



ANNO DECIMO QUARTO

ELIZABETHAE II REGINAE

A.D. 1965

No. 12 of 1965

An Act to provide for the submission to a referendum of a question in relation to the promotion and conduct of State Lotteries.

[Assented to 21st October, 1965.]

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 "Referendum (State Lotteries) Act, 1965". Short title.

2. In this Act, unless the context otherwise requires— Interpretation.

"Assembly district" means electoral district for the return of members to serve in the House of Assembly:

"assistant returning officer" means an assistant returning officer within the meaning of the Electoral Act:

"elector" means a person whose name appears as an elector on the electoral roll in force at five o'clock in the afternoon of the thirtieth day of August, one thousand nine hundred and sixty-five for an Assembly district:

"Electoral Act" means Electoral Act, 1929-1959:

"prescribed question" means the question set forth in section 4 of this Act:

"presiding officer" means the officer for the time being presiding and taking the poll at any polling place on the day of the referendum:

“referendum” means the submission of the prescribed question to the electors :

“registrar” means an electoral registrar appointed under the Electoral Act :

“Returning Officer for the State” means the returning officer for the State appointed and holding office under the Electoral Act :

“returning officer” means returning officer for an Assembly district :

“subdivision” means subdivision of an Assembly district.

Issue of writ
for referendum.

3. (1) As soon as practicable after the commencement of this Act the Governor shall issue a writ directed to the Returning Officer for the State for the submission of the prescribed question to the electors under this Act.

(2) The writ shall be in accordance with Form A in the Schedule to this Act and shall appoint a day being a Saturday for the taking of the votes of the electors and a day for the return of the writ.

Question to
be submitted
to electors.

4. The prescribed question shall be—

Are you in favour of the promotion and conduct of lotteries by or under the authority of the Government of the State ?

Writ to be
directed to
Returning
Officer for
the State.

5. The writ shall be directed to the Returning Officer for the State who shall forthwith after receipt thereof endorse on the writ the date of receipt by him, forward a copy of the writ to each returning officer and insert in the *Gazette* a notification of the receipt and particulars of the writ.

Electors who
may be
admitted to
vote.

6. (1) At the referendum only those electors who would be entitled to vote if the referendum were an election for the return of members to serve in the House of Assembly shall be admitted to vote.

(2) Nothing in this section shall be deemed to entitle any person who is disqualified from voting to vote.

Application of
Electoral Act
to referendum.

7. (1) Subject to this Act, the provisions of sections 8 (except subsection (3) thereof), 10 and 38, Part X, Part XI (except sections 95, 96, 97, 98, 100, 102, 113, 118 and 118a), Part XII (except sections 120, 121, 122, 123, 125 and 127 and 129 (3) and 132), and Part XV (except sections 146 to 153

(i) A reference to a ballot-paper, ballot-box, or other thing shall be read as a reference to a ballot-paper, ballot-box, or corresponding thing in relation to the referendum ;

(j) Any reference to "this Act" shall be read as a reference to the provisions and Parts of the said Act which are applicable to a referendum.

Voting at referendum.

8. (1) The voting at the referendum shall be taken on the day appointed by the writ for the taking of the votes of the electors.

(2) Each elector shall vote only once at the referendum.

Polling places.

9. The polling places appointed and established under the Electoral Act shall be polling places for the purposes of the referendum.

Form of ballot-papers.

10. The ballot-papers to be used for the purposes of the referendum may be in accordance with Form B in the Schedule to this Act.

Mode of voting.

11. A voter shall mark his vote on his ballot-paper as follows :—

(a) if he is in favour of the prescribed question he shall place the number 1 in the square opposite the word "Yes" ;

(b) if he is not in favour of the prescribed question he shall place the number 1 in the square opposite the word "No".

Persons present at polling.

12. No person, other than the presiding officer, assistant presiding officers, poll clerks and doorkeepers, and authorized scrutineers (if any), and the electors voting and about to vote, shall be permitted to enter or remain in the polling booth during the polling except by permission of the presiding officer.

