



New South Wales

New South Wales Lotteries Corporatisation Act 1996 No 85

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New South Wales

New South Wales Lotteries Corporatisation Act 1996 No 85

Act No 85, 1996

An Act to establish New South Wales Lotteries Corporation as a statutory State owned corporation to develop, promote, conduct and otherwise participate in any lawful forms of gambling and gambling-related activities; to dissolve the statutory body named New South Wales Lotteries; to make consequential amendments to other Acts; and for other purposes. [Assented to 6 November 1996]

See also *Public Lotteries Act 1996*.

The Legislature of New South Wales enacts:

Part 1 Preliminary

1 Name of Act

This Act is the *New South Wales Lotteries Corporatisation Act 1996*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Definitions

(1) In this Act:

assets means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money), and includes securities, choses in action and documents.

exercise a function includes perform a duty.

function includes a power, authority or duty.

liabilities means any liabilities, debts and obligations (whether present or future and whether vested or contingent).

Ministerial Holding Corporation means the Ministerial Holding Corporation constituted under section 37B of the *State Owned Corporations Act 1989*.

New South Wales Lotteries means the statutory body constituted by the *New South Wales Lotteries Act 1990*.

New South Wales Lotteries Corporation means the statutory State owned corporation constituted by this Act under the name New South Wales Lotteries Corporation.

public lottery has the same meaning as in the *Public Lotteries Act 1996*.

rights means all rights, powers, privileges and immunities (whether present or future and whether vested or contingent).

- (2) Words and expressions used in this Act and also the *State Owned Corporations Act 1989* have the same meanings in this Act as they have in that Act.
- (3) Notes in the text of this Act do not form part of this Act.

4 Dissolution of New South Wales Lotteries

- (1) New South Wales Lotteries is dissolved.
- (2) The following Schedules have effect:
 - Schedule 1 (Transfer of assets, rights and liabilities)
 - Schedule 2 (Transfer of New South Wales Lotteries staff).

Section 5 New South Wales Lotteries Corporatisation Act 1996 No 85

Part 2 Establishment of New South Wales Lotteries Corporation as statutory
State owned corporation

Part 2 Establishment of New South Wales Lotteries Corporation as statutory State owned corporation

5 Establishment of New South Wales Lotteries Corporation as statutory SOC

- (1) There is constituted by this Act a corporation with the corporate name of New South Wales Lotteries Corporation.
- (2) The *State Owned Corporations Act 1989* is amended by inserting in Schedule 5, in alphabetical order, the words “New South Wales Lotteries Corporation”.

Note. The *State Owned Corporations Act 1989* contains many provisions that apply to New South Wales Lotteries Corporation as a statutory State owned corporation. In particular, Part 3 contains provisions relating to its status, the application of the *Corporations Law*, the issue of shares to the Treasurer and another Minister, the board of directors, the chief executive officer, the employment of staff, the giving of directions by the portfolio Minister (including directions for the performance of non-commercial activities or the carrying out of public sector policies), the memorandum and articles, dividends and tax-equivalent payments, government guarantees, the sale or disposal of assets and legal capacity. Part 4 deals with the accountability of State owned corporations (including statements of corporate intent, annual reports and accounts). Part 5 deals with miscellaneous matters (including the duties and liabilities of directors and the application of public sector legislation).

6 Objectives of New South Wales Lotteries Corporation

- (I) The principal objectives of New South Wales Lotteries Corporation are:
 - (a) to successfully develop, promote, conduct and otherwise participate in any lawful forms of gambling and gambling-related activities, and
 - (b) to be a successful business and, to this end:
 - (i) to operate at least as efficiently as any comparable businesses, and
 - (ii) to maximise the net worth of the State’s investment in the Corporation, and

- (iii) without limiting this paragraph or paragraph (a), to be a successful participant (whether directly or indirectly) in any other business or activity that the Corporation determines is or may be of sound commercial benefit to the Corporation, and
 - (c) to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates and by endeavouring to accommodate these interests if it is possible to do so.
- (2) Each of the principal objectives of New South Wales Lotteries Corporation is of equal importance.

