



ANALYSIS

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1967, No.2

An Act to provide controls of certain types of gaming

(7 November 1967)
 BE IT ENACTED by the Legislative Assembly of the Cook Islands in Session assembled, and by the authority of the same, as follows:

1. Short Title - This Act may be cited as the Gaming Act 1967.
2. Interpretation - In this Act, unless the context otherwise requires -

"Minister" means the Minister of Police;
 "Owner" of any premises includes a lessee or sublessee from whom a sublessee holds the same, and also includes every person who is entitled to the same for any estate of freehold in possession, whether legal or equitable, or is in actual receipt of or entitled to receive, or if the premises were let to a tenant would be entitled to receive, the rents and profits of the same;

"Premises" means land, house, office, room, building, or place:

"Public place" includes road, street, footway, court, alley, open place, and thoroughfare of every sort, notwithstanding the same or any part thereof may be situated on private property, and also all places wherever the public may assemble, and whether money may be paid by the public for admission to such places or not:

"Race meeting" means a meeting for the purpose of horse racing.

GAMING HOUSES

3. Using premises as gaming house - (1) Every person who being the owner or occupier or having the use of any premises opens, keeps, or uses the same as a common gaming house; and Every person who being the owner or occupier of any premises knowingly and wilfully permits the same to be opened, kept, or used as a common gaming house by any other person; and Every person having the care or management of or in any manner assisting in conducting the business of any common gaming house; and Every person who advances or furnishes money for the purpose of gaming or betting with persons resorting to any common gaming house -

respectively commit an offence and are respectively liable to a fine not exceeding two hundred dollars or to imprisonment for a period not exceeding three months.

(2) Every person found in any common gaming house is liable to a fine not exceeding ten dollars, unless he proves that he was there present for some lawful purpose.

4. Evidence of being a common gaming house - (1) In default of other evidence proving any premises to be a common gaming house or place for gaming it shall be sufficient, in support of the allegation in any information to prove that such premises are kept or used for playing therein at any unlawful game, or that a bank is kept there by one or more of the players exclusively of the others, or that the chances of any game played therein are not alike favourable to all the players, including among the players, the banker or other person by whom the game is managed, or against whom the other players stake, play, or bet.

(2) Such premises shall be deemed a common gaming house or place for gaming for the purposes of this Act.

5. Proof of gaming for money - It shall not be necessary, in support of any information for gaming in, or suffering any games, or gaming in, or for keeping or using or being concerned in the management of, a common gaming house or place for gaming, to prove that any person found playing at any game was playing for any money, wager, or stake.

6. Evidence of gaming - Where any cards, dice, balls, counters, tables, or other instruments of gaming used in playing any unlawful game are found in any premises suspected to be used as a common gaming house or place for gaming and entered under a search warrant, or about the person of any of those who are found therein, it shall be evidence, until the contrary is proved, that such premises are used as a common gaming house, and that the persons found in the part of the premises where such tables or instruments of gaming have been found were playing therein, although no play was actually going on in the presence of the constable entering the same under such warrant.

7. Gaming with instruments; use of totalisator or equilisator - (1) Every person playing or betting, by way of wagering or gaming, in any public place, or within the view of persons in a public place at or with any table, instrument, or means or wagering or gaming, or any coin, card, token or other article used as an instrument or means of such wagering or gaming at any game or pretended game of chance, commits an offence and is liable to a term of imprisonment not exceeding three months or a fine not exceeding one hundred dollars.

(2) The instruments known as a totalisator or equilisator, and every machine or instrument of a like kind or conducted upon a like principle, shall be an instrument for gaming or wagering within the meaning of this Act except, when the same is used in conformity with the provisions hereinafter contained in section 12 of this Act.

(3) Every such table, instrument, coin, card, token, or any other article may be seized and taken possession of by any constable, and forthwith destroyed.

8. Games of chance unlawful - Every game of chance is hereby declared to be an unlawful game within the meaning of this Act.

9. Common gaming house to include club in certain cases - For the purposes of this Act any premises which would otherwise be a common gaming house shall be deemed to be a common gaming house notwithstanding the fact that they are open only for the use of subscribers or of members or shareholders of any particular club, company, or corporation, and are not open to all persons desirous of using the same.

10. Common gaming house to include premises kept for purposes of lottery - Any premises occupied, kept, or used for the purposes of an illegal lottery or a proposed illegal lottery (whether the said lottery is promoted in the Cook Islands or elsewhere) shall be deemed and taken to be a common gaming house within the provisions of this Act.

11. Occupier of premises - For all the purposes of this Act, any person who acts as or as if he were the occupier or person having the care or management of any premises shall be deemed, though not to the exclusion of the liability of any other person, to be the occupier thereof, whether he is the real occupier thereof or not.

TOTALISATOR OR EQUILISATOR

12. Totalisator or equilisator - (1) The Minister may, from time to time, in his discretion, on the application of any person or body of persons (whether incorporated or not) grant to that person or body of persons, as the case may be, a licence in writing authorising the use of a totalisator or equilisator at any race meeting held under the control or management of that person or body of persons.

