

**LOTTERIES (CONTROL).**

3° Elizabeth II., No. XVIII.

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No. 18 of 1954.

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**AN ACT to make provision for the Conduct and Control of Lotteries and other similar devices and to repeal and re-enact with amendments the Lotteries (Control) Act, 1932-1951.**

*[Assented to 28th September, 1954.]*

**BE** it enacted, by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

**Short title.**

1. This Act may be cited as the *Lotteries (Control) Act, 1954.*

**PART I.—PRELIMINARY.**

**Repeal.**

2. The Lotteries (Control) Act, 1932-1951, is repealed.

3. Without prejudice to the operation of the other provisions of the Interpretation Act, 1918, the provisions of sections fifteen and sixteen of that Act are expressly declared to apply to this Act. <sup>Saving provisions.</sup>

4. In this Act the following terms have the following meanings, unless inconsistent with the context— <sup>Interpretation.</sup>

“charitable purpose” means any purpose which is designed to raise funds for all or any of the following—

- (a) any public hospital in the State as defined in section two of the Hospitals Act, 1927;
- (b) any free ward at any private hospital in the State;
- (c) the relief of former sailors, soldiers, airmen or nurses of Her Majesty's sea, land or air forces resident in the State;
- (d) any institution in the State for the instruction or care of the blind, deaf or dumb;
- (e) any orphanage or foundling home in the State;
- (f) any home or institution in the State maintained wholly or in part for the reception of dying or incurable persons in indigent circumstances;
- (g) any body incorporated under the laws of the State which distributes relief to sick, to infirm, and to indigent persons;

- (h) any body whose activities include dispensing voluntary aid or medical or nursing advice to expectant mothers, nursing mothers, and children under the age of sixteen years;
- (i) any body incorporated under the laws of the State which provides relief or assistance to the dependants of deceased ex-servicemen;
- (j) any object which in the opinion of the Minister may be fairly classed as charitable;

“closing date” means the last date on which tickets may be sold or subscriptions received from entrants to a lottery;

“Commission” means the Lotteries Commission constituted under the provisions of this Act;

“date of drawing” means the date fixed for the drawing of a lottery or deciding the result of a lottery; and the term “drawing” means the determination of the event or events which, according to the conditions of the lottery, decide the result;

“foreign lottery” means a lottery which is organised, conducted, drawn or decided wholly or partly outside the State, notwithstanding that the same may be legal according to the law of the place where it is organised, conducted, drawn, or decided;

“illegal lottery” means a lottery in respect of the conduct of which a permit has not been granted under this Act and includes a foreign lottery;

“lottery” has the same meaning as the term “lottery” in section two hundred and twelve of the Criminal Code, 1913, and, further, includes any disposition of property under any scheme or competition which the public or any specified section of the public may be or is invited to enter, the nature or conduct of which (though skill on the part of the entrants or competitors is required) is

such as in the circumstances of the case to preclude the fair consideration of the answers of the entrants or competitors and includes all schemes or devices for the disposition of property known as art unions, raffles, guessing competitions, and the like;

“opening date” means the first day on which tickets in a lottery may be sold or on which subscriptions in the lottery may be received;

“permit” means a permit granted under this Act permitting the conduct of a lottery;

“permit holder” means a person to whom a permit is granted.

#### PART II.—ADMINISTRATION.

5. (1) For the purposes of this Act a Commission is constituted under the name of the “Lotteries Commission.”

Lotteries  
Commission  
constituted

(2) The Commission is a body corporate with perpetual succession and a common seal and is capable of suing and being sued in its corporate name, acquiring, holding, disposing and leasing for any term any real property, and of doing and permitting all things which are required by this Act to be done by the Commission or which are necessary and convenient to be done by the Commission for the purpose of carrying out its powers and functions under this Act and giving effect to this Act.

(3) The Commission consists of four members appointed by the Minister, one of whom the Minister shall nominate as the chairman of the Commission, and he has both a deliberative and casting vote.

(4) Three members of the Commission form a quorum.

(5) Subject to the provisions of this section, the members of the Commission hold office for such time not exceeding three years as the Minister shall fix, and at the expiration of that time, they are eligible for reappointment.

(6) Each member of the Commission is entitled to such allowances and remuneration for his services as may be determined by regulation.

(7) If a member of the Commission—

- (a) is absent from his duties for a period of at least one month without the consent of the Minister;
- (b) becomes of unsound mind, or is declared, under the provisions of any law for the time being relating to mental infirmity, incapable of managing his affairs;
- (c) becomes bankrupt or avails himself as a debtor of any law for the relief of bankrupt debtors;
- (d) is convicted of a breach of any of the provisions of this Act;
- (e) is convicted of a crime or misdemeanour;
- (f) resigns or dies;

his office on the Commission becomes vacant.

