FALKLAND ISLANDS

Lotteries Ordinance 1948

(ORDINANCE No. 8 OF 1948)

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FALKLAND ISLANDS

Lotteries Ordinance 1948

AN ORDINANCE To provide for control of lotteries.

[DATE OF COMMENCEMENT: 21ST OCTOBER 1948]
(Unless otherwise indicated)

1 Short title

This Ordinance may be cited as the Lotteries Ordinance 1948.

[Revision w.e.f. 31/07/2017]

2 Interpretation

In this Ordinance, unless the context otherwise requires-

"lottery" means a distribution of prizes by lot or chance and shall include betting by totalizator and a scratch card promotion;

[S. 2/Ord. 22/95/w.e.f. 21/12/95.]

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

"scratch card promotion" means the distribution of prizes by means of cards or tickets which have concealed upon them details of the prizes to which the purchaser or holder of a card or ticket is entitled and which may be revealed immediately following purchase, by scratching, rubbing or tearing or otherwise, from the card or ticket;

[S. 2/Ord. 22/95/w.e.f. 21/12/95.]

"promoter" means any person or number of persons associated together for the purpose of operating a lottery;

"ticket" means any document evidencing the claim of a person to participate in the chances of a lottery;

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

3 Lotteries to conform with requirements of Ordinance

(1) Subject to subsection (2), it is unlawful for any person to organize, promote, or conduct in the Falkland Islands any lottery other than in manner provided for by or under this Ordinance.

(2) Nothing in subsection (1) applies to any lottery which is so far as it is organized, promoted, or conducted on land or in premises owned by, leased to or occupied by Her Majesty's Secretary of State for Defence and which is so organized, promoted, or conducted in accordance with any permission given by the authority of the Financial Secretary by or under the authority of the Commander British Forces.

[S. 2/Ord. 13/92/w.e.f. 9/12/92.]

4 Application for licence to operate lottery

(1) Subject to subsections (2) and (3), any person who proposes to operate a lottery shall before taking any steps in respect thereof apply in writing to the Financial Secretary for a licence so to do and shall in such application state-

(a) the full names and addresses of all promoters;

(b) the number and cash value of all prizes it is proposed to award;

(c) the number of tickets to be issued;

(d) the name of the printer who will print the tickets;

(e) the purchase price of each ticket;

(f) the date, time and place of the intended draw for the prize or prizes.

[S. 2/Ord. 13/92/w.e.f. 9/12/92 and s. 2/Ord. 22/95/w.e.f. 21/12/95.]

(2) Subsection (1) does not apply to a totalizator, but any person who intends to operate a totalizator shall-

(a) apply in writing to the Financial Secretary for a licence so to do; and

[S. 2/Ord. 13/92/w.e.f. 9/12/92.]

(b) state in that application-

(i) the full names and addresses of all promoters; and

(ii) the place and days on which it is intended to operate the totalizator and the event at which it is intended to operate it.

[S. 2/Ord. 13/92/w.e.f. 9/12/92.]

(3) Subsection (1) does not apply to the scratch card promotion, but any person who intends to conduct a scratch card promotion shall-

(a) apply in writing to the Financial Secretary for a licence to do so;

(b) state in that application-

(i) the full names and addresses of all promoters;

(ii) the number and cash value of all prizes it is proposed to award;

(iii) the number of cards or tickets to be issued;

(iv) the name of the printer who will print the cards or tickets;

(v) the purchase price of each card or ticket;

(vi) the places at which it is intended to sell the cards or tickets and the full names and addresses of the individuals or persons who will be selling the cards or tickets.

[S. 2/Ord. 22/95/w.e.f. 21/12/95.]

5 Issue and revocation of licence

The Financial Secretary may issue a licence for the purpose of this Ordinance subject to such conditions as may be imposed and at any time may revoke any licence for any reason he may consider just and sufficient.

[S. 2/Ord. 13/92/w.e.f. 9/12/92.]

6 Payment of 10% of net amount of moneys collected

(1) It shall be a condition of the grant of a licence that the promoters shall on the day preceding the draw produce to the Financial Secretary a true balance sheet showing all moneys received and paid for printing and stationery (no other deductions shall be permissible) in connection with the lottery and such evidence as he may require in verification thereof and shall thereupon pay the Financial Secretary 10 per cent of the net amount of the moneys available for distribution.

