

**LOTTERIES AND ART UNIONS (AMENDMENT) ACT 1994**  
**No. 12**

NEW SOUTH WALES



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**LOTTERIES AND ART UNIONS (AMENDMENT) ACT 1994**  
**No. 12**

NEW SOUTH WALES



**Act No. 12, 1994**

An Act to amend the Lotteries and Art Unions Act 1901 to make further provision in relation to the regulation of lotteries, games of chance and art unions; to amend the Search Warrants Act 1985; and for other purposes.  
[Assented to 10 May 1994]

**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Lotteries and Art Unions (Amendment) Act 1994.

**Commencement**

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

**Amendment of Lotteries and Art Unions Act 1901 No. 34**

3. The Lotteries and Art Unions Act 1901 is amended as set out in Schedules 1 and 2.

**Consequential amendment of Search Warrants Act 1985 No. 37**

4. The Search Warrants Act 1985 is amended by inserting in the definition of “search warrant” in section 10, in alphabetical order of Acts, the matter “section 21E of the Lotteries and Art Unions Act 1901;”.

**Explanatory notes**

5. Matter appearing under the heading “Explanatory note” in Schedules 1 and 2 does not form part of this Act.

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**SCHEDULE 1—AMENDMENTS RELATING TO LOTTERIES,  
GAMES OF CHANCE AND ART UNIONS**

(Sec. 3)

**Definitions**

(1) Section 2A:

After section 2, insert:

**Definitions**

2A. (1) In this Act:

“art union” has the meaning given to it in section 5;

“authorised inspector” means a person appointed under this Act as an inspector or a person authorised by or under this Act to exercise the functions of an authorised inspector;

SCHEDULE 1—AMENDMENTS RELATING TO LOTTERIES,  
GAMES OF CHANCE AND ART UNIONS—*continued*

**“exercise”** of a function includes, where the function is a duty, performance of the duty;

**“function”** includes power, authority or duty;

**“game of chance”** includes:

- (a) a game of chance within the meaning of section 4A conducted in the course of a fundraising appeal or under the authority of an organisation; or
- (b) a game of chance within the meaning of section 4B conducted in connection with a competition for the promotion of trade; or
- (c) a game of chance within the meaning of section 4C conducted by or under the authority of a registered club; or
- (d) a sweep or Calcutta within the meaning of section 4D conducted by a person, or conducted by or under the authority of an organisation;

**“lottery”** includes:

- (a) a lottery within the meaning of section 4 conducted by or under the authority of a non-profit organisation; or
- (b) a lottery within the meaning of section 4B conducted in connection with a competition for the promotion of trade;

**“lottery activity”** means a lottery, raffle or other game referred to in section 3;

**“organisation”** includes any board of trustees or other body of persons, whether incorporated or not.

(2) For the purposes of this Act:

- (a) a person conducts a lottery activity if the person organises the activity, whether alone or with others, whether in person or by an agent or employee and whether on the person’s own behalf or as an officer or member of the governing body of an organisation; and
- (b) a person participates in a lottery activity if the person solicits or receives any money, property or other benefit in the course of the activity, or assists in organising the activity; and

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SCHEDULE 1—AMENDMENTS RELATING TO LOTTERIES,  
GAMES OF CHANCE AND ART UNIONS—*continued*

- (c) a person who participates in a lottery activity does not conduct the lottery activity if the person participates in it solely as the agent or employee of or for another person who is conducting the activity; and
- (d) a person does not participate in a lottery activity merely because the person gives any money or benefit in the course of the activity.

**Explanatory note**

Item (1) inserts general definitions of “art union”, “authorised inspector”, “exercise”, “function”, “game of chance”, “lottery”, “lottery activity” and “organisation” into the Act. The definition of “lottery activity” extends to lotteries, games of chance and art unions regardless whether or not they are conducted in accordance with the Act.

Item (1) also defines the circumstances in which certain persons are taken to conduct or participate in a lottery, game of chance or art union.

