

**ACT 31**  
**LOTTERIES AND BETTING ACT, 1960**

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## ACT 31

**LOTTERIES AND BETTING ACT, 1960<sup>1</sup>**

**AN ACT to consolidate the law relating to lotteries, gaming and wagering.**

## PART ONE

*Lotteries***1. Unlawful lotteries**

(1) Subject to this Part lotteries are unlawful.

(2) Subsection (1) does not apply to a lottery promoted by the Government of Malta as a Malta Interstate Lottery.

(3) A person commits a misdemeanour if that person, in connection with an unlawful lottery promoted or proposed to be promoted in the Republic or elsewhere,

- (a) prints a ticket for use in the lottery, or
- (b) sells or distributes or offers or advertises for sale or distribution or has in the possession of that person for the purpose of sale or distribution, a ticket in the lottery, or

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1. The Act was assented to on 12th January, 1961.

- (c) prints, publishes or distributes, or has in the possession of that person for the purpose of publication or distribution
    - (i) an advertisement of the lottery, or
    - (ii) a list whether complete or not of prize winners or winning tickets in the lottery, or
    - (iii) a matter descriptive of the drawing or intended drawing of the lottery, or otherwise relating to the lottery, that is calculated to act as an inducement to persons to participate in that lottery or in any other unlawful lotteries,
  - (d) brings, or invites a person to send into the Republic for the purpose of sale or distribution a ticket in, or advertisement of, the lottery, or
  - (e) sends or attempts to send out of the Republic money or a valuable thing received in respect of the sale or distribution, or a document recording the sale or distribution, or the identity of the holder of a ticket in the lottery, or
  - (f) 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
  - (g) causes, procures or attempts to procure a person to do any of the above-mentioned acts.
- (4) In proceedings instituted under subsection (3) it is a defence to prove
- (a) that the lottery to which the proceedings relate was in its inception declared by the Act as a lawful lottery, and
  - (b) that at the date of the alleged offence the defendant believed, and had reasonable ground for believing, that none of the conditions required to be observed in connection with the promotion and conduct of the lottery had been broken.
- (5) Proceedings under subsection (3) (c) (iii) in respect of a matter published in a newspaper shall not be instituted except by, or by direction of, the Attorney-General.

### *National Lotteries*

## **2. Exemption for national lotteries**

With a view to the raising of revenue the Minister responsible for Finance may conduct national lotteries.

## **3. Financial provisions**

- (1) A lottery account is hereby established.
- (2) The proceeds of the sale of tickets in a national lottery, less the amounts duly retained by sellers of the tickets, shall be paid into the lottery account.
- (3) The money for the prizes in the lotteries and payments duly made to those who are engaged to assist in the distribution of tickets to the sellers shall be paid out of the lottery account.
- (4) After the conclusion of a lottery the balance in the lottery account shall be paid into the Consolidated Fund.

**4. Deficits to be made up out of the Consolidated Fund**

Where the amount standing to the credit of the lottery account at any time is less than the amount required to meet the money for prizes or any other payments to be made out of the account under section 3, the balance shall be paid by the Minister out of the Consolidated Fund and paid into the lottery account.

**5. Auditing of accounts**

(1) The Minister shall for each national lottery keep an account of the receipts and outgoings in the form approved by the Auditor-General.

(2) Within three months from the end of the year in which a national lottery has been held, the Auditor-General shall present to Parliament

- (a) a copy of the account for the lottery, audited by the Auditor-General, and
- (b) a report concerning the lottery,

and shall state in the report whether practicable steps have been taken for the prevention and detection of fraud in connection with the lottery.

**6. Publication of particulars of lotteries**

(1) Before the draw is made in a national lottery the Minister shall publish in the *Gazette* a notice in the form set out in Part One of the First Schedule with a certificate by the Auditor-General in that form.

(2) Not later than eight weeks<sup>2</sup> after the draw is made, the Minister shall publish in the *Gazette* a notice in the form set out in Part Two of the First Schedule with a certificate by the Auditor-General in that form.

