

THE REPUBLIC OF KIRIBATI
(No. 3 of 1988)

I assent,

N. I. I. I.
Beretitenti.
14/6/1988

AN ACT TO ESTABLISH THE KIRIBATI NATIONAL
LOTTERY BOARD AND FOR CONNECTED PURPOSES

Commencement:
14/6/1988

MADE by the Maneaba ni Maungatabu and assented to by the
Beretitenti.

PART I
PRELIMINARY

Short title and
commencement

1(1) This Act may be cited as the Kiribati National Lottery
Board Act 1988.

(2) This Act shall come into operation on such date as
the Minister may by notice appoint.

Interpretation

2. In this Act unless the context otherwise requires -

"auditor" means the Director of Audit;

"the Board" means the Kiribati National Lottery Board
established under section 3 of this Act;

"clerk" means the clerk to a council;

"council" means a Local Government council established
under the Local Government Act 1984;

Act No. 2 of 1984

"Manager" means a person appointed as the chief executive
of the Kiribati National Lottery Board;

"Kiribati National Lottery" means a lottery promoted by the
Kiribati National Lottery Board (hereinafter referred to
as "the National Lottery");

"lottery" has the meaning assigned to it under the Gaming and Lotteries Act 1983.

PART II
KIRIBATI NATIONAL LOTTERY

Establishment
and incorporation
of the Board

3(1) There is hereby established a body by the name Kiribati National Lottery Board.

(2) The Board -

- (a) shall be a body corporate with perpetual succession;
- (b) shall have a common seal;
- (c) may acquire, hold and dispose of real and personal property; and
- (d) may sue and be sued in its corporate name.

(3) All courts, judges and persons acting judicially shall take judicial notice of the common seal of the Board affixed to any document and shall presume that it was duly affixed.

(4) The provisions of Schedule 1 to this Act shall have effect with respect to the constitution of the Board and other matters therein contained.

(5) The provisions of Schedule 2 to this Act shall have effect with respect to the officers and employees of the Board and other matters therein contained.

(6) The Baretitenti, acting in accordance with the advice of the Cabinet, may by Order amend any or all of the provisions of Schedule 1 or Schedule 2 to this Act.

Vesting of
assets

4. The Minister may upon such terms as he may agree with the Board, vest the use, occupation, management or control of any state land or property or of any interest in such land or property in the Board where it appears desirable to do so to enable the Board discharge its functions under this Act.

Functions of the
Board

5(1) The functions of the Board shall be -

- (a) to organise, promote and conduct the National Lotteries;
- (b) to determine the proportions in which the profits of the National Lotteries shall be allocated for distribution and to approve for distribution in accordance with the provisions of this Act such of the profits as are available for distribution; and
- (c) to exercise such other functions as are conferred on it by this Act.

(2) The Board may, subject as hereinafter provided, do anything which is calculated to facilitate the discharge of its functions under subsection (1) of this section or of any other function conferred on the Board by or under this Act, or which is incidental or conclusive to the discharge of any such functions.

(3) The Minister may, by Order -

- (a) define the powers conferred upon the Board by the preceding provisions of this section so far as he thinks it desirable in the public interest so to do; or
- (b) limit the powers of the Board to such an extent as he thinks desirable in the public interest by providing that any power of the Board specified in the Order shall not be exercisable except in accordance with a general or specific authority given by the Minister.

Power of
Minister to
give policy
directions

6(1) The Minister may give to the Board such directions as to policy to be followed by the Board in the performance of its functions as appear to the Minister to be necessary and the Board shall give effect to such directions.

(2) The Board shall furnish the Minister with such returns, accounts and other information as he may require with respect to the activities of the Board and shall afford to him facilities for verifying such information in such manner and at such times as he may reasonably require.

PART III
CONDUCT OF KIRIBATI NATIONAL LOTTERY

Board to conduct
lottery

7. Subject to the provisions of this Part of this Act every Kiribati National Lottery shall be conducted in such a manner as the Board thinks fit.

