

# STATE LOTTERIES ACT, 1966-1975

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## THE SCHEDULE

## STATE LOTTERIES ACT, 1966-1975

being

State Lotteries Act, 1966, No. 54 of 1966 [Assented to 3rd November, 1966]<sup>1</sup>;

as amended by

State Lotteries Act Amendment Act, 1973, No. 27 of 1973 [Assented to 20th September, 1973];

State Lotteries Act Amendment Act, 1974, No. 60 of 1974 [Assented to 19th September, 1974];

and

Statute Law Revision Act (No. 2), 1975, No. 118 of 1975 [Assented to 4th December, 1975].

**An Act to provide for the promotion and control of lotteries by the Government of the State; to amend the Lottery and Gaming Act, 1936-1966, 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:

1. This Act may be cited as the "State Lotteries Act, 1966-1975", and shall come into operation on a day to be fixed by proclamation<sup>1</sup>.

Short title and commencement.  
Citation amended by 118, 1975, s. 3 (1) (2nd Sched.).

2. The Lottery and Gaming Act, 1936-1966, is amended as specified in the Schedule to this Act and, as so amended, may be cited as the "Lottery and Gaming Act, 1936-1966".

Amendment of Lottery and Gaming Act, 1936-1966.

3. In this Act, unless the context otherwise requires—

Interpretation.

"Chairman" means Chairman of the Commission and includes the acting Chairman of the Commission:

"lottery" includes any scheme or device for the gift, disposal or distribution of any money, prize or thing of value or of any right thereto or any share therein depending upon or to be determined by lot or drawing (whether out of a box or other receptacle) or to be determined by any manner of chance whatsoever:

"member" means member of the Commission and includes an acting member of the Commission:

"the Commission" means the Lotteries Commission of South Australia constituted pursuant to this Act.

4. (1) For the purposes of this Act there shall be a commission which shall be known as the "Lotteries Commission of South Australia".

The Commission.

<sup>1</sup> Came into operation 8th December, 1966: *Gaz.*, 8th December, 1966, p. 2152.

## (2) The Commission—

- (a) shall be a body corporate with perpetual succession and a common seal;
- (b) subject to this Act, shall be capable of acquiring, taking or letting out on lease, holding, selling and otherwise disposing of real and personal property;
- (c) may in its name sue and be sued;
- (d) shall hold all its property for and on behalf of the Crown;
- and
- (e) shall have the powers, duties, functions and authorities conferred, imposed or prescribed by or under this Act.

(3) In the exercise and discharge of its powers, duties, functions and authorities, the Commission shall be subject to the control and directions of the Government of the State acting through the Minister; but no such direction shall be inconsistent with this Act.

(4) All courts and persons acting judicially shall take judicial notice of the common seal of the Commission affixed to any document and shall presume that it was duly affixed.

(5) Subject to this Act, the Commission shall consist of three members appointed by the Governor, of whom one shall be nominated by the Governor as the Chairman of the Commission.

(6) The Commission shall be constituted on the day on which the first members take office.

Subsec. (7)  
amended by 118,  
1975, s. 3 (1)  
(2nd Sched.).

(7) A member shall not, as such, be subject to the Public Service Act, 1936, as amended, or any corresponding subsequent enactment<sup>1</sup>, but this provision does not affect the rights, duties and obligations under that Act or enactment of any member who is otherwise subject to that Act or enactment.

(8) The office of member of the Commission may be held in conjunction with any other appointment or office under the Government.

Terms of office  
of members of  
the  
Commission.

5. (1) Subject to this section, a member shall be appointed for a term of office of five years, except that, in the case of the first three members—

- (a) the Chairman shall be appointed for a term of office of five years;
- (b) one member shall be appointed for a term of office of three years;
- and

(c) the other member shall be appointed for a term of office of one year, but a member appointed to fill a casual vacancy shall be appointed only for the balance of the term of office of the member in whose place he is appointed.

(2) On the expiration of his term of office as a member, a person shall be eligible for re-appointment.

Temporary  
appointments.

6. In the case of the illness, suspension or absence of any member the Governor may appoint a person to act for the member during such illness, suspension or absence, and a person so appointed shall, while so acting, be deemed to be a member of the Commission and shall have all the powers, authority, responsibilities, duties and obligations of the member for whom the person is acting.

