

CHAPTER 10:02

BETTING AND TOTALIZATOR CONTROL ACT

Acts 33/1976, 41/1978 (s. 39), 32/1979 (s. 15), 1/1980 (s. 6), 5/1983, 18/1989 (s. 29), 17/1990, 15/1994;26/1998 (s. 66), 17/99 (s. 32),22/2001 (s. 4),16/2004 (s.3), 6/2005 (s. 12); S.I. 360/1981 (s. 3), 146/1992.

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AN ACT to provide for the licensing of bookmakers and operators of totalizators, for the imposition of certain restrictions on betting and for certain taxes on betting; and to provide for matters incidental to or connected with the foregoing.

[Date of commencement: 17th December, 1976.]

PART I

PRELIMINARY

1 Short title

This Act may be cited as the Betting and Totalizator Control Act [*Chapter 10:02*].

2 Interpretation

(1) In this Act—

“authorized deputy” means a person appointed to be an authorized deputy in terms of subsection (2) of section *nine*;

[Definition amended by section 66 of Act 26 of 1998]

“bet” means, subject to subsection (2), to stake, or expressly or impliedly to agree, promise or undertake to stake, by or on behalf of any person any money or valuable thing on any event or contingency of or relating to any sporting event;

“betting club” means any association or club of persons—

- (a) formed for the purpose of enabling its members to bet on sporting events; and
- (b) approved by the Minister in terms of subsection (3);

“betting room” means a room—

- (a) licensed in terms of subsection (1) of section *twenty-five*; and
- (b) wherein bets may be made and settled on the result of any sporting event;

“Board” means the Lotteries and Gaming Board established by section 3 of the Lotteries and Gaming Act [*Chapter 10:26*].

[Definition inserted by section 66 of Act 26 of 1998]

“bookmaker” means any person who earns or endeavours to earn his livelihood wholly or partly by betting with members of the public;

“bookmakers licence” means a bookmakers licence issued or renewed in terms of section *five*;

[Definition inserted by section 66 of Act 26 of 1998]

“Commissioner” means—

- (a) the Commissioner in charge of the department of the Zimbabwe Revenue Authority which is declared in terms of the Revenue Authority Act [*Chapter 23:11*] to be responsible for assessing, collecting and enforcing the payment of the taxes leviable under this Act; or
- (b) the Commissioner-General of the Zimbabwe Revenue Authority, in relation to any function which he has been authorised under the Revenue Authority Act [*Chapter 23:11*] to exercise;

[Definition substituted by section 36 of Act 17 of 1999]

“committee”....

[Definition deleted by section 66 of Act 26 of 1998]

“dog race” means a race in which dogs compete;

“dog racing association” means an association or club of persons which—

- (a) conducts or controls racing with dogs; and
- (b) is approved by the Minister in terms of subsection (6);

“horse race” includes a race in which the competing horses draw sulkies or other contrivances;

“licensed bookmaker” means the holder of a bookmakers licence;

“member”

[Definition deleted by section 66 of Act 26 of 1998]

“Minister” means the Minister of Home Affairs or any other Minister to whom the President may from time to time assign the administration of this Act;

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

“motor race meeting” mean a meeting—

- (a) which is under the control of a motor racing club; and
- (b) at which races with motor cars, motor cycles or midget motor cars are held;

“motor racing club” means an association or club of persons—

- (a) promoting races with motor cars, motor cycles or midget motor cars; and
- (b) approved in terms of subsection (4) by the Secretary;

“prescribed area” means a prescribed area declared and defined or redefined, as the case may be, in terms of section *four*;

“race course” means the place advertised for the running of horse races or dog races on a race day;

“race day” means any day, other than Good Friday or Christmas Day, which has not less than one week beforehand been advertised as a day on which horse races or dog races will be held on a race course under the control of a turf club or dog racing association;

“revenue officer” means the appropriate officer designated in terms of section *thirty-two*;

“Secretary” means the Secretary of the Ministry for which the Minister is responsible;

“tax” means any tax charged, levied and collected in terms of section *twenty-nine* and includes any estimated assessment of tax which is payable in terms of section *thirty-three*;

“totalizator” means an apparatus or scheme for classifying and recording the various amounts of money staked by the persons using it, the total of all such amounts forming a pool which, after deduction of a percentage commission, is divided amongst those who successfully forecast the result of the race or other event concerned;

“totalizator licence” means a licence issued in terms of subsection (1) of section *eighteen*;

“turf club” means an association or club of persons which—

- (a) conducts or controls racing with horses or with horses drawing sulkies or other contrivances; and
- (b) is approved by the Minister in terms of subsection (5).

“Zimbabwe Revenue Authority” means the Zimbabwe Revenue Authority established by section 3 of the Revenue Authority Act [*Chapter 23:11*].

Definition substituted by section 36 of Act 17 of 1999]

(2) For the purposes of this Act, the staking of any money or valuable thing which will be, or form part of, the prize to be won by persons—

- (a) participating in any sporting event; or
- (b) owning horses or dogs taking part in any horse race or dog race;

shall not be regarded as betting.

(3) The Minister may from time to time approve, for the purposes of the definition of “betting club” in subsection (1), an association or club of persons formed for the purpose of enabling its members to bet on sporting events.

(4) The Secretary may from time to time approve, for the purposes of the definition of “motor racing club” in subsection (1), an association or club of persons promoting races with motor cars, motor cycles or midget motor cars.

