



BERMUDA

LOTTERIES ACT 1944

1944 : 1

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SCHEDULE
THE LOTTERIES ACT 1944

[preamble and words of enactment omitted]

Interpretation

1 (1) In this Act—

“Commission” means the Bermuda Gaming Commission established by the Gaming Act;

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“lottery” includes any scheme, method or device whereby prizes, whether money prizes or other prizes, are allotted or distributed by lot or chance, to or among the persons participating in the lottery;

“ticket” includes, in relation to any lottery or proposed lottery, any document evidencing the claim of a person to participate in the chances of the lottery.

(2) A lottery shall not be held to be promoted for the purpose of private gain by reason only that the purpose results in benefit to any person as an individual:

Provided that the individual is not one of the promoters of the lottery nor any person in a personal or business relationship with any promoter.

(3) In this Act references to printing include references to writing and other modes of representing or reproducing words in a visible form.

[Section 1 subsection (1) definition "Commission" inserted by 2021 : 23 s. 43 effective 1 August 2021]

Lotteries prohibited unless deemed by this Act not to be unlawful

2 (1) Subject to subsection (3), any person—

- (a) who promotes or conducts or attempts to promote or conduct a lottery within Bermuda; or
- (b) who causes or procures or attempts to procure any other person to promote or conduct a lottery within Bermuda,

commits an offence against this Act.

(2) Subject to the said subsection (3), any person who, in connection with any lottery promoted or proposed to be promoted either in Bermuda or elsewhere—

- (a) prints any ticket for use in the lottery; or
- (aa) imports into Bermuda any ticket for use in the lottery; or
- (b) sells or distributes, or offers or advertises for sale or distribution, or has in his possession for the purpose of sale or distribution, any tickets or chances in the lottery; or
- (c) prints, publishes or distributes, or has in his possession for the purpose of publication or distribution—
 - (i) any advertisement of the lottery; or
 - (ii) any list (whether complete or not) of prize winners or winning tickets in the lottery; or
 - (iii) any such matter descriptive of the drawing or intended drawing of the lottery, or otherwise relating to the lottery, as is calculated to act as an inducement to participate in that lottery or in other lotteries; or
- (d) uses any premises, or causes or knowingly permits any premises to be used, for purposes connected with the promotion or conduct of the lottery; or

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- (e) causes, procures or attempts to procure any person to do any of the acts mentioned in the foregoing paragraphs of this subsection,

commits an offence against this Act.

(3) In any criminal proceedings instituted under subsection (1) or (2) it shall be a defence to prove—

- (a) that the lottery to which the proceedings relate was such a lottery as is declared by any succeeding section of this Act not to be an unlawful lottery; and
- (b) that at the date of the alleged offence the defendant believed, and had reasonable grounds for believing, that none of the conditions required by that section to be observed in connection with the promotion and conduct of the lottery had been broken.

(4) In any criminal proceedings in which a person is charged with distributing or being in possession for the purpose of distributing a magazine or periodical it shall be a defence to prove that the magazine was published outside Bermuda and the magazine or periodical is not primarily concerned with the promotion of lotteries or games of chance.

[Section 2(2)(aa) inserted by 1999:41 s.5 effective 22 December 1999]

Exempt lotteries for the Gaming Act 2014

2A A lottery that is deemed by this Act not to be unlawful is an exempt lottery for section 179B of the Gaming Act 2014.

[Section 2A inserted by 2021 : 23 s. 44 effective 1 August 2021]

Small lotteries incidental to certain entertainments

3 (1) A lottery promoted as an incident to an entertainment to which this section applies shall be deemed not to be an unlawful lottery, but the conditions specified in subsection (2) shall be observed in connection with the promotion and conduct of the lottery, and if any of those conditions is broken, every person concerned in the promotion or conduct of the lottery commits an offence against this Act unless he proves that the offence was committed without his knowledge.

(2) The conditions referred to in subsection (1) are as follows—

- (a) the whole proceeds of the entertainment (including the proceeds of the lottery) after deducting—
 - (i) the expenses of the entertainment, excluding expenses incurred in connection with the lottery; and
 - (ii) the expenses incurred in printing tickets in the lottery; and
 - (iii) such sum (if any) as the promoters of the lottery think fit to appropriate on account of any expenses incurred by them in purchasing prizes in the lottery,shall be devoted to purposes other than private gain;

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- (b) none of the prizes in the lottery shall be money prizes;
 - (c) tickets or chances in the lottery shall not be sold or issued, except on the premises on which the entertainment takes place and during the progress of the entertainment; and
 - (d) the facilities afforded for participating in lotteries shall not be the only, or the only substantial, inducement to persons to attend the entertainment.
- (3) The entertainments to which this section applies are bazaars, sales of work, fetes, balls, concerts, dinners, sporting or athletic events, and other entertainments of a similar character.

