

LOTTERIES (CONTROL).

23° GEO. V., No. L.

No. 50 of 1932.

AN ACT to make provision for the conduct and control of Lotteries and other similar devices.

[Assented to 30th December, 1932.]

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and 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, 1932.*

Definitions,

2. In this Act the following terms shall have the following meanings, unless inconsistent with the context—

“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 soldiers, sailors, or nurses of His Majesty's sea or land 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 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; provided that the Minister is satisfied that the activities of such body extend substantially throughout the State;
- (h) any body whose activities are substantially State-wide dispensing voluntary aid or medical or nursing advice to expectant mothers, nursing mothers, and children under the age of sixteen years;
- (i) subject to the limitations imposed by section nineteen any object which in the opinion of the Minister may be fairly classed as charitable.

“Closing date” used in reference to a lottery means the last date on which tickets may be sold or subscriptions received from entrants to the lottery.

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

“Foreign lottery” means any lottery as hereinafter defined which is organised, conducted, drawn or decided wholly or partly outside the State of Western Australia, 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 (as hereinafter defined) in respect of the conduct of which no permit has been granted under this Act or which is not otherwise sanctioned by the Minister under this Act. The term also 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 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. The term also includes all schemes or devices for the disposition of property known as art unions, raffles, guessing competitions, and the like.

“Opening date” used in reference to a lottery means the first day on which tickets in a lottery may be sold or on which subscriptions therein shall be received.

“Permit” means a permit granted by the Minister under this Act sanctioning the conduct of a lottery.

“Permit holder” means the Lotteries Commission acting under the authority of a permit or any person to whom a permit is granted.

“Person” has the same meaning as defined in section four of the Interpretation Act, 1918, and also includes an unincorporated body.

Constitution of Lotteries Commission.

Lotteries Com-
mission.

3. (a) A body corporate is hereby constituted under the name of the Lotteries Commission, hereinafter called “the Commission.”

(b) The Commission shall have perpetual succession and a common seal, and shall be capable of suing and being sued, and entering into contracts for the purpose of carrying out its powers and functions under this Act.

(c) The Commission shall consist of four members, who shall be appointed by the Minister, one of whom shall be nominated by the Minister as the chairman of the Commission.

(d) Any three of such members shall form a quorum. The chairman shall have a deliberative as well as a casting vote.

(e) The members of the Commission so appointed shall hold office for one year, but at the expiration of that time shall be eligible for reappointment.

(f) The Minister may sanction the payment of a fee to each of the members as remuneration for his services at the conclusion of each lottery conducted by the Commission under this Act. The aggregate fees payable to the members in respect of each lottery shall not exceed two and one-half per centum of the gross subscriptions in each case: Provided that the payment of such fees shall be conditional on—

(i) the prior payment of all other expenses, prize moneys and distributions in full;

- (ii) the conduct of the lottery in accordance with the conditions of the permit and the provisions of paragraph (a) of section 10, and all relevant provisions of this Act and the regulations:

Provided that the aggregate fees payable to all the members in any one year commencing on the first day of January shall not exceed the sum of one thousand pounds.

(g) The office of a member shall be *ipso facto* vacated if he—

- (i) is convicted of a breach of any of the provisions of this Act;
- (ii) is convicted of a crime or misdemeanour;
- (iii) is made bankrupt.

(h) A member may be dismissed from his office by the Minister for misbehaviour or neglect of duty.

(i) Every member from time to time appointed by the Minister shall accept his appointment on the express condition that he shall not be entitled to any compensation whatever should his office be abolished before the expiration of his one year's appointment by reason of any legislative enactment.

4. The Commission shall have and exercise the following powers and duties:— Powers of Commission.

- (a) subject to the obtaining of a permit in every case as hereinafter provided, to conduct lotteries in the whole or any part of the State in order to raise money for charitable purposes;
- (b) to receive and make recommendations to the Minister in regard to applications to conduct lotteries by persons desiring to conduct the same; and to exercise such supervision and control over the conduct of lotteries by such persons as may be prescribed;
- (c) to hire and dismiss servants subject to such regulations as may be from time to time prescribed:

Provided that, all things being equal, preference of employment shall be given to returned sailors, soldiers, and nurses.

Applications to conduct Lotteries.

5. (a) Where the Commission desires to conduct a lottery, the Commission shall make application in the prescribed form Applications to conduct lotteries.

to the Minister for a permit at least fourteen days before the proposed date of the opening of the lottery.