**7. Appointment of date for lottery draw**

The Minister shall appoint the date on which the draw of tickets in a national lottery is to be held by notice in the *Gazette* published not less than one week before the date appointed.

**8. Regulations**

The Minister may, by legislative instrument, make Regulations with respect to national lotteries and in particular with respects to

- (a) the number and value of the prizes to be distributed;
- (b) the appointment of a lotteries board with its functions prescribed by the Regulations;
- (c) the appointment of a commission to verify the numbers of tickets the holders of which should participate in a lottery, to be present at the draw of tickets, and to carry out any other duties in connection with the draw as prescribed by the Regulations;
- (d) the appointment, duties and remuneration of agents and sellers for the sale of tickets;

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2. Amended by the Lotteries and Betting (Amendment) Act, 1962 (Act 143).

- (e) the form of the tickets or any other documents to be used in the conduct of a lottery;
- (f) the number of tickets to be issued;
- (g) the method of collection and disposal of subscriptions;
- (h) the issue of tickets in respect of subscriptions;
- (i) the method of claiming prizes;
- (j) the determination of a dispute with regards to the person entitled to a prize or money and providing that in the event of a dispute with regards to a prize remaining unsettled for a prescribed period, the prize may be forfeited;
- (k) the disposal of unclaimed prizes.

#### *Other Lawful Lotteries*

### **9. Exemption for lotteries incidental to certain entertainments**

(1) A lottery promoted as an incident of a bazaar, sale of work, fete or any other entertainment of a similar character whether limited to one day or extending over two or more days is not an unlawful lottery.

(2) The observed conditions specified in subsection (4) shall be in connection with the promotion and conduct of the lottery.

(3) Where a condition specified in subsection (4) is broken, the lottery becomes an unlawful lottery and every person concerned in the promotion or the conduct of the lottery commits a misdemeanour unless that person proves that there were no grounds for knowing that the lottery had become unlawful.

(4) The conditions referred to in subsection (2) are

- (a) that none of the prizes in the lottery shall be money prizes;
- (b) that the total value of the prizes shall not exceed an amount of money which the Minister may, by executive instrument, determine;
- (c) the whole proceeds of the entertainment, including the proceeds of the lottery after deducting
  - (i) the expenses of the entertainment, excluding expenses, other than for prizes, incurred in connection with the lottery, and
  - (ii) the expenses incurred in printing tickets in the lottery,shall be devoted to a social, charitable or sporting purpose and not in part or whole for private gain;
- (d) the facilities offered for participating in lotteries shall not be the only, or the only substantial, inducement to persons to attend the entertainment; and
- (e) the result of the lottery shall not be declared except on the premises on which the entertainment takes place and during the progress of the entertainment.

**10. Exemption for private lotteries**

(1) In this section

“**private lottery**” means a lottery in the Republic which is promoted for, and in which the sale of tickets by the promoters is confined to,

- (a) members of one society established and conducted for purposes not connected with gaming, wagering 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 individuals each of whom is a person to whom under this Act, tickets may be sold by the promoters and, in the case of a lottery promoted for the members of a society, is an individual authorised in writing by the governing body of the society to promote the lottery;

“**society**” includes a club, an institution, organisation or any other association of individuals 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 is not an unlawful lottery, if in connection with the promotion and conduct of the lottery,

