

**LOTTO ACT, 1979, No. 53**

**New South Wales**



ANNO VICESIMO OCTAVO

**ELIZABETHÆ II REGINÆ**

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**Act No. 53, 1979.**

An Act to provide for the conduct of games of lotto. [Assented to,  
9th May, 1979.]

*Lotto.*

**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 "Lotto Act, 1979".

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

“agent”, in relation to a licensee, means an agent appointed or approved in accordance with the conditions of a licence granted to the licensee;

“conduct”, in relation to a game of lotto, includes promote, organise and operate;

“entry form” means an entry form required by the rules to enable a person to enter or subscribe to a game of lotto;

“inspector” means a person appointed under section 16 (1);

“licence” means a licence in force under this Act;

“licensee” means a holder of a licence, whether or not he is the sole holder of the licence or one of 2 or more holders of the licence;

“prize fund” means the fund represented by a bank account referred to in section 14 (1);

“regulation” means a regulation made under this Act;

“rules”, in relation to a game of lotto, means the rules made by a licensee in relation to games of lotto conducted by him and in force under section 11.

(2) In this Act, a reference to a game of lotto is a reference to any form of a game in which the entrants in or subscribers to the game choose or attempt to forecast or select, from a group of numbers, a smaller group of numbers to be drawn on a random basis.

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3. A person shall not conduct a game of lotto unless he is a licensee. Conduct of lotto.

Penalty : \$2,000.

4. (1) An application for a licence to conduct games of lotto may be made to the Minister by one or more persons. Application for licence.

(2) The reference in subsection (1) to persons includes a reference to—

- (a) persons holding or occupying particular offices or positions under any Act; and
- (b) bodies, whether incorporated or unincorporated, constituted by or under any Act.

5. (1) The Minister, after considering an application under section 4 (1), may— Grant of licence.

- (a) subject to such conditions as he may determine and specify in the licence, grant a licence to the person making the application; or
- (b) refuse to grant a licence.

(2) Subject to this Act, the period during which a licence shall be in force is such period, not less than 5 years, as the Minister shall specify in the licence.

(3) The Minister shall not grant a licence so as to be in force while another licence is in force.

(4) A licensee may not transfer a licence to another person.

6. The conditions of a licence may include conditions relating to— Conditions of licence.

- (a) the appointment, by the licensee, of agents nominated by the Minister;

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- (b) the approval, by the Minister, of agents nominated by the licensee;
- (c) the payment of commission to agents referred to in paragraph (a) or (b);
- (d) the maximum amount or rate of any commission referred to in paragraph (c);
- (e) the rules in accordance with which games of lotto shall be conducted by the licensee;
- (f) the display, by the licensee and the licensee's agents, of the rules referred to in paragraph (e) and other information relating to the conduct of games of lotto;
- (g) the frequency with which games of lotto shall be conducted by the licensee;
- (h) the form and content of entry forms;
- (i) the amount payable in respect of each entry in or subscription to a game of lotto;
- (j) the minimum number of entries or subscriptions that one person may make in or to one game of lotto in one entry form;
- (k) the maximum number of entries or subscriptions that one person may make in or to one game of lotto in one entry form;
- (l) the attendance at the drawing of each game of lotto of a person nominated by the Minister;
- (m) the minimum amounts of prizes to be paid in respect of a game of lotto;
- (n) the subsidising by the licensee of the prize fund to such extent as may be necessary to enable prizes to be paid at the minimum amounts referred to in paragraph (m);
- (o) the provision by the licensee of a bond or other financial guarantee to ensure payment to the Minister of the duty specified in section 13 (b);

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- (p) the furnishing of information, whether in the form of statements, returns or otherwise, by the licensee to the Minister relating to the conduct of a game or games of lotto including the operating costs and other costs incurred by the licensee in the conduct of a game or games of lotto;
- (q) the time or times at which, and the form in which, the information referred to in paragraph (p) shall be furnished to the Minister;
- (r) the auditing of the financial records of the licensee relating to the conduct of a game or games of lotto including records of the operating costs and other costs incurred by the licensee in the conduct of a game or games of lotto; and
- (s) such other matters as the Minister thinks fit.

7. (1) The Minister may, while a licence is in force, alter the conditions of the licence by imposing an additional condition or by amending, substituting or revoking any condition.

Alteration  
of con-  
ditions of  
licence.

