

NORFOLK



ISLAND

LOTTERIES AND FUNDRAISING ACT 1987

Act No. 3 of 1987

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ISLAND

Lotteries and Fundraising Act 1987

Act No. 3 of 1987

An Act relating to lotteries, games of chance and fundraising schemes and for related purposes

[Assented to 9 March 1987]

BE IT ENACTED by the Legislative Assembly of Norfolk Island as follows —

PART 1 — PRELIMINARY

Short title

1. This Act may be cited as the *Lotteries and Fundraising Act 1987*.

Commencement

2. This Act shall come into operation on a date fixed by the Administrator by notice published in the Gazette.

Repeal

- 3.** (1) The *Public and Patriotic Funds Act 1927* is repealed.
- (2) The Imperial Acts specified in the Schedule are, to the extent of their application in Norfolk Island, repealed.

Crown and Administration bound

- 4.** (1) This Act binds the Crown in right of Norfolk Island.
- (2) This Act binds the Administration.
- (3) Nothing in this Act renders the Crown in right of Norfolk Island or the Administration liable to be prosecuted for an offence.

Interpretation

- 5.** (1) In this Act, unless the contrary intention appears —
- “approved” means approved by the executive member by instrument in writing;

“association” means a company, organisation, charity, club or association of persons by whatever name called and whether incorporated or unincorporated but does not include the Administration;

“fundraising scheme” means a scheme referred to in section 14;

“game of chance” means such games as are prescribed;

“lottery” means a scheme or arrangement referred to in section 13;

“nominee” means a nominee referred to in subsection 6(1);

“non-profit organisation” means an association that is constituted for a charitable, sporting, educational or other purpose that is not a commercial purpose or the conduct of a business;

“person” means a natural person;

“prescribed scheme” means a lottery, game of chance or fund-raising scheme;

“public place” means a place that is open to or used by the public whether or not on payment of a fee and includes —

- (a) a place used by an association whether or not a registered association; and
- (b) licensed premises within the meaning of the *Liquor Act 1960*;

“registered association” means an association that is registered under section 7.

(2) For the purposes of this Act, a prescribed scheme that is a lottery or game of chance is deemed to be being conducted from the time of the payment of the first subscription or for the first ticket in the prescribed scheme until the time when all the prizes in the prescribed scheme have been distributed.

PART 2 — ADMINISTRATION

Application for registration as registered association

6. (1) For the purposes of this Act, an association may, by instrument in writing, nominate a person to represent the association.

(2) The nominee may apply to the executive member for registration of the association under this Act.

(3) An application for registration under subsection (2) shall be —

- (a) signed by the nominee;
- (b) in accordance with the prescribed form; and
- (c) accompanied by the prescribed fee.

(4) For the purposes of this Act, an application for registration includes an application for renewal of registration.

Registration

7. (1) The executive member may, by instrument in writing, grant, or refuse to grant, registration of an association.

(2) Registration under subsection (1) has effect for the period specified in the instrument being a period expiring not later than 30 June next following the grant of registration.

(3) A registered association may apply before the expiry date referred to in subsection (2) for renewal of the registration.

Register of associations

8. (1) The executive member shall cause to be maintained a register of associations registered under section 7.

(2) The register referred to in subsection (1) shall contain such particulars as are prescribed.

(3) A person may at all reasonable times on request inspect the register and may take a copy or an extract from the register.

Functions of nominees

9. (1) The nominee of an association that is a registered association may carry out a function for the purposes of this Act on behalf of the association.

(2) Anything done or omitted to be done by its nominee shall, for the purposes of this Act, be deemed to have been done or omitted to be done by the registered association.

(3) The executive member may, on the application of an association that is a registered association, substitute the name of another person as nominee of the association.

Audit

10. (1) The executive member may, by instrument in writing, require a person who, or registered association that, is or has been concerned in the conduct of a prescribed scheme to furnish to the executive member within the period specified in the instrument —

- (a) a statement in writing showing all receipts and disbursements in connection with the prescribed scheme; and
- (b) all books, documents and vouchers relating to the prescribed scheme.

(2) The executive member may retain the statements, books, documents or vouchers that are furnished pursuant to subsection (1) and may cause them to be audited by a person authorised by the executive member for the purpose.

