

WESTERN AUSTRALIA

---

---

**LOTTERIES COMMISSION  
AMENDMENT ACT 1998**

---

**No. 26 of 1998**

---

**AN ACT to amend the *Lotteries Commission Act 1990* and  
for related purposes.**

*[Assented to 30 June 1998.]*

The Parliament of Western Australia enacts as follows:

**Short title**

**1.** This Act may be cited as the *Lotteries Commission  
Amendment Act 1998*.

### **Commencement**

2. This Act comes into operation on such day as is fixed by proclamation.

### **Principal Act**

3. In this Act the *Lotteries Commission Act 1990\** is referred to as the principal Act.

[\* *Act No. 16 of 1990.*

*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 142.]*

### **Long title amended**

4. The long title to the principal Act is amended by deleting “**games of lotto and soccer football pools,**”.

### **Section 3 amended**

5. (1) Section 3 (1) of the principal Act is amended —

(a) by deleting the definitions of “closing date”, “continuing lottery”, “date of drawing”, “drawing”, “opening date”, “participating State” and “standard lottery”;

(b) by deleting the definition of “designated authority” and substituting the following definition —

“  
“**designated authority**” means a person  
designated under subsection (4);  
”;

- (c) in the definition of “game of lotto” by deleting “a game of lotto” and substituting the following —
    - “ a lottery ”;
  - (d) in the definition of “instant lottery” —
    - (i) by deleting “an instant lottery” and substituting the following —
      - “ a lottery ”; and
    - (ii) by deleting “subsection (3)” and substituting the following —
      - “ subsection (3) ”;
  - (e) by deleting the definition of “lottery” and substituting the following definition —
    - “  
    **“lottery”** means a scheme or device in which the success or otherwise of participants is governed by numbers, tickets, events, etc., drawn or determined in a manner involving a degree of randomness or chance;  
”;
  - (f) in the definition of “soccer football pool” by deleting “a game or competition” and substituting the following —
    - “ a lottery ”;
  - (g) after the definition of “soccer football pool” by inserting the following definition —
    - “  
    **“sports lottery”** means a lottery the results of which depend on the outcome of one or more specified sporting events;  
”;
- and

**s. 6**

- (h) by deleting the definition of “subscription” and substituting the following definitions —

“

“**subscription**” means the entry fee, payable by a person under the rules to enable the person to participate in a lottery, exclusive of any add-on commission payable to an authorized retailer;

“**ticket**” includes an acknowledgement, whether in a physical form or in the form of an electronic message, that a subscription to a lottery has been accepted by the Commission.

”.

- (2) Section 3 (2) of the principal Act is amended by deleting “of game” and substituting the following —

“ of lottery ”.

- (3) Section 3 (4) of the principal Act is repealed and the following subsection is substituted —

“

(4) The Governor may prescribe a person, whether from this State or not, to be a “designated authority” for the purposes of section 6.

”.

**Section 6 amended**

- 6.** (1) Section 6 (1) of the principal Act is amended —

- (a) in paragraph (a) by deleting “other than continuing lotteries in the whole or any part of the State”; and  
(b) by deleting paragraphs (b) and (c).

- (2) Section 6 (3) of the principal Act is amended —
- (a) by deleting “For the purpose of conducting games of lotto under subsection (1), the” and substituting the following —  
“ The ”;
  - (b) by deleting paragraph (a) and substituting the following paragraph —  
“  
(a) make agreements with one or more designated authorities for the joint conduct with those designated authorities of lotteries;  
”;  
and
  - (c) in paragraph (b) by deleting “games of lotto” and substituting the following —  
“ lotteries ”.
- (3) Section 6 (4) of the principal Act is repealed.

**Part 3 heading amended**

7. The heading to Part 3 of the principal Act is repealed and the following heading is substituted —

“ **PART 3 — CONDUCT OF LOTTERIES** ”.

**Section 10 amended**

8. (1) Section 10 (1) and (2) of the principal Act are repealed and the following subsections are substituted —

“  
(1) When the Commission desires to conduct a lottery, it is to apply to the Minister for a permit to do so.

**s. 9**

(2) An application shall —

- (a) be made at least 14 days before the lottery is conducted; and
- (b) be duly executed by the Commission in accordance with this Act.

(2a) An application for a permit to conduct a lottery shall state —

- (a) the price of each subscription;
- (b) the details of the prize structure of the lottery including prize reserve funds; and
- (c) the prescribed particulars, if any.

”.

