

SOUTH AUSTRALIA

SOCCER FOOTBALL POOLS ACT, 1981

*This Act is reprinted pursuant to the Acts Republication Act, 1967, and incorporates all amendments in force as at **15 January 1992**.*

It should be noted that the Act was not revised (for obsolete references, etc.) by the Commissioner of Statute Revision prior to the publication of this reprint.

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SOCCER FOOTBALL POOLS ACT, 1981

being

Soccer Football Pools Act, 1981, No. 26 of 1981
[Assented to 19 March 1981]

as amended by

State Lotteries Act Amendment Act, 1984, No. 93 of 1984 [Assented to 13 December 1984]¹

¹ Came into operation 13 December 1984: *Gaz.* 13 December 1984, p. 1811.

N.B. The amendments effected to this Act by the State Lotteries (Soccer Pools & Other) Amendment Act 1992 had not been brought into operation at the date of, and have not been included in, this reprint.

An Act to provide for the promotion, conduct and operation of soccer football pools; and for other purposes.

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

Short title

1. This Act may be cited as the *Soccer Football Pools Act, 1981*.

Interpretation

2. In this Act, unless the contrary intention appears—

"approved representative", in relation to a licensee, means a person appointed pursuant to section 10 to be an approved representative of that licensee, being a person for the time being approved, or within a class for the time being approved, by the Minister under that section:

"corresponding law" means a law of another State or a Territory of the Commonwealth pursuant to which a person is authorized to promote, conduct or operate soccer football pools:

"entry form" means an entry form required to be completed to enable a person to enter a soccer football pool:

"inspector" means a person appointed to be an inspector under section 12:

"licence" means a licence in force under this Act:

"licensee" means the holder of a licence:

"participating State" means a State or Territory of the Commonwealth in which a person is authorized to promote, conduct or operate soccer football pools pursuant to a corresponding law:

"prize fund" means the moneys kept in a bank account referred to in section 15 (1):

"rules", in relation to a soccer football pool, means rules made by a licensee in relation to soccer football pools promoted, conducted or operated by him and in force under section 11:

"soccer football pool" means a game the results of which depend on the outcome of soccer football matches:

"subscription" means the entry fee required by the rules to be paid by a person to enable him to enter a soccer football pool.

Restrictions on promotion, conduct and operation of soccer football pools

3. (1) A person shall not promote, conduct or operate a soccer football pool unless he is a licensee.

Penalty: Two thousand dollars.

(2) A licensee shall not promote, conduct or operate a soccer football pool except in accordance with this Act and the conditions of his licence.

Exculpation of certain persons from certain offences

4. Except as provided in this Act, a person is not guilty of an offence under any law by reason only that—

- (a) he enters a soccer football pool by means of an entry form;
- (b) being a licensee, he promotes, conducts or operates a soccer football pool in accordance with this Act and with the conditions of his licence;
- (c) he is concerned in the promotion, conduct or operation of a soccer football pool promoted, conducted or operated by a licensee in accordance with this Act and with the conditions of the licence held by that licensee;
- (d) he prints or publishes any thing relating to a soccer football pool promoted, conducted or operated by a licensee in accordance with this Act and with the conditions of the licence held by that licensee;
- (e) he is the owner or occupier of any house, office, room or other place used for the purpose of, or in connection with, a soccer football pool promoted, conducted or operated by a licensee in accordance with this Act and with the conditions of the licence held by that licensee;

or

- (f) he prints or publishes the results of, or information as to the prize money payable in respect of, a soccer football pool promoted, conducted or operated under a corresponding law.

Minors not to take part in soccer football pools

5. (1) A person concerned in the promotion, conduct or operation of a soccer football pool shall not accept from a person who is under the age of eighteen years an entry form for, or a subscription in respect of, a soccer football pool.

(2) It is sufficient defence to a prosecution for an offence against subsection (1) if the defendant proves that he had no reason to believe, and did not believe, that the person from whom he accepted an entry form or subscription was under the age of eighteen years.

(3) A person under the age of eighteen years who enters a soccer football pool is guilty of an offence against this Act and liable to a penalty not exceeding one hundred dollars.

Licence to promote, conduct and operate soccer football pools

6. (1) An application for a licence to promote, conduct and operate soccer football pools may be made to the Minister.