(5) The Minister may from time to time approve, for the purposes of the definition of “turf club” in subsection (1), an association or club of persons which conducts or controls racing with horses or with horses drawing sulkies or other contrivances.

(6) The Minister may from time to time approve for the purpose of the definition of “dog racing association” in subsection (1) an association or club of persons which conducts or controls racing with dogs.

PART II

LICENSING OF BOOKMAKERS

3 Bookmakers to be licensed

(1) Subject to this Part, no person shall carry on the business of a bookmaker unless he is the holder of a bookmakers licence.

(2) In a case of a partnership carrying on the business of a bookmaker, each partner shall be the holder of a bookmakers licence.

(3) No bookmakers licence shall be issued to or in the name of a company or a body of persons, whether corporate or unincorporate.

(4) Any person who contravenes subsection (1) shall be guilty of an offence.

4 Minister may declare and define prescribed areas

The Minister may, for the purposes of this Part—

- (a) declare and define prescribed areas; and
- (b) abolish or redefine any prescribed area declared and defined in terms of paragraph (a).

5 Applications for and issue or renewal of bookmakers licences

(1) Any person who wishes to take out a bookmakers licence or to renew a bookmakers licence may apply in writing to the Board:

Provided that the application of a person who wishes to renew a bookmakers licence shall, if lodged with the Board after the 15th December in the year preceding that for which such renewal is sought, be treated as if it were an application for a certificate authorizing the issue, as opposed to the renewal, of a bookmakers licence.

(2) On receipt of an application in terms of subsection (1), the Board may, if it is satisfied that the applicant

(a) is a fit and proper person to carry on the business of a bookmaker; and

(b) is a member of a betting club; and

(c) has lodged with the betting club of which he is a member security of an amount and class sufficient for the settlement of any betting transactions entered into by him as a bookmaker;

and that, in the case of an applicant who intends to carry on the business of a bookmaker in a prescribed area, the issue of a bookmakers licence to him would not have the result of increasing the number of licensed bookmakers carrying on business in the prescribed area to a number greater than the maximum number fixed in terms of subsection (1) of section *fourteen*, grant the licence to the applicant.

(3) A bookmakers licence shall—

(a) be in the prescribed form; and

(b) contain such particulars as may be prescribed of the betting room or place in which the holder of the bookmakers licence is authorised to bet; and

(c) expire on the 31st December of the year in which it was issued unless it is sooner cancelled or terminated in terms of this Act.

(4) If an application in terms of subsection (1) is refused, the applicant may appeal in writing against such refusal to the Minister.

(5) Section 60 of the Lotteries and Gaming Act [*Chapter 10:26*] shall apply, *mutatis mutandis*, in respect of an appeal in terms of subsection (4).

[Section substituted by section 66 of Act 26 of 1998]

6 Transfer of business of licensed bookmakers

(1) In this section

“transferee” means the person to whom the business referred to in subsection (2) is to be sold or otherwise disposed of.

(2) Any licensed bookmaker or the executor, curator, assignee or trustee, as the case may be, of a licensed bookmaker who, during the currency of the bookmakers licence concerned or any renewal thereof, wishes to sell or otherwise dispose of the business to which such bookmakers licence relates may apply in writing to the Board for authority to transfer such business to the person to whom such business is to be sold or otherwise disposed of.

(3) On receipt of an application in terms of subsection (2) the Board may, if it is satisfied that the transferee

(a) is a fit and proper person to carry on the business of a bookmaker; and

(b) is a member of a betting club; and

(c) has lodged with the betting club of which he is a member security of an amount and class sufficient for the settlement of any betting transactions entered into him as a bookmaker;

transfer the betting licence concerned to the transferee.

(4) If an application in terms of subsection (2) is refused, the applicant may appeal in writing against such refusal to the Minister.

(5) Section 60 of the Lotteries and Gaming Act [*Chapter 10:26*] shall apply, *mutatis mutandis*, in respect of an appeal in terms of subsection (4).

[Section substituted by section 66 of Act 26 of 1998]

7 Provision for carrying on business of licensed bookmaker who dies or is under legal disability

(1) If a licensed bookmaker

(a) dies; or

(b) is declared by a court to be incapable of managing his own affairs or a prodigal; or

(c) is detained as a mentally disordered or intellectually handicapped person under the order of a judge;

or if his estate is assigned or sequestrated under the law relating to insolvency, his executor, curator, assignee or trustee, as the case may be, may apply to the Board for the appointment of a person to carry on the business of the licensed bookmaker during the currency of the bookmakers licence concerned or any renewal thereof.

(2) On receipt of an application in terms of subsection (1) the Board may, if it is satisfied that—

(a) the person nominated in such application is—

(i) a fit and proper person to carry on the business of a bookmaker; and

(ii) a member of a betting club; and
(b) the security referred to in paragraph (c) of subsection (2) of section *five* can be used for the settlement of any betting transactions entered into by the person referred to in paragraph (a) in the course of carrying on the business of the licensed bookmaker concerned;
authorise the person referred to in paragraph (a) in writing to carry on the business of the licensed bookmaker concerned during the currency of the bookmakers licence or any renewal thereof referred to in subsection (1).

