

Malawi

Gaming Act

Chapter 47:03

Legislation as at 31 December 2014

FRBR URI: /akn/mw/act/1996/26/eng@2014-12-31

There may have been updates since this file was created.

PDF created on 21 February 2024 at 12:26.

Collection last checked for updates: 31 December 2014.

[Check for updates](#)



About this collection

The legislation in this collection has been reproduced as it was originally printed in the Government Gazette, with improved formatting and with minor typographical errors corrected. All amendments have been applied directly to the text and annotated. A scan of the original gazette of each piece of legislation (including amendments) is available for reference.

This is a free download from the Laws.Africa Legislation Commons, a collection of African legislation that is digitised by Laws.Africa and made available for free.

www.laws.africa
info@laws.africa

There is no copyright on the legislative content of this document.
This PDF copy is licensed under a Creative Commons Attribution 4.0 License (CC BY 4.0). Share widely and freely.

Gaming Act
Contents

Part I – Preliminary 1

 1. Short title 1

 2. Interpretation 1

Part II – Gaming Board 2

 3. Establishment of Board 2

 4. Powers of the Board 3

Part III – Control and licensing of gaming 3

 5. Applications for licences 3

 6. Provision of licences 4

 7. Display of licence and surrender, suspension or cancellation 4

 8. Duration of licence 4

 9. Books to be kept by licensee 4

 10. Submission of accounts by licensees 5

 11. Licences not to be transferred 5

 12. Fees 5

 13. Offences relating to unlicensed gaming premises 5

 14. Board may license gaming premises 6

 15. Offences relating to unlicensed gaming premises 6

 16. Gaming with young persons an offence 7

 17. Gaming tax 7

 18. *** 7

 19. *** 7

 20. *** 7

 21. Gaming machines 7

 22. Board may authorize use of gaming machine 8

 23. Gaming in street an offence 8

Part IV – Miscellaneous provisions 9

 24. Obtaining of money by cheating at a game 9

 25. Appeals from decision of Board 9

 26. Power to enter and inspect land or premises 9

 27. Cancellation of licence on conviction, etc. 10

 28. Penalty for late payment of tax 10

 29. Power of court to deal with anything produced to it 10

 30. Power of Board to sue for recovery of any moneys due 10

31. Funds, accounts and audit 10
32. Regulations 11
33. Immunity 11
34. Penalty for an offence against a Regulation 11

Malawi

Gaming Act

Chapter 47:03

Commenced on 1 August 1998

[This is the version of this document at 31 December 2014.]

[Note: This version of the Act was revised and consolidated in the Fifth Revised Edition of the Laws of Malawi (L.R.O. 1/2018), by the Solicitor General and Secretary for Justice under the authority of the Revision of the Laws Act.]

An Act to provide for the regulation of gaming; for the control and licensing of gaming premises; for the imposition and recovery of a tax on gaming; and for matters connected with or incidental to the foregoing

Part I – Preliminary

1. Short title

This Act may be cited as the Gaming Act.

2. Interpretation

In this Act, unless the context otherwise requires—

"**Board**" means the Gaming Board established under [section 3\(1\)](#);

"**Chairman**" means the person designated as such under [section 3\(2\)](#);

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

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

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

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

"**instruments of gaming**" includes cards, dice, counters, coins, tickets, gaming tables, boards, boxes, birds and animals, used for the purpose of gaming;

"**licensed gaming premises**" means premises licensed under [section 14](#) as premises which the public may use for the purpose of gaming;

"**licensee**" means a person issued with a licence under [section 14](#);

"**money**" includes a cheque, bank note, postal order or money order;

"**newspaper**" includes a journal, magazine or other periodical publication;

"**tax**" means the tax payable under [section 17](#);

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

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

[21 of 1998]