(3) A person authorised under subsection (2) to audit statements, books, documents or vouchers relating to a prescribed scheme may, by instrument in writing, require the person who, or registered association that, is or has been concerned in its conduct, to furnish to the authorised person within the period specified in the instrument, such information in the possession of the person or registered association or to which the person or association has access, and to answer such questions, as the authorised person considers necessary for the purposes of the audit.

(4) An instrument pursuant to this section may be given personally to the person or may be sent by post to the last known place of residence or business of the person or to the address of the registered association.

(5) A person or registered association to whom or to which a requirement is directed under this section shall comply with the requirement.

Penalty: 40 penalty units.

Suspension or revocation of approval

11. Where a person or registered association has failed to comply with a requirement of, or made under, this Act the executive member may, by instrument in writing, suspend, for a period not exceeding 6 months, or revoke approval to conduct a prescribed scheme.

Delegation

12. (1) The executive member may, by instrument in writing, delegate to a person any of the powers and functions of the executive member under this Act, other than this power of delegation.

(2) A power or function delegated under this section, when exercised or performed by the delegate, shall, for the purposes of this Act, be deemed to have been exercised or performed by the executive member.

(3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the executive member.

PART 3 — PRESCRIBED SCHEMES

Lotteries

13. (1) For the purposes of this Act, a prescribed scheme that is a lottery is a scheme or arrangement, whether real or pretended, by which prizes, whether of money or other property, benefit, matter or thing are or are to be, or are represented as capable of being, drawn, thrown or competed for, or gained in any way by lot, dice or other method of chance or by reference to an event or contingency depending on chance, whether the scheme or arrangement is, either in whole or in part, established or conducted or intended or proposed to be established or conducted in Norfolk Island or elsewhere.

(2) For the purposes of this Act, “lottery” includes a raffle but does not include a game of chance.

(3) A scheme or arrangement that involves the distribution of property that is capable of being fairly apportioned among the owners of the property and is proposed, as far as practicable, to be apportioned equally among those owners is not a lottery for the purposes of this Act.

Fundraising schemes

14. For the purposes of this Act, a prescribed scheme that is a fundraising scheme is a scheme, by whatever name called, for raising money for a charitable, sporting, educational or other purpose that is not a commercial purpose or the conduct of a business, whether or not the proceeds are raised for the benefit of particular persons or a class of persons, and includes —

- (a) invitations for, or receipt of, subscriptions; and
- (b) the organisation of a fete, sale or entertainment,

that may be conducted as a single event or as a series of similar events.

Conduct of prescribed scheme by Administration

15. (1) Where the executive member thinks fit, the executive member may, by instrument in writing, authorise a person to conduct a prescribed scheme on behalf of the Administration.

(2) The conduct of a prescribed scheme authorised under subsection (1) shall be in accordance with such conditions as the executive member determines.

Prescribed scheme to be approved

16. (1) A person, whether or not a natural person, or an association, whether or not a registered association, shall not, without first having obtained the approval of the executive member, conduct a prescribed scheme.

Penalty: 20 penalty units.

(2) The executive member may, by instrument in writing published in the Gazette, exempt a person, whether or not a natural person, or an association, whether or not a registered association, from the requirement to obtain approval to conduct a fundraising scheme or a class of fundraising schemes.

(3) Subsection (1) does not apply to a prescribed scheme referred to in section 19.

Application to conduct prescribed scheme

17. (1) A person or a nominee of a registered association may apply to the executive member for approval for the conduct of a prescribed scheme by that person or registered association.

(2) An application under subsection (1) shall be furnished to the executive member not later than 7 days before the commencement of the conduct of the prescribed scheme and shall —

- (a) be in accordance with the prescribed form ;
- (b) be accompanied by the prescribed fee;
- (c) designate the purpose of the prescribed scheme; and

- (d) specify the arrangements for the allocation of prizes and particulars of the distribution of funds, if any, that may be subscribed or paid in excess of the amount sought to fulfil the purpose referred to in paragraph (c).

Approval to conduct prescribed scheme

18. (1) On receipt of an application in accordance with subsection 17(2), the executive member may, by instrument in writing, grant or refuse to grant to a person or to a registered association approval to conduct a prescribed scheme.

