

The Betting Gaming and Lotteries Act

[1st January 1966]

Regulation | Cases | Objects & Reasons

ARRANGEMENT OF SECTIONS

Acts 34 of 1965 | 37 of 1965 | 31 of 1968 | 9 of 1971 | 3 of 1972 S. 33 | 14 of 1972 | 22 of 1973 | 1 of 1975 | 20 of 1978 | 24 of 1979 | 10 of 1981 | 10 of 1982 | 12 of 1985 Sch. | 14 of 1991 | 19 of 1992 | 2 of 1998 | 9 of 2000 | Act 28 of 2003 | 30 of 2003.

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1. Short title.

- 1. This Act may be cited as the Betting, Gaming and Lotteries Act.

2. Interpretation.

- 2. (1) In this Act -

"approved club" has the meaning assigned to it by subsection (2) of section 40;

"approved racecourse" means any racecourse in respect of which a licence is granted under the Jamaica Racing Commission Act;

"authorized person" means a constable or any person authorized by the Commission to carry out any function in relation to the enforcement or application of this Act;

"betting agency permit" has the meaning assigned to it by subsection (2) of section 21;

"betting office licence" has the meaning assigned to it by subsection (1) of section 21;

"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 any person who -

(a) whether on his own account or as servant or agent of any other person, carries on, whether occasionally or regularly, the business of receiving or negotiating bets at declared odds; or

(b) by way of business in any manner holds himself out, or permits himself to be held out, as a person who receives or negotiates bets at declared odds,

so however, that a person shall not be deemed to be a bookmaker by reason only of the fact that he operates, or is employed in operating, a totalisator;

"bookmaker's permit" has the meaning assigned to it by subsection (1) of section 19;

"Commission" means the Betting, Gaming and Lotteries Commission established by section 4;

"declared odds" means declared odds within the meaning of section 3;

"functions" includes powers and duties;

"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 any athletic game or sport;

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

"horse" includes mare, gelding, colt and filly;

"Jamaica Racing Commission" means the Jamaica Racing Commission established by the Jamaica Racing Commission Act;

"licensed betting office" means premises in respect of which a betting office licence is for the time being in force;

"licensed track" means a track in respect of which a track betting licence issued by the Commission pursuant to section 24 is for the time being in force;

"licensee" in relation to a licensed betting office, means the holder of the betting office licence for the time being in force in respect of that office;

"lottery" includes any game, method, or device whereby money or money's worth is distributed or allotted in any manner depending upon or to be determined by chance or lot, held, drawn, exercised or managed whether in Jamaica or elsewhere;

"lottery ticket" includes any paper, figure, writing symbol or other article whatsoever, which either expressly or tacitly entitles or purports to entitle the holder or any other person to receive any money or money's worth on the happening of any event or contingency connected with a lottery;

"money" includes a cheque, banknote, postal order and money order;

"native bred" means a horse sired and foaled in Jamaica;

"operator" means, in relation to any pool betting, the person to whom the persons making the bets look for the payment of their winnings, if any;

"player", in relation to a game of chance, includes any person taking part in the game against whom other persons taking part in the game stake, play or bet;

"pool betting" has the meaning assigned to it by section 3;

"pool betting business" means business involving the receiving or negotiating of bets made by way of pool betting;

"premises" includes any place and any vessel;

"racing promoter" means a person who with the approval of the Jamaica Racing Commission promotes horse-racing at an approved racecourse;

"sanctioned pool betting" means pool betting by means of facilities provided -

(a) by a racing promoter -

(i) on an approved racecourse; or

(ii) on premises approved by the Commission pursuant to section 24; or

(b) by the occupier of a licensed track on that track;

"television broadcasting" has the same meaning as in the Broadcasting and Radio Re-diffusion Act;

"totalisator" means the contrivance for betting known as the totalisator or pari mutuel, or any other machine or instrument of like nature, whether mechanically operated or not;

"track" means premises on which races of any description, athletic sports or other sporting events take place;

"track betting licence" has the meaning ascribed to it by section 24;

"unlawful gaming" has the meaning ascribed to it by subsection (1) of section 38;

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

(2) For the purpose of this Act a place shall be deemed to be "used" for a purpose, if it is used for that purpose even on one occasion only.

(3) Where during any period a track is, with the consent of the occupier, under the management of some person other than the occupier that other person shall be deemed during that period to be the occupier, and for the purposes of this subsection the expression "track" includes an approved racecourse.

(4) For the purposes of Part VII -

(a) references to printing shall be construed as including references to writing and other modes of representing or reproducing words in a visible form; and

(b) documents or other matters shall be deemed to be distributed if they are distributed to persons or places whether within or outside Jamaica, and the expression "distribution" shall be construed accordingly.

(5) For the purposes of this Act a person who writes or otherwise records bets shall -

(a) be deemed to be a person who receives bets; and

(b) be deemed to be performing the functions of a bookmaker on his own behalf unless he proves that in receiving bets he is acting on behalf of a person named and identified by him.

3. Definition of pool betting. Cases

3. (1) For the purposes of this Act, any bet shall be deemed to be made by way of pool betting unless it is a bet at declared odds, and, in particular, bets shall be held to be made by way of pool betting wherever a number of persons make bets -

(a) 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, whether the bets are made by means of a totalisator, or by filling up and returning coupons or other printed or written forms, or otherwise howsoever; or

(b) on terms that the winnings of such of those persons as are winners shall be, or shall include, an amount (not determined by reference to the stake money paid or agreed to be

paid by those persons) which is divisible in any proportions among such of those persons as are winners; or

(c) on the basis that the winners or their winnings shall, to any extent, be at the discretion of the operator or some other person.

(2) A bet is a bet at declared odds within the meaning of this section only if each of the persons making it knows or can know, at the time he makes it, the amount he will win, except in so far as that amount is to depend on the result of the event or events betted on, or on any such event taking place or producing a result, or on the numbers taking part in any such event, or on the time when his bet is received by any person with or through whom it is made or, subject to section 26, on the starting prices or totalisator odds for any such event, or on there being totalisator odds on any such event.

In this subsection the expression "starting prices" in relation to any event means the odds ruling at the scene of the event immediately before the start, and the expression "totalisator odds" means the odds paid on bets made by means of a totalisator at the scene of the event.

(3) A bet made with or through a person carrying on a business of receiving or negotiating bets, being a bet made in the course of that business, shall be deemed not to be a bet at declared odds within the meaning of this section if the winnings of the person by whom it is so made consist or may consist in whole or in part of something other than money.

(4) Where payments are made for the chance of winning any money or money's worth on terms under which the payers have a power of selection which may (directly or indirectly) determine the winner, then, for the purposes of this Act, those payments shall be treated as bets notwithstanding that the power is not exercised.

(5) Where a person carries on a business of receiving or negotiating bets and there is or has been issued in connection with that business any advertisement or other publication calculated to encourage in persons making bets of any description with or through him a belief that the bets are made on the basis mentioned in paragraph (c) of subsection (1), then any bets of that description subsequently made with or through him in the course of that business shall be deemed for the purposes of this Act to be made on that basis.

4. Establishment of Betting, Gaming and Lotteries Commission.

4. (1) There shall be established a body to be called the Betting, Gaming and Lotteries Commission.

(2) The Commission shall be a body corporate to which the provisions of section 28 of the Interpretation Act shall apply.

(3) The provisions of the First Schedule shall have effect as to the constitution and operation of the Commission and otherwise in relation thereto.

5. Functions of the Commission.

5. (1) The functions of the Commission shall be to regulate and control the operation of betting and gaming and the conduct of lotteries in the Island; and to carry out such other functions as are assigned to it by or in pursuance of the provisions of this Act or any other enactment, and, in particular, but without prejudice to the generality of the foregoing -

(a) to examine, in consultation with such organisations and persons as it considers appropriate, problems relating to the operation of betting and gaming and the conduct of lotteries in the Island;

(b) to furnish information and advice and to make recommendations to the Minister with respect to the exercise by him of his functions under Part IV, Part V and Part VI;

(c) to make investigations and surveys for the purpose of obtaining information of use to it in the exercise of its functions.

(2) The Commission shall, subject to the provisions of this Act, have power to do all such things as are in its opinion necessary for, or conducive to, the proper discharge of its functions.

6. Policy directions.

6. (1) The Minister may, after consultation with the Chairman of the Commission, give to the Commission directions of a general character as to the policy to be followed in the exercise or discharge of its functions in relation to any matter appearing to him to concern the public interest; and the Commission shall give effect to any such directions.

(2) The Commission shall furnish to the Minister such information as he may require with respect to the property and activities of the Commission; and shall afford to him facilities for verifying such information in such manner and at such times as he may reasonably require.

7. Application for licences, permits, etc.

7. (1) A person requiring a licence, permit, approval or authority mentioned in any of the specified provisions shall make application in writing to the Commission in the prescribed form and manner, giving in such application the information which may be required by regulations made under this Act.

For the purposes of this section, "specified provisions" means sections 18(3), 19, 20, 21, 24, 26(3), 44, 44A, 49 and 51(1).

(2) Where the Commission receives an application pursuant to subsection (1), in order to satisfy itself that the application is in order, the Commission may make or cause to be made such investigations as it considers necessary in connection with the application.

(3) As respects an application for a betting office licence or a licence or approval under section 24, if the Commission is satisfied that the application is in order, it shall -

(a) direct an authorized person to visit and inspect the premises in relation to which the application is made; and

(b) inform the applicant of such direction.

(4) Where directed under paragraph (a) of subsection (3) an authorized person may, for the purpose of carrying out an inspection under this section -

(a) enter upon and examine the premises in respect of which the application is made;

(b) put to any person upon the premises any question relating to the application if he reasonably believes that any information can be obtained which will assist the Commission in arriving at a decision as to whether or not the licence or approval should be granted; and

he shall produce his certificate of appointment to any person on the premises reasonably requiring him to do so.

(5) Upon the completion of the inspection as aforesaid the authorized person shall make his report thereon in writing to the Commission.

8. Grant of licences, permits etc.

8. (1) The Commission may in respect of any application under section 7, if satisfied that it is desirable so to do (and subject to that section) grant or refuse the licence, permit, approval or authority, as the case may be, and shall notify the applicant in writing accordingly.

(2) Every licence, permit, approval or authority granted by the Commission shall be for such period and subject to such terms and conditions as may be specified therein, and may be renewed in such manner as may be prescribed.

9. Suspension or revocation of licences, permits etc.

9. The Commission may suspend, vary or revoke a licence, permit, approval or authority granted under this Part, pursuant to an investigation held under section 10.

10. Investigations.

10. The Commission may, where it considers it expedient so to do, hold or cause to be held an investigation -

(a) to determine whether any licence, permit, approval or authority granted under this Part should be suspended, varied or revoked;

(b) in respect of the breach of any of the regulations made by the Commission under this Act or the terms or conditions of any licence, permit, approval or authority aforesaid; or

(c) as respects any matter related to or connected with its functions so as to determine whether any of such functions should be exercised,

and with respect to any such investigation the following provisions shall have effect -

(i) the person or persons holding the investigation (hereinafter in this section referred to as "the tribunal") shall do so in such manner and under such conditions as the tribunal may think most effectual for ascertaining the facts of the matter under investigation;

(ii) the tribunal shall have for the purposes of the investigation all the powers of a Resident Magistrate to summon witnesses, call for the production of books and documents and to examine witnesses and the parties concerned on oath;

(iii) any person summoned to attend or to produce books or documents under this section and refusing or neglecting so to do or refusing to answer any question put to him by or with the concurrence of the tribunal shall be guilty of an offence against this Act and be liable on summary conviction before a Resident Magistrate to a fine not exceeding five hundred dollars and in default of payment to imprisonment for a term not exceeding three months:

Provided that no person shall be bound to incriminate himself and every witness shall, in respect of any evidence given by him at such an investigation be entitled to the same privileges to which he would be entitled if giving evidence before a court of justice;

(iv) any witness attending at the request of, or upon summons by, the tribunal shall, subject to any order made by the tribunal, be entitled to like allowances for expenses as if summoned to attend a Resident Magistrate's Court.

11. Power of Commission to delegate functions.

11. (1) The Commission may by instrument in writing and subject to such conditions as may be specified in the instrument delegate to any person any of the functions exercisable by the Commission by virtue of the provisions of this Act or any other enactment.

(2) A delegation under this section shall be revocable by the Commission, and no delegation shall prevent the exercise by the Commission of any of its functions.

(3) Any person to whom a delegation is made under this section shall furnish to the Commission from time to time such information as the Commission may require with respect to the exercise of any of the functions so delegated under this section:

Provided that nothing in this section shall authorize the Commission to depute any person to hear any appeal or to make regulations under the powers in that behalf conferred upon it by any enactment.

12. Appeal to Commission.

12. (1) There shall be an appeal to the Commission against a decision given by a person acting in pursuance of any function delegated under section 11.

(2) Any person who is aggrieved by a decision given by a person referred to in subsection (1) may appeal to the Commission against such decision within such time and in such manner as may be prescribed.

(3) The Commission may, at the hearing of an appeal against a decision in respect of which the appeal is brought -

- (i) dismiss the appeal and confirm the decision; or
- (ii) allow the appeal and set aside the decision; or
- (iii) set aside the decision and substitute therefor such other decision as the Commission may think proper; or
- (iv) allow the appeal and direct that the proceedings in respect of which the decision (the subject of the appeal) was made, be conducted afresh either by the person who made that decision or such other person as the Commission may decide.