Lotteries promoted by societies or clubs

- 4 (1) The lotteries to which this section applies are lotteries promoted by or with the consent of the managing body of any society.
- (2) For the purposes of this section—
- (a) “society” includes any society or club or similar association of persons, by whatever name called, and also includes any institution operated for the purpose of providing recreation for members of the armed forces;
 - (b) members of the armed forces shall while using any institution operated as aforesaid be deemed to be members of that institution;
 - (c) every local or affiliated branch or section of a society shall be regarded as a separate and distinct society.
- (3) A lottery to which this section applies shall be deemed not to be an unlawful lottery, but all of the conditions specified in subsection (4) shall be observed in connection with the promotion and conduct of the lottery.
- (4) The conditions referred to in subsection (3) are as follows—
- (a) the sale of tickets or chances in the lottery shall be confined to members of the society and their authorized guests; and for the purposes of this paragraph a person shall not be deemed to be an authorized guest of a member of the society unless—
 - (i) he attends the lottery in person at the express invitation of the member, and the member is himself attending and participating in person in the lottery; and
 - (ii) his name and the date of his attendance has been entered by the member in a book kept by the society for the purpose of recording the names of authorized guests;
 - (b) the whole proceeds, after deducting only expenses incurred for printing and stationery, shall be devoted to the provision of prizes for purchasers of tickets or chances, or shall be devoted either to the provision of prizes as aforesaid or to purposes which are purposes of the society or, as to part,

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to the provision of prizes as aforesaid and, as to the remainder, to such purposes as aforesaid;

- (c) there shall not be exhibited, published or distributed any written notice or advertisement of the lottery other than notice thereof exhibited on the premises or the society and such announcement or advertisement thereof as is contained in the tickets, if any;
- (d) the price of every ticket or chance shall be the same;
- (e) where the lottery is promoted by means of the issue of tickets, every ticket shall bear upon its face a statement of its price and of the name and address of the society and a statement of the persons to whom the sale of tickets by the promoters is restricted; and no prize shall be paid or delivered by the promoters to any person other than the person to whom the winning ticket was sold by them;
- (f) no ticket or chance shall be issued or allotted by the person promoting or holding the lottery except by way of sale and upon receipt of the full price thereof, and no money or valuable thing so received shall in any circumstances be returned; and
- (g) no ticket in the lottery shall be sent through the post.

(5) If any of the conditions specified in subsection (4) is broken, then each of the promoters and, where the person by whom the condition is broken is not one of the promoters, then that person also, commits an offence against this Act:

Provided that it shall be a defence for a person charged only by reason of his being a promoter of the lottery to prove that the offence was committed without his knowledge.

(6) In this section—

- (a) *[Repealed by 2002:6]*
- (b) “members of the armed forces”, in relation to any institution operated as mentioned in subsection (2), means members of any of the naval, military or air forces of Her Majesty or of the United States of America, and members of any other naval, military or air forces, being persons who are for the time being granted access to the facilities of the institution.

[Section 4 subsection (2)(a) amended, and (6)(a) repealed, by 2002:6 s.4 & Sch 3 effective 18 June 2002]

Lotteries for charitable and benevolent purposes

4A (1) Subject to subsection (2) any three or more persons ordinarily resident in Bermuda may promote or conduct a lottery for charitable or benevolent purposes.

(2) A lottery to which this section applies shall be deemed not to be an unlawful lottery but section 4B shall be complied with and the conditions specified in subsection (3) shall be observed in connection with the promotion and conduct of the lottery, and if any of those conditions is broken, every person concerned in the promotion or conduct of the

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lottery commits an offence, unless he proves that the offence was committed without his knowledge.