Electors entitled to vote.

13. The electoral rolls in force at five o'clock in the afternoon of the thirtieth day of August, one thousand nine hundred and sixty-five shall be conclusive evidence of the right of each person enrolled thereon to vote as an elector unless he shows by his answers to the questions prescribed by section 105 of the Electoral Act, that he is not entitled to vote.

14. (1) It shall be the duty of every elector to record his vote at the referendum. Compulsory voting.

(2) It shall be the duty of the returning officer for each Assembly district at the close of the referendum in that district to prepare a list of the names, addresses and descriptions of the electors enrolled for his Assembly district who have not voted at the referendum, and to certify the list by statutory declaration under his hand.

(3) The list so certified shall in all proceedings be *prima facie* evidence of the contents thereof and of the fact that the electors whose names appear therein did not vote at the referendum.

(4) Within four months after the close of the referendum the Returning Officer for the State shall send by post to each elector whose name appears on the list prepared in accordance with subsection (2) of this section, at the address mentioned in that list, a notice, in the form prescribed by the regulations made under the Electoral Act notifying the elector that he appears to have failed to vote at the referendum and calling upon him to give a valid, truthful and sufficient explanation of his apparent failure so to vote: Provided that the said returning officer need not send a notification in any case where he is satisfied that the elector—

- (a) is dead ; or
- (b) was ineligible to vote at the election ; or
- (c) had a valid and sufficient reason for his failure to vote.

(5) Before sending any such notice, the Returning Officer for the State shall insert therein a date, not being less than twenty-one days after the date of posting of the notice, on which the form attached to the notice, duly filled up and signed by the elector, is to be in the hands of the Returning Officer for the State.

(6) Every elector to whom a notice under this section has been sent shall fill up the form at the foot of the notice by stating in it the true reason why he failed so to vote, sign the form, and post it so as to reach the Returning Officer for the State not later than the date inserted in the notice.

(7) If any elector is unable, by reason of absence from his place of living or physical incapacity, to fill up, sign, and post the form, within the time allowed under subsection (5) of this section, any other elector who has personal knowledge of the facts may fill up, sign and post the form, duly witnessed, within that time, and the filling up, signing, and posting of the form may be treated as compliance by the first-mentioned elector with the provisions of subsection (6) of this section.

(8) Upon receipt of a form referred to in either of the last two preceding subsections, the Returning Officer for the State shall endorse on the list prepared in accordance with subsection (2) of this section, opposite the name of the elector, his opinion whether or not the reason contained in the form is a valid and sufficient reason for the failure of the elector to vote.

(9) The Returning Officer for the State shall also endorse on the list, opposite the name of each elector to whom a notice under this section has been sent and from or on behalf of whom a form properly filled up and signed and witnessed has not been received by him, a note to that effect.

(10) The list prepared and endorsed by the returning officer for the Assémbly district indicating—

(a) the names of the electors who did not vote at the referendum ;

(b) the names of the electors from whom or on whose behalf the Returning Officer for the State received, within the time allowed under subsection (5) of this section, forms properly filled up and signed ; and

(c) the names of the electors who failed to reply within that time,

and any extract therefrom, certified by the Returning Officer for the State under his hand, shall, in all proceedings, be *prima facie* evidence of the contents of such list or extract, and of the fact that the electors whose names appear therein did not vote at the referendum, and that the notice, specified in subsection (4) of this section was received by those electors, and that those electors did, or did not (as the case may be) comply with the requisitions contained in the notice within the time allowed under subsection (5) of this section.

(11) Every elector who—

(a) fails to vote at the referendum without a valid and sufficient reason for such failure ; or

(b) on receipt of a notice in accordance with subsection (4) of this section, fails to fill up, sign, and post within the time allowed under subsection (5) of this section the form (duly witnessed) which is attached to the notice ; or

(c) states in such form a false reason for not having voted, or, in the case of an elector filling up or purporting to fill up a form on behalf of any other elector, in

pursuance of subsection (7) of this section, states in such form a false reason why that other elector did not vote, shall be guilty of an offence.