13. Decision of Commission to be final.

13. Any decision of the Commission given in respect of an appeal under section 12 shall be final.

14. Power of the Commission to impose penalties.

14. (1) The Commission shall have power to impose penalties for any breach which has been found to be committed pursuant to investigations under section 10, so, however, that the penalty in respect of any such breach shall not exceed two hundred thousand dollars.

(2) Any such penalty shall -

(a) if necessary, be recoverable by the Commission as a debt in a Resident Magistrate's Court;

(b) be paid into the funds of the Commission.

15. Offences.

15. Every person who -

(a) obtains the grant or renewal of any licence, permit, approval or authority from the Commission under section 8 by wilful misrepresentation; or

(b) in relation to any application for such grant or renewal wilfully or recklessly gives any false or misleading information or makes a false or misleading statement; or

(c) in relation to subsections (3) and (4) of section 7 refuses to permit any authorized person to enter or inspect the premises concerned or obstructs him in the execution of his duties under this Act,

shall be guilty of an offence and be liable on summary conviction before a Resident Magistrate to a fine not exceeding five hundred thousand dollars or to imprisonment for a term not exceeding twelve months.

PART III. *Betting and Bookmaking*

16*. Restriction on use of premises for betting transactions with persons resorting thereto.

16. (1) Subject to subsection (2) of this section and subsection (1) of section 21, no person shall –

(a) save as permitted by or pursuant to section 18, –

(i) use any premises, or cause or knowingly permit any premises to be used, as a place where persons resorting thereto may effect pool betting transactions; or

(ii) provide facilities at any premises for persons resorting thereto to effect pool betting transactions; or

(b) control, occupy or use or cause or knowingly permit any other person to control, occupy or use, any premises for the purpose of –

(i) effecting betting transactions of any kind with persons resorting to those premises; or

(ii) facilitating the making of betting transactions between persons resorting to those premises,

and every person who contravenes this subsection shall be guilty of an offence and shall be liable on summary conviction in s Resident Magistrate's Court to a fine not exceeding two hundred and fifty thousand dollars or to a term of imprisonment not exceeding two years or to both such fine and imprisonment.

(2) Paragraph (b) of subsection (1) shall not apply –

(a) where the premises is an approved club;

(b) where the premises are at the time being used for entertainments such as bazaars, fairs, sale of works, fetes, dinners, dances, sporting or athletic events and other entertainments of similar kind which are promoted for purposes other than private gain and the betting transactions are incidental to such entertainment, so, however, that –

(i) the facilities for taking part in the betting transactions shall not be the only, or the only substantial, inducement to persons to attend the entertainment; and

(ii) the premises concerned shall not be used more often than on twelve days in any one year for the promotion of entertainments involving such betting transactions as aforesaid.

(3) Any person who, for any purpose connected with the effecting of a betting transaction, resorts to any premises which are being used in contravention of subsection (1) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

(4) For the purposes of subsection (3), proof that any person was on any premises while they were being used as mentioned in that subsection shall be evidence that he resorted to the premises for such a purpose as is so mentioned unless he proves that he was on the premises for *bona fide* purposes which were not connected with the effecting of a betting transaction.

*Section 16 in so far as it relates to the carrying on of any pool betting business based on the results of football matches, is not yet in force.

17. Prohibition of betting in streets and public places.

17. (1) Any person frequenting or loitering 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 shall be guilty of an offence and liable -

(a) to a fine not exceeding two hundred thousand dollars and in default of payment thereof to imprisonment with or without hard labour for a term not exceeding two months; or

(b) in the case of a second or any subsequent conviction for an offence under this section, to a fine not exceeding four hundred thousand dollars and in default of payment thereof to imprisonment with or without hard labour for a term not exceeding six months.

(2) Any constable may take into custody without warrant any person found committing an offence under this section and may seize and detain any article found in his possession which the constable has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of such offence.

(3) In this section the doorways and entrances of premises abutting upon, and any ground adjoining and open to, a street shall be treated as forming part of the street.

18.* Regulation of pool betting.

18. (1) No pool betting business shall be carried on by any person unless such business is carried on -

(a) by a person authorized thereto by subsection (1A) or (1B) and in conformity with the provisions of such subsection and any order made under subsection (1D).

(b) by a person authorized thereto by an order under subsection (3) and in conformity with that order.

(1A) Subject to subsection (1D) pool betting business may be carried on -

(a) by a racing promoter on an approved racecourse, if the business is conducted -

(i) on that racecourse not earlier than one week prior to the day on which horse-races but no other races take place thereon; and

(ii) only on the horse-races conducted on that racecourse on that day;

(b) by the occupier of a licensed track if the business is conducted -

(i) on that track not earlier than one week prior to the day on which races permitted by the licence take place thereon; and

(ii) only on the races permitted by the licence and conducted on that track on that day; or

(c) by a racing promoter or by an agent of such promoter authorized in writing by the promoter if the business is conducted –

(i) on premises approved by the Commission pursuant to section 24 and occupied by the racing promoter or by such agent;

(ii) not earlier than one week prior to the day on which horse-races promoted by that promoter takes place; and

(iii) only on the horse-races promoted by that promoter on that day,

(1B) Subject to subsection (1D), pool betting business may be carried on by a racing promoter or his agent duly authorized in writing by the promoter, on horse-races conducted overseas if –

(a) the business is conducted –

(i) on an approved racecourse or on premises approved by the Commission pursuant to section 24, as the case may be; and

(ii) not earlier than one week prior to the day on which such horse-races take place overseas; and

(b) live television broadcasts of the running of such horse-races are transmitted to the approved racecourse or premises approved pursuant to section 24.

(1C) In this Act "live television broadcasts " means television broadcasts of horse-races conducted overseas which are transmitted simultaneously with the running of those horse-races.

(1D) Any business carried on pursuant to subsection (1A) or (1B) shall be carried on in accordance with such rules, terms and conditions as may be prescribed by the Commission by order.

(2) Every person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable to a fine not exceeding five hundred thousand dollars and in default of payment thereof to imprisonment with or without hard labour for a term not exceeding eighteen months.

(3) The Commission may, by order, authorize any person to promote and operate such form of pool betting business (other than pool betting under subsection (1A) or (1B)) as may be specified in the order and thereupon it shall be lawful for the person so authorized, notwithstanding anything contained in this Act or any rule of law to the contrary, to promote and operate that form of pool betting business and for any person to participate in the pool betting so promoted and operated.

(4) An order under subsection (1D) or (3) may prescribe such terms and conditions and may contain such ancillary provisions as the Commission thinks fit and, without prejudice to the generality of the foregoing, may include provisions in regard to -

- (a) the manner in which the pool betting business should be carried on;
- (b) the location and appointment of premises used in connection with the pool betting business;
- (c) the manner of making bets or stakes;
- (d) the nature and amount of winnings;
- (e) the making, keeping and examination of accounts, records and returns by any person in relation to the operation of the pool betting business; and
- (f) the exemption in whole or in part from stamp duty of transactions in connection with the pool betting business.

(5) Where an order is made pursuant to subsection (3) authorizing a person to promote and operate any form of pool betting business the Commission may, by regulations under this Act, make such provision as it thinks necessary to ensure that bookmakers shall not carry on the business of receiving or negotiating bets at declared odds in relation to the type of events which are the subject matter of that form of pool betting or that bookmakers shall only carry on that business subject to such terms and conditions (including conditions as to the payment of fees to the person operating the pool betting business) as the Commission thinks fit.

(6) Notwithstanding anything contained in section 29 of the Interpretation Act an order under subsection (1D) or (3) or regulations pursuant to subsection (5) of this section may provide greater penalties than those specified in the said section 29, so, however, that the maximum penalty that may be imposed shall be imprisonment with hard labour for a term of twelve months and a fine of five hundred thousand dollars.

(7) Notwithstanding anything to the contrary, any order under subsection (1D) or (3) or regulations made pursuant to subsection (5) shall be subject to the prior approval of the Minister.

*Section 18(1) and (2) in so far as they relate to the carrying on of any pool betting business based on the results of football matches, are not yet in force.

19. Restriction on bookmaking except on bookmaker's permit.

19. (1) A person shall not on his own account act as a bookmaker unless he is the holder of a valid permit (in this Act referred to as a "bookmaker's permit") authorizing him so to act.

(2) A person who contravenes subsection (1) is guilty of an offence and liable on conviction to a fine not exceeding five hundred thousand dollars or in default of payment thereof to imprisonment for a term not exceeding eighteen months.

(3) The relevant provisions of Part II shall have effect for the purposes of bookmakers' permits.

(4) If the holder of a bookmaker's permit, on being required by an authorized person to produce his permit for examination, refuses or without reasonable cause fails so to do, he shall be guilty of an offence and liable to a fine not exceeding forty dollars and in default of payment thereof to imprisonment with or without hard labour for a term not exceeding two months.

20. Authorization and registration of bookmaker's agent.

20. (1) No person shall by way of business receive or negotiate bets as servant or agent of another bookmaker unless -

(a) he has attained the age of eighteen years; and

(b) he is authorized in that behalf in writing in the prescribed form by that other bookmaker and that other bookmaker is the holder of a bookmaker's permit; and

(c) he is the holder of a betting agency permit:

Provided that this subsection shall not apply to any person who is the holder of a bookmaker's permit, or who receives or negotiates bets as aforesaid in a licensed betting office occupied by the holder of such a permit or the holder of a betting agency permit.

(2) If any bet is received or negotiated by any person as servant or agent to another bookmaker in contravention of subsection (1), both that person and that other bookmaker shall be guilty of an offence.

(3) Every bookmaker who is the holder of a bookmaker's permit shall keep a register in the prescribed form showing every person who is for the time being authorized for the purposes of subsection (1) by that bookmaker, and shall not grant any such authorization without making the appropriate entry in that register; and if any person contravenes any of the requirements of this subsection he shall, in respect of each contravention, be guilty of an offence.

(4) If any person who holds any authority in writing issued for the purposes of subsection (1) or who is required by subsection (3) to keep a register, on being required by an authorized person to produce that authority or, as the case may be, register for examination, refuses or without reasonable cause fails so to do, he shall be guilty of an offence.

(5) Any person guilty of an offence under this section shall be liable to a fine not exceeding two hundred thousand dollars and in default of payment thereof to imprisonment with or without hard labour for a term not exceeding six months or, in the case of offences under subsection (2) or subsection (3), on a second or any subsequent conviction under the same subsection, to a fine not exceeding three hundred thousand

dollars and in default of payment thereof to imprisonment with or without hard labour for a term not exceeding two years.

20A. Prohibition of illegal betting

20A. Any person who carries on the business of pool betting or bookmaking without being authorized or licensed under this Part to do so shall be guilty of an offence and shall be liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding five hundred thousand dollars or to a term of imprisonment not exceeding eighteen months or to both such fine and imprisonment.

Licensed Betting Offices

21. Betting office licences and betting agency permits.

21. (1) Where in the case of any premises there is for the time being in force a licence authorizing the holder of the licence to use those premises as a betting office (in this Act referred to as "a betting office licence"), paragraph (b) of subsection (1) of section 16 shall not apply to the use of those premises for the effecting of betting transactions with or through the holder of the licence or any servant or agent of his.

(2) The following persons, and the following persons only, may apply for the grant or renewal of a betting office licence in respect of any premises, that is to say -

(a) a person who is for the time being the holder of, or an applicant for, a bookmaker's permit; and

(b) a person who, not being the holder of, or an applicant for, a bookmaker's permit, is for the time being both -

(i) accredited by a bookmaker who is the holder of a bookmaker's permit as an agent for the purpose of receiving or negotiating bets by way of business with a view to those bets being made with that bookmaker; and

(ii) the holder of, or an applicant for, a permit (in this Act referred to as "a betting agency permit") authorizing him to hold a betting office licence.

(3) An application for the grant of a betting office licence in respect of any premises may be made notwithstanding that the premises have still to be constructed or are still in the course of construction.

(4) Subject to subsections (2) and (3), the relevant provisions of Part II shall have effect for the purpose of betting office licences and betting agency permits.

(5) If the holder of a betting agency permit, on being required by an authorized person to produce his permit for examination, refuses or without reasonable cause fails so to do, he shall be guilty of an offence and liable to a fine not exceeding two thousand dollars and in default of payment thereof to imprisonment with or without hard labour for a term not exceeding two months.

22. Conduct of licensed betting office.

22. (1) A licensed betting office shall be managed in accordance with the terms and conditions specified in the licence and the rules set out in the Second Schedule, and in the case of any breach of any of those terms and conditions or the rules, found pursuant to an investigation under section 10, the licensee and any servant or agent of the licensee by whom the breach was committed shall be liable to such penalty as the Commission may impose under section 14.

(2) Without prejudice to any other right to refuse a person admission to premises or to expel a person from premises, in the case of a licensed betting office the licensee or any servant or agent of his may refuse to admit to, or may expel from, the licensed premises any person who is drunken, violent, quarrelsome or disorderly, or whose presence on those premises would subject the licensee or any servant or agent of his to a penalty under subsection (1); and if any person liable to be expelled from the licensed premises under this subsection, when requested by the licensee, any servant or agent of the licensee or any constable to leave those premises, fails to do so, he shall be guilty of an offence and liable to a fine not exceeding five thousand dollars and in default of payment thereof to imprisonment with or without hard labour for a term not exceeding one month.

