

Western Australia

## **Lotteries Commission Act 1990**

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# Lotteries Commission Act 1990

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## Notes



## Lotteries Commission Act 1990

**An Act to provide for the continuation of the Lotteries Commission and the conduct of lotteries, to repeal the *Lotteries (Control) Act 1954* and the *Lotto Act 1981*, and for related purposes.**

*[Long title amended by No. 26 of 1998 s.4.]*

### Part 1 — Preliminary

**1. Short title**

This Act may be cited as the *Lotteries Commission Act 1990* <sup>1</sup>.

**2. Commencement**

This Act shall come into operation on a day to be fixed by proclamation <sup>1</sup>.

**3. Interpretation**

(1) In this Act, unless the contrary intention appears —

“**chairperson**” means the chairperson of the Commission;

“**Commission**” means the Lotteries Commission constituted by section 5 of the *Lotteries (Control) Act 1954* and continued in existence under this Act;

“**conduct**” includes promote, organize, manage or operate;

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

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**“entry form”**, in relation to a game of lotto, means entry form or coupon required by the rules to enable a person to enter or subscribe to the game of lotto;

**“game of lotto”** means a lottery within the meaning of subsection (2);

**“instant lottery”** means a lottery within the meaning of subsection (3);

**“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;

**“member”** means a member of the Commission;

**“permit”** means a permit granted under this Act;

**“soccer football pool”** means a lottery the results of which depend on a forecast of the outcome of soccer football matches;

**“sports lottery”** means a lottery the results of which depend on the outcome of one or more specified sporting events;

**“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) A game of lotto is a form of lottery in which an attempt is made to choose, forecast, select or draw from a group of numbers, a smaller group of numbers to be drawn on an equally random basis.
- (3) An instant lottery is a lottery in which the holder of a ticket removes from the surfaces of the ticket opaque material covering certain amounts, pictures, figures, letters or other



symbols printed on the ticket in order to ascertain whether or not the presentation of the ticket to the Commission will entitle that person, subject to this Act and to the conditions, if any, to which the relevant permit is granted —

- (a) to receive a prize;
  - (b) to receive a prize and to be eligible for further prizes to be awarded on the drawing of a lottery or lotteries in accordance with the rules; or
  - (c) to be eligible for prizes to be awarded on the drawing of a lottery or lotteries in accordance with the rules.
- (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 3 amended by No. 26 of 1998 s.5.]*

### 3A. Clarification of instructions on instant lottery tickets

- (1) In or on any instant lottery ticket, whether issued under this Act or the *Lotteries (Control) Act 1954*, and whether issued before or after the commencement of the *Lotteries Commission Amendment Act 1993*, the phrase —
- (a) **“match 3 money amounts”, “match 3 cash amounts”, “match 3 identical dollar amounts” or “find 3 identical dollar amounts”** means to win a prize the ticket must show 3 of an identical money amount, and does not include, and has never included, the possibility of matching 3 money amounts by finding a pair for each of 3 different money amounts;
  - (b) **“match 3 symbols the same”, “match any 3 symbols”, “match 3 symbols”, “find 3 identical symbols” or “match 3 identical symbols”** means to win a prize the ticket must show 3 of an identical symbol, and does not include, and has never included, the possibility of matching 3 symbols by finding a pair for each of 3 different symbols;

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- (c) **“if 3 matching numbers appear”, “match any 3 numbers”, “match 3 numbers”, “find 3 identical numbers” or “match 3 identical numbers”** means to win a prize the ticket must show 3 of an identical number, and does not include, and has never included, the possibility of matching 3 numbers by finding a pair for each of 3 different numbers;
- (d) **“match 3 amounts”, “match the 3 amounts”, “match 3 identical amounts”, “find 3 identical amounts” or “match any 3 identical amounts”** means to win a prize the ticket must show 3 of an identical amount, and does not include, and has never included, the possibility of matching 3 amounts by finding a pair for each of 3 different amounts;
- (e) **“match 3 of the same” or “match 3”** means to win a prize the ticket must show 3 of an identical thing, and does not include, and has never included, the possibility of matching 3 things by finding a pair for each of 3 different things;
- (f) **“match 3 words/symbols”** means to win a prize the ticket must show 3 of an identical word, or symbol, as the case may be, and does not include, and has never included, the possibility of matching 3 words (or symbols) by finding a pair for each of 3 different words (or symbols);
- (g) **“find 3 identical symbols or numbers”** means to win a prize the ticket must show 3 of an identical symbol, or number, as the case may be, and does not include, and has never included, the possibility of matching 3 symbols (or numbers) by finding a pair for each of 3 different symbols (or numbers).