(2) The Minister may grant such licence subject to such conditions and restrictions as he thinks fit.

(3) Any person who operates, controls, or manages a totalisator or equilisator at any race meeting without a licence issued by the Minister under this section, or contrary to the terms or conditions of any such licence, commits an offence and is liable to a term of imprisonment not exceeding three months or to a fine not exceeding one hundred dollars.

LOTTERIES

13. Disposal of real or personal property by lottery prohibited - No person, under any pretence, form, denomination, or

description whatsoever, or by means of any device or contrivance whatsoever, shall sell or dispose of, or agree or promise, whether with or without consideration, to sell or dispose of, any real or personal property whatsoever to or among any person or persons whomsoever by means of any game of chance, or of any other contrivance or device whatsoever, whereby any such real or personal property shall be sold or disposed of or divided or allotted to or among any person or persons, by lottery or chance, whether by the throwing or casting of any dice, or the drawing of any tickets, cards, lots, numbers, or figures, or by means of any wheel, or otherwise, howsoever.

14. Fine if property so disposed of - Every person is liable to a fine not exceeding two hundred dollars who, contrary to the provisions of this Act, sells or disposes of, or agrees or promises (whether with or without consideration) to sell or dispose of, any lands or tenements, or any estate or interest therein, or any ship or vessel, goods, wares, or merchandise whatsoever.

15. Establishing or conducting lottery an offence - Every person who -

- (a) Establishes, commences, or is a partner in any lottery, or in any scheme by which prizes, whether of money or of any other matter or thing, are gained, drawn for, thrown, or competed for by lot, dice, or any other mode of chance; or
- (b) Sells or disposes of any tickets or other means by which permission or authority is gained or given to any person to throw for, compete, or have any interest in any such lottery or scheme, whether promoted in the Cook Islands or elsewhere; or
- (c) Manages or conducts, or assists in managing or conducting, or canvasses for subscribers to, or receives any money or valuable thing for tickets in or for any purpose connected with any such lottery or scheme -

is liable to a fine not exceeding four hundred dollars, and for any second offence, besides such fine, is liable to imprisonment for any term not exceeding six months.

16. Permits and licences to dispose of property by lottery -

(1) Where any person or any body of persons (whether incorporated or not) desires to dispose of any real or personal property by raffle or chance for purposes other than the private gain of that person or, as the case may be, of any member of that body of persons, and -

- (a) The value of the prizes in the intended raffle does not exceed in the aggregate the sum of fifty dollars; and
- (b) No prize therein exceeds in value the sum of twenty dollars, -

the Chief Officer of Police, or any officer or employee of the Public Service, authorised by the Minister in that behalf, may, if he thinks fit, on application being made to him in writing by or on behalf of that person or body of persons, grant a permit authorising the disposal, in such manner and for such purposes as aforesaid, of such property as may be specified in the permit, upon and subject to such conditions and restrictions as the person granting the permit may impose.

(2) Where any such permit is refused, the applicant may appeal in writing to the Minister against the refusal. On any such appeal as aforesaid, the Minister may, in his discretion, either confirm the refusal or direct the granting of a permit upon and

subject to such conditions and restrictions as he may impose, and the decision of the Minister shall be final.

(3) Where any person or any such body of persons as aforesaid desires to dispose of any real or personal property by raffle or chance for such purposes as aforesaid, and -

- (a) The value of the prizes in the intended raffle exceeds in the aggregate the sum of fifty dollars; or
- (b) The value of any prize therein exceeds the sum of twenty dollars, -

the Minister may, if he thinks fit, on application being made to him in writing by or on behalf of that person or body of persons, grant a licence authorising the disposal, in such manner and for such purposes as aforesaid, of such property as may be specified in the licence, upon and subject to such conditions and restrictions as the Minister may impose.

(4) If the conditions and restrictions imposed in respect of any permit or licence granted under this section are complied with, the provisions of this Act shall not apply to the holder of the permit or licence or to any other person who, acting in good faith, may be concerned in the transaction.

(5) The Minister may from time to time, by notice published in the Gazette, specify any article or class of articles in respect of which permits or licences shall not be granted under this section; and may from time to time, in like manner revoke or vary any such notice. While any such notice continues in force the provisions of this section shall not apply to any article or class of articles specified therein.

17. Exemption of small raffles conducted by approved organisations - (1) Notwithstanding anything contained in this Act, but subject to the provisions of this section, it shall be lawful for any approved organisation from time to time, to dispose of any real or personal property by raffle or chance if -

- (a) The profits arising out of all such raffles are used for the lawful purposes of the approved organisation and not the private gain of any member thereof; and
- (b) Any conditions and restrictions subject to which the organisation was approved are complied with; and
- (c) The value of the prizes in any such raffle does not exceed in the aggregate the sum of ten dollars;

Provided that nothing in this subsection shall authorise the disposal by raffle or chance of any article or class of articles specified in any notice under subsection (5) of section 16 of this Act that is for the time being in force.

(2) The Chief Officer of Police, or any officer or employee of the Public Service, authorised by the Minister in that behalf, may from time to time, in writing, and subject to such conditions and restrictions as the person granting the approval may impose, approve any society, association, or body of persons (whether incorporated or not) formed for any lawful purpose as an organisation authorised to conduct raffles under this section, and from time to time in like manner revoke any such approval.