(3) Any constable may, on the request of the licensee or any servant or agent of the licensee, help to expel from a licensed betting office any person whom the constable has reasonable cause to believe to be liable to be expelled therefrom under subsection (2); and the constable may use such force as may be required for that purpose.

(4) Any authorized person may enter any licensed betting office for the purpose of ascertaining whether the provisions of subsection (1) are being complied with, and any person who obstructs any authorized person in the exercise of his powers under this subsection shall be guilty of an offence and liable to a fine not exceeding one hundred thousand dollars and in default of payment thereof to imprisonment with or without hard labour for a term not exceeding two months.

(5) If, save in a licensed betting office or in such manner as may be prescribed on premises giving access to such an office, any advertisement is published -

(a) indicating that any particular premises are a licensed betting office; or

(b) indicating where any such office may be found; or

(c) drawing attention to the availability of, or to the facilities afforded to persons resorting to, such offices,

then, in the case of an advertisement in connection with the office or offices of a particular licensee, that licensee, and in every case any person who published the advertisement or caused or permitted it to be published, shall be guilty of an offence:

Provided that it shall be a defence for any person charged with an offence under this subsection to prove -

(i) that he did not know and had no reasonable cause to suspect that the advertisement was, and that he had taken all reasonable steps to ascertain that it was not, such an advertisement as aforesaid; or

(ii) if he is charged by reason only of being a licensee, that the advertisement was published without his consent or connivance and that he exercised all due diligence to prevent the publishing of any such advertisement in connection with his office or offices.

Special provisions with reference to bookmaker's and betting agency permits

23. Cancellation of, and disqualification for, bookmaker's or betting agency permits.

23. (1) If the holder of a bookmaker's permit or of a betting agency permit is convicted -

(a) of an offence under section 16, 17 or 18; or

(b) of any offence involving fraud or dishonesty,

or if the holder of a betting agency permit is convicted of an offence under subsection (1) of section 19, the court by which he is convicted may, if the court thinks fit, order that his permit shall be forfeited and cancelled.

(2) An order under subsection (1) shall be deemed for the purposes of any appeal to be part of the sentence for the offence; and the permit shall not be forfeited or cancelled under that order -

(a) until the date of expiration of the period within which notice of appeal against the conviction or sentence may be given; or

(b) if notice of appeal against the conviction or sentence is duly given within the period aforesaid, until the date of the determination or abandonment of the appeal.

(3) A person whose bookmaker's permit or betting agency permit is forfeited and cancelled in pursuance of an order under subsection (1) shall, by virtue of that order, be disqualified for holding or obtaining a permit of either description for a period of five years beginning with the date of the conviction which gave rise to the order:

Provided that, in a case where it appears to the court making the order to be just in all the circumstances, that court may include in the order a direction that the period of disqualification shall be such period shorter than five years as the court may specify.

(4) Where a bookmaker's permit or betting agency permit is forfeited and cancelled in pursuance of an order under subsection (1), the registrar or clerk of the court by which the order was made shall send a copy of the order to the Betting, Gaming and Lotteries Commission and also to the Jamaica Racing Commission.

(5) Any holder of a bookmaker's permit or betting agency permit who employs in his bookmaking business any person known to him to be for the time being disqualified under subsection (3) shall be guilty of an offence.

Administration of this Part

24. Approval of racecourses and licensing of tracks.

24. The Commission in accordance with Part II may for the purpose of this Act and subject to such conditions as it may impose-

(a) grant a licence authorizing the provision of betting facilities on any track (in this Act referred to as a "track betting licence") in relation to races of a type specified in the licence;

(b) approve in writing the premises on which a racing promoter or a duly accredited agent of such a promoter may carry on pool betting business,

and the Commission, in accordance with the said Part, may at any time revoke, vary or suspend any such licence or approval granted by it.

25. Totalisator in respect of horse-races.

25. (1) Where -

(a) a racing promoter; or

(b) in the case of any approved racecourse or licensed track, the occupier of the racecourse or track or any person authorized in that behalf in writing by the occupier of the racecourse or track, as the case may be,

has set up a totalisator, that totalisator shall be operated in accordance with the provisions of subsections (2) and (3)

(2) For the purposes of subsection (1), the totalisator shall -

(a) be located at the approved racecourse or licensed track or at premises approved by the Commission pursuant to section 24;

(b) be operated only for effecting betting transactions -

(i) on horse-races run on the approved racecourse; or

(ii) on horse-races conducted overseas which are transmitted by live television broadcast to that racecourse or to premises approved pursuant to section 24, as the case may be; or

(iii) on races for which the track is licensed, and with persons resorting to the racecourse or track or to premises approved by the Commission pursuant to section 24 or with such other persons and in such circumstances as may be prescribed.

(3) The Third Schedule shall also have effect with respect to the totalisator.

26. Special rights of occupiers of approved racecourses and licensed tracks.

26. (1) The provisions of this section shall apply in relation to -

(a) any horse-race on an approved racecourse; and

(b) any horse-race conducted overseas which is transmitted by live television broadcast to an approved racecourse or premises approved pursuant to section 24;

(c) any race specified in a track betting licence and conducted under that licence on a licensed track.

(2) The occupier of the racecourse or track as the case may be shall, subject to subsection (3), have the exclusive right to authorize any person -

(a) to carry on pool betting business on any such race as aforesaid;

(b) by way of business to receive or negotiate bets on any such race on terms that the winnings or any part thereof shall be calculated or regulated directly or indirectly by reference to the amounts or rates of any payments or distributions in respect of winning bets on that race made by way of sanctioned pool betting,

and no person shall have the right to carry on any form of pool betting business on any such race or, subject to subsection (3), by way of business to receive or negotiate bets on any such race on such terms as aforesaid except with the authority of the occupier of the racecourse or track, as the case may be, and in giving any authority under this subsection the occupier may do so on such terms, including terms as to payments to the occupier, as the occupier may think fit.

(3) The Commission may in accordance with Part II authorize a bookmaker by way of business at any place other than an approved racecourse or licensed track to receive or negotiate bets on any such race on such terms as are mentioned in paragraph (b) of subsection (2); and in giving any authority under this subsection the Commission may do so on such conditions, including conditions as to such payments to the occupier of the racecourse or track, as the Commission may think fit.

(4) If the conditions specified by the Commission pursuant to subsection (3) require payments to be made to the occupier, the occupier shall thereupon have a right to receive the payments.

(5) Notwithstanding subsections (2), (3) and (4) the Commission, pursuant to the written application of a racing promoter conducting horse-races at an approved racecourse, may, by order, prohibit any bookmaker by way of business at any place from receiving or negotiating bets at declared odds on any of such races.

(6) Any breach or infringement of any right conferred on the occupier of a racecourse or track, as the case may be, by or pursuant to this section shall be actionable at the suit of the occupier, and in any action for such breach or infringement all such relief, by way of damages, injunction, accounts or otherwise, shall be available to the occupier as is available to the plaintiff in any corresponding proceedings in respect of infringements of proprietary rights and, notwithstanding anything to the contrary in any enactment or rule

of law relating to the jurisdiction of Resident Magistrates' Courts, a Resident Magistrate's Court may, on the application of the occupier, grant an injunction restraining a breach or infringement or apprehended breach or infringement of any such right as aforesaid whether or not any other relief is claimed; and for the purposes of this subsection a right of the occupier is infringed by any person who, without the authority of the occupier or, as the case may be, the Commission, or otherwise than in conformity with such authority-

(a) carries on any form of pool betting business on any such race as aforesaid or by way of business holds himself out as willing to enter into any pool betting transaction on any such race; or

(b) by way of business, receives or negotiates, or holds himself out as willing to receive or negotiate, any bet on any such race on such terms as are mentioned in paragraph (b) of subsection (2).

(7) Every person who, being authorized pursuant to subsection (3) to receive or negotiate bets on any such race, fails to observe any condition on which such authority is given, shall be guilty of an offence and shall be liable to a fine not exceeding two hundred thousand dollars and in default of payment thereof to imprisonment with or without hard labour for a term not exceeding six months.

Power of entry on approved racecourses and tracks

27. Power of entry on approved racecourses and tracks.

27. (1) Any person authorized in writing in that behalf by the Commission, subject to the production on demand of his authority, and any constable, may at all reasonable times enter upon any approved racecourse or track for the purpose of ascertaining whether the provisions of Part II and this Part are being complied with; and every person who obstructs any constable or other person in the exercise of his powers under this section shall be guilty of an offence and liable to a fine not exceeding fifty thousand dollars or in default of payment thereof to imprisonment with or without hard labour for a term not exceeding two months.

(2) The Commission shall furnish every authorized person with a certificate of appointment.

PART IV. Contributions by bookmakers for benefit of horse-racing and other purposes

28. Power of Minister to establish schemes of monetary contribution from bookmakers.

28. (1) The Minister responsible for finance may, from time to time by order, establish schemes for the assessment, collection, allocation and application, in accordance with the provisions of this Part, of monetary contributions from bookmakers and may, in like manner, revoke or vary any such scheme and provide for exemptions therefrom.

(2) Monetary contributions collected pursuant to any scheme under this section shall, in whole or in part, be allocated and applied, in such proportions as may be specified in the scheme, to purposes conducive to any one or more of the following, that is to say -

- (a) the improvement of breeds of horses;
- (b) the advancement or encouragement of veterinary science or veterinary education;
- (c) the improvement of horse-racing;
- (d) the improvement of athletic games and sports;
- (e) contribution to purses in connection with horse-races run on approved racecourses;
- (f) the regulation and control of the horse-racing industry by the Jamaica Racing Commission exercising functions under this Act, the Jamaica Racing Commission Act, or any other enactment;
- (g) the carrying out of the functions of the Commission under this Act or any other enactment,

and any portion of the monetary contributions which is not allocated or applied as aforesaid shall be paid into the Consolidated Fund.

(3) Any order made pursuant to this section shall be subject to affirmative resolution of the House of Representatives.

(4) The Minister responsible for finance, if he thinks it expedient so to do, may, by general notice, subject to such terms and conditions as he may impose, waive, remit or refund in whole or in part any monetary contributions payable pursuant to an order under subsection (1); and any such waiver, remission or refund under this subsection may relate to monetary contributions due not earlier than the first day of May, 1974.

29. Contributions to be payable as a levy in respect of levy periods.

29. (1) The monetary contributions required to be made by bookmakers pursuant to a scheme under section 28 shall be paid by way of a levy in respect of each levy period to which the scheme relates; and in this Act the expression "levy period" means a period of twelve months beginning with 1st April in any year.

(2) Any scheme established pursuant to section 28 may contain such ancillary provisions as the Minister responsible for finance considers desirable to give effect to the scheme and, without prejudice to the generality of the foregoing, may include provision-

- (a) for bookmakers to be divided for the purpose of the levy into different categories;
- (b) for the amount, if any, payable by way of the levy by any particular bookmaker to be determined by reference to the category into which he falls; and
- (c) for the issue by the Commissioner of Inland Revenue of notices in relation to and certificates of exemption from the levy.

30. Payment of and accounting for bookmakers' levy.

30. (1) The levy in respect of each levy period shall be paid to the Commissioner of Inland Revenue at such times as may be specified in the scheme or, if no time is so specified, at such times as the Commissioner of Inland Revenue may direct.

(2) Any person who intends to carry on a business the carrying on of which involves or may involve any sums becoming payable by him by way of the bookmakers' levy, shall -

(a) not less than one week before he first carries on the business inform the Commissioner of Inland Revenue that he intends to carry it on;

(b) not later than the date when he first uses any premises for the purposes of the business make entry of those premises with the Commissioner of Inland Revenue.

(3) Any person for the time being carrying on such a business as aforesaid, shall -

(a) keep such books, records and accounts in relation to the business as may be prescribed or as the Commissioner of Inland Revenue may in any case direct;

(b) preserve for such period as the Commissioner of Inland Revenue may direct on premises of which entry has been made as aforesaid, any books, records and accounts directed to be kept by him under paragraph (a) and any other books, records, accounts or documents relating to the business; and

(c) permit any officer authorized in that behalf by the Commissioner of Inland Revenue to enter on any premises used for the purposes of the business to inspect and take copies of any books, records, accounts or other documents in his possession or power or on any premises used for the purpose of the business, being books, records, accounts or documents which relate or appear to relate to the business and any such person and any other person employed in, or having functions in connection with, any such business, shall, if required to do so by the Commissioner of Inland Revenue or any officer authorized in that behalf by him, produce, at a time and place to be specified by the Commissioner of Inland Revenue or the officer, any such books, records, accounts or documents relating to the business, make, at times and to persons to be so specified, such returns relating to the business, and give such other information relating to the business as the Commissioner of Inland Revenue or the officer may require.

(4) Any person who -

(a) fails to pay any levy payable by him pursuant to this Part; or

(b) contravenes or fails to comply with any of the provisions of subsection (2) or (3); or

(c) obstructs any officer in the exercise of his functions in relation to the levy; or

(d) in connection with the levy, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material

particular, or, with intent to deceive, produces or makes use of any book, account, record, return or other document which is false in a material particular; or

(e) is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion, by him or any other person, of the levy,

shall be guilty of an offence and shall be liable to a fine not exceeding five hundred thousand dollars, and in default of payment thereof to imprisonment with or without hard labour for a term not exceeding eighteen months.