- (2) In this section, the figure **“3”** includes the word “three”.

*[Section 3A inserted by No. 9 of 1993 s.4.]*

## **Part 2 — Constitution and administration of Commission**

### **4. Continuation of Commission**

- (1) The body corporate constituted under section 5 of the *Lotteries (Control) Act 1954* and named the “Lotteries Commission” is preserved and continues in existence for the purposes of this Act as a body corporate retaining the same corporate name, corporate identity and common seal.
- (2) The Commission is a body corporate with perpetual succession and a common seal and is capable of —
  - (a) acquiring, holding and disposing of real and personal property;
  - (b) suing and being sued; and
  - (c) doing and suffering all such acts and things as bodies corporate may lawfully do and suffer.
- (3) The Commission is an agent of the Crown in right of the State and enjoys the status, immunities and privileges of the Crown.

### **5. Composition of Commission**

- (1) The Commission shall consist of 6 members appointed by the Minister.
- (2) The Minister shall appoint one of the members as chairperson of the Commission.
- (3) The Minister shall endeavour to ensure that the Commission has available to it from its own membership expertise relevant to the operations of the Commission, including expertise in the areas of management, finance, computer operations, marketing, health and community services.
- (4) Schedule 1 has effect with respect to the members and the procedure of the Commission.

**6. Functions and powers of Commission**

- (1) The functions of the Commission are, subject to this Act —
  - (a) to conduct lotteries;
  - [(b) and (c) deleted]*
  - (d) to perform any other function vested in it by this Act.
- (2) The Commission may do all things that are necessary or convenient to be done for or in connection with the performance of its functions.
- (3) The Commission may, with the approval in writing of the Minister —
  - (a) make agreements with one or more designated authorities for the joint conduct with those designated authorities of lotteries; and
  - (b) conduct lotteries jointly with the designated authorities referred to in paragraph (a) in accordance with agreements made under this subsection.

*[Section 6 amended by No. 26 of 1998 s.6.]*

**7. Directions by the Minister**

- (1) Subject to subsection (2), the Minister may give directions in writing to the Commission with respect to its functions and powers, either generally or with respect to a particular matter, and the Commission shall give effect to any such direction.
- (2) Notwithstanding subsection (1), the Minister shall not give directions to the Commission with respect to the distribution of moneys under sections 22 and 24.
- (3) The text of any direction given under subsection (1) shall be included in the annual report submitted by the accountable authority of the Commission under section 66 of the *Financial Administration and Audit Act 1985*.

- (4) Subsection (1) has effect subject to the *Statutory Corporations (Liability of Directors) Act 1996*.

*[Section 7 amended by No. 41 of 1996 s.3.]*

**8. Commission trading name or symbol**

The Commission may use, and operate under, a trading name or symbol approved by the Minister, but the use of such a trading name or symbol does not prevent or affect any proceedings being taken by or against the Commission in its corporate name.

**9. Staff**

- (1) The Commission may appoint such employees, either full-time or part-time, as it considers necessary to enable it to carry out its functions.
- (2) Subject to any relevant order, award or industrial agreement the terms and conditions of office or employment of persons appointed under subsection (1), including the salary or wages payable, are such terms and conditions as the Commission determines after consultation with the Public Service Commissioner <sup>2</sup>.
- (3) The Commission may engage under a contract for services any consultant or person to provide administrative, professional, technical or other assistance as it considers necessary to enable the Commission to perform its functions.
- (4) Notwithstanding anything in this section, to the extent that there is in the case of a person who is appointed under subsection (1) to be an employee of the Commission and who is a member of the Senior Executive Service within the meaning of the *Public Service Act 1978* <sup>3</sup> an inconsistency between this Act and that Act, that Act shall prevail.
- (5) The engagement of a person under subsection (3) does not —
- (a) render Part 3 of the *Public Sector Management Act 1994*, or any Act applying to persons as officers of the Public Service of the State, applicable to that person; or

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- (b) affect or prejudice the application to that person of those provisions if they applied to that person at the time of the engagement of that person.