(2) After section 10 (3) of the principal Act the following subsection is inserted —

“

(4) It is a condition of any permit granted under subsection (3) that the lottery may not be conducted unless rules have been made for the conduct of that lottery by the Commission under section 28.

”.

**Section 11 repealed**

**9.** Section 11 of the principal Act is repealed.

**Section 12 amended**

**10.** Section 12 of the principal Act is amended —

- (a) in subsection (1) —
  - (i) by deleting the subsection designation “(1)”; and

(ii) by deleting “section 10,” and substituting the following —

“ this Act, ”;

and

(b) by repealing subsections (2), (3), (4) and (5).

### **Section 13 amended**

**11.** Section 13 of the principal Act is amended by deleting “, games of lotto and soccer football pools” wherever it occurs.

### **Section 14 amended**

**12.** Section 14 of the principal Act is amended —

(a) in subsection (1) by deleting “, game of lotto or soccer football pool” wherever it occurs; and

(b) in subsection (2) by deleting “, game of lotto or soccer football pool” wherever it occurs.

### **Section 15 amended**

**13.** Section 15 (1), (2), (3) and (4) of the principal Act are repealed and the following subsections are substituted —

“

(1) The Commission may pay or deliver a prize won by a participant in a lottery conducted by it on receipt of the winning entry, receipted entry form, or other ticket or evidence of participation provided to a participant by the Commission for the particular lottery, and may require the participant, where appropriate, to endorse that entry, entry form, etc., with the participant’s name, address and signature.

**s. 14**

(2) If a participant alleges that a prize has been won in a lottery, but that the appropriate evidence of participation in that lottery has been lost or destroyed, the Commission may pay or deliver the prize won by the participant, if the participant satisfies the Commission that the participant is entitled to that prize.

(3) The Commission is not obliged to satisfy itself that —

- (a) the purported participant presenting evidence of a winning entry, etc., is lawfully entitled to claim possession or ownership of that evidence;
- (b) any signature presented as a part of a verification process is genuine; or
- (c) the purported participant is not an infant or person under other legal disability.

”.

**Section 16 amended**

**14.** Section 16 of the principal Act is amended —

- (a) by repealing subsection (1) and substituting the following subsection —

“

(1) Subject to subsection (2), if a prize in a lottery conducted by the Commission is not claimed within 12 months after the date on which the result of that lottery was publicly declared on behalf of the Commission, the participant’s right to recover, and the Commission’s liability to pay or deliver that prize, are extinguished.

”;



- (b) in subsection (4) by deleting “game of lotto or soccer football pool,”; and
- (c) by repealing subsection (5).

**Section 17 amended**

**15.** Section 17 of the principal Act is amended —

- (a) in subsection (1) —
  - (i) by deleting the subsection designation “(1)”;
  - (ii) by deleting “standard” wherever it occurs;
  - (iii) by deleting “lottery if one ” and substituting the following —
    - “ lottery of a similar type if one ”; and
  - (iv) by deleting “lottery to be” and substituting the following —
    - “ lottery of a similar type to be ”;
- and
- (b) by repealing subsection (2).

**s. 16**

**Section 18 repealed and a section substituted**

**16.** Section 18 of the principal Act is repealed and the following section is substituted —

“

**Participants to be 16 years or older**

**18.** A person shall not knowingly —

- (a) sell a ticket in a lottery; or
- (b) cause or permit a ticket in a lottery to be sold,

to a child under 16 years of age.

Penalty: \$200.

”.

**Section 20 amended**

**17.** Section 20 of the principal Act is amended —

- (a) in subsection (2) (a) by deleting “, games of lotto and soccer football pools”;
- (b) in subsection (3) by deleting “of an account at a bank approved by the Treasurer to be called” and substituting the following —

“

of, banking accounts opened with the approval of the Treasurer and operated for the purposes of this Act, which together shall be taken to constitute an account known as

”;

- (c) in subsection (4) —
- (i) by deleting “the Account” and substituting the following —
- “ an account forming a part of the Lotteries Commission Account ”;
- and
- (ii) by deleting “that Account” and substituting the following —
- “ the Lotteries Commission Account ”;
- (d) by inserting after subsection (4) the following subsection —
- “ (4a) The Commission shall not permit the bank accounts constituting the Lotteries Commission Account to be overdrawn except with the approval of, and subject to any terms and conditions imposed by, the Treasurer. ”;
- and
- (e) in subsection (5) —
- (i) by deleting “, games of lotto and soccer football pools”;
- (ii) by deleting “commissions payable on subscriptions and” and substituting the following —
- “ add-on commissions payable on subscriptions, ”;

**s. 18**

(iii) by inserting after “Commission” the following —

“  
and all other expenses attributable to those  
lotteries  
”;  
and

(iv) by inserting before “subscriptions.” the  
following —

“ commissions and ”.

