

NATIONAL LOTTO ACT, 2006 (ACT 722)

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REPUBLIC OF GHANA

**THE SEVEN HUNDRED AND TWENTY-SECOND
ACT
OF THE PARLIAMENT OF THE REPUBLIC OF GHANA
ENTITLED
THE NATIONAL LOTTO ACT, 2006**

AN ACT to provide for the operation of National Lotto, to establish the National Lottery Authority to regulate, supervise, conduct and manage National Lotto and to provide for related matters.

DATE OF ASSENT: 27th December, 2006.

ENACTED by the President and Parliament:

PART I—NATIONAL LOTTO

Establishment and conduct of National Lotto

Section 1—Establishment of National Lotto

There is established by this Act National Lotto.

Section 2—Objects of National Lotto

(1) National Lotto shall be conducted for the purpose of raising revenue for the nation and for other purposes stated in this Act.

(2) The National Lottery Authority established under Part II shall be the institution to conduct National Lotto.

(3) There shall be conducted as part of the operation of National Lotto, a lottery with the object of providing care and protection for the physically or mentally afflicted, the needy, the aged, orphans and destitute children.

(4) The Authority may, in consultation with the Minister, operate any other game of chance or enter into collaboration, partnership or joint venture with any person, society, association or corporate entity, to operate a game of chance in accordance with existing laws, but losses from

the game of chance, the collaboration, partnership or joint venture shall not be compensated for by the State or from the Lotto Account provided for under section 32.

Section 3—Time and place for conducting National Lotto

National Lotto shall be conducted on dates and at places and times and subject to conditions that the Board of the Authority in consultation with the Minister shall specify by publication in the Gazette.

Section 4—Prohibition of lottery

(1) A person other than the Authority shall not operate any form of lottery.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not more than two thousand and five hundred penalty units or imprisonment for a term of not more than three years or both.

Appointment of Lotto Marketing Companies

Section 5—Licensing of Lotto Marketing Companies

(1) The Board of the Authority shall licence Lotto Marketing Companies for the distribution and sale of coupons and for other purposes that the Board considers appropriate.

(2) The licence of a Lotto Marketing Companies shall be for a period that the Board considers appropriate.

Section 6—Application for Lotto Marketing licence

An application for a licence to operate as a Lotto Marketing Company shall be made to the Board through the Director-General in a form prescribed in Regulations made under this Act.

Section 7—Grant of licence and licence fee

(1) The Board shall within twenty-one working days after the receipt of the application grant a licence to the applicant if it is satisfied that the applicant has

- (a) satisfied the conditions required for a licence, and
- (b) paid the licence fee and any security deposit required to be paid.

(2) The licence fee shall be determined by the Board and shall be published in the Gazette.

Section 8—Requirements for Lotto Marketing Companies

A person shall not operate as a Lotto Marketing Company unless that person

- (a) is a company wholly owned by a citizen which is registered under the Companies Code, 1963 (Act 179) or is a registered enterprise wholly owned by a citizen, is an individual or individuals who are citizens;
- (b) has an identifiable office;
- (c) has not been adjudged insolvent or declared bankrupt by a court of competent jurisdiction, or has not entered into an agreement with creditors for relief of debt or taken advantage of a

law for the benefit of debtors or gone into liquidation or receivership whether compulsorily or voluntarily; and

(d) in the case of a company or enterprise, does not have a director who has a criminal record related to an offence involving fraud or moral turpitude.

Section 9—Duties of a Lotto Marketing Company

A Lotto Marketing Company shall

(a) buy on prepaid basis from the Board a number of coupons on dates and times and at places that the Board determines,

(b) not sell or distribute coupons other than coupons issued by the Authority,

(c) submit returns of coupons sold and unsold,

(d) display its licence at a conspicuous place on the premises of its head office or premises of operation, and

(e) perform other functions in respect of the operation of National Lotto determined by the Minister on the advice of the Board.

Section 10—Publication of Lotto Marketing licence

The Director-General shall

(a) keep a register of Lotto Marketing Companies, and

(b) cause to be published in the Gazette and newspapers of national circulation, the names of licensed Lotto Marketing Companies.