<sup>1</sup> The Public Service Act, 1936, and its amendments, have been repealed and superseded by the Public Service Act, 1967 (now Public Service Act, 1967-1975).

7. The Governor may, by notice in writing served on a member, suspend him from office for any period not exceeding the balance of his term of office, or remove him from office, on grounds of misconduct or incapacity to perform his duties or functions as a member.

Suspension or removal from office of member.

8. The office of a member shall become vacant if—

Casual vacancies.

- (a) he dies;
- (b) he resigns by written notice given to the Minister;
- (c) he is removed from office by the Governor pursuant to section 7 of this Act;
- (d) he is absent without leave of the Minister from four consecutive meetings of the Commission;
- (e) he becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors or compounds with his creditors for less than one hundred cents in the dollar;
- (f) he is convicted of any indictable offence;

or

- (g) he is convicted of any other offence and receives a notice in writing from the Minister discharging him from office on the ground of that conviction.

9. (1) The common seal of the Commission shall not be affixed to any instrument except in pursuance of a resolution of the Commission, and the affixing of the seal shall be attested by the signatures of any two members.

Common seal, meetings and quorum.

(2) The procedure for the calling of meetings of the Commission and for the conduct of business at such meetings shall, subject to any directions that may be given by the Minister, be as determined by the Commission.

(3) Any two members shall constitute a quorum at any meeting of the Commission and the members present at any duly convened meeting at which a quorum is present shall be competent to transact any business of the Commission and shall have and may exercise and discharge all the powers, duties, functions and authorities of the Commission.

(4) If the Chairman is not present at any meeting of the Commission, the members present at that meeting shall elect one of their number to be the Chairman for that meeting and the person so elected shall preside at such meeting and exercise the powers and perform the duties of the duly appointed Chairman.

(5) A decision carried by a majority of the votes cast by the members present at a meeting of the Commission shall be the decision of the Commission.

10. (1) The Chairman shall preside at all meetings of the Commission at which he is present and in addition to a deliberative vote, shall, in the event of an equality of votes, have a second or casting vote.

Chairman

(2) The Chairman shall cause accurate minutes to be kept of the proceedings at all meetings of the Commission.

11. No act, proceeding or determination of the Commission shall be invalid on the ground only of any vacancy in the office of any member or of any defect in the appointment of any member.

Validity of acts of Commission.

Remuneration  
of members.

12. A member of the Commission shall be paid out of the Lotteries Fund to be established under section 16 of this Act, such fees or other remuneration as may from time to time be fixed by the Governor and shall be entitled to receive out of such Fund such travelling and other expenses as are from time to time approved by the Minister.

Powers and  
functions of the  
Commission.

13. (1) Subject to this Act and the directions of the Minister not inconsistent with this Act, the Commission may—

(a) promote and conduct lotteries within the State and do or cause to be done all such things as are necessary for, or incidental or ancillary to, the promotion or conduct of lotteries within the State and the exercise, discharge or performance of any of its powers, duties, functions and authorities;

(b) employ on such terms and conditions as it thinks fit, and terminate the services of, officers, servants and agents;

(c) delegate to any officer of the Commission any of the powers, duties, functions and authorities of the Commission except this power of delegation;

and

(d) do or cause to be done such other things as are necessary or convenient for the administration of this Act or the affairs of the Commission or to give effect to the objects of this Act.

(2) The Commission may, or, if so required by the Minister, shall, at any time, revoke any delegation made pursuant to paragraph (c) of subsection (1) of this section.

(3) The Commission may, with the approval of the Minister and the consent of the Minister controlling any department of the public service of the State, and on such terms as may be mutually agreed upon, make use of the services of any of the officers or employees of that department.

Subsec. (4)  
amended by 118,  
1975, s. 3 (1)  
(2nd Sched.).

(4) A person whose services are employed by the Commission shall not, for that reason alone, be subject to the Public Service Act, 1936, as amended, or any corresponding subsequent enactment<sup>1</sup>, but this provision does not affect the rights, privileges, duties and obligations under that Act or enactment of any such person who is otherwise subject to that Act or enactment.

Borrowing,  
etc., by  
Commission.  
S. 13a enacted  
by 60, 1974,  
s. 2.

