



ANNO SECUNDO

GEORGI VI REGIS.

A.D. 1938.

No. 2417.

An Act to amend the Lottery and Gaming Act, 1936-1938.

[Assented to 15th December, 1938.]

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

1. (1) This Act may be cited alone as the "Lottery and Gaming Act Amendment Act (No. 2), 1938", and shall come into force on a date to be fixed by proclamation.

Short titles.

(2) The Lottery and Gaming Act, 1936-1938, as amended by this Act, may be cited as the "Lottery and Gaming Act, 1936-1938".

(3) The Lottery and Gaming Act, 1936-1938, is hereinafter called "the principal Act".

2. Section 4 of the principal Act is amended by inserting therein before the definition of "court" the following definitions :—

Amendment of s. 4 of principal Act—
Interpretation.

"board" means the Betting Control Board :

"chairman" means the chairman of the board.

3. Section 19 of the principal Act is amended by striking out the word "fourteen" in paragraph (a) thereof and by inserting in lieu thereof the word "fifteen".

Amendment of principal Act, s. 19—
Totalizator days.

4. Section 21 of the principal Act is amended by adding at the end of subsection (2) thereof the following words :—

Amendment of principal Act—
Charity trotting meetings.

The Commissioner of Police, if satisfied that the net proceeds of any trotting meeting will be devoted to charitable purposes, may, upon application made to him

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for the purpose and subject to the approval of the Chief Secretary, issue an additional licence for the use of the totalizator at such trotting meeting: Provided that licences additional to the number before mentioned in this section shall not be issued for more than two nights in the metropolitan area nor more than five days or nights outside the metropolitan area and, in the case of licences outside the metropolitan area, shall not be issued for more than one day or night for any trotting club.

Enactment of section 22a of principal Act—

5. The following section is enacted and inserted in the principal Act after section 22 thereof :—

Constitution of South Australian Trotting League.

22a. (1) Notwithstanding any law, or any rule, regulation, or by-law of the South Australian Trotting League Incorporated (in this section called "the League"), the League shall be constituted in accordance with this section.

(2) On the thirty-first day of December, nineteen hundred and thirty-eight, all members of the League then in office shall retire and thereafter the League shall consist of one delegate from each trotting club affiliated with the League.

(3) During the month of December, nineteen hundred and thirty-eight, and in the month of December in each year thereafter each trotting club affiliated with the League shall nominate a delegate to the League by writing delivered to the secretary of the League.

If any trotting club fails to nominate a delegate the board may nominate one on its behalf. Every delegate so nominated shall be a member of the League as from the first day of January next following his nomination.

(4) The members of the League shall elect one of their number to be chairman of the League. If the chairman is not present at any meeting of the League at which a quorum is present the members of the League present at that meeting shall elect an acting chairman for the day. The chairman or acting chairman shall have a deliberative vote and if the vote on any question is equal the chairman or acting chairman shall also have a casting vote.

(5) A majority of the members of the League shall form a quorum thereof. At every meeting of the League every matter coming up for decision shall be decided by a majority of the votes cast by the members present.

(6) No proceeding of the League shall be invalid by reason only of a vacancy in the office of any member or any defect or irregularity in the nomination of any member.

(7) The League shall not delegate its powers to any subcommittee or other body, but this subsection shall not prevent the League from employing officers and servants to assist it in carrying out its functions.

(8) Any affiliated club which is aggrieved by any decision of the League affecting such club may appeal to the board against that decision.

The appeal shall be commenced by written notice given to the board not later than two months after the decision appealed against was given.

The board shall decide the matter of every appeal in such manner as it deems just and its decision thereon shall be final.

6. Section 32 of the principal Act is amended—

Amendment of s. 32 of principal Act— Interpretation.

(a) by striking out the definition of “ board ” :

(b) by adding at the end of the definition of “ coursing meeting ” therein the following words :—“ but does not include any kind of speed coursing or dog racing ”.