7 Functions of New South Wales Lotteries Corporation

- (1) New South Wales Lotteries Corporation has the functions conferred or imposed on it by or under this or any other Act or law.
- (2) The principal functions of New South Wales Lotteries Corporation are:
 - (a) to develop, promote, conduct and otherwise participate in any lawful forms of gambling and gambling-related activities, and
 - (b) to hold licences, and conduct the public lotteries for which it holds those licences, in accordance with the requirements of the *Public Lotteries Act 1996*.
- (3) New South Wales Lotteries Corporation may:
 - (a) provide facilities or services that are necessary, ancillary or incidental to its principal functions, and
 - (b) conduct any business or activity (whether or not related to its principal functions) that it considers will further its objectives.
- (4) This section does not limit the functions of New South Wales Lotteries Corporation apart from this section, but is subject to the provisions of this Act, the *State Owned Corporations Act 1989*, the *Public Lotteries Act 1996* and any other Act or law.

8 Transfer of general assets, rights and liabilities of New South Wales Lotteries

- (1) The general assets, rights and liabilities of New South Wales Lotteries are transferred to New South Wales Lotteries Corporation.
- (2) The general assets, rights and liabilities of New South Wales Lotteries are the assets, rights and liabilities of New South Wales Lotteries immediately before its dissolution by this Act except any assets, rights and liabilities transferred, on or before that dissolution, by an order under section 9.
- (3) Schedule 1 applies to the transfer effected by this section.

9 Transfer of specified assets, rights and liabilities to Ministerial Corporation or other person

- (1) The Minister may, on or before the dissolution of New South Wales Lotteries, by order in writing, transfer such assets, rights and liabilities of New South Wales Lotteries as are specified or referred to in the order to the Ministerial Holding Corporation or to any other person on behalf of the State.
- (2) Schedule 1 applies to a transfer under this section.

10 Transfer of assets, rights and liabilities of New South Wales Lotteries Corporation

- (1) The Minister may, by order in writing, transfer such assets, rights and liabilities of New South Wales Lotteries Corporation as:
 - (a) were transferred to the Corporation from New South Wales Lotteries by operation of section 8, and
 - (b) are specified or referred to in the order,to the Ministerial Holding Corporation or to any other person on behalf of the State, but only during the period of 12 months after the dissolution of New South Wales Lotteries.
- (2) Schedule 1 applies to a transfer under this section.

11 Appointment of one director from nominees of Labor Council

- (1) One director of the board of New South Wales Lotteries Corporation is to be appointed by the voting shareholders on the recommendation of a selection committee comprising:
- (a) 2 persons nominated by the portfolio Minister, and
 - (b) 2 persons nominated by the Labor Council of New South Wales,

being a person selected by the committee from a panel of 3 persons nominated by the Labor Council.

- (2) The procedures for constituting a selection committee for the purposes of subsection (1), for making nominations and for determining other matters relating to the selection process are to be determined by the regulations or (subject to the regulations) by the voting shareholders.
- (3) Section 20J (3) (a) and (4) of, and clause 4 of Schedule 8 to, the *State Owned Corporations Act 1989* do not apply with respect to the board of New South Wales Lotteries Corporation.

Part 3 Miscellaneous

12 Service of documents on New South Wales Lotteries Corporation

- (1) A document may be served on New South Wales Lotteries Corporation by leaving it at, or by sending it by post to, the principal office of New South Wales Lotteries Corporation.
- (2) Nothing in this section affects the operation of any other Act or law, or of any rules of court, that authorise a document to be served on New South Wales Lotteries Corporation in any other manner.

13 Regulations

The Governor may make regulations, not inconsistent with this Act, for or with respect to 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.

14 Amendment of Acts

Each Act specified in Schedule 3 is amended as set out in that Schedule.

15 Savings, transitional and other provisions

Schedule 4 has effect.

16 Review of Act

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

Schedule 1 Transfer of assets, rights and liabilities

(Sections 4, 8, 9 and 10)

1 Definition

In this Schedule, *instrument* means an instrument (other than this Act) that creates, modifies or extinguishes rights or liabilities (or would do so if lodged, filed or registered in accordance with any law), and includes any judgment, order or process of a court.

2 Application and interpretation

- (1) This Schedule applies to the following:
- (a) the transfer of the general assets, rights and liabilities from New South Wales Lotteries to New South Wales Lotteries Corporation by the operation of section 8,
 - (b) the transfer of assets, rights and liabilities of New South Wales Lotteries to the Ministerial Holding Corporation or to any person on behalf of the State by the operation of an order under section 9,
 - (c) the transfer of assets, rights and liabilities of New South Wales Lotteries Corporation to the Ministerial Holding Corporation or to any person on behalf of the State by the operation of an order under section 10.
- (2) In this Schedule, the body or person from whom assets, rights or liabilities are so transferred is called the transferor and the body or person to whom they are being so transferred is called the *transferee*.