Section 11—Suspension or revocation of licence

(1) The Board may by notice in writing suspend or revoke the licence of a Lotto Marketing Company if the company contravenes

(a) the provisions of this Act, or

(b) the Regulations made under this Act.

(2) Where the Board suspends or revokes a licence, the Director-General shall give notice of the decision to the Company affected by the decision within seven working days after the decision to suspend or revoke the licence.

(3) Where the Board suspends the licence of a Company, the Director-General shall specify in the notice, the defect, omission or breach which has occasioned the suspension and request the person affected to remedy the defect, omission or breach within thirty days after the date of the notice.

(4) If the defect, omission or breach is remedied within the time specified, the Board shall by notice in writing to that person, restore the licence, otherwise the licence shall be considered to have been revoked on the expiration of the time.

(5) A person who is dissatisfied with the decision of the Board to suspend or revoke a licence may petition the Minister for a review of the decision of the Board.

Section 12—Renewal of licence

- (1) A licence to operate as a Lotto Marketing Company is renewable annually.
- (2) The fee for the renewal of licence shall be determined by the Board.

Section 13—Non-transferability of licence

- (1) A person shall not transfer to another person a licence granted by the Authority.
- (2) A person who transfers a licence granted by the Authority commits an offence and is liable on summary conviction to a fine of not less than five hundred penalty units or a term of imprisonment of not less than twelve months or both.

Section 14—Offences in respect of a Lotto Marketing licence

- (1) A person who operates as a Lotto Marketing Company without first obtaining a licence from the Board commits an offence and is liable on summary conviction to a fine of not less than one thousand penalty units and not more than fifteen thousand penalty units or imprisonment for a term of not less than eighteen months and not more than five years or both.
- (2) A person who purports to operate as a Lotto Marketing Company when the licence of that person to operate has been revoked, commits an offence and is liable on summary conviction to a fine of not less than one thousand penalty units and not more than ten thousand penalty units or imprisonment for a term of not less than eighteen months and not more than four years or both.
- (3) A person who continues to operate as a Lotto Marketing Company when the licence to operate as a Lotto Marketing Company has been suspended, commits an offence and is liable on summary conviction to a fine of not less than five hundred penalty units and not more than five thousand penalty units or a term of imprisonment of not less than eighteen months and not more than three years or both.
- (4) Where a company or legal entity commits an offence under subsections (1), (2) or (3), the offence shall be deemed to have been committed by each director and principal officer of the Lotto Marketing Company unless that director or principal officer proves that the offence was committed without that director's or principal officer's consent or connivance and that that director or principal officer exercised due diligence to prevent the commission of the offence as that director or principal officer ought to have exercised having regard to the nature of the functions of that director or principal officer and the circumstances.

Section 15—Issue of coupons

The Authority shall be the only body to issue coupons for National Lotto and shall issue the number and types of coupons in the denominations that the Board determines.

Section 16—Supply of coupons to Lotto Marketing Companies

The Authority shall supply to Lotto Marketing Companies the number of coupons determined by the Director-General.

Section 17—Validity of coupons

The validity of a coupon is dependent on the coupon satisfying conditions determined by the Board and published in the Gazette.

Section 18—Prohibition in relation to coupons

(1) A person shall not sell a coupon for National Lotto unless that person has been licenced by the Board for that purpose or is an agent of a licensed Lotto Marketing Company.

(2) Except as provided under sections 28 and 29 of the Gaming Act, 2006 (Act 721), a person shall not manufacture, distribute, sell, offer or display for sale a coupon intended to apply to lotteries of any kind unless that person has the authority of the Board for that purpose and the coupons are approved or issued by the Authority.

Section 19—Offences in relation to a coupon

(1) A person who manufactures, distributes, sells, offers or displays for sale coupons in contravention of section 18(2) commits an offence and is liable on summary conviction to a fine of not less than five hundred penalty units and not more than ten thousand penalty units or imprisonment for a term of not less than two years and not more than five years or both.

(2) A person who sells a National Lotto coupon in contravention of section 18(1) commits an offence and is liable on summary conviction to a fine of not less than two hundred and fifty penalty units and not more than two thousand penalty units or imprisonment for a term of not less than twelve months and not more than three years or both.