Part II – Gaming Board

3. Establishment of Board

- (1) There is hereby established a board to be known as the Gaming Board (in this Act otherwise referred to as the "Board"), which shall be a body corporate having perpetual succession and a common seal and shall, under that name, be capable of suing and being sued and of purchasing or otherwise acquiring, holding and alienating movable or immovable property and, subject to the provisions of this Act, of performing all such acts as bodies corporate may by law perform.
- (2) The Board shall consist of not more than nine and not less than seven members, to be appointed by the Minister.
- (3) The Minister shall designate one of the members appointed under subsection (1) as Chairman.
- (4) In making an appointment under this section, the Minister may require the person to be appointed to declare whether he has any, and if so what, financial interest in any gaming undertaking operating in Malawi.
- (5) The members of the Board shall be paid such remuneration and allowances as the Minister may determine.
- (6) The members of the Board shall hold office for a period of three years but shall be eligible for re-appointment.
- (7) In the event of the Chairman being absent from any meeting of the Board, the members present shall elect from among themselves a person to act as chairman for that meeting.
- (8) At all meetings of the Board, one-half of the Board members shall form a quorum.
- (9) Meetings of the Board shall be held at least once in every three months and at such other times and at such places as the Chairman may determine.
- (10) The Chairman shall have a deliberative vote and, in the case of an equality of votes, shall also have a casting vote.
- (11) The Board may invite, for such length of time as it thinks fit, any person whose knowledge or advice it may require, but a person so invited shall not be entitled to vote at any meeting of the Board or be counted as a member for the purpose of forming a quorum.
- (12) There may be seconded to the service of the Board such number of public officers as the Board may request and a public officer so seconded shall perform his duties solely under the directions of the Board.
- (13) All permits and licences issued under this Act, and all communications from the Board, shall be under the hand of the Chairman or of some person duly authorized by him, and shall be published in the *Gazette*.
- (14) The Chairman shall submit to the Minister for publication an annual report of the proceedings of the Board containing particulars with respect to such matters as the Minister may direct.
- (15) In order to carry out its purposes and exercise its powers the Board shall appoint a Chief Executive Officer and such other officers and servants as may be necessary for the due and proper carrying out of its purposes or the appropriate exercise of its powers.

[21 of 1998]

- (16) The Board shall, with the approval of the Minister, fix the terms and conditions of service for the Chief Executive Officer and all its other officers and servants.

[21 of 1998]

4. Powers of the Board

- (1) The Board shall have power—
- (a) to issue licences in accordance with this Act and any regulations made thereunder;
 - (b) during the subsistence of a licence to vary, or, for good cause, to suspend or cancel it:
Provided that the Board shall not suspend, cancel or vary a licence without giving—
 - (i) reason for its decision; and
 - (ii) the licensee an opportunity to show cause against the suspension, cancellation or variation;
 - (c) to inquire into complaints against licensees.
- (2) Subject to any general or special direction by the Minister, the Board shall regulate its own procedure.
- (3) The Board may authorize the Chief Executive Officer and other officers and servants of the Board to exercise on its behalf, at any time when it is not meeting, such of its powers as it may specify:
Provided that the exercise of those powers shall, to the extent required by the Board, be reported by the Chairman, without unreasonable delay, at the next meeting of the Board.

[21 of 1998]

Part III – Control and licensing of gaming

5. Applications for licences

- (1) Any person who desires to obtain, renew, transfer or vary a licence under this Act shall make an application to the Board in the form and manner prescribed.
- (2) On receipt of an application under subsection (1), the Board may make such investigations or require the submission of such declaration or further information as it may deem necessary to enable it examine the application.
- (3) After making the investigations and considering any information or declaration as may have been required in terms of subsection (2), the Board may grant, renew or, with reasons, vary a licence, or refuse a licence or renewal or variation thereof:

Provided that no licence shall be issued under this act unless—

- (a) the Board has satisfied itself that the applicant is a fit and proper person to hold the licence and, that the premises in respect of which the application is made are suitable for the purpose;
- (b) the Board has sent a copy of the application for the licence to the local authority within whose area of jurisdiction the applicant proposes to conduct his business and, has given the local authority reasonable opportunity to make representations with respect to the application, and such representations shall be submitted within twenty-one days from the date of the application from the Board; and

- (c) the applicant has furnished the Board with prescribed non-refundable deposit:

Provided that the security shall be refunded or cancelled on the expiration or cancellation of the licence in respect of which it has been deposited or given unless it is forfeited under section 27.