(3) Any person authorised in terms of subsection (2) to carry on the business of a licensed bookmaker shall, during the currency of the bookmakers licence or renewal thereof referred to in subsection (1) or until such authority is cancelled or terminated in terms of subsection (4) or while he carries on such business, whichever is the shortest period, be deemed to—

- (a) be a licensed bookmaker for the purposes of this Act who is authorised to bet in the betting room or place in which the licensed bookmaker whose business he is carrying on was authorised to bet; and
- (b) be a member of a betting club; and
- (c) have lodged security referred to in paragraph (c) of subsection (2) of section *five*.

(4) An authority granted in terms of subsection (2) may be cancelled by—

- (a) a court, on the conviction of the person authorised in terms of that subsection of an offence in terms of this Act; or
- (b) the Board, on the grounds that the person authorised in terms of that subsection is not a fit and proper person to carry on the business of a bookmaker:

Provided that the Board shall not cancel the authority except after due inquiry at which the person authorised in terms of that subsection has had the opportunity of being heard in person or represented by a legal practitioner;

and shall terminate with effect from the cancellation of the bookmakers licence concerned in terms of section *fifteen*.

[Section substituted by section 66 of Act 26 of 1998]

8 Provision for carrying on business of licensed bookmaker during his temporary absence

(1) A licensed bookmaker who, by reason of departure on holiday, illness or other cause, is or will be temporarily unable to carry on his business as a bookmaker may apply to the Board for the appointment of a person to carry on his business on his behalf during his absence.

(2) On receipt of an application in terms of subsection (1) the Board may, if it is satisfied that

- (a) the person nominated is
 - (i) a fit and proper person to carry on the business of a bookmaker; and
 - (ii) a member of a betting club;

and

- (b) the security referred in paragraph (c) of subsection (2) of section *five* can be used for the settlement of any betting transactions entered into by the person referred to in paragraph (a) in the course of carrying on the business of the applicant;

authorise the person referred to in paragraph (a) in writing to carry on the business of the applicant for the period specified in such authority.

(3) Any person authorised in terms of subsection (2) to carry on the business of a licensed bookmaker shall, during the currency of the bookmakers licence or renewal thereof referred to in subsection (1) or until such authority is cancelled or terminated in terms of subsection (4) or while he carries on such business, whichever is the shortest period, be deemed to

- (a) be a licensed bookmaker for the purposes of this Act who is authorised to bet in the betting room or place in which the licensed bookmaker whose business he is carrying on was authorised to bet; and
- (b) be a member of a betting club; and
- (c) have lodged security referred to in paragraph (c) of subsection (2) of section *five*.

(4) An authority granted in terms of subsection (2) may be cancelled by—

- (a) a court, on the conviction of the person authorised in terms of that subsection of an offence in terms of this Act; or
- (b) the Board, on the grounds that the person authorised in terms of that subsection is not a fit and proper person to carry on the business of a bookmaker:

Provided that the Board shall not cancel the authority except after due inquiry at which the person authorised in terms of that subsection has had the opportunity of being heard in person or represented by a legal practitioner;

and shall terminate with effect from the cancellation of the bookmakers licence concerned in terms of section *fifteen*.

[Section substituted by section 66 of Act 26 of 1998]

9 Appointment of authorised deputies

(1) A licensed bookmaker may apply to the Board for the appointment of a person employed or to be employed by him to be his authorised deputy.

(2) On receipt of an application in terms of subsection (1) the Board may, if it is satisfied that the person referred to in such application is a fit and proper person to assist the applicant in carrying on his business, appoint such person, in writing, to be the applicant's authorised deputy and shall, on such appointment, endorse on the applicant's bookmakers licence such of the person's particulars as may be prescribed.

(3) The Board may at any time, without assigning any reason therefor and without giving prior notice of its intention to do so, cancel the appointment of an authorised deputy, and such cancellation shall not be subject to appeal.

(4) An authorised deputy may carry on business on behalf of the licensed bookmaker on whose licence his prescribed particulars are endorsed during the absence of such licensed bookmaker from the betting room or place in which such licensed bookmaker is authorized to bet, for a period or periods not exceeding four hours in the aggregate on anyone day.

[Section substituted by section 66 of Act 26 of 1998]

10 Provision for carrying on business of licensed bookmaker during his temporary absence

(1) A licensed bookmaker who, by reason of departure on holiday, illness or other cause, is or will be temporarily unable to carry on his business as a bookmaker may—

(a) if he ordinarily carries on business in a prescribed area, apply to the chairman of the committee established in respect of the prescribed area; or

(b) if he ordinarily carries on business outside a prescribed area, apply to the chairman of the committee established in respect of the prescribed area nearest to his place of business;

for the appointment of a person to carry on his business on his behalf during his absence.

(2) On receipt of an application in terms of subsection (1), the chairman of the committee concerned may, if he is satisfied that—

(a) the person nominated in such application is—

(i) a fit and proper person to carry on the business of a bookmaker; and

(ii) a member of a betting club;

and

(b) the security referred to in paragraph (c) of subsection (3) of section *seven* can be used for the settlement of any betting transactions entered into by the person referred to in paragraph (a) in the course of carrying on the business of the applicant;

authorize the person referred to in paragraph (a) in writing to carry on the business of the applicant for the period specified in such authority.

(3) Any person authorized in terms of subsection (2) to carry on the business of a licensed bookmaker shall, during the period specified in the authority concerned or until such authority is cancelled or terminated in terms of subsection (4) or while he carries on such business, whichever is the shortest period, be deemed to—

(a) be a licensed bookmaker for the purposes of this Act who is authorized to bet in the betting room or place in which the licensed bookmaker whose business he is carrying on is authorized to bet; and

(b) be a member of a betting club; and

(c) have lodged security referred to in paragraph (c) of subsection (3) of section *seven*.

