

THE MAURITIUS NATIONAL LOTTERIES BILL
(No. XLII of 2004)

Explanatory Memorandum

The object of this Bill is to provide for the selection and licensing of an Operator to operate, on behalf of the Government of Mauritius, the Mauritius National Lottery, part of the proceeds of which shall be used for promoting community development mainly in the field of education, health, sports and culture.

P. K. JUGNAUTH
Deputy Prime Minister,
Minister of Finance and
Economic Development

05 November, 2004

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A BILL

To provide for the introduction and operation of the Mauritius National Lottery

ENACTED by the Parliament of Mauritius, as follows –

PART I – PRELIMINARY

1. Short title

The Act may be cited as the Mauritius National Lotteries Act 2004.

2. Interpretation

In this Act –

“agent” means any person who acts for, is employed by, the Operator or lottery retailer, or who is concerned in the management of the Operator, or lottery retailer, as the case may be;

“Agreement” means the contract entered into between the Government of Mauritius and the successful bidder referred to in section 7, and which sets out the basis for those terms and conditions of the licence which are not specifically provided for in this Act;

“Board” means the Gaming Control Board established by section 51 of the Gaming Act;

“child” means a person who is under the age of 18;

“Central Tender Board” means the Central Tender Board established by section 4 of the Central Tender Board Act;

“Committee” means the Mauritius National Lottery Fund Committee set up under section 46;

“Fund” means the Mauritius National Lottery Fund established under section 45;

“gross proceeds” means the turnover of the lottery games less any sums paid out in respect of cancelled tickets;

“licence” means a licence issued under section 7;

“lottery game” means any game, scheme, system, plan, promotion, competition, instant-win game other than instant lottery game organised in connection with trade promotion, on-line lottery or other arrangement for distributing prizes by lot or by chance, as may be prescribed to form part of the Mauritius National Lottery;

“lottery retailer” means a person who holds a permit under Part IV;

“Mauritius National Lottery” means the lottery games as are prescribed to form part of Mauritius National Lottery;

“Minister” means the Minister to whom the responsibility for the subject of finance is assigned;

“National Solidarity Fund” means the National Solidarity Fund established by section 3 of the National Solidarity Fund Act;

“net proceeds” means the gross proceeds less sums paid out for the prizes;

“Operator” means the body corporate which is incorporated or registered in Mauritius, as the case may be, and is licensed under section 7;

“participant” means a person who is in possession of a ticket of a lottery game;

“ticket” means any symbol, sign, token, coupon, warrant, card, printed paper, document or list or any other means or device which confers or

purports to confer the right to take part in a lottery game, and which is issued by the Operator.

PART II – THE MAURITIUS NATIONAL LOTTERY OPERATOR

3. The Mauritius National Lottery Operator

(1) Notwithstanding any other enactment, there shall be at any time not more than one Operator holding a licence for the purposes of this Act.

(2) (a) The Board shall, subject to other provisions of this Act, issue a licence to a body corporate authorising it to operate, subject to paragraph (b), the Mauritius National Lottery on behalf of the Government of Mauritius.

(b) The Operator shall not be deemed to be the agent of the Government of Mauritius for the purpose of any liability of any nature whatsoever towards a third party and arising out of the operation of the Mauritius National Lottery.

PART III – TENDERING PROCESS

4. Call for tenders

(1) Notwithstanding the Central Board Act, the Central Tender Board shall, for the purposes of this Act and upon being requested to do so and provided with all relevant documents by the Financial Secretary, within a reasonable delay, advertise, invite or call for, tenders for the selection of a body corporate to operate the Mauritius National Lottery.

(2) The Central Tender Board shall, by notice in -

(a) the *Gazette*; and

(b) at least 2 daily newspapers and 2 international lottery industry news sources,

issue international open tenders for the purpose of selecting the best qualified body corporate to be licensed as Operator.

5. Application of Central Tender Board Act

Sections 2, 8, 9, 11,12, 13, 14, 17 and 20 of the Central Tender Board Act shall apply to an Agreement under this Act in the same manner as they apply to a major contract as defined under that Act.

6. Selection of Operator

In evaluating the tenders, the Central Tender Board shall consider whether –

- (a) the tenderer has sufficient knowledge or experience to operate the Mauritius National Lottery, and will be able to operate the Mauritius National Lottery in accordance with this Act, its licence, and any agreement relating to its activities under the licence;
- (b) the tenderer has the necessary financial and other resources to operate the Mauritius National Lottery;
- (c) any political party in Mauritius or political office-bearer has any direct financial interest in the tenderer or a shareholder of the tenderer;
- (d) any person who appears to the Central Tender Board to be likely to manage the business or any part of the business of the Mauritius National Lottery under the licence, is a fit and proper person to do so;
- (e) any person who is likely to manage the business or any part of the business of the Mauritius National Lottery under the licence, will do so –
 - (i) with all due propriety and strictly in accordance with this Act, all other applicable laws, the licence together with any agreement relating to the activity under the licence;
 - (ii) in order that the interests of every participant in the Mauritius National Lottery is adequately protected; and
 - (iii) in order that the net proceeds of the Mauritius National Lottery are as large as possible;
- (f) any person who is a director, employee, manager, agent or any other person concerned with the management of the tenderer has any materially adverse previous criminal record.

7. Issue and duration of licence

(1) Where the Central Tender Board selects the successful tenderer, it shall inform the Financial Secretary as soon as is reasonably practicable.

(2) Upon being informed of the selection pursuant to subsection (1), the Financial Secretary shall enter into and sign an Agreement with the successful tenderer, with the approval of the Central Tender Board.