*[Section 9 amended by No. 32 of 1994 s.3(2).]*

### **Part 3 — Conduct of lotteries**

*[Heading inserted by No. 26 of 1998 s.7.]*

**10. Applications to conduct lotteries and games of lotto**

- (1) When the Commission desires to conduct a lottery, it is to apply to the Minister for a permit to do so.
- (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.
- (3) On receiving an application under subsection (1), the Minister shall —
  - (a) grant the application, either unconditionally or subject to such conditions as are specified in the permit, and issue to the Commission the permit applied for; or
  - (b) refuse to grant the application.
- (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 10 amended by No. 26 of 1998 s.8.]*

**[11. Repealed by No. 26 of 1998 s.9.]**

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**12. Provisions relating to lotteries conducted by Commission**

Subject to the Commission having obtained 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 2 or more lotteries at the same time.

*[Section 12 amended by No. 26 of 1998 s.10.]*

**13. Duties of Commission in respect of lotteries, games of lotto and soccer football pools**

The Commission shall, in respect of all lotteries for which permits have been granted to it, conduct those lotteries in accordance with this Act and with such conditions as are imposed on the grant of those permits.

*[Section 13 amended by No. 26 of 1998 s.11.]*

**14. Prizes**

- (1) The Commission shall, in any lottery conducted by it, specify the value and form, whether of money or things of value, of the prizes offered by it in that lottery.
- (2) The Commission shall not in any lottery conducted by it distribute prizes otherwise than in the value and form specified by the Commission in relation to that lottery.

*[Section 14 amended by No. 26 of 1998 s.12.]*

**15. Payment of prizes**

- (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.



- (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.
- [(4) repealed]*
- (5) Notwithstanding any law to the contrary, whether relating to infants or to persons under other legal disability or otherwise, payment or delivery of a prize by the Commission under this section constitutes full satisfaction by, and a full and valid discharge to, the Commission.

*[Section 15 amended by No. 26 of 1998 s.13.]*

**16. Unclaimed prizes**

- (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.
- (2) If a prize in an instant lottery conducted by the Commission is not claimed within the period of 12 months next following the date when the last ticket or tickets in each lot of tickets were issued by the Commission to any person in respect of that particular series of instant lottery, the right to recover, and the liability of the Commission to pay or deliver, that prize are extinguished.

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*[(3) repealed]*

- (4) For the purposes of this section, where a cheque has been issued by the Commission in payment of a prize in a lottery, the prize shall not be regarded as having been claimed if the cheque has not been presented for payment.

*[Section 16 amended by No. 32 of 1992 s.3; No. 9 of 1993 s.5; No. 26 of 1998 s.14.]*

**17. Requirements applicable to lotteries conducted by Commission**

Where a lottery conducted by the Commission 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 of a similar type if one is then being conducted by the Commission or in the next lottery of a similar type 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.

*[Section 17 amended by No. 26 of 1998 s.15.]*

**18. Participants to be 16 years or older**

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 18 inserted by No. 26 of 1998 s.16.]*

## **Part 4 — Financial provisions**

### **19. Interpretation**

In this Part —

**“approved purpose”** means a benevolent or charitable purpose;

**“eligible organization”** means —

- (a) an institution, association, club, society, organization or body, whether incorporated or not —
  - (i) that is not a Minister of the Crown in right of the State, Government department, State trading concern, State instrumentality or State public utility; and
  - (ii) that is not operated for the purpose of profit or financial gain to individual members, shareholders or owners;

or

- (b) a local government or regional local government;

**“year”** means a period of 12 months ending on 30 June.

*[Section 19 amended by No. 32 of 1992 s.4; No. 74 of 1994 s.4; No. 14 of 1996 s.4.]*

### **20. Resources of Commission**

- (1) Subject to this Act, the Commission shall be responsible for managing its own finances.
- (2) The funds and property available to the Commission for the purposes of this Act are —
  - (a) moneys received by the Commission under this Act in respect of lotteries conducted by it;
  - (b) any moneys derived from investment under section 21; and
  - (c) any other moneys or property that may lawfully be received by the Commission for the purposes of this Act.