4.

(2) The Minister may, by instrument in writing, inform a person who makes an application referred to in subsection (1)—

- (a) that he is prepared to grant to that person, either unconditionally or subject to such conditions as are specified in that instrument, a licence to promote, conduct and operate soccer football pools for such period (being a period that commences not more than two months after the date of the instrument and ends not more than ten years after the commencement of that period) as is specified in that instrument subject to his lodging, within such time as may be specified in that instrument, with the Minister a bond referred to in subsection (3);

or

- (b) that he is not prepared to grant the application.

(3) Where the Minister has informed a person that he is prepared to grant an application for a licence as referred to in subsection (2), the Minister shall grant that licence, either unconditionally or subject to the conditions specified in the instrument referred to in that subsection, upon that person lodging with the Minister, within such time as may be specified in that instrument or within such further time as the Minister may allow, whether before or after the time so specified, a bond, in a form approved by the Minister and executed by an insurer so approved, binding the insurer—

- (a) to pay to the Minister any amount of duty that the licensee fails, in respect of any soccer football pool promoted, conducted or operated by that licensee during any period while his licence is in force, to pay pursuant to section 14(1)(b) and that has not been recovered under section 19;

and

- (b) in addition, if the licence so granted is revoked, to pay to the Minister such amount as may be demanded by the Minister not exceeding an amount equal to the amount that became payable (whether or not it was paid) to the Minister pursuant to section 14 (1)(b) during the period of two months that last preceded the revocation of the licence,

but so that the insurer will not be required under the bond to meet a total liability in respect of the matters referred to in paragraphs (a) and (b) that exceeds one hundred thousand dollars.

(4) Subject to this Act, a licence is in force during the period specified in the licence.

(5) The Minister shall not, while a licence is in force, grant another licence.

(6) If by reason of non-payment of any premium, or any other act or omission of a licensee, a bond lodged with the Minister under subsection (3) ceases to be in force during the term of the relevant licence, the licensee shall be guilty of an offence against this Act and liable to a penalty not exceeding ten thousand dollars, and a court convicting him of the offence may, in addition to imposing that penalty, order that his licence be revoked.

Alteration of conditions of licence

7. (1) The Minister may, while a licence is in force, alter the conditions of the licence by imposing an additional condition or by amending, substituting or revoking any condition but no such alteration shall be made unless—

- (a) the licensee has been given a notice in writing setting forth the terms of the proposed alteration and inviting the licensee to make representations to the Minister concerning the proposed alteration within such period as is specified in the notice;

and

- (b) the Minister has, after the expiration of that period, considered any representations duly made to him by or on behalf of the licensee.

(2) Any such alteration shall take effect on and from the expiration of seven days after the day on which a notice signed by the Minister advising the licensee of the alteration has been given to the licensee.

Conditions of licence

8. The conditions of a licence may include conditions relating to—

- (a) the opening by the licensee of an office in the State and the days on which and the times between which that office shall be open for business;
- (b) subsidising by the licensee of the prize fund, to the extent necessary to enable prizes to be maintained at such level as the Minister specifies in the condition;
- (c) the rate of commission to be paid by the licensee to approved representatives;
- (d) the rules in accordance with which soccer football pools shall be promoted, conducted or operated by the licensee;
- (e) the maximum amount that a person may subscribe in respect of one entry in a soccer football pool promoted, conducted or operated by the licensee;
- (f) the printing in entry forms for a soccer football pool promoted, conducted or operated by the licensee of such of the rules, or extracts from the rules, as are specified in the conditions;
- (g) the frequency with which soccer football pools shall be promoted, conducted or operated by the licensee;

and

- (h) such other matters as the Minister thinks fit.

Revocation of licence

9. (1) Where a licensee—

- (a) contravenes or fails to comply with this Act;

6.

(b) contravenes or fails to comply with any condition of the licence;

or

(c) applies to the Minister for the revocation of the licence issued to him,

the Minister may, by notice in writing to the licensee, revoke the licence.