(5) Where a person is convicted under subsection (4) in respect of a failure to comply with any of the provisions of subsection (2) or (3) and the failure continues after the conviction, then, unless he has a reasonable excuse for the continuance of the failure, he shall be guilty of a further offence against subsection (4) and may, on conviction, be punished accordingly.

(6) In this section, except where the context otherwise requires, "officer" means an officer of the Inland Revenue Department, and includes any person who is expressly authorized by the Commissioner of Inland Revenue to perform the duties of an officer of the Inland Revenue Department for the purposes of this section.

31. Pool betting duty.

31. (1) The House of Representatives may from time to time by resolution impose a duty to be known as the pool betting duty on stake money paid in pool betting, and may revoke, reduce, increase or alter any duty and may provide for exemptions therefrom, and different pool betting duties may be imposed in respect of different forms of pool betting.

(2) The pool betting duty shall be paid by the operator of the pool betting, so, however, that in the case of bets made by means of a totalisator, the operator shall be deemed to be the person who as principal operates the totalisator.

(3) For the purposes of the pool betting duty, any payment which entitles a person to make a bet by way of pool betting shall, if he makes the bet, be treated as stake money on the bet, and this subsection shall apply to any payment entitling a person to take part in a transaction which is, on his part, only not a bet made by way of pool betting by reason of his not in fact making any stake as if the transaction were such a bet, and the transaction shall accordingly be treated as a bet for the purposes of the pool betting duty.

(4) Where no scheme is established under section 28 or if the monetary contributions referred to in subsection (2) thereof are considered by the Minister responsible for finance insufficient to fulfil the purposes of that subsection he may, by order, allocate for those purposes such portion of the pool betting duty levied and collected under this Part as he is satisfied the circumstances warrant.

32. Payment of and accounting for pool betting duty.

32. (1) The pool betting duty shall be paid to the of Commissioner of Inland Revenue not later than fourteen days after the event to which the pool betting relates and may, without

prejudice to any other means of recovery, be recovered, by a Collector of Taxes under the Tax Collection Act.

(2) Any person who intends to carry on a business the carrying on of which involves or may involve any sums becoming payable by him by way of the pool betting duty shall -

(a) not less than one week before he first carries on such business notify the Commissioner of Inland Revenue that he intends to carry it on; and

(b) not later than the date when he first uses any premises or totalisator for the purposes of the business, make entry of those premises or that totalisator with the Commissioner of Inland Revenue.

(3) Any person for the time being carrying on such a business as aforesaid shall -

(a) keep such books, records and accounts in relation to the business as may be prescribed or as the Commissioner of Inland Revenue may in any case direct; and

(b) for at least six months or such shorter or longer period as the Commissioner of Inland Revenue may in any particular case direct, preserve, on premises on which entry has been made as mentioned in subsection (2), any books, records and accounts directed to be kept by him under paragraph (a) and any other books, records, accounts or documents relating to the business; and

(c) permit any officer authorized in that behalf by the Commissioner of Inland Revenue to enter on any premises used for the purposes of the business to inspect any totalisator used for the purposes thereof, and to inspect and take copies of any books, records, accounts or other documents in his possession or power or on any premises used for the purposes of the business, being books, records, accounts or documents which relate or appear to relate to the business, and any such person and any other person employed in, or having functions in connection with, any such business shall, if required so to do by the Commissioner of Inland Revenue or any officer authorized in that behalf by him, produce, at a time and place to be specified by the Commissioner of Inland Revenue or the officer, any such books, records, accounts or documents relating to the business, make, at times and to persons to be so specified, such returns relating to the business, and give such other information relating to the business, as the Commissioner of Inland Revenue or the officer may require.

(4) Any person who -

(a) fails to pay any pool betting duty payable by him; or

(b) contravenes or fails to comply with any of the provisions of subsection (2) or (3); or

(c) obstructs any officer in the exercise of his functions in relation to the pool betting duty; or

(d) in connection with the pool betting duty, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular, or, with intent to deceive, produces or makes use of any book, account, record, return or other document which is false in a material particular; or

(e) is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion, by him or any other person, of the pool betting duty,

shall be guilty of an offence and shall be liable to a fine not exceeding five hundred thousand dollars, and in default of payment thereof to imprisonment with or without hard labour for a term not exceeding eighteen months.

(5) Where a person is convicted under subsection (4) in respect of a failure to comply with any of the provisions of subsection (2) or (3) and the failure continues after the conviction, then, unless he has a reasonable excuse for the continuance of the failure, he shall be guilty of a further offence against subsection (4) and may, on conviction, be punished accordingly.

(6) In this section, except where the context otherwise requires, "officer" means an officer of the Inland Revenue Department, and includes any person who is expressly authorized by the Commissioner of Inland Revenue to perform the duties of an officer of the Inland Revenue Department for the purposes of this section.

33. Bet winnings tax.

33. (1) A tax (to be known as "bet winnings tax") is imposed at the rate of 5 *per centum* of the winnings on any bet made by a bettor -

(a) with a bookmaker;

(b) with an operator of off track pool betting;

(c) by means of a totalisator on an approved racecourse or licensed track,

so, however, that the House of Representatives may from time to time by resolution reduce, increase or alter the tax and may provide for exemption therefrom, and different rates of tax may be specified in such resolution in respect of different kinds of bets.

(2) For the purposes of the bet winnings tax (here- after referred to as "the tax") -

(a) "winnings" means the gross sum returnable to a bettor on a separate bet, in accordance with directions (if any) given in writing by the Commissioner of Inland Revenue and approved by the Minister responsible for finance as to the method of calculating the gross sum returnable on a bet;

(b) where a bettor bets on more than one contingency on the terms that, in the event of his bet being successful in respect of one contingency, his stake on the bet, or his winnings in respect of that contingency, or both, are to provide the stake in respect of another contingency, then, unless he makes his bet on both or all of those contingencies at the

same time on the terms that both his original stake and the whole of his winnings in respect of any of those contingencies are to be the stake in respect of any other contingency on which the bet is made -

(i) he shall be treated as making a separate bet on each respectively of those contingencies and as staking on each of those separate bets the amount respectively provided for by the terms of the original bet;

(ii) any of those separate bets which depends on the outcome of another or others of them shall be treated as made if and when the conditions on which it depends are satisfied.

34. Deduction of the tax from winnings.

34. The tax shall be deducted from winnings in respect of -

(a) a bet with a bookmaker, (and without prejudice to paragraphs (i) to (iv)) by the bookmaker;

(b) a bet made with an operator referred to in paragraph (b) of subsection (1) of section 33, by the operator;

(c) a bet made by means of a totalisator on an approved racecourse or licensed track, by the operator, that is to say, the person who as principal, operates the totalisator,

and in respect of a bet with a bookmaker shall be recoverable jointly and severally from all or any of the following persons, namely -

(i) that bookmaker;

(ii) the holder of the bookmaker's permit or betting office licence relating to the business in the course of which, or the premises at which, the bet was made;

(iii) any person responsible for the management of that business or those premises;

(iv) where the bookmaker is a company, any director of that company.

35. Payment of and accounting for the tax.

35. (1) The tax shall be paid to the Commissioner of Inland Revenue, in relation to any week, not later than fourteen days after the end of that week, by the person who is obliged to deduct the tax from winnings pursuant to section 34 and may, without prejudice to any other means of recovery, be recovered by a Collector of Taxes under the Tax Collection Act.

(2) In this section "week" means the period commencing immediately after twelve o'clock midnight on each Saturday and ending at twelve o'clock midnight on the Saturday next following.

(3) A person who intends to carry on business the carrying on of which involves or may involve any sum becoming payable by him in respect of the tax shall -

(a) not less than seven days before he first carries on such business, notify the Commissioner of Inland Revenue that he intends to carry it on; and

(b) not later than the date when he first uses any premises or totalisator for the purposes of the business, make entry of those premises or that totalisator with the Commissioner of Inland Revenue.

(4) The provisions of subsections (3), (4), (5) and (6) of section 32 relating to pool betting duty shall *mutatis mutandis* apply for the purposes of the tax.

36. Commissioner of Inland Revenue may assess winnings.

36. (1) For the purposes of the tax, where by reason of the failure of a person to produce the prescribed books, records, accounts, returns or other documents or information which the Commissioner of Inland Revenue may have received from any source whatever, the Commissioner of Inland Revenue is satisfied that he has not been given a true or proper account of betting transactions negotiated by that person or his agents or servants during any period, the Commissioner of Inland Revenue may, after consideration of any representation or information which that person as aforesaid may make or supply to him (as the case may be) assess the amount which shall be deemed by the Commissioner of Inland Revenue to constitute winnings and the tax in relation to that period shall be payable on the winnings so assessed.

(2) Any person aggrieved by an assessment of the Commissioner of Inland Revenue under subsection (1) may appeal to the Revenue Court within thirty days (or such other period in lieu thereof as may be specified by rules of court) from the date of notification of such assessment and subject to any rules of court governing appeals to the Revenue Court.

(3) The onus of proving that the assessment of the Commissioner of Inland Revenue is excessive or erroneous shall be on the person appealing.

37. Refund of the tax overpaid.

37. (1) If it is proved to the satisfaction of the Commissioner of Inland Revenue that an amount of the tax has been paid in excess of that properly payable, the Commissioner of Inland Revenue shall cause the amount so paid in excess to be refunded to any person appearing to be entitled thereto.

(2) No claim for a refund under this section shall be made after the expiration of the period of six years from the date of payment in question:

Provided that, where any person satisfies the Commissioner of Inland Revenue that in the special circumstances of the case it was not reasonably practicable for that person to make his claim within such period therefor as aforesaid, the Commissioner of Inland Revenue shall extend the period as he thinks just.

38. Unlawful gaming. Cases

38. (1) For the purposes of this Act "unlawful gaming" means gaming -

- (a) in any street or in any other place to which, whether on payment or otherwise, the public have access;
- (b) in any place kept for habitual gaming, whether or not the public have access thereto;
- (c) in any premises in respect of which a licence has been granted to distill, manufacture, sell or possess rum or any intoxicating liquor.

(2) Subject to the provisions of this Act, if any person takes part in unlawful gaming or is present at any such gaming for the purpose of taking part therein, he shall be guilty of an offence and shall be liable to a fine not exceeding one hundred thousand dollars or to imprisonment with or without hard labour for a term not exceeding twelve months or to both such fine and imprisonment.

(3) If any unlawful gaming takes place on any premises any person concerned in the organization or management of the gaming, and any other person who, knowing or having any reasonable cause to suspect that such unlawful gaming would take place on those premises -

(a) allowed the premises to be used for the purpose of gaming; or

(b) let the premises, or otherwise made the premises available to any person by whom an offence in connection with the gaming has been committed, shall be guilty of an offence and shall be liable to a fine not exceeding seven hundred and fifty thousand dollars or to imprisonment with or without hard labour for a term not exceeding twelve months; and for the purposes of this subsection any person who took part in procuring the assembly of the players shall be deemed to have been concerned in the organization of the gaming.

(4) A constable may arrest without warrant anyone whom he suspects, with reasonable cause, to be committing an offence under this section.

(5) In this section the doorways and entrances to premises abutting upon and any ground adjoining and open to a street shall be treated as forming part of the street.

(6) If in any proceedings for an offence under this section it is proved to the satisfaction of the court that gaming took place on any premises and that ten or more persons were present at the gaming for the purpose of taking part therein then, subject to section 40 (which relates to approved clubs), or sections 42A and 42C (which relate to prescribed premises), such premises shall be deemed to be premises to which the public have access unless the contrary is proved.

(7) For the purposes of this section proof that any person was present at any unlawful gaming shall be evidence that he was present for the purpose of taking part therein unless he proves that he was present neither for that purpose nor for any of the following purposes, that is to say, taking part in the management of the gaming, operating any instrument or other thing whatsoever used in connection with the gaming or making bets with respect to the gaming

39. Special provisions with regard to gaming.

39. (1) Notwithstanding any rule of law, for the purposes of any enactment relating to betting, the expression "bet" shall not include any bet or stake at any gaming conducted in such circumstances that no offence under this Part is committed.

(2) Notwithstanding any rule of law, premises shall not be a common gaming house by reason of the carrying on therein of any gaming conducted in such circumstances that no offence under this Part is committed.

(3) Notwithstanding any rule of law -

(a) the making of bets by way of pool betting permitted by or pursuant to section 18; and

(b) participation in any lottery permitted under this Act or declared by this Act not to be unlawful,

shall not be held to be gaming.

40. Saving for approved clubs.

40. (1) In any proceedings under section 38 gaming shall be held not to have been conducted in contravention of that section if it is proved -

(a) that the gaming was carried on as an activity of an approved club;

(b) that no person took part in the gaming who was not either -

(i) a member of the club in pursuance of an application or nomination for membership made more than twenty-four hours before the gaming began; or

(ii) a *bona fide* guest of such a member; and

(c) that, at the time of the gaming, the club was not in breach of any of the terms and conditions imposed by the Minister on that club pursuant to this section.

(2) For the purposes of this Act an "approved club" means a club to which for the time being the Minister, subject to such terms and conditions as he thinks fit, grants express exemption from the provisions of this Part, so, however, that for the purposes of this section any express exemption granted to, or any term or condition imposed on, a club by the Minister under the Gambling Law (repealed) and which was in force immediately prior to the 1st January, 1966, shall be treated as if it were granted or imposed pursuant to this section.