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- (3) The moneys referred to in subsection (2) shall be paid into, and placed to the credit 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 the Lotteries Commission Account.
- (4) All expenditure incurred by the Commission for the purpose of performing its functions under this Act shall be paid from an account forming a part of the Lotteries Commission Account referred to in subsection (3) and moneys standing to the credit of the Lotteries Commission Account shall be applied only for the purposes of this Act.
- (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.
- (5) The total expenses of conducting lotteries in any one year including add-on commissions payable on subscriptions, the allowances and remuneration of the members of the Commission and all other expenses attributable to those lotteries shall not in that year exceed 25% of the gross amount received from commissions and subscriptions.
- (6) The Commission may, with the approval in writing of the Minister, apply part or all of the balance of moneys remaining after the deductions and repayments referred to in section 24(a) to (f) on the purchase, acquisition, maintenance and improvement of lands and buildings held or intended to be held for an approved purpose or for the purposes of this Act.

*[Section 20 amended by No. 26 of 1998 s.17.]*

**21. Temporary investment of moneys**

Moneys standing to the credit of the Account referred to in section 20(3) may, until required by the Commission for the purposes of this Act, be temporarily invested by the Commission as trust funds may be invested under Part III of the

*Trustees Act 1962* or in an investment, or class or kind of investment, approved by the Treasurer.

*[Section 21 amended by No. 1 of 1997 s.18.]*

**22. Distribution of lotteries and lotto moneys**

(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.

(1) There shall be established at the Treasury forming part of the Trust Fund constituted under section 9 of the *Financial Administration and Audit Act 1985* —

- (a) an account to be known as the “Sports Lotteries Account”; and
- (b) an account to be known as the “Arts Lotteries Account”.

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- (2) Of the net subscriptions received by the Commission in respect of lotteries conducted by it, the Commission shall pay during each year —
- (a) 12.5% to such eligible organizations as the Commission thinks fit and the Minister approves for such approved purposes as the Commission thinks fit and the Minister approves;
  - (b) 40% to the credit of the Consolidated Fund for subsequent appropriation to the special account kept at the Treasury under section 3(2) of the *Hospital Fund Act 1930*;
  - (c) 5% to the credit of the Consolidated Fund for subsequent appropriation to the Sports Lotteries Account established under subsection (1);
  - (d) 5% to the credit of the Consolidated Fund for subsequent appropriation to the Arts Lotteries Account established under subsection (1); and
  - (e) an amount not exceeding 5% —
    - (i) as recommended by the Commission and approved by the Minister to such body corporate as the Commission thinks fit and the Minister approves, for the purpose of funding incentives to undertake, or projects to facilitate the undertaking of, commercial film production in the State; and
    - (ii) as recommended by the Commission and approved by the Minister to the University of Western Australia or any other body corporate which is, at the time of the payment, administering or managing the Festival of Perth, for the purpose of assisting the funding of the Festival of Perth.

- (2a) An amount equal to the amount credited to the Consolidated Fund under subsection (2)(b) shall be —
  - (a) credited to the special account kept at the Treasury under section 3(2) of the *Hospital Fund Act 1930*; and
  - (b) charged to the Consolidated Fund.
- (2b) An amount equal to the amount credited to the Consolidated Fund under subsection (2)(c) shall be —
  - (a) credited to the Sports Lotteries Account established under subsection (1); and
  - (b) charged to the Consolidated Fund.
- (2c) An amount equal to the amount credited to the Consolidated Fund under subsection (2)(d) shall be —
  - (a) credited to the Arts Lotteries Account established under subsection (1); and
  - (b) charged to the Consolidated Fund.
- (2d) This section appropriates the Consolidated Fund for the purposes mentioned in subsections (2a), (2b) and (2c).
- [(3) repealed]*
- (4) The moneys credited to the Sport Lotteries Account under subsection (2b) shall be distributed by or on behalf of the Minister for Sport and Recreation in such proportions and among such bodies engaged in the conduct of sport in the State as the Minister for Sport and Recreation thinks fit.
- (5) The moneys credited to the Arts Lotteries Account under subsection (2c) shall be distributed by or on behalf of the Minister for the Arts in such proportions and among such bodies engaged in the conduct of cultural activities, and persons engaged in cultural activities, in the State as the Minister for the Arts thinks fit.
- (6) The Minister for Sport and Recreation and the Minister for the Arts may for the purpose of deciding on the distribution of

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moneys under subsections (4) and (5) respectively consult such persons and bodies as they think fit and such persons or bodies may be paid, out of the moneys received in respect of lotteries conducted by the Commission under this Act, such remuneration and allowances as are determined by the Minister to whom the administration of this Act is for the time being committed by the Governor to be appropriate.