Selling agents

8(1) Subject to the approval of the Minister each clerk may be appointed a selling agent of the National Lottery tickets on behalf of a council on such terms and conditions as may be agreed between such council and the Board.

(2) A commission of up to 7 per centum of the face value of the National Lottery tickets shall be payable to a council from the proceeds of the sale of such tickets.

Lottery not to be
drawn until all
tickets sold unless
Minister otherwise
authorises

9(1) Except with the authority of the Minister given under subsection (2) or subsection (3) of this section, no National Lottery shall be drawn until all the tickets have been sold.

(2) The Minister may, in respect of any National Lottery, authorise the drawing of such lottery before all the tickets have been sold subject to such conditions as he thinks fit to impose.

(3) Where the Minister is satisfied that for any reason any National Lottery tickets have not been sold, he may authorise the drawing of such National Lottery subject to the unsold tickets being excluded from the draw.

Lottery to be drawn under supervision of Ministry and Director of Audit

10. Every National Lottery shall be drawn under the supervision of an officer of the Ministry and the Director of Audit.

Drawing to be open to the public

11. The drawing of every National Lottery shall be open to the public.

Official result

12(1) The officer of the Ministry under whose supervision any lottery is drawn shall immediately after the drawing furnish the Manager with a certified statement signed by that officer and the auditor setting out the result of the drawing of the lottery.

(2) The statement shall be deemed to be the official result of the drawing and prizes shall be paid by the Manager in accordance with it.

(3) The official result of the drawing of every lottery shall be published or advertised by the Manager in such manner as the Board directs.

Unclaimed prizes

13. If no person establishes his claim to any prize to the satisfaction of the Manager before the expiration of one year after the result of the drawing of the National Lottery has been publicised or advertised, such prize shall be dealt with as if it were part of the profits of the National Lottery.

PART IV FINANCIAL PROVISIONS

Distribution of profits

14(1) Subject to subsection (2) of this section the profits of a Kiribati National Lottery may be -

- (a) distributed in whole or in part as the Board thinks fit; or
- (b) transferred in whole or in part to such reserve account as the Board thinks fit to open and maintain.

(2) The profits of the National Lottery may be distributed in accordance with section 15 of this Act.

Purposes for which profits may be distributed

15. The purposes for which the profits of the National Lottery may be distributed are:-

- (a) the welfare of aged persons;
- (b) the provision of recreational and sporting facilities;
- (c) the encouragement of beneficial activities by young people;

- (d) the promotion and preservation of Kiribati culture;
- (e) the promotion of scientific research; or
- (f) such other purposes as the Minister may by Order declare.

Gaming duty

16(1) Subject to subsection (3) of this section a gaming duty at the rate of 10% of the total value of all National Lottery tickets sold in each National Lottery shall be payable by the Board as gaming duty.

(2) Any duty paid under subsection (1) of this section shall form part of the Consolidated Fund.

(3) The Minister acting in accordance with the advice of the Cabinet may by Order vary the rate of duty payable by the Board under subsection (1) of this section.

(4) An Order made under subsection (3) of this section shall be laid before the Maneaba ni Maungatabu within 48 hours of the day on which the next sitting of the Maneaba ni Maungatabu commences and such an Order shall stand unless the Maneaba ni Maungatabu by resolution varies or rejects it as the case may be.

General duty of Board in financial matters

17. It shall be the duty of the Board so to exercise its powers and perform its functions under this Act as to secure that the total profits and other revenues of the Board are sufficient, taking one year with another, to meet its total out-goings properly chargeable to revenue account, including depreciation and interest on capital.

Funds of the Board

18. The funds of the Board shall consist of such moneys as may from time to time be appropriated from the Consolidated Fund by way of loan, grant or subsidy and such other moneys as may lawfully be paid to or raised or borrowed by the Board.