13a. (1) For the purpose of the exercise of its powers or the performance of its functions the Commission may borrow money from the Treasurer, or with the consent of the Treasurer, from any person.

(2) Any liability incurred with the consent of the Treasurer referred to in subsection (1) of this section is hereby guaranteed by the Treasurer.

(3) Any liability incurred by the Treasurer under a guarantee arising by virtue of subsection (2) of this section shall be satisfied out of the General Revenue of the State which is hereby, to the necessary extent, appropriated accordingly.

(4) Moneys borrowed pursuant to this section by the Commission not immediately required for the purposes for which they were borrowed may be invested by the Commission in any manner approved of by the Treasurer.

<sup>1</sup> The Public Service Act, 1936, and its amendments, have been repealed and superseded by the Public Service Act, 1967 (now Public Service Act, 1967-1975).

## 14. (1) Notwithstanding any other Act or law—

- (a) the promotion and conduct of any lottery under and in accordance with this Act and the doing of anything incidental or ancillary to such promotion and conduct shall be lawful;

and

- (b) any person who subscribes or contributes to, or purchases a ticket in, any such lottery or who acts under the authority or on behalf of such a subscriber, contributor or purchaser and any person who acts under the authority or on behalf of the Minister or the Commission under this Act or who carries out any duties or functions in relation to or in connection with the promotion or conduct of a lottery under this Act shall be freed and discharged from all penalties, suits, prosecutions and liabilities to which by law he would be liable, but for this Act, by reason of so subscribing, contributing, purchasing or acting or so carrying out such duties or functions, as the case may be.

(2) A lottery promoted or conducted under this Act by the Commission shall be deemed not to be a lottery or a sweepstake within the meaning of the Lottery and Gaming Act, 1936-1966<sup>1</sup>, and the subscription or contribution to, or the purchase of a ticket in, any such lottery or the doing of anything under the authority or on behalf of the Minister or the Commission under this Act or the carrying out of any duties or functions in relation to or in connection with the promotion or conduct of a lottery by the Commission shall be deemed not to be unlawful gaming within the meaning of that Act.

15. (1) The Commission shall at all times keep proper books of account and records in such manner and form as is approved by the Treasurer showing at all times a true and accurate account of the affairs of the Commission and showing in detail its receipts and payments and a fair estimate of its income and expenditure as at the end of each month.

Accounts and audit.

(2) The Auditor-General shall, whenever he deems it necessary, inspect and examine the property of the Commission and audit the books and accounts of the Commission and, as soon as practicable after the end of each financial year, shall make a report to the Minister on the state of the affairs of the Commission as at the end of that year.

Subsec. (2) amended by 27, 1973, s. 2 (a), (b).

(3) There shall be included in each such report a certificate or certificates by the Auditor-General certifying the amounts of the receipts and payments and the income and expenditure of the Commission for the financial year to which the report relates and of the prizes unclaimed for over six months which have not been paid by the Commission.

Subsec. (3) amended by 27, 1973, s. 2 (c).

(4) The provisions of section 41 of the Audit Act, 1921-1959, as amended<sup>2</sup>, shall apply and have effect as if the Commission were a public corporation referred to in that section.

(5) The Minister shall cause every report of the Auditor-General made in accordance with subsection (2) of this section to be tabled in each House of Parliament within fourteen days after it is received by the Minister, if Parliament is then in session, or, if Parliament is not then in session, within fourteen days after the commencement of the next session of Parliament.

Subsec. (5) amended by 27, 1973, s. 2 (d).

16. (1) There shall be established in the Treasury a fund to be known as the "Lotteries Fund".

The Lotteries Fund and Hospitals Fund.

<sup>1</sup> Now Lottery and Gaming Act, 1936-1975.

<sup>2</sup> Now Audit Act, 1921-1975.

(2) The Commission shall pay into the Lotteries Fund all moneys received by the Commission.

(3) Such portion of the moneys standing to the credit of the Lotteries Fund as the Treasurer approves from time to time may, without further appropriation than this Act, be used by the Commission to meet the expenses of administering the affairs of the Commission including the expenses of leasing or acquiring real and personal property for the use of the Commission and of maintaining and improving the same, of making repayments of advances made in accordance with subsection (7) of this section and of promoting and conducting lotteries under this Act and of paying prize moneys in relation to such lotteries.