- (7) The Minister for Sport and Recreation and the Minister for the Arts may, for the purpose of distribution of moneys under subsections (4) and (5) respectively, make use of such persons, bodies or departments of the Government as they think fit and such persons, bodies or departments shall be paid, out of the moneys received in respect of lotteries conducted by the Commission under this Act, such of the costs and expenses of that distribution as are determined by the Minister to whom the administration of this Act is for the time being committed by the Governor to be appropriate.
- (8) The Minister shall carry out a review of the operation of subsection (2)(e) as soon as is practicable after the expiration of 3 years from the commencement of the *Lotteries Commission Amendment Act 1992* and thereafter as soon as is practicable after the expiration of every period of 3 years from the date on which a report is laid before each House of Parliament in accordance with subsection (10).
- (9) In the course of a review under subsection (8) the Minister shall consider and have regard to whether —
  - (a) the application by recipients of the payments made under subsection (2)(e) in the preceding 3 years has been appropriate; and
  - (b) the future continuation of the payments referred to in subsection (2)(e) is appropriate.
- (10) The Minister shall prepare a report based on the review made under subsection (8) and as soon as is practicable after the



preparation of the report shall cause it to be laid before each House of Parliament.

*[Section 22 amended by No. 32 of 1992 s.5; No. 6 of 1993 s.4; No 74 of 1994 s.5; No. 49 of 1996 s.64; No. 26 of 1998 s.18.]*

*[23. Repealed by No. 26 of 1998 s.19.]*

**24. Distribution of residual moneys**

The balance of moneys received by the Commission under this Act remaining after appropriate provision has been made for —

- (a) deduction from the amount referred to in section 20(5) of the total expenses referred to in that subsection;
- (b) payment of the prize moneys;
- (c) payment of the moneys required to be paid under section 22(2);
- (d) payment of the remuneration and allowances referred to in section 22(6);
- (e) payment of the costs and expenses referred to in section 22(7); and
- (f) *deleted*
- (g) deduction of the moneys applied under section 20(6),

shall be distributed to such eligible organizations as the Commission thinks fit and the Minister approves for such approved purposes as the Commission thinks fit and the Minister approves.

*[Section 24 amended by No. 32 of 1992 s.7; No. 26 of 1998 s.20.]*

**25. Application of *Financial Administration and Audit Act 1985***

The provisions of the *Financial Administration and Audit Act 1985* regulating the financial administration, audit and reporting of statutory authorities apply to and in respect of the Commission and its operations.

**26. Information**

- (1) The Commission shall at the end of each year present to each House of Parliament a schedule setting out the names of all bodies, persons and eligible organizations to which money has been granted, and the amounts given in each case, during that year.
- (2) For parliamentary purposes or for the proper conduct of the Minister's public business, the Minister is entitled to have information in the possession of the Commission and to have and retain copies of documents.
- (3) For the purposes of subsection (2) the Minister may —
  - (a) request the Commission to furnish information to the Minister;
  - (b) request the Commission to give the Minister access to information;
  - (c) for the purposes of paragraph (b) make use of the staff of the Commission to obtain the information and furnish it to the Minister.
- (4) The Commission shall comply with a request under subsection (3) and make its staff and facilities available to the Minister for the purposes of paragraph (c) of that subsection.
- (5) In this section —

**“document”** includes any data that is recorded or stored mechanically, photographically, or electronically and any tape, disc or other device or medium on which it is recorded or stored;

**“information”** means documents or other information relating to the functions of the Commission being information, as so defined, specified, or of a description specified, by the Minister;

**“parliamentary purposes”** means the purpose of —

  - (a) answering a question asked in a House of Parliament;

or

- (b) complying with a written law, or an order or resolution of a House of Parliament, that requires information to be furnished to a House of Parliament.

