

CHAPTER 10:19

POOLS CONTROL ACT

Acts 51/1960, 25/1965 (s.2), 6/1967 (s.5), 8/1969, 22/2001 (s. 4); 6/2005 (s.13); G.N. 124/1974, S.I. 361/1981.

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AN ACT to provide for the control of pool betting businesses, for the holding of a licence by a pool promoter or where the business is promoted outside Zimbabwe by the representative, for the appointment by the Minister of an accountant whose duties are to ensure that a pool promoter conducts his business in accordance with the Act, for the sending by a promoter to the accountant of information in respect of each competition and to every competitor therein unless, in the latter case, the information has been published in a newspaper, for the sending by a promoter to the accountant and to the Minister of a statement in respect of all his competitions, for the sending by a promoter of profit and loss accounts to the accountant, and for other matters incidental thereto.

[Date of commencement: 9th December, 1960.]

1 Short title

This Act may be cited as the Pools Control Act [*Chapter 10:19*].

2 Interpretation

(1) In this Act—

“accountant” means the person appointed in terms of section *nine*;

“collector” means any collector of customs and excise in the Department of Customs and Excise;

“licence” means a licence issued under this Act;

“licensed representative” means the holder of a valid licence issued to the representative of the promoter of a pool betting business promoted outside Zimbabwe;

“licensed pool promoter” means the holder of a valid licence issued to the promoter of a pool betting business promoted inside Zimbabwe;

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

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

“promoter’s commission”, in relation to any pool betting business, means the amount by which the aggregate total stakes in all the competitions exceeds the sum of—

- (a) the aggregate prizes in the competitions; and
- (b) the aggregate pool betting tax in respect of the competitions; and
- (c) the expenses of the promoter actually incurred by him in the conduct of the competitions, excluding any expenses properly chargeable to capital and any interest on borrowed money and, in particular, excluding any provision for depreciation of buildings or equipment, any emoluments payable to the promoter or, if the promoter is a partnership, to any of the partners or, if the promoter is a body corporate, to any of the directors and, in any case, any emoluments payable to any person whose emoluments depend to any extent on the profits of the promoter;

“qualified accountant” means a person registered as a public accountant or a public auditor in terms of the Public Accountants and Auditors Act [*Chapter 27:12*].

(2) For the purposes of this Act, bets shall be made by way of pool betting whenever a number of persons make bets 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 filling up and returning coupons or other printed or written forms, or otherwise howsoever.

(3) Any reference in this Act to the day on which the sporting events on which a competition depends take place shall, where such events do not take place wholly on the same day, be construed as a reference to the last day on which any of such events takes place.

3 Minister may issue and revoke licences

(1) The Minister may issue a certificate authorizing the Secretary of the Ministry responsible for home affairs to issue a licence to any person—

- (a) to promote a pool betting business inside Zimbabwe; or
- (b) to act inside Zimbabwe in respect of a pool betting business promoted outside Zimbabwe as the representative of the promoter thereof.

(2) The Minister may revoke a licence if—

- (a) the holder or one of the holders or a director or manager of the holder, as the case may be—
 - (i) is convicted of an offence under this Act; or
 - (ii) is convicted of any offence involving fraud or dishonesty; or
 - (iii) voluntarily assigns his estate or has his estate sequestrated by order of court; or
 - (iv) fails to comply with any condition imposed by regulation made under section *twenty-one*;or
- (b) the holder fails, within three months of the date of delivery to him of a notice given in terms of section *four*, to comply with the terms of such notice.

4 Provision of facilities

The Minister may, by notice in writing, require the holder of a licence to provide such facilities relating to the acceptance of bets from members of the public in connection with the pool betting business to which the licence relates as may be specified in the notice.

5 Licence fees and pool betting tax

(1) Upon the issue or renewal of a licence there shall be paid such fee as may be prescribed.

(2) A pool betting tax shall be payable and shall be at such rate as may be prescribed.

[Section amended by section 13 of Act 6 of 2005]

6 Time when licence due

Liability to take out or renew a licence shall arise on the 1st January in each year, except in any case where—

- (a) the pool betting business is commenced for the first time inside Zimbabwe; or
- (b) a representative of the promoter of a pool betting business promoted outside Zimbabwe is appointed; on a day later than the 1st January in the year, in which event such liability to take out the licence shall arise on the later date.