Power to borrow or raise capital

19(1) The Board may, from time to time with the approval of the Minister of Finance, borrow, secure or raise money by the issue of debentures or debenture stock or other security for all or any of the following purposes -

- (a) the provision of working capital;
- (b) the fulfilling of the functions of the Board under this Act;
- (c) the provision of capital for the expansion of and addition to its fixed assets;
- (d) the redemption of any debenture or debenture stock or other security that the Board is required or entitled to redeem; and
- (e) any other expenditure properly chargeable to capital account.

(2) The Board may, from time to time, borrow by way of overdraft or otherwise such sums as the Board may require for meeting its obligations and discharging its functions under this Act.

Application of
revenue

20(1) The profits and other revenues of the Board for any financial year shall be applied in defraying the following charges -

- (a) the allowances of the members of the Board;
- (b) the salaries, fees and remuneration of the officers, agents, employees, and technical and other staff of the Board;
- (c) working expenses and expenditures on, or provision for, the maintenance of the property and of any of the equipment, apparatus or plant of the Board and the insurance of the same and the discharge of the functions of the Board properly chargeable to revenue account;
- (d) interest on any debenture and debenture stock or other security issued and on any loan raised, by the Board;
- (e) sums required to be transferred to a sinking fund or otherwise set aside for the purpose of making provision for the redemption of debentures or debenture stock or other security or the repayment of other borrowed money; and
- (f) such sums as it may be deemed appropriate to set aside in respect of depreciation on the property of the Board.

(2) The balance of the profits and other revenues of the Board shall be transferred to a reserve account referred to under section 14(1)(b) of this Act.

Authorised
investments

21. The profits and other revenues of the Board not immediately required to be expended in the meeting of any obligations or the discharge of any functions of the Board may be invested from time to time in securities approved by the Minister of Finance.

PART V ACCOUNTS AND AUDIT, ETC

Account and
audit of the
Board

22(1) All decisions, orders, rules and regulations relating to the financial operations of the Board and authorised by this Act shall be made by resolution of the Board at a meeting thereof and shall be recorded in the minutes of the Board.

(2) The Board shall keep proper accounts and other records in respect of its operations and shall cause to be prepared a statement in respect of each financial year in such form as the Director of Audit may direct or approve.

(3) The Board shall, before the commencement of each financial year, submit to the Minister a copy of its income and expenditure budget in relation to such year and the Minister shall cause copies of such budgets to be laid before the Maneaba ni Maungatabu.

(4) The accounts of the Board shall be examined by the Director of Audit in accordance with the provisions of Part VII of the Public Finance (Control and Audit) Ordinance.

(5) Notwithstanding any power of the Board conferred by this Act, where the Board intends to embark upon any programme for expanding its operations and services that will involve borrowing moneys required to be guaranteed under the provisions of the Government Borrowing and Guarantee Ordinance or that will require a longer period than 1 year to complete, the Board shall obtain the approval of the Minister of Finance thereto before incurring any liability in respect thereof.

Cap. 79

Cap. 39

Cash deposits
and payments

23(1) All moneys that accrue to the Board from its operations under this Act shall be paid into some bank or banks appointed by resolution of the Board and such moneys shall, as far as practicable, be paid into the bank from day to day, except such sum as the Board's accountant may be authorised by rules made under section 24 of this Act to retain in his hands to meet petty disbursements or immediate payments.

(2) All payments out of the funds of the Board except petty disbursements, not exceeding a sum to be fixed by rules made under section 24 of this Act shall be made by the Board's accountant, or, on his behalf, by any other officer appointed by the Board, in accordance with any such rules.

(3) Cheques against any banking account required to be kept or withdrawals from any savings bank account shall be signed by the Board's accountant or the Manager and countersigned by any member of the Board or any officer of the Board appointed by resolution of the Board for the purpose and any such resolution shall be certified by the Chairman of the Board and forwarded to the bank or banks concerned.