**Prizes**

- (2) Section 4 (**Certain charitable and non-profit organisations authorised to conduct lotteries subject to conditions**):
  - (a) From section 4 (1), omit the definition of “Goods, wares or merchandise”, insert in alphabetical order:
 

**“Prize”** includes goods, wares, merchandise, services, vouchers for goods or services that are not redeemable for money, tickets for admission to any entertainment and tickets (together with any money) for tours or journeys.
  - (b) From the definition of “lottery” in section 4 (1), omit “goods, wares or merchandise” wherever occurring, insert instead “prizes”.
  - (c) From section 4 (2), omit “whereby goods, wares or merchandise are sold”.
  - (d) From section 4 (3) (a), omit “goods, wares or merchandise sold by means of”, insert instead “prizes in”.
  - (e) After section 4 (3) (b), insert:
    - (c) that money is given as a prize only in conjunction with tickets for a tour or journey;

SCHEDULE 1—AMENDMENTS RELATING TO LOTTERIES,  
GAMES OF CHANCE AND ART UNIONS—*continued*

- (c1) that the money component of a prize does not exceed the amount, or proportion of the total value of the prize, prescribed by the regulations for the purposes of this paragraph;
- (f) From section 4 (3) (d), omit “spirituous or fermented liquors or”.
- (3) Section 4A (**Certain organisations authorised to conduct games of chance**):
- (a) From section 4A (1), omit the definition of “Goods, wares or merchandise”, insert instead:
- “Prize” includes goods, wares, merchandise, services, vouchers for goods or services that are not redeemable for money, tickets for admission to any entertainment and tickets for tours or journeys.
- (b) From section 4A (2), omit “whereby goods, wares or merchandise are sold”.
- (c) From section 4 8 (3) (f) omit “spirituous or fermented liquors or”.
- (4) Section 4B (**Lotteries and games of chance for the promotion of trade**):
- From section 4B (3) (d), omit “spirituous or fermented liquors or”.
- (5) Section 4C (**Games of chance in registered clubs**):
- (a) From section 4C (1), omit the definition of “goods, wares or merchandise”, insert instead:
- “**prize**” includes goods, wares, merchandise, services, vouchers for goods or services that are not redeemable for money, tickets for admission to any entertainment and tickets for tours or journeys.
- (b) From section 4C (2), omit “whereby goods, wares or merchandise are disposed of”.
- (c) From section 4C (3) (f), omit “spirituous or fermented liquors or”.



SCHEDULE 1—AMENDMENTS RELATING TO LOTTERIES,  
GAMES OF CHANCE AND ART UNIONS—*continued*

(6) Sections 18A, 18B:

After section 18, insert:

**Entitlement of winner to prize**

18A. (1) A person or organisation that conducts a lottery, game of chance or art union must award the winner of each prize in that lottery, game of chance or art union the prize concerned.

(2) A person or organisation that contravenes this section is guilty of an offence. In the case of an unincorporated organisation, every trustee or other person who, at the time of the offence, was a member of the governing body of the organisation is guilty of an offence.

Maximum penalty: 50 penalty units.

(3) It is a defence to a prosecution for an offence under this section if the person or organisation did not, after making all reasonable inquiries, award the prize to the winner because the winner could not be located.

**Liquor prizes**

18B. (1) This section applies to a prize in a lottery or game of chance and a prize to be allotted or distributed by an art union.

(2) A prize may consist of or include liquor within the meaning of the Liquor Act 1982.

(3) The regulations may provide for the liquor component of any prize to be limited to such proportion of the total value of the prize, or such quantity, as may be prescribed.

(4) A person under the age of 18 years must not:

- (a) sell a ticket for a prize having a liquor component; or
- (b) collect a prize having a liquor component.

Maximum penalty: 10 penalty units.

(5) A person must not:

- (a) sell a ticket for a prize having a liquor component to a person under the age of 18 years; or
- (b) give a prize having a liquor component to a person under the age of 18 years.

Maximum penalty: 10 penalty units.

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SCHEDULE I—AMENDMENTS RELATING TO LOTTERIES,  
GAMES OF CHANCE AND ART UNIONS—*continued*

(6) It is a defence to a prosecution under subsection (5) if the defendant proves that he or she did not know, and could not reasonably have been expected to know, that the person to whom a ticket was sold or a prize given was under the age of 18 years.

(7) A minor may not be imprisoned, or detained in a detention centre, as a consequence of a failure to pay a penalty under this section.

