

GAMING ORDINANCE**Repealed by Act. 2005-72 as from 26.10.2006****Principal Ordinance**

Ord. No. 1958-09		<i>Commencement</i>	6.6.1958
		<i>Enactment</i>	5.6.1958
	Amending enactments	Relevant current provisions	Commencement date
Ords.	1960-18	s. 13	
	1970-23	ss. 2(1), 4, 5, 8-13, 17(2), 18-21	
	1981-09	s. 6	
LN.	1981/118	Sch.	
Ords.	1989-44	s.6(1)	21.12.1989
	1990-22	s.7(4)	7.6.1990
LN	1991/157	Sch.	8.8.1991
	1993/092	Sch.	6.5.1993
	1993/095	Sch.	20.5.1993

English source

Betting, Gaming and Lotteries Act 1963 (1963 c.2)

RE-NUMBERING OF SECTIONS

Previous Number	New Number
1	1
2	2
3	3
3A	4
4	5
4A	6
5	7
5A	8
5B	9
5C	10
5D	11
5E	12
6	13
7	14
8	15
9	16
10	17
11	18
12	19
13	20
14	<i>Repealed</i>
15	21
16	22
17	23
18	24

ARRANGEMENT OF SECTIONS.

Section

1. Short title.
2. Interpretation.

PART I.

GAMING AND GAMING HOUSES.

3. Prohibition of keeping, etc., gaming house.
4. Illegality of gaming machines.
5. Playing, etc., in gaming house.
6. Non-payout gaming machines.
7. Power to exempt persons, etc., from sections 3, 4 and 5.
8. Restriction on use of premises for betting transactions with persons resorting thereto.
9. Restriction on bookmaking except under bookmaker's permit.
10. Agent or bookmaker to be authorized.
11. Issue of licence and permit.
12. Exemption from Shop Hours Ordinance.

PART II.

LOTTERIES.

13. Illegality of lotteries.
14. Power to promote and conduct Government lotteries.
15. Proceeds of Government lotteries.
16. Regulations.
17. Offences in connection with lotteries.
18. Authorized lotteries.
19. Amendment of Schedule.
20. Orders to be laid before the House of Assembly.
21. Restriction on certain prize competitions.

PART III.

MISCELLANEOUS.

22. Issue of search warrant.
23. Offences by bodies corporate.
24. Penalties and forfeitures.

SCHEDULE.

Conditional permits for special lotteries.

1958-09
Repealed

Gaming

AN ORDINANCE TO REGULATE GAMING AND LOTTERIES.

Short title.

1. This Ordinance may be cited as the Gaming Ordinance.

Interpretation.

- 2.(1) In this Ordinance, unless the context otherwise requires—

“bookmaker” means any person who—

- (i) whether on his own account or as a servant or agent to any other person, carries on, whether occasionally or regularly, the business of receiving or negotiating bets or conducting pool betting operations; or
- (ii) by way of business in any manner holds himself out, or permits himself to be held out, as a person who receives or negotiates bets or conducts such operations,

and the expression “bookmaking” shall be construed accordingly.

“common gaming house” means any place opened, kept or used for playing therein any game of chance or any mixed game of chance and skill for money or money’s worth—

- (i) in which a bank is kept by one or more of the players exclusively of the other or others; or
- (ii) in which the chances of the game are not alike favourable to all the players including among the players the banker or other person by whom the same is managed or against whom the players stake, play or bet; or
- (iii) in which any commission or percentage is charged in connection with the game, the stakes or the winnings;

“gaming machine” means a machine for playing a game of chance, being a game which requires no action by any player other than the actuation or manipulation of the machine;

“Government lottery” means a lottery promoted and conducted by the Financial and Development Secretary under the provisions of Part II;

“instruments of gaming” include all articles which are used in or for the purpose of gaming;

“lottery” means any scheme for distributing prizes by lot or chance, but does not include a gaming machine;

“money” includes a cheque, banknote, currency note, postal order or money order;

“newspaper” includes any journal or magazine or other periodical publication;

“occupier” means any person in actual occupation of the whole or any part of any place;

“owner” means the person for the time being receiving or entitled to receive the rent of any place or his agent and includes joint tenants and tenants in common;

“place” means any house, room, building, yard or other place whether open or enclosed and includes a ship, boat or other vessel and any vehicle;

“ticket” includes, in relation to any lottery or proposed lottery, any document evidencing the claim of a person to participate in the chances of the lottery.