[S. 2/Ord. 13/92/w.e.f. 9/12/92.]

(2) No draw for the lottery shall take place until the requirements of subsection (1) of this section have been complied with.

(3) The amount so paid to the Financial Secretary shall be paid into the Consolidated Fund.

[S. 2/Ord. 13/92/w.e.f. 9/12/92.]

(4) The provisions of this section shall not apply to a lottery operated in aid of any charitable purpose approved by the Governor.

(5) The Governor may reduce the percentage provided for in subsection (1) of this section in such cases as he may think fit.

(6) In relation to totalizators the foregoing provisions of this section shall be modified:

(a) in subsection (1) by replacing the words "on the day preceding the draw" with the words "within seven days of the last day of the event at which the totalizator is operated"; and

(b) by omitting subsection (2).

[S. 2/Ord. 13/92/w.e.f. 9/12/92.]

(7) In relation to scratch card promotions the foregoing provisions of the section shall be modified-

(a) in subsection (1) by replacing the words "on the day of preceding the draw" with the words "within seven days of the close of the scratch card promotion"; and

(b) by omitting subsection (2).

[S. 2/Ord. 22/95/w.e.f. 21/12/95.]

7 Publication of results of lotteries

(1) Subject to subsection (2), the result of the draw of every lottery shall be published on the day following the draw by broadcast and by exhibiting a list of all prize-winners on the public notice board in Stanley.

[S. 2/Ord. 13/92/w.e.f. 9/12/92.]

(2) Subsection (1) does not apply to a totalizator or a scratch card promotion.

[S. 2/Ord. 13/92/w.e.f. 9/12/92 and s. 2/Ord. 22/95/w.e.f. 21/12/95.]

8 Offences

Any person who-

(a) operates or attempts to operate a lottery without obtaining a licence as herein provided; or

(b) fails to comply with or observe any condition of a licence granted to operate a lottery; or

(c) fails to comply with the requirements of section 6 and, so far as it is applicable, section 7; or

[S. 2/Ord. 13/92/w.e.f. 9/12/92.]

(d) sells any ticket-

(i) where any prize consists of tobacco or any tobacco product, to any person apparently under the age of sixteen years; and

(ii) where any prize consists of any alcoholic beverage, to any person apparently under the age of eighteen years; or

[S. 2/Ord. 13/92/w.e.f. 9/12/92.]

(e) knowingly buys or accepts the transfer of a ticket in a lottery which has not been licensed under this Ordinance,

[S. 2/Ord. 13/92/w.e.f. 9/12/92.]

commits an offence and is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 4 on the standard scale or to both such imprisonment and fine:

[Revision w.e.f. 31/07/2017]

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

9 Exemption of small lotteries incidental to certain entertainments

(1) Where a lottery is promoted as an incident to an entertainment to which this section applies, that lottery shall not be unlawful but the conditions set out in subsection (2) of this section shall be observed in connection with its promotion and conduct and, if any of those conditions is contravened, every person concerned in the promotion or conduct of the lottery commits an offence unless he proves that the contravention occurred without his consent or connivance and that he exercised all due diligence to prevent it.

(2) The conditions referred to in the foregoing subsection are that-

(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 expense incurred by them in purchasing prizes in the lottery,

shall be devoted to purposes other than private gain;

(b) none of the prizes in the lottery shall be money prizes and no prize which consists of tobacco or any tobacco product shall be awarded to or delivered to any person apparently under the age of sixteen years nor shall any prize consisting of any alcoholic beverage be awarded to or delivered to any person apparently under the age of eighteen years, provided that, in each of the foregoing cases, it shall be lawful to award or deliver a prize of equal or approximately equal value instead of that prize; and

[S. 2/Ord. 13/92/w.e.f. 9/12/92.]

(c) 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, dinners, dances, sporting or athletic events and other entertainments of a similar character, whether limited to one day or extending over two or more days.

(4) Any person who commits an offence under this section is liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 4 on the standard scale or to both such imprisonment and fine.

[S. 2/Ord. 13/92/w.e.f. 9/12/92 and Revision w.e.f. 31/07/2017.]