(3) A person who for the purpose of participating in a lottery, other than a lottery under sections 28 and 29 of the Gaming Act, 2006 (Act 721), purchases a coupon that is not issued by the Authority commits an offence and is liable on summary conviction to a fine of not more than two hundred and fifty penalty units or imprisonment for a term of not more than twelve months or both.

(4) Where an offence is committed under subsections (1) and (2) by a company or any other legal entity, the offence shall be deemed to have been committed by each director and principal officer of the company, unless a director or principal officer proves that the offence was committed without that director's or principal officer's consent or connivance and that that director or principal officer exercised due diligence to prevent the commission of the offence as that director or principal officer ought to have exercised having regard to the nature of the functions of that director or principal officer and the circumstances.

Section 20—Participation in National Lotto and purchase of coupons

Only a person of eighteen years and above and of sound mind may participate in National Lotto.

Section 21—The duties of a participant in National Lotto

The duties of a participant in National Lotto shall be as determined by the Board and published in the Gazette and a newspaper or other medium of information of national coverage.

Section 22—Acceptance of a stake

The acceptance of a stake in National Lotto shall be subject to conditions determined by the Board and published in the Gazette.

Lotto draw, winnings, commissions, general offences and lotto account

Section 23—Draw of National Lotto

A draw of National Lotto shall

- (a) be based on the numbers,
- (b) take place on the date, and at the time and place, and
- (c) be subject to conditions and be in accordance with methods determined by the Board.

Section 24—Supervision of draw

A draw of National Lotto shall be supervised in the manner and by the persons determined by the Board.

Section 25—Winnings

The number and permutation of numbers drawn that constitute winnings of National Lotto shall be determined by the Board and published in the Gazette, a newspaper or other medium of information of national coverage.

Section 26—Prizes

- (1) Winners of National Lotto shall be paid prize moneys
 - (a) determined by the Board, and
 - (b) published in the Gazette, a newspaper or other medium of information with national coverage.
- (2) Winners of National Lotto shall be paid their prize moneys on the dates and at the times and places determined by the Board and published in the Gazette, a newspaper or other medium of information with national coverage.

Section 27—Offences in relation to National Lotto Draw

A person who alters a National Lotto coupon or the receipt of a National Lotto coupon so as to make the coupon or receipt reflect the winning numbers of a National Lotto draw, commits an offence and is liable on summary conviction to a fine of not more than five thousand penalty units or imprisonment for a term of not more than four years or to both.

Section 28—Commission

A Lotto Marketing Company of National Lotto shall be paid commission determined by the Board.

Section 29—Foreign lottery

- (1) A person shall not import, sell, distribute or acquire for the purpose of sale, any foreign lotto coupon.
- (2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine of not more than one thousand penalty units or imprisonment for a term of not more than three years.

(3) A person who purchases or otherwise acquires a foreign lotto coupon in the country for the purpose of participating in a foreign lotto commits an offence and is liable on summary conviction to a fine of not more than two hundred and fifty penalty units or imprisonment for a term of not more than twelve months or both.

(4) A person shall not publish or cause to be published any foreign lotto prospectus, advertisement or draw or engage in other acts that are intended to encourage or enable another person to subscribe to a foreign lotto.

(5) A person who contravenes subsection (4) commits an offence and is liable on summary conviction to a fine of not more than one thousand penalty units or imprisonment for a term of not more than three years or both.

Section 30—Repeated offences

Where a person who is convicted under this Act or Regulations made under this Act, is convicted for any subsequent offence under this Act or Regulations made under this Act, that person is liable to twice the penalty imposed under the previous conviction.

Section 31—Seizure and forfeiture of objects used for or relating to offence

Where a person is convicted of an offence under this Act, every object or article used in committing, facilitating the commission or which in any respect relates to the commission of the offence shall be seized and confiscated to the State and shall be disposed of in a manner that a district magistrate may on an application by the Authority determine.

Section 32—Lotto Account

(1) There is established by this Act an account called the Lotto Account.

(2) The proceeds of sale of coupons of National Lotto, any administrative fines imposed on Lotto Marketing Companies and proceeds of any forfeiture made under this Act shall be paid into the Lotto Account.