(3) Where the Financial Secretary signs the Agreement referred to in subsection (2), he shall inform the Board of the signing of the Agreement and request the Board to issue to the tenderer a licence.

(4) The Board shall issue to the successful tenderer a licence subject to the -

- (a) conditions specified in this Act and in the Agreement;
- (b) payment of the licence fee specified in the First Schedule with the Accountant General; and
- (c) deposit of the security specified in the Second Schedule being made in accordance with section 12.

(5) A licence issued under this section shall be valid for a period of 7 years.

(6) Upon an application made by the Operator to the Board at least one year prior to the expiry of the licence, the Board may, after consultation with the Financial Secretary and upon being satisfied of the satisfactory operation of the Mauritius National Lottery by the Operator, renew the licence for a further period of 2 years, subject to such terms and conditions as the Board may fit to impose.

(7) The number of renewals specified in subsection (6) shall not exceed 2.

(8) The Board may, after consultation with the Financial Secretary, extend the licence on a month to month basis for a period of 6 months on such terms and conditions as may be agreed with the Operator, in which case the monthly fee shall be one-twelfth of the yearly fee.

(9) Where a licence is to be extended pursuant to subsection (8), the Board shall give the existing Operator a minimum of 10 days' prior notification of the proposed extension.

8. Operator's licence not transferable

(1) The Operator shall not assign or transfer his licence to any other person.

(2) Where the Operator contravenes subsection (1), it shall commit an offence and shall on conviction, be liable to a fine not exceeding 5 million rupees.

(3) Any transfer or assignment of a licence in breach of subsection (1) shall be null and void.

9. Conditions of Operator's licence

(1) The licence issued under section 7 shall be subject to such conditions as may be specified in the Agreement and to such other conditions as may be imposed by the Board, after consultation with the Financial Secretary, and as may require the Operator

- (a) to obtain the consent of the Board before doing any specific act or thing otherwise permitted under the licence;
- (b) to refer matters specified in the licence to the Board for approval;
- (c) to comply with the terms of any agreement relating to the payment of liquidated damages under Part IX;
- (d) to provide to the Board at times specified by the Board with such information as the Board may require;
- (e) to make such arrangements as may be specified in the licence or the Agreement for the payment from time to time, to the Fund of any specific sum or sums out of the net proceeds of the Mauritius National Lottery;
- (f) to do such things in terms of the licence, including the transfer of property or any rights, excluding intellectual property rights or propriety software, as the Board may require, upon the expiration of the licence;
- (g) to obtain the approval of the Board for any lottery game, and the rules thereof, before that lottery game is conducted;
- (h) to secure a valid and enforceable undertaking in writing from –
 - (i) any person controlling the Operator in any way whatsoever not to change such control for the duration of the licence without the consent of the Board;
 - (ii) the Operator not to permit, require or compel any of its employees or agents to knowingly sell a ticket, or to award or to pay any prize to any person specified in subsection (2) as a person to whom this subparagraph applies;

- (i) to adopt an appropriate system for the verification of the validity of lottery games tickets and claims for prizes;
 - (j) to inform the Board forthwith where it terminates an agreement with a lottery retailer.
- (2) The person to whom subsection 1(h)(ii) applies is -
- (a) a director of the Operator or a director of a holding or shareholder company of the Operator, an employee, agent or consultant of the Operator or a member, employee or agent of the Board;
 - (b) a person who prints or in any other way manufactures a ticket for the Mauritius National Lottery, or any of its directors or employees; or
 - (c) a person who supplies, operates, maintains or repairs any computers or any other electronic device or system of any kind, or software for those computers or devices, for the Operator, or any of its directors or employees;

10. Duties of the Operator

The duties of the Operator shall be to –

- (a) devise and operate lottery games authorised under this Act and within rules approved by the Board;
- (b) market and promote the Mauritius National Lottery;
- (c) pay all prizes;
- (d) pay such proportion of the net proceeds from lottery games to the Fund in accordance with the terms of the Agreement and the licence;
- (e) perform all other duties necessary for the successful operation of the Mauritius National Lottery, including the establishment of, and operating as the fiduciary custodian without proprietary rights in, a Prize Fund Account into which will be paid the gross proceeds, and out of which will be paid all prizes; and
- (f) organise, initiate, supervise and administer the operation of the Mauritius National Lottery relating to the categories of lottery games and the conduct of the games pursuant to this Act.

11. Powers of the Operator

The Operator shall have all the powers necessary to carry out the purposes of this Act and the Agreement, and in particular the power to –

- (a) adopt and alter a corporate seal;
- (b) establish policies and procedures for the regulation of its affairs and the conduct of its business;
- (c) to lay down the duties of its officers and employees;
- (d) conduct necessary or appropriate market research, which may include an analysis of the demographic characteristics of the participants of lottery games and an analysis of advertising, promotion, public relations, incentives, and other aspects of communication;
- (e) select and contract with lottery retailers;
- (f) enter into contracts on the terms and conditions determined by the Operator, except that it shall not enter into a contract for the purpose of assigning or transferring the organisation and conduct of the Mauritius National Lottery;
- (g) enter into written agreements with one or more other States for the operation, participation in marketing and promotion of a joint lottery or joint lottery games, subject to the approval of the Board;
- (h) advertise and promote the Mauritius National Lottery and lottery games in a dignified manner benefiting of the Republic of Mauritius; and
- (i) conduct promotions which involve the dispensing of lottery game tickets, and establish and operate sales facilities to sell lottery game tickets.