(2) Where the licensee is a corporation and—

(a) a dealing with shares or any other interest in the capital of the corporation takes place;

or

(b) the corporation or its directors enter into a transaction or arrangement,

the Minister may, if in his opinion the dealing, transaction or arrangement substantially affects the control of the corporation, revoke the licence,

(3) The revocation of a licence pursuant to subsection (1) or (2) shall take effect—

(a) except as provided by paragraph (b), on the day on which a notice of revocation is given to the licensee;

or

(b) on such later date as is specified in the notice of revocation.

Approved representatives

10. (1) A licensee may, by instrument in writing, appoint a person approved by the Minister or within a class of persons so approved to be an approved representative of the licensee and may, in a like manner, revoke any such appointment.

(2) A licensee shall not pay a commission to any person in respect of the receipt of entry forms for, or subscriptions in respect of, soccer football pools promoted, conducted or operated by that licensee unless that person is an approved representative of the licensee.

(3) A person who is not an approved representative of a licensee shall not receive on behalf of the licensee entry forms for, or subscriptions in respect of, soccer football pools promoted, conducted or operated by that licensee.

(4) The South Australian Totalizator Agency Board may be appointed to be an approved representative pursuant to subsection (1).

(5) An approval by the Minister for the purposes of subsection (1) shall be given by notice in writing to the licensee.

Soccer football pool rules

11. (1) A licensee may make rules not inconsistent with this Act for or with respect to the promotion, conduct and operation by him of soccer football pools.

7.

(2) A rule made pursuant to subsection (1) shall, if it is approved in writing by the Minister—

(a) be published in the *Gazette*;

and

(b) take effect on and from the date of publication or a later date specified in the rule.

(3) The provisions of the *Subordinate Legislation Act, 1978*, shall not apply to rules made under this section.

Inspectors

12. (1) The Minister may appoint an officer employed under the provisions of the *Public Service Act, 1967-1978*, to be an inspector for the purposes of this Act.

(2) Subject to this section, an inspector may, for the purposes of this Act, at any reasonable time—

(a) enter any part of the premises of a licensee;

(b) enter any part of the premises, not being a dwellinghouse, of an approved representative;

(c) enter any part of the premises, not being a dwellinghouse, of a person, not being a licensee, whom the inspector reasonably suspects of promoting, conducting or operating a soccer football pool;

(d) enter any part of the premises, not being a dwellinghouse, of a person, not being an approved representative, whom the inspector reasonably suspects of receiving entry forms for, or subscriptions in respect of, a soccer football pool;

(e) require any person whom the inspector reasonably suspects of having the custody, possession or control of any registers, books, records or documents which relate to, or which the inspector reasonably suspects relate to, the promotion, conduct or operation of a soccer football pool—

(i) to produce to him those registers, books, records or documents;

and

(ii) to answer any question with respect to those registers, books, records or documents,

within such reasonable time as the inspector may specify;

and

(f) make copies of, or take extracts from, any entries in any such register, book, record or document.

8.

(3) An inspector shall not exercise the powers conferred by subsection (2)(c) or (2)(d) except upon the authority of a warrant issued by a justice unless he believes upon reasonable grounds that in the circumstances of the case urgent action is required.

(4) A person shall not—

(a) prevent an inspector from exercising any power conferred on him by subsection (2);

(b) hinder or obstruct an inspector in the exercise of any such power;

(c) fail to comply with a requirement of an inspector under subsection (2)(e);

or

(d) wilfully furnish to an inspector information that is false or misleading in a material particular.

(5) It is a sufficient defence to a prosecution for an offence against subsection (4)(c) of failing to answer a question if the defendant proves that he did not know, and could not with reasonable diligence have ascertained, the answer to the question.

(6) A person is not required to answer a question put to him under subsection (2)(e) if the answer would tend to incriminate him.

(7) Where an answer to a question referred to in subsection (2)(e)(ii) or any information whatsoever is given to an inspector by an officer or employee of a corporation that is concerned in the promotion, conduct or operation of a soccer football pool, the answer and information are, for the purposes of any proceedings against the corporation under any of the provisions of this Act, binding upon and admissible in evidence against the corporation unless it is proved that the answer or information was given in relation to a matter in respect of which the officer had no authority to bind the corporation.

(8) The provisions of subsection (7) are in addition to and not in derogation of any rule of law relating to the binding effect and admissibility in evidence of statements made by an officer or employee of a corporation.