(3) The Authority shall pay out of the Lotto Account prize monies for winners of National Lotto and commissions to Lotto Marketing Companies licenced by the Authority.

(4) The Authority shall transfer the net balance in the Lotto Account on monthly basis to the Consolidated Fund.

(5) The Board shall keep a separate record of

(a) payments made out of the Consolidated Fund under section 33, to offset a deficit, and

(b) any payments made under this section

(i) out of the Lotto Accounts, and

(ii) into the Consolidated Fund.

Section 33—Deficit in Lotto account to be a charge on Consolidated Fund

If the amount standing to the credit of the Lotto Account is at any time lesser than the amount of payments required to be made out of the Lotto Account, the difference between the amount

in the account and the amount required to be paid out of the account, shall be charged on the Consolidated Fund.

PART II—NATIONAL LOTTERY AUTHORITY

Establishment, functions and governing body

Section 34—Establishment of National Lottery Authority

(1) There is established by this Act as part of the public service a body to be known as the National Lottery Authority.

(2) The Authority is a body corporate with perpetual succession and a common seal and may sue or be sued in its corporate name.

(3) The Authority may for the performance of its functions acquire and hold movable and immovable property and may enter into a contract or any other transaction.

Section 35—Functions of the Authority

(1) The Authority shall regulate, supervise and manage National Lotto and ensure the enforcement of laws relating to National Lotto.

(2) The Authority shall not retail lotto coupons to lotto stakers.

Section 36—Governing body of the Authority

(1) The governing body of the Authority is a Board consisting of

(a) the chairperson,

(b) the Director-General of the Authority,

(c) one representative of

(i) the Ministry of Finance,

(ii) the Ministry for the Interior,

(iii) the Attorney-General's Office not below the rank of Senior State Attorney, and

(d) two other persons, at least one of whom is a woman.

(2) Members of the Board shall be appointed by the President in accordance with article 70 of the Constitution.

Section 37—Functions of the Board

The functions of the Board are to

(a) supervise, control and monitor the operations of National Lotto and secure the implementation of the functions of the Authority;

(b) serve as an advisory body to Government on National Lotto;

(c) make recommendations to the Minister for the formulation of policies for the conduct of National Lotto;

- (d) devise methods to help maximize the revenue generated by the Authority for the State;
- (e) put in place measures to prevent fraud in the conduct of National Lotto;
- (f) advise the Minister on Regulations which would be required for the effective implementation of this Act;
- (g) monitor and supervise the Authority in the performance of the functions of the Authority under this Act so as to ensure the effective and efficient performance of those functions; and
- (h) perform functions relating to National Lotto and any other function that may be assigned to it by the Minister.

Section 38—Tenure of office of members

- (1) A member of the Board other than the Director-General, shall hold office for a period not exceeding three years and is eligible for reappointment.
- (2) Where a member of the Board resigns, dies, is removed from office or is for a sufficient reason unable to act as a member, the Minister shall notify the President of the vacancy and the President shall, acting on the advice of the nominating authority and in consultation with the Council of State, appoint another person to hold office for the unexpired portion of the member's term of office.
- (3) A member of the Board, may at any time resign from office in writing addressed to the President through the Minister.
- (4) A member of the Board, who is absent from three consecutive meetings of the Board without sufficient cause ceases to be a member of the Board.
- (5) The President may by letter addressed to a member revoke the appointment of that member.

Section 39—Meetings of the Board

- (1) The Board shall meet at least once every three months for the despatch of business at the times and in the places determined by the chairperson.
- (2) The chairperson shall at the request in writing of not less than one-third of the membership of the Board, convene an extraordinary meeting of the Board at the place and time determined by the chairperson.
- (3) The quorum at a meeting of the Board is five members.
- (4) The chairperson shall preside at meetings of the Board and in the absence of the chairperson, a member of the Board elected by the members present from among their number shall preside.
- (5) Matters before the Board shall be decided by a majority of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote.
- (6) The Board may co-opt a person to attend a Board meeting but that person shall not vote on a matter for decision at the meeting.
- (7) The proceedings of the Board shall not be invalidated by reason of a vacancy among the members or a defect in the appointment or qualification of a member.

(8) Subject to this section, the Board may determine the procedure for its meetings.

