

STATE LOTTERIES (AMENDMENT) ACT, 1984, No. 135

New South Wales



ANNO TRICESIMO TERTIO

ELIZABETHÆ II REGINÆ

Act No. 135, 1984.

An Act to amend the State Lotteries Act, 1930, to incorporate the State Lotteries Office, and for other purposes. [Assented to, 4th December, 1984.]

State Lotteries (Amendment) 1984

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:—

Short title.

1. This Act may be cited as the “State Lotteries (Amendment) Act, 1984”.

Commencement.

2. (1) Except as provided by subsection (2), this Act shall commence on the date of assent to this Act.

(2) Schedule 1, and section 4 in its application to that Schedule, shall commence on such day as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Schedules.

3. This Act contains the following Schedules:—

SCHEDULE 1.—AMENDMENTS TO THE STATE LOTTERIES ACT, 1930.

SCHEDULE 2.—AMENDMENTS TO THE STATE LOTTERIES ACT, 1930,
BY WAY OF STATUTE LAW REVISION.

SCHEDULE 3.—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Amendment of Act No. 51, 1930.

4. The State Lotteries Act, 1930, is amended in the manner set forth in Schedules 1 and 2.

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Savings, transitional and other provisions.

5. Schedule 3 has effect.
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SCHEDULE 1.

(Sec. 4.)

AMENDMENTS TO THE STATE LOTTERIES ACT, 1930.

- (1) Long title—

Omit “by the Treasurer”.

- (2) Section 2—

Omit the section, insert instead:—

Interpretation.

2. (1) In this Act, except in so far as the context or subject-matter otherwise indicates or requires—

“Director” means the Director of State Lotteries appointed under this Act;

“Office” means the State Lotteries Office constituted by this Act;

“State lottery” means a lottery promoted and conducted under the authority of this Act.

- (2) In this Act—

(a) a reference to a function includes a reference to a power, authority and duty; and

(b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

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SCHEDULE 1—*continued*.

AMENDMENTS TO THE STATE LOTTERIES ACT, 1930—*continued*.

(3) (a) Section 3—

Omit “Treasurer”, insert instead “Office”.

(b) Section 3—

Omit “he”, insert instead “it”.

(4) Section 5—

Omit “Treasurer”, insert instead “Office”.

(5) Section 6B—

After section 6A, insert:—

The State Lotteries Office.

6B. (1) There is hereby constituted a corporation with the corporate name “State Lotteries Office”.

(2) The affairs of the Office shall be managed by the Director.

(3) Any act, matter or thing done in the name of, or on behalf of, the Office by the Director, or with the authority of the Director, shall be deemed to have been done by the Office.

(4) The Office—

(a) shall have and may exercise the functions conferred or imposed on it by or under this or any other Act (including functions conferred or imposed on it as a licensee or an agent under the Lotto Act, 1979);

(b) shall, for the purposes of any Act, be deemed to be a statutory body representing the Crown;

*State Lotteries (Amendment) 1984*SCHEDULE 1—*continued.*AMENDMENTS TO THE STATE LOTTERIES ACT, 1930—*continued.*

- (c) shall, in the exercise of its functions, be subject to the control and direction of the Minister;
- (d) has perpetual succession;
- (e) shall have an official seal;
- (f) may take proceedings, and be proceeded against, in its corporate name; and
- (g) may do and suffer all other things that a body corporate may, by law, do and suffer and that are necessary for or incidental to the purposes for which the Office is constituted.

(5) The seal of the Office shall not be affixed to any instrument or document except in the presence of the Director, or a public servant for the time being authorised by the Director for the purpose of this subsection, who shall attest by his or her signature the fact and date of the affixing of the seal.

(6) All courts and persons acting judicially—

- (a) shall take judicial notice of the seal of the Office that has been affixed to any instrument or document; and
- (b) shall, until the contrary is proved, presume that the seal was properly affixed.

(7) In any other Act, in any instrument made under any Act or in any other instrument of any kind, except in so far as the context or subject-matter otherwise indicates or requires, a reference to "State Lotteries Office" or "State Lotteries" (whether with or without the addition of the words "New South Wales" or the letters "N.S.W.") shall be read and construed as a reference to the State Lotteries Office constituted by this Act.