12. Security to be provided by Operator

- (1) The Operator shall –
 - (a) deposit with the Board the sum specified in the Second Schedule; or
 - (b) furnish security to the Board in the sum referred to in paragraph (a) by means of a guarantee issued by a local bank licensed under the Banking Act,

for the purposes of securing the payment of any debt due to persons playing games with the Operator and of any unpaid amount in respect of fees, charges, duty or tax payable under this Act or any other enactment.

(2) Where a guarantee is furnished under subsection (1)(b), the guarantee shall provide that it shall remain in force until it is cancelled in accordance with section 14 or any claim made under that section has been paid by the Board.

(3) Where judicial proceedings have been instituted against the Operator in connection with any act done or omitted to be done pursuant to its licence, or to any provisions of this Act or regulations made under the Act, the Board may decide not to refund the deposit until the conclusion of the proceedings.

13. Cessation of business

(1) Where the Operator intends to cease carrying on business, it shall –

- (a) give written notice to the Board; and
- (b) give public notice in the *Gazette* and in 2 daily newspapers,

of its intention one year prior to such cessation.

(2) Where the Operator ceases to carry on its business, no refund of the licence fee shall be made in respect of the unexpired portion of the licence.

14. Refund of deposit or cancelling of security

(1) Where the Operator ceases to carry on business, he may apply to the Board for a refund of the deposit or a cancellation of the guarantee, as the case may be.

(2) On receipt of an application under subsection (1), the Board shall, at the expense of the applicant, by a notice published in the *Gazette* and in 2 daily newspapers –

- (a) inform all interested parties of the application; and
- (b) request any person who claims to be entitled to a payment out of the amount of the deposit or guarantee to give it notice of his claim within 3 months from the last publication of the notice.

(3) The Board may accept or reject a claim under subsection (2).

- (4) Where, after the expiry of the time specified under subsection (2) -
- (a) no claim has been received; or
 - (b) any claim received has been withdrawn or rejected,

the Board shall refund the deposit to the applicant or order the cancellation of the guarantee.

(5) Where the Board accepts a claim under subsection (3), it shall, at the expiry of the time specified under subsection (2) -

- (a) in relation to a deposit -
 - (i) pay the amount of the claim as accepted by it; and
 - (ii) refund to the applicant any balance of the deposit remaining after making the payment under subparagraph (i) and all other incidental expenses; or
- (b) in relation to the amount of a bank guarantee -
 - (i) recover the amount of the guarantee in accordance with section 15;
 - (ii) pay the amount of the claim as accepted by it; and
 - (iii) refund to the bank any balance of the amount of the bank guarantee remaining after making the payment under subparagraph (ii) and all other incidental expenses.

(6) A refund or payment made by the Board under subsection (4) or (5) shall operate as a valid discharge to the Board and the Board shall not be liable in respect of any claim by any person in connection with the refund or payment.

(7) Subsection (6) shall not prejudice the right of an applicant to recover from any person any sum lawfully due to the applicant and paid out to that person by the Board.

15. Application of deposit or security

(1) Where the Board is satisfied that any security by means of a bank guarantee is required for the purposes of this section, it may, by written notice served upon the bank which has issued the guarantee, require the bank to pay over to it the amount of the guarantee, and the bank shall pay over the amount to the Board within 7 days of receiving the notice.

(2) Any deposit made under this Act or any security recovered under subsection (1) may be applied by the Board towards the payment of any amount which is due by the Operator or its legal representatives in the following order of priority -

- (a) payment of any amount due to winners of lottery games under this Act;
- (b) payment of any unpaid amount in respect of fees, charges, duty or tax payable under this Act, or any other enactment.

(3) Subject to subsection (4), where the amount of the deposit made under this Act or security recovered under subsection (1) is applied for any of the purposes specified in subsection (2), no claim shall be receivable in respect of any sum paid by the Board to any person.

(4) Subsection (3) shall not prejudice the right of the Operator to recover from any person any sum paid out to that person by the Board under subsection (2)(a).

(5) Where any payment is effected under subsection (2), the Board shall -

- (a) so inform the Operator in writing, and the Operator shall, within such time as may be specified by the Board, submit a fresh security in the sum specified in Second Schedule, failing which the Board may cancel the licence of the Operator; and
- (b) refund to the bank any balance of the amount of the bank guarantee remaining after the payment.

16. Suspension of licence

(1) Where the Board is satisfied that the Operator no longer fulfils any of the requirements specified in section 6 or that –

- (a) any substantial shareholder within the meaning of the Companies Act 2001, or director or manager of the Operator is convicted of an offence against this Act or of any offence involving fraud or dishonesty, or is in breach of the Agreement or regulations made under this Act;
- (b) the Operator has contravened any provision of this Act or of any regulations made under this Act, or is in breach of any condition of its licence or the Agreement;

- (c) the Operator knowingly or recklessly supplies to the Board material information that is false or misleading;
- (d) the Operator fails to fulfil his financial commitments when they become due and payable;
- (e) the Operator fails to take out and maintain the required bank guarantee as provided in accordance with section 12;
- (f) any substantial shareholder, within the meaning of the Companies Act 2001, of the Operator is not, or has ceased to be, a fit and proper person to benefit from the operation of the Mauritius National Lottery by the Operator or to exercise his rights of membership in such manner as to ensure the proper operation of the Mauritius National Lottery by the Operator;
- (g) any director of the Operator is not, or has ceased to be, a fit and proper person to manage the affairs of the Operator or to exercise his functions and duties as director in such manner as to ensure the proper operation of the Mauritius National Lottery;
- (h) any person who is managing the business of the Operator is not, or has ceased to be, a fit and proper person to do so;
- (i) the Operator is not, or has ceased to be, a fit and proper person to be the holder of the licence to operate the Mauritius National Lottery;
- (j) it reasonably deems it necessary in the public interest to suspend the licence,

the Board may suspend the licence and inform the Minister.

