

Examined and certified:

Clerk-Assistant of the Legislative
Assembly

In the name and on behalf of Her Majesty Queen Elizabeth the
Second I hereby assent to this Act this day of
1973.



High Commissioner
by the Acting Chief
Judge of the High
Court.

ANALYSIS

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1973, No. 16

An Act to establish a Totalizator Board to operate
a totalizator on horseracing in and outside the Cook
Islands

(20 December 1973)

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
Totalizator Act 1973.

Price 20c

2. Interpretation - In this Act, unless the context otherwise requires; -

"Board" means the Totalizator Board established under this Act:

"Double betting" means a form of betting in which bets are made by means of a totalizator on a combination of 2 horses competing in 2 different races on the chance that the first horse of the combination will win and the second horse of the combination will win or be placed second:

"Forecast betting" means a form of betting in which bets are made by means of a totalizator on a combination of 2 horses competing in the same race on the chance that those 2 horses will, in the order nominated by the bettor, finish first and second in the race:

"Minister" means the Minister in charge of the Department of Internal Affairs:

"Place betting" means a form of betting in which bets are made by means of a totalizator on a horse competing in a race on the chance that the horse will fill in the race a place which is a dividend-bearing place:

"Quinella betting" means a form of betting in which bets are made by means of a totalizator on a combination of 2 horses competing in the same race on the chance that those 2 horses will finish first and second in either order in the race:

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

"Totalizator" means the machine or apparatus commonly known as the totalizator; and includes -

(a) Any other machine, apparatus, or method used or intended to be used for the purpose of registering the amount of money bet on the result of a race or races:

(b) Every machine, apparatus, or method used to register betting in respect of a separate class of pool.

3. Establishment of Totalizator Board - (1) There is hereby established for the purposes of this Act a Board to be called the Totalizator Board.

(2) The Board shall consist of not more than 3 members who shall be appointed by the Minister, one of whom shall be appointed as Chairman of the Board.

(3) No person shall be deemed to be employed in the service of Her Majesty for the purpose of the Public Service Act 1969 by reason of his being a member of the Board.

(4) The Board shall be a body corporate with perpetual succession and a common seal and shall be capable of acquiring holding and disposing of real and personal property, of suing and being sued and of doing and suffering all such acts and things as bodies corporate may lawfully do and suffer.

(5) The powers of the Board shall not be affected by any vacancy in its membership.

4. Term of members - (1) The members of the Board shall hold office at the pleasure of the Minister.

(2) Any member of the Board may resign his office at any time by written notice given to the Minister.

5. Deputies of members - (1) In any case in which the Minister is satisfied that the Chairman or any other member of the Board is incapacitated by illness, absence or other sufficient cause from performing the duties of his office, the Minister may appoint a deputy to act for the Chairman or other member during his incapacity. In the case of the Chairman the deputy may or may not be one of the other members; and if the deputy of the Chairman is one of the other members some other person may be appointed by the Minister to act as the deputy of that member.

(2) Any deputy appointed under this section shall while he acts as such be deemed to be a member of the Board and the Deputy Chairman shall have all the powers of the Chairman.

(3) No appointment of a deputy and no acts done by him as such and no acts done by the Board while any deputy is acting as such, shall be questioned in any proceedings on the ground that the reason for his appointment had not arisen or had ceased to exist.

6. Meetings of members - (1) The first meeting of the members shall be held on a day to be appointed by the Minister.

(2) Subsequent meetings shall be held at such times and places as the members or the Chairman may from time to time appoint.

(3) The Chairman or any 2 members may at any time call a special meeting of the members.

(4) At all meetings 2 members shall form a quorum.

(5) The Chairman shall preside at all meetings at which he is present. In the absence of the Chairman from any meeting, the members present shall appoint one of their number to be Chairman of that meeting.

(6) At any meeting the Chairman shall have a deliberative vote and in the case of an equality of votes shall also have a casting vote.

(7) All questions arising at any meeting shall be decided by a majority of the valid votes of members recorded thereon.

(8) Subject to the provisions of this Act and of any regulations made thereunder the members may regulate their procedure in such manner as they think fit.

7. Disqualification of members - (1) A member of the Board shall not vote or take part in the discussion of any matter before the Board or before any committee thereof in which he has directly or indirectly a pecuniary interest apart

from any interest in common with the public provided that nothing in this section shall apply to any contract of insurance insuring members against personal accident.

(2) Any member who knowingly offends against this section commits an offence and shall be liable on conviction to a fine not exceeding \$100 or to imprisonment for a term not exceeding 3 months.

8. Remuneration and travelling allowances of members of the Board - The members of the Board shall be paid such remuneration and allowances as shall be fixed from time to time by the Minister responsible for finance on the recommendation of the Minister.