## **Part 5 — Miscellaneous**

### **27.        Offences**

- (1) A person who, with intent to defraud, takes, or by any fraudulent trick, scheme or device converts to that person's own use, or to the use of any other person, any prize or moneys raised by a lottery, commits an offence.
- (2) A person who, with intent to defraud —
  - (a) alters or falsifies any book, document, or voucher relating to a lottery;
  - (b) makes or concurs in making any false or fraudulent entry in any book, document, or voucher relating to a lottery; or
  - (c) omits or concurs in omitting any material particular from any book, document, or voucher relating to a lottery,commits an offence.
- (3) A person who, without the written authority of the Commission, for fee or reward promotes or takes part in the formation of a syndicate to pay to participate in a lottery conducted by the Commission commits an offence.
- (4) A person who commits an offence under this section is liable to a penalty of \$5 000, or imprisonment for one year, or both.

*[Section 27 amended by No. 26 of 1998 s.21.]*

### **28.        Rules**

- (1) The Commission may make rules relating to the conduct under this Act of —

*[(a) and (b)    deleted]*

- (c) lotteries, and in particular, to —
  - (i) the places at which different prizes or different amounts of prize money may be claimed;

- (ii) the publication of the names and addresses of all or any of the winners of prizes;
  - (iii) the circumstances in which a ticket becomes void and therefore incapable of winning a prize;
  - (iv) the circumstances in which the Commission may substitute a valid ticket for a ticket which is void;
  - (v) the means by which tickets are to be delivered to the Commission; and
  - (vi) the procedure in accordance with which the second stage of an instant lottery is to be conducted.
- (2) In the event of any inconsistency between rules made under subsection (1) and regulations made under section 29 or any conditions subject to which a permit is granted in respect of a lottery, those regulations or conditions shall prevail to the extent of that inconsistency.
- (3) Without prejudice to the operation of the other provisions of the *Interpretation Act 1984*, section 43 of that Act applies to rules made under subsection (1).

*[Section 28 amended by No. 26 of 1998 s.22.]*

## **29. Regulations**

The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for giving effect to this Act.

## **30. Review of Act**

- (1) The Minister shall carry out a review of the operation and effectiveness of this Act as soon as is practicable after the expiration of 5 years from its commencement, and in the course of that review the Minister shall consider and have regard to —
- (a) the effectiveness of the operation of the Commission;

**s. 31**

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- (b) the need for the continuation of the functions of the Commission; and
  - (c) such other matters as appear to be relevant to the operation and effectiveness of this Act.
- (2) The Minister shall prepare a report based on the review made under subsection (1) and shall, as soon as practicable after the preparation thereof, cause the report to be laid before each House of Parliament.

**31. Repeals**

- (1) The *Lotteries (Control) Act 1954* is repealed.
- (2) The *Lotto Act 1981* is repealed.
- (3) Division 3 of Part V of the *Gaming Commission Act 1987* is repealed.

**32. Transitional and savings**

Schedule 2 has effect in relation to the repeals effected by section 31.

[33. *Omitted under the Reprints Act 1984 s.7(4)(e).*]

**34. Validation**

The conduct of soccer football pools by the Commission before the coming into operation of this Act is hereby validated and declared to have been lawful to the extent that that conduct complied with the *Gaming Commission Act 1987*.

## Schedule 1

[section 5(4)]

### Provisions concerning members and the procedure of the Commission

#### 1. Term of office of members

- (1) A member shall be appointed for such term not exceeding 3 years as is specified in the member's instrument of appointment and is eligible for reappointment.
- (2) A member, unless the member sooner resigns, is removed from office or the member's office otherwise becomes vacant under clause 2, shall continue in office until a successor comes into office, notwithstanding that the term for which the member was appointed may have expired.

#### 2. Vacation of office

The office of a member becomes vacant if the member —

- (a) resigns office by written notice addressed to the Minister;
- (b) is removed from office by the Minister on the grounds of misbehaviour, incompetence, or mental or physical incapacity impairing the performance of the member's duties and proved to the satisfaction of the Minister;
- (c) is an undischarged bankrupt or a person whose property is subject to an order or arrangement under the laws relating to bankruptcy; or
- (d) is absent without leave of the Commission from 3 consecutive meetings of which the member has had notice.