7 Alteration of partnership

(1) In the event of one or more of the partners retiring from a partnership or dying before the 31st December in the year in respect of which a licence was issued to such partnership, the remaining partner or partners may, for the unexpired period covered by such licence, carry on business thereunder:

Provided that such licence may not be renewed and upon the expiry thereof a new licence shall be taken out.

(2) Any change in the membership of a partnership occasioned by the admission of a new partner shall immediately necessitate the taking out of a new licence.

8 Continuation of licence in event of death or disability

(1) In any of the cases mentioned in the first column of the Schedule, the persons set opposite thereto respectively in the second column may, for the unexpired period covered by the licence, carry on business thereunder.

(2) In any of the cases mentioned in subsection (1), the licence may not be renewed unless such renewal is necessary for the proper completion of the duties of the representative concerned and thereafter a new licence shall be taken out.

9 Appointment of accountant

(1) In this section—

“remuneration” includes any sums paid or to be paid to the accountant in respect of his expenses.

(2) The Minister shall, in the case of each licensed pool promoter, appoint a qualified accountant to exercise and perform, in relation to the pool betting business of that licensed pool promoter, the powers and duties conferred and imposed by this Act.

(3) The accountant appointed in terms of subsection (2) shall hold office on such terms, including terms as to remuneration, as may be determined by the Minister, after consultation with the licensed pool promoter.

(4) The remuneration paid to the accountant by the State shall be recoverable by the State as a debt due to it from the licensed pool promoter.

10 Requirements as to conduct of pools

(1) Subject to this section, the pool betting business carried on by any licensed pool promoter or licensed representative shall comply with the following requirements—

- (a) it shall take the form of the promotion of competitions for prizes for making forecasts as to sporting events, the bets being entries in the competitions and the winnings in respect of the bets being the prizes or shares in the prizes;
- (b) each bet shall be an entry in a particular competition;
- (c) the stakes and the winnings shall be wholly in money;
- (d) in each competition the prizes shall be equally available for all the bets and accordingly, the question which bets qualify for, or for shares in, the prize or prizes and, save in so far as it depends on the amounts staked, the amounts of the respective shares in the prizes, shall be determined solely by the relative success of the forecasts embodied in the respective bets;
- (e) the total amount payable by way of winnings shall, in the case of each competition, be the total amount of the stakes in respect of entries in that competition less such percentage of that total amount as may be determined by the promoter, being the same percentage in respect of all his competitions which depend on the same sporting events or sporting events taking place on the same day;
- (f) the rules applying to the competition shall be notified to the accountant before the first of the relevant sporting events takes place.

(2) Notwithstanding anything in paragraph (d) or (e) of subsection (1)—

- (a) the rules applicable to any competition may provide that the winnings shall not, in the case of any bet, exceed a stated amount and that any resulting decrease in the total amount payable in the case of the winning bets qualifying for, or for shares in, a prize in the competition shall be applied in increasing the amount payable in the case of the winning bets qualifying for, or for shares in, another prize, or other prizes, in that competition;
- (b) the rules applicable to any competition may provide that in specified circumstances one or more of the prizes shall not be paid and that the amount which would have been payable in the case of the winning bets qualifying for, or for shares in, that prize or those prizes shall be applied in increasing the amount payable in the case of the winning bets qualifying for, or for shares in, another prize or other prizes in that competition;
- (c) the rules applicable to any competition may provide—
 - (i) for the winnings of winning bets, being bets staking the minimum permissible under the rules of the competition, being increased or decreased, with a view to facilitating payment, by not more than five cents; and
 - (ii) consequentially, for the winnings of winning bets, being bets staking more than the said minimum, being increased or decreased by not more than a proportionately greater sum than five cents; and the total amount payable by way of winnings in the case of the competition may exceed or fall short of the amount specified in paragraph (e) of subsection (1) to such extent as is reasonably necessary having regard to any such provision;

- (d) if it is found that a bet which ought to have been treated as a winning bet has been inadvertently overlooked, the promoter may pay to the person making that bet the sum paid by him to other persons making comparable bets or, if there are no comparable bets, such sum as may be proper, and any sum paid under this paragraph shall be left out of account for the purposes of paragraph (e) of subsection (1).
- (3) Nothing in paragraph (b) of subsection (1) shall be construed as preventing—
- (a) several bets being made by a person relating to the same competition; or
 - (b) several bets, whether relating to the same competition or to different competitions, being made by a person by means of the same coupon or other entry form; or
 - (c) the use of a formula for the purpose of making several bets, and, in particular, the use for that purpose of any form of the device commonly known as a permutation.
- (4) Nothing in paragraph (f) of subsection (1) shall be construed as requiring, in the case of a series of competitions proposed to be held under the same rules, that those rules shall be renotified to the accountant on the occasion of each competition and, if the rules are altered before the series is completed, it shall suffice if the alteration is notified to the accountant before any of the sporting events relevant to the first competition to which the alteration applies takes place.