(8) In this section, “liquor component” means that part of a prize in a lottery, game of chance or an art union consisting of or including liquor.

**Explanatory note**

Items (2) (a), (3) (a), and (5) (a) replace the definitions of “goods, wares or merchandise” with definitions of “prize”, which enable services and vouchers for goods and services that are not redeemable for money to be offered as prizes for lotteries and games of chance.

Item (6) makes it an offence for a person conducting a lottery, game of chance or art union not to award prizes to the prizewinners (proposed section 18A). The maximum penalty is to be 50 penalty units (currently, \$5,000). Item (6) also:

- enables prizes containing liquor to be awarded subject to limitations prescribed by the regulations; and
- prohibits the sale of tickets for liquor prizes by or to a person under 18 years of age and prohibits such persons from being given or collecting liquor prizes; and
- imposes a maximum penalty of 10 penalty units (currently, \$1,000) (proposed section 18B).

Item (2) (e) enables money prizes to be offered in conjunction with tickets for tours or journeys for raffles conducted under section 4 subject to prescribed limits. This is consistent with the proposed changes to sections 5 and 6 concerning art unions (items (15) and (16)).

Items (2) (f), (3) (c), (4) and (5) (c) make consequential amendments to remove the existing prohibitions on prizes consisting of liquor. Items (2) (b)–(d), (3) (b) and (5) (b) make consequential amendments to remove references to “goods, wares or merchandise” and replace them with references to “prizes”.

SCHEDULE 1—AMENDMENTS RELATING TO LOTTERIES,  
GAMES OF CHANCE AND ART UNIONS—*continued*

**Sweeps and calcuttas**

(7) Section 4D (**Sweepstakes in relation to the Melbourne Cup and other events**):

- (a) Omit the definition of “prescribed amount” from section 4D (1), insert instead:

“**prescribed amount**” means \$20,000;

- (b) From paragraph (a) of the definition of “prescribed event” in section 4D (1), omit “or”, insert instead “and”.

- (c) Omit paragraph (b) of the definition of “prescribed event” from section 4D (1), insert instead:

(b) any other event (or any class of events) specified in an order published by the Minister in the Gazette from time to time as an event in relation to which sweeps or calcuttas (or both) may be conducted;

- (d) Omit section 4D (4) (a), insert instead:

(a) a sweep in which the total amount paid as entrance fees exceeds the prescribed amount may not be conducted except by the holder of a permit from the Minister;

**Explanatory note**

Item (7):

- ensures that a permit is not required to conduct a sweep or calcutta if the total amount paid as entrance fees does not exceed \$20,000 (item (7) (a) and (d)); and
- enables the Minister to publish an order in the Gazette listing events in relation to which calcuttas and sweeps may be conducted rather than to prescribe events by regulation as is presently the case (item (7) (b) and (c)).

**Proceeds that can be devoted to fundraising object**

(8) Section 4 (**Certain charitable and non-profit organisations authorised to conduct lotteries subject to conditions**):

- (a) Omit section 4 (3) (e), insert instead:

(e) that the whole of the profits, or not less than the proportion of the gross proceeds prescribed by the regulations, of the lottery (whichever is the greater) are paid into the funds of the non-profit organisation; and

SCHEDULE 1—AMENDMENTS RELATING TO LOTTERIES,  
GAMES OF CHANCE AND ART UNIONS—*continued*

- (b) From section 4 (4), omit “a percentage less than 40 per centum ~~€~~or the purposes of subsection (3) (e) (ii)”, insert instead “that a proportion less than the proportion prescribed by the regulations for the purposes of subsection (3) (e) is to be paid into the funds of ~~the~~ non-profit organisation”.
- (9) Section 4A (**Certain organisations authorised to conduct games of chance**):
- (a) Omit section 4A (3) (g), insert instead:
- (g) that the whole of the profits, or not less than the proportion of the gross proceeds prescribed by the regulations, of the game of chance (whichever is the greater) are paid into the funds of the organisation; and
- (b) From section 4A (6), omit “a percentage less than 40 per centum for the purposes of subsection (3) (g) (ii)”, insert instead “that a proportion less than the proportion prescribed by the regulations for the purposes of subsection (3) (g) is to be paid into the funds of the organisation”.