- (a) the whole proceeds, after deducting only expenses incurred for printing and stationery, are devoted to the provision of prizes for purchasers of tickets or, in the case of a lottery promoted for the members of a society, are devoted to the provision of prizes only to purposes which are purposes of the society or, as to part, to the provision of prizes and, as to the remainder, to those purposes;
- (b) a written notice or an advertisement of the lottery is not exhibited, published or distributed other than
  - (i) a notice exhibited on the premises of the society for whose members it is promoted, or on the premises on which the persons for whom it is promoted work or reside; and
  - (ii) the announcement or advertisement of the lottery as is contained in the tickets;
- (c) the price of a ticket is the same, and the price of a ticket is stated on the ticket;
- (d) a ticket bears on the face of it the names and addresses of each of the promoters and a statement of the persons to whom the sale of tickets by the promoters is restricted, and a statement that a prize won in the lottery shall not be paid or delivered by the promoters to a person other than the person to whom the winning ticket or chance was sold by them, and a prize shall not be paid or delivered except in accordance with that statement;
- (e) a ticket is not issued or allotted by the promoters except by way of sale and on receipt of the full price of the ticket which is stated on the ticket and money or a valuable thing so received by a promoter shall not in any circumstances be returned.

(3) For the purposes of paragraph (e) of subsection (2), money or a valuable thing received by promoters in respect of the sale of a ticket may be returned to the purchaser where it was not received by the promoters on or before the advertised closing date or, where a closing date is not advertised, before the selection of the winning ticket and where the ticket in respect of which the money or valuable consideration was received was not included among the tickets from which the winning ticket was selected.

(4) If any of the conditions specified in subsection (2) is broken, the lottery becomes an unlawful lottery and 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 a misdemeanour.

(5) It is a defence for a person charged only by reason of being a promoter of the lottery to prove that there were no grounds for knowing that the lottery had become unlawful.

### 11. Exemption for lotteries for charitable purposes

(1) A lottery promoted by a society or association which in the opinion of the President, published by notice in the *Gazette*, has for its main object the care or protection of physically or mentally afflicted, needy or aged persons or orphans or destitute children is not an unlawful lottery, if the conditions specified in subsection (3) are observed in the promotion and conduct of the lottery.

(2) If a condition specified in subsection (3) is broken the lottery becomes an unlawful lottery and every person concerned in the promotion or conduct of the lottery commits a misdemeanour unless that person proves that there were no grounds for knowing that the lottery had become an unlawful lottery.

(3) The conditions referred to in subsection (1) are,

- (a) that the tickets printed for use in the lottery shall bear consecutive numbers starting with the number one, and the total number of the tickets shall not exceed the number which if all the tickets were sold would result in the receipt of more than the twenty-five thousand pounds;
- (b) that the total prizes in the lottery or the value of the total shall not exceed six thousand pounds;
- (c) that the whole proceeds of the lottery after deducting the expenses of the lottery, which shall not exceed ten percent of the whole of the moneys received from the sale of tickets, shall in so far as they are not devoted to the provision of prizes in respect of tickets, be devoted to making provision for the care or protection of physically or mentally afflicted needy or aged persons or orphans or destitute children; but the expenses of the lottery which may be deducted under this paragraph shall, in the case of a lottery in which free tickets are issued, be reduced from ten percent by one-quarter of the percentage which the face value of the free tickets issued bears to the face value of the total of tickets issued or sold;
- (d) that the price of every ticket shall be the same, and the price of a ticket shall be stated on the ticket;

- (e) that a ticket shall not be issued or allotted by the promoters except by way of sale and upon receipt of the full price of the ticket which shall be stated on the ticket and money or a valuable thing so received by a promoter shall not in any circumstances be returned; but
- (i) tickets may be issued free to a seller of the tickets who is not a person concerned in the promotion of the lottery, to a number not exceeding one for each nine tickets sold by that seller; and
  - (ii) further that money or a valuable thing received by promoters in respect of the sale of a ticket may be returned to the purchaser in a case where it was not received by the promoters on or before the advertised closing date or, where a closing date is not advertised, before the selection of the winning ticket, and where the ticket in respect of which the money or valuable consideration was received was not included among the tickets from which the winning ticket was selected;
- (f) that a ticket shall bear on the face of it the name and address of the society promoting it;
- (g) that within one month of the determination of the tickets in respect of which prizes are awarded in the lottery there shall be sent to the Inspector-General of Police a statement containing
- (i) the total sum of money realised on the sale of tickets;
  - (ii) the cost of the prizes or the amount of the prizes, if money prizes;
  - (iii) the expenses of promoting the lottery with reference to the matters on which the expense was incurred; and
  - (iv) the purposes to which the balance of the sum of money realised on the sale of tickets after the deduction of the amounts set out in (ii) and (iii) of this paragraph have been applied or allocated;

and further information and documents relating to the lottery required by the Inspector-General of Police or a police officer authorised by the Inspector-General in writing for the purposes of this section.