(4) The balance remaining in the Lotteries Fund from time to time, to the extent that it represents any surplus of income over expenditure, and any prize moneys that have not been claimed for over six months, shall be transferred by the Commission, as required by the Treasurer, from the Lotteries Fund to an account in the Treasury known as the "Hospitals Fund".

(5) Where any person makes a claim to the Treasurer for the payment of the amount of any prize money within twelve months after the day when such prize money became payable and the Treasurer is satisfied—

(a) that the amount of such prize money has been transferred by the Commission to the Hospitals Fund;

and

(b) that the person is the beneficial owner of a prize winning ticket issued by the Commission which would have entitled him to obtain payment of the prize money from the Commission,

the Treasurer may, without any further appropriation than this section, pay to that person out of the Hospitals Fund the amount of that prize money.

Subsec. (6)  
amended by 118,  
1975, s. 3 (1)  
(2nd Sched.).

(6) The moneys transferred to the Hospitals Fund in accordance with subsection (4) of this section shall, after making any payments made under subsection (5) of this section, be used for the provision, maintenance, development and improvement of public hospitals and equipment for public hospitals in such amounts as the Treasurer shall, upon the recommendation of the Minister of Health (but subject to appropriations for the purpose which Parliament may from time to time determine), approve.

(7) Until there are sufficient moneys in the Lotteries Fund to meet the expenses of administering the affairs of the Commission, the Treasurer may, from time to time, make to the Commission, such advances not exceeding in the aggregate two hundred thousand dollars (which sum is hereby appropriated for the purpose) on such terms and conditions as he thinks fit.

(8) In this section—

"public hospital" means—

Para. (a)  
amended by 118,  
1975, s. 3 (1)  
(2nd Sched.).

(a) any hospital which is under the ministerial control of the Minister of Health;

(b) any hospital to which Part IV of the Hospitals Act, 1934-1962<sup>1</sup>, applies or is deemed to apply;

or

<sup>1</sup> Now Hospitals Act, 1934-1971.

- (c) any other hospital or institution which, in the opinion of the Minister of Health, is not carried on for the purposes of profit to its owner or shareholders and is approved by the Governor as a public hospital for the purposes of this section.

Para. (c)  
amended by 118,  
1975, s. 3 (1)  
(2nd Sched.).

17. The Commission shall offer as prizes in any lottery conducted under this Act not less than sixty per centum of the value of the tickets offered for sale in that lottery.

Not less than 60  
per cent of  
value of tickets  
in lottery to be  
offered as  
prizes.

18. The Commission may pay or deliver or cause to be paid or delivered to any person who, in the opinion of the Commission, is the beneficial owner of a prize winning ticket in a lottery conducted by the Commission the prize won by that ticket and, notwithstanding any law to the contrary, whether relating to infants or persons under other legal disability or otherwise, the payment or delivery of the prize pursuant to this section shall constitute full satisfaction by the Commission of its liability under the ticket and a full and valid discharge to the Commission.

Payment of  
prize to owner  
of prize winning  
ticket to be a  
valid discharge  
to the  
Commission.

19. (1) A person who, with intent to defraud, forges, utters or alters a ticket in a lottery, or any paper, instrument or matter purporting to be a ticket in a lottery, conducted or to be conducted by the Commission shall be guilty of an offence.

Offences.

(2) A person who fraudulently takes or converts to his own use or benefit or to the use or benefit of any other person any prize or any ticket in a lottery, or purporting to be in a lottery, conducted by the Commission or any moneys subscribed or contributed for a lottery conducted by the Commission shall be guilty of an offence.

(3) A person who fraudulently alters or falsifies any book, document or voucher relating to a lottery conducted by the Commission or who fraudulently omits or causes to omit any material particular from any book, document or voucher relating to a lottery conducted by the Commission shall be guilty of an offence.

(4) The punishment for an offence under subsection (1), (2) or (3) of this section shall be—

- (a) if the offence is prosecuted summarily, a fine not exceeding two hundred dollars, or imprisonment for a term not exceeding one year, or both;

or

- (b) if the offence is prosecuted upon information, a fine not exceeding one thousand dollars, or imprisonment for a term not exceeding five years, or both.