- (4) Any person who makes a false statement or declaration in an application for, or a renewal or variation of, a licence shall be guilty of an offence and liable to a fine not exceeding K10,000 and to imprisonment not exceeding two years.

[21 of 1998]

6. Provision of licences

- (1) Every licence issued under this Act shall state the precise location and extent of the premises, if any, to which it relates and shall be endorsed with every condition imposed by the Board under this Act.
- (2) A licensee who wishes to transfer the conduct of his business to premises other than those authorized in terms of his licence may apply to the Board for authority to do so.
- (3) Upon receipt of such an application in accordance with subsection (2) the Board may vary the licence so as to authorize the conduct of the licensee's business at the premises the subject of the application.

[21 of 1998]

7. Display of licence and surrender, suspension or cancellation

- (1) Every licence issued by the Board under this Act shall, during the period of its validity, be prominently displayed by the licensee at his place of business in a part to which the public have access.
- (2) On notification to a person that his licence has been cancelled or suspended, that person shall surrender his licence to the Board.
- (3) Any person who, without reasonable cause or excuse, fails to comply with this section, or who displays a licence which is not currently valid, shall be guilty of an offence and liable to a fine not exceeding K2,000 and to imprisonment not exceeding six months.

[21 of 1998]

8. Duration of licence

Every licence issued under this Act shall, unless therein otherwise provided, expire on the 31st March next following the date of issue.

[21 of 1998]

9. Books to be kept by licensee

- (1) A licensee shall enter regularly, in a book kept for that purpose, all such particulars as may be prescribed.
- (2) A licensee who—
- (a) contravenes subsection (1);
 - (b) keeps any book, record or account required to be kept under this section which is false in any material particular; or

- (c) makes in any such book an entry which is false in a material particular, shall be guilty of an offence and liable to a fine not exceeding K50,000 and to imprisonment not exceeding five years.

[21 of 1998]

10. Submission of accounts by licensees

- (1) The Board shall at least once in every twelve months, require a licensee to submit to the Board a properly audited statement of accounts.
- (2) The Board shall require accounts submitted to it under this section to be audited by an auditor qualified to audit under the Public Accountants and Auditors Act.

[Cap 53:06]

- (3) Any person who, without the approval of the Board, refuses or fails to submit a statement of accounts when required by the Board, or who submits a false or misleading statement, shall be guilty of an offence and liable to a fine not exceeding K50,000 and to imprisonment not exceeding five years.

[21 of 1998]

11. Licences not to be transferred

Any person who, without the approval of the Board, transfers or purports to transfer a licence issued under this Act to another person shall be guilty of an offence and liable to a fine not exceeding K5,000 and to imprisonment not exceeding twelve months.

[21 of 1998]

12. Fees

There shall be paid to the Board for every licence issued by the Board a fee to be prescribed by the Board.

[21 of 1998]

13. Offences relating to unlicensed gaming premises

- (1) Subject to this Act, any person who—
- (a) being the owner or occupier of premises, or having the use of premises, keeps or uses the premises as unlicensed gaming premises;
 - (b) permits premises of which he is the owner or occupier, or of which he has the use, to be used as unlicensed gaming premises;
 - (c) has the care or management of, or in any manner assists or is engaged in the management of, premises kept or used as unlicensed gaming premises; or
 - (d) announces or publishes or causes to be announced or published, either orally or by means of any print, writing, design, sign or otherwise, that any premises are opened, kept or used as unlicensed gaming premises, or in any manner invites or solicits any person to play in unlicensed gaming premises; or
 - (e) advances, furnishes or receives money for the purpose of establishing or conducting the business of unlicensed gaming premises,

shall be guilty of an offence and liable to a fine not exceeding K20,000 and to imprisonment not exceeding five years.