(2) The Minister shall not make an alteration under subsection (1) unless—

- (a) he has given the licensee notice, in writing, setting out the terms of the proposed alteration and inviting the licensee to make representations to him, within such period as is specified in the notice, concerning the proposed alteration; and
- (b) he has, after the expiration of that period, considered any representations duly made to him by or on behalf of the licensee.

(3) An alteration under subsection (1) shall take effect on and from the expiration of 7 days after the day on which a notice, signed by the Minister, advising the licensee of the alteration is given to the licensee.

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Certain functions conferred on certain licensees and agents.

**8.** Where a licensee or an agent is a person holding or occupying a particular office or position under any Act or a body, whether incorporated or unincorporated, constituted by or under any Act, the licensee or agent, as the case may be, is hereby authorised, in so far as the licensee or agent is not so authorised under any other Act or law, to do or suffer to be done all such acts or things as may be necessary or expedient to be done or suffered to be done by a licensee or an agent, as the case may be, by or under the authority of this Act, the regulations, the rules or the conditions of a licence.

Unlawful conduct of lotto by licensee.

**9.** A licensee shall not conduct a game of lotto except in accordance with this Act, the regulations, the rules and the conditions of his licence.

Revocation of licence.

**10.** (1) Where a licensee—

- (a) fails to comply with this Act or a regulation;
- (b) fails to comply with the rules;
- (c) fails to comply with any conditions of the licence; or
- (d) applies to the Minister for the revocation of the licence granted to him, whether or not he is the sole licensee,

the Minister may, by notice in writing given to the licensee, revoke the licence.

(2) Where, in relation to a licensee, being—

- (a) a person other than a corporation, the licensee—
  - (i) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his creditors or makes an assignment of his remuneration for their benefit;

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- (ii) 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
  - (iii) is convicted of an offence involving fraud or dishonesty; or
- (b) a corporation—
- (i) a dealing with or in respect of shares of, or other instruments issued by, the licensee that, in the opinion of the Minister, affects the control of the licensee takes place without the consent in writing of the Minister;
  - (ii) the licensee is commenced to be wound up or is under official management;
  - (iii) the licensee enters into a compromise or scheme of arrangement with its creditors;
  - (iv) a receiver and manager is appointed, whether by the Supreme Court or otherwise, in respect of the property of the licensee; or
  - (v) a person concerned in the management of the licensee is convicted of an offence involving fraud or dishonesty,

the Minister may, by notice in writing given to the licensee, revoke the license.

(3) Where a licensee, being a person other than a corporation, dies, the licence shall be deemed to have been revoked on the death of the licensee.

(4) The revocation of a licence pursuant to subsection (1) or (2) shall take effect—

- (a) except as provided by paragraph (b), on the day on which a notice of revocation is given to the licensee; or
- (b) on such later date as is specified in the notice of revocation.

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(5) Nothing in this section prevents the Minister, where a licence is revoked or is deemed to have been revoked, from authorising any person to complete the conduct of any game of lotto that was in the course of being conducted when the licence was revoked or was deemed to have been revoked and—

- (a) the person so authorised shall be deemed to be the licensee under the revoked licence; and
- (b) the revoked licence shall, for the purpose of enabling the completion of the conduct of any such game, be deemed not to have been revoked.

Rules.

**11.** (1) A licensee may make rules, not inconsistent with this Act, the regulations or the conditions of his licence, for or with respect to the conduct by him of games of lotto.

(2) A rule made pursuant to subsection (1) shall, if it is approved in writing by the Minister—

- (a) be published in the Gazette; and
- (b) take effect on and from the date of publication or a later date specified in the rule.

Prohibition  
on partici-  
pation  
by minors.

**12.** (1) A person concerned in the conduct of a game of lotto shall not accept from a person who is under the age of 18 years an entry form for, and a payment in respect of an entry in or subscription to, a game of lotto.

(2) It is a sufficient defence to a prosecution for an offence under subsection (1) if the defendant proves that the game of lotto referred to in the information for the offence was conducted by a licensee and that the defendant had no reason to believe, and did not believe, that the person from whom he accepted an entry form for, and a payment in respect of an entry in or subscription to, the game of lotto was under the age of 18 years.



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(3) A person under the age of 18 years shall not enter or subscribe to a game of lotto.

Penalty for a contravention of subsection (3) : \$200.

**13.** Out of the subscriptions received by a licensee in respect of a game of lotto conducted by him, the licensee shall— Application of sub-  
scriptions.