- (2) For the purposes of this Ordinance—
- (a) references to printing shall be construed as including references to writing and other modes of representing or reproducing words in a visible form;
 - (b) documents or other matters shall be deemed to be distributed if they are distributed to persons or placed whether within or outside Gibraltar and the expression “distribution” shall be construed accordingly.

PART I.
GAMING AND GAMING HOUSES.

Prohibition of keeping, etc., gaming house.

3. Subject to the provisions of section 7 a person who—

- (a) being the owner or occupier, or having the use temporarily or otherwise of any place uses that place as a common gaming house;
- (b) suffers or permits any place of which he is the owner or occupier, or of which he has the use temporarily or otherwise, to be used as a common gaming house;
- (c) has the care or management of, or in any manner assists or is engaged in the management of, a place kept or used as a common gaming house; or
- (d) advances, furnishes or receives money for the purpose of establishing or conducting the business of a common gaming house,

is guilty of an offence and is liable, on summary conviction, to imprisonment for three months or to a fine of £100.

Illegality of gaming machines.

4.(1) Subject to the provisions of section 7, a person who keeps or allows to be kept on any premises a gaming machine for the purpose of gaming is guilty of an offence and is liable, on summary conviction, to imprisonment for three months or to a fine of £100.

(2) When any person is convicted of an offence under the provisions of subsection (1) the court may, in addition to any fine or imprisonment order the forfeiture to the Government of the gaming machine which was the subject matter of the offence.

Playing, etc., in gaming house.

5.(1) Subject to the provisions of section 7 a person who plays in any common gaming house is guilty of an offence and is liable, on summary conviction, to imprisonment for three months or to a fine of £50.

(2) For the purposes of this section a person found in a common gaming house or found escaping therefrom on the occasion of its being entered under the provisions of this Ordinance shall be presumed, until the contrary is proved, to have been playing therein.

Non-payout gaming machines.

6.(1) This section applies to any gaming machine so constructed or modified as to be incapable of discharging or issuing actual cash or tokens.

(2) The Financial and Development Secretary may in his absolute discretion, and subject to any condition that he may think fit to impose and to the payment of such fee as the Governor may, from time to time, by order prescribe, issue a licence authorizing the keeping on any premises for the purposes of gaming of any one or more specified gaming machines to which this section applies.

(3) An application for a licence under this section may be made by any person on whose behalf the gaming machine or machines to which the licence relates are to be kept for the purposes of gaming.

(4) Every licence issued under this section shall expire with the 31st day of March next following its issue, but may, from time to time, be renewed.

(5) The Financial and Development Secretary may without assigning any reason revoke, at any time, any licence issued by him under this section.

(6) Notwithstanding any of sections 3, 4 and 5, so long as any gaming machine to which this section applies in respect to which a licence is for the time being in force under this section is kept for the purposes of gaming in accordance with the terms of the licence and is not used in contravention of any condition of the licence, no person commits an offence against this Ordinance by reason of the fact that the gaming machine is kept on the premises for the purpose of gaming or is used on the premises for gaming.

Power to exempt person, etc., from sections 3, 4 and 5.

7.(1) Subject to the provisions of subsection (4), it shall be lawful for the Governor to exempt any person from the provisions of sections 3, 4 and 5 and thereupon those provisions shall not apply to any person so exempted for so long as the exemption remains in force and effect.

