

CHAPTER 19:02
LOTTERIES AND BETTING
ARRANGEMENT OF SECTIONS

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Act 25, 1980,
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Act 15, 1983.

An Act to consolidate the enactments relating to lotteries, betting and gaming and matters connected therewith.

[Date of Commencement: 8th May, 1962]

PART I
Preliminary (ss 1-2)

1. Short title

This Act may be cited as the Lotteries and Betting Act.

2. Interpretation

In this Act, unless the context otherwise requires-

"horse" includes any pony, galloway or donkey;

"race" means any foot-race, horse race, dog-race, cycle race, motor-race or boat-race and any other race declared under section 25 to be a race;

"race-club" means any club or association of persons promoting and controlling racing;

"race-course" means the place at which a race is or is to be held;

"Registrar" has the meaning assigned to it in the Societies Act;

"society" means any society registered or exempted under the Societies Act;

"totalizator" means the contrivance for betting known as the totalizator or any other machine or instrument of betting of a like nature, whether mechanically operated or not.

PART II
Lotteries (ss 3-6)

3. Lotteries deemed lawful

(1) A lottery shall be deemed to be lawful if it is promoted on behalf of-

(a) a society; or

(b) an institution or organization prescribed as a charitable institution,

and is promoted and conducted in accordance with the provisions of section 4.

(2) Regulations may prescribe such institutions or organizations which are considered to be charitable institutions or organizations for the purposes of this Act.

4. Conditions to be observed in promotion of and conduct of lottery

The following conditions shall for the purposes of section 3 be observed in the promotion and conduct of a lottery-

(a) the promoter of the lottery shall be a member of the society authorized in writing by the governing body of the society to act as such;

(b) no remuneration shall be paid in respect of the lottery to the promoter, or to any person employed by him in connection therewith;

(c) no ticket or chance shall be sold at a price exceeding P2;

(d) the whole proceeds, after deducting sums lawfully appropriated on account of expenses or for the provisions of prizes, shall be applied to the purposes of the society;

(e) subject to the provisions of paragraph (ii) of the proviso to section 5, the amount of the proceeds appropriated on account of expenses shall not exceed the expenses actually incurred, or 10 per cent of the whole proceeds, whichever is the less, and the amount of the proceeds appropriated for the provision of prizes shall not exceed 65 per cent of the whole proceeds;

(f) the price of every ticket or chance shall be the same, and the price of any ticket shall

- be stated on the ticket;
- (g) no money received by the promoter for or on account of a ticket or chance shall in any circumstances be returned;
- (h) every ticket and every notice or advertisement of the lottery lawfully exhibited, distributed or published, shall specify the name of the society, the name and address of the promoter and the date on which the draw, determination or event by or by reference to which the prizewinners are ascertained will take place;
- (i) no person shall be admitted to participate in the lottery in respect of a ticket or chance except after payment to the promoter of the whole price of the ticket or chance:
 - Provided that a person employed by the promoter to sell tickets or chances in a lottery may be admitted to participate in such lottery in respect of such free tickets or chances as the promoter may award to him, which award shall not exceed more than one free ticket or chance for each 20 tickets or chances sold by such person in such lottery;
- (j) subject to the provisions of paragraph (ii) of the proviso to section 5 no payment on account of expenses or prizes shall be made out of moneys of the society not being proceeds of the lottery; and
- (k) no ticket or chance shall be sold by or to a person under the age of 16 years.

5. Penalties

If any condition required by section 4 to be observed in respect of a lottery promoted in accordance with the provisions of section 3 is contravened, the promoter of the lottery and any other person who is a party to the contravention shall be guilty of an offence and liable to a fine not exceeding P200 or to imprisonment for a term not exceeding six months, or to both:

Provided that-

- (i) it shall be a defence for a person charged with an offence only by reason of his being the promoter to prove that the contravention took place without his knowledge;
- (ii) it shall be a defence for any person charged with an offence in respect of an appropriation or payment made in contravention of section 4(e) or (j) to prove that the proceeds of the lottery fell short of the sum reasonably estimated, that the appropriation or payment was made in respect of expenses actually incurred or in order to fulfil an unconditional undertaking as to prizes given in connection with the sale of the relevant tickets or chances, and that the total amounts appropriated or paid in respect of expenses and prizes did not exceed the amounts which could lawfully have been appropriated out of the proceeds of the lottery under the said paragraph (e) if the said proceeds had amounted to the sum reasonably estimated.

6. Returns to be made by promoters

(1) The promoter of a lottery to which section 3 applies shall, within one month from the date on which the winners of prizes in the lottery are ascertained, send to the Registrar a return certified by two other members of the society being persons of full age authorized in writing by the governing body of the society for such purpose showing-

- (a) the whole proceeds of the lottery;
- (b) the sums appropriated out of the proceeds on account of expenses and on account of prizes respectively;
- (c) the particular purpose or purposes to which the proceeds of the lottery were applied in pursuance of section 4(d), and the amount applied for that purpose, or for each of those purposes, as the case may be; and
- (d) the dates between which tickets or chances in the lottery were sold.