(6) Section 7 (1)—

Omit "who, subject to the control of the Treasurer, shall have the execution and administration of this Act".

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SCHEDULE 1—*continued*.AMENDMENTS TO THE STATE LOTTERIES ACT, 1930—*continued*.

(7) Section 7A—

Omit the section.

(8) Section 7B—

Before section 8, insert:—

Acting Director.

7B. (1) The Minister may, from time to time, appoint a person to act in the office of Director during the illness or absence of the Director or during a vacancy in the office of Director, and the person, while so acting, shall have and may exercise the functions of the Director.

(2) The Minister may remove from office a person appointed under subsection (1).

(3) A person while acting in the office of Director is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

(4) No person shall be concerned to inquire whether or not any occasion has arisen requiring or authorising a person to act in the office of Director pursuant to subsection (1).

(9) Sections 8, 8A—

Omit section 8, insert instead:—

Staff of Office.

8. (1) Such staff as may be necessary to enable the Office to exercise its functions shall be employed under the Public Service Act, 1979.

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SCHEDULE 1—*continued.*AMENDMENTS TO THE STATE LOTTERIES ACT, 1930—*continued.*

(2) For the purpose of enabling the Office to exercise its functions, the Office may—

(a) with the approval of the Minister; and

(b) with the approval of—

(i) the Minister administering a government department or an administrative office; or

(ii) a statutory body,

and on such terms and conditions as may be approved by the Public Service Board, arrange for the use of the services of any staff or facilities of the department, office or body, as the case may be.

(3) The Office may—

(a) for any purpose approved by the Minister; and

(b) on such terms and conditions as may be approved by the Public Service Board,

employ such casual staff as may be required by the Office in exercising its functions.

(4) The Public Service Act, 1979, does not apply to or in respect of the employment of casual staff under subsection (3) and a person is not, as a member of that casual staff, subject to that Act.

Liability of Director, etc.

8A. No matter or thing done by the Office, and no matter or thing done by any person acting under the direction of the Office, shall, if the matter or thing was done bona fide for the purposes of executing this or any other Act, subject the Director or a person so acting personally to any action, liability, claim or demand whatever.

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SCHEDULE 2.

(Sec. 4.)

AMENDMENTS TO THE STATE LOTTERIES ACT, 1930, BY WAY OF
STATUTE LAW REVISION.

(1) Section 4—

Omit the section, insert instead:—

State Lotteries Account.

4. (1) There shall be established in the Special Deposits Account in the Treasury a State Lotteries Account into which shall be deposited all money received from the sale of tickets in, or from the promotion and conduct of, any State lottery.

(2) In respect of each lottery an amount sufficient to meet payment of all prizes apportioned to that lottery shall be retained in the State Lotteries Account and the balance carried to the Consolidated Fund.

(3) All other receipts under this Act shall be paid into the Consolidated Fund.

(2) Sections 5, 6A (2), 7 (6)—

After "he" wherever occurring, insert "or she".

(3) (a) Section 7 (1)—

Omit "he", insert instead "the Governor".

(b) Section 7 (2)—

Omit "Consolidated Revenue Fund", insert instead "Consolidated Fund".

(c) Section 7 (3)—

Omit "in his capacity as the Director, subject to that Act during his term of office", insert instead "as the Director, subject to that Act".

(d) Section 7 (4)—

Omit "his".

(e) Section 7 (4)—

Omit "Treasurer", insert instead "Minister".

*State Lotteries (Amendment) 1984*SCHEDULE 2—*continued.*AMENDMENTS TO THE STATE LOTTERIES ACT, 1930, BY WAY OF
STATUTE LAW REVISION—*continued.*

(f) Section 7 (4A), (5)—

Omit the subsections, insert instead:—

(4A) The Director may, after attaining the age of 60 years, be retired from office by the Governor and, if so retired, is entitled to such compensation (if any) as the Statutory and Other Offices Remuneration Tribunal determines.

(5) The Director shall be deemed to have vacated office if the Director—

- (a) engages in New South Wales in any paid employment outside the duties of the office of Director;
- (b) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (c) absents himself or herself from duty for a period of 28 consecutive days except on leave granted by the Minister;
- (d) becomes a temporary patient, a continued treatment patient, a protected person or an incapable person within the meaning of the Mental Health Act, 1958, or a person under detention under Part VII of that Act; or
- (e) resigns the office by instrument in writing addressed to the Minister.