(8) A member of the Commission may be dismissed from his office by the Minister if he is guilty of misbehaviour or of incapacity.

**Powers of  
Commission.**

6. (1) The Commission has and shall exercise the following powers and duties—

- (a) to conduct lotteries in the whole or any part of the State in order to raise money for charitable purposes;

- (b) to receive and consider applications to conduct lotteries by persons desiring to conduct them and to exercise such supervision and control over the conduct of lotteries as may be prescribed;
- (c) to hire and dismiss servants, subject to the regulations for the time being in force.

(2) In exercising the power to hire servants under paragraph (c) of subsection (1) of this section, if all things are equal between the applicants for a position, the Commission shall appoint either a returned sailor, soldier, airman or nurse, who is an applicant, to the position.

#### PART III.—LOTTERIES CONDUCTED BY THE COMMISSION.

7. (1) (a) Where the Commission desires to conduct a lottery, it shall, at least fourteen days before the proposed opening date, make application to the Minister in the prescribed form for a permit.

Applications  
by  
Commission  
to conduct  
lotteries.

(b) The chairman or secretary of the Commission shall sign the application for the permit which shall state—

- (i) the total number of tickets to be offered for sale in the lottery or the total number of subscriptions proposed to be called for in the lottery;
- (ii) the price of each ticket in, or subscription to, the lottery;
- (iii) the total amount of the prize money proposed to be distributed in the lottery;
- (iv) such other details as may be prescribed.

(2) The Minister may approve or reject an application made under the provisions of this section.

Provisions  
relating to  
lotteries  
conducted by  
Commission.

8. (1) Subject to the Commission's obtaining a permit as provided by this Act, the Commission may—

- (a) conduct a lottery without fixing or specifying either an opening date or a closing date, or a date of drawing;
- (b) conduct two or more lotteries at the same time.

(2) The closing date of a lottery conducted by the Commission is the day upon which the lottery is fully subscribed.

(3) (a) Where a date of drawing is not fixed or specified by the Commission, the date of drawing of a lottery conducted by it is, subject to the provisions of subsection (4) of this section, such day after the closing date as the Commission determines.

(b) The Commission shall publish once in a daily newspaper published in Perth the date of drawing as so determined but where through circumstances beyond its control the Commission is obliged to postpone the date of the drawing, notification of the date of drawing so given is to be regarded as including notification of the postponement and the Commission is not required to give further notification of the postponement.

(4) Notwithstanding the provisions of this section, where the lottery is conducted in connection with a race or other particular event the lottery shall be closed and drawn before the commencement of the race or other event; if on the closing date the lottery is not fully subscribed, the lottery may be drawn on a *pro rata* basis.

Matters to  
be observed  
in  
connection  
with  
lotteries  
conducted by  
Commission.

9. (1) With respect to lotteries for which a permit is granted to the Commission—

- (a) the lottery shall be carried on and conducted by the Commission in accordance with this Act, and the express conditions of the permit relating to the lottery;

- (b) the Commission shall keep in such form as may be prescribed a book regularly and promptly posted up, showing a true and accurate account of the receipt and disposal of all property received and disposed of by it in connection with the conduct of the lottery;
- (c) the Commission shall at all times keep all books, papers, documents, accounts and things relating to the lottery at the office of the Commission so as to be readily accessible for audit as provided in this Act;
- (d) all moneys received by the Commission in respect of the lottery shall be paid by it into a separate bank account in the name of the Commission, and all disbursements, except petty disbursements shall be made by cheque drawn on the account;
- (e) the total expenses of conducting lotteries in any one year including commissions payable on sales or subscriptions and the allowances and remuneration of the members of the Commission, shall not in that year exceed twenty-five per centum of the gross amount received from the sale of tickets or subscriptions.

(2) The balance remaining after deduction of the expenses referred to in paragraph (e) of subsection (1) of this section and payment of the prize moneys shall, together with the amount of any unclaimed prizes and all other moneys received by the Commission under the provisions of this Act or otherwise, be paid by the Commission to a special bank account in its name or invested in Commonwealth Inscribed Stock in its name and thereafter the amounts standing to the credit of the account may from time to time with the approval and consent of the Minister be applied by the Commission to any charitable purpose or in the purchase, acquisition, maintenance and improvements of lands and buildings for the purposes of this Act.

Conditions  
applicable  
to lotteries  
conducted by  
Commission.