- (2) Any person who games in unlicensed gaming premises shall be guilty of an offence and liable to a fine not exceeding K2,000 and to imprisonment not exceeding six months.
- (3) Where a person found in unlicensed gaming premises, or is found leaving therefrom he shall be presumed, until the contrary is proved, to be or to have been gaming therein.
- (4) Any person who occupies or has the use of premises which are kept or used by another person as unlicensed gaming premises shall be presumed until the contrary is proved to have permitted that place to be so kept or used.

[21 of 1998]

14. Board may license gaming premises

- (1) The Board may, subject to any regulations made under this Act, issue a licence authorizing a person to organize and manage gaming on premises to which the public may resort for the purpose of gaming, not being unlawful gaming.
- (2) A licence shall be issued in respect of each premises to be used for gaming and any licence to be issued under this section shall state the game or games which the licensee may, on the premises named therein, organize and manage.
- (3) The Board shall, in respect of a licence issued under this section, impose conditions providing for—
 - (a) the manner in which a person may conduct his business and the suitability, condition and conduct of the premises and the hours during which the premises may be open for business;
 - (b) the protection of persons taking part in the gaming against fraud; and
 - (c) the payment of admission fees for persons using the premises.
- (4) Where an admission fee is charged under subsection (3) (c) it shall be subject to the payment of tax.

[21 of 1998]

15. Offences relating to unlicensed gaming premises

- (1) Where a licensee uses or permits the use of licenced gaming premises for the playing of games which—
 - (a) are not authorized by the Board;
 - (b) are similar to a game authorized by the Board and which is played in a manner that the chances therein are not equally favourable to all the players; or
 - (c) contravene any condition imposed by the Board or by any regulations made under this Act, the gaming shall be deemed unlawful gaming and the person shall be guilty of an offence.
- (2) Any person who is present at gaming mentioned in subsection (1) for the purpose of taking part therein shall be guilty of an offence, and for the purpose of this subsection proof that a person was present at the gaming shall be evidence that he was present for the purpose of taking part therein unless he establishes the contrary.
- (3) Any person who, in connexion with licensed gaming premises, without the approval of the Board—
 - (a) holds himself out by advertisement, notice or public placard, as willing to provide members of the public with premises for gaming;
 - (b) displays a written or printed placard notice relating to gaming so as to be seen in a public street or place; or

- (c) prints or publishes, or causes to be printed or published, an advertisement or other notice, shall be guilty of an offence and is liable to a fine not exceeding K2,000 and to imprisonment not exceeding three months.

[21 of 1998]

16. Gaming with young persons an offence

- (1) Any person who, on licensed gaming premises—
- (a) plays a game with, or permits the playing of a game by a young person;
 - (b) allows a young person to come on to licensed gaming premises whether for the purpose of gaming or otherwise; or
 - (c) employs a young person in the organization or management of gaming,
- shall be guilty of an offence and liable to a fine not exceeding K10,000 and to imprisonment not exceeding two years.
- (2) In this section, "a young person" means a person who is under the age of eighteen years.

[21 of 1998]

17. Gaming tax

- (1) Every licensee shall be liable, at such intervals as may be prescribed, to pay a gaming tax.
- (2) A gaming tax referred to in subsection (1) shall be calculated on such basis and at such rate as may be prescribed by the Board and payable in such manner and before such date as may be prescribed: Provided that different rates may be prescribed in respect of different types of licences.
- (3) Any payment of the gaming tax referred to in subsection (1) shall accompanied by a return in such form as may be determined by the Board.
- (4) There shall be no period of grace for payment of the gaming tax referred to in subsection (1).
- (5) If the gaming tax referred to in subsection (1) is not paid on the prescribed date, the Board shall suspend the licence until the gaming tax and the penalty payable under section 28 have been paid.