Audits for certain purposes

13. (1) The Minister may request the Auditor-General to audit or inspect such of the accounts of a licensee as relate to the application of subscriptions and the payment of prizes and to furnish him with a report on the accounts.

(2) The Auditor-General may appoint some other person to carry out an audit or inspection referred to in subsection (1).

(3) For the purposes of an audit or inspection referred to in subsection (1), the person carrying out the audit or inspection shall be deemed to be an inspector and shall have all the powers and authorities of an inspector except those powers and authorities that relate to persons who are not licensees or approved representatives.

Application of subscriptions

14. (1) Out of the subscriptions received by him in respect of a soccer football pool promoted, conducted or operated by him, whether in this State or elsewhere, the licensee shall—

(a) pay into the prize fund an amount equal to the prescribed percentage of the subscriptions;

and

(b) pay to the Minister as duty an amount equal to the prescribed percentage of the subscriptions.

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

(a) except as provided in paragraph (b), to thirty-seven per centum;

or

(b) where a greater percentage is prescribed, to that greater percentage.

(3) The reference in subsection (1)(b) to the prescribed percentage of subscriptions is a reference—

(a) except as provided in paragraph (b), to thirty per centum;

or

(b) where a greater percentage is prescribed, to that greater percentage.

(4) Where a licensee proposes to promote, conduct and operate soccer football pools in this State and also in a participating State, the Minister may enter into an agreement with the appropriate Minister or other appropriate authority of that participating State with respect to—

(a) the division between him and that appropriate Minister or authority of the amount referred to in subsection (1)(b);

or

(b) the exclusion from the subscriptions by reference to which the amount referred to in subsection (1)(b) is to be calculated of such subscriptions as may be specified in the agreement.

(5) Where an agreement—

(a) referred to in subsection (4)(a) has been entered into, so much of the subscriptions referred to in subsection (1) as is paid to the Minister under subsection (1)(b) and as is required to be paid to the appropriate Minister or other appropriate authority pursuant to the agreement shall, without further appropriation than this Act, be applied for the purpose of making that payment;

or

- (b) referred to in subsection (4)(b) has been entered into, the obligation of the licensee under subsection (1) to pay the amount referred to in subsection (1)(b) shall be limited to paying to the Minister as duty the percentage referred to in subsection (1)(b) of such of the subscriptions referred to in subsection (1) as are not excluded by the agreement from the subscriptions so referred to.

Prize fund

15. (1) The part of the subscriptions referred to in section 14 (1)(a) shall—

- (a) except as provided in paragraph (b), be paid into a bank account kept by, the licensee at a bank in this State being an account and bank approved in writing by the Minister;

or

- (b) where the licensee by whom the subscriptions are received also promotes, conducts or operates soccer football pools in a participating State and the Minister approves in writing of that part of the subscriptions being paid into a bank account kept by the licensee in a bank in that State, be paid into that bank account.

(2) Any moneys kept in a bank account referred to in subsection (1)(a) that are not immediately required for the payment of prizes may be invested by the licensee in such manner as the Minister approves in writing, and any interest accruing therefrom shall be paid into that account and form part of the prize fund.

(3) Subject to subsection (2), the moneys kept in a bank account referred to in subsection (1) may be applied only—

- (a) towards the payment by the licensee of prizes won in accordance with soccer football pools promoted, conducted and operated by him in this State or, where a soccer football pool is promoted, conducted and operated by him in this State and in a participating State, in this State and in that participating State;
- (b) where the licence granted to the licensee contains a condition referred to in section 8(b), towards the reimbursement of the licensee for any amount by which he subsidizes the prize fund;

and

- (c) where the Minister so approves in writing, towards the reimbursement of the licensee for any amount which, before the commencement of this Act, he paid, under a corresponding law under which he was authorized to promote, conduct or operate soccer football pools, as a subsidy into a fund kept under that law that corresponds to a prize fund under this Act.

(4) Sections 2 and 3 of the *Unclaimed Moneys Act, 1891-1975*, apply to a licensee, being a company within the meaning of that Act, that keeps a bank account referred to in subsection (1)(a) as if the words "six years", occurring in each of those sections, were omitted and the words "two years" were inserted instead.