Rules

24. The Board shall by resolution make rules in respect of the following matters -

- (a) the manner in which and the officers by whom payments are to be approved;
- (b) the bank or banks into which the moneys of the Board are to be paid, the title of any account with any such bank, and the transfer of a fund from one account to another;
- (c) the appointment of a member of the Board or an officer of the Board to sign cheques on behalf of the Manager or in the absence of the Manager;

- (d) the sum to be retained by the accountant to meet petty disbursements and immediate payments and the maximum sum that may be so disbursed for any one payment;
- (e) the method to be adopted in making payments out of the funds of the Board; and
- (f) generally as to all matters necessary for the proper keeping and control of the accounts and books and the control of the finances of the Board.

Annual report

25(1) The Board shall as soon as practicable after the end of each financial year, make and transmit to the Minister a report dealing generally with the activities of the Board during the preceding financial year and containing such information relating to the operations and policy of the Board as the Minister may from time to time direct.

(2) The Minister shall cause a copy of every such report to be laid before the Maneaba ni Maungatabu.

PART VI
MISCELLANEOUS

Exemption from
customs duty
and income tax

26(1) Notwithstanding the provisions of any other enactment all plant, machinery, appliances, apparatus, equipment and materials of every kind whatsoever imported into Kiribati by the Board for the purpose of carrying out its functions under this Act shall be free of all customs duty, import levy or any other tax having a similar effect.

Cap. 44

(2) Notwithstanding anything contained in the Income Tax Ordinance the income of the Board shall be wholly exempt from payment of income tax.

Regulations

27. The Peretitenti, acting on the advice of the Cabinet given after consultation by the Minister with the Board, may make regulations for carrying into full effect the purposes and provisions of this Act and in particular such regulations may -

- (a) provide for the rules necessary or desirable for the proper and effective conduct of National Lotteries;
- (b) without prejudice to subparagraph (a) above, provide safeguards against fraudulent or improper practices in respect of the conduct of National Lotteries including the sale or drawing of or trafficking in any ticket relating to such National Lotteries;
- (c) prescribe the conditions governing the sale of tickets in respect of the National Lotteries;
- (d) provide for official supervision, whether by a police officer or otherwise of the conduct of the National Lottery;

- (e) prescribe the manner in which the result of any National Lottery may be advertised, publicised or notified to the general public; and
- (f) generally provide for such other matters as are necessary or desirable for giving full effect to this Act and for its due administration.

SCHEDULE 1
(Section 3(4))

Appointment of
members of the
Board

1. The Board shall consist of not more than 5 nor less than 3 members appointed by notice by the Minister.

Chairman

2(1) The Minister shall appoint a Chairman and the Deputy Chairman from among the members.

(2) The Board shall keep the Minister fully informed concerning the activities and operations of the Board and shall furnish the Minister with such information as the Minister may request with respect to any particular matter relating to the activities and operations of the Board.

(3) The Board may by instrument in writing direct that, subject to such conditions as may be specified in that instrument, such of the functions of the Board as may be so specified shall (without prejudice to the performance of those functions by the Board) be performed by the Chairman.

(4) In the absence of or inability of the Chairman to act the Deputy Chairman shall perform the functions of the Chairman.

(5) In the absence of or inability of both the Chairman and the Deputy Chairman to act the Minister may appoint 1 of the members to perform the functions of the Chairman.

(6) In the absence or inability of both the Chairman and the Deputy Chairman to act at any meeting of the Board the remaining members shall elect 1 of their number to act as Chairman at that meeting.

Tenure of
office

3(1) A member shall, subject to the provisions of this Schedule, hold office for a period of 2 years but shall be eligible for re-appointment.

(2) The Minister may at any time revoke the appointment of any member if he thinks it expedient so to do.

Resignation

4(1) Any member other than the Chairman may at any time resign his office by notice in writing addressed to the Minister and transmitted through the Chairman and from the date of the receipt by the Minister of such notice such member shall cease to be a member of the Board.