(3) Where any application for approval under this section is refused, or where any such approval is revoked, or where any approval is granted subject to conditions or restrictions, the society, association, or body affected thereby, may appeal in writing to the Minister against the refusal or revocation or imposition of conditions or restrictions. On any such appeal as aforesaid, the Minister may, in his discretion, either confirm or reverse the decision appealed against, and the decision of the Minister shall be final.

(4) Where any approval under this section continues in force, the society, association, or body to which it is granted shall be deemed for the purposes of this section to be an approved organisation.

(5) Where any approved organisation intends to conduct any raffle or raffles under this section, notice of that intention shall be given by or on behalf of the organisation to the police officer for the time being in charge of the district or locality in which the raffle or raffles will be conducted. The notice shall specify the time and place at which the raffle or raffles will be drawn.

18. Sweepstakes deemed to be lotteries - Every transaction wherein any money or valuable thing is received as or for the consideration for any assurance, undertaking, promise, or agreement, express or implied to pay or give thereafter to or among any person or persons, by lottery or chance, whether by the throwing or casting of any dice, or the drawing of any tickets, cards, lots, numbers, or figures, or by means of any wheel or otherwise howsoever, any money or valuable thing on any event or contingency of or relating to any horse race, or other race, fight, game, sport, or exercise, or as or for the consideration for securing the paying or giving by some other person of any money or valuable thing on any such event or contingency as aforesaid, and every scheme of the nature commonly known as a sweepstake, shall be deemed to be a lottery within the meaning of this Act, and the provisions of this Act shall apply in respect thereto accordingly.

19. Preparation or possession of lottery documents - Every person commits an offence and is liable to a fine not exceeding one hundred dollars, who prints, writes or by any means or device prepares, or has in his possession, any tickets, vouchers, or documents, of any description whatsoever which are designed, or which there is reasonable cause to believe are designed, to be used in connection with any illegal lottery.

20. Person taking part in lottery liable to fine - Every person who buys any ticket in any lottery or scheme prohibited by this Act, whether promoted in the Cook Islands or elsewhere, or in any way takes any part therein as a member or otherwise thereof commits an offence and is liable to a fine not exceeding twenty dollars.

HOUSIE

21. Housie - Notwithstanding anything to the contrary in this Act, it shall be lawful for any organisation or class of organisation for the time being approved by the Minister to conduct the game commonly known as Housie, by whatever name it is called, and for any person to play that game, (whether or not the game is played on any premises owned or occupied by the organisation) if the game is conducted or played in accordance with the conditions and restrictions from time to time imposed by the Minister.

GENERAL

22. Constable not to be deemed an offender against this Act - No constable and no person acting under instructions from the Chief Officer of Police shall, while on duty, be deemed to be an offender or accomplice in the commission of any offence against this Act, although such constable or other person might but for this section have been deemed to be an offender or accomplice.

23. Wagers not recoverable at law - All contracts or agreements, whether by parole or by writing, by way of gaming or wagering shall be null and void and no action shall be brought or maintained in any Court for recovering any sum of money or valuable thing alleged to be

won upon any wager, or which has been deposited in the hands of any person to abide the event on which any wager has been made.

24. Money paid or promised to be paid in respect of gaming not recoverable - Any promise, expressed or implied, to pay any person any sum of money paid by him under or in respect of any contract or agreement rendered null and void by this Act, or to pay any sum of money by way of commission, fee, reward, or otherwise in respect of any such contract or agreement, or of any services in relation thereto or in connection therewith, shall be null and void, and no action shall be brought or maintained to recover any such sum of money, or any sum of money won, lost, or staked in any betting transaction whatever.

25. No money or prize in respect of races, etc., recoverable - No action shall be brought or maintained in any Court for recovering any sum of money or valuable thing alleged to be won by way of stakes or prize on any event or contingency of or relating to any horse race, or other race, game, sport, or exercise.

26. Regulations - (1) The High Commissioner may from time to time, by Order in Executive Council, make all such regulations as may in his opinion be necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Regulations made under this section may prescribe for offences against the regulations punishable by a term of imprisonment not exceeding three months or a fine not exceeding one hundred dollars or both.

(3) All regulations made under this section shall be laid before the Legislative Assembly within twenty-eight days after the date of the making thereof if the Legislative Assembly is then in session, and if not, shall be laid before the Legislative Assembly within twenty-eight days after the date of the commencement of the next ensuing session.

27. Repeals and savings - (1) Section 212 of the Cook Islands Act 1915 is hereby repealed.

(2) Without limiting the provisions of the Acts Interpretation Act 1924, as amended and applied to the Cook Islands, it is hereby declared that the repeal of any provision by this Act shall not affect any document made or any thing whatsoever done under any provisions so repealed or under any corresponding former provision, and every such document, or thing so far as it is subsisting or in force at the time of the repeal and could have been made or done under any corresponding provision of this Act, and as if that provision had been in force when the document was made or the thing was done.