(2) Upon granting an exemption from the provisions of section 3 or 4 in accordance with the provisions of this section, the Governor shall issue a certificate to the person so exempted certifying that such person has been exempted and setting out the terms and conditions subject to which the exemption is granted.

(3) Any exemption granted under this section shall be for such period and upon such terms and conditions, including the payment of any sum of money into the Consolidated Fund, as the Governor may deem fit, and may be revoked at any time whether in the event of the breach of any condition subject to which it is granted or otherwise in the absolute discretion of the Governor.

(4) In the exercise of his functions under this section, the Governor shall have regard to the general policy of the Government in relation to the

carrying on in Gibraltar of any activity of gaming, and shall comply with any general directions given by the Government, through its Financial and Development Secretary, pursuant to that policy:

Provided that nothing in this subsection shall be construed as authorising the Government to give any direction in respect of any particular application for an exemption under this section, or any direction that inhibits the Governor from determining any application fairly.

Restriction on use of premises for betting transactions with persons resorting thereto.

(1963 c. 2, s.1)

8.(1) No person shall, unless he is the holder of a licence granted by the Financial and Development Secretary, keep a betting shop, use any premises, or cause or knowingly permit any premises to be used, as a place where persons resorting thereto may effect any betting transactions, other than pool betting operations. A person who contravenes any of the provisions of this subsection is guilty of an offence.

(2) A person who, for any purpose connected with the effecting of a betting transaction, resorts to any premises which are being used in contravention of subsection (1) is guilty of an offence and is liable, on summary conviction, to a fine of £50.

(3) For the purposes of subsection (2), proof that any person was on any premises while they were being used as mentioned in that subsection shall be evidence that he resorted to the premises for such a purpose as is so mentioned unless he proves that he was on the premises for bona fide purposes which were not connected with the effecting of a betting transaction.

Restriction on bookmaking except under bookmaker's permit.

(1963 c.2 s. 2)

9.(1) No person shall act as a bookmaker on his own account unless he is holder of a permit granted by the Financial and Development Secretary authorizing him to act which is for the time being in force; and a person who acts as a bookmaker in contravention of this subsection is guilty of an offence.

(2) The holder of a bookmaker's permit who, on being required by a police officer to produce his permit for examination, refuses or without reasonable cause fails so to do, is guilty of an offence and is liable, on summary conviction, to a fine of £10.

Agent or bookmaker to be authorized.

(1963 c. 2, s. 3)

10.(1) No person shall by way of business receive or negotiate bets, including pool betting operations, as servant or agent to another bookmaker or pool promoter unless—

- (a) he is authorized in that behalf in writing in the prescribed form by the Financial and Development Secretary; and
- (b) the other bookmaker is the holder of a bookmakers' permit issued under this Ordinance.

(2) If any bet is received or negotiated by any person as servant or agent to another bookmaker in contravention of subsection (1) that person and that other bookmaker is each guilty of an offence.

(3) A person guilty of an offence against this section is liable, on summary conviction, to a fine of £10.

(4) The Governor may, by Order, prescribe fees which shall be payable by a bookmaker in respect of pool betting operations and such fees shall be paid to the Revenue Department in such form as the Financial and Development Secretary may direct.

Issue of licence and permit.

11.(1) The Financial and Development Secretary may, in his absolute discretion, and subject to any condition he may think fit to impose and to the payment of any fees which may be prescribed by the Governor, issue—

- (a) a betting shop licence,
- (b) a bookmaker's permit,
- (c) a betting agency permit.

(2) A person who acts in contravention of any condition imposed in the licence or permit is guilty of an offence.

(3) The Financial and Development Secretary may without assigning reasons revoke at any time any licence or permit issued by him.

Exemption from Shop Hours Ordinance.

12. The Shop Hours Ordinance¹ shall not apply in respect of a betting shop within the meaning of this Ordinance or to premises in respect of which an

¹ 1922-05

exemption has been granted under section 7 to enable a gaming machine to be kept for the purpose of gaming.