Payment of duty

16. (1) Subject to section 14(5)(b), a licensee shall, within seven days after the day on which entries in respect of a soccer football pool close, pay to the Minister the duty specified in section 14(1)(b).

(2) Where a licensee makes a payment of duty referred to in subsection (1) he shall forward with that payment such financial, statistical or other statements as the Minister directs in a notice in writing given to the licensee.

(3) If payment of the duty referred to in subsection (1) is not made within the time specified in that subsection the licensee shall, in addition to that duty, pay to the Minister as additional duty an amount that is equal to ten per centum of the amount of the unpaid duty in respect of each month, calculated from the expiration of the time referred to in subsection (1), during which the duty remains unpaid.

(4) Notwithstanding subsection (3), the Minister may in any case in which he thinks fit to do so, forego the whole or any part of the additional duty referred to in that subsection, or allow further time for the payment of that additional duty.

Recreation and Sport Fund

17. (1) There shall be established at the Treasury a fund to be called the "Recreation and Sport Fund".

(2) There shall be paid to the credit of the Recreation and Sport Fund—

(a) the amount of the duty and additional duty paid to the Minister under this Act;

and

(b) any moneys paid to the Minister by the appropriate Minister or other appropriate authority pursuant to an agreement referred to in section 14 (4).

(3) The moneys paid to the Recreation and Sport Fund pursuant to subsection (2) or the provisions of any other Act shall be used to support and develop such recreational and sporting facilities and services within the State as are approved by the Minister.

Service of notices and orders on licensees

18. A notice or order that may, pursuant to this Act, be given to a licensee—

(a) may, except in the case of a notice of revocation of the licence, be sent by prepaid post to the licensee;

or

(b) may be left for the licensee with some person apparently in the service of the licensee and apparently over the age of sixteen years,

at an address at which the licensee carries on business in this State.

Recovery of moneys

19. (1) An amount that is payable by a person to the Minister under this Act but is not paid may be recovered from that person as a debt due to the Crown in any court of competent jurisdiction.

(2) For the purpose of any action to recover any such amount a certificate of the Minister certifying the amount alleged to be payable by a person and that that amount has not been paid is evidence that the amount so specified is payable to the Minister in accordance with this Act and has not been paid.

Offences by employees and bodies corporate

20. (1) Where a person is convicted of an offence against this Act for an act or omission done in the course of his employment as an employee of a licensee or an approved representative, the employer of that person shall also be guilty of an offence and liable to the same penalty as is prescribed for that offence unless he proves that he could not by the exercise of reasonable diligence have prevented the commission of the offence.

(2) Where a body corporate is convicted of an offence against this Act, every member of the governing body of the body corporate shall be guilty of an offence and liable to the same penalty as is prescribed for the principal offence unless he proves that he could not by the exercise of reasonable diligence have prevented the commission of the offence.

Proceedings and penalties

21. (1) A person who contravenes or fails to comply with a provision of this Act is guilty of an offence.

(2) Proceedings for an offence against this Act shall be disposed of summarily.

(3) Except where some other penalty is provided—

(a) a licensee who is convicted of an offence against this Act is liable to a penalty not exceeding two thousand dollars;

and

(b) a person, not being a licensee, who is convicted of an offence against this Act is liable to a penalty not exceeding five hundred dollars.

Regulations

22. (1) The Governor may make such regulations as are contemplated by, or necessary or expedient for the purposes of, this Act.

(2) Without limiting the generality of subsection (1), those regulations may make provision for or with respect to—

(a) the displaying in those parts, to which the public has access, of the premises of a licensee or an approved representative of the rules relating to soccer football pools or of extracts from those rules;

13.

(b) prohibiting a licensee or an approved representative from accepting entry forms for, or subscriptions in respect of, a soccer football pool on specified days or between specified hours;

(c) advertisements relating to soccer football pools;

and

(d) the imposition of a penalty, not exceeding five hundred dollars, for any contravention of, or failure to comply with, a regulation.

(3) The application of any regulation made under this Act—

(a) may be limited to a part of the State or a person or class of persons specified in the regulations;

or

(b) may be limited by reference to any other factor specified in the regulations.

14.

APPENDIX

Legislative History

Section 17(3):

amended by 93, 1984, s. 16