3 Vesting of undertaking in transferee

When assets, rights or liabilities are transferred under section 8, 9 or 10, the following provisions have effect:

- (a) those assets of the transferor vest in the transferee by virtue of this Schedule and without the need for any conveyance, transfer, assignment or assurance,

- (b) those rights or liabilities of the transferor become by virtue of this Schedule the rights or liabilities of the transferee,
- (c) all proceedings relating to those assets, rights or liabilities commenced before the transfer by or against the transferor or a predecessor of the transferor and pending immediately before the transfer are taken to be proceedings pending by or against the transferee,
- (d) any act, matter or thing done or omitted to be done in relation to those assets, rights or liabilities before the transfer by, to or in respect of the transferor is (to the extent that that act, matter or thing has any force or effect) taken to have been done or omitted by, to or in respect of the transferee,
- (e) a reference in any Act, in any instrument made under any Act or in any document of any kind to the transferor or a predecessor of the transferor is (to the extent that it relates to those assets, rights or liabilities but subject to the regulations or other provisions under Schedule 4), to be read as, or as including, a reference to the transferee.

4 Operation of Schedule

- (1) The operation of this Schedule is not to be regarded:
 - (a) as a breach of contract or confidence or otherwise as a civil wrong, or
 - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities, or
 - (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any asset, right or liability.
- (2) The operation of this Schedule is not to be regarded as an event of default under any contract or other instrument.
- (3) No attornment to the transferee by a lessee from the transferor is required.

- (4) A transfer under section 9 or 10 is subject to the terms and conditions of the order by which it is effected.
- (5) No compensation is payable to any person in connection with a transfer to which this Schedule applies except, in the case of a transfer under section 9 or 10, to the extent (if any) to which the order giving rise to the transfer so provides.
- (6) In this clause, a reference to the operation of this Schedule includes a reference to the making of an order under section 9 or 10.

5 Date of vesting

- (1) An order under section 9 takes effect on the date specified in the order, being a date on or before the dissolution of New South Wales Lotteries.
- (2) An order under section 10 takes effect on the date specified in the order, being a date that is after the dissolution of New South Wales Lotteries but earlier than 12 months after that dissolution.

6 Consideration for vesting

The Minister may, by order in writing, specify the consideration on which a transfer to which this Schedule applies is made and the value or values at which the assets, rights or liabilities are transferred.

7 Stamp duty

Stamp duty is not chargeable in respect of

- (a) the transfer of assets, rights and liabilities to which this Schedule applies, or
- (b) anything certified by the Minister as having been done in consequence of such a transfer (for example, the transfer or registration of an interest in land).

8 Confirmation of vesting

- (1) The Minister may, by notice in writing, confirm a transfer of particular assets, rights or liabilities by operation of this Schedule.
- (2) Such a notice is conclusive of that transfer.

Schedule 2 Transfer of New South Wales Lotteries staff

(Section 4)

1 Definition

In this Schedule, *former New South Wales Lotteries staff* means the members of staff of New South Wales Lotteries immediately before the dissolution of New South Wales Lotteries (including any holder of a chief executive or senior executive position under Part 2A of the *Public Sector Management Act 1988*). The term here also refers to the General Manager of New South Wales Lotteries appointed under section 16 of the *New South Wales Lotteries Act 1990*.

2 Transfer of former New South Wales Lotteries staff to New South Wales Lotteries Corporation

- (1) The former New South Wales Lotteries staff are transferred to New South Wales Lotteries Corporation and are to be regarded for all purposes as having become employees of New South Wales Lotteries Corporation on the day on which New South Wales Lotteries is dissolved.
- (2) New South Wales Lotteries is taken to be an authority to which Schedule 4 (Provisions relating to certain staff) of the *State Owned Corporations Act 1989* applies.

3 General saving of conditions of employment

- (1) A person who is transferred under this Schedule is (until other provision is duly made under any Act or law) to be employed in accordance with any relevant statutory provisions, awards, agreements and determinations that would have applied to the person if the person had not been transferred but had instead remained on the staff of New South Wales Lotteries (and New South Wales Lotteries had continued in existence).
- (2) However, nothing in this clause affects the application of section 36 (1) of the *State Owned Corporations Act 1989* to New South Wales Lotteries Corporation. Accordingly, the *Government and*

Related Employees Appeal Tribunal Act 1980 does not apply to New South Wales Lotteries Corporation or any subsidiary of New South Wales Lotteries Corporation.