(2) The Registrar shall preserve any return made under subsection (1) for a period of at least one year and during that period shall keep it at his office and permit any member of the public to inspect it during office hours.

(3) Any person who fails to send a return in accordance with the provisions of this

section, or who in any return sent by him thereunder knowingly gives any information which is false or misleading or who certifies any return to be sent under this section knowing it to contain any such false or misleading information, shall be guilty of an offence and liable to a fine not exceeding P200 or to imprisonment for a term not exceeding six months, or to both.

PART III

Games of Chance (ss 7-8)

7. Certain games of chance not unlawful

(1) A game of chance shall be deemed not to be an unlawful lottery if it is played at an entertainment promoted on behalf of a registered society in accordance with the following conditions, that is to say-

- (a) the promoter of the entertainment shall be a member of the society authorized in writing by the governing body of the society to act as such;
- (b) the whole of the proceeds of the payments made (whether by way of entrance fee or stake or otherwise) by the players, after deducting sums lawfully appropriated on account of expenses and for the provision of prizes or awards in respect of the game, are applied to the purposes of the society;
- (c) the amount of such proceeds appropriated in respect of expenses shall not exceed the reasonable cost of the facilities provided for the purposes of the game;
- (d) no person under the age of 16 years shall be permitted to play; and
- (e) the maximum payment made by each player in respect of each game played at an entertainment shall not exceed 10 thebe.

(2) If any condition required by this section to be observed in respect of a game of chance played at an entertainment is contravened, the promoter of the entertainment and any other person who is a party to the contravention shall be guilty of an offence and liable to a fine not exceeding P100 or, in default of payment, to imprisonment for a term not exceeding three months.

8. Returns to be made by the promoters

The provisions of section 6 shall have effect in relation to an entertainment promoted on behalf of a society at which a game of chance is played as it has in relation to a lottery to which section 3 applies.

PART IV

Totalizator Control (ss 9-18)

9. Delegation

The Permanent Secretary to the Minister for the time being responsible for Home Affairs may by directions in writing delegate to any public officer the exercise of any power or performance of any duty vested in him under this Part.

10. Use of unlicensed totalizator an offence

(1) No person shall use or permit the use of a totalizator in respect of which a licence has not been granted in terms of this Part.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence.

11. Lottery conducted on totalizator not unlawful

A lottery conducted on a totalizator licensed in accordance with section 12 shall be deemed to be a lottery authorized by law.

12. Licensing of totalizator

(1) The Permanent Secretary may, upon written application and payment of the prescribed fee, issue a licence in the prescribed form to a race-club to use a totalizator.

(2) A separate licence shall be required in respect of each race-course and each day on which a race meeting is held.

(3) No licence shall be issued in respect of a Sunday, Christmas Day or Good Friday.

(4) The Permanent Secretary may cancel any licence granted under this section if

default is made in complying with any provision of this Part.

13. Totalizator transactions to be recorded

Every transaction effected by means of a totalizator shall be recorded in a manner approved by the Permanent Secretary and so that, as far as may be practicable, the recording shall be in the uninterrupted view of the public.

14. Persons under 18 years may not use totalizator

Any person in charge of or having control of a totalizator, or any assistant of such person, who issues a ticket to any person upon credit, or who accepts any money from or issues a ticket or pays any dividend or money to, a person apparently under the age of 18 years shall be guilty of an offence.

15. Limiting commission and prescribing tax

Where any totalizator is used under this Part-

- (a) the totalizator commission deducted by the licence holder shall not exceed 15 per cent of the gross takings of each licensed totalizator;
- (b) there shall be payable by the licence holder to the Government at the end of each day on which the totalizator is used a tax calculated, on the gross takings of each licensed totalizator for that day, at the rate of two and a half per cent.

16. Act does not validate betting transactions

Nothing in this Part shall be deemed to give any betting transaction any authoritative or legal effect not otherwise attached thereto or to affect the common law in that regard.

17. Police powers of entry and inspection

(1) Any police officer of or above the rank of Sub-Inspector-

- (a) if he has reasonable grounds for suspecting that an offence against this Part is taking place or has taken place may without warrant at any time enter upon any race course or other place whatever and conduct a search thereon, and seize any articles thereon which will secure evidence of the commission of such offence; and
- (b) may enter at any time any race course for the purpose of general police supervision, and may eject any drunken, noisy or disorderly person found on such premises.

(2) Any person who resists, hinders or obstructs any police officer in the exercise of his powers under this section shall be guilty of an offence.

18. Penalties

Any person convicted of an offence under this Part shall be liable upon first conviction to be sentenced to a fine not exceeding P50 or, in default of payment, to imprisonment for a term not exceeding three months, and for a second or subsequent conviction thereof to imprisonment for a term not exceeding three months or to a fine not exceeding P50, or to both.

