



TURKS AND CAICOS ISLANDS

CHAPTER 15.03

TURKS AND CAICOS ISLANDS NATIONAL LOTTERY ORDINANCE

Revised Edition

showing the law as at 31 December 2014

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Ordinance 1997.

This edition contains a consolidation of the following laws—

TURKS AND CAICOS ISLANDS

NATIONAL LOTTERY ORDINANCE

Ordinance 27 of 2004 .. in force 7 March 2005 (L.N. 4/2005)

No Subsidiary Legislation has been made under this Ordinance

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TURKS AND CAICOS ISLANDS
NATIONAL LOTTERY ORDINANCE
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CHAPTER 15.03
TURKS AND CAICOS ISLANDS
NATIONAL LOTTERY ORDINANCE
(Ordinance 27 of 2004)

AN ORDINANCE TO PROVIDE FOR THE CONTINUED ESTABLISHMENT OF A BODY CORPORATE WITH POWERS TO ORGANISE, CONDUCT AND MANAGE A NATIONAL LOTTERY AND FOR PURPOSES CONNECTED THEREWITH OR INCIDENTAL THERETO.

Commencement

[7 March 2005]

PART I

PRELIMINARY

Short title

1. This Ordinance may be cited as the Turks and Caicos Islands National Lottery Ordinance.

Interpretation

2. In this Ordinance, unless the context otherwise requires—

“Board” means the Turks and Caicos Island National Lottery Board, established under section 3;

“Chairman” means the Chairman of the Board and includes any person for the time being acting as the Chairman;

“lottery” means any game of chance where prizes are distributed by lot or chance among participants in the game;

“member” means a member of the Board;

“Minister” means the person charged with responsibility for the administration of this Ordinance;

“National Lottery” means generally all such games as are prescribed to form part of the National Lottery by virtue of regulations under this Ordinance, and the terms and conditions of which and other matters relating thereto are also prescribed by regulations or in the National Lottery licence;

“National Lottery licence” means a licence to operate the National Lottery granted under section 13 to a company, and “National Lottery licensee” shall be construed accordingly; and

“secretary” means the secretary to the Board.

PART II

ESTABLISHMENT OF THE NATIONAL LOTTERY BOARD

Establishment of National Lottery Board

3. (1) There shall continue to be established a body to be known as the Turks and Caicos Islands National Lottery Board, which shall be a body corporate with perpetual succession and a common seal, and power in that name to sue and be sued, and to hold real or personal property and any interest therein within the Islands or elsewhere.

(2) The Board shall consist of not less than three and not more than seven members appointed by the Governor by notice in the *Gazette*, one of whom shall be so appointed as Chairman, who shall hold office for such term as may be specified in respect of each member by the notice of his appointment:

Provided that any member may at any time resign his office by notice in writing to the Governor and the appointment of any member may at any time be terminated by the Governor by notice in writing to that member, if the Governor is satisfied that it is desirable so to do, and notice of any such resignation or termination of appointment shall be published in the *Gazette*.

(3) If the Chairman is absent from the Islands or unable for any reason to perform his duties, the Governor may, by notice in the *Gazette*, appoint one of the other members to act as Chairman during such absence or incapacity.

(4) A quorum of the Board shall be three members and, if the Chairman is absent from any meeting of the Board, the members present shall appoint one of their number to act as Chairman for that meeting.

(5) The Governor may by notice in the *Gazette* appoint a person to be the secretary to the Board, to perform such duties as the Board may direct. The service on the Board of any legal process shall be effected by service on the secretary.

(6) The Chairman and other members and the secretary shall receive such remuneration as may be prescribed by order, in the case of each individual, by the Governor; and such payments shall be made out of the funds of the Board.

Proceedings of the Board

4. Subject to the provisions of this Ordinance, the Board may regulate its proceedings in such manner as it thinks fit, but on any matter on which the votes of the members of the Board are equally divided the Chairman or other person acting as the Chairman in his absence, shall have a second or casting vote.

Officers and office of the Board

5. The Board may appoint such officers and employ such persons and take such other steps as it considers necessary or expedient for properly exercising its powers and carrying out its duties under this Ordinance.

Powers and duties of the Board

6. (1) Subject to the provisions of subsection (2), the Board shall be responsible for—

- (a) developing, undertaking, organising, conducting and managing lottery schemes on behalf of the Government and shall have all the powers reasonably required for the purpose, including power to appoint agents, within or without the Islands, for promoting participation in the various games conducted by the Board;
- (b) issuing of National Lottery licence and supervising the operation of the licensee to ensure that the licensee complies with the terms and conditions of its licence and with the provisions of this Ordinance and of Regulations made under this Ordinance and with any applicable directives issued by the Board in terms of this Ordinance or Regulations made thereunder;
- (c) ensuring that the licensee publishes the rules of the National Lottery;
- (d) ensuring that the National Lottery is operated and advertised fairly and in a responsible manner and in accordance with the law;
- (e) supervising, attending and validating the draws of the National Lottery as it deems necessary;
- (f) receiving and investigating complaints by consumers relating to the National Lottery; and
- (g) to advising the Minister on new developments, needs and risks in lottery and making such proposals as may be deemed necessary.