(4) An authority granted in terms of subsection (2) may be cancelled by—

(a) a court on the conviction of the person authorized in terms of that subsection of an offence in terms of this Act; or

(b) the committee which authorized the issue of a bookmakers licence to the licensed bookmaker concerned on the grounds that the person authorized in terms of that subsection is no longer a fit and proper person to carry on the business of a bookmaker:

Provided that such committee shall not cancel such authority except after due inquiry at which the person authorized in terms of that subsection has had the opportunity of being heard in person or represented by a legal practitioner;

and shall terminate with effect from the cancellation of the bookmakers licence concerned in terms of section *fifteen*.

(5) The cancellation of an authority by a committee in terms of subsection (4) shall be final.

11 Appointment of authorized deputies

(1) A licensed bookmaker may—

(a) if he ordinarily carries on business in a prescribed area, apply to the committee established in respect of the prescribed area; or

(b) if he ordinarily carries on business outside a prescribed area, apply to the committee established in respect of the prescribed area nearest to his place of business;

for the appointment of a person employed or to be employed by him to be his authorized deputy.

(2) On receipt of an application in terms of subsection (1), the committee concerned may, if it is satisfied that the person referred to in such application is a fit and proper person to assist the applicant in carrying on his business, appoint such person in writing to be the authorized deputy of the applicant and shall, on such appointment, endorse on the bookmakers licence of the applicant such particulars of such person as may be prescribed.

(3) The committee concerned may at any time, without assigning any reason therefor and without giving prior notice of its intention to do so, cancel the appointment of an authorized deputy and such cancellation shall be final.

(4) An authorized deputy may carry on business on behalf of the licensed bookmaker on whose licence his prescribed particulars are endorsed during the absence of such licensed bookmaker from the betting room or place in which such licensed bookmaker is authorized to bet, for a period or periods not exceeding four hours in the aggregate on any one day.

12 Closure of premises of certain licensed bookmakers in absence of both licensed bookmaker and authorized deputy

When a licensed bookmaker who ordinarily carries on his business in a prescribed area and his authorized deputy, if any, are both absent from the betting room in which such licensed bookmaker is authorized to bet, such licensed bookmaker shall ensure that the place where he carries on his business within such betting room is closed.

13 Board may direct admission of person to betting club

(1) If any person who wishes to carry on the business of a bookmaker and is able to acquire the business of a licensed bookmaker is refused admission as a member by a betting club, he may, within a period of thirty days of being notified of such refusal, appeal in writing to the Board.

(2) On receipt of an appeal in terms of subsection (1), the Board may, after consultation with the betting club concerned, direct the betting club—

(a) to admit the appellant as a member; and

(b) to permit the appellant to lodge with it security referred to in paragraph (c) of subsection (2) of section *five*.

[Section substituted by section 66 of Act 26 of 1998]

14 Maximum number of licensed bookmakers in prescribed area

(1) The Minister shall, by notice in a statutory instrument, fix the maximum number of licensed bookmakers who may carry on business in each prescribed area.

(2) At any time after the date on which the notice referred to in subsection (1) is published, and thereafter at intervals of not less than five years, the Minister may direct the Board to review the maximum number fixed in terms of that subsection of licensed bookmakers who may carry on business within the prescribed area.

[Subsection amended by section 66 of Act 26 of 1998]

(3) In conducting a review in terms of subsection (2), the Board shall—

(a) compare the amount of tax paid on the winnings of bookmakers during the period of twelve months ending immediately prior to the direction of the Minister in terms of subsection (2) and the amount of tax paid on such winnings in terms of this Act during a period of twelve months ending on such date as the Minister may specify; and

[Paragraph as amended by section 66 of Act 26 of 1998]

(b) take account of—

(i) the extent to which prices, as measured by the consumer prices indices and such other factors as such committee may consider relevant, have changed since the date specified in terms of paragraph (a); and

(ii) any change since the date specified in terms of paragraph (a), in the rates of tax payable on the winnings of bookmakers in terms of this Act.

[Subparagraph as amended by section 66 of Act 26 of 1998]

(4) After conducting a review in terms of subsection (2), the committee shall make a report to the Minister, recommending whether or not, in its opinion, the maximum number fixed in terms of subsection (1) of licensed bookmakers who may carry on business within the prescribed area concerned should be increased.

(5) If a report made in terms of subsection (4) recommends an increase in the maximum number of licensed bookmakers, the Minister, after consultation with any betting club in the prescribed area concerned, may, by notice in a statutory instrument, increase the maximum number of licensed bookmakers who may carry on business within such prescribed area.

15 Cancellation of bookmakers licences

(1) A court may, on convicting a licensed bookmaker of an offence in terms of this Act, cancel the bookmakers licence of the licensed bookmaker.

(2) Subject to subsection (3), the Board may, cancel any bookmakers licence on the ground that the holder thereof—

- (a) is no longer a fit and proper person to carry on the business of a bookmaker; or
- (b) has ceased to be a member of a betting club; or
- (c) is no longer carrying on the business of a bookmaker; or
- (d) has failed to maintain security referred to in paragraph (c) of subsection (2) of section *five* or to continue to be covered by a bond referred to in subsection (1) of section *thirty-one*:

(3) The Board shall not cancel a bookmakers licence in terms of subsection (2) except after due inquiry at which the holder of the bookmakers licence concerned has had the opportunity to be heard in person or represented by a legal practitioner.

