Please quote No. **ADM.200/02**

5th October 2018

The Chairman  
National Lotteries and Gaming Regulatory Board  
P. O. Box 5446  
Kampala

**LEGAL GUIDANCE ON THE DEFINITION OF MINOR UNDER THE LOTTERIES AND GAMING ACT 2016.**

Reference is made to a letter dated 4th September 2018 on the above subject.

S 1 of The Lotteries and Gaming Act, No 7 of 2016 defines a “minor” to mean a person below twenty five years.

The Lotteries and Gaming Act in Section 1 refers to the word Board to mean the **National** Lotteries and Gaming Regulatory Board and as such all references to the Board should include the word “National”.

You sought an opinion on whether;

1. The definition of Minor as provided in the Lotteries and Gaming Act is fair and just given the definition provided by The Constitution of Uganda?
2. An amendment of the Constitution isn’t required to be able to define a minor as a person below 25 years?
3. A man/woman who can be married at 18yrs can then be defined as a minor?
4. Someone under 25 years can be employed in a gaming house?

Issues 1, 2 and 3 shall be addressed together considering they refer to age. The Constitution of Uganda 1995 does not define a minor, however several references are made to age from which an understanding of who a minor is can be derived.
Art 31 (1) of the Constitution of Uganda provides that a man and a woman are entitled to marry if they are each of the age of eighteen years and above.

Art 34(4) provides that Children are entitled to be protected from social or economic exploitation and shall not be employed in or required to perform work that is likely to be hazardous or to interfere with their education or to be harmful to their health or physical, mental, spiritual, moral or social development.

(5) For purposes of (4) of this article, children shall be persons under the age of sixteen years.

Art 59(1) provides that every citizen of Uganda of eighteen years of age or above has a right to vote.

From the above references to age it is clear that a minor is someone who is below the age of 18 and for purposes of employment 16. It is therefore unconstitutional for the Lotteries and Gaming Act to define a minor as someone below 25 years.

Perusal of the Hansard establishes that the intent of parliament was to protect parents whose children were gambling at University. Mr Nandala-Mafabi stated “... you know very well that parents have lost money. We want to help parents with children who are gambling.” He proposed that “we should change the year of minors. When people leave University at 21.” They later resolved to have a minor defined as someone below 25 years.

Issues 1-3 as framed by the board are not even the issue, the issue being whether it was constitutional to define a minor as someone below 25 years contrary to the provisions of the Constitution.

It is clear that the intent was to create a prohibition which is something that could have been done without having to define who a minor was. The prohibition was to prevent persons under 25 years from gambling and working in a gaming house. However with the advent of the internet and with most applications including betting advertisements it is not clear how legislating it this stringently can deter anyone from gambling.

25 years also seems to be higher than other jurisdictions e.g Kenya which has 21 years. That 25 year was arrived at to stop students at the University did not cater for persons who are out of school and have been for much longer which is the group of persons who mostly resort to gambling as other formal prospects of employment are closed out to them.

This brings us to issue 4. As the law stands someone under 25 years cannot work in a gambling house because they are restricted from entering.
S. 57(2) provides that a licensee shall not accept a minor to access or enter into a casino or gaming and betting premises.

S. 59(1) provides that a licensee or agent shall display a notice to the effect that minors are prohibited from entering a public lottery.

(2) The notice referred to in subsection (1) shall be displayed in a conspicuous place where entries are accepted at the time the licensee or his or her agent accepts any entry in a public lottery.

The above establishes that there is a conflict in what the Constitution considers to be a minor vis-à-vis what the Lotteries and Gaming Act has defined as who a minor is. We therefore advise that the Lotteries and Gaming Act should be amended to comply with the Constitutional provisions.

This is to advise you accordingly.

Mwesigye. S
For: SOLICITOR GENERAL

C.C The Permanent Secretary
Ministry of Finance, Planning and Economic Development

C.C The Chief Executive Officer
National Lotteries and Gaming Board