[21 of 1998]

18. ***

[Repealed by 21 of 1998]

19. ***

[Repealed by 21 of 1998]

20. ***

[Repealed by 21 of 1998]

21. Gaming machines

- (1) Any person who—
- (a) uses or permits the use of an unauthorized gaming machine;

- (b) allows premises to be used for the purpose of gaming by means of an unauthorized gaming machine; or
- (c) knowing or having reasonable cause to believe that premises would be used for gaming by means of an unauthorized gaming machine—
 - (i) caused or allowed the machine to be placed on the premises;
 - (ii) let the premises, or otherwise made the premises available, to a person by whom an offence in connexion with the machine was committed,

shall be guilty of an offence and liable to a fine not exceeding K5,000 and to imprisonment not exceeding six months.

- (2) In this section, "unauthorized gaming machine" means a gaming machine in respect of which a licence has not been issued under this Act.

[21 of 1998]

22. Board may authorize use of gaming machine

- (1) The Board may, subject to any regulations made under this Act, issue a licence authorizing the use of a gaming machine on premises approved by it.
- (2) A licence issued under this section shall be on condition that—
 - (a) the stake risked in order to play the game does not exceed one hundred kwacha at a time;
 - (b) not less than ninety per cent of all stakes risked are applied, in the payment of winnings to a player of the game;
 - (c) the premises on which the gaming machine is used are not wholly or mainly used by persons under the age of eighteen years; and
 - (d) the Board may impose any other conditions it may deem fit.
- (3) Any person who contravenes any conditions provided for in subsection (2), or imposed by the Board, shall be guilty of an offence and liable to a fine not exceeding K2,000 and to imprisonment not exceeding six months.

[21 of 1998]

23. Gaming in street an offence

- (1) Subject to this Act, a person who takes part in gaming in a street to which, whether on payment or otherwise, the public have access, shall be guilty of an offence and liable to a fine not exceeding K2,000 and to imprisonment not exceeding six months.
- (2) A police officer may arrest without warrant any person found in a street referred to in subsection (1) and whom the police officer suspects, with reasonable cause, to be committing an offence under this section.
- (3) In this section, "street" means—
 - (a) a bridge, road, lane, footway, square, court, alley or passage, which is for the time being open to the public; and
 - (b) the doorway and entrances of premises bordering upon the ground adjoining and open to a street.

[21 of 1998]

Part IV – Miscellaneous provisions

24. Obtaining of money by cheating at a game

Any person who—

- (a) by any fraud or unlawful device or ill-practice in playing at or with an instrument of gaming; or
- (b) in taking a part in the stakes or offence wagers on the sides or hands of those that are playing;
- (c) or in wagering on lawful gaming, sport, part-time or exercise, wins from another person for himself, or for or on behalf of another person, a sum of money or valuable thing,

shall be guilty of an offence and liable to a fine not exceeding K5,000 and to imprisonment not exceeding twelve months.

[21 of 1998]

25. Appeals from decision of Board

Any person aggrieved by a decision of the Board made under this Act may, within twenty-one days of the decision, apply to the High Court for review of the decision of the Board.

26. Power to enter and inspect land or premises

(1) Any person who—

- (a) is authorized in writing in that behalf by the Board and on production of his authority if demanded;
- (b) is appointed by the Secretary, and on production of his authority if demanded; or
- (c) is a police officer of or above the rank of Assistant Inspector, may, on production of a warrant, enter and inspect premises in which he has reason to believe that an offence under this Act, or under any regulations made thereunder, has been or is about to be committed, and—
 - (i) examine and take copies of books, accounts and documents relating to or appearing to relate to gaming;
 - (ii) seize, remove or detain a book, account or document which he has reasonable cause to believe will reveal evidence of an offence under this Act or any regulations made thereunder;
 - (iii) require the owner or occupier of the premises to render such explanation and give such information relating to any betting transaction, lottery or gaming as may be reasonably required by him in the performance of his duties.

(2) The power to act under subsection (1) may be exercised without warrant—

- (a) if the person so acting has reasonable cause to believe that the delay occasioned in obtaining a search warrant would seriously hinder him in the performance of his duties; and
- (b) by or under the directions of a police officer of or above the rank of Inspector unless the person authorized in writing by the Board or the Secretary has reasonable cause to believe that the delay to be occasioned by the summoning of a police officer would defeat the purposes of this section.

