

LOTTERIES COMMISSION ACT 1990

(No. 16 of 1990)

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LOTTERIES COMMISSION ACT

No. 16 of 1990

AN ACT to provide for the continuation of the Lotteries Commission and the conduct of lotteries, games of lotto and soccer football pools, to repeal the *Lotteries (Control) Act 1954* and the *Lotto Act 1981*, and for related purposes.

[Assented to 31 July 1990.]

The Parliament of Western Australia enacts as follows:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Lotteries Commission Act 1990*.

Commencement

2. This Act shall come into operation on a day to be fixed by proclamation.

Interpretation

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

“chairperson” means the chairperson of the Commission;

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

“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;

“continuing lottery” means a lottery, other than an instant lottery, of the kind referred to in section 101 (2) of the *Gaming Commission Act 1987*;

“date of drawing”, in relation to a standard lottery, means the date fixed for the drawing of, or deciding the result of, the standard lottery;

“designated authority”, in relation to—

- (a) the State of Queensland, means the Golden Casket Art Union Office constituted by the *Golden Casket Art Union Act 1978*, as from time to time amended, of the State of Queensland;
- (b) the State of South Australia, means the Lotteries Commission of South Australia constituted by the *State Lotteries Act 1966*, as from time to time amended, of the State of South Australia;
- (c) the State of Victoria, means the trustees of the will and estate of the late George Adams carrying on business in Melbourne under the name or style of Tattersall Sweep Consultation Care of George Adams;
- (d) another State (other than a State referred to in paragraph (a), (b) or (c)), or a Territory, of the Commonwealth, means body or person designated under subsection (4);

“drawing”, in relation to a standard lottery, means the determination of the event or events which, according to the conditions of the lottery, decide the result;

“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 game of lotto within the meaning of subsection (2);

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

“lottery” means a lottery within the meaning of that term as defined in section 3 of the *Gaming Commission Act 1987*, not being—

(a) a trade promotion lottery within the meaning of that term as defined by that section;

(b) a game of lotto; or

(c) a soccer football pool;

“member” means a member of the Commission;

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

“participating State” means a State or Territory of the Commonwealth in which a person is authorized by law to conduct soccer football pools;

“permit” means a permit granted under this Act;

“soccer football pool” means a game or competition the results of which depend on a forecast of the outcome of soccer football matches;

“standard lottery” means a lottery other than a continuing lottery or an instant lottery;

“subscription”, in relation to a game of lotto, means the entry fee payable by a subscriber under the rules to enable the subscriber to participate in a game of lotto, exclusive of any fee payable to an agent employed by the Commission.

(2) A game of lotto is a form of game 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 Minister may, for the purposes of paragraph (d) of the definition of “designated authority” in subsection (1), designate by notice published in the *Gazette* a body or person in relation to another State (other than a State referred to in paragraph (a), (b) or (c) of that definition), or a Territory, of the Commonwealth.

PART 2—CONSTITUTION AND ADMINISTRATION OF COMMISSION

Continuation of Commission

4. (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.

Composition of Commission

5. (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.

Functions and powers of Commission

6. (1) The functions of the Commission are, subject to this Act—

- (a) to conduct lotteries other than continuing lotteries in the whole or any part of the State;
- (b) to conduct games of lotto;
- (c) to conduct soccer football pools; and
- (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) For the purpose of conducting games of lotto under subsection (1), the Commission may, with the approval in writing of the Minister—

- (a) make agreements with the designated authorities of other States, or of Territories, of the Commonwealth for the joint conduct with those designated authorities of games of lotto; and
- (b) conduct games of lotto jointly with the designated authorities referred to in paragraph (a) in accordance with agreements made under this subsection.

(4) For the purpose of conducting soccer football pools under subsection (1), the Commission may, with the approval in writing of the Minister—

- (a) enter into agreements with persons who are authorized to conduct soccer football pools in participating States with respect to—
 - (i) the administration of a scheme for the conduct of soccer football pools among participating States;
 - (ii) the manner of making payments to and by the Commission; and
 - (iii) related matters; and
- (b) conduct soccer football pools in accordance with agreements made under this section.

Directions by the Minister

7. (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*.

Commission trading name or symbol

8. 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.

Staff

9. (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.

(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* 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 the *Public Service Act 1978*, 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 at the time of the engagement of that person.

