

SOCCER FOOTBALL POOLS ACT.

New South Wales



ANNO VICESIMO QUARTO

ELIZABETHÆ II REGINÆ

Act No. 45, 1975.

An Act to provide for the promotion, conduct and operation of soccer football pools. [Assented to, 16th September, 1975.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

1. This Act may be cited as the "Soccer Football Pools **Short title.** Act, 1975".

2.

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No. 45, 1975 **2.** In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

Interpre-
tation.

“approved representative”, in relation to a licensee, means a person appointed pursuant to section 10 as the 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 as referred to in section 10;

“corresponding law” means a law of another State or a Territory of the Commonwealth pursuant to which a person is authorised to promote, conduct or operate soccer football pools;

“entry form” means an entry form required by the rules to enable a person to enter a soccer football pool;

“inspector” means a person appointed pursuant to 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 authorised to promote, conduct or operate soccer football pools pursuant to a corresponding law;

“prize fund” means the fund represented by a bank account referred to in section 15 (1);

“regulation” means a regulation made under this Act;

“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

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“soccer football pool” means a game the results of which depend on the outcome of soccer football matches. No. 45, 1975

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

Penalty: \$2,000.

Promoting soccer football pools not unlawful in certain circumstances.

(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.

4. (1) A person is not guilty of an offence under any law other than this Act 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 his licence;

(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)

Exculpation of certain persons from certain offences.

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No. 45, 1975 (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.

(2) Where, but for this subsection, a person would be guilty of an offence against this Act (section 12 excepted) or the regulations by reason of his doing or omitting to do any thing—

- (a) that person is not guilty of that offence if he does or omits to do that thing in the course of his employment as an employee of a licensee or an approved representative; and
- (b) the employer of that person is guilty of that offence.

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 18 years an entry form for, and a subscription in respect of, a soccer football pool.

(2) It is a sufficient defence to a prosecution for an offence arising under subsection (1) if the defendant proves that the soccer football pool referred to in the information for the offence was promoted, conducted or operated by a licensee and that the defendant had no reason to believe, and did not believe, that the person from whom he accepted an entry form and subscription was under the age of 18 years.

(3) A person under the age of 18 years who enters a soccer football pool is guilty of an offence against this Act and liable to a penalty not exceeding \$100.

Licence to promote soccer football pools.

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

(2)

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(2) The Minister may, by instrument in writing, No. 45, 1975
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 2 months after the date of the instrument and ends not more than 10 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 the instrument so referred to 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

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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 2 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 \$250,000.

(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, after lodging with the Minister a bond referred to in subsection (3), a licensee does any thing that causes such a bond not to be in force during any period while his licence is in force, he is guilty of an offence against this Act and liable to a penalty not exceeding \$10,000.

Alteration
of con-
ditions 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 7 days after the day on which a notice signed by the Minister advising the licensee of the alteration has been given to the licensee.

8.

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8. The conditions of a licence may include conditions **No. 45, 1975**
relating to—

**Conditions
of licence.**

- (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) the 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, for a period not exceeding 5 years from the day of commencement of the period the licence is in force;
- (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.

9. (1) Where a licensee—

**Revocation
of licence.**

- (a) fails to comply with this Act or a regulation;
- (b) fails to comply with the rules;

(c)

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- No. 45, 1975** (c) fails to comply with any condition of the licence; or
 (d) applies to the Minister for the revocation of the licence issued to him,

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

(2) Where the licensee is a corporation and a dealing with or in respect of shares of, or other instruments issued by, the corporation that, in the opinion of the Minister, affects the control of the corporation takes place without the consent in writing of the Minister, the Minister may, by notice in writing given to the licensee, 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
 represen-
 tatives.

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 a person 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, and subscriptions in respect of, soccer football pools promoted, conducted or operated by that licensee.

(4)

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(4) The Totalizator Agency Board may be appointed to be an approved representative pursuant to subsection (1). No. 45, 1975

(5) An approval given by the Minister for the purposes of subsection (1) shall be given by an order in writing.

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. Soccer
football
pool
rules.

(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.

12. (1) The Minister may appoint an officer employed under the Public Service Act, 1902, to be an inspector for the purposes of this Act. Inspectors.

(2) For the purposes of this Act and the regulations, an inspector may, at any reasonable time, do any one or more of the following things :—

- (a) enter any part of the premises of a licensee;
- (b) enter any part of the premises, not being a dwelling-house, of an approved representative;
- (c) enter any part of the premises, not being a dwelling-house, of a person, not being a licensee, whom the inspector reasonably suspects of promoting, conducting or operating a soccer football pool;

(d)

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- (d) enter any part of the premises, not being a dwelling-house, 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 to—
 - (i) produce to him those registers, books, records or documents; and
 - (ii) answer any question with respect to those registers, books, records or documents, within such reasonable time as may be specified in the requirement; or
- (f) make copies of, or take extracts from, any entries in any such register, book, record or document.

(3) 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 which is false or misleading in a material particular.

