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No. 5 of 2014

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THE NAIROBI CITY COUNTY BETTING, LOTTERIES AND GAMING ACT, 2014

AN ACT of the Nairobi City County to provide for the licensing and regulation of betting and gaming activities and premises; for authorizing of public lotteries in the county; and for connected purposes

ENACTED by the Nairobi City County Assembly, as follows—

PART I—PRELIMINARY

Short title and commencement.

1. This Act may be cited as the Nairobi City County Nairobi City County Betting, Lotteries and Gaming Act, 2014 and shall come into operation on such date as the county executive committee member responsible for trade, may in consultation with the Governor, appoint.

Interpretation.

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

"executive committee member" means the executive committee member responsible for trade;

"premises" includes any place, and any vessel;

"the Board" means the Betting, Lotteries and Gaming and Licensing and Regulation Board established by section 3;

"to bet" means to wager or stake any money or valuable thing by or on behalf of any person or, expressly or impliedly to undertake, promise or agree to wager or stake by or on behalf of any person, any money or valuable thing on a horse race, or other race, fight, game, sport, lottery or exercise or any other event or contingency;

Application of the Act restricted to the county.

3. This Act shall apply to all betting, lotteries and gaming activities within the Nairobi City County.

Application of the national Betting, Lotteries and Gaming Act. Cap. 131.

4. The provisions of the national Betting, Lotteries and Gaming Act shall apply to any matter relating to betting, lotteries and gaming to the extent that this Act does not make provision for any such particular matter.

(2) Without prejudice to the generality of subsection (1), the national legislation shall apply in respect to—

(a) offences created under that national legislation and the punishment prescribed for such offences in such national legislation;

(b) prohibitions against certain types of activities;

(c) the regulation of certain activities, except that such regulation shall be carried out solely by the institutions of the Nairobi City County where such activities fall within the boundaries of county.

Objects of the Act.

5. The objects of this Act are to—

(a) give further effect to paragraph 4 of the Fourth Schedule to the Constitution which mandates the county government with the function of betting , lotteries and gaming regulation and licensing;

(b) to ensure that the national government policy on the regulation of betting, lotteries and gaming as set out in the national legislation is implemented at the county level in accordance with the requirements of the Constitution to the effect that Government at either shall among other things, as appropriate, implement the legislation of the other level of government; and

(c) to provide for the county institutions and for procedures applicable to the regulation and licensing of betting, lotteries and gaming within the county.

PART II— COUNTY BETTING LICENSING AND REGULATION BOARD

Establishment of the betting, etc. board.

6. (1) There is established the Nairobi City County Betting Licensing and Regulation Board..

(2) The Board shall comprise—

(a) a chairperson, appointed by the Governor;

(b) the chief officer responsible for trade;

(c) the head of the county inspectorate services;

(d) six persons appointed by the Governor who shall be persons conversant with trade and financial matters respectively.

(3) The Governor shall appoint a county public officer with legal background to be secretary to the Board for a period of three years.

(4) Before the Governor makes an appointment under this section, the Governor may require the person to be so appointed to declare whether that person has any, and if so what, interest in any betting, lotteries or gaming undertaking operating in Kenya.

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

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

(7) At all meetings of the Board, the chairperson or the person chosen to act as chairperson under subsection (6) together with three other members of the Board shall form a quorum.

(8) Meetings of the Board shall be held at least once in every month and at such other times and places as the chairperson may determine.

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

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

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

(12) The chairperson, members, officers and servants appointed under this section shall be paid out of moneys provided for that purpose by the county assembly such

salaries, remuneration and allowances, if any, as the executive committee member may determine in consultation with the Governor.

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

(14) The chairperson shall submit to the Governor for publication a quarterly report of the proceedings of the Board containing particulars with respect to such matters as the Governor may direct.

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

Functions of the Board.

7. (1) The functions of the Board shall be to—

(a) advise the Governor generally and the executive committee member on betting, lotteries and gaming regulation and licensing policy within the Nairobi City County;

(b) liase with the county inspectorate and the Kenya Police Service to ensure the enforcement of the law as contained in this Act;

(c) generally administer this Act and any relevant provision on betting, lotteries and gaming regulation and licensing;

(d) perform any other function given by this Act or by any other written law.

Powers of the Board.

8. (1) The Board shall have power—

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

(b) during the subsistence of a licence or permit, to vary, or for good cause to suspend or cancel it; but the Board shall not suspend a licence or permit for more than fourteen days and shall not vary or cancel a licence or permit without giving the licensee or permit-holder opportunity to show cause against the variation or cancellation; and

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

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

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

PART III – BETTING, ETC. LICENSING AND REGULATION

Application for licences and permits.

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

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

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

Provided that no licence or permit shall be issued under this Act unless and until the Board has satisfied itself that the applicant is a fit and proper person to hold the licence or permit and that the premises, if any, in respectof which the application is made are suitable for the purpose;

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

Grant of a licence.

10. (1) The Board shall, after considering the application under section 9, indicate in writing whether it objects to the grant of the licence applied for.

(2) Where the Board has no objection the application under section 9, it shall, within twenty days of the application, grant a licence to the applicant upon payment of the prescribed fee.

(3) The licence issued shall be in such form as may be prescribed and subject to such conditions as the Board may consider fit.

(4) Where the Board is not satisfied with the application under subsection (1), it may—

(a) reject the application giving reasons and notify the applicant accordingly within twenty-one days of the decision to reject; or

(b) make comments and recommendations thereon and return it to the applicant within thirty days.

(5) The applicant to whom the application is returned under subsection (4)(b) may re-submit a revised application within six months of the date of notification.

(6) On receipt of any revised application under subsection (5), the Board shall, within one month determine the application in accordance with this Act and upon such determination, if satisfied, issue a licence.

(7) Where the Board grants a licence under this section it shall, publish the grant in the Gazette.

Provisional licence.

11. (1) Where premises are about to be constructed or reconstructed or are in course of construction or reconstruction for the purpose of being used for betting on such premises, any person having an interest in the premises may apply in the prescribed form to the Board for an assurance that, on the completion of the construction or reconstruction, a licence of the type to be specified in the application will be granted in respect of such premises.

(2) The provisions of sections 9 and 10 shall apply to such applications, which shall be accompanied by a signed copy of the plans of such premises.

(3) The Board may, subject to such reasonable conditions as it may therein include, give to the applicant an assurance in the prescribed form that, on the completion of the premises, a licence of the type specified therein will be granted or it may refuse to give such an assurance.

(4) Where such an assurance has been given under subsection (3), the Board may, on any date, on being satisfied that the premises have been completed in accordance with the signed plans submitted under subsection (2) and that any conditions which may have been imposed in the assurance have been complied with, issue to the applicant a licence of the type specified in the assurance in respect of the premises.

(5) Any assurance given under subsection (3) shall become ineffective and the Board shall not issue a licence if, between the date of the giving thereof and the date of completion of the premises, the applicant becomes a person to whom in accordance with section 9(3), a licence may not be granted.

PART IV—MISCELLANEOUS.

Regulations.

12. The executive committee member may, with the approval of the Governor, make regulations or the better carrying out of the provisions of this Act.

(2) Without prejudice to provide for the procedures in accordance with subsection (1), the regulations may provide for—

(a) the procedure of application for licenses;

(b) the requirements with respect to documentation that may be required with the applications for licenses.

Transitional.

13. The executive committee member responsible for trade and the executive committee member responsible for finance shall take joint action to ensure expeditious transition to enable the full operationalization of this Act and for that purpose shall jointly make the necessary regulations and put in place the necessary administrative arrangements in regard thereto.