PART 3—CONDUCT OF LOTTERIES, GAMES OF LOTTO
AND SOCCER FOOTBALL POOLS

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

10. (1) When the Commission desires to conduct—

- (a) a standard lottery;
- (b) an instant lottery; or
- (c) a game of lotto,

it shall, not less than 14 days before so doing, apply to the Minister for a permit to do so.

(2) The chairperson or secretary of the Commission shall sign an application under subsection (1), which application shall—

- (a) in the case of an application for a permit to conduct a standard lottery or an instant lottery, state—
 - (i) the total number of tickets to be offered for sale in the lottery concerned 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 concerned;
 - (iii) the total value of the prizes proposed to be distributed in the lottery concerned and, in the case of an application for a permit to conduct an instant lottery, the stage or stages at which those prizes will be distributed; and
 - (iv) such particulars, other than those referred to in subparagraphs (i), (ii) and (iii), as are prescribed in relation to applications for permits to conduct standard lotteries or instant lotteries, as the case requires;

(b) in the case of an application to conduct a game of lotto, state—

- (i) the price of each subscription;
- (ii) the percentage of the total amount of subscriptions received by the Commission to be distributed as prize money; and
- (iii) such particulars, other than those referred to in paragraphs (i) and (ii), as may be prescribed;

and

(c) in the case of an application to conduct a soccer football pool, state such particulars as may be prescribed.

(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.

Permit to conduct soccer football pools

11. (1) When the Commission desires to conduct a soccer football pool it shall apply to the Minister for a permit to do so.

(2) 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 a permit to conduct soccer football pools for such period (being a period that commences not more than 2 months after the date of issue of the permit and ends not more than 10 years after the commencement of that period) as is specified in that permit; or
- (b) refuse to grant the application.

Provisions relating to lotteries conducted by Commission

12. (1) Subject to the Commission having obtained a permit as provided by section 10, 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.

(2) The closing date of a standard lottery conducted by the Commission, other than a standard lottery referred to in subsection (4), is the day upon which the standard lottery is fully subscribed.

(3) Where a date of drawing is not fixed or specified by the Commission, the date of drawing of a standard lottery conducted by it, other than a standard lottery referred to in subsection (4), is such day after the closing date as the Commission determines.

(4) When a standard lottery or instant lottery is conducted in connection with a race or other particular event the standard lottery or instant lottery shall be closed before the commencement of the race or other event.

(5) If on the closing date a standard lottery referred to in subsection (4) is not fully subscribed, the standard lottery may be drawn on a *pro rata* basis.

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

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

Prizes

14. (1) The Commission shall, in any lottery, game of lotto or soccer football pool conducted by it, specify the value and form, whether of money or things of value, of the prizes offered by it in that lottery, game of lotto or soccer football pool.

(2) The Commission shall not in any lottery, game of lotto or soccer football pool conducted by it distribute prizes otherwise than in the value and form specified by the Commission in relation to that lottery, game of lotto or soccer football pool.

Payment of prizes

15. (1) The Commission may pay or deliver the prize won in respect of a prize winning ticket in a standard lottery conducted by it on receipt of that ticket purporting to be endorsed by the person purporting to be the holder of that ticket with the signature and address of that person but, where the person alleges that the ticket is lost or destroyed, the Commission may, on being satisfied, by statutory or other declaration conforming with, and valid under, the law of the place where it is made, that the person was the holder of the ticket and that it is lost or destroyed, pay or deliver to that person the prize in respect of that ticket.

(2) The Commission shall pay or deliver the prize won in respect of a prize winning ticket in either stage of an instant lottery conducted by it on receipt of that ticket purporting to be endorsed by the person purporting to be the holder of that ticket with the name, address and signature of that person and the name of the syndicate, if any, to which that person belongs.

(3) The Commission may pay or deliver the prize won in respect of a prize winning entry form in a game of lotto or soccer football pool on receipt, or notification in a form satisfactory to the Commission, of that entry—

(a) validated in accordance with the rules; and

(b) held by the person purporting to be the subscriber in respect of that entry,

but, if that entry is alleged by the person referred to in paragraph (b) to have been lost or destroyed, the Commission may, on being satisfied by a statutory declaration or other declaration conforming with, and valid under, the law of the place where it is made, that that person was the subscriber concerned and that that entry is lost or destroyed, pay or deliver to that person the prize in respect of that entry.