PART II. **LOTTERIES.**

Illegality of lotteries.

13. Any lottery other than a Government lottery shall be unlawful.

Power to promote and conduct Government lotteries.

14.(1) Subject to the provisions of this Part and of any regulations made thereunder, it shall be lawful for the Financial and Development Secretary, from time to time, to promote and conduct a Government lottery, and in relation thereto to do all such acts and things and give all such directions as he may deem necessary or expedient for that purpose or as may be prescribed and, without limiting the generality of the foregoing power, in particular—

- (a) to fix the number and price of tickets to be issued for any such lottery;
- (b) to appoint and remunerate agents for the sale of such tickets;
- (c) to fix the number and value of the prizes to be apportioned;
- (d) to determine the time when, the place where and the manner in which drawings shall take place for the allotment of prizes.

(2) Any such acts, things or directions which may have been done or given, as the case may be, at any time before the commencement of this Ordinance, shall nevertheless be deemed to have been done or given by virtue of the powers conferred by this section.

(3) If, at any time during the drawing of any Government lottery, any question or dispute shall arise regarding the winning number or numbers or the method of drawing or otherwise howsoever, the drawing shall be suspended and the matter referred forthwith to the Financial and Development Secretary whose decision on the matter and the further conduct of the lottery shall be final and conclusive.

Proceeds of Government lotteries.

15. The proceeds of the sale of tickets in every Government lottery shall, subject to deduction of the moneys apportioned for prizes and such other

deductions as the Governor may approve, be paid into the Consolidated Fund.

Regulations.

16.(1) The Governor may make regulations prescribing all matters which are necessary or convenient to be prescribed for giving effect to the foregoing provisions of this Part and in particular—

- (a) for appointing a committee to advise and assist the Financial and Development Secretary in the promotion and conduct of Government lotteries;
- (b) for prescribing the conditions to be observed by agents appointed for the sale of tickets for such lotteries and the rights, obligations and liabilities of such agents;
- (c) for prescribing the form or contents of such tickets;
- (d) for prescribing the information to be published concerning any Government lottery and the manner in which it shall be published;
- (e) for prescribing the time within which and the manner in which prizes shall be claimed;
- (f) for providing for the disposal of unclaimed prizes or money or of prizes or money as to which any dispute has arisen;
- (g) for prescribing the persons who shall be present at any drawing for the allotment of prizes and their powers and duties in relation thereto and to any dispute or difficulty which may arise in the conduct of the drawing.

(2) Regulations made under this section may prescribe that in certain events to be specified and after such time as shall be specified the proceeds of unclaimed prizes shall be forfeited to Her Majesty and paid into the Consolidated Fund.

Offences in connection with lotteries.

17.(1) Subject to the provisions of this section, a person who in connection with any lottery other than a Government lottery promoted or proposed to be promoted either in Gibraltar or elsewhere—

- (a) prints any tickets for use in the lottery; or

- (b) sells or distributes, or offers or advertises for sale or distribution, or has in his possession for the purpose of sale or distribution, any tickets or chances in the lottery; or
- (c) prints, publishes or distributes, or has in his possession for the purpose of publication or distribution—
 - (i) any advertisement of the lottery; or
 - (ii) any list (whether complete or not) of prize winners or winning tickets in the lottery; or
 - (iii) any such matter descriptive of the drawing or intended drawing of the lottery, or otherwise relating to the lottery, as is calculated to act as an inducement to persons to participate in that lottery or in other lotteries; or
- (d) brings, or invites any person to send, into Gibraltar for the purpose of sale or distribution any ticket in, or advertisement of, the lottery; or
- (e) sends or attempts to send out of Gibraltar any money or valuable thing received in respect of the sale or distribution, or any document recording the sale or distribution, or the identity of the holder, of any ticket or chance in the lottery; or
- (f) uses any place, or causes or knowingly permits any place to be used, for purposes connected with the promotion or conduct of the lottery; or
- (g) causes, procures or attempts to procure any person to do any of the aforementioned acts,

is guilty of an offence.