(2) Where the Board suspends the licence, it may, in an appropriate case, give such direction as it considers necessary to the Operator.

(3) The Board shall consider any response to any direction given under subsection (2) and where the matter is resolved to its satisfaction, it shall take no further action and shall inform the Operator in writing accordingly.

(4) Where the matter is not resolved to the satisfaction of the Board, the Board shall inform the Minister.

(5) The Board shall take all reasonable measures which are necessary or expedient exclusively for the purpose of guaranteeing the uninterrupted

operation of the Mauritius National Lottery for so long as the licence of the Operator is suspended, including the right to use –

- (a) the source and object program instructions, and the documentation for those programs as owned by the Operator and which are necessary to provide the central facility; and
- (b) the backup facility, the communication network, all terminals, related equipment, procedures and production scripts.

17. Committee of Inquiry

(1) On being informed of the Operator's suspension, and the grounds thereof, under section 16 and that any matter has not been resolved to the satisfaction of the Board, the Minister shall appoint a Committee of Inquiry which shall consist of –

- (a) a person who has been, or is qualified to be, a Judge of the Supreme Court, as Chairperson; and
- (b) 2 members having experience in finance, lottery and information technology.

(2) The Board shall, having regards to the grounds referred to in subsection (1), lay such charges as may be appropriate before the Committee of Inquiry which shall inquire into the matter with all reasonable dispatch as to why the licence of the Operator must not be cancelled.

(3) The Committee of Inquiry shall forward all depositions taken, documents and its own recommendations to the Board.

(4) The Committee of Inquiry shall conduct its proceedings in the manner provided for, and shall have the powers of a Commission, under the Commission of Inquiry Act.

18. Cancellation of licence

(1) Where a matter has been referred to the Committee of Inquiry, the Board shall, after considering the depositions and documents produced before the Committee of Inquiry, and its recommendations, make its decision as to whether the licence of the Operator must be cancelled.

(2) Where the Board decides to cancel the licence, it shall notify the Operator of the cancellation and the reasons therefor and the date on which that cancellation shall take effect.

(3) The Board may cancel the licence of the Operator where the Operator is wound up.

(4) Where a licence is cancelled under this section, the Board shall take all reasonable measures which are necessary or expedient exclusively for the purpose of guaranteeing the uninterrupted operation of the Mauritius National Lottery until a new Operator is selected, including the right to use –

- (a) the source and object program instructions, and the documentation for those programs as owned by the Operator and which are necessary to provide the central facility; and
- (b) the backup facility, the communication network, all terminals, related equipment, procedures and production scripts.

PART IV – LOTTERY RETAILERS

19. Prohibition to sell Mauritius National Lottery

No person, other than the Operator, shall sell, offer or expose for sale or have in his possession for sale, any lottery game, unless he holds a valid permit issued by the Board.

20. Application for permit

(1) Any person who wishes to obtain a permit under this Part shall make an application to the Board in the form approved by the Board, in respect of the premises from which he intends to carry on his business.

(2) An application made under this section shall be accompanied by evidence of the authority or appointment of the applicant given or made by the Operator to sell lottery games.

(3) The Board may require the applicant to furnish such information which may be reasonably necessary in order to enable the Board to –

- (a) determine whether the applicant is a fit and proper person to hold a permit under this Act; and
- (b) properly consider the application.

21. Grant or refusal of permit

(1) The Board may grant a permit subject to such terms and conditions as it thinks fit to.

(2) No permit shall be issued unless the Board is satisfied that the applicant is a fit and proper person to sell lottery games.

(3) No permit shall be issued to a person –

(a) who is under the age of 21;

(b) who has, within the 10 years preceding the date of application, been convicted of any offence involving fraud or dishonesty, or is a body corporate of which any director, manager or officer has been so convicted; or

(c) who was prior to the date of application, the holder of a permit which has been cancelled.

22. Duration of permit

(1) Subject to sections 25 and 26, a permit granted under this Part shall be valid for a period of one year.

(2) Every lottery retailer who wishes to renew his permit shall, not later than 3 months before the expiry of the permit, give written notice of his intention to the Board.

(3) Subject to subsection (4), the Board may renew the permit of the lottery retailer.

(4) Section 21 shall apply to the renewal of a permit in the same manner as it applies to the grant of a permit.

23. Prohibition to transfer permit

No lottery retailer shall assign or transfer his permit.

24. Surrender of permit

(1) A lottery retailer may surrender his permit at any time before its expiry.

(2) Every lottery retailer who wishes to surrender his permit shall give written notice of his intention to the Board.

25. Cancellation of permit

(1) Subject to subsections (3) and (4), the Board may cancel a permit where it is satisfied that –

(a) the lottery retailer has given information to the Board which is false or misleading in a material particular;

- (b) the lottery retailer has contravened this Act or any regulations made under the Act, or any rules made under section 36;
- (c) the lottery retailer is not, or is no longer, a suitable person to be a lottery retailer;
- (d) the lottery retailer has been convicted of an offence under this Act or regulations made under the Act, the Gaming Act, the Financial Intelligence and Anti-Money Laundering Act, or under any other enactment where the offence is one involving fraud or dishonesty;
- (e) it is in the public interest to do so.

(2) Where the Board is of opinion that a permit must be cancelled, it shall give written notice of its intention to the lottery retailer together with the reasons therefor.

(3) The Board shall, in the notice under subsection (2), require the lottery retailer to show cause in writing, within such time as may be specified in the notice, why the permit must not be cancelled.