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

- (a) the person purporting to be the holder of a prize winning ticket referred to in subsection (1) or (2) or the subscriber in respect of a prize winning entry referred to in subsection (3) is the lawful holder of that ticket or the lawful subscriber to that entry;
- (b) the signature on that ticket or entry is genuine; or
- (c) the person or subscriber referred to in paragraph (a) is not an infant or person under other legal disability.

(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.

Unclaimed prizes

16. (1) If a prize in a standard lottery, game of lotto or soccer football pool conducted by the Commission is not claimed within the period of 12 months next following the date of the drawing of that lottery or the date on which the result of that game of lotto or soccer football pool was decided, as the case may be, the right to recover, and the liability of the Commission 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.

(3) The Commission shall apply amounts equal to the value of prizes that are irrecoverable under subsection (1) or (2) for the purpose of additional or increased prizes in a subsequent lottery or lotteries or game or games of lotto or soccer football pool conducted by the Commission.

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

(5) Subject to subsection (6), this section applies only to lotteries, games of lotto and soccer football pools conducted by the Commission after the commencement of this Act, and the regulations made under the *Lotteries (Control) Act 1954*, the *Lotto Act 1981* and the rules made or deemed to be made under section 71 of the *Gaming Commission Act 1987* as in force before that commencement relating to unclaimed prizes continue to apply in relation to lotteries, games of lotto and soccer football pools conducted by the Commission before that commencement.

(6) Notwithstanding subsection (5), the Commission shall apply amounts equal to the value of prizes referred to in subsection (5) that become irrecoverable after the commencement of this Act for the purpose of additional or increased prizes in a subsequent lottery or lotteries or game or games of lotto or soccer football pool conducted by the Commission.

Requirements applicable to standard lotteries conducted by Commission

17. (1) Where a standard lottery conducted by the Commission is fully subscribed and thereafter applications are received or subscriptions are offered for tickets in the standard 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 standard lottery if one is then being conducted by the Commission or in the next standard 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.

(2) All tickets in a standard lottery conducted by the Commission shall be printed and numbered consecutively and the Commission shall keep a record of the tickets.

**Restriction on sales
of instant lottery tickets**

18. A person shall not—

(a) sell a ticket in an instant lottery; or

(b) cause or permit a ticket in an instant lottery to be sold,
to a person who has not attained the age of 16 years.

Penalty: \$200.

PART 4—FINANCIAL PROVISIONS**Interpretation**

19. 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, State public utility or any
other body, whether corporate or not,
which under the authority of any written
law, administers or carries on for the
benefit of the State a social service or
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 municipality or regional council within the
meaning of the *Local Government Act 1960*;

“Index” means the table described as the Consumer Price Index
Numbers—All Groups, Perth that is published by the
Commonwealth Statistician under the authority of the
Census and Statistics Act 1905 of the Commonwealth.

Resources of Commission

20. (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, games of lotto and soccer football pools 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.

(3) The moneys referred to in subsection (2) shall be paid into, and placed to the credit of an account at a bank approved by the Treasurer to be called 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 the Account referred to in subsection (3) and moneys standing to the credit of that Account shall be applied only for the purposes of this Act.

(5) The total expenses of conducting lotteries, games of lotto and soccer football pools in any one year including commissions payable on subscriptions and the allowances and remuneration of the members of the Commission shall not in that year exceed 25% of the gross amount received from 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.

Temporary investment of moneys

21. 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 in any investments that are from time to time authorized by law for investment of trust funds or in any other investment, or class or kind of investment, approved by the Treasurer.

Distribution of lotteries and lotto moneys

22. (1) There shall be established at the Treasury—

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

(2) Subject to subsection (3), of the moneys received by the Commission in respect of lotteries and games of lotto conducted by it, the Commission shall pay during each year—

- (a) 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) 16% into a special account kept at the Treasury under section 3 (2) of the *Hospital Fund Act 1930*;
- (c) 2% into the Sports Lotteries Account established under subsection (1); and
- (d) 2% into the Arts Lotteries Account established under subsection (1).

(3) The amounts of money to be paid under subsection (2) (c) and (d) in the year following the first year in which those amounts are paid, and in each year thereafter, shall be—

- (a) 2% in each case of the moneys received by the Commission in respect of lotteries and games of lotto conducted by the Commission in that year; or
- (b) amounts equal to the amounts paid in the preceding year, increased by the percentage by which the Index for the year ending at the commencement of the year in which the payments are to be made is greater than the Index for the year ending 12 months before the commencement of the year in which the payments are to be made,

whichever is the lesser amount.