- (a) pay into the prize fund an amount equal to 60 per cent, or, where a greater percentage is prescribed, that greater percentage, of the subscriptions; and
- (b) pay to the Minister, as duty, an amount equal to 31 per cent, or, where a greater percentage is prescribed, that greater percentage, of the subscriptions.

**14.** (1) The part of the subscriptions referred to in section 13 (a) shall be paid into a bank account kept by the licensee at a bank in New South Wales, being an account and bank approved in writing by the Minister. Prize fund.

(2) Any money kept in a bank account referred to in subsection (1) that is not immediately required for the payment of prizes may be invested by the licensee in such manner as the Minister approves in writing and any interest accruing from the investment shall be paid into that account and form part of the prize fund.

(3) Subject to subsection (2), the money kept in a bank account referred to in subsection (1) may be applied only—

- (a) towards the payment by the licensee of prizes won in accordance with games of lotto conducted by him; and
- (b) where the licence granted to the licensee contains a condition referred to in section 6 (n), towards the reimbursement of the licensee for any amount by which he subsidises the prize fund.

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(4) Section 3 of the Unclaimed Moneys Act, 1917, applies to a licensee, being a company within the meaning of that Act, that keeps a bank account referred to in subsection (1) as if the words "six years" were omitted therefrom and the words "two years" were inserted instead.

Payment  
of duty.

**15.** (1) A licensee shall, within 7 days after the day on which entries in respect of a game of lotto close, pay to the Minister the duty specified in section 13 (b).

(2) If payment of the duty referred to in subsection (1) is not made within the time specified in that subsection, the licensee shall, in addition to that duty, pay to the Minister, as additional duty, an amount that is equal to 10 per cent of the amount of the unpaid duty in respect of each month, calculated from the expiration of the time specified in that subsection, during which that duty remains unpaid.

(3) Notwithstanding subsection (2), the Minister may, where he thinks fit, forgo the whole or any part of the additional duty referred to in that subsection, or allow further time for the payment of that additional duty.

(4) The Minister shall pay any money paid to him under this section into the Consolidated Revenue Fund.

Inspectors.

**16.** (1) The Minister may appoint an officer employed under the Public Service Act, 1902, to be an inspector for the purposes of this Act.

(2) For the purposes of this Act and the regulations, an inspector may, at any reasonable time, do any one or more of the following things :—

- (a) enter any part of the premises of a licensee;
- (b) enter any part of the premises, not being a dwelling-house, of an agent;

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- (c) enter any part of the premises, not being a dwelling-house, of a person, not being a licensee, whom the inspector reasonably suspects of conducting a game of lotto;
- (d) enter any part of the premises, not being a dwelling-house, of a person, not being an agent, whom the inspector reasonably suspects of receiving entry forms for, or subscriptions in respect of, a game of lotto;
- (e) require any person whom the inspector reasonably suspects of having the custody, possession or control of any registers, books, records or documents which relate to, or which the inspector reasonably suspects relate to, the conduct of a game of lotto—
  - (i) to produce to him those registers, books, records or documents; and
  - (ii) to answer any question with respect to those registers, books, records or documents,within such reasonable time as may be specified in the requirement;
- (f) make copies of, or take extracts from, any entries in any such register, book, record or document.

(3) A person shall not—

- (a) prevent an inspector from exercising any power conferred on him by subsection (2);
- (b) hinder or obstruct an inspector in the exercise of any such power;
- (c) fail to comply with a requirement of an inspector under subsection (2) (e); or
- (d) wilfully furnish to an inspector information which is false or misleading in a material particular.

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(4) It is a sufficient defence to a prosecution for an offence under subsection (3) (c) by reason of the failure of the defendant to answer a question referred to in subsection (2) (e) (ii) if he proves that he did not know, and could not with reasonable diligence ascertain, the answer to the question.

(5) A person is not excused from answering any question if required to do so under subsection (2) (e) on the ground that the answer might tend to incriminate him or make him liable to a penalty but the information furnished by him shall not be admissible against him in any proceedings, civil or criminal, except in proceedings for an offence under subsection (3).

(6) Where an answer to a question referred to in subsection (2) (e) (ii) or any information whatsoever is given to an inspector by an officer of a corporation within the meaning of the Companies Act, 1961, that is concerned in the conduct of a game of lotto, the answer and information are, for the purposes of any proceedings against the corporation under any of the provisions of this Act, binding upon and admissible in evidence against the corporation unless it is proved that the answer or information was given in relation to a matter in respect of which the officer had no authority to bind the corporation.