4 Saving of leave

A member of the staff of New South Wales Lotteries Corporation who is a member of the former New South Wales Lotteries staff retains any rights to annual leave, extended service leave, sick leave, and other forms of leave, accrued or accruing in his or her employment with New South Wales Lotteries.

5 No payment out on transfer or dual benefits

- (1) This clause applies to a person who becomes, because of this Schedule, a member of the staff of New South Wales Lotteries Corporation.
- (2) A person to whom this clause applies is not entitled to receive any payment or other benefit merely because the person ceases to be a member of the staff of New South Wales Lotteries.
- (3) A person to whom this clause applies is not entitled to claim, both under this Act and under any other Act, dual benefits of the same kind for the same period of service.

Schedule 3 Amendment of Acts

(Section 14)

3.1 First State Superannuation Act 1992 No 100

Schedule 1 Employers

Omit “New South Wales Lotteries” from Part 1.

Insert instead “New South Wales Lotteries Corporation”.

3.2 Government and Related Employees Appeal Tribunal Act 1980 No 39

Schedule 4 Employing authorities

Omit “New South Wales Lotteries.”.

3.3 Public Authorities (Financial Arrangements) Act 1987 No 33

Schedule 1 Authorities

Omit “New South Wales Lotteries.”.

Insert in alphabetical order:

New South Wales Lotteries Corporation.

3.4 Public Finance and Audit Act 1983 No 152

Schedule 2 Statutory bodies

Omit “New South Wales Lotteries.”.

**3.5 Public Sector Executives Superannuation Act 1989
No 106**

Schedule 1 Additional employers

Insert in alphabetical order:

New South Wales Lotteries Corporation

3.6 Public Sector Management Act 1988 No 33

[1] Schedule 3 Declared authorities

Omit “New South Wales Lotteries.”.

[2] Schedule 3A Chief executive positions

Omit “General Manager of New South Wales Lotteries” from Part 3.

[3] Schedule 3B Senior executive positions

Omit the matter relating to New South Wales Lotteries from Part 1.

**3.7 State Authorities Non-contributory Superannuation Act
1987 No 212**

Schedule 1 Employers

Omit “New South Wales Lotteries” from Part 1.

Insert instead:

New South Wales Lotteries Corporation

3.8 State Authorities Superannuation Act 1987 No 211

Schedule 1 Employers

Omit “New South Wales Lotteries” from Part 1.
Insert instead:

New South Wales Lotteries Corporation

3.9 Superannuation Act 1916 No 28

Schedule 3 List of employers

Omit “New South Wales Lotteries” from Part 1.
Insert instead:

New South Wales Lotteries Corporation

Schedule 4 Savings, transitional and other provisions

(Section 15)

Part 1 Regulations

1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or the *Public Lotteries Act 1996*.
- (2) Such a provision may deal; among other things, with the interpretation of references to New South Wales Lotteries, to any member of the Board or employee of New South Wales Lotteries or to an Act repealed by this Act or any provision of such an Act.
- (3) Such a provision may, if the regulations so provide, take effect on the date of assent to this Act or a later date.
- (4) To the extent to which such a provision takes effect on 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, New South Wales Lotteries Corporation, New South Wales Lotteries or any authority of the State), the rights of that person existing before the date of its publication, or
 - (b) to impose liabilities on any person (other than the State, New South Wales Lotteries Corporation, New South Wales Lotteries or any authority of the State) in respect of anything done or omitted to be done before the date of its publication.

Part 2 Provisions consequent on enactment of this Act

2 Meaning of repealed Act

In this Part, *repealed Act* means the *New South Wales Lotteries Act 1990*.

3 References in other Acts or instruments

In any Act (other than this Act), in any instrument made under any Act or in any document, a reference to New South Wales Lotteries is taken to be a reference to New South Wales Lotteries Corporation.

4 Certain members of Board of New South Wales Lotteries to vacate office

A person (other than a person referred to in clause 5) who, immediately before the dissolution of New South Wales Lotteries, held office as a member of the Board of New South Wales Lotteries:

- (a) ceases to hold that office, and
- (b) is not entitled to any remuneration or compensation because of the loss of that office.