(4) A notice published in the *Gazette* under subsection (1) may be cancelled or varied by a notice similarly made and published.

(5) This section shall cease to have effect on the date appointed by the President by notice published in the *Gazette*.

## 12. Exemption in respect of certain sweepstakes

A sweepstake, the prizes in respect of which are allocated on the result of a horse race, is not an unlawful lottery if the Inspector-General of Police, on receipt of an application naming the person responsible for promoting and conducting it, authorises it in writing to be promoted and conducted.

**13. Tickets and other documents**

For the purposes of sections 2, 9, 10 and 11,

- (a) “**ticket**” includes, in relation to a lottery or proposed lottery, a document evidencing the claim of a person to participate in the chances of a lottery;
- (b) documents or other matters shall be deemed to be distributed if they are distributed to persons whether within or outside the Republic.

**14. Forfeiture**

Where a person is convicted of an offence under section 2, 9, 10 or 11, the Court may order the forfeiture of the money collected by or on behalf of that person on the sale of tickets and of an instrument or a thing used in the lottery in connection with which the offence was committed.

**PART TWO***Gaming and Betting***15. Lawful gaming and betting**

Gaming and betting are not unlawful except as otherwise provided in this Act.

**16. Unlawful gaming**

(1) Subject to this section, gaming is unlawful if

- (a) by reason of the nature of the game, the chances of the players, including the banker, are not equal; or
- (b) a portion of the stakes is retained by the promoter or the banker otherwise than as winnings on the result of the play.

(2) Gaming is not unlawful if a stake is a hazard by the players with the promoter or banker other than a charge for the right to take part in the game, and if

- (a) only one charge is made in respect of the day on which the game is played,
- (b) the charge is the same for all the players, and
- (c) the promoter does not derive a personal profit from the promotion of the game.

(3) A person who takes part in, or promotes or provides facilities for unlawful gaming, commits a misdemeanour.

**17. Gaming in a public place**

A person playing or betting by way of wagering or gaming in a public place at or with a table or an instrument of gaming, or a coin, card, token, or any other article used as an instrument or means of that wagering or gaming at a game or pretended game of chance, commits a misdemeanour and is liable to a fine in addition to, but not in lieu of, imprisonment.

**18. Gaming houses**

(1) A person who is the owner or occupier, or having the use of a house, room or place, and who opens, keeps or uses it as a gaming house, and a person who is the owner or occupier of a house, room or place, knowingly and wilfully permits it to be opened, kept or used by any other person as a gaming house and a person having the care or management of or in any manner assists in conducting the business of a house, room or place opened, kept or used as a gaming house, commits a misdemeanour.

(2) A person, other than a person mentioned in subsection (1), who is found in a gaming house, shall be deemed to be there for the purpose of playing a game of chance for money or money's worth, and is liable to a fine not exceeding fifteen penalty units unless the contrary is proved.

**19. Betting houses**

(1) A house, room or place is called a betting house if it is used

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

(2) A person who as the owner or occupier of a house, room or place, knowingly and wilfully permits it to be opened, kept or used as a betting house by any other person, or who has the use or management, or assists in conducting the business, of a betting house, commits a misdemeanour.

(3) This section does not affect betting at a race course on the result of a horse race by means of a totalisator or a *pari mutuel*, and the betting is not unlawful.

**20. Cheating by gaming**

A person who, by a fraud or cheat in promoting or operating or assisting in promoting or operating or in providing facilities for a game or in acting as banker for those who play or in playing at, or in wagering on the event of a game, sport, pastime or an exercise, wins from any other person or causes or procures any other person to win from another, anything of which the offence of defrauding by false pretences can be committed shall be deemed to have committed that offence and punished accordingly.