Section 40—Disclosure of Interest

(1) A member of the Board who has an interest in a matter for consideration by the Board shall disclose in writing the nature of that interest and is disqualified from participating in the deliberations of the Board in respect of that matter.

(2) A member who contravenes subsection (1) ceases to be a member.

Section 41—Establishment of committees

The Board may establish committees consisting of members of the Board or non-members or both to perform a function.

Section 42—Allowances

Members of the board and members of a committee of the Board shall be paid allowances approved by the Minister.

Section 43—Divisions of the Authority

The Authority shall consist of divisions determined by the Board.

Section 44—Regional and district offices

The Authority may have district and regional offices determined by the Board.

Administration, finance and miscellaneous matters

Section 45—Chief Executive of the Authority

(1) The President shall, in accordance with article 195 of the Constitution appoint for the Authority a Director-General who shall be the chief executive of the Authority.

(2) The Director-General shall, subject to directions from the Board on matters of policy, be responsible for the day-to-day administration of the Authority and perform other functions determined by the Board.

(3) The terms and conditions of service of the Director-General shall be stated in the Director-General's letter of appointment.

Section 46—Directors

(1) The Authority shall have the number of Directors determined by the Board.

(2) A Director shall assist the Director-General in the performance of the Director-General's functions.

(3) The terms and conditions of service of a Director shall be stated in the letter of appointment of the Director.

Section 47—Secretary to the Board

The President shall in accordance with article 195 of the Constitution appoint a secretary for the Board.

Section 48—Internal auditor

(1) The President shall in accordance with article 195 of the Constitution appoint a Chief Internal Auditor for the Authority.

(2) The Chief Internal Auditor is responsible for the internal audit of the Authority and is answerable to the Director-General for the performance of that duty.

(3) The Chief Internal Auditor shall subject to section 16(3) and (4) of the Internal Audit Agency Act 2003 (Act 658), at intervals of three months, prepare and submit to the Director-General a report on the internal audits carried out during the period of the three months immediately preceding the preparation of that report.

(4) Without limiting the general effect of subsection (4), the Chief Internal Auditor shall make observations in each report that appear to the Chief Internal Auditor necessary for the conduct of the affairs of the Authority during the period to which the report relates.

(5) The Chief Internal Auditor shall in accordance with section 16(4) of the Internal Audit Agency Act 2003 (Act 658), send a copy of each report prepared under this section to

(a) the Minister responsible for Finance,

(b) the Auditor-General, and

(c) the chairperson of the Board.

Section 49—Appointment of other staff

(1) The President shall in accordance with article 195 of the Constitution appoint for the Authority officers and other members of staff that are necessary for the proper and effective performance of its functions.

[sic]

Section 50—Funds of the Authority

The Authority shall meet its operational and capital expenditure from the Lotto Fund.

Section 51—Accounts and audit

(1) The Board shall keep books of account and proper records in relation to them and the books of account and records shall be in a form approved by the Auditor-General.

(2) The Board shall submit the accounts of the Authority to the Auditor-General for audit within three months after the end of the financial year.

(3) The Auditor-General shall, not later than three months after the receipt of the accounts, audit the accounts and forward a copy of the audit report to the Minister.

(4) In addition to the annual audit, technical audits may be conducted on selective basis by the Auditor-General or an auditor appointed by the Auditor-General.

(5) The financial year of the Authority shall be the same as the financial year of the Government.

Section 52—Annual report

(1) The Board shall submit to the Minister as soon as practicable and in any event not later than six months after the end of each financial year a report dealing generally with the activities and operation of the Authority during the year to which the report relates and shall include

(a) the audited accounts of the Authority and the Auditor-General's audit report on the accounts of the Authority, and

(b) any other information that the Board considers necessary.

(2) The Minister shall within two months after the receipt of the annual report under subsection (1) submit the report to Parliament with a statement that the Minister considers necessary.

Section 53—Inspectors, power of entry and seizure

(1) The Board may, from among the persons appointed for the Authority, designate inspectors for the purpose of enforcing the provisions of this Act.

(2) An inspector authorised by the Director-General may at any reasonable time enter premises or a place used or suspected to be used for National Lotto or unauthorised lotto to investigate activities there and make a report to the Director-General.