[Section as amended by section 66 of Act 26 of 1998]

16 Obligations of licensed bookmakers

(1) A licensed bookmaker shall—

- (a) keep or cause to be kept such books and other records in respect of each horse race or dog race at or in connection with which he strikes a bet as the Commissioner may require for the purpose of enabling the tax payable to be assessed; and
- (b) keep books containing detachable betting tickets—
 - (i) in the prescribed form; and
 - (ii) numbered consecutively;and
- (c) on striking a bet on a horse race or dog race at any place other than a race course, issue to the person with whom the bet is struck a ticket referred to in paragraph (b); and
- (d) retain in a safe place a carbon duplicate copy of the ticket referred to in paragraph (c); and
- (e) permit or cause to be permitted at all reasonable times the inspection of his bookmakers licence and of all books and other records kept by him in terms of this subsection, together with any other books and records relating to his business, by the revenue officer or any other employee of the Zimbabwe Revenue Authority authorized thereto by the revenue officer; and

[Paragraph as amended by section 36 of Act 17 of 1999]

- (f) on receiving reasonable notice to do so, attend in connection with the bookmakers licence, books and records referred to in paragraph (e) at the office of the revenue officer or other officer referred to in that paragraph; and
- (g) for the purpose of determining the amount of any tax payable in terms of subsection (1) of section *thirty*, lodge with the revenue officer an affidavit disclosing his betting transactions at such times and in such form as may be prescribed:

Provided that, if there are no betting transactions so to be disclosed, the licensed bookmaker shall lodge an affidavit to that effect in the prescribed form; and

- (h) pay any levy or fee imposed upon him in terms of the Lotteries and Gaming Act [*Chapter 10:26*].

[Paragraph inserted by section 66 of Act 26 of 1998]

(2) Any licensed bookmaker who contravenes subsection (1) shall be guilty of an offence.

(3) Any licensed bookmaker who, in an affidavit lodged in terms of paragraph (g) of subsection (1), makes a statement which—

- (a) he knows to be false; or
- (b) he does not know or believe to be true;

in any material particular shall be guilty of an offence.

(4) Any person who is in possession of or has access to any bookmakers licence, books or records referred to in paragraph (e) of subsection (1) and fails or refuses to permit such bookmakers licence, books or records to be inspected by a revenue officer or other officer referred to in that paragraph, shall be guilty of an offence.

PART III

LICENSING OF OPERATORS OF TOTALIZATORS

17 Operation of unlicensed totalizator an offence

(1) No person shall operate or cause or permit to be operated a totalizator unless he is the holder of a totalizator licence issued in respect thereof.

(2) Any person who contravenes subsection (1) shall be guilty of an offence.

18 Licensing of operators of totalizators

(1) The Board may, on receipt of an application in writing and on payment of the appropriate prescribed licence fee by—

- (a) a turf club, issue to the turf club a licence in the prescribed form authorizing the turf club to operate a totalizator for a period specified in such licence, not exceeding twelve months, on any day other than Good Friday or Christmas Day; or
- (b) a motor racing club, issue to the motor racing club a licence in the prescribed form authorizing the motor racing club to operate a totalizator at a motor race meeting specified in such licence, subject to such conditions as he may think fit; or
- (c) a dog racing association, issue to the dog racing association a licence in the prescribed form authorizing the dog racing association to operate a totalizator for a period specified in such licence, not exceeding twelve months, on any day other than Good Friday or Christmas Day.

[Subsection amended by section 66 of At 26 of 1998 and by section 12 of Act 6 of 2005]

(2) The Board may, if the turf club, motor racing club or dog racing association to which a licence has been issued in terms of subsection (1) fails to comply with any provision of this Act with which it is its duty to comply or to comply with any condition subject to which the licence was issued—

- (a) cancel the licence; and
- (b) refuse to issue to such turf club, motor racing club or dog racing association any further licence in terms of that subsection until such turf club or motor racing club or dog racing association has complied with such provision or condition.

[Subsection amended by section 66 of At 26 of 1998]

(3) Any person who is aggrieved by a decision of the Board in terms of subsection (1) or (2) may appeal against the same to the Minister.

(4) Section 60 of the Lotteries and Gaming Act [*Chapter 10:26*] shall apply, *mutatis mutandis*, in respect of an appeal in terms of subsection (3).

[Subsection substituted by section 66 of Act 26 of 1998]

19 Totalizator transactions to be registered

(1) The holder of a totalizator licence shall ensure that each betting transaction effected by means of the totalizator concerned is registered—

- (a) in a manner approved by the Minister responsible for finance; and
- (b) in such a manner that such registration shall on a race day on a race course or at a motor race meeting, as the case may be, be in the uninterrupted view of the public.

(2) Any holder of a totalizator licence who contravenes subsection (1) shall be guilty of an offence.

20 Offences in connection with totalizators

Any person in charge of or having control of a totalizator or any assistant of such person who—

- (a) issues a totalizator ticket to any person on credit; or
- (b) accepts any money from, or issues a totalizator ticket or pays any dividend or money to, a person apparently under the age of eighteen years;

shall be guilty of an offence.