(4) The moneys paid into the Sport Lotteries Account under subsection (2) (c) 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 paid into the Arts Lotteries Account under subsection (2) (d) 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 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 and games of lotto 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 and games of lotto 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.

Distribution of soccer football pools moneys

23. (1) Of the moneys received by the Commission in respect of soccer football pools conducted by it, the Commission shall—

- (a) pay as prize moneys an amount equal to the prescribed percentage of the moneys received; and
- (b) subject to any agreement made under section 6 (4), pay into a special account kept at Treasury under section 3 (2) of the *Hospital Fund Act 1930* all of the balance of the moneys received remaining after deduction of the expenses referred to in section 20 (5) that are attributable to the conduct of soccer football pools and payment of prize moneys.

(2) The reference in subsection (1) (a) to the prescribed percentage of moneys received is a reference—

- (a) to 50%;
- (b) where a greater percentage is prescribed, to that greater percentage.

Distribution of residual moneys

24. The balance of moneys received by the Commission under this Act remaining after—

- (a) deduction from the gross 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);
 - (f) payment of the moneys required to be paid under section 23;
- and

(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.

Application of *Financial Administration and Audit Act 1985*

25. 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.

Information

26. (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

Offences

27. (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, game of lotto or soccer football pool, commits an offence.

(2) A person who, with intent to defraud—

- (a) alters or falsifies any book, document, or voucher relating to a lottery, game of lotto or soccer football pool;
- (b) makes or concurs in making any false or fraudulent entry in any book, document, or voucher relating to a lottery, game of lotto or soccer football pool; or
- (c) omits or concurs in omitting any material particular from any book, document, or voucher relating to a lottery, game of lotto or soccer football pool,

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 purchase a ticket in a lottery or entry in a game of lotto or soccer football pool 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.

Rules

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

- (a) games of lotto;
- (b) soccer football pools; and
- (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, game of lotto or soccer football pool, 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).

Regulations

29. 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.

Review of Act

30. (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;
- (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.

Repeals

31. (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.

Transitional and savings

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

Consequential amendments

33. The Acts mentioned in Schedule 3 are amended in the manner set out in that Schedule.

Validation

34. 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

Term of office of members

1. (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.

Vacation of office

2. 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.

Remuneration

3. 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.

Relationship to Public Service

4. The fact that a person is a member does not—

- (a) render the *Public Service Act 1978*, 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.

Validity of proceedings

5. 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.

Liability of members etc.

6. 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.

General procedure concerning meetings

7. 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.

Proceedings

8. (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.

Minutes

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

Resolution may be passed without meeting

10. (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.

Leave of absence

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

Execution of documents by Commission

12. (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.

(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 2

(section 32)

TRANSITIONAL AND SAVINGS PROVISIONS

Definition

1. In this Schedule—

“commencement” means the commencement of this Act.

Members of Commission

2. 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.

Rules

3. 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.

Appointments, etc.

4. 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.

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

5. (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 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.

***Interpretation Act 1984* not affected**

6. 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

(section 33)

CONSEQUENTIAL AMENDMENTS

PART 1—CONSTITUTION ACTS AMENDMENT ACT 1899*

Schedule V.

In Part 3—delete “The Lotteries Commission constituted by the *Lotteries (Control) Act 1954*.” and substitute the following—

“ The Lotteries Commission continued under the *Lotteries Commission Act 1990*. ”.

[*Reprinted as at 16 March 1989 and amended by Acts Nos. 75 of 1988 and 19 of 1989.]

PART 2—GAMING COMMISSION ACT 1987*

1. Section 3.

In subsection (1)—

(a) delete the definition of “authorized officer” and substitute the following—

“ “authorized officer” means a person appointed under section 21 (1), but to the extent to which a duty is delegated to that person, includes a person to whom section 21 (2) applies who is not a person appointed under section 21 (1); ”;

(b) delete the definition of “permitted pool”.

2. Section 6.

In subsection (4) (b) delete “*Lotteries (Control) Act 1954*” and substitute the following—

“ *Lotteries Commission Act 1990* ”.

3. Section 12.

Delete subsection (1) (a) (ii) and substitute the following—

“ (ii) the chairperson of the Lotteries Commission continued under the *Lotteries Commission Act 1990* or a member or officer of the Lotteries Commission nominated by the chairperson of the Lotteries Commission and appointed by the Minister, ”.