#### 3. Remuneration

A member is entitled to such remuneration and other allowances as the Minister from time to time determines on the recommendation of the Public Service Commissioner<sup>2</sup>.

**Schedule 1**

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**4. Relationship to Public Service**

The fact that a person is a member does not —

- (a) render Part 3 of the *Public Sector Management Act 1994*, or any Act applying to persons as officers of the Public Service of the State, applicable to that person; or
- (b) affect or prejudice the application to that person of those provisions if they applied to that person when that person became a member.

**5. Validity of proceedings**

All acts and proceedings of the Commission or of any person acting under any direction of the Commission are, notwithstanding the subsequent discovery of any defect in the appointment of any member or defect in the constitution of the Commission, as valid as if the member had been duly appointed and as if the Commission had been properly constituted.

**6. Liability of members etc.**

- (1) No matter or thing done by the Commission, and no matter or thing done by a member or by any person acting under the direction of the Commission shall, if the matter or thing was done in good faith for the purposes of this Act, subject a member, or a person so acting, personally to any action, liability, claim or demand.
- (2) Subclause (1) has effect subject to the *Statutory Corporations (Liability of Directors) Act 1996*.

**7. General procedure concerning meetings**

The procedure for the calling of meetings of the Commission and the conduct of business at those meetings shall, subject to this Act, be as determined by the Commission.

**8. Proceedings**

- (1) Three members of the Commission form a quorum.
- (2) At a meeting of the Commission —
  - (a) the chairperson; or



(b) in the absence of the chairperson, a person elected by the members present at the meeting from among their number, shall preside.

(3) Questions arising at a meeting of the Commission shall be decided, in open voting, by a majority of the votes of members present.

(4) The person presiding at a meeting of the Commission has a deliberative vote and, if that vote has been exercised and there is an equality of votes, also has a casting vote.

**9. Minutes**

The Commission shall cause accurate minutes of each meeting of the Commission to be recorded and preserved.

**10. Resolution may be passed without meeting**

(1) A resolution in writing signed or assented to by letter, telex, facsimile transmission or lettergram by each member shall be as valid and effectual as if it had been passed at a meeting of the Commission.

(2) The chairperson shall report the passing of a resolution under subclause (1) to the next meeting of the Commission.

**11. Leave of absence**

The Commission may grant leave of absence to a member on such terms and conditions as it thinks fit.

**12. Execution of documents by Commission**

(1) A document is duly executed by the Commission if —

(a) the common seal of the Commission is affixed to it in accordance with subclauses (2) and (3); or

(b) it is signed on behalf of the Commission by the member or members or officer or officers of the Commission authorized by the Commission to do so.

(2) The common seal of the Commission shall not be affixed to any document except by resolution of the Commission.

**Schedule 1**

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- (3) The common seal of the Commission shall be affixed to a document in the presence of the chairperson and another member, or the chairperson and an officer of the Commission authorized by the Commission either generally or in any particular case to do so, and each of them shall sign the document to attest that the common seal was so affixed.
- (4) A document purporting to be executed in accordance with this clause shall be presumed to be duly executed until the contrary is shown.
- (5) When a document is produced bearing a seal purporting to be the common seal of the Commission, it shall be presumed that that seal is the common seal of the Commission until the contrary is shown.
- (6) All courts and persons acting judicially shall take notice of the common seal of the Commission.

*[Schedule 1 amended by No. 32 of 1994 s.3(2); No. 41 of 1996 s.3.]*

## Schedule 2

[section 32]

### Transitional and savings provisions

**1. Definition**

In this Schedule —

“**commencement**” means the commencement of this Act.

**2. Members of Commission**

The persons holding office as members of the Commission under the *Lotteries (Control) Act 1954* immediately before the commencement shall upon the commencement be deemed to have been appointed members under section 5 of this Act and, subject to this Act, shall continue to hold office until the expiration of their terms of appointment and be eligible for reappointment.