Authentication
of seal and
documents

Procedure and
meetings

Allowances to
members of Board

Protection of
members of Board

(2) The Chairman may at any time resign his office by notice in writing addressed to the Minister and such resignation shall take effect as from the date of the receipt of such notice by the Minister.

5. All documents other than those required by law to be under seal made by, and all decisions of, the Board may be signified under the hand of the Chairman.

6(1) The Board shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such places and times and on such days as the Board shall determine.

(2) The Chairman may at any time call a Board meeting of the Board and shall call a special meeting to be held within 7 days of a written request to that effect addressed to him by any 2 members.

(3) The quorum of the Board shall be 3, including the Chairman or the Deputy Chairman or the member elected to act as the Chairman as aforesaid.

(4) Minutes in proper form for each meeting shall be kept and shall be confirmed, whenever practicable, at the next meeting. Certified copies of such minutes when so confirmed shall be forwarded to the Minister.

(5) The Board may co-opt any 1 or more persons to attend any particular meeting of the Board for the purposes of assisting or advising the Board, but no such co-opted person shall have any right to vote.

(6) Subject to the provisions of this Schedule, the Board may regulate its own procedure.

7. Members of the Board may be paid, out of the funds of the Board, such travelling and other expenses as may be incurred by them in respect of their duties as members of the Board and, excepting those members who are public officers, an attendance allowance at such rate as may be determined from time to time by the Board.

8(1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Board in respect of any act done bona fide in pursuance or execution or intended execution of this Act.

(2) Where any member of the Board is exempt from liability by reason only of the provisions of this paragraph, the Board shall be liable to the extent that it would be if the said member was a servant or agent of the Board.

Declaration of interest
of member

9. If a member of the Board has any pecuniary interest, direct or indirect, in any contract or proposed contract or other matter, and is present at a meeting of the Board at which the contract or other matter is the subject of consideration, he shall, as soon as practicable after the commencement of the meeting, disclose to the Board the fact and nature of his interest and shall not take part in the consideration or discussion of the contract or other matter or vote on any question with respect to it.

SCHEDULE 2
(Section 3(5))

Appointment of
staff of Board

(1) The Board shall, after consultation with the Public Service Commission, appoint a Manager.

(2) The Manager shall be the chief executive of the Board and shall direct the entire staff and all other administrative and operational functions of the Board.

(3) The Board shall from time to time establish such other posts (including that of accountant) as it considers necessary and proper for the due and efficient administration, management and performance by the Board of its duties under this Act and shall, acting in accordance with the advice of the Public Service Commission, appoint staff to fill those posts.

(4) The termination of appointment, dismissal and disciplinary control of the staff of the Board shall be vested in the Board acting in accordance with the advice of the Public Service Commission.

(5) The Public Service Commission may second to any office in the service of the Board a public officer and the Public Service Commission may approve the transfer of an officer from the service of the Board to the public service or from the public service to the service of the Board.

Responsibility
of certain
officers

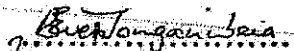
2. All persons charged with the receipt, accounting for, or disbursements of moneys, or with the custody or delivery of stores or other property belonging to the Board shall be individually responsible for the due and efficient discharge of their respective duties, and for the exercise of proper supervision of the accounts kept or controlled by them and of all the property entrusted to their care, and for the due observance of all rules and regulations and of all orders and instructions prescribed for their guidance.

This printed impression has been carefully examined by me with the Bill which passed the Maneaba ni Maungatabu on 19th May, 1988 and is found by me to be a true and correctly printed copy of the said Bill.



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Clerk to the Maneaba ni Maungatabu

Published by exhibition -

(a) at the Public Office of the Beretitenti on
the 14th day of June, 1988.


.....
Secretary to the Cabinet

(b) at the Maneaba ni Maungatabu on the 14th
day of June 1988.


.....
Clerk to the Maneaba
ni Maungatabu