(b) Where any other person or body desires to conduct a lottery, such person or body shall make application in the first instance to the Commission at least fourteen days before the opening date. The Commission shall consider the application and may, in its absolute discretion, either reject the application or remit the same to the Minister with a recommendation that a permit be granted.

(c) Every application for a permit to conduct a lottery shall be signed by the person applying for the permit and shall state—

- (i) the proposed opening date and closing date and date of drawing;
- (ii) the locality in which tickets are to be offered for sale or in which subscriptions may be received;
- (iii) the purpose for which the lottery is to be conducted;
- (iv) the total number of tickets to be offered for sale, or the total number of subscriptions proposed to be called for;
- (v) the price of each ticket or subscription;
- (vi) such other details as may be prescribed.

6. (a) The Commission shall, before recommending any application made to it under paragraph (b) of section five, refer the same to the Commissioner of Police for his investigation and report as to the suitability of the person desiring to conduct the proposed lottery and of all persons whom it is proposed shall be associated therein.

(b) The Commissioner shall advise the Commission whether or not all such persons are suitable as aforesaid.

(c) Where the report is unfavourable, no details concerning the unsuitability of any such person shall be furnished to the Commission, but the Commissioner shall furnish a detailed report to the Minister for his information.

(d) The contents of any such detailed report shall be absolutely privileged from production in any court of law, and no person whose official duties may permit him to see the contents thereof shall divulge the same to any other person.

7. Subject to the provisions of section eight the Minister may in his absolute discretion approve or reject any application to conduct a lottery.

Minister's discretion to grant permits to conduct lotteries absolute.

The Minister may, subject to the provisions of this Act, grant a permit to conduct a lottery on such conditions (not inconsistent with this Act or the regulations thereunder) as he may think fit to impose in order to guard against fraud and to ensure compliance with such Act and regulations:

Provided that the Minister shall not grant a permit in respect of any application which has not been recommended by the Commission.

The decision of the Minister in respect of any such matters as aforesaid shall be final and binding on all persons concerned.

8. The Minister shall not grant more than fifteen permits in any calendar year in respect of lotteries the conditions of which contain no limitation to any specific part of the State for the offering of tickets for sale or the receipt of subscriptions.

Restriction of number of State-wide lotteries.

9. The Minister may cancel any permit granted by him, and thereupon no person shall carry on or be concerned in the carrying on of the lottery in respect of which such permit has been cancelled.

Minister may cancel permit.

10. Where there is no restriction imposed by a permit as to the locality in which tickets may be issued or offered for sale, or in which subscriptions may be received, the following conditions shall be observed:—

Special conditions relating to State-wide lotteries.

- (a) The total expenses of conducting the lottery (including commissions payable on sales or subscriptions and the fees of the members of the Commission for conducting the lottery) shall not in any case exceed twenty-five per centum of the gross amount received from the sale of tickets or subscriptions;
- (b) The proposed total prize money distribution shall be stated in the application for the permit;
- (c) Subject to paragraphs (d), (f), and (g) of this section any balance remaining after deduction of such expenses as are sanctioned under paragraph (a) of this section and the payment of the prize moneys shall be applied to the charitable purposes specified in the permit;

- (d) In any case where the Commission conducts the lottery, if, after payment of the expenses of conducting the lottery, the total amount of money allocated under the terms of the lottery to the payment of expenses is not spent, the Commission shall pay any excess to a special bank account in its name. The Commission may apply such moneys, from time to time, with the sanction of the Minister, to any charitable purpose;
- (e) The closing date of the lottery shall not exceed three calendar months from the opening date, and, if on the closing date the lottery has not been filled or fully subscribed, it shall be closed and may be drawn *pro rata*;
- (f) If the lottery is over-subscribed on the closing date, the Minister may authorise the excess subscriptions to be distributed on a *pro rata* basis;
- (g) Where it appears that any lottery conducted by the Commission is fully subscribed before the closing date, the Minister may, at the request of the Commission, fix an earlier date for the closing of the lottery. In the event of any tickets being sold or subscriptions being received after such earlier date, the Minister may, at the request of the Commission, direct that such tickets or subscriptions shall participate in the next available lottery, or, in the event of no lottery being opened within one calendar month from the date of drawing of the lottery to which such tickets or subscriptions relate, that all moneys in respect thereof be refunded to the respective persons entitled;
- (h) All prizes shall be cash prizes;
- (i) All tickets shall be printed and numbered consecutively, and a record shall be kept of such tickets by the permit holder. The printer of the tickets shall forthwith on completion of the printing break the form and distribute the type relating to the printing thereof, and make and deliver to the Commission a statutory declaration to that effect;

11. In regard to every lottery for which a permit is granted—

Regulations to be observed in connection with all lotteries.

