

**SPECIAL ISSUE**

*Nakuru County Gazette Supplement No. 21 (Acts No. 9)*



REPUBLIC OF KENYA

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**NAKURU COUNTY GAZETTE  
SUPPLEMENT**

**ACTS, 2017**

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**NAIROBI, 23rd May, 2016**

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**THE NAKURU COUNTY BETTING, GAMING  
AND LOTTERIES ACT, 2016**

**No. 9 of 2016**

*Date of Assent: 16th May, 2016*

*Date of Commencement: 16th May, 2016*

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**THE NAKURU COUNTY BETTING, GAMING AND  
LOTTERIES ACT, 2016**

**AN ACT of the County Assembly of Nakuru to provide for the control and licensing of betting and gaming premises; for the imposition and recovery of a tax on betting and gaming; for the authorizing of public lotteries in the County; and for connected purposes**

**ENACTED** by the County Assembly of Nakuru, as follows—

**PART I — PRELIMINARY PROVISIONS**

1. This Act may be cited as the Nakuru County Betting, Gaming and Lotteries Act, 2016 and shall come into operation upon assent.

Citation and  
Commencement

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

Interpretation.

“betting premises” means premises to which the public has or may have access and which are kept or used (whether on one occasion or more than one) for the purpose of—

(a) bets being made therein between persons resorting to the premises and the owner, occupier or keeper thereof, or any person using the premises, or any person procured or employed by or acting for or on behalf of the owner, occupier, keeper or person using the premises, or of any person having the care or management or in any manner conducting the business thereof; or

(b) any money or valuable thing being received by or on behalf of the owner, occupier, keeper or person aforesaid as or for the consideration for any assurance, undertaking, promise or agreement, express or implied, to pay or give, or for securing the paying or giving by some other person of, any money or valuable thing on any horse race, or other race, fight, game, sport, lottery or exercise, or any other event or contingency;

“betting transaction” includes the collection or payment of winnings on a bet and any transaction in which one or more of the parties is acting as a bookmaker;

“bookmaker” means a person who, whether on his

own account or as 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 permits himself to be held out in any manner, as a person who receives or negotiates bets, so however that a person shall not be deemed to be a bookmaker by reason only of the fact—

- (a) that he carries on, or is employed in operating, a totalisator in respect of which a license has been issued; or
- (b) that he carries on, or is employed in a business that is wholly concerned with, a pool betting scheme in respect of which a license has been issued;

“coupon”, in relation to a pool betting scheme or proposed pool betting scheme, includes a document connected with, or designed to assist in the making of, a bet by way of pool betting;

“executive committee member” means the executive committee member responsible for betting and gaming;

“game of chance” includes a game of chance and skill combined and a pretended game of chance or of chance and skill combined, but does not include an athletic game or sport;

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

“gaming machine” means a machine for playing a game of chance, being a game which requires no action by a player other than the actuation or manipulation of the machine;

“gaming premises” means premises which are kept or used (whether on one occasion or more than one) for gaming, and to which the public has or may have access for the playing therein of a game of chance, whether the game of chance be an unlawful game or not;

“inspector” means a person appointed by the Board and who has the authority to enforce the provisions of this Act.

“instruments of gaming” means cards, dice, counters,

coins, tickets, gaming tables, boards, boxes, or other things devised, or birds and animals used, for the purpose of gaming;

“licensed betting premises” means premises duly licensed in terms of this Act as premises wherein bets may be made and settled;

“licensed gaming premises” means premises licensed under this Act as premises to which the public may resort for the purpose of gaming;

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

“lottery” includes a sweepstake, a raffle and any scheme or device for the sale, gift, disposal or distribution of any property depending upon or to be determined by lot or chance, whether by the throwing or casting of dice, or by the withdrawing of tickets, cards, lots, numbers or figures, or by means of a wheel, or otherwise howsoever;

“minor” means a person who is under the age of eighteen years

“money” includes a cheque, bank note, postal order or money order, electronic mode of payment;

“permit-holder” means the holder of a permit issued under this Act;

“pool betting” means the making of bets (other than bets made by means of totalisator), whether the bets are made on the system known as a fixed odds betting or otherwise, by a number of persons on terms that the winnings of such

of those persons as are winners shall be, or be a share of, or be determined by reference to, the stake money paid or agreed to be paid by those persons;