## PART THREE

*Agreements***21. Void gaming and wagering agreements**

- (1) An agreement by way of gaming or wagering is void.
- (2) For the purposes of subsection (1)
  - (a) an agreement to pay a sum of money or to deliver a valuable thing alleged to have been won on a wager or by gaming is an agreement by way of wagering or gaming;
  - (b) an agreement by which two or more persons deposit a sum of money or a valuable thing with a person to abide an event on which a wager has been made, or the result of a game, is an agreement by way of wagering or gaming.

(3) For the purposes of paragraph (b) of subsection (1), this section shall not disentitle a person to claim the return of a sum of money or valuable thing which that person may have deposited with the person mentioned in the paragraph before that person has paid over the money or delivered the valuable thing in accordance with the instructions of the depositor.

- (4) For the purposes of subsection (1),
  - (a) an agreement to subscribe or contribute for or towards a prize, whether in money or otherwise, to be awarded to the winner of a lawful game is not an agreement by way of gaming or wagering;
  - (b) an agreement by a person to indemnify an agent for the liabilities incurred by the agent in respect of an agreement by way of gaming or wagering is an agreement by way of gaming or wagering.

**22. Gaming or wagering securities**

A security given by a person

- (a) in respect of anything won by a lawful game, wager or lottery shall be deemed to have been given without consideration, and
- (b) in respect of anything won by an unlawful game or lottery shall be deemed to have been given for an unlawful consideration.

**23. Loans for gaming or wagering**

(1) An agreement by which a person lends money to another person and a security given in respect of that loan is not void by reason only that the loan is used, or is required to be used, for gaming or wagering or participating in a lottery or for discharging a debt, whether valid or not, incurred through gaming or wagering or participating in a lottery.

(2) Subsection (1) does not affect an agreement by which a person lends money for an unlawful purpose.

## PART FOUR

*Miscellaneous***24. Interpretation**

In this Act, unless the context otherwise requires,

“**banker**” in relation to a game means the banker or any other person by whom the game is managed, or against whom the players stage, play or bet;

“**gaming**” means playing a game, whether of skill or chance or partly of skill and partly of chance, for stakes hazarded by the players;

“**horse race**” means a horse or pony race held on a racecourse or track for which the Inspector-General of Police has given authority by notice published in the *Gazette* for the holding of horse or pony racing;

“**lottery**” includes

- (a) a scheme or device for the sale or other disposal or distribution, which is not a gratuitous disposal or distribution, of a property where the sale or the other disposal or distribution depends on or is to be determined wholly by lot or chance, and
- (b) a scheme by which a person as the contributor is required to give money or any other valuable property to any other person on the understanding that the contributor will receive in due course, whether directly or indirectly, from other persons taking part in the scheme, money or valuable property exceeding in value that given by the contributor;<sup>3</sup>

“**Minister**” means the Minister responsible for Finance;

“**national lottery**” means a lottery conducted under section 2;

“**pari mutuel**” includes a system or form of betting in which winners divide losers stakes whether or not less a percentage for management and a pool betting system;

“**stake**” includes a payment for the right to take part in a game and any other form of payment required to be made as a condition of taking part in a game, but does not include a payment made solely for facilities provided for the playing of a game;

“**totalisator**” means the contrivance for betting known as the totalisator or any other machine or instrument of betting of a like nature, whether mechanically operated or not.

**25. Statutes ceasing to apply**

The Statutes indicated in the Second Schedule shall, in so far as they apply in the Republic, cease to apply.

**26. Repeals**

An enactment indicated in the first column of the Third Schedule is repealed to the extent indicated in the second column.

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3. Amended by the Lotteries and Betting (Amendment) Act, 1964 (Act 247).