- (a) the permit shall stipulate the premises or place where such lottery shall be conducted. All books, papers, documents, accounts and things relating to such lottery shall at all times be kept at such premises or place so as to be readily accessible for police inspection or audit, as hereinafter provided;
- (b) all moneys received in respect of such lottery shall be paid into a separate bank account in the name of the permit holder, and all disbursements (except petty disbursements under one pound) shall be made by cheque drawn on such account;
- (c) the lottery shall be carried on and conducted in accordance with this Act and any regulations governing the same, and the express conditions of the permit relating thereto;
- (d) the persons conducting such lottery and all persons assisting therein shall at all times furnish to the Minister, the Commissioner of Police and his officers, and any auditor appointed under this Act, all information, and answer all questions that may be asked by any of such persons relating to the conducting and management of the lottery;
- (e) the permit holder shall give the Commissioner of Police at least seven days' notice in writing of the date, time, and place of drawing.

Persons taking part in legalised lotteries not liable to prosecution under the Criminal Code, 1913, or the Police Act, 1892, and its amendments.

12. Notwithstanding the provisions of the Criminal Code, 1913, or the provisions of the Police Act, 1892, and its amendments, no person shall be subject to any penal consequences under the said Acts by reason of being a subscriber or contributor to, or carrying on or conducting a lottery, or carrying out any prescribed duties or functions in relation to the conduct of the same, where the lottery is conducted by the Commission or by any person pursuant to a permit granted by the Minister; but, subject to this Act, nothing herein con-

Indemnity clause.

tained shall affect the provisions of the Criminal Code, 1913, and the Police Act, 1892, and its amendments relating to lotteries and illegal gaming.

Police Supervision and Powers of Police.

Powers of police.

13. Any police constable shall be entitled—

(a) to be and remain on any premises where any lottery is being conducted under this Act 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 any such scrutiny or inquiry.

Justice may grant warrant.

14. If any police constable shall have reason to suspect that any illegal lottery is being carried on at any place, or that any lottery in respect of which a permit has been granted is being carried on in contravention of any of the provisions of this Act, the regulations, or such permit, he may make complaint on oath as to any of such matters to a justice of the peace, who may issue his warrant authorising the police constable—

(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 any such lottery.

Audit and Publication of Details of Receipts and Expenditure.

Accounts and audit.

15. With respect to every lottery for which a permit is granted by the Minister under this Act—

(a) the permit holder shall keep 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 such lottery in such form as may be prescribed;

- (b) the permit holder shall, on the granting of the permit, appoint some qualified person to be approved by the Minister to audit and report to the Commission in connection with such account and the conduct of the lottery: Provided, however, that the Minister may at any time appoint an independent auditor, either during the conduct or after the close of the lottery, to make an audit of the affairs of the lottery for his information;
- (c) any person appointed as auditor shall be 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 and the regulations thereunder are being complied with, and such auditor shall report thereon to the Minister in the prescribed manner;
- (d) the Commission shall within thirty days of the drawing of a lottery conducted by it furnish to the Minister a true and accurate account of the receipt and disposal of all property in the conduct of the lottery, and such account shall be accompanied by a certificate of the auditor in regard thereto, certifying whether the conditions of the permit and of this Act and the regulations have been complied with, and, if not, drawing attention to any details of non-compliance;
- (e) the provisions of the preceding paragraph shall apply in respect of any lottery conducted other than by the Commission: Provided that, instead of the said account and certificate being furnished to the Minister, the same shall be furnished to the Commission, which shall examine and forward it to the Minister, with such comments as it may think necessary in the circumstances.

Offences.

16. Any person who does any of the following acts, or makes any of the following omissions, or who is in any manner concerned therein, shall be guilty of an offence against offences.

this Act, and shall be punishable in manner hereinafter prescribed. The said acts or omissions referred to are as follows:—

- (i) 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; which act is hereby declared to be a crime.

Penalty: Imprisonment with hard labour for five years, or a fine of five hundred pounds.

