

## THE LICENSING OF BOOKMAKERS AND TAXATION ACT

*Date of commencement: 19th June, 1970.*

*Date of Assent: 18th June, 1970.*

*An Act to provide for the licensing of bookmakers, the establishment of a Tattersalls Club and the imposition of taxation in respect of betting.*

*Short title.*

1. This Act may be cited as the Licensing of Bookmakers and Taxation Act, 1970.

*Interpretation.*

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

“Act” includes the regulations made under it;

“bookmaker” means any person who carries on business as a bookmaker or turf commission agent or earns or endeavours to earn his livelihood wholly or partly by betting with members of the public;

“bet” or “betting” means the staking of any money or valuable thing by or on behalf or expressly or impliedly promised, undertaken or agreed to be paid or given to any person as or for the consideration for any assurance, undertaking, promise or agreement, expressed or implied, to pay or give thereafter any money or valuable thing on any event or contingency of or relating to any race, fight, game, sport or exercise, or on any event or contingency whatsoever, or as or for the consideration of securing the paying of any money or valuable thing on any such event or contingency whatsoever as aforesaid;

“committee” means the committee of Tattersalls constituted in terms of section 7;

“Minister” means the Minister for Enterprise and Employment;

“race” means any horse, pony, galloway, or any other race whatsoever, but does not include dog racing; (Amended K.O-I-C. 30/1974.)

“Tattersalls” means the Tattersalls Club of Swaziland established in terms of section 6;

“turf commission agent” means any person who acts for gain as an intermediary between any other person and a bookmaker.

*Licensing of bookmakers.*

3. (1) No person shall carry on the business of a bookmaker unless he shall be in possession of a bookmaker’s licence issued under the provisions of this Act.

(2) The Minister may after consultation with the committee on written application made to him grant a bookmaker's licence in such form and subject to such conditions as he may prescribe, including the provision of security for the due payment of any winnings and of any tax payable under this or any other law:

Provided that such licence shall only be granted to a member of Tattersalls.

(3) The decision of the Minister in granting or refusing a bookmaker's licence shall be final.

(4) On production to him of a written authority issued by the Minister that a person has been granted a bookmaker's licence, and on payment of the annual licence fee, the Accountant-General shall issue such person with a bookmaker's licence.

(5) A bookmaker's licence issued as aforesaid shall be valid for a period of twelve months from the 1st January to the 31st December in each year, and shall be renewable annually by the Accountant-General on the payment by the licensed bookmaker of the annual licence fee.

(6) The annual licence fee shall be the sum of E200.00 or such other sum as the Minister may prescribe. (Amended A.8/1985.)

(7) A person who contravenes sub-section (1) shall be guilty of an offence and liable on conviction for a first offence to a fine not exceeding two hundred emalangeni or, in default of payment, to imprisonment for a period not exceeding six months, or both, and for a second or subsequent offence to a fine not exceeding four hundred emalangeni or, in default of payment, to imprisonment for a period not exceeding one year, or both.

#### *Tax on betting transactions.*

4. (1) There shall be charged, levied and collected for the benefit of the Consolidated Fund a tax payable by every bookmaker equal to ten per centum of the gross amount staked with him in respect of bets on any race. (Amended A.8/1985.)

(2) The tax payable in terms of this section shall be —

(a) paid to the Accountant-General within fourteen days of the end of the month in which the amount in respect of which the tax is payable was staked with the bookmaker, and the payment shall be accompanied by a return in the prescribed form; and

(b) deemed to be a debt due to the Government and may be sued for and recovered in any court of competent jurisdiction by the Attorney-General.

(3) Where no tax is paid or payment is not accompanied by a return in the prescribed form, or the Accountant-General is not satisfied with the information contained in such form, or that the sum paid represents the tax payable he may assess the tax payable by the bookmaker, and the provisions of sections 54, 55, 56 and 57 of the Income Tax (Consolidation) Act, No. 84 of 1959, and of regulations 22 to 36, inclusive, of the Income Tax Regulations shall, *mutatis mutandis*, apply, and also the provisions of sub-section (2)(b) of this section.

#### *Offences.*

5. (1) Any bookmaker who —

(a) fails or neglects to furnish, file or submit any return or documents as and when required by this Act; or

- (b) without due cause shown by him refuses or neglects to furnish any information or reply to or to attend and give evidence as and when required by the Accountant-General or any officer duly authorized by him, or to answer truly and fully any questions put to him or to produce any books or papers required of him by the Accountant-General or any such officer; or
- (c) obstructs or hinders any officer in his duties under this Act; or
- (d) fails to show on any return made by him any portion of the income received by, or accrued to, or in favour of himself from betting, or fails to disclose to the Accountant-General when making such return any material facts which should have been disclosed; or
- (e) submits or furnishes a false return or statement, documents, or books of account;

shall be guilty of an offence and liable on conviction to a fine not exceeding E200.00 or, in default of payment, to imprisonment for a period not exceeding one year.

(2) Any person who has been convicted under the provisions of sub-section (1) of failing to furnish any return, information or reply shall, if he fails within any period deemed by the Accountant-General to be reasonable and of which notice has been given to him by the Accountant-General to furnish the return, information or reply in respect of which the offence was committed, be guilty of an offence and liable to a fine of ten emalangeni for each day during which such default continues or to imprisonment without the option of a fine for a period not exceeding three months.