(2) An approval under subsection (1) is subject to such conditions, if any, as the executive member determines and endorses on the instrument or as are imposed by this Act or prescribed in the Regulations.

(3) It is a condition of approval under subsection (1) that a prize in a prescribed scheme that is not, before the expiration after the completion of the conduct of the prescribed scheme of 3 months or such longer period as the executive member specifies, claimed by the person entitled to the prize or a person authorised by the first-mentioned person to claim the prize, shall be dealt with in such manner as the executive member directs.

(4) Where under subsection (1) the executive member grants approval for the conduct of a prescribed scheme, the approval is subject to such conditions, if any, imposing requirements or prohibitions on the person or registered association conducting the prescribed scheme as the executive member thinks necessary to ensure that the prescribed scheme will be properly conducted and the interests of participants in the prescribed scheme will be adequately protected.

(5) Where under subsection (1) the executive member grants approval for a prescribed scheme that is a game of chance or a fund-raising scheme, the approval has effect for the period specified in the instrument, being a period expiring not later than 30 June next following the grant of approval.

(6) A person or a nominee may apply before the expiry date referred to in subsection (5) for a renewal of the approval to conduct a session or sessions of games of chance or a fundraising scheme.

(7) The grant of approval to a registered association to conduct a prescribed scheme ceases to be applicable if the registration of the association has not been renewed or is cancelled or revoked.

Approval to conduct prescribed scheme not required in certain circumstances

19. Where a registered association that is —

- (a) a non-profit organisation; or
- (b) an organisation that is not established solely for the purpose of conducting a prescribed scheme,

proposes to conduct a prescribed scheme —

- (c) from one location;

- (d) within a period not exceeding 24 hours; and
- (e) in which the aggregate value of prizes does not exceed \$100 or such sum as is prescribed,

approval under section 18 to conduct the prescribed scheme is not required.

Advertising certain prescribed schemes prohibited

20. A person, whether or not a natural person, shall not —

- (a) print or publish, or cause or permit to be printed or published; or
- (b) display, or cause or permit to be displayed, in a public place or in a place that is visible from a public place,

an advertisement, sign or notice relating to a prescribed scheme other than an approved prescribed scheme or a prescribed scheme referred to in section 19.

Penalty: 20 penalty units.

Sale of tickets in certain prescribed schemes prohibited

21. A person shall not sell or offer for sale a ticket or a share in a ticket, or accept money in respect of the purchase of a ticket or share in a ticket, in a prescribed scheme other than an approved prescribed scheme or a prescribed scheme referred to in section 19.

Penalty: 20 penalty units.

Prohibition of formation of syndicates for purchase of shares in prescribed schemes

22. A person shall not —

- (a) for gain or reward, promote, or take part in the formation of, a syndicate for the purchase of a ticket, or a share in a ticket, in a prescribed scheme; or
- (b) advertise, or cause or permit an advertisement to be printed or published, that the person or another person is prepared to receive money for a ticket, or for a share in a ticket, purchased or to be purchased in a prescribed scheme,

other than an approved prescribed scheme or a prescribed scheme referred to in section 19.

Penalty: 20 penalty units.

Printing of tickets for certain prescribed schemes prohibited

23. A person shall not print, or cause or permit to be printed, a ticket in connection with a prescribed scheme other than an approved prescribed scheme or a prescribed scheme referred to in section 19.

Penalty: 20 penalty units.

Tickets for prescribed schemes

24. (1) Where the total amount of money to be paid for tickets in an approved prescribed scheme exceeds \$3000 or such sum as is prescribed, the tickets shall be printed specially for the purpose of that prescribed scheme.

(2) The tickets referred to in subsection (1) shall have printed on them such information as is prescribed.

Supervision of conduct of prescribed scheme

25. (1) Where it appears to the executive member to be desirable for the purpose of protecting the interests of participants that the conduct of a prescribed scheme should be supervised, the executive member may, by instrument in writing, authorise a person to supervise the conduct of the prescribed scheme.