5 Saving of elected staff member

- (1) The person who held office as the elected staff member of the Board of New South Wales Lotteries immediately before the repeal of the repealed Act by this Act is to hold office as a director of New South Wales Lotteries Corporation, in lieu of the director referred to in section 11, until:
 - (a) a director is appointed by the voting shareholders in accordance with the procedure specified in section 11, or
 - (b) the expiry, on 31 December 1996, of the term of office specified in the person's instrument of appointment as the elected staff member,whichever first occurs.
- (2) The voting shareholders may remove the director referred to in this clause from office at any time.
- (3) The office of the director referred to in this clause becomes vacant in the circumstances specified in clause 7 (1) of Schedule 8 (Constitution and procedure of boards of statutory SOCs) to the *State Owned Corporations Act 1989*.
- (4) In this clause, *elected staff member* means the person elected in accordance with section 11 (3) of the repealed Act.

6 Acting board of directors on establishment of New South Wales Lotteries Corporation

- (1) This clause applies if, on the establishment of New South Wales Lotteries Corporation, no directors of the board of the Corporation have been appointed in accordance with the *State Owned Corporations Act 1989*.
- (2) Until the directors are first so appointed, the persons who were the appointed members of New South Wales Lotteries immediately before the commencement of this clause are appointed by this clause to act as directors of New South Wales Lotteries Corporation. However, this clause does not apply with respect to the director referred to in clause 5.
- (3) While so acting, a person appointed under this clause has all the functions of a director and is taken to be a director of New South Wales Lotteries Corporation.
- (4) The voting shareholders may remove a person acting as a director under this clause from office at any time.
- (5) The office of a person acting as a director under this clause becomes vacant in the circumstances specified in clause 7 (1) of Schedule 8 (Constitution and procedure of boards of statutory SOC's) to the *State Owned Corporations Act 1989*.
- (6) A person acting as a director under this clause ceases to hold office when the first directors of New South Wales Lotteries Corporation are appointed in accordance with the *State Owned Corporations Act 1989*.

7 Timetable for first statement of corporate intent

A period within which any matter is required to be done under section 21 of the *State Owned Corporations Act 1989* in connection with the first statement of corporate intent of New South Wales Lotteries Corporation may be extended by the voting shareholders of New South Wales Lotteries Corporation.

8 Final annual report of New South Wales Lotteries

- (1) An annual report relating to New South Wales Lotteries is to be prepared, submitted, presented, and made publicly available, in

accordance with the *Annual Reports (Statutory Bodies) Act 1984* in the same way as those things would have been required to be done if

- (a) the financial year had started normally but ended on the day on which New South Wales Lotteries was dissolved, and
 - (b) New South Wales Lotteries had not ceased to be a statutory body within the meaning of that Act.
- (2) It does not matter that the financial year for the purposes of the report is therefore less than 12 months long.
 - (3) The annual report may be so prepared, submitted and made available by the individuals who were responsible for the affairs of New South Wales Lotteries or instead by New South Wales Lotteries Corporation.
 - (4) If arrangements are made by the Auditor-General under section 43A (4) of the *Public Finance and Audit Act 1983* to treat the affairs of New South Wales Lotteries and New South Wales Lotteries Corporation in a composite way or otherwise, the annual report required by this clause may be so treated as to be compatible with those requirements.
 - (5) Despite the *Annual Reports (Statutory Bodies) Act 1984*, the final annual report for New South Wales Lotteries need not contain any information (for example, a budget) that would have related to the next financial year of New South Wales Lotteries if it had not been dissolved.

9 New South Wales Lotteries financial accounts before dissolution

For the purpose of the application of section 43A (General audit of former statutory bodies) of the *Public Finance and Audit Act 1983* to New South Wales Lotteries, New South Wales Lotteries Corporation is taken to be the successor to New South Wales Lotteries.

10 New South Wales Lotteries Corporation same entity as New South Wales Lotteries

- (1) On the dissolution of New South Wales Lotteries, New South Wales Lotteries Corporation is taken for all purposes, including the rules of private international law, to be a continuation of and the same legal entity as New South Wales Lotteries.
- (2) This clause does not affect any transfer of assets, rights and liabilities under Part 2 of this Act.

[Minister's second reading speech made in—
Legislative Assembly on 18 September 1996
Legislative Council on 29 October 1996]