(2) In any proceedings instituted under subsection (1) it shall be a defence to prove that the lottery to which the proceedings relate was a lottery under the Schedule and that, at the date of the alleged offence, the defendant believed, and had reasons for believing, that none of the conditions required by the Schedule or imposed by the Financial and Development Secretary under section 11 to be observed in connection with the promotion and conduct of the lottery had been broken.

(3) Proceedings under subparagraph (iii) of paragraph (c) of subsection (1) in respect of any matter published in a newspaper shall not be instituted except with the leave of the Attorney-General.

Authorized lotteries.

18.(1) Notwithstanding anything contained in this Ordinance but subject to subsection (3), the Financial and Development Secretary may in his absolute discretion grant a permit for the holding of any lottery referred to in the Schedule and such permit may be granted subject to such conditions as he may impose and to the payment of any fees which the Governor may by Order prescribe.

(2) Where a permit is granted under this section for any lottery, the conditions set out in the Schedule relating to that lottery shall apply and no condition imposed by the Financial and Development Secretary shall be inconsistent therewith.

(3) A person who in connection with the promotion and conduct of a lottery fails to observe any condition in the Schedule relating to such lottery or any condition imposed by the Financial and Development Secretary is guilty of an offence.

Amendment of Schedule.

19. The Governor may by order published in the Gazette amend or add to the Schedule.

Orders to be laid before the House of Assembly.

20. Where fees are prescribed under this Ordinance by the Governor the Order prescribing such fees shall be laid before the House of Assembly at the next meeting thereof following the making of the Order.

Restriction on certain prize competitions.

21.(1) It shall be unlawful to conduct, in or through any newspaper, or in connection with any trade or business or the sale of any article to the public—

- (a) any competition in which prizes are offered for forecasts of the result either of a future event, or of a past event the result of which is not yet ascertained or not yet generally known;
- (b) any other competition success in which does not depend to a substantial degree upon the exercise of skill.

(2) A person who contravenes the provisions of this section is guilty of an offence, without prejudice to his liability, if any, to be proceeded against under the preceding provisions of this Part relating to lotteries.

PART III.
MISCELLANEOUS.

Issue of search warrant.

22. A justice of the peace, if satisfied by information on oath that there is reasonable ground to suspect that any place is kept or used as a common gaming house or for the purpose of the commission of an offence under this Ordinance in connection with a lottery or proposed lottery, may grant a warrant under his hand authorizing any police officer at any time or times within one month from the date thereof to enter if necessary by force such place or any part thereof, and to search for and seize and remove any documents, money or valuable thing and any instruments of gaming found therein which he has reasonable grounds to suppose are in that place for any purpose which constitutes an offence under any of the provisions of this Ordinance and to retain the same for the purpose of a prosecution under this Ordinance.

Offences by bodies corporate.

23. Where a person convicted of an offence under this Ordinance is a body corporate, every person who at the date of the commission of the offence was a director or officer of the body corporate shall also be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge.

Penalties and forfeitures.

24. (1) Save where otherwise specially provided a person guilty of an offence under any section contained in this Ordinance is liable—

- (a) on summary conviction, to a fine of £100 and, in the case of a second or any subsequent conviction for an offence under the same section, to imprisonment for three months and to a fine of £200; or
- (b) on conviction on indictment to a fine of £500 and, in the case of a second or any subsequent conviction for an offence under the same section to imprisonment for one year and to a fine of £750.

(2) The court before which a person is proved to have committed any offence against this Ordinance shall order to be forfeited any money and instruments of gaming seized under section 22 in connection with such offence and shall order to be destroyed all documents (other than banknotes and currency notes) produced to the court which are shown to the satisfaction of the court to relate to the promotion or conduct of a lottery.