(2) The Minister may, from time to time, give directions to the Board as to the exercise of any of its powers and performance of its duties under this Ordinance and the Board shall comply with any such directions.

Financial provisions

7. (1) The funds and resources of the Board shall consist of—

- (a) the net profits made by the Board from promoting and conducting lotteries, after the payment of all expenses incidental thereto; and
- (b) all other sums or property which may in any manner become payable to or vested in the Board in respect of any matter incidental to its powers and duties.

(2) Subject to subsection (3) the Board may borrow sums required by it for meeting any of its obligations or discharging any of its functions.

(3) The power of the Board to borrow shall be exercisable only with the approval of the Governor which approval may be either general or limited to a particular borrowing or as to the sources of the borrowing and may be either unconditional or subject to conditions.

Audit

8. The accounts of the Board and all other records of any financial transactions shall be audited annually by the auditor appointed for the purposes of this Ordinance by the Governor, and after audit shall be transmitted by the Board to the Minister.

Annual report

9. (1) The Board shall make an annual report to the Minister upon the affairs of the Board, and such report, together with a copy of the accounts, audited under section 8, shall be submitted by the Minister to the Governor and shall then be laid before the House of Assembly at the next ensuing session thereof.

(2) The Board shall make such further reports and supply such further information as the Minister may from time to time require.

PART III**THE NATIONAL LOTTERY****Operation or concession for the operation of the National Lottery**

10. (1) The Board may operate the National Lottery or the Government may decide to concede the operation of the National Lottery to another person in accordance with the provisions of this Ordinance:

Provided that the Board may not operate the National Lottery at a time while a National Lottery licence is still in force.

(2) Where the National Lottery is operated by the Board, the Board shall exercise all such powers as may be necessary or expedient for the purposes of such operation and the provisions of the Ordinance relating to the National Lottery, other than those relating to licensing and the National Lottery licence, shall apply and have effect with any necessary modification or adaptations as they apply and have effect in relation to the National Lottery licensee.

(3) Where the Government decides to concede the operation of the National Lottery to another person, the Board, and for the first time after the entry into force of this Ordinance the Minister, may by licence authorise a person to operate the National Lottery. Only one person may be licensed to operate the National Lottery at any one time. No person, other than the Board, may operate the National Lottery unless such person is in possession of a valid National Lottery licence.

(4) The functions of the Board relating to the National Lottery licence under this Ordinance shall come into effect immediately after the grant of a National Lottery licence by the Minister for the first time after the entry into force of this Ordinance.

Duration of National Lottery licence

11. (1) The National Lottery licence shall be issued for such term as the Board after consultation with the Minister, (and for the first time after the entry into force of the Ordinance, as the Minister) may specify in the licence, which term shall commence on such day as may be specified in the licence as the date from which the licence shall become effective.

(2) Unless the National Lottery licence is previously cancelled, it may be renewed by the Board for a further period as the Board after consultation with the Minister may determine.

(3) The renewal of the licence by the Board shall be subject to the compliance by the National Lottery licensee, during the original term of such licence, with the provisions of this Ordinance and of Regulations made hereunder applicable to it and with the terms and conditions of such licence.

(4) After the submission of an application for the renewal of the National Lottery licence, the Board may require the applicant to provide such information as may be deemed necessary for the purpose of determining the said application.

Application for the National Lottery licence

12. An application for a National Lottery licence may be made by a body corporate to establish and operate a National Lottery in or from the Islands (notwithstanding that certain shared facilities associated with the National Lottery and certain draws may be situated or conducted outside the Islands provided always that all playing terminals are located within the Islands) and the carrying out of other activities as may be authorised in the licence by the Board and, for the first time after the entry into force of this Ordinance, by the Minister. Such application shall be made in the form and manner required by the Board, and for the first time after the entry into force of this Ordinance by the Minister, and such application shall contain or be accompanied by such information, documents and particulars as the Board, and for the first time after the entry into force of this Ordinance the Minister may require.

Grant of National Lottery licence

13. (1) The Board and for the first time after the entry into force of this Ordinance, the Minister shall not grant a licence unless it or he is satisfied that the body corporate is a fit and proper body to establish and run a lottery.