For the purposes of this section it shall be a valid and sufficient reason for a failure to vote if an elector has a conscientious objection to voting at the referendum.

Penalty :—Not less than ten shillings and not more than two pounds.

(12) Proceedings for an offence against this section shall not be instituted unless the Governor, by proclamation in the *Gazette* before the issue of the writ, has amended the form of the prescribed question by striking out therefrom the words "or under the authority of". Notwithstanding any provision of this Act, the Governor is hereby authorized to make such a proclamation, and upon the making thereof the prescribed question and Forms A and B in the Schedule shall be amended accordingly.

(13) Proceedings for an offence against this section shall not be instituted except by the Returning Officer for the State or an officer thereto authorized in writing by the Returning Officer for the State.

15. A ballot-paper shall be informal if—

Informal
ballot-papers.

- (a) it is not authenticated by the initials of the presiding officer, or by an official mark as prescribed ;
- (b) it has no vote marked on it ;
- (c) it has upon it any mark or writing by which, in the opinion of the returning officer the voter can be identified.

Notwithstanding the provisions of any other section of this Act a ballot paper shall not be informal for any reason other than the reasons specified in this section, but shall be given effect to according to the voter's intention so far as his intention is clear.

16. In the referendum the scrutiny shall, subject to the provisions and regulations relating to absent voting and to voting by post, be conducted in the manner following :—

Scrutiny of
votes.

- (1) Each assistant returning officer shall, in the presence of an assistant presiding officer or a poll clerk and of any authorized scrutineers who attend—

- (a) open all ballot-boxes received from polling places within or for that portion of the district in which he exercises his powers ;
- (b) reject all informal ballot-papers ;
- (c) count the votes on all unrejected ballot-papers ;
- (d) make out and sign a statement (which may be counter-signed by an assistant presiding officer or a poll clerk) setting out the number of votes given in favour of the prescribed question, the number of votes given not in favour of the prescribed question, and the number of informal ballot-papers ;
- (e) place in a separate parcel all the ballot-papers which have been rejected as informal ;
- (f) transmit the following information by telegram or in some expeditious manner to the returning officer—
 - (i) the number of votes given in favour of the prescribed question ;
 - (ii) the number of votes not in favour of the prescribed question ; and
 - (iii) the total number of ballot-papers rejected as informal ;
- (g) seal up the parcels and endorse on each parcel a description of the contents thereof ; and
- (h) transmit the parcels to the returning officer with the least possible delay, together with the statement specified in paragraph (d) of this subsection ;

(2) The returning officer shall open all ballot-boxes not opened by an assistant returning officer, and shall conduct the scrutiny of the ballot-papers contained therein in the manner aforesaid as far as applicable.

(3) The returning officer shall, in the manner prescribed by the Electoral Act and the regulations made thereunder examine, count, and deal with all ballot-papers used for voting in pursuance of—

- (a) the provisions of that Act relating to voting by post ; or

(b) the regulations under that Act relating to absent voting.

(4) The returning officer shall—

(a) open the sealed parcels of ballot-papers received from the assistant returning officers in or for the districts for which he is returning officer, and shall make a fresh scrutiny of the ballot-papers contained in the parcels, and for this purpose he shall have the same powers as if the fresh scrutiny were the original scrutiny, and may reverse any decision given by an assistant returning officer in relation to the original scrutiny ;

(b) count the number of votes given in favour of the prescribed question and the number of votes given not in favour of the prescribed question.

(5) The returning officer shall—

(a) make out and sign a statement setting out, in respect of the district for which he is returning officer, the number of votes given in favour of the prescribed question, the number of votes given not in favour of the prescribed question, at each count, and the number of informal ballot-papers, and forward the statement to the Returning Officer for the State ;

(b) place in a separate parcel all the ballot-papers which have been rejected as informal ;

(c) place in a separate parcel all the unrejected ballot-papers ; and

(d) seal up the parcels and endorse on each parcel a description of the contents thereof.