(4) The Board shall, after considering the explanations of the lottery retailer, inform him in writing of its decision and the reasons for its decision.

(5) Where the Operator has terminated the authorisation or appointment under which a lottery retailer has been authorised to sell lottery games, any permit granted by the Board to the retailer shall be cancelled forthwith.

26. Suspension of permit

Without prejudice to its powers under section 25, the Board may suspend the permit of the lottery retailer for a period not exceeding 3 months –

- (a) on any ground on which it would have been entitled to cancel the permit under section 25; or
- (b) where in its opinion it is in the public interest to do so.

PART V – INVESTIGATION AND ENFORCEMENT

27. Powers of entry, inspection and seizure

(1) Subject to subsection (2), the Board or any officer designated by it, or a police officer, may, enter premises belonging to or under the control of the Operator or a lottery retailer, or an agent of the Operator, or premises to which

the Operator or lottery retailer has a right of access for the purposes of his business, at any reasonable time, where such entry is necessary for the protection of the integrity of the Mauritius National Lottery, and to –

- (a) require any agent, or lottery retailer, as the case may be, to produce any thing, equipment, document or data;
- (b) examine or inspect anything, equipment, document or data captured in any form, found on the premises and make copies of, or make extracts from, that thing, equipment, document or data;
- (c) seize, for the purposes of further examination or securing information, anything, document or data, on such premises which has a bearing on the conduct of the Mauritius National Lottery;
- (d) require any agent, or a lottery retailer, to give to the officer all reasonable assistance and to answer all reasonable questions either orally or in writing;
- (e) seal, or otherwise secure from, such premises, any thing or equipment on or in which any document or data which has a bearing on the conduct of the Mauritius National Lottery is stored or captured;
- (f) operate and test any equipment found on the premises, which is used or intended to be used for the purposes of his business; and
- (g) take such steps as may be reasonably necessary to protect the integrity and conduct of the Mauritius National Lottery.

(2) Where the Board or an officer wishes to exercise the powers conferred upon him under subsection (1) in a dwelling house or other private premises, he shall only do so on the authority of a warrant issued by a Magistrate.

(3) A Magistrate may, on being satisfied on information upon oath, that the Board or the officer has to exercise the powers and duties conferred upon him under this Act in respect of a dwelling house, issue a warrant authorising the Board or the officer to exercise those powers and duties.

(4) A warrant issued under subsection (3) shall be valid for the period stated in the warrant.

(5) Where any document, record, data or any other item has been seized during the course of an inspection, the officer conducting the inspection

shall issue a complete list of such items and data including the date and the time of such seizure to the Operator, the lottery retailer or his agent, or the occupier of the premises.

(6) Every officer who conducts any search, inspection, or does any other thing in the course of an inspection, shall endeavour to ensure that the ordinary course of legitimate business for which any equipment may be used, is not hampered by such search or inspection and shall not seize any equipment where such seizure will prejudice the conduct of the ordinary course of business for which the equipment is used, unless -

- (a) it is not possible to conduct the inspection on the premises where such equipment is located without such seizure; or
- (b) the seizure of such equipment is necessary to prevent the commission of the offence or the continuance of the offence, or to obtain information which shall otherwise be lost, destroyed, modified or rendered inaccessible.

(7) Where the information requested by the officer under subsection (1) is stored in a computer, disc, cassette, or on microfilm, or preserved by any mechanical or electronic device, the person to whom the request is made shall be deemed to be required to produce or give access to the information in a form in which it can be taken away and in which it is visible and legible.

28. Tampering with items subject to seizure

(1) Where an officer sealed any thing or equipment under section 27, no person shall tamper with such equipment without the prior approval of the officer.

(2) Any person who contravenes subsection (1) shall commit an offence, and shall on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 6 months

PART VI – LOTTERY PRIZES

29. Prize Fund Account

(1) The Operator shall maintain and operate with a local bank a Prize Fund Account.

(2) There shall be paid into the Prize Fund Account all stakes made by participants to lottery games.

(3) There shall be paid out of the Prize Fund Account -

- (a) all prizes set for the respective lottery games in accordance with the rules made under section 36; and
- (b) any amount due to the Operator under the Agreement or under its licence;
- (c) into the Fund, the proportion of the net proceeds referred to in section 10(d).

30. Entitlement to prizes

(1) The Operator shall pay to every participant the prize to which the participant is entitled in accordance with the official results of the draw of the lottery game and in accordance with the rules made under section 36.

(2) Where, after the draw of a lottery game, no person is, or becomes entitled to a prize offered in the lottery game, the amount of such prize shall be used for the allocation, in accordance with rules made under section 26, of bigger prizes for the subsequent draw of the same lottery game.

31. Lottery prize claims

(1) A participant to a lottery who is entitled to a lottery prize may be required to submit evidence of his entitlement to the Operator, in accordance with such rules as may be made under section 36.

(2) Where the Operator is satisfied that the participant is entitled to the prize, the Operator shall pay to the participant the amount of the prize.

- (3)
 - (a) Where the Operator is not satisfied that a participant is entitled to the prize claimed, the Operator shall retain the amount of the prize in the Prize Fund Account, until such time as the participant satisfies the Operator of his entitlement, or as a court determines the entitlement of the participant.
 - (b) Where it is determined that a participant is entitled to the prize, the Operator shall pay the amount of the prize in accordance with such determination.
 - (c) Where it is determined that no person is entitled to a prize, the Operator shall pay the amount of the prize into the National Solidarity Fund.

(4) Notwithstanding the provisions of this section, a claim to a prize, other than an instant lottery game, made later than 6 months after the draw of the lottery game to which it relates, shall not be recognised.