(2) In determining whether to grant such a licence the Board and for the first time after the entry into force of this Ordinance, the Minister, may consider—

- (a) whether the body has sufficient appropriate knowledge or experience to conduct the lottery and will be able to conduct the lottery strictly in accordance with this Ordinance, the licence and any agreement pertaining to the licence;
- (b) whether the body has the necessary financial and other resources to conduct the lottery;

- (c) whether any person who appears to be likely to manage the business or any part of the business of running the lottery under the licence is a fit and proper person to do so; and
- (d) whether any person who appears to be likely to be a person for whose benefit that business would be carried on is a fit and proper person to benefit from it.

(3) A National Lottery licence shall include a condition requiring the licensee to pay to the Minister at such times as may be determined by or under the licence such sums out of the gross receipts of the licensee as may be so determined.

(4) A National Lottery licence may include a condition requiring the licensee to obtain the Board's or, as the case may be the Minister's approval of the Rules of any lottery before the lottery is established and run under the licence.

(5) A National Lottery licence may include a condition requiring the licensee to take out, not later than seven days from the date of issue of the licence, a bank guarantee issued by a bank acceptable to the Board and for the first time after the entry into force of the Ordinance, to the Minister, in favour of the Minister on behalf of the Government, in such amount as may be specified in the licence for securing payment and distribution of prizes by the licensee to winners of games forming part of the National Lottery.

(6) The bank guarantee shall remain valid until the expiry of one year after the expiry of the licence, and shall be subject to such other terms and conditions as may be prescribed by Regulations.

(7) A National Lottery licence shall also include a condition requiring the licensee to submit to the Board and publish, in such manner and at such times as may be specified in the licence, the audited accounts of the licensee and such other accounts, reports, returns and statements as may be specified in the licence.

Conditions of licence: Further provisions

14. (1) A licence granted under section 13 shall be in writing and shall specify the period for which, subject to its being revoked, it is to have effect.

(2) Such a licence may include such conditions in addition to those required or authorised by section 13, as the Board and for the first time after the entry into force of this Ordinance the Minister considers appropriate and in particular may include conditions requiring the licensee—

- (a) to obtain the consent of the Board before doing anything specified in the licence;
- (b) to refer matters to the Board for approval;
- (c) to ensure that such requirements as the Board may determine or approve are complied with;
- (d) to provide the Board at times specified by it with such information as it may require including, if the information is so specified in the licence, information for publication by it;

- (e) to allow the Board to inspect and take copies of any documents of the licensee, including any information kept by the licensee otherwise than in writing, relating to the lottery, and
- (f) where such information is kept by means of a computer, to give the Board such assistance as it may require to enable it—
 - (i) to inspect and take copies of the information in a visible and legible form; and
 - (ii) to inspect and check the operation of any computer and any associated apparatus or material which is or has been in use in connection with the keeping of the information.

(3) Conditions in a licence granted under section 13 may impose requirements to be complied with by the licensee after the licence has ceased to have effect.

(4) On the granting of a licence under section 13 the licensee shall pay to the Board and for the first time after the entry into force of this Ordinance the Minister a fee of such amount as may be prescribed.

(5) All fees received by the Board or the Minister as the case may be under subsection (4) shall be paid into the Consolidated Fund.

Variation of conditions in licence

15. (1) The Board may, with the licensee's consent, vary any condition in a licence granted under section 13.

(2) Subject to subsection (3), the Board may vary any conditions in such a licence without the licensee's consent if the licensee has been given a reasonable opportunity of making representations to the Board about the variation.

(3) Subsection (2) does not apply—

- (a) where the variation would result in a condition requiring the licensee to transfer any property or rights; or
- (b) in relation to a condition which the licence provides may only be varied with the consent of the licensee.

(4) Where the Board varies a condition in a licence under subsection (2)—

- (a) it shall serve a notice on the licensee informing it of the variation; and
- (b) the variation shall take effect at the end of such period as may be specified in the notice.

(5) The period specified in the notice shall be a period of at least twenty-one days beginning on the date of service of the notice.

(6) The Board's power to vary a condition in a licence under subsection (1) or (2) includes power to add a condition to the licence or omit a condition

from it and references in this section to the variation of a condition are to be construed accordingly.

Enforcement of conditions in licence

16. (1) If on an application made by the Board, the court is satisfied—

- (a) that there is a reasonable likelihood that the licensee will contravene a condition in a licence granted under section 13;
- (b) that the licensee has contravened such a condition and there is a likelihood that the contravention will continue or be repeated; or
- (c) that the licensee has contravened such a condition and there are steps which could be taken for remedying the contravention,

the court may grant an injunction restraining the contravention or make an order requiring the licensee and any other person who appears to the court to have been party to the contravention, to take such steps as the court may direct to remedy it.

(2) Any sum payable to the Minister under section 13(3) shall be recoverable by him as a debt due to him on behalf of the Government from the licensee and the licensee's ability to pay it shall not be affected by the licence ceasing for any reason to have effect.