(3) The Minister may, if he thinks fit, at any time in writing vary or revoke any exemption granted to a club under this section and any term or condition applicable thereto.

41. Saving for dominoes, draughts, darts and billiards on licensed premises.

41. (1) Section 38 shall not apply to the playing of dominoes, draughts, darts, billiards or any other prescribed game on premises licensed under the Spirit Licence Act.

(2) The Minister may, at any time if in the case of any particular premises he thinks fit to do so, by order, impose such requirements or restrictions with respect to the playing of the said games in any part of those premises to which the public has access as he considers necessary to secure -

(a) that the games are not played in that part of the premises in such circumstances as to constitute an inducement to persons to resort thereto primarily for the purpose of taking part in gaming at those games;

(b) that any such gaming on that part of the premises does not take place for high stakes.

42. Saving for entertainments not held for private gain.

42. (1) Where gaming is carried on at an entertainment to which this section applies then in relation to that gaming so much of section 38 as relates to gaming in a place other than a street shall not apply but the conditions set out in subsection (2) of this section shall be observed in connection with the promotion and conduct of that entertainment and gaming and if any of those conditions is contravened every person concerned in the promotion or conduct of the entertainment or gaming shall be guilty of an offence unless he proves that the contravention occurred without his consent or connivance and that he exercised all due diligence to prevent it.

(2) The conditions referred to in subsection (1) are that -

(a) the whole proceeds of the entertainment after deducting sums lawfully appropriated on account of expenses or for the provision of prizes or awards in respect of the games are applied to purposes other than private gain; and

(b) that the amount of the said proceeds appropriated in respect of expenses does not exceed the reasonable cost of the facilities provided for the purposes of the games.

(3) The entertainments to which this section applies are -

(a) bazaars, sales of work, fetes, dinners, dances, fairs and other entertainments of similar character whether limited to one day or extended over two or more days; and

(b) entertainments approved in writing by a Justice of the Peace after notification to an officer of police not below the rank of Assistant Superintendent.

42A. Saving in respect of prescribed premises.

42A. Section 38 shall not apply to gaming conducted by means of an excepted machine as defined in section 43 on any prescribed premises pursuant to a licence granted under section 44A.

Gaming Machines

43. Interpretation.

43. (1) In this section and sections 44, 44A, 44C, 44D, 44E, 45 and 46-

"Collector" means the Collector of Taxes in the parish in which is located any gaming machine to which section 44A relates;

"excepted machine" means a machine which is for the time being an excepted machine pursuant to an order under subsection (2);

"gaming machine" means a machine, not being an excepted machine-

(a) designed for the purpose of playing any game (whether or not a game of chance);

(b) which may be operated wholly or in part by means of-

(i) tokens;

(ii) machine credits; or

(iii) electronic transfer of credits or tokens,

by virtue of which winnings may become payable or some gain, advantage or prize is awarded;

"licensee" means a person to whom a licence is granted under section 44A;

"machine" includes any apparatus.

"prescribed premises" means -

(a) any premises licensed under the Licences on Trade and Business Act or the Spirit Licence Act, as the case may be; or

(b) any club which is registered under the Registration of Clubs Act;

(c) any premises licensed as a hotel under the Tourist Board Act; or (d) any other premises approved by the Commission.

(2) The Minister may by order declare, subject to such terms and conditions as he thinks fit, any machine to be an excepted machine so, however, that any such machine shall cease to be an excepted machine if any term or condition applicable thereto under the order is not complied with.

44. Licensing of prescribed premises. Cases

44. (1) Every owner or operator of a prescribed premises on which any gaming machine is operated shall apply to the Commission in such form as the Commission may determine for a licence to register the prescribed premises for the purpose of operating gaming machines thereon.

(2) A licence granted under subsection (1) shall be in such form as the Commission may determine and shall remain in force for a period of twelve months from the date thereof.

(3) A licence under subsection (2) shall be renewable annually on application made to the Commission not later than twenty-one days before the date of expiry of the licence.

44A. Licence to operate gaming machine.

44A. (1) Subject to subsection (2), no person shall operate a gaming machine unless that person is the holder of a licence granted under this section.

(2) The Commission may, in accordance with section 8, grant a licence to any person to operate a gaming machine in any prescribed premises, subject to such terms and conditions as may be specified in the licence.

(3) An application for a licence under this section shall be made to the Commission in such form as the Commission may determine.

(4) Where the Commission decides not to grant a licence in respect of any application the Commission shall notify the applicant in writing of such refusal, stating the reasons therefor, and of the right of appeal conferred by section 44B.

(5) Where an application is refused the fee paid pursuant to subsection (8) shall be refunded to the applicant.

(6) A licence granted under this section shall -

(a) be in such form as the Commission may determine;

(b) be subject to such terms and conditions as may be specified therein; and

(c) remain in force for a period of twelve months from the date thereof and may be renewed annually on payment of the fee specified in subsection (8).

(7) Every application for the renewal of a licence under this section shall, be delivered to the Commission not later than twenty-one days before the expiry of the licence.

(8) The operator of a gaming machine shall pay-

(a) to the Collector on the 1st day of April in every year, an annual levy of ten thousand dollars in respect of each gaming machine that he operates; and

(b) to the Commission, on the grant of the licence, a licence fee of two thousand dollars in respect of each machine specified in the licence.

(9) The Minister may by order subject to affirmative resolution of the House of Representatives, reduce or increase the levy payable under subsection (8).

(10) The Commission shall keep a register containing-

(a) the name of every person to whom a licence is granted;

(b) a list specifying each gaming machine for which a licence is granted;

(c) the address of each prescribed premises in respect of which a licence is granted.

44B. Appeal.

44B. (1) Any person aggrieved by a decision of the Commission refusing to grant a licence under section 44A may, within fourteen days of the receipt of a notice under subsection (4) of that section, appeal in writing to the Minister against such decision, and the Minister may make such determination as he thinks just.

(2) On the determination of an appeal by him, the Minister shall give written notice of his decision to the Commission and the appellant.

44C. Gaming machines to be operated only on prescribed premises.

44C. (1) Each gaming machine in respect of which a licence is granted under section 44A shall be operated only on the prescribed premises specified in the licence.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding five hundred thousand dollars and in default of payment thereof to imprisonment for a term not exceeding six months.

(3) Every licensee shall -

(a) exhibit any current licence issued under section 44A in a conspicuous place on the prescribed premises to which that licence relates;

(b) permit any person authorize by the Commission to enter at any reasonable time the prescribed premises to which the licence relates and to inspect any gaming machine found therein;

(c) at such times as the Commission may specify, give such information relating to the operation of such machines as the Commission may require.

(4) A licensee shall notify the Commission in writing of any change of address of the prescribed premises to which his licence relates or any change of ownership of the business carried on by him.

44D. Identification disc.

44D. (1) Where the Commission grants a licence under section 44A (2) the licensee shall-

(a) be issued with an identification disc, in such form as the Commission shall determine, in respect of each gaming machine specified in the licence; and

(b) pay to the Commission a fee of five hundred dollars in respect of each such identification disc.

(2) Every licensee shall display in a conspicuous position on each gaming machine, the identification disc issued in respect of that machine.

44E. Number of gaming machines which may be operated in hotel..

44E. (1) The Commission may grant in respect of a prescribed premises which is licensed as a hotel under the Tourist Board Act, a licence to operate one gaming machine for every ten rooms in that hotel so, however, that the maximum number of gaming machines which may be specified in that licence shall, not exceed seventy or such other amount as the Minister may prescribe by order subject to affirmative resolution.

(2) A licensee shall not operate at any prescribed premises referred to in subsection (1) more than the number of gaming machines specified in the licence.

45. Prohibition of ownership, possession or use of gaming machines.

45. Except as provided in sections 44 and 44A, no person shall -

- (a) own or be in possession of any gaming machine or any component thereof; or
- (b) being the occupier of any premises, use or knowingly permit those premises to be used -
 - (i) for the operation of any gaming machine; or
 - (ii) for the display or storage of any gaming or any component thereof; or
- (c) use any gaming machine or cause or knowingly permit any other person so to do.

46. Offences.

46. (1) Any person who contravenes section 44 (1), 44A (1), 44D (2) or 44E (2) shall be guilty of an offence.

(2) Any person who contravenes any of the provisions of section 45 shall be guilty of an offence.

(3) Where any provision of paragraph (b) or paragraph (c) of section 45 is contravened in relation to any gaming machine or any component thereof on any premises, if a licence has been granted in respect of those premises to distill, manufacture, sell or possess rum or any intoxicating liquor, the holder of the licence shall be guilty of an offence unless he proves that he had no knowledge of the contravention and had no reasonable cause to suspect that the contravention would take place on those premises.

(4) Where any person is convicted of an offence under this section the court may order the destruction of any gaming machine or any component thereof in relation to which the offence was committed, and any other articles used in connection therewith.

(5) Any constable may seize and detain any gaming machine or any component thereof and any other articles used in connection therewith, and subject to subsection (4), any such machine, component or other article, so seized, may, by order of the Minister, be forfeited.

(6) Any person who is convicted of an offence under this section shall be liable to a fine not exceeding five hundred thousand dollars or, in default of payment thereof, to imprisonment for a term not exceeding twelve months and, where the offence is continued after conviction, such person shall be guilty of a continuing offence and shall be liable to a fine not exceeding one hundred thousand dollars in respect of each day during which the offence continues.

47. Illegality of lotteries.

47. Subject to the provisions of this Act, all lotteries are unlawful.

48. Offences in connection with lotteries.

48. (1) Subject to the provisions of this section, every person who in connection with any lottery promoted or proposed to be promoted either in Jamaica or elsewhere -

(a) prints any tickets for use in the lottery; or

(b) sells or distributes, or offers or advertises for sale or distribution, or has in his possession for the purpose of sale or distribution, any tickets or chances in the lottery; or

(c) prints, publishes or distributes, or has in his possession for the purpose of publication or distribution -

(i) any advertisement of the lottery; or

(ii) any list, whether complete or not, of prize winners or winning tickets in the lottery; or

(iii) any such matter descriptive of the drawing or intended drawing of the lottery, or otherwise relating to the lottery, as is calculated to act as an inducement to persons to participate in that lottery or in other lotteries; or

(d) brings, or invites any person to send, into Jamaica for the purpose of sale or distribution any ticket in, or advertisement of, the lottery; or

(e) sends or attempts to send out of Jamaica any money or valuable thing received in respect of the sale or distribution, or any document recording the sale or distribution, or the identity of the holder, of any ticket or chance in the lottery; or

(f) uses any premises, or causes or knowingly permits any premises to be used, for purposes connected with the promotion or conduct of the lottery; or

(g) causes, procures or attempts to procure any person to do any of the abovementioned acts,

shall be guilty of an offence and shall be liable to a fine not exceeding five hundred thousand dollars or to imprisonment with or without hard labour for a term not exceeding twelve months.

(2) In any proceedings instituted under subsection (1) it shall be a defence to prove either-

(a) that the lottery to which the proceedings relate was a lottery permitted or declared not to be unlawful by section 49, 50, 51, 52 or 54 as the case may be, and that at the date of the alleged offence the person charged believed, and had reasonable ground for believing, that none of the conditions required by that section to be observed in connection with the promotion and conduct of the lottery had been broken; or

(b) that the lottery to which the proceedings relate was also a game of chance and that at the time of the alleged offence the person charged believed, and had reasonable ground for believing that it was being conducted in such circumstances that no offence under Part VI was committed.

(3) Proceedings under sub-paragraph (iii) of paragraph (c) of subsection (1) in respect of any matter published in a newspaper shall not be instituted except by, or by direction of, the Director of Public Prosecutions.

49. Licence to promote lottery.

49. The Commission in accordance with Part II may grant a licence to any person to promote a lottery and any such lottery which is promoted in accordance with the terms and conditions of the licence shall not be unlawful.

In this section the expression "promote" includes organize and conduct.

50. Exemption of small lotteries incidental to certain entertainments.

50. (1) Where a lottery is promoted as an incident of an entertainment to which this section applies, that lottery shall not be unlawful but the conditions set out in subsection (2) shall be observed in connection with its promotion and conduct and, if any of those conditions is contravened, every person concerned in the promotion or conduct of the lottery shall be guilty of an offence unless he proves that the contravention occurred without his consent or connivance and that he exercised all due diligence to prevent it.

(2) The conditions referred to in subsection (1) are that -

(a) the whole proceeds of the entertainment (including the proceeds of the lottery) after deducting -

(i) the expenses of the entertainment, excluding expenses incurred in connection with the lottery;

(ii) the expenses incurred in printing tickets in the lottery; and

(iii) such sum, if any, not exceeding twenty dollars as the promoters of the lottery think fit to appropriate on account of expenses incurred by them in purchasing prizes in the lottery,

shall be devoted to purposes other than private gain;

(b) tickets or chances in the lottery shall not be sold or issued, nor shall the result of the lottery be declared, except on the premises on which the entertainment takes place and during the progress of the entertainment; and

(c) the facilities afforded for participating in lotteries, or those facilities together with facilities offered by virtue of section 42 for taking part in gaming, shall not be the only, or the only substantial, inducement to persons to attend the entertainment.

(3) The entertainments to which this section applies are -

(a) bazaars, sales of work, fetes, dinners, dances, fairs and other entertainments of a similar character, whether limited to one day or extended over two or more days; and

(b) entertainments approved in writing by a Justice of the Peace after notification to an officer of police not below the rank of Assistant Superintendent.