PART V

Gaming and Betting (ss 19-23)

19. Gaming houses

(1) Any person being the owner or occupier, or having the use of any house, room or place, who opens, keeps or uses it for the purpose of unlawful gaming being carried on therein and any person who, being the owner or occupier of any house, room or place, knowingly and wilfully permits it to be opened, kept or used by any other person for the purpose of unlawful gaming, and any person having the care or management of or in any manner assisting in conducting the business of any house, room or place opened, kept or used for the purpose of unlawful gaming, is said to keep a common gaming house.

(2) In this section "unlawful gaming" means any game, other than a game the playing of which is authorized by law, the chances of which are not alike favourable to all the players, including the banker or other person or persons by whom the game is managed or against whom the other players stake, play or bet.

(3) Any person who keeps a common gaming house is guilty of an offence.

(4) Any person other than the persons mentioned in subsection (1) who is found in a

common gaming house shall be deemed, unless the contrary is proved, to be there for the purpose of unlawful gaming, and is guilty of an offence, and is liable to a fine not exceeding P10 for the first offence, and for each subsequent offence to a fine not exceeding P40 or to imprisonment for a term not exceeding three months, or to both.

20. Gaming machines

(1) Except as provided in the Casino Act or any other enactment, no person shall use or operate a machine which-

- (a) is constructed or adapted for playing a game of chance by means of the machine; and
- (b) has a slot or other aperture for the insertion of money or money's worth in the form of cash or tokens.

(2) The reference in subsection (1) to playing a game of chance by means of a machine includes playing a game of chance partly by means of a machine and partly by other means if the element of chance in the game is provided by means of the machine.

(3) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence.

21. Betting houses

(1) Any house, room or place which is used for any of the following purposes, that is to say-

- (a) for the purpose of bets being made therein between persons resorting to the place and-
 - (i) the owner, occupier, or keeper of the place, or any person using the place;
 - (ii) any person procured or employed by or acting for or on behalf of any such owner, occupier or keeper, or person using the place; or
 - (iii) any person having the care or management, or in any manner conducting the business, of the place; or
- (b) for the purpose of any money or other property being paid or received therein by or on behalf of any such owner, occupier or keeper, or person using the place, as, or for the consideration-
 - (i) for an assurance, undertaking, promise, or agreement, express or implied, to pay or give thereafter any money or other property on any event or contingency of or relating to any horse race, or other race, fight, game, sport, or exercise; or
 - (ii) for securing the paying or giving by some other person of any money or other property on any such event or contingency,

is called a common betting house.

(2) Any person who, being the owner or occupier of any house, room, or place, knowingly and wilfully permits it to be opened, kept or used, as a common betting house by another person, or who has the use or management, or assists in conducting the business, of a common betting house, is guilty of an offence and is liable to imprisonment for a term not exceeding one year:

Provided that nothing contained herein shall make illegal the use of a totalizator by a race-club, gymkhana club or sports club recognized by the Government at any public meeting, with the approval in each case of the Commissioner of Police.

22. Lotteries

(1) Any person who opens, keeps or uses any place for carrying on a lottery other than a lottery authorized by law is guilty of an offence and liable to imprisonment for a term not exceeding six months.

(2) Any person who prints or publishes, or causes to be printed or published, any advertisement or other notice of or relating to a lottery, not being a lottery authorized by law, or of or relating to the sale of any ticket or chance or of any share in a ticket or chance in any lottery other than a lottery authorized by law is guilty of an offence and liable to a fine not exceeding P100.

(3) In this section "lottery" includes any scheme or device for the sale, gift, disposal, or distribution of any property depending upon or to be determined by lot or chance, whether by the throwing or casting of dice, or by the drawing of tickets, cards, lots, numbers, or figures, or by means of a wheel or trained animals, or otherwise howsoever.

(4) When any person is convicted of an offence under this section, the court may, in addition to or in lieu of; any penalty which may be imposed, order the forfeiture to the State of any instrument or thing used in connection with the lottery concerning which the conviction has taken place.

23. Keeper of premises defined

Any person who appears, acts, or behaves as master or mistress, or as the person having the care or management of any such house, room, set of rooms, or place as is mentioned in sections 19, 21, and 22 is to be taken to be the keeper thereof, whether he is or is not the real keeper.

PART VI

Miscellaneous (ss 24-25)

24. Regulations

The Minister may, by statutory instrument, make regulations-

- (a) providing for any matter which under this Act is to be provided for by regulations or to be prescribed;
- (b) prescribing the form of licence and the fee therefor, the method by which the tax payable under section 15 shall be collected; and generally for giving effect to the provisions of this Act.

25. Declaration of a race

The Minister may by order published in the *Gazette* declare such race as he thinks fit as a race for the purposes of this Act.