32. Unclaimed prizes

- (1) Where any prize of any lottery game –
 - (a) is not claimed within 6 months from the date of the draw of that lottery game; or
 - (b) that is an instant game, is not claimed within 3 months from the date of closure of that instant game,

the Operator shall forthwith pay the prize into the National Solidarity Fund.

(2) The Operator shall publish in 2 daily newspapers the date of closure of any instant game.

33. Lottery proceeds

(1) Unless otherwise agreed with the Operator, every lottery retailer who sells any lottery game shall pay the proceeds that accrues from the sale of the lottery games into the Prize Fund Account.

(2) Every lottery retailer shall keep all lottery proceeds separate from his other funds in a separate bank account.

34. Draw of lottery games

(1) The draw of every lottery game, other than an instant-win game, shall be held in public and in the presence of the Accountant General, or his representative, and an officer designated by the Board.

(2) The Operator shall publicly notify or announce, in any manner that it thinks fit –

- (a) the time and place of the draw; and
- (b) in the case of a draw that is to be broadcast, the time at which and the channel or station on which the draw is to be broadcast.

35. Official result

The Operator shall, immediately after the draw of any lottery game, announce or display the official result in accordance with the rules for the type of lottery game to which the draw relates.

36. Lottery rules

(1) The Operator may, with approval of the Board, make such rules not inconsistent with this Act for, or in relation to, the conduct and operation of lottery games and the establishment and distribution of prize funds.

(2) The Operator shall publish the rules made under subsection (1) in the *Gazette* and in 2 daily newspapers.

(3) Any rule made under this section shall take effect as from the date of the last publication referred to in subsection (2), or on such other date as may be specified in the rules.

(4) Notwithstanding the Interpretation and General Clauses Act, rules made under subsection (1) shall not be required to be laid before the National Assembly.

37. Protection of product names

(1) No person, other than the Operator shall, either alone or with any other person, promote, organise or conduct any lottery game under –

- (a) such product name as may be prescribed; or
- (b) any other name, knowing that the name so resembles a prescribed product name that is likely to mislead any person.

(2) No person, other than the Minister, the Operator, or a person authorised to do so by any of them, shall, subject to any other enactment, for the purposes of any lottery other than the Mauritius National Lottery, make use of the names “Mauritius National Lottery” or “National Lottery” or of any name so closely resembling either of the names as to be reasonably capable of leading to the belief that either of those two names is being referred to.

(3) Any person who contravenes subsections (1) and (2) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 100,000 rupees and imprisonment for a term not exceeding 2 years.

38. Copyright in Mauritius National Lottery

Any copyright, trademark, service mark or logo and enforcement of rights with respect to the Mauritius National Lottery are the sole property of the Government of the Republic of Mauritius.

PART VII - CONTROL PROCEDURES

39. Control procedure

(1) The Operator shall not conduct a lottery game unless it has a control procedure approved by the Board for conducting the lottery game.

(2) Where the Operator contravenes an approved control procedure, or changes the approved control procedure other than under a direction pursuant to section 43 or with the approval of the Board under section 42, the Operator shall commit an offence and shall, on conviction, be liable to a fine not exceeding one million rupees.

40. Submission of control procedure

(1) The Operator shall, not later than 3 months before it proposes to start conducting lottery games under its licence, submit its control procedure in writing to the Board for approval.

(2) Notwithstanding the period specified in subsection (1), the Operator may submit its control procedure to the Board for approval at such later time as the Board may allow.

(3) The control procedure shall describe and explain the Operator's control procedure and shall include information about –

- (a) (i) the accounting systems and procedures;
- (ii) the administrative systems and procedures;
- (iii) the computer software and systems; and
- (iv) the standard forms and terms,
to be used for the conduct of the lottery games;
- (b) the general procedures to be followed for the conduct of the lottery games;
- (c) the procedures and standards for the maintenance, security, storage and transportation of equipment to be used for the conduct of the lottery games;
- (d) the procedures for the recording and paying of prizes won in lottery games;
- (e) the procedures for using and maintaining security facilities.

41. Change in control procedure

(5) Where the Operator intends to change an approved control procedure, it shall make a written application to the Board.

(6) An application under subsection (1) shall be made in writing not later than 3 months before the Operator intends to start conducting lottery games under the proposed new control procedure.

(7) Notwithstanding the period specified in subsection (2), the Operator may submit its application at such later time as the Board may allow.

(8) An application made under this section shall contain particulars of the proposed changes to the Operator's approved control procedure.

42. Consideration of application

(1) Upon receipt of an application under section 40 or 41, the Board may either approve, or refuse to approve, the Operator's proposed control procedure or the proposed change in the approved control procedure.

(2) In considering the application, the Board may –

(a) by written notice given to the Operator, require it to give to the Board additional information in relation to the application that is necessary to enable the Board to make a decision about the application; and

(b) consult such other person or authority as it thinks fit.

(3) In considering whether to approve an application, the Board shall have regard to –

(a) whether the application satisfies this Part;

(b) whether the Operator's proposed control procedure, is capable of providing satisfactory and effective control over the conduct of lottery games.

(4) The Board may refuse to approve a proposed control procedure –

(a) where the Operator fails to comply with subsection (2)(a); or

(b) in the public interest.

(5) The Board shall notify the Operator in writing of its decision to approve or not to approve an application under this section promptly.

(6) Where the Board refuses to approve an application, the notice referred to in subsection (5) shall contain the reasons for its decision and where the Board is of the opinion that the application can be rectified to enable the Board to approve such application, the notice shall also –

- (a) explain how the application may be changed; and
- (b) invite the Operator to re-apply after making the appropriate changes.