(6)—

(a) The Governor may make regulations to provide for the appointment of not more than ten scrutineers to act at each polling place at the referendum ;

(b) The regulations so made shall contain provisions which will enable—

(i) those who are in favour of a "Yes" vote to the prescribed question to appoint not more than five scrutineers ;

- (ii) those who are in favour of a "No" vote to the prescribed question to appoint not more than five scrutineers ;
- (c) Every scrutineer appointed pursuant to this subsection shall so far as is consistent with this Act have the same rights, duties and powers as are conferred upon scrutineers by the Electoral Act, 1929-1965.

Return of the writ.

17. As soon as conveniently may be after the result of the referendum has been ascertained the Returning Officer for the State shall—

- (a) under his hand certify on the original writ the number of votes given in favour of the prescribed question, the number of votes given not in favour of the prescribed question and the number of ballot-papers rejected as informal ;
- (b) return the writ with the certificate endorsed thereon to the Governor ;
- (c) publish a copy of the certificate in the *Gazette* and the certificate so published shall be conclusive evidence of the result of the referendum.

Return of the writ notwithstanding outstanding ballot-papers.

18. Where the Returning Officer for the State—

- (a) is satisfied, having regard to the total number of ballot-papers issued, that any ballot-papers issued at some remote polling place or as postal votes cannot reach him for the purpose of scrutiny without unduly delaying the return of the writ ; and
- (b) is satisfied that the votes recorded on those ballot-papers could not possibly affect the result of the referendum—

he may return the writ without awaiting the receipt of the ballot-papers.

Re-count.

19. At any time before the return of the writ a returning officer may, if he thinks fit, and shall, if so directed by the Returning Officer for the State, re-count the ballot-papers contained in any parcel.

Illegal practices.

20. Bribery and undue influence and the following shall be illegal practices :—

Any publication of any advertisement relating to the referendum, which has not at the end thereof the name and address of the person authorizing it or any issue of any

notice relating to the referendum, which has not on the face thereof the name and address of the person authorizing the notice.

21. Illegal practices shall be punishable as follows :—

Punishment
for illegal
practices.

- (a) bribery or undue influence by a fine not exceeding two hundred pounds or by imprisonment not exceeding one year ;
- (b) any other illegal practice by a fine not exceeding one hundred pounds or by imprisonment not exceeding six months.

22. Whoever—

Bribery.

- (a) promises, or offers, or suggests any valuable consideration, advantage, recompense, reward, benefit for or on account of, or to induce, any vote or omission to vote in connection with the referendum, or any support of or opposition to the prescribed question or any promise of any such vote, omission, support or opposition ;
- (b) gives or takes any valuable consideration, advantage, recompense, reward, benefit for or on account of, or to induce, any vote or omission to vote in connection with the referendum, or any support of or opposition to the prescribed question or any promise of any such vote, omission, support or opposition ;
- (c) promises, offers, or suggests any valuable consideration, advantage, recompense, reward or benefit, for bribery, or gives or takes any valuable consideration, advantage, recompense, reward, or benefit for bribery,

shall be guilty of bribery.

23. Without limiting the effect of the general words in section 22, "bribery" particularly includes the supply of meat, drink, or entertainment after the issue of the writ and the provision of conveyance or horse or carriage hire for any voter whilst going to or returning from the polling place with the view of influencing the vote of an elector.

Definition of
"bribery".

24. Whoever—

Undue
influence.