7. The principal Act is amended by inserting therein after section 32 thereof the following section :—

Amendment of principal Act—

32a. (1) The Governor may from time to time by proclamation declare any racing club to be a country racing club or a metropolitan racing club and may revoke any such proclamation.

Power to make proclamation.

(2) The Governor may from time to time by proclamation declare that any racing club described by section 32 as a country racing club or a metropolitan racing club shall cease to be a country racing club or metropolitan racing club, as the case may be.

(3) If at any time the Governor is satisfied that any country racing club or metropolitan racing club has not held a race meeting during a period of at least two years (whether the said period occurs before or after or partly before or after the commencement of the Lottery and Gaming Act Amendment Act (No. 2), 1938), and that the failure to hold a race meeting was without reasonable cause, the Governor shall by proclamation declare that the racing club shall cease to be a country racing club, or a metropolitan racing club, as the case may be.

8. Section 33 of the principal Act is amended by inserting before the word “ place ” in the fifth line of subdivision (b) of subsection (3) thereof the word “ such ”.

Amendment of s. 33 of principal Act— Legalizing of betting with bookmakers.

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Repeal of s. 34
of principal
Act, and enact-
ment of new
s. 34—
Betting
Control
Board.

9. Section 34 of the principal Act is repealed and the following section is substituted therefor:—

34. (1) For the purpose of this Part there shall be constituted a board to be known as the Betting Control Board.

(2) The board is charged in the performance of its duties and exercise of its powers hereunder with the duty of controlling betting in such a manner as is reasonably consistent with the welfare of the public generally and the interests of persons and bodies liable to be affected thereby.

(3) Upon the passing of the Lottery and Gaming Act Amendment Act (No. 2), 1938, all the present members of the Betting Control Board shall retire, and thenceforth the board shall consist of three members only.

(4) The Governor may without nomination fill the three vacancies on the board created by the operation of subsection (3) hereof by appointing thereto a chairman and two members.

(5) At the end of the third year of office one of the three members of the board provided for by this section, to be determined by lot, shall retire, and at the end of the fourth year of service on the board one of the two other original members of the board, to be determined by lot, shall retire. At the end of the fifth year the third original member shall retire. Thereafter every member of the board shall retire after he has held office for a term of three years from his appointment or re-appointment. A member appointed to fill any casual vacancy shall retire at the time that the member in whose place he has been appointed would have retired. Each retiring member shall be eligible for re-appointment.

(6) Neither the chairman nor any member of the board, nor any officer or servant of the board shall, as such, be subject to the Public Service Act, 1936-1938.

(7) Two members of the board shall form a quorum thereof.

(8) The board shall be a body corporate with perpetual succession and a common seal, and with power to hold real and personal property of all kinds.

(9) No act or decision of the board shall be invalid or defective on the ground that when such act was done or decision made a vacancy existed on the board, or on the ground of any defect in the appointment or nomination of any member of the board.

(10) Each of the present members of the Betting Control Board at the passing of the Lottery and Gaming Act Amendment Act (No. 2), 1938, who is not immediately after the said passing appointed as chairman or member of the board as constituted by this section shall be paid as compensation for loss of office such sum as the Governor in each case thinks fit.

10. The principal Act is amended by inserting therein after section 36 thereof the following section :—

Amendment of principal Act—

36a. Notwithstanding the provisions of any law relating to stamp duties, no stamp duty shall be payable upon any receipt given or cheque drawn by the board.

Exemption of board from stamp duties.

11. Section 37 of the principal Act is amended—

Amendment of s. 37 of principal Act—

(a) by inserting in paragraph (h) after the words “ and records ” the words “ and to make the same available for the board’s inspection from time to time ” ; and after the word “ weekly ” the words “ annual or other ” ; and

Additional matters for which board may make rules.

(b) by adding at the end thereof the following additional subdivisions :—

(l) the issue, renewal and transfer of bookmakers’ licences :

(m) appeals to the board under this Act and the procedure thereon.