“pool betting scheme” means a scheme involving the receiving or negotiating of bets made by way of pool betting;

“premises” includes any place and includes any vessel;

“racecourse” means a place used for the purpose of holding a race meeting;

“race day” means a day on which a race meeting is

held;

“race meeting” means a gathering of the public or of the members of an association of persons to watch horse races or other races;

“street” includes a bridge, road, lane, footway, square, court, alley or passage, whether a thoroughfare or not, which is for the time being open to the public; and the doorway and entrances of premises abutting upon ground adjoining and open to a street shall be treated as forming part of the street.

“tax” means any charges, fees, levies or impositions imposed under this Act;

“the Board” means the Betting Control and Licensing Board established by section 6;

“ticket”, in relation to any lottery or proposed lottery, includes any document evidencing the claim of a person to participate in the chances of the lottery;

“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, to take stake in any money or valuable thing on a horse race, or other race, fight, game, sport, lottery or exercise or any other event or contingency;

“totalisator” means the instrument, machine or contrivance commonly known as a totalisator, or any other instrument, machine or contrivance of a similar nature, or a scheme for enabling any number of persons to make bets on any event or contingency whatsoever with one another or principles of a similar nature;

“unlawful game” means a game of chance the chances of which are not alike favourable to all the players, including the banker or other person or persons by whom the game is managed or against whom the other players stake, play or bet to take stake;

“unlicensed betting premises” means betting premises in respect of which no license is issued under this Act;

“winnings” includes winnings of any kind and a reference to the amount or to the payment of winnings shall be construed accordingly.

**3.** This Act shall apply to all betting activities, gaming

Application

and lotteries within the Nakuru County but shall not extend to such activities when carried out as national betting, Gaming and Lotteries as contemplated under the Fourth Schedule to the Constitution.

4. (1) 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 particular matter.

Application of  
Cap 131 Laws of  
Kenya

5. The objects of this Act are to—

Objects of the  
Act

- (a) give further effect to paragraph 4 of the Fourth Schedule to the Constitution which mandates the county government with the function of betting control and licensing;
- (b) to ensure that the national government policy on the control of betting 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 level 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 control and licensing of betting within the county.

## **PART II— COUNTY BETTING CONTROL AND LICENSING BOARD**

6. (1) There is established the Nakuru County Betting Control and Licensing Board.

Establishment of  
the betting  
control board.

(2) The Board shall be a body corporate with perpetual succession.

(3) The Board shall comprise—

- (a) a chairperson, appointed by the Governor;
- (b) the chief officer responsible for the betting, gaming and lotteries;
- (c) the chief officer responsible for the betting, gaming and lotteries board;
- (d) the head of the county inspectorate services;
- (e) five persons appointed by the Governor who shall

be persons conversant with trade and financial matters respectively.

(4) The county director for betting, gaming and lotteries board shall be the Secretary to the board.

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

(6) The members referred to in paragraphs (a) and (e) of subsection (2) shall hold office for a period of three years from the date of their appointment, but shall be eligible for re-appointment but limited to a maximum of two terms.

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

Functions of the Board.

- (a) advise the Governor generally on the betting control and licensing policy within the Nakuru County;
- (b) liaise with the relevant law enforcement agencies to ensure the enforcement of the law as contained in this Act;
- (c) generally administer this Act and any relevant provision on betting control;

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

8. (1) The Board shall have power—

Powers of the Board

- (a) to issue licenses and permits in accordance with this Act and any regulations made thereunder;
  - (b) during the subsistence of a license or permit, to vary, or for good cause suspend or cancel it; but the Board shall not suspend a license or permit for more than fourteen days and shall not vary or cancel a license or permit without giving the licensee or permit-holder an opportunity to show cause against the variation or cancellation; and
  - (c) to inquire into complaints against licensees or permit-holders and take appropriate action.
- (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.

9. (1) Meetings of the Board shall be held at least once in every three months and at such other times, on such occasions and at such places as the chairperson may with notice to the members determine.

Meetings of the Board.