10. (1) The following conditions apply in respect to lotteries conducted by the Commission—

- (a) where a lottery is fully subscribed and thereafter applications are received or subscriptions are offered for tickets in the lottery, if the amount tendered in the application or offered as a subscription so permits, the Commission shall allot to the applicant tickets in another lottery if one is then being conducted by the Commission or in the next lottery to be conducted by the Commission, whether or not the tickets are of the same price or the subscriptions are of the same amount as the tickets or subscriptions originally applied for or offered by the applicant;
- (b) all prizes to be distributed in the lottery shall be cash prizes;
- (c) all tickets in the lottery shall be printed and numbered consecutively and the Commission shall keep a record of the tickets;
- (d) (i) the Commission may pay out the prize money payable in respect of a prize-winning ticket on receipt of the ticket purporting to be endorsed by the person purporting to be the holder of the ticket with his signature and address;
- (ii) the Commission is not obliged to satisfy itself that the person purporting to be the holder of the ticket is the lawful holder of the ticket, that the signature is genuine, or that he is not an infant or person under other legal disability;
- (iii) notwithstanding any law to the contrary, whether relating to infants and persons under other legal disability or otherwise, payment of prize money by the Commission pursuant to the pro-

visions of this paragraph, constitutes full satisfaction by and a full and valid discharge to the Commission.

(2) The printer of the tickets referred to in paragraph (c) of subsection (1) of this section shall forthwith on the completion of the printing of the tickets break the form and distribute the type relating to the printing and make and deliver to the Commission a statutory declaration to that effect.

11. (1) The Auditor General shall make a continuous audit of, and report to the Minister from month to month upon, the affairs of the lottery or lotteries conducted or in the course of being conducted by the Commission during the monthly period to which the report relates.

Accounts and audits in connection with lotteries conducted by Commission.

(2) Every monthly report of the Auditor General made in accordance with subsection (1) of this section shall be tabled in each House of Parliament within fourteen days after it is received by the Minister if Parliament is then in session, or, if Parliament is not in session, within fourteen days after the commencement of the next session of Parliament.

(3) The Commission shall at the end of each month furnish to the Minister a true and accurate account of the receipt and disposal of all property in the conduct of the lotteries conducted by it during the immediately preceding month, and the account shall be accompanied by a certificate of the Auditor General certifying whether or not the conditions of the permit and of this Act have been complied with in respect thereto, and if not, drawing attention to any details of non-compliance.

(4) A copy of every account furnished by the Commission in accordance with subsection (3) of this section, together with a copy of the certificate of the Auditor General with respect thereto shall be laid on the table of each House of Parliament within

thirty days after the receipt of the account and certificate by the Minister if Parliament is then in session, and, if Parliament is not in session, then within thirty days after the commencement of the next session of Parliament.

(5) The Commission shall at the end of each year present to both Houses of Parliament a schedule setting out the names of all organisations and charities to which money has been granted and the amounts given in each case during that year.

PART IV.—LOTTERIES CONDUCTED BY A PERSON  
OTHER THAN THE COMMISSION.

Application  
by a person  
other than  
Commission  
to conduct  
a lottery.

12. (1) Where a person other than the Commission desires to conduct a lottery the person shall make application in the prescribed form to the Commission at least fourteen days before the opening date.

(2) The Commission shall consider the application and may either approve or reject the application.

(3) The person applying for a permit shall sign the application for the permit which shall state—

- (a) the proposed opening date and closing date and date of drawing;
- (b) the locality in which tickets are to be offered for sale or in which subscriptions may be received;
- (c) the purpose for which the lottery is to be conducted;
- (d) the total number of tickets to be offered for sale, or the total number of subscriptions proposed to be called for;
- (e) the price of each ticket or subscription;

- (f) the total amount of the prize money or other prizes proposed to be distributed in the lottery;
- (g) such other details as may be prescribed.

13. (1) The Commission may before considering an application made to it under section twelve of this Act, refer it to the Commissioner of Police for his investigation and report as to the suitability of the person desiring to conduct the lottery the subject of the application and of all persons whom it is proposed shall be associated in the lottery.

Inquiries to be made by Commissioner of Police.

(2) The Commissioner shall advise and report to the Commission whether or not the persons are suitable persons to conduct a lottery or to be associated in it.

(3) The contents of a report made by the Commissioner to the Commission is absolutely privileged from production in any court of law and a person whose official duties may permit him to see the contents of the report shall not divulge its contents to any other person.

14. The Commission may cancel a permit granted by it and thereupon a person shall not carry on or be concerned in the carrying on of the lottery in respect of which the permit is cancelled.