(2) A person authorised under subsection (1) may —

- (a) enter a place in which a prescribed scheme is being, or is to be, conducted; and
- (b) give to persons who have been or become concerned in its conduct such directions in relation to the conduct of the prescribed scheme as the authorised person thinks necessary to ensure as far as possible that the interests of the participants are protected.

(3) A person shall not, on being shown the instrument of authority given under subsection (1) —

- (a) hinder or obstruct the authorised person in the exercise of powers under this section; or
- (b) contravene or fail to comply with a direction given to the person under subsection (2).

Penalty: 40 penalty units.

Special conditions in relation to games of chance

26. (1) Approval of an application to conduct a prescribed scheme that is a game of chance is subject to the conditions that —

- (a) the maximum value of a single prize in a game of chance shall not exceed the prescribed amount; and
- (b) no payment shall be made by the person or registered association conducting the game of chance to any person by way of salary, wages, commission or other remuneration from the proceeds of the sale of tickets for the game of chance or from any other source in connection with the conduct of the game of chance.

PART 4 — MISCELLANEOUS**Falsification of books, etc**

27. A person, whether or not a natural person, shall not, with intent to defraud or deceive another person —

- (a) alter or falsify a book, document or voucher;
- (b) make a false or fraudulent entry in a book, document or voucher; or
- (c) omit a material particular from a book, document or voucher,

relating to a prescribed scheme under this Act.

Penalty: 40 penalty units.

Misappropriation of funds, etc

28. A person, whether or not a natural person, who is concerned in the conduct of a prescribed scheme under this Act shall not convert to the person's own use any of the money subscribed to, or any of the prizes in, the prescribed scheme.

Penalty: 40 penalty units or imprisonment for 6 months.

Fraudulent drawing, etc

29. A person shall not, with intent to defraud, conduct a prescribed scheme under this Act, in such a manner or under such conditions that the chances of winning prizes are not equally favourable to all participants in the prescribed scheme.

Penalty: 40 penalty units or imprisonment for 6 months.

Offence by officer or nominee

30. Where a director, manager, officer, president, treasurer, secretary or nominee for the purposes of this Act, of a registered association knowingly authorises or permits an act or omission that is an offence under this Act, that person is, without prejudice to the liability of the registered association or of another person, guilty of the offence.

Evidentiary provision

31. In any proceeding, a certificate signed by the executive member specifying that approval for the conduct of a prescribed scheme specified in the certificate has been granted under this Act and specifying the conditions subject to which the approval is granted, is evidence of the matters specified.

Regulations

32. (1) The Administrator may make Regulations, not inconsistent with this Act, prescribing matters —

- (a) required or permitted by this Act to be prescribed; or
- (b) necessary or convenient to be prescribed for carrying out or giving effect to this Act.

(2) Without limiting the generality of subsection (1), the Regulations may prescribe —

- (a) different terms and conditions for approvals of different classes of prescribed schemes;
- (b) different fees for approvals of different classes of prescribed schemes;
- (c) terms and conditions, including conditions requiring the payment of a percentage of the proceeds to the Administration, of approval of the conduct wholly or partly in a place other than Norfolk Island of a prescribed scheme organised or arranged in Norfolk Island; and
- (d) penalties not exceeding 10 penalty units for a contravention of, or failure to comply with, the regulations.

Transitional

33. (1) Notwithstanding section 3, and subject to subsection (2), the Act and Imperial Acts referred to in that section continue to apply, according to their tenor, to a prescribed scheme that is being conducted at the commencement of this Act, and this Act does not apply to or in relation to such a prescribed scheme.

(2) This section shall cease to have effect after the expiration of 3 months after the commencement of this Act.

SCHEDULE

Section 3

Imperial Acts repealed in their application to Norfolk Island

(1698) 10 & 11 William III c. 23 - Supression of Lotteries

(1732) 6 George II c. 35 - *The Lotteries Act 1732*

(1738-9) 12 George II c. 28 - *The Gaming Act 1738*

(1739-40) 13 George II c. 19 - *The Gaming Act 1739*

(1744-5) 18 George II c. 34 - *The Gaming Act 1744*

(1802) 42 George III c. 119 - *The Gaming Act 1802*

(1806) 46 George III c. 148 - *The Lotteries Act 1806*

(1823) 4 George IV c. 60 - *The Lotteries Act 1823*

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