

Banking (Premium Accounts) Act 1992

No. 33 of 1992

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Victoria

No. 33 of 1992

Banking (Premium Accounts) Act 1992

[Assented to 16 June 1992]

The Parliament of Victoria enacts as follows:

1. *Purpose*

The purpose of this Act is to permit and provide for schemes in which the holders of premium accounts with certain banks may participate and may win cash prizes.

2. *Commencement*

This Act comes into operation on a day to be proclaimed.

3. *Principal Act*

In this Act, the Lotteries Gaming and Betting Act 1966 is called the Principal Act.

No. 7429.
Reprinted to
No. 87/1987
and
subsequently
amended by
Nos. 57/1989,
3/1991,
32/1991
and 53/1991.

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4. Amendment of section 5

In section 5 (2A) of the Principal Act, after “permit” insert
 “or licence”.

5. Insertion of new Division 4A in Part I

After section 6G of the Principal Act insert—

“Division 4A—Investment-related Lotteries

6H. Definitions

In this Division—

“bank” means a bank within the meaning of the
 Banking Act 1959 of the Commonwealth as
 amended and in force from time to time;

“premium account” means an account referred to
 in section 6I;

“investment-related lottery” means a lottery—

- (a) on premium accounts with a bank; and
- (b) in which the prize pool is the aggregate of
 interest earned on money held in premium
 accounts with that bank and any other
 money paid in to the pool by the bank;

“licensee” means a bank that holds a licence under
 this Division;

“Minister” means the Minister administering this
 Division or, if for the time being 2 or more
 Ministers administer this Division, any of
 those Ministers;

“premium unit” means \$100 or such other amount
 as is specified in the licence.

6I. Premium accounts

- (1) A person may open an account with a licensee for the purposes of this Division.
- (2) A licensee must ensure that an account opened under sub-section (1) entitles the holder to make deposits in, or withdrawals from, the account as if it were a savings account with the licensee.
- (3) The holder of an account opened under sub-section (1) with a licensee is eligible for one chance in each draw in an investment-related lottery for each premium unit held in the account during the whole of the month preceding the draw.
- (4) The licensee must pay a prize in accordance with any instructions of the winner or to the credit of the premium account of the winner immediately after the draw.

6J. Application for licence

- (1) A bank may apply to the Minister for a licence under section 6K.
- (2) An application must be in the form approved by the Minister and be accompanied by the prescribed fee.

6K. Licence

- (1) The Minister may on application grant to a bank a licence to conduct an investment-related lottery on premium accounts with the bank.
- (2) A licence is subject to the following conditions:
 - (a) The first draw of the investment-related lottery will be held on the date specified in the licence and subsequent draws will be held on such day of each following month as is specified in the licence;
 - (b) Any terms and conditions of a premium account, not inconsistent with this Act,

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must be approved by the Minister in writing;

- (c) Any other conditions that the Minister thinks fit and specifies in the licence, including conditions for testing and approval of the device used in or process followed to make a draw and conditions for supervision of the conduct of a draw and allocation of prizes.
- (3) The monthly prize pool in the investment-related lottery will comprise—
- (a) interest earned on the total amount in premium accounts held with the licensee, calculated at a rate from time to time determined in accordance with the licence; and
 - (b) any other money paid by the licensee into the pool.
- (4) A licensee must pay within 14 days after demand being made in writing all reasonable costs of testing and inspection of any device used in or process followed to make a draw in the investment-related lottery and supervision of the conduct of the draw and allocation of prizes.

6L. *Duration and renewal of licence*

- (1) A licence granted under section 6K remains in force for a period of 5 years unless sooner cancelled or surrendered.
- (2) A licensee may apply for renewal of a licence not earlier than 3 months before the expiration of its licence.
- (3) An application for renewal must be accompanied by the prescribed fee.
- (4) The Minister may renew a licence for further periods of 5 years.