SCHEDULE

Section 18

PART I

**CONDITIONAL PERMITS FOR SPECIAL LOTTERIES
(NOT HAVING MONEY PRIZES).**

1. Small lotteries incidental to certain entertainments such as bazaars, sales of work, fetes and other entertainments of a similar character, whether limited to one day or extending over two or more days.

Conditions:

- (a) the whole proceeds of the entertainment (including the proceeds of the lottery) after deducting—
 - (i) the expense of the entertainment, excluding expenses incurred in connection with the lottery; and
 - (ii) the expenses incurred in printing tickets in the lottery; and
 - (iii) such sum, if any, not exceeding £10 as the promoters of the lottery think fit to appropriate on account of any expenses incurred by them in purchasing prizes in the lottery,shall be devoted to purposes other than private gain;
- (b) none of the prizes in the lottery shall be money prizes;
- (c) tickets or chances in the lottery shall not be sold or issued, nor shall the result of the lottery be declared, except on the premises on which the entertainment takes place and during the progress of the entertainment; and
- (d) the facilities afforded for participating in lotteries shall not be the only, or the only substantial, inducement to persons to attend the entertainment.

2. Private lottery promoted by a society established and conducted for purposes not connected with gaming, wagering or lotteries.

The expression “society” includes a club, charity, institution, organization or other association of persons by whatever name called and each local or

affiliated branch or section of a society shall be regarded as a separate and distinct society.

Conditions:

- (a) the whole proceeds after deducting only expenses incurred for printing and stationery shall be devoted as to part for the provision of prizes and as to the other part for purposes which are purposes of the society provided that the amount allocated for the purposes of the society shall not exceed the amount allocated to prizes;
- (b) there shall not be exhibited, published or distributed any written notice or advertisement of the lottery other than—
 - (i) a notice thereof exhibited on the premises of the society;
 - (ii) such announcement or advertisement thereof as is contained in the tickets, if any;
- (c) the price of every ticket or chance shall be the same and the price of any ticket shall be stated on the ticket;
- (d) every ticket shall bear upon the face of it the names and addresses of the secretary and treasurer of the society;
- (e) no ticket or chance shall be issued or allotted except by way of sale and upon the receipt of the full price;
- (f) no tickets in the lottery shall be sent through the post;
- (g) no ticket or chance shall be sold by or to a person under 16 years of age.

4. Lotteries by a person engaged in a trade or business.

Conditions:

- (a) it must be in connection with such trade or business;
- (b) the tickets or chances must be by way of gift coupons only;
- (c) none of the prizes shall be money prizes.

5. Lotteries in connection with the Gibraltar Fair.

Conditions:

- (a) none of the prizes in the lottery shall be money prizes;
- (b) tickets or chances in the lottery shall not be sold or issued, nor the result of the lottery declared except in the Fair Grounds and during the course of the Fair.

6. Lotteries in a newspaper and organized by the publisher of that newspaper.

Conditions:

- (a) tickets in the lottery shall not be sold or issued other than in the newspaper;
- (b) tickets shall be issued free of charge;
- (c) none of the prizes in the lottery shall be money prizes.

PART II

LOTTERIES HAVING CONDITIONS DETERMINED BY THE FINANCIAL AND DEVELOPMENT SECRETARY AND INVOLVING MONEY PRIZES

1. Eurolottery Gibraltar Limited

Conditions:

Those conditions determined by the Financial and Development Secretary in exercise of his powers under section 18 of this Ordinance.

2. Globalot Limited.

Conditions:

Those conditions determined by the Financial and Development Secretary in exercise of his powers under section 18 of this Ordinance.

3. Housie-Housie or Tombola.

Only issuable to a society as defined in paragraph 2 above.

Conditions:

Gaming

1958-09

Repealed

- (a) no persons under the age of 16 years shall be admitted or take part in it;
- (b) no money shall be accumulated (in the manner commonly known as “snowballs”) from one day to another.