9. Board authorised to use totalizator - The Board is hereby authorised to establish and use a totalizator at or in respect of any race meeting in the Cook Islands or outside the Cook Islands.

10. Types of betting authorised - Subject to the provisions of this Act the Board may use the totalizator for the purpose of -

- (a) Win betting;
- (b) Place betting;
- (c) Double betting in respect of any 2 races conducted by a racing club on the same day at the same racecourse;
- (d) Forecast betting;
- (e) Quinella betting;
- (f) Such other forms of betting as the Minister may from time to time authorise.

11. Powers of the Board - (1) The Board shall have all the powers reasonably necessary to carry out its functions authorised by this Act.

(2) Without limiting the general powers conferred by subsection (1) of this section the Board may -

- (a) With the prior approval of the Minister, acquire by purchase lease, sublease or otherwise, any land or interest in land other than the fee simple in such land with or without any building;
- (b) With the prior approval of the Minister, dispose of any land or interest in land other than the fee simple in such land by sale lease sublease or otherwise;
- (c) Conduct, maintain, and improve all property controlled or administered by the Board or established or acquired by it;
- (d) Arrange or contract for the erection or provision of racecourse totalizator equipment and totalizator facilities and premises:

- (e) Contract for the execution or provision by any Government Department or agency or any person of any work or services in connection with the activities authorised by this Act in such manner and subject to such terms and conditions as the Board thinks fit.

12. Officers and employees - (1) The Board may from time to time appoint such officers and employees including acting or temporary or casual officers and employees as it thinks necessary for the efficient exercise of its functions and powers.

(2) Any person in the service of the Crown may be appointed to be an officer or employee of the Board but no such person shall be entitled to hold office concurrently as an officer or employee of the Board and as a servant of the Crown except -

(a) In the case of a person subject to the Public Service Act 1969 with the consent of the Public Service Commissioner; and

(b) In any other case with the consent of the Minister of the Crown to whose control he is subject.

(3) Subject to the provisions of this Act the Board may with the prior approval of the Minister responsible for finance pay to its officers and employees such salaries and allowances as it thinks fit and may at any time remove any officer or employee from his office or employment.

13. Liability of members and officers - No member of the Board or officer or employee of the Board shall be personally liable for any act or default done or made by the Board or by any member thereof in good faith in the course of the operations of the Board.

14. Board to have regard to directions of Government - In the exercise of its functions and powers the Board shall have regard to any representations that may be made by the Minister in respect of any function or business of the Board and shall give effect to any decision of the Government in relation thereto conveyed to the Board in writing by the Minister.

15. Payment of dividends and deductions - (1) Subject to section 16 of this Act the Board shall pay out all moneys received from investments on the totalizator by way of dividends after deducting:-

(a) A totalizator tax of 5 per cent to be paid by the Board to the Department of Inland Revenue:

(b) A levy of 15 per cent:

Provided that it shall not be necessary for the Board to pay out a fraction of 10 cents unless the fraction amounts to or exceeds 5 cents in which case 5 cents shall be paid.

(2) Every member, officer, agent or employee of the Board who knowingly makes, authorises or permits, a payment to any person of any dividend which is not calculated in accordance with subsection (1) of this section commits an offence and shall be liable on conviction to a fine not exceeding \$500.

16. Refund of money bet on totalizator - The Board shall refund any money bet on the totalizator in respect of win betting, place betting, forecast betting, quinella betting, the first race of double betting, and the first or only race of any other form of betting authorised under paragraph (f) of section 10 of this Act, on any horse which does not form part of a bracket with another horse in the race and which is for any reason withdrawn from the race before the start of the race.

17. Closing of totalizator - (1) The Board shall publicly indicate the earliest time at which the totalizator will close in respect of betting on each race.

(2) It shall not be lawful for any member, officer, agent or employee of the Board to register on the totalizator, after the closing of the totalizator for a race, any money received as betting in respect of that race, or to take into account, in the calculation or payment of any dividend, any bet which has not been registered on the totalizator at the time of the closing of the totalizator.

(3) Subject to the provisions of this Act, it shall not be lawful for any member, officer, agent or employee of the Board to receive or permit to be received any bet on the totalizator elsewhere than at the place or places set apart for the acceptance of bets.

(4) Every member, officer, agent or employee of the Board who commits an offence against this section shall be liable on conviction to a fine not exceeding \$500.

18. Restrictions on betting - (1) In this section, "bet" means a bet made on a totalizator.

(2) Every person commits an offence who, being a member, officer, agent, or employee of the Board, -

(a) Knowingly receives or registers or takes into account, or knowingly permits to be received or registered or taken into account, any bet by any person apparently under the age of 18 years, whether the bet is made by that person on his own behalf or on behalf of any other person; or

(b) In his official capacity knowingly extends credit to any person for the purpose of enabling that person to make a bet.