12. Section 38 of the principal Act is amended by striking out the words “ one year from its date ” in the second and third lines of subsection (3) thereof and substituting therefor the words “ the period between the day whereon it was granted and the next succeeding thirty-first day of July ”.

Amendment of s. 38 of principal Act— Applications and effect of licences.

13. Section 40 of the principal Act is amended by striking out subsection (1) thereof and by inserting in lieu thereof the following subsection :—

Amendment of s. 40 of principal Act— Payment of commission on bets and returns.

(1) Every bookmaker shall, not later than noon on Saturday in every week, pay to the board—

(a) a sum by way of commission equal to one pound per centum of all moneys paid or payable contingently or otherwise to such bookmaker in respect of—

(i.) every bet made by him during the previous week on any racecourse in respect of any horse-race whether held within or outside the State ; and

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- (ii.) every bet made by him during the previous week in respect of any trotting or coursing event ;
- (b) a sum by way of commission equal to two pounds per centum of all moneys paid or payable contingently or otherwise to such bookmaker in respect of every bet made by him during the previous week in any registered premises in respect of any horse-race whether held within or outside the State.

Amendment of
s. 41 of
principal Act—

Application of
commission.

14. Section 41 of the principal Act is amended so as to read as follows :—

41. (1) The board shall keep full and true accounts of all moneys received by it as commission under section 40, and shall pay all moneys into an account in a bank in the name of the board.

(2) The commission shall be applied as follows :—

- (a) The costs of the administration of this Part (to the extent that they are not paid out of fees payable on application for licences) shall be paid :
- (b) An amount equal to the commission on all bets made on races held outside the State shall be paid to the Treasurer in aid of the general revenue :
- (c) Thirty-five per centum of the commission on all bets made in registered premises on horse races held within the State (less such costs of administration as are provided to be paid by paragraph (a) of this subsection) shall be paid to the Treasurer in aid of the general revenue :
- (d) Sixty-five per centum of the commission on all bets made in registered premises on horse races held within the State shall be divided among the racing clubs in proportion to the amounts of the bets made on horse races conducted by each club during the period in respect of which the commission is payable :
- (e) The commission on all bets made on any race-course on horse races held within the State shall be divided among the racing clubs in proportion to the amounts of the bets made on horse races conducted by each club during the period in respect of which the commission is payable :

(f) The commission on all bets made on trotting races shall be divided amongst the trotting clubs in proportion to the amounts of the bets made on trotting races held by each club during the period in respect of which the commission is payable :

(g) The commission on all bets made on coursing events shall be divided among the coursing clubs in proportion to the amounts of the bets made on coursing events held by each club during the period in respect of which the commission is payable.

(3) Payments under this section to the Treasurer and the racing clubs, trotting clubs, and coursing clubs shall be made monthly.

15. Section 42 of the principal Act is amended by adding at the end thereof the following subsection :—

Amendment of s. 42 of principal Act—
Betting information in registered premises.

(7) On any day on which a race meeting is being held at Victoria Park Racecourse, Morphettville Racecourse or Cheltenham Park Racecourse no licensed bookmaker or any employee or agent of any licensed bookmaker shall, in any premises registered under this Part which are situate within a radius of twenty miles from the General Post Office, Adelaide, exhibit or otherwise make known, prior to the commencement of any horse race held at any race meeting, whether within or outside the State, any information relating to betting odds in any such race other than the contents of one reading of betting odds supplied to him by a press agency authorized by the board to supply such reading.

Penalty : Fifty pounds.

This subsection shall not apply to any race meeting held at any of the said race-courses where at the request of the racing club holding the race meeting, the board otherwise directs.”

16. The following section is inserted after section 42 of the principal Act :—

Enactment of s. 42a of principal Act—

42a. (1) Any person who—

(a) carries on business as a bookmaker ; or

(b) bets with a bookmaker on the result of any horse racing, trotting, or coursing event,

at any time, or at any place, except in accordance with this Part, shall be guilty of an offence.

