promotional competition;

(*b*) casinos;

(*c*) the National Lottery;

(*d*) lotteries for charitable causes;

(*e*) unspecified lotteries under section 40 (2) of the repealed Lotteries Act; or

Cap. 47:04

(*f*) gaming facilities,

shall continue to be authorized to provide that service, provided that the terms and conditions of any licence issued to that person in this Act are complied with.

(3) Where, immediately before commencement of this Act, any legal proceedings have been commenced to which the Gaming Board and the National Lotteries Board are parties, the Authority shall, as from the date of commencement of this Act, be substituted in such proceedings for the Gaming Board and the National Lotteries Board respectively, or shall be made a party thereto in like manner as the Gaming Board and the National Lotteries Board could have become, and the proceedings shall not abate by reason of the substitution.

Transfer of assets, funds, liabilities, etc

**94.**—(1) Property, assets, funds, liabilities, obligations, agreements and other arrangements existing at the commencement of this Act and vested in, acquired, incurred or entered into by, or on behalf of, the Gaming Board or the National Lotteries Board, shall, on the commencement of this Act, be deemed to have vested in, or to have been acquired, incurred or entered into by or on behalf o the Authority and shall become enforceable by, or against, the Authority to the same extent as they were enforceable by, or against, the Gaming Board or the National Lotteries Board.

(2) Where the transfer of any property transferred to, or vested in, the Authority under subsection (1) is required by any written law to be registered, the Authority shall, within twelve months from the commencement of this Act, or within such other period as the written law may prescribe, apply to the appropriate registering authority for the registration of the transfer, and thereupon the registering authority shall, at no cost to the Authority or any person by way of registration fees, stamp or other duties—

(*a*) make such entries in the appropriate register as shall give effect to the transfer;

(*b*) where appropriate, issue to the Authority certificate of title or other statutory evidence of ownership of the property or make such amendments on such certificates or in the appropriate register as may be necessary; and

(*c*) make any necessary endorsement on such deeds or other documents as may be presented on such registering authority relating the title, right or obligation concerned.

Transfer of employees

**95.** Any person who, immediately prior to the commencement of this Act is employed by the Gaming Board or the National Lotteries Board, as the case may be, shall be deemed to have been transferred to the employment of the Authority under his former terms and conditions of service, and, for the purpose of determining his rights thereunder, his service shall be regarded as continuous from the time he was appointed by the Gaming Board or the National Lotteries Board, as the case may be.

## FIRST SCHEDULE (s.19(1))

## TYPES OF GAMING LICENCES

1. Casino licence
2. Gaming machine licence
3. Gaming machine premises licence
4. Junket agent licence
5. Video lottery terminal licence
6. Wide area progressive gaming licence
7. Manufacturer licence
8. Maintenance licence
9. Supplier licence

## SECOND SCHEDULE (s.30(2))

## TYPES OF LOTTERY LICENCES

1. National Lottery licence
2. Bookmakers licence
3. Sport betting licence
4. Lotteries for charitable causes licence
5. Promotional competitions licence
6. Private Lotteries licence
7. Lotteries incidental to certain entertainments
8. Unspecified Lottery licence

THIRD SCHEDULE (s.14(2))

OATH/AFFIRMATION OF SECRECY

I,....., having been appointed as a member/employee/consultant/agent of the Malawi Gaming and Lotteries Authority, do solemnly swear/affirm that I will not, directly or indirectly, divulge the business or proceedings of the Malawi Gaming and Lotteries Authority or the nature or contents of any document communicated to me or any matter coming to my knowledge in my capacity as a member/employee/consultant/agent of the Malawi Gaming and Lotteries Authority and that I will well and truly perform the functions and duties of that office.

SWORN/AFFIRMED at ……)

This …… day of ……., 20….

……
*Signature of Deponent*

Before me:

……
Commissioner for Oaths

Passed in Parliament this eleventh day of August, two thousand and twenty-two.

FIONA KALEMBA
*Clerk of Parliament*