11 Information to be supplied and published by licensed pool promoters

(1) As soon as may be after the sporting events to which any of his competitions relate have taken place, and in any case not later than seven days after the announcement of the results of that competition, every licensed pool promoter shall send to the accountant a statement showing—

- (a) the total amount of the stakes in respect of entries in that competition; and
- (b) the total amount payable by way of winnings in that competition; and
- (c) the total amount of the stakes in respect of winning bets in that competition and, if there are more prizes than one in the competition, the total amount of the stakes in respect of winning bets qualifying for, or for shares in, each of the prizes; and
- (d) the amount payable in respect of each winning bet or, as the case may be, of each winning bet qualifying for, or for a share in, each of the prizes, bets staking more than the minimum which is permissible under the rules of the competition being treated for the purposes of this paragraph as if they were several separate bets each staking the said minimum.

(2) Every licensed pool promoter shall, not more than twenty-one days after the events to which any of his competitions relate have taken place, send to every competitor in that competition a statement of the percentage, calculated to the nearest one-tenth of one *per centum*, which the first of the amounts hereinafter mentioned bears to the second of those amounts, that is to say—

- (a) the aggregate total stakes in that competition and all other competitions of that promoter which depend on those sporting events or on other sporting events taking place on the same day, after deducting the aggregate prizes in, and the aggregate pool betting tax payable in respect of, all those competitions;
- (b) the said aggregate total stakes, without any such deduction; unless he has secured all such publicity as is reasonably necessary for the said statement by means of a newspaper announcement or newspaper announcements published within the said twenty-one days.

(3) A statement for the purposes of subsection (2) may take the following form—

“Commission and expenses *per centum*” with the addition, if in the context this is necessary, of words identifying the competition or competitions to which the statement relates.

(4) The statements and announcements referred to in subsections (1) and (2) may be expressed to be subject to some form of check or scrutiny, but where a statement expressed to be subject to a check or scrutiny is sent to the accountant under subsection (1), the licensed pool promoter shall, as soon as may be, send to the accountant a further statement stating that, as the result of the check or scrutiny, specified corrections or no corrections are necessary in the earlier statement or that the check or scrutiny has not been made and is not intended to be made.

(5) Where a payment is made in accordance with paragraph (d) of subsection (2) of section *ten* after the sending of the statement to the accountant under subsection (1), the licensed pool promoter shall, as soon as may be, send particulars thereof to the accountant.

(6) In August in each year every licensed pool promoter shall send to the accountant and to the Minister a statement showing, as respects his pool betting business for the period of twelve months ending on the 31st July of that year—

- (a) the aggregate total stakes in all his competitions; and
- (b) the said aggregate total stakes after deducting the aggregate prizes in, and the aggregate pool betting tax payable in respect of, those competitions; and

- (c) the amount of the promoter's commission or, at the option of the promoter, the percentage calculated to the nearest one-tenth of one *per centum*, which the said commission bears to the said aggregate total stakes:

Provided that, if the percentage referred to in paragraph (c) does not exceed three *per centum*, the statement required by paragraph (c) may, if the promoter so desires, be a statement that the said percentage does not exceed three *per centum*.

(7) The reference in subsection (6) to the pool betting business of a promoter for any period referred to in that subsection shall be construed as a reference to the pool betting business of that promoter in so far as it is concerned with competitions which depend on sporting events which take place on any day in that period.

(8) When a profit and loss account of a company to which section 141 of the Companies Act [*Chapter 24:03*] applies, being a licensed pool promoter, is laid before the company in general meeting in pursuance of that section, the company shall forthwith send a copy of that account and of the relevant auditor's report to the accountant.