- (3) The conditions referred to in subsection (2) are as follows—
- (a) the whole proceeds of the lottery, including the proceeds of the entertainment, if any, after deducting—
 - (i) the expenses of the entertainment, if any;
 - (ii) the expenses incurred in printing tickets in the lottery; and
 - (iii) such sum, if any, as the promoters of the lottery think fit to appropriate on account of any expenses incurred by them in purchasing prizes in the lottery,
shall be devoted to a charitable or benevolent purpose or purposes.
 - (b) none of the prizes in the lottery shall be money prizes;
 - (c) tickets or chances in the lottery shall only be sold or issued in such place or places as permitted in the permit issued under section 4B;
 - (d) the lottery shall be promoted by means of the issue of tickets and every ticket shall bear upon its face a statement of—
 - (i) the names and addresses of the promoters;
 - (ii) the purpose of the lottery and any beneficiaries thereof;
 - (iii) the serial number and price of the ticket;
 - (iv) the number of the permit issued for the promotion of the lottery;
 - (v) the date on which and the place at which the draw is to be held in relation to the lottery; and
 - (vi) the prize or prizes to be awarded in relation to the lottery.
- (4) For the purpose of this section—

“a charitable or benevolent purpose” shall mean a purpose which is beneficial to the public in general or to a certain section of the public or is in support of athletic sports or games or of educational or artistic activities;

“entertainments” shall have the same meaning as in section 3.

Application for permit; section 4A lottery

4B (1) No person shall promote a lottery to which section 4A relates unless he obtains permission in writing to promote such a lottery from the Commission.

(2) An application to promote such a lottery shall be in the form set out in the Schedule to this Act and shall be signed by not less than three persons proposing to promote the lottery.

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(3) If the Commission is satisfied that such a lottery will be bona fide conducted for a charitable or benevolent purpose it shall issue a permit for the lottery to be promoted subject to such conditions as it may impose but if it is not so satisfied it may in its discretion refuse to issue a permit or may seek the advice of the Charity Commissioners and thereafter in its discretion either issue the permit or refuse to issue it.

(4) A permit to promote a lottery granted under this section shall state the place or places where tickets for the lottery may be sold.

[Section 4B amended by 2021 : 23 s. 45 effective 1 August 2021]

Submission of return; section 4A lottery

4C (1) Promoters of a lottery to which section 4A relates shall, not later than the end of the third month after the date of the lottery submit to the Commission returns in respect of the lottery signed by the person responsible for the accounts of the lottery and not less than two other promoters.

(2) The returns referred to in subsection (1) shall include—

(a) a financial statement declaring—

(i) the total proceeds of the lottery;

(ii) the sums appropriated out of those proceeds on account of expense referred to in subsection (3) of section 4A; and

(b) a copy of any receipt issued by a beneficiary of the lottery or the bank deposit slip, in relation to the proceeds payable to that beneficiary.

(3) Until the promoters of a lottery to which section 4C relates submit the returns referred to in subsection (1) and the Commission is satisfied from such returns that the lottery has been properly conducted and the proceeds properly distributed it shall grant them no further permission to promote a lottery.

(4) Any promoters of a lottery to which section 4C relates who fail to submit the returns provided for in this section within three months from the date of the lottery commits an offence against this Act.

[Section 4C amended by 2021 : 23 s. 46 effective 1 August 2021]

Hotel lotteries

5 (1) For the purposes of this section—

(a) “hotel lottery” means—

(i) in the case of a hotel which is not a small hotel, a lottery which is promoted by or on behalf of the managers of the hotel for the entertainment of the lodgers and in which the sale of tickets or chances is confined to the lodgers and to persons visiting the hotel for the purpose of making use of the facilities or amenities provided by the hotel; or

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- (ii) in the case of a small hotel, a lottery which is promoted by or on behalf of the managers of the hotel for the entertainment of the lodgers and in which the sale of tickets or chances is confined to the lodgers and to persons who are on the premises of the hotel by reason of being invited in good faith by lodgers to be their personal guests;
 - (b) "hotel" means any hotel, guest house or boarding house and includes any group of separate buildings which (however described) together form an establishment of the nature of a hotel, guest house or boarding house; and "small hotel" means an hotel in which the number of bedrooms provided for lodgers does not exceed fifty;
 - (c) "lodger", in relation to an hotel, means any person who is resident in the hotel other than the proprietor or manager of the hotel or any person employed by the proprietor or manager for the purposes of the hotel or any member of the family of the proprietor, manager or any such person.
- (2) A hotel lottery shall be deemed not to be an unlawful lottery, but the following conditions shall be observed in connection with the promotion and conduct of such a lottery—
- (a) the lottery shall be held on the premises of the hotel for the lodgers in which the lottery is promoted;
 - (b) tickets or chances in the lottery shall not be sold or issued, nor shall the result of the lottery be declared, except on the premises on which the lottery is to be held;
 - (c) there shall not be exhibited, published or distributed any written notice thereof exhibited on the premises on which the lottery is to be held and such announcement or advertisement thereof as is contained in the tickets, if any;
 - (d) the price of every ticket or chance shall be the same;
 - (e) where the lottery is promoted by means of the issue of tickets, every ticket shall bear upon its face a statement of its price and a statement of the persons to whom the sale of tickets by the promoters is restricted; and no prize shall be paid or delivered by the promoters to any person other than the person to whom the winning ticket was sold by them;
 - (f) no ticket or chance shall be issued or allotted by the promoters of the lottery except by way of sale and upon receipt of the full price thereof and no money or valuable thing so received shall in any circumstances be returned; and
 - (g) the whole proceeds, after deducting only expenses incurred for printing and stationery, shall be devoted to the provision of prizes for purchasers of tickets or chances.