**Explanatory note**

Items (8) and (9) enable the proportion of the gross proceeds of a lottery or game of chance under sections 4 and 4A that must be devoted to the fundraising object to be prescribed by the regulations.

**Permits**

- (10) Section 4A (**Certain organisations authorised to conduct games of chance**):
- After section 4A (5), insert:
- (5AA) The Minister may, at any time, by notice in writing served on the holder of a permit, revoke the permit or do either or both of the following:
- (a) vary or revoke any conditions of the permit;
- (b) impose new conditions on the permit.

**SCHEDULE 1—AMENDMENTS RELATING TO LOTTERIES,  
GAMES OF CHANCE AND ART UNIONS—*continued*****(11) Section 4B (Lotteries and games of chance for the promotion of trade):**

After section 4B (5), insert:

(5AA) The Minister may, at any time, by notice in writing served on the holder of a permit, revoke the permit or do either or both of the following:

- (a) vary or revoke any conditions of the permit;
- (b) impose new conditions on the permit.

**(12) Section 4C (Games of chance in registered clubs):**

After section 4C (4), insert:

(4A) The Minister may, at any time, by notice in writing served on the holder of a permit, revoke the permit or do either or both of the following:

- (a) vary or revoke any conditions of the permit;
- (b) impose new conditions on the permit.

**(13) Section 4D (Sweepstakes in relation to the Melbourne Cup and other events):**

Omit section 4D (7), insert instead:

(7) The Minister may, at any time, by notice in writing served on the holder of a permit, revoke the permit or do either or both of the following:

- (a) vary or revoke any conditions of the permit;
- (b) impose new conditions on the permit.

**(14) Section 6 (Conditions and permits for art unions):**

After section 6 (4), insert:

(5) The Minister may, at any time, by notice in writing served on the holder of a permit, revoke the permit or do either or both of the following:

- (a) vary or revoke any conditions of the permit;
- (b) impose new conditions on the permit.

**Explanatory note**

Items (10)–(14) ensure that the Minister may, by notice in writing, vary, revoke or add conditions to a permit to conduct a lottery, game of chance or art union.

SCHEDULE 1—AMENDMENTS RELATING TO LOTTERIES,  
GAMES OF CHANCE AND ART UNIONS—*continued*

**Art unions**

## (15) Section 5:

Omit the section, insert instead:

**Art unions**

## 5. (1) In this section:

“**art union**” means a voluntary association formed for the purchase of any prizes to be allotted or distributed by chance or otherwise among members of the association for the aid or support of any institution or object of a genuinely charitable or public character or for a non-profit organisation;

“**member**” of a voluntary association includes subscribers and contributors to the association;

“**non-profit organisation**” means an organisation not formed or conducted for private gain;

“**prize**” includes goods, wares, merchandise, works of art, real property, services, vouchers for goods or services that are not redeemable for money, tickets for admission to any entertainment and tickets (together with any money) for tours or journeys.

(2) The provisions of section 3 do not apply so as to prohibit the allotment or distribution of any prizes by chance or otherwise as a prize by an art union if the conditions specified in section 6 are complied with by the art union.

(3) Nothing in the Gaming and Betting Act 1912 or any other law is taken to render unlawful an art union formed under this Part.

(16) Section 6 (**Conditions and permits for art unions**):

## (a) Omit section 6 (1), insert instead:

(1) The conditions referred to in section 5 (2) are as follows:

- (a) that the Minister has issued a permit for the formation of the art union;
- (b) that any conditions subject to which the permit is issued are complied with;