- (a) threatens, offers, or suggests any violence, injury, punishment, damage, loss or disadvantage to upon or for any elector or any other person for or on

account of or to induce any vote or omission to vote in connection with the referendum or any support of or opposition to the prescribed question or any promise of any such vote, omission, support or opposition ;

(b) uses, causes, inflicts, or procures any violence, punishment, damage, loss, or disadvantage to upon or for any elector or any other person for or on account of or to induce any vote or omission to vote in connection with the referendum or any support of or opposition to the prescribed question or any promise of any such vote, omission, support or opposition ;

(c) at any time between the issue of the writ and the close of the poll publishes or exposes, or causes to be published or exposed, to public view, any document or writing or printed matter containing any untrue statement calculated to influence the vote of any elector, or verbally makes any such untrue statement,

shall be guilty of undue influence.

Definition of
"undue
influence".

25. Without limiting the effect of the general words in section 25, "undue influence" includes every interference or attempted interference with the free exercise of the franchise of any elector.

Prohibition of
certain
electoral
posters.

26. (1) A person shall not post up or exhibit, or permit to be posted up or exhibited, on any building, vehicle, vessel, hoarding or structure of any kind an electoral poster the area of which is more than one hundred and twenty square inches.

Penalty : One hundred pounds.

For the purposes of this section, every electoral poster any part of which is within three feet of another electoral poster shall be regarded as forming part of that other poster and the combined area of all such electoral posters shall be deemed to be the area of one electoral poster.

(2) A person shall not write, draw, or depict any electoral matter directly on any roadway, footpath, building, vehicle, vessel, fence, hoarding or structure of any kind.

Penalty : One hundred pounds.

(3) In this section—

“electoral matter” means any matter intended or calculated to affect the result of a referendum under any law of the State :

“electoral poster” means any material whatsoever on which any electoral matter is written, drawn, or depicted.

27. For the purposes of ensuring compliance with the last preceding section, any member of the police force may, and, if so directed by the Returning Officer for the State, shall—

Removal of prohibited electoral posters.

(a) remove an electoral poster which appears to have been posted up or to be exhibited in contravention of subsection (1) of the last preceding section ; or

(b) obliterate electoral matter which appears to have been written, drawn, or depicted in contravention of subsection (2) of the last preceding section.

28. On any prosecution under this Act the certificate of the returning officer that the referendum was duly held shall be conclusive evidence of the matter stated.

Evidentiary effect of returning officer's certificate.

29. (1) Offences against this Act punishable by imprisonment exceeding one year are indictable offences.

Proceedings for offences.

(2) All proceedings for offences against this Act other than indictable offences shall be dealt with summarily.

30. The Governor may make regulations not inconsistent with this Act prescribing all matters which are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

Regulations.

31. The monies required for the purposes of this Act shall be paid out of monies voted by Parliament for those purposes.

Financial provision.

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

J. M. NAPIER, Governor's Deputy.

THE SCHEDULE

FORM A.

Section 3.

WRIT.

STATE OF SOUTH [ROYAL ARMS] AUSTRALIA.

To Returning Officer for the State of South Australia :

Greeting—

By virtue of the provisions of the "Referendum (State Lotteries) Act, 1965", I, the Governor of the State of South Australia, hereby command you that you cause the following question, namely,

Are you in favour of the promotion and conduct of lotteries by or under the authority of the Government of the State?

to be submitted according to law to the electors qualified to vote for the election of members of the House of Assembly, and I appoint the following dates for the purposes of the said submission—

- (1) For taking the votes of the electors, Saturday the day of , 1965.
- (2) For the return of the writ on or before the day of , 1965.

Given under my hand and the public seal of South Australia, at Adelaide, the day of , 1965.

FORM B.

Section 10.

BALLOT-PAPER.

STATE OF SOUTH AUSTRALIA.

Referendum (State Lotteries) Act, 1965.

Directions to Voter :—The voter should indicate his vote as follows :—

If he is in favour of the question set forth hereunder he should place the number 1 in the square opposite the word "Yes".

If he is not in favour of the question set forth hereunder he should place the number 1 in the square opposite the word "No".

SUBMISSION OF QUESTION TO THE ELECTORS.

Question—

Are you in favour of the promotion and conduct of lotteries by or under the authority of the Government of the State?

Yes.

No.