**Section 22 amended**

**18.** (1) Section 22 of the principal Act is amended by  
inserting before subsection (1) the following subsection —

“

(1a) In this section —

**“fixed prize game”** means a lottery game in which  
all winning participants are entitled to a prize,  
the amount of which is determined before the  
commencement of the game;

**“net subscriptions”** are calculated —

- (a) in the case of a fixed prize game, as being  
the subscriptions received for that game  
less the prize liability;
- (b) in the case of a pari-mutuel prize game, as  
being the subscriptions received for that  
game less the prize fund;

**“pari-mutuel prize game”** means a lottery game in which the prize paid to any winning participant depends on the size of the prize pool and the number of winning participants;

**“prize fund”** means a prescribed percentage of subscriptions (inclusive of any prize reserve) that is allocated for distribution among winning participants in a pari-mutuel prize game;

**“prize liability”** means the amount needed in a fixed prize game to pay all winning entries in that game, in addition to prize reserve fund allocations as authorized by the permit.

”.

(2) Section 22 (2) of the principal Act is amended —

(a) by deleting “moneys” and substituting the following —

“ net subscriptions ”;

(b) by deleting “and games of lotto”;

(c) in paragraph (a) by deleting “5%” and substituting the following —

“ 12.5% ”;

(d) in paragraph (b) by deleting “16%” and substituting the following —

“ 40% ”;

(e) in paragraph (c) by deleting “2%” and substituting the following —

“ 5% ”;

**s. 19**

(f) in paragraph (d) by deleting “2%” and substituting the following —

“ 5% ”; and

(g) in paragraph (e) by deleting “2%” and substituting the following —

“ 5% ”.

(3) Section 22 (6) of the principal Act is amended by deleting “and games of lotto”.

(4) Section 22 (7) of the principal Act is amended by deleting “and games of lotto”.

**Section 23 repealed**

**19.** Section 23 of the principal Act is repealed.

**Section 24 amended**

**20.** Section 24 of the principal Act is amended —

(a) in paragraph (a) by deleting “gross”; and

(b) by deleting paragraph (f).

**Section 27 amended**

**21.** Section 27 of the principal Act is amended —

(a) in subsection (1) by deleting “game of lotto or soccer football pool,”;

(b) in subsection (2) by deleting “, game of lotto or soccer football pool” wherever it occurs; and

- (c) in subsection (3) by deleting “purchase a ticket in a lottery or entry in a game of lotto or soccer football pool” and substituting the following —

“ pay to participate in a lottery ”.

**Section 28 amended**

**22.** Section 28 of the principal Act is amended —

- (a) in subsection (1) by deleting paragraphs (a) and (b) and the word “and” at the end of paragraph (b); and
- (b) in subsection (2) by deleting “game of lotto or soccer football pool,”.

**Consequential amendments**

**23.** Schedule 1 has effect.

**SCHEDULE 1 — CONSEQUENTIAL AMENDMENTS**

[Section 23]

***Commercial Tenancy (Retail Shops) Agreements Act 1985***

1. Section 7 (4) (k) of the *Commercial Tenancy (Retail Shops) Agreements Act 1985*\* is amended by deleting “, game of lotto, or soccer football pool within the meaning of those expressions in the definition of “lottery” in section 4 (1) of the *Lotteries (Control) Act 1954*,” and substituting the following —

“  
within the meaning of that term in the *Lotteries Commission Act 1990*,  
”.

[\* *Reprinted as at 27 September 1991.*  
*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 38 and Act No. 56 of 1997.*]

***Gaming and Betting (Contracts and Securities) Act 1985***

2. The Schedule to the *Gaming and Betting (Contracts and Securities) Act 1985*\* is amended by deleting —

“*Lotteries (Control) Act 1954*  
*Lotto Act 1981*  
*Soccer Football Pools Act 1984*”

and substituting the following —

“ *Lotteries Commission Act 1990* ”.

[\* *Act No. 28 of 1985.*  
*For subsequent amendments see 1997 Index to Legislation of Western Australia, Table 1, p. 94.*]

***Gaming Commission Act 1987***

3. Section 102 (a) of the *Gaming Commission Act 1987*\* is amended by deleting “, game of lotto or soccer football pool”.

[\* *Reprinted as at 5 May 1997.*]