Unlawful betting.

Penalty : For a first offence, one hundred pounds. For a subsequent offence, imprisonment for not more than three months.

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(2) For the purposes of this section "bookmaker" includes any person who acts as a bookmaker whether he holds a licence or not.

Amendment of
s. 44 of
principal Act—
Stamp duty
on betting
tickets.

17. Section 44 of the principal Act is amended by striking out subsection (1) thereof and by inserting in lieu thereof the following subsection :—

(1) There shall be charged on every betting ticket issued by a bookmaker under this Part a stamp duty of one halfpenny.

Amendment of
principal Act—

18. The principal Act is amended by inserting therein after section 44 the following section :—

Tax upon
winning bets
made in
registered
premises.

44a. (1) Subject as hereinafter provided, there shall be charged upon every payment to any person made by a licensed bookmaker in respect of any bet made with him by such person in any premises registered under this Part a tax equal to threepence in the pound of the amount of the payment : Provided that this subsection shall not apply—

- (a) where the payment to be made in respect of the bet is less than five shillings ; or
- (b) to any refund of a bet which is refunded in accordance with any rule made by the board ; or
- (c) to any payment in respect of a bet made by a licensed bookmaker with any licensed bookmaker under any scheme or arrangement authorized by the rules of the board for the laying-off of bets by bookmakers.

(2) If any bet is made upon credit by a licensed bookmaker in any licensed premises and any payment is made by the bookmaker in respect of that bet, the payment shall, for the purposes of estimating the tax payable under this section, be deemed to be the amount of the winnings plus the amount of the bet.

(3) If any bet is made by a licensed bookmaker in any licensed premises and the bookmaker, instead of making a payment in respect of the bet, sets off the amount which would otherwise be payable against any amount owing to the bookmaker or credits such amount to any person, the amount which otherwise would be payable (calculated as provided by subsection (2)) shall for the purposes of estimating the tax payable under this section be deemed to be a payment made by the bookmaker at the time of the set-off or credit.

(4) For the purposes of the preceding subsections of this section if any payment or amount deemed to be a payment is less than one pound or any

part thereof is less than one pound, the payment or part, as the case may be, shall for the purposes of estimating the tax payable be regarded as one pound.

(5) Every bookmaker shall deduct from every payment upon which tax is payable as provided by this section, the amount of the tax and shall, not later than noon on Saturday in every week, pay to the board a sum equal to the amount of the deduction which during the previous week, he is bound under this section to make.

(6) If any bookmaker—

(a) fails to make any such deduction as required by this section ; or

(b) fails to make any such payment to the board as required by this section,

he shall be guilty of an offence.

Penalty : For a first offence, fifty pounds.

For a subsequent offence, imprisonment for six months.

(7) The board shall keep full and true accounts of all moneys received by it pursuant to this section and shall pay all such moneys into an account in the name of the board in a bank.

(8) The moneys received under this section shall be applied as follows :—

(a) An amount of eighteen thousand pounds shall in every financial year be distributed as follows—

Fifty per centum thereof shall be divided equally among the South Australian Jockey Club, the Adelaide Racing Club Limited, and the Port Adelaide Racing Club Limited :

Eighteen per centum thereof shall be divided equally between the Gawler Jockey Club Limited, and the Onkaparinga Racing Club :

Three per centum thereof shall be paid to the South Australian Tattersalls Club Incorporated :

Twenty-nine per centum thereof shall be divided equally among the country racing clubs :

(b) The balance then remaining shall be paid to the Treasurer in aid of the general revenue.

(9) Payments to the Treasurer and the racing clubs under this section shall be made monthly.

Enactment of
s. 48a of
principal Act—

19. The following section is enacted and inserted in the principal Act after section 48 thereof :—

Unclaimed
money.