(5) A person shall not, without the written authority of the Commission, for fee, commission, hire, gain, reward, share or interest of any kind whatever (other than a share in any prize that may be won by the ticket in question) promote or offer to promote or take part in or offer to take part in the formation of a syndicate for the purchase of a ticket in a lottery conducted or to be conducted by the Commission.

Penalty: Two hundred dollars.

(6) A person shall not by any means advertise that he will accept money for a share in a ticket to be purchased by him or any other person in a lottery



conducted or to be conducted by the Commission and no person shall print or publish any such advertisement.

Penalty: Two hundred dollars.

(7) A person shall not distribute, display or publish or cause to be distributed, displayed or published, by any means, any notice or advertisement which states or from which it could reasonably be inferred—

(a) that he or any other person is an agent of the Commission;

(b) that he or any other person is authorized to sell tickets in any lottery;

or

(c) that he or any other person invites any person to purchase from him a ticket in a lottery.

Penalty: Two hundred dollars.

(8) It shall not be an offence under subsection (7) of this section or under any other enactment—

(a) for an agent of the Commission or any person authorized by the Commission to sell tickets in a lottery conducted by the Commission, to display within or outside premises at which he is so authorized to sell such tickets a notice or notices bearing the words "Lottery Tickets Sold Here" without the addition of any other words, symbols or characters;

(b) for the Commission to issue, distribute, display or publish—

(i) a list of the names and addresses (if any) of prize winners or the numbers of prize winning tickets in any lottery conducted by the Commission;

or

(ii) a list of the names and addresses of agents of the Commission and other persons authorized by the Commission to sell tickets in a lottery conducted by the Commission;

(c) for an agent of the Commission or any other person authorized by the Commission to sell tickets in a lottery conducted by the Commission, to distribute or display, at premises at which he is so authorized to sell such tickets, any list issued by the Commission and referred to in paragraph (b) of this subsection;

or

(d) for any person, who is requested or authorized by the Commission to do so, to print, exhibit or publish, or cause to be printed, exhibited or published any notice, placard, handbill, card, writing, sign or advertisement of any lottery, or of any proposal for any lottery, if the contents of such notice, placard, handbill, card, writing, sign or advertisement are previously approved by the Commission.

(9) A person who carries out or has carried out any duties or functions in relation to or in connection with the promotion or conduct of a lottery under this Act shall not fail or refuse to answer truthfully, to the best of his knowledge, information and belief, any questions asked of him by the Auditor-General or a person acting under his authority, notwithstanding that such answer would or might tend to incriminate him, and shall not fail or refuse to disclose to the Auditor-General or person acting under his authority all books,

documents, vouchers and things which are in his custody or power relating to the lottery or to the promotion or conduct of the lottery.

Penalty: Two hundred dollars.

(10) An agent of the Commission shall not sell any tickets in a lottery except in premises at which he is authorized by the Commission to sell tickets.

Penalty: Two hundred dollars.

(11) Notwithstanding anything contained in any other Act, proceedings for any offence against this Act may be brought within the period of three years after the commission of the alleged offence or, with the consent of the Minister, at any later time.

(12) Proceedings in respect of any offence which is a contravention of subsection (5), (6), (7), (9) or (10) of this section shall be disposed of summarily.

20. (1) The Governor may make such regulations as he considers necessary or expedient for the purpose of giving effect to the provisions and objects of this Act. Regulations.

(2) Without limiting the generality of the provisions of subsection (1) of this section, such regulations may—

(a) prescribe all matters which may or ought to be prescribed for giving effect to the provisions and objects of this Act;

(b) provide for the prevention of fraud in connection with lotteries and the promotion and conduct thereof;

and

(c) provide for the payment of prizes in connection with lotteries conducted by the Commission and the conditions under which prizes shall be paid.

(3) The regulations may fix a penalty not exceeding two hundred dollars for the breach of any regulation.

(4) Proceedings in respect of any offence under the regulations shall be disposed of summarily.

## SCHEDULE

### *Amendment of Lottery and Gaming Act, 1936-1966*

The Lottery and Gaming Act, 1936-1966, is amended by inserting in Part I and after section 4 thereof the following section:—

4a. This Act shall be read and construed subject to the provisions of the State Lotteries Act, 1966.

This Act to be read subject to State Lotteries Act, 1966.