(g) Section 7 (6)—

After "his" wherever occurring, insert "or her".

(4) Section 10—

Omit "Treasurer", insert instead "Minister".

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SCHEDULE 3.

(Sec. 5.)

SAVINGS, TRANSITIONAL AND OTHER PROVISIONS.

Interpretation.

1. In this Schedule, except in so far as the context or subject-matter otherwise indicates or requires—

“appointed day” means the day appointed and notified under section 2 (2);

“corporation sole” means the corporation sole constituted under section 7A of the State Lotteries Act, 1930, as in force immediately before the appointed day;

“State Lotteries Office” means the State Lotteries Office constituted by the State Lotteries Act, 1930, as amended by this Act.

Abolition of corporation sole.

2. The corporation sole is abolished on the appointed day.

Transfer of assets to State Lotteries Office.

3. (1) In this clause, “former authority” means—

(a) the corporation sole;

(b) a Minister of the Crown who has administered the State Lotteries Act, 1930; or

(c) a Director of State Lotteries.

(2) Subject to subclause (3), on and from the appointed day—

(a) all real and personal property and all rights and interest therein and all management and control thereof that, immediately before that day, was or were vested in or belonged to a former authority shall vest in and belong to the State Lotteries Office;

(b) all money and liquidated and unliquidated claims that, immediately before that day, were payable to or recoverable by a former authority shall be money and liquidated and unliquidated claims payable to and recoverable by the State Lotteries Office;

(c) all proceedings pending immediately before that day at the suit of a former authority shall be deemed to be proceedings pending on that day at the suit of the State Lotteries Office and all proceedings so pending at the suit of any person against a former authority shall be deemed to be proceedings pending at the suit of that person against the State Lotteries Office;

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SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.*

- (d) all contracts, agreements, arrangements and undertakings entered into with, and all securities lawfully given to or by, a former authority and in force immediately before that day shall be deemed to be contracts, agreements, arrangements and undertakings entered into with and securities given to or by the State Lotteries Office;
 - (e) the State Lotteries Office may, in addition to pursuing any other remedies or exercising any other powers that may be available to it, pursue the same remedies for the recovery of money and claims referred to in this subclause and for the prosecution of proceedings so referred to as the former authority might have done, but for the enactment of this Act;
 - (f) the State Lotteries Office may enforce and realise any security or charge existing immediately before that day in favour of a former authority and may exercise any powers thereby conferred on the former authority as if the security or charge were a security or charge in favour of the State Lotteries Office;
 - (g) all debts, money and claims, liquidated and unliquidated, that, immediately before that day, were due or payable by, or recoverable against, a former authority shall be debts, money and claims due and payable by, and claims recoverable against, the State Lotteries Office; and
 - (h) all liquidated and unliquidated claims for which a former authority would, but for the enactment of this Act, have been liable shall be liquidated and unliquidated claims for which the State Lotteries Office shall be liable.
- (3) In the application of subclause (2) to a former authority, being a Minister of the Crown or a Director of State Lotteries, the provisions of that subclause apply only to an act, matter or thing connected with the execution or administration of the State Lotteries Act, 1930.

References to corporation sole.

4. On and from the appointed day, a reference in any other Act, in any instrument made under any Act or in any other instrument of any kind to the corporation sole shall be read and construed as a reference to the State Lotteries Office.

State Lotteries Account.

5. The account opened in the Treasury pursuant to section 4 (1) of the State Lotteries Act, 1930, as in force immediately before the appointed day, shall be deemed to be established, on that day, as the State Lotteries Account pursuant to section 4 (1) of that Act, as amended by this Act.

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SCHEDULE 3—*continued.*SAVINGS, TRANSITIONAL AND OTHER PROVISIONS—*continued.***Regulations.**

6. (1) The Governor may make regulations containing other provisions of a savings or transitional nature consequent on the enactment of this Act.

(2) A provision made under subclause (1) may take effect as from the appointed day or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as—

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication therein; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication therein.

(4) A provision made under subclause (1) shall, if the regulations expressly so provide, have effect notwithstanding any provision of this Schedule other than this clause.