(4) It is a sufficient defence to a prosecution for an offence arising under subsection (3) (c) by reason of the failure of the defendant to answer a question referred to in subsection (2) (e) (ii) if he proves that he did not know, and could not with reasonable diligence ascertain, the answer to the question.

(5)

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(5) A person is not excused from answering any question if required to do so under subsection (2) (e) on the ground that the answer might tend to criminate him or make him liable to a penalty but the information furnished by him shall not be admissible against him in any proceedings, civil or criminal, except in proceedings for an offence under subsection (3). No. 45, 1975

(6) 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 of a corporation within the meaning of the Companies Act, 1961, 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.

(7) The provisions of subsection (6) 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 any officer or employee of a corporation.

(8) Any matter or thing done by an inspector bona fide for the purpose or purported purpose of executing this Act shall not subject the inspector personally to any action, liability, claim or demand.

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 thereon. Audit for certain purposes.

(2)

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No. 45, 1975 (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 subscrip-
tions.

14. (1) Out of the subscriptions received by him in respect of a soccer football pool promoted, conducted or operated by him, whether in New South Wales 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 30 per centum 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 37 per centum; or
- (b) where a greater percentage is prescribed, to that greater percentage.

(3) Where a licensee proposes to promote, conduct and operate soccer football pools in New South Wales 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)

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(b) the exclusion from the subscriptions by reference No. 45, 1975 to which the amount referred to in subsection (1) (b) is to be calculated of such subscriptions as may be specified in the agreement.

(4) Where an agreement—

(a) referred to in subsection (3) (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 (3) (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.

15. (1) The part of the subscriptions referred to in **Prize fund.** 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 New South Wales, 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 in writing approves 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)

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No. 45, 1975 (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 in writing approves, 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 New South Wales or, where a soccer football pool is promoted, conducted and operated by him in New South Wales and in a participating State, in New South Wales 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 subsidises 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 authorised to promote, conduct or operate soccer football pools, as a subsidy into a prize fund kept under that law.

(4) Section 3 of the Unclaimed Moneys Act, 1917, applies 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" were omitted and the words "two years" were inserted instead.

Payment
of duty.

16. (1) Subject to section 14 (4) (b), a licensee shall, within 7 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)

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(2) Where a licensee makes a payment of duty **No. 45, 1975** referred to in subsection (1) he shall forward with that payment such financial, statistical or other statements relating to the soccer football pool as the Minister directs, either generally or in respect of a particular soccer football pool, 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 10 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 sees fit to do so, forgo the whole or any part of the additional duty referred to in that subsection, or allow further time for the payment thereof.

(5) Moneys paid to the Minister pursuant to this section that are not paid by him in accordance with section 17 (2) shall be paid by the Minister to the Consolidated Revenue Fund.

17. (1) There shall be established in the Special **Sports and Recreation** Deposits Account at the Treasury a fund to be called the **Fund.** "Sports and Recreation Fund".

(2) There shall be paid to the credit of the Sports and Recreation Fund one-half of the amount of the duty and any additional duty paid to the Minister under this Act, but so that the amount paid into that Fund does not, in respect of the period of 12 months commencing on the first day of July in any year, exceed \$3,000,000.

(3)

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(3) Where any moneys are paid to the Minister by the appropriate Minister or other appropriate authority pursuant to an agreement referred to in section 14 (3), those moneys shall, for the purposes of subsection (2), be deemed to be paid to the Minister as duty or additional duty.

(4) The moneys paid to the Sports and Recreation Fund pursuant to subsection (2) shall be used to support and develop such sporting and recreational 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, 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 16 years,

at the address at which the licensee carries on business in New South Wales or, where the licensee carries on business at more than one place in New South Wales, at the address that is, in the opinion of the Minister, the principal place of business of the licensee in New South Wales.

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 Crown debt 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.

20.

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20. (1) A person who contravenes or fails to comply with a provision of this Act is guilty of an offence. No. 45, 1975

Proceedings
and
penalties.

(2) A prosecution for an offence under this Act may be heard and determined by a stipendiary magistrate sitting alone in petty sessions.

(3) Except where some other penalty is in this Act provided—

- (a) a licensee who is convicted of an offence against this Act is liable to a penalty not exceeding \$2,000; and
- (b) a person, not being a licensee, who is convicted of an offence against this Act is liable to a penalty not exceeding \$500.

21. (1) The Governor may make regulations for or with respect to—

- (a) the displaying in those parts, to which the public has access, of the premises of a licensee and an approved representative of the rules relating to soccer football pools or of extracts from those rules;
- (b) the days on which and the hours between which a licensee or an approved representative may not accept entry forms for, or subscriptions in respect of, a soccer football pool;
- (c) advertisements relating to soccer football pools; and
- (d) any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

TABLE

(2)

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(2) Regulations may be made so as to apply differently according to such factors as are specified in the regulations.

(3) A regulation may impose a penalty not exceeding \$250 for any breach thereof.

SUPPLY