(3) An authorized inspector who enters premises or any place by virtue of subsection (1) may inspect

(a) the licence of the receiver,

(b) the premises and facilities in the premises, and

(c) any other thing which is relevant to the investigation.

(4) The inspector shall at the request of the person responsible for the premises or the lotto produce the inspector's authorization.

(5) A police officer may enter any premises if that officer has reasonable cause to believe that an offence with respect to this Act has been or is being committed on the premises.

(6) The Director-General may order the seizure of any equipment, or object on a premises in the presence of a police officer if the Director-General has cause to believe that an offence with respect to this Act has been or is being committed on the premises.

(7) The Director-General may delegate the power of seizure under subsection (6) to any officer of the Authority that the Director-General determines.

Section 54—Supervisory Minister

The Minister for Finance shall be the supervisory Minister for the Authority.

Section 55—Regulations

The Minister may, on the advice of the Board, by legislative instrument, make Regulations for

(a) the infrastructure required by a Lotto Marketing Company;

(b) records to be kept by a Lotto Marketing Company;

(c) duties and obligations of a Lotto Marketing Company and a staker;

(d) the date, time, place and conditions for the return of receipts of coupons sold and unsold by Lotto Marketing Companies; and

(e) any other matter that ensures the effective implementation of this Act.

Section 56—Interpretation

In this Act unless the context otherwise requires

"Authority" means the National Lottery Authority established under section 34 of this Act;

"Board" means the governing Board of the National Lottery Authority established under section 36 of this Act;

"citizen" means citizen of Ghana;

"conduct" includes promote, organize and operate a game of lotto;

"coupon" includes a ticket and any form issued by the Authority and which has a cover price and contains the numbers to be drawn in a National Lotto which are to be marked in permutations of the purchaser's choice;

"lotto" means a scheme for the distribution of prizes by lot or chance especially a gaming scheme in which one or more tickets bearing particular numbers draw prizes and the rest of the tickets are blanks;

"Lotto Account" means the account established under section 32 into which the proceeds of the sale of coupons, royalties, administrative fines and any forfeiture relating to the operation of National Lotto are paid;

"Lotto Marketing Company" means a person licenced under this Act to sell National Lotto coupons;

"Minister" means the Minister responsible for Finance and Economic Planning;

"National Lotto" means the National Lotto established in section 1;

"orphan" means a child who has lost one or both parents;

"prize money" means the money paid by the Authority to persons who win a National Lotto draw.

Section 57—Repeals and savings

(1) The National Weekly Lotto Act, 1961 (Act 94) as amended by the National Weekly Lotto (Amendment) Law, 1989 (PNDCL 223) and section 15 of the Ghana Legion Decree, 1974 (NRCD 285) are hereby repealed.

(2) Despite the repeal of the National Weekly Lotto Act, 1961 (Act 94), any instrument, Regulations and order made under that Act and in force immediately before the commencement of this Act shall subject to this Act continue in force until they are revoked under this Act.

(3) A Lotto Marketing Company of the National Weekly Lotto in existence immediately before the coming into force of this Act shall be deemed to have been licenced as a Lotto Marketing Company of the Ghana National Lottery Authority under this Act.

(4) The Department of National Lotteries in existence before the coming into force of this Act, shall perform its functions until the National Lottery Authority starts operation.

Section 58—Transitional provisions

(1) Any person or legal entity issued with a licence to operate a lotto under any of the repealed enactments may within ninety days of the commencement of this Act apply to the Director-General to be licensed as a lotto Marketing Company of the Ghana National Lottery Authority.

(2) The licence of a person who fails to apply to the Director-General to be licensed as a Lotto Marketing Company within the time stipulated in subsection (1) shall be deemed to have been revoked after the ninety days.

(3) A person whose licence is revoked under subsection (2) and who continues to conduct a lotto of any kind commits an offence under section 14 (2) of this Act.

(4) A person who before the commencement of this Act, possesses or owns a machine or equipment used for the operation of a lottery of any kind, shall within fourteen days after the commencement of this Act surrender the machine or equipment to the Director-General subject to the terms determined through negotiations between the Board and the owners.

Date of Gazette Notification: 29th December, 2006.