Grounds for revocation of licence

17. The licence granted under section 13 may be revoked by the Board on the following grounds—

- (a) if the licensee is no longer a fit and proper person to conduct the lottery, whether because of the commission of an act of insolvency, liquidation or for any other valid reason;
- (b) if a condition contained in the licence has been contravened;
- (c) if any information given by the licensee—
 - (i) in or in connection with the application for licence; or
 - (ii) in pursuance of a condition in the licence,is materially false;
- (d) if any person who is managing the business or any part of the business of the licensee or who is a supplier of goods or services to the licensee is not a fit and proper person to do so, whether because of the commission of an act of insolvency, liquidation, incarceration in a prison or other institution or for any relevant reason, unless the licensee on becoming aware of the circumstances immediately takes steps to effectively dissociate itself from that person;
- (e) if the licensee has failed to take adequate steps to prevent the commission of fraud by its employees, agents, representatives, suppliers or by participants in the lottery after having been alerted

to or becoming aware of conditions conducive to the commission of fraud, or to instances of fraud or dishonesty;

- (f) the licensee fails to fulfil the licensee's financial commitments when they become due and payable;
- (g) the licensee fails to take out and maintain the required bank guarantee as provided and in accordance with section 13; or
- (h) the licensee is being wound up.

Notice of proposed revocation

18. (1) If the Board is satisfied that grounds exist for the revocation of the licence granted in terms of section 13, it, shall in writing notify the licensee of the existence of such grounds and call upon the licensee to furnish reasons, within sixty days of service of that notice at the registered address of the licensee, as to why the licence should not be revoked, failing which the licence will cease to be valid upon the expiration of the said period of sixty days.

(2) If the licence for the lottery ceases to be valid in terms of subsection (1), the Board, shall forthwith inform the licensee in writing of that fact and of the date upon which the licence ceased to be valid.

Revocation of licence

19. (1) If reasons are furnished by the licensee as contemplated in section 18(1), the Board, shall after considering such reasons call upon the licensee to appear before it on a specified date to make oral representations in support of any written representations made by the licensee or to answer any questions which the Board, may have with regard to such written representations, whereafter, the Board shall consider the matter and decide whether or not to revoke the licence.

(2) If the Board decides to revoke the licence, it shall by written notice served at the registered office of the licensee notify the licensee of that fact, of the grounds for that revocation and of the date on which that revocation shall take effect.

(3) An appeal lies to the Supreme Court from a decision of the Board under this section.

Lottery Fund

20. (1) There shall be created a fund to be known as the "Lottery Fund".

(2) The Minister shall pay into the Lottery Fund all the sums which are paid to him by virtue of section 13(3).

Disbursement

21. The Minister may pay money from the Lottery Fund for the purposes related to support of initiatives related to art, culture, education, youth and sport.

PART IV

GENERAL

Regulations

22. (1) The Governor may by Regulations make such provision in relation to the establishment or running of the National Lottery as he considers necessary or expedient.

(2) Such Regulations may in particular impose requirements or restrictions as to—

- (a) the places, circumstances or manner in which tickets or chances may be sold or persons may be invited to buy them;
- (b) the information which must appear in an advertisement for the lottery;
- (c) the minimum age of persons to whom tickets or chances may be sold;
- (d) the persons or categories of persons who shall be disqualified from participation;
- (e) the rules of the lottery; and
- (f) in general any other matter which may be necessary or expedient to prescribe in order to promote the lottery.

(3) The Governor may further make Regulations—

- (a) limiting and regulating the sale of tickets in lotteries promoted by the Board by persons other than the Board, and prescribing any fees, commission or discount allowed on such sales to agents of the Board;
- (b) governing the manner of selecting prize winners under any lottery or class of lottery conducted by the Board;
- (c) prescribing the conditions and qualifications for entitlement to prizes in any lottery or class of lottery conducted by the Board.

Contravention of regulations an offence

23. (1) If any requirement or restriction imposed by regulations made under section 22(2) is contravened in relation to the establishment or running of the National Lottery—

- (a) the licensee commits an offence, except if the contravention occurred without the consent or the connivance of the licensee and the licensee exercised all due diligence to prevent such a contravention;
- (b) any director, manager, secretary or other similar officer of the licensee, or any person purporting to act in such a capacity, commits an offence if he consented to or connived at the

contravention or if the contravention was attributable to any neglect on his part; and

(c) any other person who was party to the contravention commits an offence.

(2) A person who commits an offence under this section is liable to a fine of \$5,000 or to a term of imprisonment of six months, or to both such fine and term of imprisonment.

Restriction on application of certain other laws

24. No provision of the Casinos Ordinance, or the Gaming Machines Ordinance, or any other law for the time being in force relating to gaming or lotteries shall be deemed to apply to or to render illegal the promoting or conducting of any lottery under the provisions of this Ordinance, or the purchase by any person of tickets in any such lottery.

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