(3) Every person who, being under the age of 18 years makes or attempts to make a bet, whether on his own behalf or on behalf of another person, commits an offence and shall be liable on conviction to a fine not exceeding \$10.

(4) If any person appearing to be under the age of 18 years makes or attempts to make a bet, any member of the Police or any member, officer, agent, or employee of the Board may demand from that person particulars of his age, name, and address. If there are reasonable grounds to suppose that any particulars so given by him are false, the person demanding the particulars may require him to supply satisfactory evidence of the correctness of the particulars given.

(5) Every person commits an offence and shall be liable on conviction to a fine not exceeding \$20 who, being required under this section to give particulars of his age, name, and address, fails to give those particulars, or gives any false particulars, or supplies any false evidence with respect thereto.

(6) Where any person being required under this section by any member of the Police to give particulars of his age, name, and address, or to supply satisfactory evidence of the correctness of any particulars given by him, fails to give those particulars or to supply that evidence, the member of the Police shall caution him and, if he persists in that failure, may arrest him without warrant.

(7) Every person commits an offence and shall be liable on conviction to a fine not exceeding \$50 who makes or attempts to make a bet on behalf of any person under the age of 18 years.

19. Application of levy - All moneys deducted by the Board by way of levies pursuant to section 15 of this Act shall be applied by the Board towards the payment of all costs and expenses incurred by the Board in carrying out its functions under this Act.

20. Distribution of surplus funds - With the prior approval of the Minister the Board may from time to time distribute to sports and cultural clubs and organizations any surplus moneys forming part of the funds of the Board.

21. Bank accounts - (1) The Board shall keep such bank account or bank accounts as it from time to time determines.
(2) No money shall be withdrawn from the bank except by cheque or other instrument (not being a promissory note or bill) signed by such person or persons in such manner as the Board from time to time determines.

22. Borrowing powers - Subject to the approval of the Minister responsible for finance the Board may borrow money whether by way of mortgage, debentures, bonds, overdraft, or otherwise and may mortgage or charge any of its property, whether present or future, in such manner as it thinks fit.

23. Accounts - (1) The Board shall keep full and correct accounts of all money received and expended by it.
(2) As the end of every financial year ending with the 31st day of December, the Board shall cause to be prepared full and true statements and accounts of all its income and expenditure in that year, together with a balance sheet as at the last day of that year.

(3) The statement and balance sheet shall be audited by an accountant appointed by the Board for the purpose, who shall have access to such of the Board's books, accounts, securities, and documents the examination of which is in his opinion necessary for the purpose of the audit.

24. Annual report - The Board shall as soon as practicable after the end of each financial year furnish to the Minister a report of its proceedings and operations for the preceding financial year, and shall attach to the report a copy of its audited accounts.

25. Contracts of Board - (1) Any contract which, if made between private persons, must be by deed shall, if made by the Board, be in writing under the common seal of the Board.
(2) Any contract which, if made between private persons, must be in writing signed by the parties to be charged therewith shall, if made by the Board, be either under the common seal of the Board or signed on behalf of the Board by the Chairman of the Board or by any member of the Board authorised in that behalf by the Chairman.

(3) Any contract which, if made between private persons, may be made orally may be similarly made by or on behalf of the Board by any person acting under its authority, express or implied.

26. Execution of documents - (1) Every document to which the common seal of the Board is affixed shall be signed by the Chairman of the Board and shall be countersigned by another member of the Board.

(2) Any document which, if executed by a private person, would not require to be executed as a deed may be signed on behalf of the Board by the Chairman or by any member of the Board authorised in that behalf by the Chairman.

27. Evidence of documents - Every document purporting to be a document executed by or on behalf of the Board in a manner provided in section 26 of this Act shall be received in evidence and be deemed to be so executed in the absence of proof to the contrary.

28. Licensing use of totalizator or equilizator - (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 totalizator or equilizator 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 totalizator or equilizator at any race meeting otherwise than as authorised by this Act or contrary to the terms or conditions of any licence issued by the Minister, commits an offence and is liable to a term of imprisonment not exceeding 3 months or to a fine not exceeding \$100.

29. Regulations - (1) The High Commissioner may from time to time by Order in Executive Council, after consideration of any recommendations thereon made to him by the Board, make all such regulations as may, in his opinion, be deemed necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

(2) All regulations made under this section shall be laid before the Legislative Assembly within 28 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 28 days after the commencement of the next ensuing session.

30. Consequential amendment - Subsection (2) of section 7 of the Gaming Act 1967 is hereby amended by omitting the words "hereafter contained in section 12 of this Act", and substituting the words "of the Totalizator Act 1973".

31. Repeal - Section 12 of the Gaming Act 1967 is hereby repealed.

This Act is administered by the Department of Internal Affairs.