- (ii) With intent to defraud, doing any of the following acts, which are hereby declared to be crimes—

(a) altering or falsifying any book, document, or voucher relating to a lottery; or

(b) making or concurring in making any false or fraudulent entry in any such book, document, or voucher; or

(c) omitting or concurring in omitting any material particular from any such book, document, or voucher.

Penalty: Imprisonment with hard labour for three years, or a fine of three hundred pounds.

- (iii) conducting an illegal lottery; which act is hereby declared to be a misdemeanour punishable by imprisonment with hard labour for three years, or punishable on summary conviction by imprisonment with hard labour for six months or a fine of one hundred pounds;

- (iv) 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; which act is hereby declared to be a misdemeanour punishable by imprisonment with hard labour for three years;

- (v) without the written sanction of the Minister wilfully diverting the funds raised by any lottery for a purpose other than that for which a permit was granted by the Minister; which act is hereby declared to be a misdemeanour.

Penalty: Imprisonment with hard labour for one year, or a fine of one hundred pounds.

- (vi) not conducting a lottery in accordance with the conditions of a permit granted in respect of the same.

Penalty: Fifty pounds.

- (vii) 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.

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

Penalty: Fifty pounds.

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

Penalty: Fifty pounds.

- (x) 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.

- (xi) hindering any officer of police or any auditor in the execution of their respective powers and duties under this Act.

Penalty: Fifty pounds.

- (xii) being an auditor under this Act, is guilty of any neglect or breach of duty under this Act or the regulations.

Penalty: Fifty pounds.

- (xiii) 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 him by an auditor appointed under this Act, or fails to disclose to such auditor all books, documents, vouchers and things which may be in his custody or power relating to such lottery.

Penalty: Fifty pounds.

(xiv) doing or omitting to do anything in contravention of this Act for which no penalty is specifically prescribed.

Penalty: Fifty pounds.

(xv) selling or offering for sale in any street, right-of-way, doorway, or any prescribed place or class of place in which sale or offering for sale is forbidden any ticket, coupon, token, acknowledgment or voucher relating to any share or interest in a lottery.

Penalty: Ten pounds.

Exemption in case of church, etc., bazaars.

17. On the recommendation of the Commission the Minister may grant any religious body or charitable organisation permission to hold any guessing competition, raffle, or art union, in connection with any bazaar or fair proposed to be held by any such religious body or charitable organisation, on such terms and conditions as he may think fit to impose.

Where any such permission is granted the provisions of section twelve of this Act shall apply with the necessary modifications.

In this section the term "charitable organisation" means any organisation which in the opinion of the Minister has for any of its objects the raising of money for charitable purposes.

Power of Minister to demand balance sheet at any time.

18. The Minister 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 the preceding section, and may in connection with such account require the production to him of all books, tickets, butts of tickets, documents, vouchers, and things relating thereto.

Limitation of distribution moneys in the case of certain charitable purposes.

19. No sum of money exceeding two hundred and fifty pounds shall be paid out in distribution of moneys raised by any lottery conducted by the Commission under this Act to any one association, body, or institution where the purpose to which such money is to be applied comes within the provisions of paragraph (i) of the definition of "charitable purpose" in section two.

20. The Governor may make regulations, not inconsistent Regulations.
with this Act, for all or any of the following purposes:—

- (a) Prescribing the procedure to be adopted at meetings of the Commission;
- (b) Providing for a common seal of the Commission and for the use and custody thereof;
- (c) Prescribing the form and manner of applications under this Act, and generally providing forms for use thereunder;
- (d) Prescribing the method of keeping accounts by persons conducting lotteries;
- (e) Providing for security and the form of security to be given by persons conducting lotteries;
- (f) 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;
- (g) 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;
- (h) Providing for the disposal of unclaimed prizes;
- (i) Providing for the forfeiture or disposal of moneys, securities, papers, documents, and things seized by a police officer under the provisions of section fourteen on application to a police or resident magistrate; and prescribing the practice governing such application;
- (j) Providing for the cancellation of permits;
- (k) Providing for the advertisement of winning numbers and the notification to the winner of any prize;
- (l) Prescribing the conditions governing the employment of agents;
- (m) For the prevention of fraud;
- (n) Generally providing for all matters for which regulations may be made under this Act.

The regulations may fix a penalty not exceeding one hundred pounds for the breach of any of the provisions or requirements thereof.

21. This Act shall continue in operation until the thirty- Duration of Act.
-rst day of December, one thousand nine hundred and thirty-
-three, and no longer.