51. Exemption of lotteries conducted for charitable and other purposes.

51. (1) Any three or more persons ordinarily resident in Jamaica may organize a lottery for the purpose of raising funds to be used for any religious, charitable or educational purpose, or promotion of athletic sports or games or cultural activities or otherwise for the promotion of the welfare of the community or any part thereof, subject to the following conditions -

(a) the organizers of the lottery shall -

(i) obtain the prior approval of the Minister for organizing the lottery;

(ii) undertake to declare the purposes for which the proceeds of the lottery will be applied;

(iii) enter into a bond with the Accountant-General for payment to him of fifteen per cent of the gross receipts therefrom, which amount is in this section referred to as the duty payable on the lottery;

(iv) pay to the Accountant-General within fourteen days after the lottery has been conducted the duty payable on the lottery evidenced by a statement of account duly verified by a Chartered or Certified or Approved Accountant;

(b) the Minister responsible for finance may waive or refund in whole or in part, the duty payable on the lottery, and, subject to the provisions of paragraph (c), the conditions imposed by subparagraphs (iii) and (iv) of paragraph (a) shall be construed accordingly;

(c) where the duty payable on a lottery has been waived or refunded in whole or in part, the Accountant-General may, nevertheless, in his discretion, collect from the organizers of the lottery the full amount of such duty and pay over to the organization in whose favour the lottery has been organized the amount waived or refunded.

(2) Should any organizer of such a lottery fail to observe and comply with the terms of this section or section 53 or render a false statement of account such organizer shall be guilty of an offence and shall be liable to a fine not exceeding five hundred thousand dollars or to imprisonment with or without hard labour for a term not exceeding twelve months.

(3) For the purposes of subsection (1) "Approved Accountant" means -

(a) in relation to a lottery the gross receipts of which do not exceed five hundred dollars, a person (not being connected with the conduct of the lottery) approved by the Minister responsible for finance for the purpose of verifying the statement of account;

(b) in relation to a lottery the gross receipts of which exceed five hundred dollars, an approved auditor under section 12 of the Industrial and Provident Societies Act.

52. Exemption of sweepstakes on race-meetings.

52. (1) The companies mentioned in the Fourth Schedule shall each be entitled to conduct not more than two sweepstakes or such greater number as may be prescribed, in each calendar year on any race-meeting promoted by such company subject to the following conditions that is to say -

(a) that such company is licensed pursuant to the Jamaica Racing Commission Act, to operate the racecourse;

(b) that within fourteen days after the advertised date for the draw for any sweepstake fifteen per cent of the gross receipts from such sweepstake evidenced by a statement of account duly verified by the auditors of the company shall be paid by the company conducting the same to the Accountant-General to be applied by the Government in such manner as it thinks fit for the improvement or benefit of the public hospitals in Jamaica;

(c) that such company shall undertake to the satisfaction of the Jamaica Racing Commission to organize and run not less than the prescribed number of races in each year to be confined to native bred two and three year old horses with a purse of not less than two thousand dollars or such greater sum as may be prescribed for each such race the nomination or entrance money for which shall not exceed two per cent of the purse;

(d) that the payment of any purse to be raced for as provided by paragraph (c) shall be guaranteed by the company in such manner as the Jamaica Racing Commission may stipulate in writing from time to time and such payment shall only be made upon proof to the satisfaction of the Jamaica Racing Commission that the race has been run in accordance with the provisions of this section and the advertised conditions of the race, and in the absence of such proof within fourteen days of the advertised date for the race the purse shall be forfeited to the Government of Jamaica and be paid to the Accountant General to be applied by the Government in such manner as it thinks fit for the improvement or benefit of the public hospitals in Jamaica;

(e) that if the company fails to observe and comply with the terms of this section or section 53 or render a false statement of account the name of the company shall be

removed from the Fourth Schedule in manner provided by subsection (2) and the company shall forfeit to the Government of Jamaica any purse, the payment of which was guaranteed pursuant to paragraph (d) and the same shall be applied by the Government in such manner as it thinks fit for the improvement or benefit of the public hospitals in Jamaica.

(2) The Minister may from time to time by order published in the *Gazette* amend the Fourth Schedule by adding thereto the name of any company registered in Jamaica and promoted for the encouragement of horseracing or horse-breeding in Jamaica or by removing the name of any company therefrom.

(3) In this section -

"public hospitals" includes -

(a) all the public institutions and services operated in the interest of the public health and subject to the directions of the Minister responsible for health; and

(b) alms-houses regulated under the Poor Relief Act;

"gross receipts" means the nominal value of tickets sold in a sweepstake less -

(a) any commission to a vendor; and

(b) the value of bonus tickets;

"prescribed" means prescribed by regulations made by the Jamaica Racing Commission subject to the approval of the Minister responsible for finance.

53. Audit of accounts.

53. The accounts relative to any entertainment at which gaming is carried on pursuant to section 42 or to any sweepstake or lottery permitted under this Act or to any totalisator on a racecourse or track shall at all times be open to the inspection of the Government of Jamaica and the Minister responsible for finance may, if and whenever he so desires, appoint an auditor to examine the said accounts at the cost of the organizer of such entertainment, sweepstake or lottery or the operator of such totalisator.

54. Exemption of private lotteries.

54. (1) In this section, the expression "private lottery" means a lottery in Jamaica which is promoted for, and in which the sale of tickets or chances by the promoters is confined to, either -

(a) members of one society established and conducted for purposes not connected with gaming, betting or lotteries; or

(b) persons all of whom work on the same premises; or

(c) persons all of whom reside on the same premises, and which is promoted by persons each of whom is a person to whom under the foregoing provisions of this subsection

tickets or chances may be sold by the promoters and, in the case of a lottery promoted for the members of a society, is a person authorized in writing by the governing body of the society to promote the lottery; and for the purposes of this section, the expression "society" includes a club, institution, organization or other association of persons by whatever name called, and each local or affiliated branch or section of a society shall be regarded as a separate and distinct society.

(2) A private lottery shall not be unlawful, but the following conditions shall be observed in connection with its promotion and conduct, that is to say -

(a) the whole proceeds, after deducting only expenses incurred for printing and stationery, shall be devoted to the provision of prizes for purchasers of tickets or chances, or, in the case of a lottery promoted for the members of a society, shall be devoted either-

(i) to the provision of prizes as aforesaid; or

(ii) to purposes which are purposes of the society; or

(iii) as to part to the provision of prizes as aforesaid and as to the remainder to such purposes as aforesaid;

(b) there shall not be exhibited, published or distributed any written notice or advertisement of the lottery other than -

(i) a notice thereof exhibited on the premises of the society for whose members it is promoted or, as the case may be, on the premises on which the persons for whom it is promoted work or reside; and

(ii) such announcement or advertisement thereof as is contained in the tickets or list of chances;

(c) the prices of all tickets or chances shall be the same, and the price of any ticket shall be stated on the ticket or, if there are no tickets, on the list of chances;

(d) every ticket shall bear upon the face of it the name and address of each of the promoters, a statement of the persons to whom the sale of tickets or chances by the promoters is restricted, and a statement that no prize won in the lottery shall be paid or delivered by the promoters to any person other than the person to whom the winning ticket or chance was sold by them, and no prize shall be paid or delivered except in accordance with that statement;

(e) no tickets in the lottery shall be sent through the post.

(3) If any of the conditions set out in subsection (2) is contravened, each of the promoters of the lottery, and where the person by whom the condition is broken is not one of the promoters, that person also, shall be guilty of an offence:

Provided that it shall be a defence for a person charged only by reason of his being a promoter of the lottery to prove that the contravention occurred without his consent or connivance and that he exercised all due diligence to prevent it.

55. Saving for lotteries of Art Unions.

55. Nothing in this Part shall affect the operation of the Saving Art Unions Legalization Act and any lottery promoted or conducted in accordance with that Act shall not be unlawful.

56. Offences in relation to peaka peow and drop pan.

56. (1) Without prejudice to the generality of the provisions of section 48, every person who -

(a) has in his possession without lawful excuse (the proof whereof shall lie upon him) any peaka peow ticket or any drop pan ticket; or

(b) being the occupier of any premises, without lawful excuse (the proof whereof shall lie upon him), uses or permits those premises to be used for the storage of any peaka peow tickets; or

(c) uses any printing press or other printing machine for the purpose of printing peaka peow tickets; or

(d) gives or sells or offers for sale any peaka peow ticket or any drop pan ticket; or

(e) attends or assembles in any public or private place for the purpose of ascertaining or waiting for the result of any event or contingency of or relating to any game, pretended game or lottery known as peaka peow or drop pan or to any game of a similar nature, shall be guilty of an offence.

(2) For the purposes of this section -

(a) "peaka peow ticket" means -

(i) any paper, ticket, or document authorizing or for the purpose of enabling or entitling any person to receive any money or valuable thing on any event or contingency of or relating to any game, pretended game or lottery called or known as peaka peow or any game of a similar nature;

(ii) any paper, ticket or document printed with characters or symbols of a type commonly used in connection with any such game, pretended game or lottery as aforesaid whether or not such paper, ticket or document is, for the time being, being used in relation to such game, pretended game or lottery as aforesaid;

(b) "drop pan ticket" means any paper, ticket or document authorizing or for the purpose of enabling or entitling any person to receive any money or valuable thing on any event or contingency of or relating to any game, pretended game or lottery known as drop pan or any game of a similar nature.

(3) Where any person is convicted of any offence under this section the Court may order the destruction of any books, records, papers and other articles relating to the offence which may be found in his possession and in the case of an offence against paragraph (c) of subsection (1), may order the destruction of any printing press or other printing machine used in connection with the offence.

(4) Any constable may arrest without warrant any person committing an offence under this section and may detain any article, printing press or other printing machine liable to be destroyed thereunder.

57. Power to make regulations to stop letters, etc., being sent by post.

57. The Postmaster-General with the approval of the Minister responsible for communications may from time to time make such regulations as he thinks fit for preventing the sending or delivery by post of letters, circulars, advertisements or tickets of or concerning any lottery whether such letters, circulars or tickets be posted in Jamaica or elsewhere.

58. Restriction on certain prize competitions.

58. (1) Subject to the provisions of this section, it shall be unlawful to conduct in or through the print or electronic media, or in connection with any trade or business or the sale of any petitions article to the public -

(a) any competition in which prizes are offered for the forecast of the result either -

(i) of a future event; or

(ii) of a past event, the result of which is not yet ascertained or not yet generally known;

(b) any other competition success in which does not depend to a substantial degree upon the exercise of skill,

and in relation to which any entrance fee, stake, contribution or subscription is payable for or in respect of the right to enter or to participate.

(2) Nothing in subsection (1) with respect to the conducting of competitions in connection with a trade or business shall apply in relation to sanctioned pool betting or in relation to pool betting operations carried on by a person authorized by the Commission pursuant to section 18 or to any competition which is authorized by the Minister under this section.

(3) The Minister may, by order, authorize any person to conduct a competition under this section on such terms as he thinks fit, and, without prejudice to the generality of the foregoing and notwithstanding anything in the Stamp Duty Act, any such order may include a provision exempting from stamp duty under that Act in whole or in part letters or other instruments submitted by any person for the purpose of obtaining a right to enter for, or participate in, any such competition.

(4) Any person who contravenes the provisions of this section or, being a person authorized to conduct a competition under this section, fails to comply with any terms imposed by the Minister in relation to such competition pursuant to subsection (3) shall, without prejudice to any liability to be proceeded against under section 48, be guilty of an offence.

58A. Fee for processing applications for prize competitions.

58A. Notwithstanding the provisions of section 58, the Minister may-

- (a) approve the conduct of prize competitions in the print or electronic media; and
- (b) make regulations imposing a fee for the processing of applications for such prize competitions.

58B. Minister may waiver fees.

58B. The Minister may, on an application may waive made to him in writing, waive the fee imposed pursuant to section 58A where he is satisfied that the application relates to a prize competition that is being undertaken for the benefit of a charitable organization.

59. Moneys paid for illegal lottery ticket recoverable and contracts thereon void.

59. Any money or money's worth paid or deposited for or in respect of any lottery other than a lottery permitted pursuant to this Part or for or in respect of the purchase of a ticket in any such lottery shall be recoverable as money had and received to or for the use of the person from whom the same was received and every sale or contract for sale of such a ticket is hereby declared to be void and no action shall be maintainable by any person in respect of any such sale or contract except by the purchaser for the return of the money or other consideration (if any) paid thereon.

59A. Lottery Tax. Sixth Schedule.

59A. (1) A tax to be known as "lottery tax" is imposed at the rate specified in subsection (2) in respect of any lottery promoted by a person specified in the Sixth Schedule, who is the holder of a licence under section 49 (hereinafter referred to as a licensed promoter).

(2) The lottery tax payable shall be an amount representing-

- (a) in the case of a declared lottery 23% of the weekly gross revenue derived from the sale of lottery tickets in any week, in connection with that declared lottery;
- (b) in the case of a daily numbers game or an instant lottery, 17% of the weekly gross revenue derived from the promotion of that daily numbers game or instant lottery in any week.

(3) The House of Representatives may, from time to time by resolution, reduce, increase or alter the rate of the lottery tax specified in subsection (2).