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(3) If any of the conditions specified in subsection (2) is broken, then each of the promoters of the lottery and, where the person by whom the condition is broken is not one of the promoters, then that person also, commits an offence against this Act:

Provided that it shall be a defence for a person charged only by reason of his being a promoter of the lottery to prove that the offence was committed without his knowledge.

Private lotteries

- 6 (1) For the purposes of this section "private lottery" means a lottery—
- (a) which is promoted and held for persons all of whom work on the same premises or all of whom reside on the same premises;
 - (b) in which the sale of tickets or chances by the promoters is confined to such persons as aforesaid;
 - (c) which is promoted by persons all of whom are such persons as aforesaid; and
 - (d) which is held on the premises on which the promoters work or reside:

Provided that a person who is invited in good faith to be the personal guest of the occupier of a private residence shall, while he is on the premises of the private residence by reason of being so invited, be deemed for the purposes of this section to be resident on those premises.

(2) A private lottery shall be deemed not to be an unlawful lottery, but the following conditions shall be observed in connection with the promotion and conduct of a private lottery, except where the private lottery is to be promoted and held for persons resident on premises which are a private residence—

- (a) tickets or chances in the lottery shall not be sold or issued, nor shall the result of the lottery be declared, except on the premises on which the promoters of the lottery work or reside;
- (b) there shall not be exhibited, published or distributed any written notice or advertisement of the lottery other than notice thereof exhibited on the premises on which the lottery is to be held and such announcement or advertisement thereof as is contained in the tickets, if any;
- (c) the price of every ticket or chance shall be the same;
- (d) where the lottery is promoted by means of the issue of tickets, every ticket shall bear upon its face a statement of its price and a statement of the persons to whom the sale of tickets by the promoters is restricted; and no prize shall be paid or delivered by the promoters to any person other than the person to whom the winning ticket was sold by them;
- (e) no ticket or chance shall be issued or allotted by the promoters of the lottery except by way of sale and receipt of the full price thereof, and no money or valuable thing so received shall in any circumstances be returned; and

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- (f) the whole proceeds, after deducting only expenses incurred for printing and stationery, shall be devoted to the provision of prizes for purchasers of tickets or chances.

(3) If any of the conditions specified in subsection (2) is broken, then each of the promoters of the lottery and, where the person by whom the condition is broken is not one of the promoters, then that person also, commits an offence against this Act:

Provided that it shall be a defence for a person charged only by reason of his being a promoter of the lottery to prove that the offence was committed without his knowledge.

Business lotteries

- 7 (1) For the purpose of this section “business lottery” means a lottery—
- (a) which is promoted by or on behalf of a business concern for the purpose of promoting trade;
 - (b) in respect of which participation is confined to donees of tickets or chances issued or allotted by the business concern and no consideration passes therefor other than the purchase of goods sold by the business concern in the ordinary course of trade;
- (2) A business lottery shall be deemed not to be an unlawful lottery, but the following conditions shall be observed in connection with the promotion and conduct of such a lottery—
- (a) the prior permission in writing of the Commission shall be obtained for the promotion and holding of the lottery and such permission shall be withheld unless the Commission is satisfied that the lottery bona fide conforms to the conditions applicable to a business lottery and that the sale price of the goods to be traded in connection with the donation of tickets or chances giving the right to participate in the lottery has not been increased and will not, during the course of the holding of the lottery, be increased by reason of the holding of the lottery or to defray any expenses in connection therewith;
 - (b) no person concerned with the management of, or employed by, the business concern promoting the lottery and no member of the household of any such person shall be entitled to participate therein;
 - (c) none of the prizes in the lottery shall be money prizes;
 - (d) no ticket or chance shall be issued or allotted by or on behalf of the business concern promoting the lottery to any person except on business premises bona fide trading in the goods entitling the purchasers thereof to a right to participate in the lottery;
 - (e) the promoters of the lottery and all persons concerned in the conduct thereof shall comply with such conditions as the Commission may specify in a permit issued under paragraph (a).