48a. Where any money which, under this Part or the rules is payable by the board to any person, has been held by the board for twelve months after that person first became entitled thereto, and during that period no claim has been made to that money by the person entitled thereto, the board shall pay that money to the Treasurer in aid of the general revenue of the State.

This section shall apply to money received by the board whether before or after the enactment of this section.

Amendment of
s. 58 of
principal Act—
Totalizator
agents.

20. Section 58 of the principal Act is amended—

(a) by adding after the words “ or otherwise ” at the end of paragraph (a) the words “ or with a book-maker ” ; and

(b) by adding after the words “ pounds ” the words “ for a first offence, and for a subsequent offence imprisonment for not more than three months ”.

Enactment of
s. 58a—
Proof of
offence.

21. The following section is enacted and inserted after section 58 of the principal Act :—

58a. In any proceedings for an offence under section 57 or 58 the proof of the receipt by any person of any money for the purpose alleged in the complaint shall be *prima facie* evidence that it was invited or solicited by the recipient, and that it was received by him for fee, commission, reward, share, or interest, as the case may be

Enactment of
s. 67a of prin-
cipal Act—

22. The following section is enacted and inserted in the principal Act after section 67 thereof :—

Prohibition of
broadcasting
certain betting
particulars.

67a. If any race meeting, trotting meeting, or coursing meeting is held in the State no person shall at any time, prior to or during the time the race meeting, trotting meeting, or coursing meeting is being held, by means of any wireless broadcast, broadcast any information relating to the betting on any horse or dog taking part in any horse race, trotting race, or coursing event to be held or held at such meeting.

Penalty : Fifty pounds.

Amendment of
s. 88 of
principal Act—
Penalty for
obstructing
police officer.

23. Section 88 of the principal Act is amended by substituting for the words “ Seventy-five pounds ” in the last line thereof the words “ For a first offence seventy-five pounds, and for a second or subsequent offence imprisonment for not more than six months ”.

24. The following section is enacted and inserted in the principal Act after section 88 thereof :—

Enactment of s. 88a of principal Act—

88a. Any person who is in or near to any place whether a public place or not for the purpose of giving any warning to any person of the presence or approach of any member of the police force or for the purpose of preventing the detection of any offence against this Act shall be guilty of an offence.

Certain Offences.

Penalty : For a first offence, seventy-five pounds, and for a second or subsequent offence imprisonment for not more than six months.

25. Section 90 of the principal Act is amended by inserting after subsection (3) thereof the following subsection :—

Amendment of s. 90 of principal Act—

(4) It shall not be necessary to prove that the occupier knew that the premises were kept or used for any of the purposes aforesaid, but such person shall not be convicted if he proves that he did not know and could not by the exercise of all reasonable diligence have known that the premises were being so kept or used.

Proof of knowledge.

26. Section 94 of the principal Act is amended by inserting after the word "advertisement" in the third line thereof the words "or shall make or cause to be made any announcement by means of any wireless broadcast".

Amendment of principal Act, s. 94.

27. The following section is enacted and inserted in the principal Act after section 108 thereof :—

Enactment of s. 108a of principal Act—

108a. If it is proved on the hearing of any complaint for unlawful gaming that on the premises where it is charged that such unlawful gaming has taken place there is installed a telephone instrument the number of which does not appear in the current telephone directory, such proof shall be *prima facie* evidence of the truth of such charge.

" Silent " telephone evidence of unlawful gaming.

28. The principal Act is amended by adding at the end thereof the following section :—

Amendment of principal Act—

118. This Act shall be read and construed subject to the Commonwealth of Australia Constitution Act, and so as not to exceed the legislative power of the State, to the intent that where any provision of this Act, or the application thereof to any person or circumstance is held invalid, the remainder of this Act, and the application of such provision to other persons or circumstances, shall not be affected.

Construction Act.

In the name and on behalf of His Majesty, I hereby assent to this Bill.

W. DUGAN, Governor.