Audit for  
certain  
purposes.

**17.** (1) The Minister may request the Auditor-General to audit or inspect such of the accounts of a licensee as relate to the operating costs and other costs incurred by the licensee in the conduct of a game or games of lotto, the application of subscriptions and the payment of prizes in relation to a game or games of lotto and to furnish him with a report thereon.

(2) The Auditor-General may appoint some other person to carry out an audit or inspection referred to in subsection (1).

(3) For the purposes of an audit or inspection referred to in subsection (1), the person carrying out the audit or inspection shall be deemed to be an inspector and shall have all the powers and authorities of an inspector except those powers and authorities that relate to persons who are not licensees or agents.

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- 18.** (1) A notice or an order that may, pursuant to this Act, be given to a licensee—
- (a) may, except in the case of a notice of revocation, be sent by prepaid post to the licensee; or
- (b) may be left for the licensee with some person apparently in the service of the licensee and apparently over the age of 16 years,

Service of notices and orders on licensees.

at the address at which the licensee carries on business in New South Wales or, where the licensee carries on business at more than one place in New South Wales, at the address that is, in the opinion of the Minister, the principal place of business of the licensee in New South Wales.

(2) Where a licensee is one of 2 or more licensees, a notice given to one licensee in accordance with subsection (1) shall be deemed to have been given, in accordance with that subsection, to each other licensee.

**19.** (1) An amount that is payable by a person to the Minister under this Act but is not paid may be recovered from that person as a Crown debt in any court of competent jurisdiction.

Recovery of money.

(2) For the purpose of any action to recover any such amount, a certificate of the Minister certifying the amount alleged to be payable by a person and that that amount has not been paid is evidence that the amount so specified is payable to the Minister in accordance with this Act and has not been paid.

**20.** (1) A person who contravenes or fails to comply with a provision of this Act is guilty of an offence.

Proceedings and penalties.

(2) A prosecution for an offence under this Act may be heard and determined by a stipendiary magistrate sitting alone in petty sessions.

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(3) Except where some other penalty is in this Act provided—

- (a) a licensee who is convicted of an offence against this Act is liable to a penalty not exceeding \$2,000; and
- (b) a person, not being a licensee, who is convicted of an offence against this Act is liable to a penalty not exceeding \$1,000.

Exculpation  
of certain  
persons  
from  
certain  
offences.

**21.** (1) A person is not guilty of an offence under any law, other than this Act, by reason only that—

- (a) he is an entrant in or subscriber to a game of lotto conducted by a licensee;
- (b) being a licensee, he conducts a game of lotto in accordance with this Act, the regulations, the rules and the conditions of his licence; or
- (c) in relation to a game of lotto conducted as referred to in paragraph (b) by a licensee—
  - (i) he is concerned in the conduct of any such game;
  - (ii) he prints or publishes any thing relating to the conduct of any such game; or
  - (iii) he is the owner or occupier of any land or building, or any place within the meaning of the Gaming and Betting Act, 1912, used for the purpose of, or in connection with, the conduct of any such game.

(2) Where, but for this subsection, a person would be guilty of an offence against this Act (section 16 excepted) or the regulations by reason of his doing or omitting to do or suffering to be done any act or thing—

- (a) that person is not guilty of that offence if he does or omits to do that act or thing or suffers that act or thing to be done in the course of his employment as an employee of a licensee or an agent; and
- (b) the employer of that person is guilty of that offence.

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**22.** (1) The Governor may make regulations, not inconsistent Regulations.  
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 con-  
venient to be prescribed for carrying out or giving effect to this Act  
and, in particular, for or with respect to—

- (a) the displaying in those parts, to which the public has access, of the premises of a licensee and an agent of the rules relating to games of lotto or of extracts from those rules;
- (b) the days on which and the hours between which a licensee or an agent may not accept entry forms for, or subscriptions in respect of, a game of lotto; and
- (c) advertisements relating to games of lotto.

(2) A provision of a regulation may—

- (a) apply generally or be limited in its application by reference to specified exceptions or factors;
- (b) apply differently according to different factors of a specified kind; or
- (c) authorise any matter or thing to be from time to time determined, applied or regulated by any specified person or body,

or may do any combination of those things.

(3) A regulation may impose a penalty not exceeding \$1,000 for any breach thereof.