Commission may cancel permit.

15. The following conditions apply in respect to a lottery conducted under this Part:—

Conditions relating to lottery conducted by a person other than the Commission.

- (a) The closing date shall not be more than three months from the opening date.
- (b) Notwithstanding that on the closing date the lottery is not filled or fully subscribed, the lottery shall be closed on that date and thereafter it shall be drawn and may be drawn on a *pro rata* basis.

- (c) The Commission may at any time and from time to time permit the permit holder to postpone the closing date of the lottery for such period as the Commission may determine and the permit holder shall postpone the date of drawing in accordance with the determination.

Matters to be observed in connection with lottery conducted by a person other than the Commission.

16. With respect to a lottery for which a permit is granted under this Part—

- (a) the lottery shall be carried on and conducted in accordance with this Act and the express conditions of the permit relating to the lottery;
- (b) the permit holder shall keep in such form as may be prescribed a book regularly and promptly posted up, showing a true and accurate account of the receipt and disposal of all property received and disposed of in connection with the lottery;
- (c) all books, papers, documents, accounts and things relating to the lottery shall at all times be kept readily accessible by the permit holder for police inspection or audit as provided in this Act;
- (d) the permit holder shall within thirty days after the date of drawing of the lottery conducted by it furnish to the Commission a true and accurate account of the receipt and disposal of all property in the conduct of the lottery.

Commission may appoint auditor to make audit in connection with lottery.

17. Where a lottery is conducted under this Part—

- (a) the Commission may at any time either during the conduct or after the close of the lottery appoint an independent auditor to make an audit of the affairs of the lottery;

- (b) a person appointed as auditor is at liberty at all times to enter any place where the books, papers, documents, and things relating to the lottery may be or where the lottery is being conducted, for the purpose of making such inspection as in his opinion is necessary to ascertain whether the provisions of this Act are being complied with, and the auditor shall report thereon to the Commission in the prescribed manner;
- (c) the persons conducting the lottery and all persons assisting therein shall at all times and from time to time furnish to the Commission, the Commissioner of Police and members of the Police Force and any auditor appointed under this Act all information and answer all questions that may be asked by any of them relating to the conduct and management of the lottery.

18. (1) The Commission may grant a religious body or charitable organisation a permit to hold any guessing competition, raffle, or art union, in connection with any bazaar or fair proposed to be held by the religious body or charitable organisation, on such terms and conditions as it may think fit to impose.

Exemption  
in case of  
church, etc.,  
bazaars.

(2) Where the permit is granted the provisions of section twenty-two of this Act apply.

(3) In this section the expression "charitable organisation" means any organisation which in the opinion of the Commission has for any of its objects the raising of money for charitable purposes.

19. The Commission may at any time demand a full account from any promoter, secretary, treasurer, or any one of the committee of any religious body or charitable organisation holding any guessing competition, raffle, or art union under section eighteen of this Act, and may in connection with the

Power of  
Commission  
to demand  
balance  
sheet at  
any time.

account require the production to it of all books, tickets, butts of tickets, documents, vouchers and things relating thereto.

PART V.—POLICE SUPERVISION AND  
POWERS OF POLICE.

Powers of  
police.

20. A member of the Police Force is entitled—

- (a) to be and remain on any premises where a lottery is being conducted under this Act by a person other than the Commission and to examine at any time and from time to time all books, records, documents, and things relating or believed to relate thereto and to scrutinise and inquire into the conduct and working of the lottery;
- (b) to take with him an auditor or other qualified person to assist him in the scrutiny or inquiry.

Justice may  
grant  
warrant.

21. If a member of the Police Force has reason to suspect that an illegal lottery is being carried on at any place, or that a lottery in respect of which a permit has been granted is being carried on in contravention of any of the provisions of this Act, or the permit, he may make complaint on oath as to any of the matters to a justice of the peace, who may issue his warrant authorising the member of the Police Force—

- (a) to enter with such assistance as may be found necessary, and also, if necessary, to break into any place where the lottery is being conducted or is supposed to be conducted, or any premises where any thing or record pertaining to the carrying on of the lottery is supposed to be;
- (b) to seize and take possession of all moneys, securities, papers, documents and things used in connection with or relating to the lottery.

## PART VI.—MISCELLANEOUS.

22. Notwithstanding the provisions of the <sup>Indemnity.</sup> Criminal Code, 1913, or the provisions of the Police Act, 1892, if a lottery is conducted by a person pursuant to a permit, no person is subject to any penal consequences under those Acts by reason of being a subscriber or contributor to, or carrying on or conducting the lottery, or carrying out any prescribed duties or functions in relation to the conduct of the lottery; but subject to this Act, nothing herein contained affects the provisions of the Criminal Code, 1913, and the Police Act, 1892, relating to lotteries and illegal gaming.