21 Commission deductible from gross takings from operation of totalizator

(1) The holder of a totalizator licence may deduct from the gross takings from the operation of the totalizator concerned commission in an amount not exceeding—

- (a) in the case of gross takings in respect of bets made under a system of betting in which two or more horses or dogs are linked together in a single bet, seventeen and a half *per centum* of such takings;
- (b) in the case of gross takings in respect of bets other than bets referred to in paragraph (a), twelve and a half *per centum* of such takings:

Provided that if, on the apportionment of an amount payable as a dividend from the operation of such totalizator, any sum apportioned is not an integral multiple of ten cents, such holder may retain the difference between such sum and the nearest integral multiple of ten cents which is less than such sum.

(2) Any holder of a totalizator licence who deducts from his gross takings commission exceeding that permitted by subsection (1) shall be guilty of an offence.

(3) The Minister may, with the consent of the Minister responsible for finance, by notice in a statutory instrument, amend paragraph (a) or (b) of subsection (1), or both such paragraphs, by the alteration of the percentages specified therein.

22 Affidavit to be furnished by holder of totalizator licence

(1) The holder of a totalizator licence shall, within a period of twenty-one days after each race day or motor race day, as the case may be, when a totalizator is used—

- (a) swear an affidavit in the prescribed form showing such particulars relating to the matters referred to in section *twenty-one* as may be prescribed; and
- (b) lodge the affidavit referred to in paragraph (a) with the revenue officer.

(2) Any holder of a totalizator licence who contravenes subsection (1) shall be guilty of an offence.

(3) Any holder of a totalizator licence who, in an affidavit lodged in terms of paragraph (b) of subsection (1), makes a statement which—

- (a) he knows to be false; or
- (b) he does not know or believe to be true;

in any material particular shall be guilty of an offence.

23 Obligations of holder of totalizator licence

(1) The holder of a totalizator licence shall—

- (a) keep or cause to be kept such books and other records as the Commissioner may in each case require for the purpose of ascertaining the gross takings from the operation of the totalizator concerned; and
- (b) permit or cause to be permitted the inspection of his totalizator licence and of the books and records referred to in paragraph (a), together with any other books and records relating to the operation of the totalizator concerned, at all reasonable times by the revenue officer or any other employee of the Zimbabwe Revenue Authority authorized thereto by the revenue officer.

[Paragraph as amended by section 36 of Act 17 of 1999]

- (c) pay any levy or fee imposed upon him in terms of the Lotteries and Gaming Act [*Chapter 10:26*].

[Paragraph inserted by section 66 of Act 26 of 1998]

(2) Any condition limiting or excluding the payment of a dividend by the holder of a totalizator licence shall not be of any effect unless it has been approved by the Minister.

(3) Any holder of a totalizator licence who contravenes subsection (1) shall be guilty of an offence.

(4) Any person who is in possession of or has access to any totalizator licence, books or records referred to in paragraph (b) of subsection (1) and fails or refuses to permit such totalizator licence, books or records to be inspected by a revenue officer or other officer referred to in that paragraph, shall be guilty of an offence.

PART IV

RESTRICTIONS ON BETTING

24 Betting by licensed bookmakers in prescribed areas restricted to race courses and betting rooms

(1) A licensed bookmaker shall not in any prescribed area bet—

- (a) outside a betting room except on a race course on a race day; or
- (b) in a betting room unless he is authorized by his bookmakers licence so to bet.

(2) Any licensed bookmaker who contravenes subsection (1) shall be guilty of an offence.

25 Minister may license betting rooms

(1) Subject to this section, the Minister may in respect of each prescribed area issue, subject to such conditions as he may think fit, a licence to one betting club only to keep open one or more betting rooms on such premises as he may approve.

(2) The Minister shall not issue a licence to a betting club in terms of subsection (1) unless—

- (a) in the case of premises referred to in that subsection which are licensed for the sale or supply of intoxicating liquor, the betting room concerned has no direct access to that part of such premises in which intoxicating liquor is sold or supplied; and
- (b) the rules of the betting club provide for a guarantee fund which—

- (i) is established and maintained by licensed bookmakers; and
- (ii) complies with such requirements as may be prescribed;

and

- (c) the betting club deposits its constitution and rules with the Minister; and
- (d) the Minister approves the constitution and rules deposited in terms of paragraph (c).

(3) Any licence issued in terms of subsection (1) shall—

- (a) be in the name of the betting club concerned; and
- (b) unless sooner cancelled in terms of subsection (4), remain in force until the date specified therein.

(4) The Minister may cancel any licence issued in terms of subsection (1) if—

- (a) the betting club concerned fails to comply with any conditions imposed in terms of that subsection; or
- (b) in the case of premises referred to in paragraph (a) of subsection (2), the betting room concerned acquires the direct access referred to in that paragraph; or

(c) the rules of the betting club concerned cease to provide for the guarantee fund referred to in paragraph (b) of subsection (2); or

(d) the constitution or rules of the betting club concerned are amended or repealed without his approval; or

(e) the betting club concerned—

- (i) is guilty of an offence in terms of this Act; or
- (ii) fails to provide adequate accommodation in its betting room for each bookmaker authorized to bet therein; or

- (iii) fails to comply with a direction made in terms of subsection (2) of section *thirteen*; or
 - (iv) contravenes section *twenty-six*;
- or
- (f) a complaint is made that the business of the betting club is not being properly carried on and the complaint is not answered to his satisfaction.