**27. Amendment of Betting Tax Ordinance**

*Spent.*<sup>4</sup>

**28. Savings**

(1) Any Regulations made, and a notice or an authorisation published or granted under an enactment repealed by this Act shall remain in force and shall be deemed to have been made, published or granted under the corresponding provision of this Act.

(2) This Act shall does not render unlawful a form of game authorised by any other enactment.

**29. Commencement**

*Spent.*<sup>5</sup>

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SCHEDULES

FIRST SCHEDULE

[Section 6]

*Particulars of Lotteries*

PART ONE

Statement of the numbers of tickets participating in draw for the ..... National Lottery to be held on .....

TICKET NUMBERS

From	To	From	To
.....	.....	.....	.....
.....	.....	.....	.....
.....	.....	.....	.....

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4. The section provided that,  
 "The definitions of "betting" and "sweepstake" in section 2 of the Betting Tax Ordinance, 1955 (No. 5) are amended by deleting in each case the words "subsection (1) of section 3 of this Ordinance" and substituting
    - (a) in the definition of "betting" the words "subsection (3) of section 19 of the Lotteries and Betting Act, 1960 (Act 31);" and
    - (b) in the definition of "sweepstake" the words "section 12 of the Lotteries and Betting Act, 1960 (Act 31)".
  5. The section provided that the Act shall come into operation on the 1st day of February, 1961.

FIRST SCHEDULE—continued  
CERTIFICATE

I am satisfied that the above are the numbers of the tickets which should properly participate in the ..... National Lottery.

.....  
*Auditor-General*

PART TWO

The ..... National Lottery  
Date of draw of lottery .....  
Number of tickets sold .....  
Total gross receipts from sale of tickets .....  
£G  
Number of prizes paid at 5,000  
Number of prizes paid at 2,000  
Number of prizes paid at 1,000  
Number of prizes paid at 100  
Number of prizes paid at 50  
Number of prizes paid at 25

CERTIFICATE

I have examined the records of the above lottery and hereby certify that the particulars set out above are correct.

.....  
*Auditor-General*

SECOND SCHEDULE

[Section 25]

*Statutes Ceasing to Apply*

<i>Session and Chapter</i>	<i>Subject-matter</i>
33 Hen. 8, c. 9 (1541)	Unlawful Games
10 Will. 3, c. 23 (1698)	Suppression of Lotteries
9 Anne. c. 6 (1710)	Gaming
8 Geo. 1, c. 2 (1721)	Lotteries
2 Geo. 2, c. 28 (1728)	Unlawful Games
6 Geo. 2, c. 35 (1732)	Lotteries
12 Geo. 2, c. 28 (1738)	Gaming
13 Geo. 2, c. 19 (1739)	Gaming

SECOND SCHEDULE—*continued*

<i>Session and Chapter</i>	<i>Subject-matter</i>
18 Geo. 2, c. 34 (1744)	Gaming
42 Geo. 3, c. 119 (1802)	Gaming
46 Geo. 3, c. 148 (1806)	Lotteries
4 Geo. 4, c. 60 (1823)	Lotteries
5 and 6 Will. 4, c. 41 (1835)	Gaming
6 and 7 Will. 4, c. 66 (1836)	Lotteries
7 and 8 Vict. c. 3 (1844)	Actions for Gaming
8 and 9 Vict. c. 74 (1845)	Lotteries
8 and 9 Vict. c. 109 (1845)	Gaming
16 and 17 Vict. c. 119 (1853)	Betting
17 and 18 Vict. c. 38 (1854)	Gaming Houses

## THIRD SCHEDULE

[Section 26]

*Repeals*

<i>Short Title</i>	<i>Extent of Repeal</i>
Betting Tax Ordinance, 1955 (No. 5)	Section 3
Criminal Code (Amendment) Ordinance, 1955 (No. 6)	The whole Ordinance
Lotteries Act, 1958 (No. 15)	The whole Act
Criminal Code (Lotteries) Act, 1959 (No. 5)	The whole Act
Criminal Code (Amendment) (No. 2) Act, 1959 (No. 55)	The whole Act

1

2

3

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