- (2) The Chairperson shall chair all meetings of the Board.
- (3) 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.
- (4) At all meetings of the Board, the chairperson together with three other members of the Board shall form a quorum.
- (5) The chairperson shall have a deliberative vote and, in the case of equality of votes, shall also have a casting vote.

10. (1) The chairperson of the Board may, through the County Public Service Board, 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.

Staff of the Board

(2) The Board may seek independent persons who are expert in their field of work to advise the board or it 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.

(3) The chairperson, members, officers and servants appointed under this section shall be paid out of moneys provided for that purpose by the Assembly such salaries, remuneration and allowances, if any, as the Salaries and Remuneration Commission may determine.

(4) 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.

11. All permits and licenses 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 *Kenya Gazette* under the hand of the chairperson.

Communications  
from the Board

12. The chairperson shall submit to the Governor for publication an annual report of the proceedings of the Board containing particulars with respect to such matters as the Governor may direct.

Annual report

### **PART III— BETTING, GAMING AND LOTTERIES CONTROL AND LICENSING**

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

Application for  
licenses and  
permits

(2) The application shall state the type of activity sought to be licensed whether-

- (a) betting
- (b) gaming
- (c) lotteries
- (d) amusement games or funfairs
- (e) electronic or online betting and gaming

(3) 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 license or permit or refuse a license or permit or renewal or variation thereof:

Provided that no license 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

license or permit and that the premises, if any, in respect of 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 license 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.

14. (1) The Board shall, after considering the application under section 13, indicate in writing whether it objects to the grant of the license applied for.

Grant of License

(2) Where the Board has no objection the application under section 13, it shall grant a license to the applicant upon payment of the prescribed fee.

(3) The license 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 thirty 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 three months determine the application in accordance with this Act and upon such determination, if satisfied, issue a license.

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

(8) A person granted a license to operate any activity under section 13(2) shall abide by the conditions of the license and a person who contravenes any condition imposed commits an offence.

(9) A person who commits an offence as envisioned in subsection 8 may have their license or permit revoked in

addition to any other punishment prescribed.

10) All licensees shall ensure the security and privacy of their patrons, clients or participants in any of the activities provided by the licensees.

15. No license or permit issued under this Act shall be transferable to any person, and a person who transfers or purports to transfer a license or permit shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to an imprisonment of three months or both

Licenses and permits not to be transferred.

#### **PART IV—OFFENCES**

16. (1) Subject to this Act, a person who—

Offences relating to unlicensed betting premises

- (a) being the owner or occupier or having the use temporarily or otherwise thereof, keeps or uses unlicensed betting premises; or
- (b) permits premises of which he is the owner or occupier, or of which he has the use temporarily or otherwise, to be used as unlicensed betting premises; or
- (c) has the care or management of, or in any manner assists or is engaged in the management of, premises kept or used as unlicensed betting premises; or
- (d) announces or publishes or causes to be announced or published, either orally or by means of any print, writing, design, sign or otherwise, that premises are opened, kept or used as unlicensed betting premises, or in any manner invites or solicits any person to bet in unlicensed betting premises; or
- (e) advances, furnishes or receives money for the purpose of establishing or conducting the business of unlicensed betting premises, shall be guilty of an offence and liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding 6 months or both

(2) A person who bets in unlicensed betting premises shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to a term of imprisonment for a term not exceeding six months, or to both; and a person found in unlicensed betting premises or

found escaping therefrom on the occasion of their being entered under this Act shall be presumed, until the contrary is proved, to be or to have been betting therein.

(3) A person who occupies or has the use temporarily of premises which are kept or used by another person as unlicensed betting premises shall be presumed, until the contrary is proved, to have permitted that place to be so kept or used.

17. A person who, except within licensed betting premises or at an authorized race meeting, touts or otherwise personally solicits the patronage of members of the public with a bookmaker shall be guilty of an offence and liable to a fine not exceeding twenty thousand.

Prohibition  
against touting

18. A person who, in connection with any licensed betting premises, licensed bookmaking or licensed pool betting scheme, without the approval of the Board—

Prohibition  
against  
advertising of  
betting.