6M. Cancellation and surrender of licence

- (1) A licence is cancelled if the licensee ceases to be a bank.
- (2) The Minister may serve on a licensee a notice in writing affording the licensee an opportunity to show cause within 60 days why the licence should not be cancelled on any one or more of the following grounds—
 - (a) the licensee has contravened this Division or the regulations;
 - (b) the licensee has failed to comply with any condition of the licence;
 - (c) the licensee has failed to pay by the due date any duty payable under section 6N or any account in writing for costs of testing or inspection of the device or process or supervision of the conduct of the draw or allocation of prizes.
- (3) If the Minister decides that there are grounds under sub-section (2) for cancellation of a licence, the Minister may cancel the licence by giving notice in writing of the cancellation to the licensee.
- (4) The cancellation under sub-section (3) takes effect when the notice is given or on a later date specified in the notice.
- (5) A licensee may surrender its licence at any time by notice in writing given to the Minister.
- (6) Surrender takes effect at the expiration of 30 days after notice is given under sub-section (5).
- (7) A licensee that intends to surrender its licence must give notice of its intention to the holders of premium accounts with the licensee not less than 30 days before the surrender takes effect.
- (8) On the cancellation or surrender of a licence, the bank must—

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- (a) pay to the Minister any amounts due from the bank under this Division; and
- (b) distribute pro rata between all premium accounts with the bank the funds accumulated in the prize pool as at the date of cancellation or surrender; and
- (c) pay the balance of each premium account to the holder of that account.

6N. *Duty payable by licensee*

- (1) A licensee must pay to the Minister for payment into the Consolidated Fund in respect of a draw—
 - (a) in the case of a draw held during the first, second or third year after the commencement of the **Banking (Premium Accounts) Act 1992**, a duty equal to 25% of the amount of interest earned on money held in premium accounts during the month preceding the draw; and
 - (b) in the case of any other draw, a duty equal to 30% of the amount of interest earned on money held in premium accounts during the month preceding the draw.
- (2) Payments under sub-section (1) must be made not later than 14 days after the draw in respect of which the duty is payable.
- (3) Duty shall be taken, when it becomes due and payable, to be a debt due to the Crown and payable to the Minister.
- (4) Any unpaid duty may be sued for and recovered—
 - (a) irrespective of the amount of the duty, in the Magistrates' Court; or
 - (b) in any other court of competent jurisdiction—

by the Minister suing in his or her official name or by an officer of the public service employed in

the administration of this Division and authorised to sue for and recover duty on behalf of the Minister, suing in the official name of the Minister.

- (5) Proceedings under this section brought in the name of the Minister shall in the absence of evidence to the contrary be taken to have been brought by his or her authority.
- (6) An officer referred to in sub-section (4) may appear in proceedings brought under this section on behalf of the Minister.

6P. *Returns by licensees*

- (1) A licensee must, within 21 days after each draw, furnish to the Minister a return, in the form and manner approved by the Minister, relating to that draw in which the licensee specifies—
 - (a) the total prize pool for the draw; and
 - (b) the interest earned on money held in premium accounts during the month preceding the draw; and
 - (c) the amount, if any, paid in to the pool by the licensee for the draw.
- (2) The Minister may, by notice in writing, require a licensee to furnish to the Minister, within the time specified in the notice, any further return that the Minister requires for the purposes of this Division.
- (3) A licensee must each 12 months or, if within that period the licensee's licence is cancelled or surrendered, on cancellation or surrender, furnish to the Minister an audited statement in the form approved by the Minister and containing the information required by the Minister.

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6Q. *Power to obtain information and evidence*

Section 78 of the Financial Institutions Duty Act 1982 applies as if—

- (a) a reference to the Commissioner were a reference to the Minister; and
- (b) a reference to a financial institution were a reference to a licensee.

6R. *Regulations*

The Governor in Council may make regulations for or with respect to prescribing any matter or thing required or permitted by this Division to be prescribed or necessary to be prescribed to give effect to this Division.”

NOTES

1. *Minister's second reading speech—*

Legislative Assembly: 19 May 1992

Legislative Council: 10 June 1992

2. The long title for the Bill for this Act was “A Bill to amend the Lotteries Gaming and Betting Act 1966 and for other purposes.”
3. Section headings appear in bold italics and are not part of the Act. (See Interpretation of Legislation Act 1984.)