43. Direction to change approved control procedure

(1) The Board may, in writing, direct the Operator to change an approved control procedure within such time and in such way as may be specified in the notice.

(2) The Operator shall comply with the notice referred to in subsection (1).

(3) Where the Operator fails to comply with a direction under subsection (1), it shall commit an offence and shall, on conviction be liable to a fine not exceeding one million rupees.

44. Annual report of Operator

(1) The Operator shall file a copy of its annual report with the Minister and the Board within 3 months of the close of its financial year.

(2) The annual report shall include -

- (a) the audited annual financial statements;
- (b) information in relation to the activities of the Operator during that financial year.

(3) The Minister may, from time to time request the Operator to provide such additional information in respect of the annual report specified in subsection (2).

PART VIII – THE MAURITIUS NATIONAL LOTTERY FUND

45. The Mauritius National Lottery Fund

(1) There is established a fund to be known as the Mauritius National Lottery Fund which shall be deemed to be a Special Fund under the Finance and Audit Act.

(2) The Fund shall consist of –

- (a) the proportion of the net proceeds referred to in section 10(d);
- (b) any gifts, donations, grants made to the Fund;
- (c) interest and dividends derived from any investment of money standing to the credit of the Fund; and
- (d) any money lawfully accruing to the Fund.

46. Mauritius National Lottery Fund Committee

(1) There is set up for the purposes of administering and determining the manner in which any surplus remaining in the Fund may be invested or allocated under this Part, a committee to be known as the Mauritius National Lottery Fund Committee.

(2) The Committee under subsection (1) shall consist of –

- (a) the Financial Secretary who shall be the Chairperson;
- (b) a representative of the Prime Minister’s Office;
- (c) a representative of the Ministry responsible for the subject of finance;
- (d) a representative of the Ministry responsible for the subject of health;
- (e) a representative of the Ministry responsible for the subject of social security;
- (f) a representative of the Ministry responsible for subject of education; and
- (g) 2 other persons each of whom shall represent a different non governmental organization, appointed by the Minister.

(3) The Committee shall –

- (a) meet not less than once every month and at such time and place as the Chairperson thinks fit;
- (b) regulate its meeting and proceedings in such manner as it thinks fit.

(4) At any meeting of the Committee, 5 members shall constitute a quorum.

(5) The Minister may designate such public officers as may be required to serve as officers of the Committee for the purpose of enabling it to properly exercise its powers and to discharge its functions under this Act.

(6) Every member of the Committee may be paid such fees as the Minister may determine.

47. Investment of the assets of the Fund

Any surplus remaining in the Fund may be loaned or invested in such manner as the Committee may, in its sole discretion, determine.

48. Accounts of the Fund

(1) The Committee shall, not later than 3 months after the end of each financial year, prepare and submit to the Director of Audit –

- (a) an annual statement of the receipts and payments of the Fund for that financial year; and
- (b) a balance sheet made up to the end of that financial year showing the assets and liabilities of the Fund.

(2) The Committee shall, as soon as possible, after the end of each financial year, furnish to the Minister –

- (a) a report dealing with the activities and financial position of the Fund during that financial year; and
- (b) a copy of the audited accounts of the Fund for the financial year together with the report of the Director of Audit on those accounts.

(3) The Minister shall cause to be published in the *Gazette* duly audited accounts of the Fund together with the report of the Director of Audit on those accounts.

(4) The accounts required to be published under subsection (3) shall be laid down before the National Assembly.

(5) This section shall not apply to the first financial year of the Fund.

49. Allocation of money from Fund

(1) The Committee may, in its sole discretion, allocate such sums of money as are required for the purpose of financing the implementation of projects relating to community development, the promotion of education, health, sports and culture, and for such other purposes as may be prescribed.

(2) In allocating a grant under subsection (1), the Committee may impose such conditions as it deems fit, including the condition requiring the amount of the grant to be repaid forthwith on breach of any condition.

PART IX - MISCELLANEOUS

50. Age restriction to play lottery games

(1) Any person who knowingly invites, causes or permits a child to play a lottery game shall commit an offence.

(2) For the purposes of subsection (1), inviting a child to play a lottery game includes –

- (a) sending to the child any document which advertises a lottery game; or
- (b) bringing to the attention of the child information about lottery games with a view to encouraging the child to play lottery games.

(3) Where a document is sent to a child and that document which advertises a lottery game gives the name or contact details of a person to whom payment may be made or from whom information may be obtained, that person shall commit an offence under subsection (1), unless he proves that the document was sent –

- (a) without his consent; and
- (b) without his authority.

(4) Where a person brings information relating to a lottery game to the attention of a child and such information includes the name or contact details of another person to whom payment may be made or from whom information may be obtained, the first person shall commit an offence under subsection (1), unless he proves that the information was brought to the attention of the child –

- (a) without the person's consent or authority; or
- (b) as an incident of the information being brought to the attention of an adult and without a view to encouraging the child to play a lottery game.

(5) Any lottery game played in contravention of this section shall be voidable at the instance of the child, and the amount paid by the child in respect of the lottery game shall be refunded by the Operator, or the lottery retailer, as the case may be, to the child.

- (6) For the purposes of this section, “contact details” means –
- (a) an address or other location;
 - (b) a telephone number;
 - (c) an internet site; or
 - (d) an email address.