10 Exemption of private lotteries

(1) In this section, the expression "private lottery" means a lottery in the Falkland Islands which is promoted for, and in which the sale of tickets or chances by the promoters is confined to, either-

(a) members of one society established and conducted for purposes not connected with gaming, betting or lotteries; or

(b) persons all of whom work on the same premises; or

(c) persons all of whom reside on the same premises,

and which is promoted by persons each of whom is a person to whom under the foregoing provisions of this subsection tickets or chances may be sold by the promoters and, in the case of a lottery promoted for the members of a society, is a person authorized by the governing body of the society to promote the lottery; and for the purposes of this section, the expression "society" includes a club, institution, organization or other association or persons by whatever name called, and each local or affiliated branch or section of a society shall be regarded as a separate and distinct society.

(2) A private lottery shall not be unlawful, but the following conditions shall be observed in connection with its promotion and conduct, that is to say:

(a) 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, in the case of a lottery promoted for the members of a society, shall be devoted either-

(i) to the provision of prizes as aforesaid; or

(ii) to purposes which are the purposes of the society; or

(iii) as to part to the provision of prizes as aforesaid and as to the remainder to such purposes as aforesaid;

(b) there shall not be exhibited, published or distributed any written notice or advertisement of the lottery other than-

(i) a notice thereof exhibited on the premises of the society for whose members it is promoted or, as the case may be, on the premises on which the persons for whom it is promoted work or reside; and

(ii) such announcement or advertisement thereof as is contained in the tickets if any;

(c) no tickets in the lottery shall be sent through the post.

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

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 contravention occurred without his consent or connivance and that he exercised all due diligence to prevent it.

[S. 2/Ord. 7/68/w.e.f. 7/11/68.]

11 "Housie-housie", "tombola" or "bingo"

(1) Notwithstanding anything contained in this Ordinance, the Financial Secretary may issue to any person or class of persons a licence to conduct the playing of the game commonly known as "housie-housie", "tombola" or "bingo".

[S. 2/Ord. 13/92/w.e.f. 9/12/92.]

(2) Where a licence has been issued under the provisions of subsection (1) of this section the playing of such game in accordance with the terms of such licence shall not be deemed to be an unlawful lottery.

(3) The Financial Secretary may, under this section, refuse to issue a licence at his discretion.

[S. 2/Ord. 13/92/w.e.f. 9/12/92.]

(4) It shall be a condition of the grant of the licence that the promoters shall on the day succeeding the playing of the game produce to the Financial Secretary a true balance sheet showing that all moneys received have been paid for necessary expenses and prize money in connection with the game and such evidence as he may require in verification thereof and shall thereupon pay the Financial Secretary 10 per cent of the gross takings:

[S. 2/Ord. 13/92/w.e.f. 9/12/92.]

(i) the amount so paid shall be paid into the Consolidated Fund;

(ii) the provisions of this section shall not apply to games operated in aid of any charitable purpose approved by the Governor:

Provided that in all games the prize moneys shall not be less than 80 per cent of the gross takings.

(5) Any person to whom a licence is refused by the Financial Secretary under this section may appeal to the Governor in Council within thirty days of such refusal. The Governor in Council may confirm such refusal or order the Financial Secretary to issue a licence to the applicant.

[S. 2/Ord. 13/92/w.e.f. 9/12/92.]

(6) Nothing in the foregoing subsections applies in respect of a game of "housie-housie", "tombola" or "bingo" conducted upon land or premises owned by, leased to or occupied by Her Majesty's Secretary of State for Defence, but any such game shall be lawful if conducted in accordance with permission by the authority of the Financial Secretary granted by or under the authority of the Commander British Forces.

[S. 2/Ord. 7/68/w.e.f. 7/11/68 and s. 2/Ord. 13/92/w.e.f. 9/12/92.]

12 Power to issue search warrant

Any justice of the peace, if satisfied by information on oath that there is reasonable ground to suspect that any premises are being used for the purpose of the commission of an offence against this Ordinance, 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 constituting an infringement of this Ordinance.

13 Common law not to apply

The common law so far as it is applicable to the Falkland Islands by virtue of section 26 of the Law Revision and Publication Ordinance 2017, does not apply to any lottery licensed under this Ordinance.

[S.R. & O. 20/2017/w.e.f. 31/07/2017]

14 Regulations

The Governor in Council may make regulations for carrying out the purposes of this Ordinance.