(4) The weekly gross revenue referred to in subsection (2) shall be calculated in accordance with the following formula, that is to say—

$WGR = A - P$

where-

"WGR" means the weekly gross revenue from all lotteries;

"A" means the total receipts from all ticket sales in that week and the monetary value of all free tickets exchanged; and

"P" means—

(a) the sum of money and the value of any goods or property set aside from the total receipts for the payment of prizes in that week; and

(b) the monetary value of all free tickets exchanged in that week.

(5) The Minister may, by order, amend the Sixth Schedule.

(6) In subsection (2)-

"daily numbers game" means a lottery-

(a) whereby less than six winning numbers are drawn; and

(b) which is drawn more than twice in each week;

"declared lottery" means a lottery where by a minimum of six winning numbers are drawn from a minimum of thirty-six numbers;

"instant lottery" means a lottery, the result of which is predetermined and becomes known by removal of an outer layer, external coating or concealing device.

59B. Payment of and accounting for tax.

59B. (1) The lottery tax shall be paid by the licensed promoter to the Commissioner of Inland Revenue in relation to any week, within seven days after the end of that week and may, without prejudice to any other means of recovery, be recovered by a Collector of Taxes under the Tax Collection Act.

(2) The licensed promoter shall -

(a) keep such books, records and accounts (hereinafter referred to as "relevant documents") as may be prescribed or as the Commissioner of Inland Revenue may in any case direct in relation to the amount of lottery tax which becomes payable;

(b) for at least six years or such other period as the Commissioner of Inland Revenue may in any particular case direct, preserve such relevant documents on the premises on which they are kept;

(c) permit any officer authorized by the Commissioner of Inland Revenue to enter on any premises referred to in paragraph (b) to inspect and take copies of any such relevant documents;

(d) if required so to do by the Commissioner of Inland Revenue or any officer authorized in that behalf by the Commissioner -

(i) produce such relevant documents, at a time and place to be specified by the Commissioner or other officer as aforesaid;

(ii) make such returns and give such other information as the Commissioner of Inland Revenue or the other officer may require relating to the amount of lottery tax which becomes payable.

(3) A licensed promoter commits an offence if he -

(a) fails to pay any lottery tax payable by him;

(b) contravenes or fails to comply with any of the provisions of subsection (2);

(c) obstructs any officer in the exercise of his functions in relation to the lottery tax;

(d) in connection with the lottery tax -

(i) makes any statement which he knows to be false in a material particular; or

(ii) recklessly makes any statement which is false in a material particular; or

(iii) with intent to deceive, produces or makes use of any relevant document, return or other document, which is false in a material particular, or

(e) is knowingly concerned in, or in the taking of steps with a view to, the fraudulent evasion, by him or any other person, of the lottery winnings levy.

(4) A licensed promoter who commits an offence as mentioned in subsection (3) is liable on summary conviction in a Resident Magistrate's Court to a fine not exceeding twenty-five thousand dollars and in default of payment thereof to imprisonment for a term not exceeding eighteen months.

(5) In this section, except where the context otherwise requires, "officer" means an officer of the Inland Revenue Department, and includes any person who is expressly authorized by the Commissioner of Inland Revenue to perform the duties of an officer of the Inland Revenue Department for the purposes of this section.

(6) In this section "week" means the period commencing immediately after twelve o'clock midnight on each Saturday and ending at twelve o'clock midnight on the Saturday next following.

59C. Commissioner of Inland Revenue may access lottery tax.

59C. (1) For the purposes of the lottery tax, where, by reason of the failure of a person, the relevant documents, returns or other documents, or information which the Commissioner of Inland Revenue may have received from any source whatever, the Commissioner of Inland Revenue is satisfied that he has not been given a true or proper account of the payment of lottery tax by a licensed promoter during any period, the Commissioner of Inland Revenue may act in accordance with subsection (2).

(2) The Commissioner of Inland Revenue may, after consideration of any representation or information that is made or supplied to him, as the case may be, assess the amount which shall be deemed by the Commissioner of Inland Revenue to constitute weekly gross revenue in any week and the lottery tax in relation to such week shall be payable on the weekly gross revenue so assessed.

(3) Any person aggrieved by an assessment by the Commissioner of Inland Revenue under subsection (2) may appeal to the Revenue Court within thirty days from the date of notification of such assessment, subject to any rules of court governing appeals to the Revenue Court.

(4) The onus of proving that the assessment of the Commissioner of Inland Revenue is excessive or erroneous shall be on person appealing.

59D. Penalties.

59D. (1) A licensed promoter who fails to pay lottery tax in accordance with section 59A (1) shall be liable to a penalty equal to thirty per cent of the amount of the tax which should have been paid.

(2) Interest shall be chargeable at the rate of thirty per cent per annum or part thereof on the amount of any penalty payable pursuant to subsection (1) from the date on which the lottery tax to which the penalty relates became due until the date of payment thereof.

(3) Any penalty or interest payable under this section may be added to any lottery tax due and payable and may be recovered as if it were lottery tax.

59E. Application of section 37 to lottery tax.

59E. The provisions of section 37 shall, *mutatis mutandis* apply to the lottery tax.

59F. Lottery winnings levy. 64G/04

59F.-(1) A levy (to be known as the "lottery winnings levy") is imposed on every lottery promoted by a licensed promoter as follows-

(a) on lottery winnings of a value of \$15,000 or less, at the rate of nil;

(b) on lottery winnings of a value exceeding \$15,000, at the rate of 15 cents on every dollar.

(2) The lottery winnings levy shall be deducted by the licensed promoter from the amount of the lottery winnings referred to in subsection (1) and paid over to the Commissioner of Inland Revenue.

(3) The House of Representatives may from time to time by resolution reduce, increase or alter the rate of lottery winnings levy specified in subsection (1).

(4) Sections 59B, 59C, 59D and 59E shall, with necessary modifications, apply to the lottery winnings levy.

60. Search warrants and special powers of police and court.

60. (1) If a Justice of the Peace is satisfied on information on oath that there is reasonable ground for suspecting that an offence under this Act is being, has been or is about to be committed on any premises, he may issue a warrant in writing authorizing any constable to enter those premises, at any time, by day or by night, with such assistance and by such force as may be necessary within fourteen days from the time of the issue of the warrant and search them; and any constable who enters the premises under the authority of the warrant may -

(a) seize and remove any document, money or valuable thing, instrument or other thing whatsoever found on the premises which he has reasonable cause to believe may be required as evidence for the purposes of proceedings in respect of any such offence; and

(b) arrest and search any person found on the premises whom he has reasonable cause to believe to be committing or to have committed any such offence.

(2) On the conviction of any person for an offence under section 16, 17, 38 or 48 -

(a) any document, money or valuable thing, instrument or any other thing whatsoever belonging to the convicted person which the court is of opinion were used or intended to be used in any way in contravention of this Act may be ordered by the court to be forfeited;

(b) the court may, subject to subsection (3), order the demolition of such part of the premises in or in respect of which the offence is committed as appears to the court to have been specially constructed to facilitate offences against this Act.

(3) An order under paragraph (b) of subsection (2) -

(a) shall not be made unless the prescribed notice has been served on the owner in the prescribed manner and such owner has failed to show cause acceptable to the court why the order should not be made; and

(b) shall be directed to the owner of the premises who if he fails to comply therewith shall be guilty of an offence and shall be liable to a fine not exceeding forty dollars or to imprisonment with or without hard labour for a period not exceeding two months and to a further fine not exceeding ten dollars or to imprisonment for a period not exceeding ten days with or without hard labour for every day during which such non-compliance continues.

(4) In this section -

- (a) "owner", in relation to any premises includes -
- (i) any person in possession or receipt either of the whole or of part of the rents or profits of the premises;
 - (ii) any person in occupation of the premises otherwise than as a tenant from year to year or any less term, or as a tenant at will; and
 - (iii) the attorney or agent of any such person;
- (b) premises shall be deemed to be specially constructed to facilitate offences against this Act if any passage, staircase or means of access to any part thereto is unusually narrow or steep or otherwise difficult to pass or any part of the premises is provided with unusual, or unusually numerous, means for preventing or obstructing an entry or with unusual contrivances for enabling persons therein to see or ascertain the approach or entry of any person or for giving an alarm or for facilitating escape from the premises.

61. Penalties.

61. Any person who is guilty of an offence under this Act or any regulations thereunder for which no penalty is provided elsewhere in this Act shall be liable to a fine not exceeding five hundred thousand dollars and in default of payment thereof to imprisonment with or without hard labour for a term not exceeding six months.

62. Mode of trial.

62. All offences against this Act or any regulation thereunder shall be tried summarily in the Court of a Resident Magistrate.

63. Offences by bodies corporate.

63. Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he, as well as the body corporate, shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

64. Construction of certain references to private gain.

64. (1) In construing section 16, 42 or 50, proceeds of any entertainment, lottery, gaming or amusement promoted on behalf of a society to which this subsection extends which are applied for any purpose calculated to benefit the society as a whole shall not be held to be applied for purposes of private gain by reason only that their application for that purpose results in benefit to any person as an individual.

(2) For the purposes of the said sections 16, 42 and 50 where any payment falls to be made by way of a hiring, maintenance or other charge in respect of any equipment for holding a lottery or gaming at any entertainment, then if, but only if, the amount of that charge falls to be determined wholly or partly by reference to the extent to which that or some other such equipment is used for the purposes of betting, lotteries or gaming that payment shall be held to be an application of the stakes hazarded or proceeds of the entertainment, as the case may require, for purposes of private gain; and accordingly any

reference in the said section 42 or 50 to expenses shall not include a reference to any such charge falling to be so determined.

(3) Subsection (1) of this section extends to any society which is established and conducted either -

(a) wholly for purposes other than purposes of any commercial undertaking; or

(b) wholly or mainly for the purpose of participation in or support of athletic sports or athletic games, and in this section the expression "society" includes any club, institution, organization or association of persons, by whatever name called, and any separate branch or section of such a club, institution, organization or association.

65. Regulations.

65. (1) The Commission, subject to the approval of the Minister responsible for finance, may make regulations generally for the better carrying out of the objects and purposes of this Act and in particular but without prejudice to the generality of the foregoing may make regulations -

(a) prescribing the form and manner in which applications shall be made for any permit or licence which may be granted under this Act and the forms of such permits and licences;

(b) prescribing the circumstances in which and the persons by whom fees shall be paid, the amount of such fees and the disposal thereof;

(c) prescribing any other matter or thing which may be or is required by this Act to be prescribed;

(d) amending or replacing the Second and Third Schedules.

(2) Any regulations made pursuant to this Act shall be subject to negative resolution of the House of Representatives.

66. Savings.

66. (1) Any regulation, permit, exemption or other instrument or document whatsoever made, issued or kept or any other thing done under or by virtue of the Gambling Law (repealed) shall be deemed for the purposes of this Act to have been made or issued, to be kept, or to have been done, as the case may be, under the corresponding provision of this Act; and anything begun under the Gambling Law may be continued under this Act as if begun under this Act.

(2) So much of any enactment or document as refers expressly or by implication to the Gambling Law (repealed) or any provision thereof shall, if and so far as the context permits, be construed as referring to this Act or the corresponding provision therein, as the case may be.

(3) Nothing in this section shall be taken as affecting the general application of sections 25 and 27 of the Interpretation Act with regard to the effect of repeals.

FIRST SCHEDULE (Section 4)

PART I. Constitution and Membership of the Commission

1. The Commission shall consist of such number of persons not being less than five nor more than seven, as the Minister may from time to time determine.
2. The members of the Commission shall be appointed by the Minister by instrument in writing and, subject to the provisions of this Schedule, shall hold office for such period, not being less than two years nor more than five years, as the Minister may direct in such instrument.
3. Every member of the Commission shall be eligible for reappointment.
4. The Minister shall appoint one of the members of the Commission to be the chairman thereof.
5. If the chairman or any other member of the Commission is absent or unable to act, the Minister may appoint any person to act in the place of such chairman or other member.
6. (1) Any member of the Commission, other than the chairman, may at any time resign his office by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of receipt by the Minister of such instrument that member shall cease to be a member of the Commission.

(2) The chairman may at any time resign his office by instrument in writing addressed to the Minister and such resignation shall take effect as from the date of receipt by the Minister of such instrument.
7. The Minister may, on the application of any member, grant leave of absence to such member.
8. The Minister may at any time revoke the appointment of any member of the Commission if he thinks it expedient so to do.
9. The names of all members of the Commission as first constituted and every change in the membership thereof shall be published in the *Gazette*.
10. (1) No action, suit, prosecution or other proceedings shall be brought or executed personally against any member of the Commission in respect of any act done *bona fide* in pursuance or execution or purported execution of the functions of the Commission.

(2) Where any member of the Commission is exempt from liability by reason only of the provisions of this paragraph, the Commission shall be liable to the extent that it would be if the member were a servant or agent of the Commission.