(9) Every licensed pool promoter, not being such a company as is mentioned in subsection (8), shall, at least once in every calendar year, send to the accountant—

- (a) a profit and loss account of his pool betting business, covering, in the case of the first account, a period beginning at the commencement of the business, and in the case of subsequent accounts, a period beginning at the end of the period covered by the last account; and
- (b) a report on that account by a qualified accountant who neither is, nor is a partner of, nor is in the employment of, any person who is an officer or employee of the licensed pool promoter and the Companies Act [*Chapter 24:03*] and any regulations made thereunder, which enumerates the matters which are to be expressly stated in auditors' reports, shall, with the necessary adaptations, apply in relation to every such report.

(10) The Minister shall preserve any documents sent to him under this section for at least two years and shall deposit them at his office and permit any member of the public to inspect them during office hours free of charge.

12 Collection of taxes

(1) The amount of the tax payable under subsection (2) of section *five* shall be deducted by the licensed pool promoter or licensed representative with whom the bet has been made from the amount on which the tax has become due, and shall be paid to the collector in accordance with such regulations as are prescribed.

(2) The amount of the tax payable under subsection (2) of section *five* shall be paid to the collector at such times and in such manner as is prescribed by regulation.

13 Security bond

(1) No licensed pool promoter or licensed representative shall carry on business in his capacity as such unless he has entered into a bond, with sufficient surety to be approved by the Director of Customs and Excise, in a sum likewise to be approved, as security for the payment of the tax imposed under subsection (2) of section *five*.

(2) Subsections (1) and (2) of section 214 and sections 215 and 216 of the Customs and Excise Act [*Chapter 23:02*] shall apply, *mutatis mutandis*, in respect of any such bond.

14 Sworn statements to be lodged

(1) For the purpose of determining the amount of tax to be paid in terms of subsection (2) of section *five*, every licensed pool promoter or licensed representative shall lodge with the collector a sworn declaration at such times and in such form as is prescribed by regulation.

(2) In the event of there being no transactions to be declared under subsection (1), a licensed pool promoter or licensed representative shall lodge a statement to that effect on the prescribed form.

(3) If any licensed pool promoter or licensed representative lodges any false statement or fails to lodge any statement or fails to pay the tax as required by this Act, the licence issued to him may be cancelled forthwith by the Minister.

15 Duties and powers of accountant

(1) The accountant shall—

- (a) examine all statements submitted to him under section *eleven* with a view to determining whether there is cause to believe that any of the provisions of this Act are being contravened in relation to the competition in question; and
- (b) retain all such statements for two years; and
- (c) at any time during that period give facilities for their examination by any officer of the Public Service authorized in that behalf by the Minister.

(2) The accountant and any employee of his authorized in that behalf by him in writing may, at all reasonable times—

- (a) enter any premises on which a licensed pool promoter is carrying on his business and inquire into the manner in which that business is being carried on; and
- (b) require the licensed pool promoter or any employee of his to give to the accountant or employee so authorized all such information and produce all such accounts, books and other documents and carry out such checks or additional checks of coupons or other entry forms as the accountant or employee so authorized may think necessary for the purpose of determining whether there is cause to believe that any of the provisions of this Act are being contravened.

(3) It shall be the duty of a licensed pool promoter to preserve, or, to such extent as he may prefer to do so, to preserve photographic copies of, all accounts, books or other documents, including coupons or other entry forms, which relate wholly or partly to any of his competitions for at least two months from the day on which the sporting events on which that competition depends take place.

(4) If at any time the accountant has cause to believe that any of the provisions of this Act are being contravened in relation to any of the competitions of a licensed pool promoter, he shall report the matter to the Minister.

(5) Not later than the 31st October in each year the accountant shall furnish to the Minister a report stating, if such be the fact, that he has—

- (a) examined all statements submitted to him by a licensed pool promoter under section *eleven* for the period mentioned in subsection (6) of that section which ended in that year; and
- (b) conducted such inquiries into the manner in which the business of the promoter is carried on and made such examination of that promoter's records as he considers necessary; and that he has no cause to believe that any of the provisions of this Act have been contravened in relation to any of the competitions of that promoter that took place during the said period except in relation to such matters, if any, as have been reported by the accountant in pursuance of subsection (4).

16 Void competitions and rejected entries

(1) Nothing in section *ten* shall prevent the rules of any competition from providing that the competition may be declared void in specific circumstances.