- (a) holds himself out by advertisement or notice or public placard as willing to bet with members of the public; or
- (b) displays any written or printed placard or notice relating to betting in any shape or form, so as to be visible in a public street or place; or
- (c) prints or publishes, or causes to be printed or published, any advertisement or other notice, shall be guilty of an offence and liable to a fine not exceeding thirty thousand shillings or to imprisonment for a term not exceeding three months or to both; but nothing in this section shall prohibit the printing, reproduction and publication of circulars giving information relating to betting in Kenya or elsewhere, if the circulars are issued by a person granted a license under this Act.

19. A person who, upon licensed betting premises other than at an authorized race meeting, sells or supplies or consumes or permits the sale or supply or consumption of alcoholic liquor shall be guilty of an offence and liable to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding three months or to both.

Prohibition  
against liquor on  
licensed premises

**20.** (1) A person who—

- (a) bets or games with a minor; or
- (b) employs a minor on licensed betting or gaming premises or in connection with a pool betting scheme or in the effecting of any betting other than —
  - (i) the effecting of betting by post; or
  - (ii) the carriage of a communication relating to betting for the purpose of its conveyance by post; or
- (c) receives or negotiates a bet through a minor; or
- (d) sends to a minor any circular, notice, advertisement, letter or other document relating to betting or gaming,

Betting or gaming with a minor an offence

shall be guilty of an offence and liable to a fine not exceeding thirty thousand shillings or to imprisonment for a term not exceeding three months or to both.

**21.** (1) Subject to this Act, a person who frequents or loiters in a street or public place, on behalf either of himself or of any other person, for the purposes of bookmaking, betting, agreeing to bet, or paying, receiving or settling bets or gaming shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both;

Betting or gaming in public places an offence

(2) An inspector may arrest without warrant anyone whom he finds in a street or public place and whom he suspects, with reasonable cause, to be committing an offence under this section.

**22.** A person who makes a bet or gambles on illegal activities or permits the betting or gambling on any such activities in his premises whether or not such premises are licensed is be guilty of an offence and shall be liable upon conviction to a fine not exceeding ten thousand shillings or imprisonment for 3 months, or to both.

Betting on illegal activities

**23.** (1) Every betting, gaming or lotteries machine used in any betting, gaming or lotteries activities o in any premises thereof shall be registered and licensed by the county government.

Use of unlicensed machines

(2) A person who uses unlicensed machines in betting, gaming or lotteries is guilty of an offence and shall be liable upon conviction to a fine not exceeding Kenya

shillings ten thousand or to imprisonment for a term not exceeding three months or both.

24. Where no punishment has been prescribed for an offence created under this Act, a person convicted of such an offence shall be liable to pay a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months, or to both.

General  
punishment

25. An inspector in enforcing the provisions of this Act shall have the same powers and subject to the same duties and limitations as a police officer.

Powers of an  
Inspector

#### PART V—TAXES AND LEVIES

26. There shall be paid by each casino a gaming tax in respect of cumulative winnings for each month at such rate as may be determined by the executive committee member responsible for finance.

Gaming Tax  
payable by  
casinos

27. (1) The County Government may by order require the owners of casinos from time to time to pay training levy.

Training levy

(2) The money collected from the training levy shall be deposited in the County Revenue Fund

#### PART VI—MISCELLANEOUS

28. (1) There is established an Appeals Committee which shall hear and determine grievances from the decision of the Board.

Appeals from  
decisions of  
Board

(2) The Governor shall appoint five persons to sit in the Appeals Committee who are not members of the Board.

(3) A person aggrieved by a decision of the Board made under this Act may, within twenty-one days of the decision, appeal to the Appeals Committee which is established under subsection 1.

(4) A further appeal lies only to the high court and the decision of a judge of the High Court shall not be the subject of appeal.

29. (1) The executive committee member may, with the approval of the Governor and the County Assembly make regulations or the better carrying out of the provisions of this Act.

Regulations

(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;
- (c) Regulation of the various types of betting, gaming and lotteries including electronic or online betting and gaming;
- (d) Management, operation and procedures of the Board;
- (e) Any other matter for the better carrying out of the business of the Board.

**30.** The executive committee member responsible for betting, gaming and lotteries and the executive committee member responsible for finance shall take joint action to ensure expeditious transition to enable the full operation of this Act and for that purpose shall jointly make the necessary regulations and put in place the necessary administrative arrangements.

Transitional