4. Section 39.

In subsection (2) (d) (iii) delete "*Lotteries Control Act 1954 or the Lotto Act 1981*" and substitute the following—

" *Lotteries Commission Act 1990* ".

5. Section 45.

In subsection (2) delete "permitted pool".

6. Section 48.

Repeal subsection (1) and substitute the following subsection—

" (1) Where, by reason of a major sporting event, a special occasion or other exceptional circumstances, the Minister so determines, and notwithstanding that the manner of the application or the matter to which it relates is not otherwise provided for by this Act or does not comply with the requirements of or prescribed under this Act, the Minister, after consultation in so far as the Minister thinks fit with the Commission, may direct the Commission—

- (a) to issue a permit to a specified person in relation to a specified kind of gaming or betting on specified premises, whether or not approved premises, on such conditions as are specified;
- (b) as to the period for and manner in which the permit should be issued; and
- (c) as to any charge, duty or fee that is to be payable in relation to the permit,

and effect shall be given to that direction and to any permit complying with that direction, subject to section 46 (2) and (4). "

7. Section 50.

In subsection (1) delete paragraph (d).

8. Section 59.

(a) Repeal subsection (1) and substitute the following subsections—

" (1) A condition imposed in relation to—

- (a) the eligibility of any person to hold a permit;
- (b) the approval of a person as a nominee permit holder;

(c) the approval of premises; or

(d) the issue of a permit or certificate,

may require that a person lodge with the Commission, within such time as the Commission may specify in the instrument imposing the condition or otherwise allow, security by way of a bond, in a form acceptable to the Commission and executed by an insurer acceptable to the Commission, conditioned upon the holder of the approval, permit or certificate paying, applying and accounting for, duly and according to law, moneys coming into his hands by the operation of this Act and punctually complying with all duties and obligations imposed on him by law in relation to those moneys or any approved premises.

(1a) A bond referred to in subsection (1) shall provide that it enures during the term of the approval, permit or certificate for which it is originally given and may also provide that it enures during the term of any renewal granted to the same person. ”.

(b) Repeal subsection (5) and substitute the following subsection—

“ (5) If, by reason of non-payment of any premium, or any other act or omission of the holder of the approval, permit or certificate, a bond lodged with the Commission ceases to be in force during the term of the relevant approval, permit or certificate the approval, permit or certificate is deemed to have been revoked until another bond acceptable to the Commission is lodged. ”.

9. Section 60.

Delete subsection (1) (b) and substitute the following—

“ (b) revoke its approval of a person as a nominee permit holder; ”.

10. Section 61.

Repeal the section.

11. Section 101.

In subsection (3) delete “*Lotteries (Control) Act 1954*” and substitute the following—

“ *Lotteries Commission Act 1990* ”.

12. Section 102.

Delete paragraph (a) and substitute the following paragraph—

(a) a lottery, game of lotto or soccer football pool conducted under the *Lotteries Commission Act 1990*, an authorized game as defined by the *Casino Control Act 1984* played in accordance with rules approved under that Act in a licensed casino as so defined; ”.

13. Section 110.

In subsection (1) (b) delete "*Lotteries (Control) Act 1954*" and substitute the following—

" *Lotteries Commission Act 1990* ".

14. Section 113.

To repeal the section.

[*Act No. 50 of 1987 as amended by Act No. 125 of 1987.]

PART 3—PARLIAMENTARY COMMISSIONER ACT 1971*

Schedule.

Delete "*Lotteries Commission constituted under the Lotteries (Control) Act 1954.*" and substitute the following—

" Lotteries Commission continued under the *Lotteries Commission Act 1990.* ".

[*Reprinted as at 31 March 1989 and amended by Acts Nos. 75 of 1988 and 31 of 1989.]

PART 4—POLICE ACT 1892*

Section 84A.

In subsection (1)—

(a) delete paragraph (c) and substitute the following paragraph—

" (c) the *Lotteries Commission Act 1990*; "

and

(b) delete paragraph (f).

[*Reprinted as approved 18 April 1983 and amended by Acts Nos. 87 of 1982, 21 and 30 of 1983, 22 and 23 of 1984, 10, 19 and 29 of 1985, 74 of 1987 and 35 of 1989.]

PART 5—PUBLIC SERVICE ACT 1978*

Schedule.

In item 21 delete "*constituted by the Lotteries (Control) Act 1954*" and substitute the following—

" continued under the *Lotteries Commission Act 1990* ".

[*Reprinted as at 16 March 1988 and amended by Act No. 48 of 1989.].