- (3) Any person who—
- (a) resists, hinders or obstructs a person acting in pursuance of any of the provisions of this section; or
 - (b) on a requisition under subsection (1), wilfully withholds information, or gives information knowing or having reason to believe it to be false or misleading,

shall be guilty of an offence and liable to a fine not exceeding five thousand kwacha and to imprisonment not exceeding six months:

Provided that no person may be required to answer any question the answer to which may incriminate him.

- (4) Before removing anything under subsection (1), the person removing it shall furnish the person in whose possession the article is at the time of removal with a written receipt therefor.

[21 of 1998]

27. Cancellation of licence on conviction, etc.

- (1) Where any person issued with a licence under this Act is convicted of an offence under this Act or of an offence involving fraud or dishonesty, the court before which he is convicted may order that his licence be cancelled.

- (2) Any person whose licence is cancelled in pursuance of an order under subsection (1) shall, by virtue of that order, be disqualified from holding or obtaining a licence for a period of five years from the date of the conviction which gave rise to the order:

Provided that, where it appears to the court making the order to be just in all the circumstances, the court may include in the order a direction that the period of disqualification shall be such period not exceeding five years.

- (3) An organizer or manager of licensed gaming premises, or a servant or agent of his, who employs in his business any person known to him to be disqualified by subsection (2) shall be guilty of an offence and liable to a fine not exceeding K2,000 and to imprisonment not exceeding six months.

[21 of 1998]

28. Penalty for late payment of tax

Any person who fails to pay the whole of the tax due from him under this Act within the prescribed period shall be liable to pay, in addition to the amount in default, a penalty equal to five *per centum* of the amount for each week, or part thereof, during which the default continues.

29. Power of court to deal with anything produced to it

The court before which any person is convicted of any offence under this Act may order anything produced to the court, and shown to the satisfaction of the court to relate to the offence to be forfeited and destroyed or dealt with in such other manner as the court may order.

30. Power of Board to sue for recovery of any moneys due

Any fee due to the Board, and any tax or any penalty in respect thereof, may be sued for and recovered with costs by and in the name of the Board.

31. Funds, accounts and audit

- (1) The Funds of the Board shall consist of—
- (a) such sums as may be appropriated by Parliament for the purposes of the Board;

- (b) all moneys received or recovered under this Act by or on behalf of the Board by way of fees and taxes, including any penalty in respect of such taxes; and
 - (c) such other moneys and assets as may vest in or accrue to the Board, whether in the course of its functions or otherwise.
- (2) The Board shall keep proper accounts and other records relating thereto in respect of its funds and shall in every respect comply with the provisions of the Finance and Audit Act.

[Cap. 37:01]

- (3) The accounts of the Board shall be examined and audited annually by auditors appointed by the Board and approved by the Minister.

[21 of 1998]

32. Regulations

The Minister may, in consultation with the Board, make regulations providing for—

- (a) the procedure to be followed by the Board in exercising any powers conferred upon it by this Act;
- (b) the procedure to be followed in the making of an application for the issue, renewal or variation of a licence or licence issued under this Act;
- (c) the advertisement of an application for a licence under this Act and of proceedings of the Board to consider and determine any such application;
- (d) the right of a person interested to object to an application for the issue, renewal or variation of a licence under this Act, and for the form and manner of any such objection;
- (e) the form and manner in which returns or statements of account shall be furnished to the Board;
- (f) securing the payment of any tax and fee; and
- (g) generally, the carrying out of the provisions and purposes of this Act.

33. Immunity

No member of the Board or any officer thereof shall be personally liable for any act or default done or omitted to be done, in good faith, in the course of his duties under the Act.

34. Penalty for an offence against a Regulation

Any regulation made under this Act may, notwithstanding the provisions of the General Interpretation Act, prescribe a fine not exceeding K10,000 and imprisonment not exceeding two years for an offence committed against any provision of such regulation.

[Cap. 1:01]

[21 of 1998]