23. (1) A person who does any of the following <sup>Offences.</sup> acts or makes any of the following omissions is guilty of an offence—

- (a) with intent to defraud, taking, or by any fraudulent trick, scheme, or device converting to his own use, or to the use of any other person, any prize or moneys raised by a lottery;

Penalty: Imprisonment for five years, or a fine of five hundred pounds;

- (b) with intent to defraud, doing any of the following acts—
- (i) altering or falsifying any book, document, or voucher relating to a lottery;  
or
- (ii) making or concurring in making any false or fraudulent entry in any book, document, or voucher relating to a lottery; or
- (iii) omitting or concurring in omitting any material particular from any book, document, or voucher relating to a lottery;

Penalty: Imprisonment for three years, or a fine of three hundred pounds;

- (c) conducting an illegal lottery;

Penalty: Imprisonment for three years, or on summary conviction imprisonment for six months or a fine of one hundred pounds;

- (d) with intent to defraud conducting a lottery in such a way that each entrant or subscriber therein has not an equal chance of winning a prize;

Penalty: Imprisonment for three years;

- (e) without the written sanction of the Minister wilfully diverting the funds raised by a lottery for a purpose other than that for which a permit was granted;

Penalty: Imprisonment for one year, or a fine of one hundred pounds;

- (f) not conducting a lottery in accordance with the conditions of a permit granted in respect of the lottery;

Penalty: Fifty pounds;

- (g) printing, advertising, or distributing any matter or displaying any placard, poster, announcement, or sign relating to an illegal lottery, or inducing persons to take tickets therein or subscribe thereto, or giving any information or assistance to persons with a view to enabling them to take tickets in or subscribe to an illegal lottery;

Penalty: Fifty pounds;

- (h) selling or disposing of any ticket, coupon, writing, matter, sign, token, acknowledgment, or voucher in relation to an illegal lottery;

Penalty: Fifty pounds.

- (i) receiving money, valuables, or goods for the purpose of any illegal lottery;

Penalty: Fifty pounds;

- (j) selling or offering for sale any ticket of admission to any entertainment or meeting which entitles or allows the purchaser to participate in a lottery;

Penalty: Fifty pounds;

- (k) hindering any member of the Police Force or any auditor in the execution of their respective powers and duties under this Act;

Penalty: Fifty pounds;

- (l) being an auditor under this Act, is guilty of any neglect or breach of duty under this Act;

Penalty: Fifty pounds;

- (m) being a person conducting or associated in any manner with a lottery, fails to answer truthfully to the best of his knowledge, information and belief, any question asked of him by an auditor, appointed under this Act, or fails to disclose to the auditor all books, documents, vouchers and things which may be in his custody or power relating to the lottery;

Penalty: Fifty pounds.

(2) The offences set out in paragraphs (a) and (b) of subsection (1) of this section are crimes, those set out in paragraphs (c), (d) and (e) of that subsection are misdemeanours.

24. (1) The Governor may make regulations, not inconsistent with this Act, for all or any of the following purposes—

Regulations.

- (a) prescribing the allowances and remuneration of the Chairman and members of the Commission;
- (b) prescribing the procedure to be adopted at meetings of the Commission;

- (c) providing for a common seal of the Commission and for the use and custody thereof;
- (d) prescribing the form and manner of applications under this Act, and generally providing forms for use thereunder;
- (e) prescribing the method of keeping accounts by persons conducting lotteries;
- (f) providing for security and the form of security to be given by persons conducting lotteries;
- (g) providing for security and the form of security to be furnished by persons having the receipt, control, or handling of any money or valuable thing received in connection with a lottery;
- (h) prescribing the terms and conditions under which lotteries may be conducted, including the relation between the time of opening, closing, and drawing of the lottery;
- (i) providing for the disposal of unclaimed prizes;
- (j) providing for the forfeiture or disposal of moneys, securities, papers, documents, and things seized by a member of the Police Force under the provisions of section twenty-one on application to a police or resident magistrate; and prescribing the practice governing the application;
- (k) providing for the cancellation of permits;
- (l) providing for the advertisement of winning numbers and the notification to the winner of any prize;
- (m) prescribing the conditions governing the employment of agents;
- (n) providing for the prevention of fraud.

(2) The regulations may fix a penalty not exceeding one hundred pounds for the breach of any regulation.