26 Control of betting rooms

A betting club shall not permit—

- (a) any intoxicating liquor to be taken into its betting room; or
- (b) any game of chance to be played in its betting room; or
- (c) any person apparently under the age of eighteen years to enter or remain in its betting room.

27 Offences in relation to liquor, games of chance and minors in betting rooms

(1) In subsection (2)—

“bet” means to stake or wager a sum of money or valuable thing on the issue of an uncertain event or on some question to be decided.

(2) Any person who—

- (a) takes into any betting room any intoxicating liquor; or
- (b) takes part in a game of chance within any betting room; or
- (c) bets with any person apparently under the age of eighteen years; or
- (d) induces or invites any person apparently under the age of eighteen years to bet;

shall be guilty of an offence.

28 Restrictions on fixed odds betting

(1) No person shall carry on a business involving the negotiating or receiving of bets made by fixed odds betting unless he—

- (a) is a licensed bookmaker; and
- (b) complies with the requirements of subsection (2).

(2) A licensed bookmaker who carries on fixed odds betting shall do so by receiving bets from members of the public who shall for that purpose complete and return to him coupons.

(3) Any person who contravenes subsection (1) shall be guilty of an offence.

PART V

BETTING TAX

29 Value added tax on betting and gaming

(1) There shall be charged, levied and collected for the benefit of the Consolidated Revenue Fund value added tax on the betting transactions specified, and at the rate set out, in Part II of the Schedule to Chapter IV of the Finance Act [*Chapter 23:04*]:

Provided that the Minister responsible for finance may, by notice in a statutory instrument, suspend for a period not exceeding twelve months at any one time the whole or any part of any such tax in respect of bets made within the area specified in such notice.

[Section substituted by section 3 of At 16 of 2004]

30 Payment of betting tax

(1) The amount of any tax shall be paid to the revenue officer—

- (a) in the case of tax on bets made with a licensed bookmaker, by the licensed bookmaker at such times and in such manner as may be prescribed;
- (b) in the case of tax on bets made during any month by means of a totalizator, by the holder of the totalizator licence concerned on or before the tenth day of the next succeeding month:

Provided that if the notice referred to in section *thirty-two* has not been served on the licensed bookmaker or such holder, as the case may be, the tax shall be paid by the licensed bookmaker or such holder directly to the Commissioner.

(2) Any licensed bookmaker or holder of a totalizator licence, as the case may be, who fails to pay any tax in accordance with subsection (1) shall be guilty of an offence,

31 Security bonds

(1) No licensed bookmaker shall carry on the business of a bookmaker unless he has entered into, and continues to be covered by, a bond with sufficient surety to be approved by the Commissioner, in a sum likewise to be approved, as security for the payment of any tax payable by him.

(2) If called on by the Commissioner to do so, the holder of a totalizator licence shall, within a period of fourteen days from the date on which he was so called on, enter into a bond, with sufficient surety to be approved by the Commissioner, in a sum likewise to be approved, as security for the payment of any tax payable by him.

(3) Sections 214, 215 and 216 of the Customs and Excise Act [*Chapter 23:02*] shall apply, *mutatis mutandis*, in respect of a bond referred to in subsection (1) or (2).

(4) Any holder of a totalizator licence or licensed bookmaker who contravenes subsection (1) or (2), as the case may be, shall be guilty of an offence.

32 Designation of revenue officers

The Commissioner shall, in relation to each person liable to pay tax in terms of subsection (1) of section *thirty*—

- (a) designate an employee of the Zimbabwe Revenue Authority as a revenue officer for the purposes of this Act; and
- (b) serve on such person notice in writing of the officer designated in terms of paragraph (a).

[Section as amended by section 32 of Act 17 of 1999]

33 Estimated assessment of betting tax

(1) Where—

- (a) a licensed bookmaker or the holder of a totalizator licence fails to lodge an affidavit in terms of subsection (1) of section *sixteen* or subsection (1) of section *twenty-two*, as the case may be; or
- (b) the revenue officer is not satisfied with the particulars shown in an affidavit referred to in paragraph (a); or
- (c) the revenue officer has reason to believe or suspect that a licensed bookmaker or the holder of a totalizator licence is liable to pay any tax in terms of this Part;

the revenue officer may cause an assessment to be made of the amount of tax which, in his opinion, is payable by the licensed bookmaker or holder of a totalizator licence concerned and shall serve notice in writing of such assessment upon such licensed bookmaker or holder of a totalizator licence:

Provided that no such assessment shall be made in respect of any bet which was made more than three years before the date of any such proposed assessment unless the revenue officer considers that the bookmaker or holder of a totalizator licence or any other person has, in relation to his liability under this Act, made use of any fraud or misrepresentation or has wilfully failed to disclose any fact, in which case such assessment may be made in respect of any bet to which the fraud, misrepresentation or non-disclosure relates and which was transacted more than three but not more than six years before the date of any such proposed assessment.

(2) A licensed bookmaker or the holder of a totalizator licence shall pay the amount of any assessment of tax in respect of which he has been notified in terms of subsection (1) within thirty days of the date on which he is so notified, unless he has objected to such assessment in terms of subsection (3).

(3) If any licensed bookmaker or the holder of a totalizator licence is aggrieved by any estimated assessment made in terms of subsection (1), he may, within thirty days of the date of service of the notice upon him in terms of subsection (1), object thereto by notice in writing to the Commissioner stating the grounds of his objection.