51. Retention of records

The Operator shall –

- (a) keep proper books, records and accounts either in English or French, in relation to his business as the Board may direct;
- (b) keep such other documents in relation to his business as the Board may direct;
- (c) subject to any other enactment, preserve the books, records, accounts and documents required to be kept under paragraph (a) and (b) for a period of not less than 5 years or for such longer period as the Board may direct;
- (d) where required to do so by the Board or any officer designed by it, produce at such time and place as may be specified by the Board, his licence or permit, as the case may be, and any books, records, accounts or documents relating to his business; and
- (e) make such returns or give such information relating to his business to such persons and at such time as the Board may specify.

52. Immunity

No civil or criminal liability shall attach to any member, or to an officer of the Committee or the Board, in respect of any act done in good faith in the execution or purported execution of his duties under this Act or any regulations made under it.

53. Offences

- (1) Any person who –
- (a) in relation to a lottery game, dishonestly obtains a benefit by any act, practice or scheme, or by the use of a thing, equipment, document or data;

- (b) pretends to be the Operator or a lottery retailer, an agent of the Operator or a lottery retailer, or an officer of the Board or the Ministry;
- (c) not being the Operator or a lottery retailer, or its or his agent –
 - (i) induces a person to take part in a lottery game; or
 - (ii) distributes or supplies a lottery ticket, or supplies forms in connection with a lottery game;
 - (iii) advertises or promotes the taking part in a lottery game;
 - (iv) collects or distributes prizes;
- (d) publishes the name of a participant who has asked for anonymity;
- (e) states anything to an officer which he knows to be false or misleading in a material particular;
- (f) supplies to an officer any document, information or data which he knows to be false or misleading in a material particular;
- (g) obstructs or hinders an officer in the performance of his duties;
- (h) contravenes the rules of a lottery game for the purposes of obtaining a pecuniary advantage;
- (i) has in his possession any instrument, equipment or device that is capable of being used for cheating in a lottery game in circumstances that show an intention to use the instrument, equipment or device to cheat;
- (j) counterfeits any ticket or document relating to a lottery game for the purposes of obtaining a pecuniary advantage;
- (k) not holding a permit under this Act, sells a lottery game;
- (l) sells a lottery ticket –
 - (i) at a price higher than that which is printed on the ticket;

- (ii) on condition that the seller of the ticket shares in the prize in the event of a ticket sold by him being the ticket in respect of which a prize is paid;
- (iii) on any condition not provided for in the rules of the lottery game concerned;
- (iv) on credit or with the financial assistance in any form of the seller;
- (m) without the written authorization of the Operator, prints a lottery ticket forming part of the Mauritius National Lottery;
- (n) contravenes any of the provisions of this Act in respect of which no penalty is provided,

shall commit an offence, and shall on conviction, be liable to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 5 years.

(2) Any person who purchases a lottery ticket from a person not holding a licence or a permit under this Act, shall commit an offence and shall on conviction, be liable to a fine not exceeding 25,000 rupees and to imprisonment for a term not exceeding one year.

54. Liquidated damages

(1) There shall be paid by the Operator to the Board in respect of such breaches of the Agreement as may be specified in the Agreement such liquidated damages, of an amount not less than 10,000 rupees, as may be specified therein.

(2) Where the Board decides to impose liquidated damages on the Operator, it shall notify the Operator of the breaches for which it intends to impose the liquidated damages and call upon the Operator to show cause why no such liquidated damages should not be imposed upon it.

(3) Where the Board is not satisfied with the explanations offered by the Operator, the Board shall impose on the Operator the liquidated damages applicable to the breach.

- (4) Any liquidated damages imposed may be –
 - (a) deducted from the payments due to the Operator under the Agreement; or
 - (b) claimed against the deposit made by the Operator or against the bank guarantee furnished by the Operator under this Act.

(5) The Minister may, for the purposes of this section, make such regulations as he deems necessary.

55. Forfeiture

In addition to any penalty the Court may order the seizure of any money, equipment or other article used in connection with the commission of an offence.

56. Regulations

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) Any regulations made under subsection (1) may provide -

- (a) for the use of the internet and other electronic communication system for the conducting of lottery games;
- (b) for the payment of fees, dues and charges;
- (c) for the amendment of the Schedules; and
- (d) that any person who contravenes them shall commit an offence and shall, on conviction, be liable to a fine not exceeding 50,000 rupees and to imprisonment for a term not exceeding 2 years.

57. Consequential amendments

The Gaming Act is amended –

- (a) in section 2 –
 - (i) by deleting the definition of “lottery” and “lotto lottery” and replacing them by the following definition -

“lottery” –

 - (a) means an arrangement for the distribution of prizes by chance among persons holding tickets, slips or other means of giving right to the chance; but
 - (b) does not include a sweepstake;
 - (ii) by inserting the following definition in its appropriate alphabetical place -

“Mauritius National Lottery” has the same meaning as in the Mauritius National Lottery Act 2004;

- (b) by adding the following section immediately after section 2 -

3. Application of Act

(1) Subject to subsection (2), this Act shall not apply to the Mauritius National Lottery.

(2) Notwithstanding Part VIII of this Act, the Board shall have such functions and powers in relation to the supervision of the conduct and operation of the Mauritius National Lottery as may be specified in the Mauritius National Lotteries Act 2004.

58. Commencement

(1) Subject to subsection (2), Parts I and II, and sections 4, 5 and 6 of Part III shall come into operation on the date of the publication of this Act in the Gazette.

(2) The other Parts or any sections of such other Parts shall come into operation on a date to be fixed by Proclamation.

FIRST SCHEDULE

(section 7)

Licence fee

Mauritius National Lottery Operator	500,000 rupees for 12 months period or part thereof
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SECOND SCHEDULE

(section 12)

Security

Security to be furnished by Operator	5 million rupees
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