(2) Sections *eleven* and *fifteen* shall apply in relation to competitions declared void in pursuance of any such provision as is referred to in subsection (1) as they apply in relation to other competitions except that—

- (a) for the statements required by subsections (1) and (2) of section *eleven* to be sent to the accountant in respect of the competition and to be included in announcements of the results of, or to be sent to competitors in, the competition, there shall be substituted statements that the competition has been declared void and that sums paid as stakes therein will be repaid or credited to the payers thereof;
- (b) the competition shall be left out of account in computing the percentage a statement of which is required by subsection (2) of section *eleven* to be included in announcements of the results of, or to be sent to competitors in, other competitions depending on the same sporting events or other sporting events taking place on the same day.

(3) References in this Act to stakes in, or in respect of entries in, any competition do not include references to stakes in respect of rejected entries.

17 Ascertainment of stake money in competitions

Where two or more competitions of the same licensed pool promoter are so conducted that entries in all of them can be effected by a person without completing more than a single coupon or other entry form, the promoter may arrive at the total amount of the stakes in respect of the entries in each competition by—

- (a) ascertaining the aggregate total amount of the stakes in respect of the entries in all the competitions; and
- (b) causing the said aggregate total amount to be apportioned among those competitions by reference to the results of any inspection of samples of the completed coupons or forms; and if the sampling, inspection and apportionment is such, both as to the process adopted and as to the manner of carrying it out, that the amount apportioned to each competition is not likely to differ from the total amount actually staked therein by more than one *per centum*, the amount so apportioned to any such competition shall for all the purposes of this Act be deemed to be the total amount actually staked in the competition.

18 Unauthorized pools

(1) A pool betting business promoted inside Zimbabwe by any person not being a licensed pool promoter shall be deemed to be an unauthorized pool betting business.

(2) Any act or thing done inside Zimbabwe in respect of or in relation to a pool betting business promoted outside Zimbabwe shall, if such pool betting business is promoted by a person who has not inside Zimbabwe a licensed representative, be deemed to have been done in respect of or in relation to an unauthorized pool betting business.

(3) Any person who prints or publishes or causes to be printed or published any advertisement or other notice of or relating to an unauthorized pool betting business or of or relating to the issue of any coupon connected with any such pool betting business, shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(4) Any person who—

- (a) prints or distributes coupons relating to an unauthorized pool betting business; or
 - (b) sends or delivers a coupon relating to an unauthorized pool betting business to another person;
- shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001]

19 Promoters of pools and representatives of promoters to be licensed

(1) No person shall carry on any business involving the receiving or negotiating of bets made by way of pool betting unless he is a licensed pool promoter or licensed representative.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level eight or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001]

20 Offences

(1) Any person who—

- (a) obstructs the accountant or any employee of his in the execution of any powers or duties under this Act; or
 - (b) fails to comply with any requirement duly made on him by the accountant or any employee of his or, in response to such a requirement, knowingly gives any information which is false or misleading;
- shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001]

(2) If—

- (a) any licensed pool promoter or licensed representative wilfully makes a false statement in any declaration made under section *fourteen* or fails to comply with any duty imposed upon him by this Act; or
- (b) any of the provisions of this Act, except in so far as they impose duties on the accountant or the Minister, are contravened in the case of the business of any licensed pool promoter or licensed representative; the licensed pool promoter or licensed representative shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[Subsection amended by section 4 of Act 22 of 2001]

21 Regulations

The Minister may make regulations—

- (a) prescribing forms of application, certificates and licences and any other form that may be required for the purposes of this Act;
- (b) prescribing the conditions to be complied with by licensed pool promoters and licensed representatives;
- (c) providing for all matters which by this Act are required or are permitted to be prescribed by regulation;
- (d) prescribing all matters which he considers it necessary or expedient to prescribe in order that the purposes of this Act may be achieved.

SCHEDULE (Section 18)

CONTINUATION OF LICENCE

First Column

Death of the holder of any licence
Insolvency or assignment of the estate of the holder of a licence
Liquidation or judicial management of a company which is the holder of a licence
Where the holder of a licence becomes under any legal disability

Second Column

The legal representative of the deceased person;
The trustee or assignee;

The liquidator or judicial manager, as the case may be;
Any curator *bonis* appointed under any order of court.