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(3) If any of the conditions specified in subsection (2) is broken, then each of the promoters of the lottery and, where the person by whom the condition is broken is not one of the promoters, then that person also, commits an offence against this Act:

Provided that it shall be a defence for any person charged by reason only of his being a promoter of the lottery to prove that the offence was committed without his knowledge.

[Section 7 subsection (2) amended by 2021 : 23 s. 47 effective 1 August 2021]

Criminal Code

8 (1) Except in relation to a private lottery which is promoted and held for persons all of whom reside or are deemed to reside on premises which are a private residence, nothing in the Criminal Code [*title 8 item 31*] shall operate so as to render a person liable to criminal proceedings by reason only of the fact that he keeps premises on which is promoted or held a lottery—

- (a) which under any of the foregoing provisions of this Act is deemed not to be an unlawful lottery; and
- (b) as to which all the requisite conditions are observed.

(2) In this section “requisite conditions”, in relation to a lottery, means any conditions which under this Act are required to be observed in connection with the promotion and conduct of the lottery.

Search warrant

9 A magistrate, if satisfied by information on oath that there are reasonable grounds to suspect that any premises are being used for the purpose of the commission of an offence against this Act, may grant a warrant under his hand authorizing any police officer at any time or times within one month from the date thereof, to enter, if necessary by force, the said premises and every part thereof, and to search for and seize and remove any documents, money or valuable thing found therein which he has reasonable ground to suppose are on those premises for any purpose which constitutes a contravention of this Act.

Punishment; forfeiture

10 (1) Where a person commits an offence under this Act:

Punishment on summary conviction: imprisonment for 6 months or a fine of \$3,360 or both such imprisonment and fine.

(2) The court before which a person is proved to have committed an offence against this Act shall order to be forfeited to Her Majesty any coins or currency notes, or articles produced to the court, which are shown to the satisfaction of the court to represent the price of tickets or chances, or prize money, or prizes, in the lottery, and shall order to be destroyed all documents (other than currency notes) produced to the court which are shown to the satisfaction of the court to relate to the promotion or conduct of the lottery.

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(3) Where a person convicted of an offence against this Act is a body corporate, every person who at the date of the commission of the offence was a director or officer of the body corporate shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge.

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Section 4A

Application to be completed by promoters of a lottery for charitable or benevolent purposes

Promoter: *[blank]*

Office Address: *[blank]*

Tel. No. *[blank]*

Home Address: *[blank]*

Tel. No. *[blank]*

Promoter: *[blank]*

Office Address: *[blank]* Tel. No. *[blank]*

Home Address: *[blank]* Tel. No *[blank]*.

Promoter: *[blank]*

Office Address: *[blank]* Tel. No. *[blank]*

Home Address: *[blank]* Tel. No. *[blank]*

Organization: *[blank]*

Address: *[blank]* Tel. No.*[blank]*

Purpose of Lottery:*[blank]*

Place or places where tickets will be sold: *[blank]*

Name of any beneficiary: *[blank]*

Address *[blank]*

Tel. No.*[blank]*

Period for sale of tickets: *[blank]* to *[blank]* inclusive

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Date and time of draw: *[blank]*

Location of draw: *[blank]*

Prizes offered: *[blank]*

Signed *[blank]*

Signed *[blank]*

Signed *[blank]*

(Print name) *[blank]*

(Print name) *[blank]*

(Print name) *[blank]*

[blank]

Date *[blank]*

Previous Lottery organized by the above, under permit No. *[blank]*

took place in *[blank]* and financial statement was filed Date

on: *[blank]*

Date *[blank]*

[Assent Date: 29 January 1944]

[The Act, originally of limited duration, was continued in force indefinitely by 1962:130]

Amended by

1948 25

1949 7

1950 13

1951 44

1951 87

1952 11

1968 149

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1971 24
1980 55
2002 6
2021 23]