*Cancellation of licence.*

6. The Minister may cancel a bookmaker's licence in the event of any contravention by the bookmaker of this Act or in the event of his failure timeously to pay and any tax payable by him in terms of section 4 or his ceasing to be a member of Tattersalls.

*Establishment of Tattersalls.*

7. (1) There is hereby established an organization to be known as the Tattersalls Club of Swaziland which shall be under the management and control of a committee.

(2) Tattersalls shall consist of members elected as such by the committee.

(3) The Minister may authorize the committee to keep open on such days and at such times as may be prescribed by regulation a place or places and branches of any such place or places to be approved by the Minister wherein or wherefrom bets may be made and settled on the result of any race.

(4) Any bookmaker who

- (a) accepts a bet from a person under the age of eighteen years;
- (b) accepts a bet from a person who is not a member of Tattersalls;
- (c) permits any person referred to in paragraphs (a) or (b) to make a bet; or
- (d) permits any person whomsoever to make a bet at any place other than —
  - (i) a place authorized, or
  - (ii) a branch approved,
  - (iii) under sub-section (3);

under sub-section (3);

shall be guilty of an offence and liable on conviction to a fine of one hundred emalangeni or, in default of payment, to three months' imprisonment.

*Constitution of committee.*

8. (1) The first committee shall consist of five persons to be appointed by the Minister and they shall serve as such until the election and appointment of a new committee as herein provided.

(2) (a) Not later than three months after their appointment, the first committee shall convene a meeting of the members of Tattersalls which shall be presided over by a chairman appointed by the Minister, and at which meeting four persons, of whom at least one shall be a bookmaker licensed under this Act, shall be elected to serve on the committee.

(b) The persons so elected shall serve on the committee for a period of twelve months, and thereafter a committee of four persons, at least one of whom shall be a bookmaker licensed under this Act, shall be elected annually by the members of Tattersalls.

(c) The Minister may appoint not more than two persons to serve on such committee for such period as he may think fit.

(3) If for any reason members are not elected to the committee at any election, the Minister may appoint any person in addition to those appointed by him in terms of subsection (2).

*Regulations.*

9. (1) The Minister may make regulations for the carrying out of the objects of this Act and without affecting the generality of the foregoing, in particular —

- (a) for the management and control of any place opened under the provisions of section 6, including the regulation of betting and settling of bets therein;
- (b) for the conduct of meetings of the committee and for prescribing the duties of the committee or sub-committees appointed by it;
- (c) for prescribing the hours during which any place opened under the provisions of section 6 may be kept open for the making and settling of bets, and for securing police supervision in respect of such place and for giving powers of entry to police or other officials and for the ejection of drunken, noisy, or disorderly persons;
- (d) for prescribing fees or allowances to members of the committee and the manner of and conditions of appointment, salaries and privileges of servants of the committee;
- (e) for prescribing the manner in which the accounts of the committee constituted under the provisions of section 6 shall be kept, and for the audit of such accounts by such officer as may be appointed by the Minister;
- (f) for ensuring that no unqualified person shall bet at any place opened in accordance with the provisions of section 6 and for prescribing the conditions under which any bookmaker shall be permitted to make bets and for fixing the amount and class of security to be lodged by such bookmakers;
- (g) for empowering the committee to settle any disputes which may arise in connexion with the carrying on of betting;

- (h) for determining how the funds or assets of the committee shall be administered and how any profits shall be applied;
- (j) for prescribing the fees which a licensee may charge for any services rendered to or facilities placed at the disposal of the committee where such licensee provides such services or facilities pursuant to a condition attached to his licence under the provisions of section 3;
- (k) for ensuring that no person shall bet on behalf of any other person at any place opened in accordance with the provisions of section 6 except with the written consent of the committee;
- (l) for empowering the committee to exclude from membership of the place referred to in section 6 any person whom the committee may consider undesirable;
- (m) for the holding and conducting of nominations and elections of the members of the committee, for fixing the date, place and time and the appointment of presiding officers at any such elections, and for determining the qualifications of persons as members of the committee and of persons entitled to vote at any such elections;
- (n) for regulating and controlling the publication by bookmakers of information relating to betting on an intended race, provided that such publication shall not in any case take place until after the closing of nominations in connexion with such race;
- (o) for prohibiting any person or persons from advertising that any such person or persons will bet in connection with any intended race, provided that this paragraph shall not apply to circulars approved by Tattersalls and issued by any licensed bookmakers who are members thereof;
- (p) for empowering the committee to make grants of money towards the maintenance of any public hospital or to any fund created by proper authority for the relief of distress of poverty;
- (q) for the examination, inspection and control of bookmakers' books and accounts.
- (r) for prescribing the form of application for a licence, the form of licence to be issued, the form of return to be used under section 4, and the form of any other document which is to be or may be used in terms of this Act.

(2) A person contravening the provisions of any regulation made under this section shall be guilty of an offence and liable on conviction to a fine not exceeding R50.00 or, in default of payment, to imprisonment for a period not exceeding three months.

*Non-applicability of Crimes Act, No. 1 of 1881.*

10. Part X of the Crimes Act, No. 1 of 1881 shall not apply to anything done by a person which is permitted by the provisions of this Act.