11. There shall be paid from the funds of the Commission to the chairman and other members of the Commission such remuneration (whether by way of honorarium, salary or fees) and such allowances as the Minister may determine.
12. The office of chairman or member of the Commission shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica.
13. (1) The seal of the Commission shall be kept in the custody of the chairman or of any officer of the Commission authorized by the Commission in that behalf, and shall be affixed to instruments pursuant to a resolution of the Commission and in the presence of the chairman or any other member of the Commission authorized to act in that behalf and the secretary thereof.
- (2) The seal of the Commission shall be authenticated by the signatures of the chairman or any other member of the Commission authorized to act in that behalf, and of the secretary or some other officer authorized by the Commission to act on the secretary's behalf.
- (3) All documents other than those required by law to be under seal, made by, and all decisions of, the Commission may be signified under the hand of the chairman or any other member or officer of the Commission authorized to act in that behalf.
14. (1) The Commission shall meet at such times as may be necessary or expedient for the transaction of its business and such meetings shall be held at such places and times and on such days as the Commission may determine.
- (2) The chairman may at any time call a special meeting of the Commission and shall call a special meeting within seven days of the receipt of a written requisition for that purpose addressed to him by any three members of the Commission.
- (3) The chairman shall preside at all meetings of the Commission, and if the chairman is absent from a meeting the members of the Commission present shall elect one of their number to preside at the meeting.
- (4) The quorum of the Commission shall be such number as the Minister shall from time to time determine, not being less than one-half of the total number of the members of the Commission.
- (5) The decisions of the Commission shall be by a majority of votes, and in addition to an original vote the chairman or other member presiding at the meeting shall have a casting vote in any case in which the voting is equal.
- (6) Minutes of each meeting of the Commission shall be kept in proper form and shall be confirmed as soon as practicable at a subsequent meeting.
- (7) The validity of the proceedings of the Commission shall not be affected by any vacancy among the members thereof or by any defect in the appointment of a member thereof.

(8) Subject to the provisions of this Schedule, the Commission may regulate its own proceedings.

15. A member of the Commission who is directly or indirectly of interested in any matter which is being dealt with by the Commission -

(a) shall as soon as possible after the relevant facts have come to his knowledge disclose the nature of his interest at a meeting of the Commission; and

(b) shall not take part after the disclosure in any deliberation or decision of the Commission with respect to that matter.

Part II Financial Provisions, Accounts and Reports

16. The funds and resources of the Commission shall consist of -

(a) sums placed at its disposition pursuant to the provisions of section 28 or section 31 of this Act;

(b) moneys collected as penalties under section 14;

(c) all other sums or property which may in any manner become payable to or vested in the Commission in respect of any matter incidental to its functions under this Act or any other enactment.

17. Subject to paragraph 21, the funds of the Commission shall be applied for the purposes authorized by this Act or any other enactment in relation to the functions of the Commission.

18. (1) Subject to the provisions of sub-paragraph (2), the Commission may borrow sums required by it for meeting any of its obligations or discharging any of its functions.

(2) The power of the Commission to borrow shall be exercisable only with the approval of the Minister responsible for finance as to the amount, as to the source of borrowing and as to the terms on which the borrowing may be effected, and an approval given in any respect for the purpose of this sub-paragraph may be either general or limited to a particular borrowing or otherwise, and may be either unconditional or subject to conditions.

19. (1) The Minister may from time to time make advances to the Commission out of the moneys provided by Parliament for the purpose.

(2) With the approval of the House of Representatives, the Minister responsible for finance may guarantee the repayment of the principal and the payment of interest on any authorized borrowings of the Commission made otherwise than by way of advance under subparagraph (1).

(3) Where the Minister responsible for finance is satisfied that there has been default in the repayment of any principal moneys or in the payment of interest guaranteed under this paragraph, he shall direct the repayment, or as the case may be, the payment, out of the Consolidated Fund of the amount in respect of which there has been such default, and any such repayment or payment shall be a charge on the Consolidated Fund.

20. The Commission shall make to the Accountant-General, at such times and in such manner as the Minister may direct, payment of such amounts as may be so directed in or towards repayment of advances made to the Commission under paragraph 19, and of any sums issued in fulfilment of any guarantee given thereunder, and payments of interest on any sum outstanding for the time being in respect of such advances and of any sums so issued at such rates as the Minister may direct, and different rates of interest may be directed as respects different advances or sums and as respects interest for different periods.

21. The Commission shall establish and maintain such reserves as it considers necessary and as the Minister may from time to time approve.

22. (1) The Commission shall keep proper accounts and other records in relation to the business of the Commission and shall prepare annually a statement of accounts in a form satisfactory to the Minister, being a form which shall conform with the best commercial standards.

(2) The accounts of the Commission shall be audited by an auditor or auditors appointed annually by the Commission and approved by the Minister.

(3) So soon as the accounts of the Commission have been audited, the Commission shall send the statement of its accounts referred to in sub-paragraph (1) to the Minister together with a copy of any report made by the auditors on that statement or on the accounts of the Commission.

(4) The auditors' fees and expenses of the audit shall be paid by the Commission.

(5) The Auditor-General shall be entitled, on the direction of the Minister, at all reasonable times to examine the accounts and other records in relation to the business of the Commission.

23. (1) The Commission shall, within four months after the end of each financial year or such longer period as the Minister may in special circumstances approve, cause to be made and transmit to the Minister a report dealing generally with the activities of the Commission during the preceding financial year, and containing such information relating to the proceedings and policy of the Commission as can be made public without detriment to the interests of the Commission.

(2) The Minister shall cause a copy of the report together with the annual statement of accounts and auditors' report on that statement or on the accounts of the Commission to be laid on the Table of the House of Representatives and of the Senate.

(3) Copies of the Commission's report together with the annual statement of accounts and auditors' report on that statement or on the accounts of the Commission shall be published in such manner as the Minister may direct and shall be made available to the public by the Commission at a reasonable price.

24. {*This paragraph was deleted by Act 28 of 2003*}

Part III Staff

25. (1) Subject to the provisions of this paragraph, the Commission may appoint and employ at such remuneration and on such terms and conditions as it thinks fit a manager, a secretary and such other officers, servants and agents as it thinks necessary for the proper carrying out of its functions:

Provided that no salary exceeding seven thousand five hundred dollars *per annum* shall be assign to any post without the prior approval of the Minister.

(2) The Governor-General may, subject to such conditions as he may impose, approve of the appointment of any officer in the service of the Government to any office with the Commission and any officer so appointed shall, while so employed, in relation to pension, gratuity or other allowance, and in relation to other rights as a public officer, be treated as continuing in the service of the Government.

26. (1) It shall be lawful for the Commission, with the approval of the Minister -

(a) to enter into arrangements respecting schemes whether by way insurance policies or not;

(b) to make regulations, for pensions, gratuities and other retiring or disability or death benefits relating to employees of the Commission, and such arrangements or regulations may include provisions for the grant of benefits to the dependants and the legal personal representatives of such employees.

(2) Schemes or regulations under this paragraph may be made to have effect to a date not earlier than the first day of July, 1973.

SECOND SCHEDULE (Sections 22 and 65)

The Licensed Betting Offices Rules, 1965

1. These Rules may be cited as the Licensed Betting Offices Rules, 1965.

2. (1) The times during which licensed premises may be opened to effect betting transactions or pool betting shall be -

7.00 a.m. to 6.00 p.m. (Monday to Thursday)

7.00 a.m. to 7.30 p.m.(Friday)

7.00 a.m. to 6.00 p.m. (Saturday)

Provided that -

(a) on the Thursday immediately preceding Good Friday, the time for opening shall be 7:00 a.m. to 7:30 p.m.;

(b) when horse racing is held in Jamaica on any day on an approved racecourse, the time for opening shall be 7:00 a.m. to one-half-of-an-hour before the scheduled time for the start of the first race on such day.

(2) Licensed premises shall be closed throughout Good Friday and every Sunday and at all other times (other than the times for opening specified in sub-paragraph (1)), and shall not be used for any purpose other than the effecting of betting transactions or pool betting.

3. No person who is apparently under the age of eighteen years, or who is known to any person connected with the licensee's business and present on the licensed premises to be under that age, shall be admitted to or allowed to remain on those premises, so, however, that in any proceedings for a contravention of this rule in respect of a person apparently under the said age it shall be a defence to prove that at the time of the alleged contravention he had in fact attained that age.

4. The licensee -

(a) shall display his betting office licence on the licensed premises;

(b) shall exhibit on those premises such notice in such form and size and in such position as may be prescribed; and

(c) shall comply with any prescribed restrictions with respect to the exhibiting of other written matter or of signs of any description on the licensed premises.

5. Neither the licensee nor any servant or agent of his shall, while any other person is on the licensed premises, encourage him to bet.

6. No facilities for -

(a) seeing any television broadcast; or

(b) hearing any sound broadcast,

comprising matter other than information relating to events in connection with which betting transactions may be or have been effected on the licensed premises shall be provided or allowed to be used on the licensed premises, and neither the licensee nor any servant or agent of his shall cause or permit any such facilities to be provided at any place

under his control in such a manner that they can be enjoyed by persons resorting to the licensed premises; and no music, dancing or other entertainment shall be provided or allowed, and no refreshment of any kind shall be served, on those premises.

7. Except for the licensee and any servant or agent of his, no person resorting to the licensed premises shall be allowed to use any means of direct access between the licensed premises and other premises used for the effecting with persons resorting to those other premises of transactions other than betting transactions.

8. Any licensee or any servant or agent of a licensee contravening any of the provisions of these Rules shall be guilty of an offence as provided in subsection (1) of section 22 of the Act.

THIRD SCHEDULE (Sections 25 and 65)

Totalisators on Racecourses

1. (1) The person by whom a totalisator is operated (in the Schedule referred to as "the operator") shall take all such steps as are necessary to secure that, so long as the totalisator is in use, it is in proper working order and is properly operated in accordance with this Schedule and with the approved terms.

(1A). The operator may accept bets at the totalisator from persons betting at the track or at premises approved pursuant to section 24 on horse-races conducted overseas which are transmitted by live television broadcast to the track or to those premises.

(1B) the operator may accept bets by means of telephone communication from persons who are not at the approved race-course or the premises approved pursuant to section 24.

(2) In this paragraph "approved terms" means terms -

(a) notified by the operator to the Commission as being terms on which the operator proposes to operate the totalisator; and

(b) in relation to which the Minister's approval in writing has been granted and has not been withdrawn either at the request of the operator or by the Commission in its own discretion.

2. The operator shall, before receiving any bets in connection with any race, post in a conspicuous position on the track a notice showing the minimum stake (hereinafter referred to as "the betting unit") which will be accepted at the totalisator from persons betting on that race; and that notice shall also -

(a) specify the percentage which will be deducted by the operator from amounts staked by means of the totalisator; and

(b) if the terms on which the operator invites persons to bet include such a condition as is mentioned in paragraph 4, specify the time referred to in that paragraph.

3. The operator shall, in the case of any bets made by means of the totalisator on any race or combination of races -

(a) deduct from the aggregate amount staked -

(i) any sums payable by the operator by way of pool betting duty or entertainment duty or any other duty or tax imposed by law in respect of those bets; and

(ii) the percentage specified in the notice posted in pursuance of paragraph 2; and

(b) subject to paragraphs 4 and 5, distribute the whole of the remainder of that amount among the persons making such of those bets as are winning bets.

4. The terms on which the operator invites persons to bet by means of the totalisator may include a condition entitling the operator to retain any sum payable to a person winning a bet unless the money won on the bet is claimed before such time, not being earlier than forty-eight hours after the conclusion of the race, or as the case may be, of the last of the races, in connection with which the bet was made, as may have been specified in the notice posted in pursuance of paragraph 2.

5. Where the number of cents in the amount payable in respect of each betting unit staked by a person winning a bet is not exactly divisible by ten, then -

(a) if the remainder does not exceed five cents, it may be retained by the operator; but

(b) if the remainder exceeds five cents, the amount payable in respect of each betting unit staked by the said person shall be deemed to be increased to the next greater number of cents which is so divisible.

6. (1) The Commissioner of Inland Revenue and any person authorized in that behalf in writing by the Commissioner of Inland Revenue or the Commission may at all reasonable times enter the premises in which the totalisator is set up and examine any part of the mechanism and test and watch the working thereof, and may require the operator or any servant of his to give them all such information, and to produce to them all such accounts, books and other documents, as they consider necessary for the purpose of ascertaining whether the provisions of this Schedule are being complied with.

(2) Every person who -

(a) obstructs any of the persons upon whom powers are conferred by or pursuant to sub-paragraph (1) in the exercise of any of those powers; or

(b) neglects or refuses to give to any of the said persons any such information, or to produce to him any such document as may have been called for by him in pursuance of sub-paragraph (1); or

(c) knowingly gives to any of the said persons any information which is false or misleading,

shall be guilty of an offence.

7. The operator shall, within seven days after the close of each month submit to the Commissioner of Inland Revenue for examination by him a complete statement of account for that month, giving all such information as the Commissioner of Inland Revenue may require for the purpose of ascertaining whether the provisions of this Schedule have been complied with and the Commissioner of Inland Revenue shall furnish the Commission with a copy of any such statement of account upon the Commission's written request.

8. The Commissioner of Inland Revenue shall examine the statement of account submitted to him under paragraph 7 and shall, so often as he thinks proper, carry out, or cause to be carried out, such inspection as he considers necessary for the purpose of ascertaining whether the provisions of this Schedule are being complied with.

9. The Commissioner of Inland Revenue shall retain for a period of two years all statements of account submitted to him as aforesaid.

10. If an operator contravenes any of the provisions of this Schedule he shall be guilty of an offence.

FOURTH SCHEDULE (Section 52)

Caymanas Track Limited

FIFTH SCHEDULE [Repealed by Act 9 of 2000]

[Repealed by Act 9 of 2000]

SIXTH SCHEDULE (Section 59A (1)) 64G/04

Jamaica Lottery Company Limited

Supreme Ventures Limited