(4) Upon an objection in terms of subsection (3), the Commissioner may set aside, reduce, confirm or increase the estimated assessment and shall serve notice of his decision on the objector concerned.

(5) A licensed bookmaker or the holder of a totalizator licence shall pay the amount of tax, if any, determined by the Commissioner in terms of subsection (4) within thirty days of the date on which he is notified of the decision in terms of that subsection unless he has appealed against such decision in terms of subsection (6):

Provided that, where any such person has lodged an appeal in terms of subsection (6) and the appeal lapses for want of prosecution or is abandoned or withdrawn, he shall pay the amount of tax within seven days of the date the appeal so lapses or is abandoned or withdrawn.

(6) Any person who is aggrieved by the decision of the Commissioner in terms of subsection (4) may, within thirty days of the date of the service of the notice upon him in terms of that subsection, appeal to the High Court which may, upon such appeal, give such decision as, in its opinion, the Commissioner ought to have given in terms of subsection (4).

(7) A licensed bookmaker or the holder of a totalizator licence shall pay the amount of tax, if any, determined by the High Court within thirty days of the date of the decision of the court.

(8) Any licensed bookmaker or holder of a totalizator licence who fails to comply with subsection (2), (5) or (7) shall be guilty of an offence.

(9) In addition to any penalty to which he may be liable for a contravention of subsection (2), (5) or (7), a licensed bookmaker or holder of a totalizator licence shall, if he fails to pay the tax concerned or any part thereof, be liable to pay in addition to such tax or part thereof interest thereon at the prescribed rate which shall not exceed ten *per centum* per annum calculated from the date of expiry of the period referred to in subsection (2), (5) or (7), as the case may be.

PART VI

GENERAL

34 Powers of police officers

- (1) In this section—
“motor race course” means the place at which a motor race meeting is held.
- (2) Any police officer of or above the rank of sergeant may—
 - (a) require a person to produce his bookmakers licence, authority granted in terms of subsection (2) of section *nine* or subsection (2) of section *ten*, evidence of appointment in terms of subsection (2) of section *eleven* or totalizator licence, as the case may be; or
 - (b) if he has reasonable grounds for suspecting that an offence in terms of this Act is taking or has taken place, without warrant at any time—
 - (i) enter on any race course or motor race course or other place whatever; and
 - (ii) make such seizure of articles thereon as will secure evidence of the commission of such offence;or
 - (c) enter at any time any betting room or race course or motor race course for the purpose of general police supervision and eject any disorderly, drunken or noisy person therefrom.
- (3) Any person who—
 - (a) fails or refuses to produce his bookmakers licence, authority granted in terms of subsection (2) of section *nine* or subsection (2) of section *ten*, evidence of appointment in terms of subsection (2) of section *eleven* or totalizator licence in compliance with a requirement in terms of paragraph (a); or
 - (b) hinders, obstructs or resists any police officer in the exercise of his powers in terms of paragraph (b) or (c); of subsection (2) shall be guilty of an offence.

35 Regulations

- (1) The Minister may make regulations providing for any matters which by this Act are required or are permitted to be prescribed or which in his opinion are necessary or convenient to be provided for in order to carry out or give effect to this Act.
- (2) Regulations made in terms of subsection (1) may provide for—
 - (a) the conduct of meetings of committees;
 - (b) the control and management of betting rooms;
 - (c) the hours during which betting rooms may be kept open for the making and settling of bets;
 - (d) the conditions under which licensed bookmakers shall be permitted to make bets;
 - (e) the forms required by or in terms of this Act;
 - (f) the control of the conduct of dog racing.

36 Penalties for offences

- (1) Any person who commits an offence in terms of—
 - (a) subsection (4) of section *three*, subsection (3) of section *sixteen*, subsection (2) of section *seventeen*, subsection (2) of section *twenty-one*, subsection (3) of section *twenty-two*, subsection (2) of section *twenty-four*, subsection (3) of section *twenty-eight*, subsection (2) of section *thirty*, subsection (4) of section *thirty-one* or subsection (8) of section *thirty-three*, shall be liable to a fine not exceeding level six or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment;
 - (b) subsection (2) or (4) of section *sixteen*, subsection (2) of section *nineteen*, section *twenty*, subsection (2) of section *twenty-two*, subsection (3) or (4) of section *twenty-three*, subsection (2) of section *twenty-seven* or subsection (3) of section *thirty-four*, shall be liable to a fine not exceeding level four or to imprisonment for a period not exceeding three months or to both such fine and such imprisonment.

[Subsection as amended by section 4 of Act 22 of 2001]
- (2) Any licensed bookmaker or holder of a totalizator licence who commits an offence in terms of subsection (2) of section *thirty* shall be liable, in addition to the penalty provided for in paragraph (a) of subsection (1), to be ordered by the court which convicts him of such offence to pay by way of a penalty into the Consolidated Revenue Fund a sum not exceeding treble the amount of the tax payable by him.
- (3) On the conviction of any person for an offence in terms of this Act, the court convicting the person may, on the application of the prosecutor concerned and in addition to any punishment which it may impose, give summary judgment against the person in favour of the Minister for the amount of any tax which has not been paid, including any penalty to which the person may be liable in terms of subsection (2).
- (4) Any summary judgment given in terms of subsection (3) shall have the same effect as a civil judgment of the court concerned.