**3. Rules**

On and after the commencement any rule that is in force under the *Lotteries (Control) Act 1954* or the *Lotto Act 1981* immediately before the commencement shall, subject to this Act and in so far as it is not inconsistent with this Act, continue in force and be deemed to be a rule made by the Commission under section 28 of this Act.

**4. Appointments, etc.**

Unless the contrary intention appears in this Act, all appointments, agreements, things and circumstances made or created by or under the *Lotteries (Control) Act 1954*, the *Lotto Act 1981* or Division 3 of Part V of the *Gaming Commission Act 1987* and existing or continuing immediately before the commencement shall, under and subject to this Act, continue to have the same status, operation and effect for the purposes of this Act as they had immediately before the commencement.

**5. Transitional provisions as to *Gaming Commission Act 1987***

- (1) A permit issued to the Commission under Division 3 of Part V of the *Gaming Commission Act 1987* and which is in force immediately

**Schedule 2**

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prior to the coming into operation of this Act shall be deemed to continue in force as if that permit were a permit issued by the Minister under section 11 of this Act in relation to the soccer football pool to which that permit refers for the period specified in that permit.

- (2) A permit referred to in subclause (1) is renewable by way of a permit issued in accordance with this Act.

**6. *Interpretation Act 1984* not affected**

The provisions of this Schedule do not prejudice or affect the application of the *Interpretation Act 1984* to and in relation to the repeals effected by section 31 of this Act.

*[Schedule 3 omitted under the Reprints Act 1984 s.7(4)(e).]*

## Notes

- <sup>1</sup> This is a compilation of the *Lotteries Commission Act 1990* and includes all amendments effected by the other Acts referred to in the following Table.

### Table of Acts

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Lotteries Commission Act 1990</i>	16 of 1990	31 July 1990	1 January 1991 (see section 2 and <i>Gazette</i> 28 December 1990 p.6369)	
<i>Lotteries Commission Amendment Act 1992</i>	32 of 1992	19 June 1992	17 July 1992	
<i>Financial Administration Legislation Amendment Act 1993, section 4</i>	6 of 1993	27 August 1993	27 August 1993 (see section 2(2))	
<i>Lotteries Commission Amendment Act 1993</i>	9 of 1993	24 September 1993	24 September 1993 (see section 2)	
<i>Acts Amendment (Public Sector Management) Act 1994, section 3(2)</i>	32 of 1994	29 June 1994	1 October 1994 (see section 2 and <i>Gazette</i> 30 September 1994 p.4948)	
<i>Lotteries Commission Amendment Act 1994</i>	74 of 1994	13 December 1994	13 December 1994 (see section 2)	Section 4(2): transitional <sup>4</sup>
<i>Local Government (Consequential Amendments) Act 1996, section 4</i>	14 of 1996	28 June 1996	1 July 1996 (see section 2)	

Short title	Number and year	Assent	Commencement	Miscellaneous
<i>Statutory Corporations (Liability of Directors) Act 1996, section 3</i>	41 of 1996	10 October 1996	1 December 1996 (see section 2 and <i>Gazette</i> 12 November 1996 p.6301)	
<i>Financial Legislation Amendment Act 1996, section 64</i>	49 of 1996	25 October 1996	25 October 1996 (see section 2(1))	
<i>Trustees Amendment Act 1997, section 18</i>	1 of 1997	6 May 1997	16 June 1997 (see section 2 and <i>Gazette</i> 10 June 1997 p.2661)	
<i>Lotteries Commission Amendment Act 1998</i>	26 of 1998	30 June 1998	22 July 1998 (see section 2 and <i>Gazette</i> 21 July 1998 p.3825)	

<sup>2</sup> References to the Public Service Commissioner may to be construed as references to the Minister for Public Sector Management: section 112(2) of the *Public Sector Management Act 1994* (No. 31 of 1994).

<sup>3</sup> References to the *Public Service Act 1978* may be construed as references to the *Public Sector Management Act 1994*: see section 112(1) of the *Public Sector Management Act 1994* (No. 31 of 1994).

<sup>4</sup> Section 4(2) of the *Lotteries Commission Amendment Act 1994* (No. 74 of 1994) reads as follows —

“

- (2) Any payment made under the principal Act before the commencement of this Act is declared to be and to have always been as valid as it would have been if it were made after the commencement of this Act.

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