SCHEDULE 1—AMENDMENTS RELATING TO LOTTERIES,  
GAMES OF CHANCE AND ART UNIONS—*continued*

- (c) that the total value of the allotment or distribution by the art union does not exceed the amount prescribed by the regulations or the amount specified in the permit, whichever is the lesser;
  - (d) that the allotment or distribution made by the art union does not consist of, or include, an allotment or distribution of tobacco in any form or any right to tobacco;
  - (e) that none of the money raised by the art union is allotted or distributed on condition that it be expended wholly or partly in purchasing tobacco in any form;
  - (f) that the whole of the profits, or not less than the proportion of the gross proceeds prescribed by the regulations, of the art union (whichever is the greater) are paid into the funds of the institution or non-profit organisation for the aid or support of which the art union was formed;
  - (g) that the art union does not allocate or distribute money to members except in conjunction with tickets for tours or journeys;
  - (h) that any regulations made under this Act as to the manner in which an allotment or distribution is to be made by the art union are complied with.
- (b) After section 6 (1), insert:
- (1A) A person may make an application to the Minister within 21 days of the conclusion of the conduct of an art union for a determination under subsection (1B).
  - (1B) If the Minister is satisfied that circumstances of an unusual nature arose with the conduct of the art union justifying a determination under this subsection, the Minister may determine that a proportion less than the proportion prescribed for the purposes of subsection (1) (f) is to be paid by the art union into the funds of the institution or non-profit organisation for the aid or support of which the art union was formed.
  - (1C) The Minister is to serve written notice of the determination under subsection (1B) on the person.

SCHEDULE 1—AMENDMENTS RELATING TO LOTTERIES,  
GAMES OF CHANCE AND ART UNIONS—*continued*

(c) Omit section 6 (4) (a) and (b), insert instead:

- (a) the value of the prize to be allotted or distributed under section 5 by the art union to which the permit relates;  
or
- (b) the amount of money to be allotted or distributed with any such prize.

(17) Section 6B (**Substitution of prizes**):

- (a) From section 6B (1), omit the definition of “art union”.
- (b) From the definition of “prize” in section 6B (1), omit “deemed to be a lawful association under section 5 (1)”, insert instead “formed”.

(18) Section 15 (**Unclaimed prizes**):

Omit “association”, insert instead “organisation”.

(19) Section 16 (**Misappropriation of funds or prizes**):

Omit “association”, insert instead “art union”.

(20) Section 23 (**Regulations**):

From section 23 (2), omit “association”, insert instead “art union”.

**Explanatory note**

Item (15) replaces section 5 (Provisions relating to certain voluntary associations) with a new section clarifying the operation of the section. The new section will differ from the existing section in the following respects:

- it creates a single category of lawful voluntary association, namely art unions;
- the proportion of the gross proceeds of an art union that can be devoted to administrative expenses may be prescribed by regulation rather than set by the Act as is presently the case;
- services and non-redeemable vouchers for goods can be offered as prizes;
- art unions may be conducted to raise funds for non-profit organisations, including political parties;
- it removes the requirement for the Minister to table certain statements in Parliament.

Items (16)–(20) make certain consequential amendments.



SCHEDULE 1—AMENDMENTS RELATING TO LOTTERIES,  
GAMES OF CHANCE AND ART UNIONS—*continued***Records and false statements**(21) Section 10 (**Production of accounts and records**):

Omit the section.

(22) Section 13 (**Penalties for non-compliance**):

Omit the section.

(23) Section 14 (**Falsification of books etc.**):

Omit “within the meaning of section 10 (including any prescribed document within the meaning of that section and any statement referred to in section 10 (3) (a))” wherever occurring.

## (24) Sections 17A, 17B:

After section 17, insert:

**False statements**

17A. (1) A person who:

- (a) in an application or notice made or given under this Act; or
- (b) in any record or document relating to a lottery, game of chance or art union,

makes any statement that the person knows, or could reasonably be expected to know, is false or misleading in a material particular is guilty of an offence.

Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.

(2) A person:

- (a) who is conducting or proposing to conduct a lottery, game of chance or art union; or
- (b) who is acting on behalf of a person or an organisation that is conducting or proposing to conduct a lottery, game of chance or art union,

must not represent to an employee or agent involved in the conduct of the lottery, game of chance or art union that any thing required or permitted by this Act to be done, or any condition precedent to the conduct of a lottery, game of

SCHEDULE 1—AMENDMENTS ELATING TO LOTTERIES,  
GAMES OF CHANCE AND ART UNIONS —*continued*

chance or art union to be complied with, has been done or complied with when in fact it has not.

Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.

(3) A person who, but for this subsection, would be liable to conviction for an offence under this section and section 14 is liable to be convicted in respect of one only of those offences.

**Keeping of records**

17B. (1) A person or organisation that conducts or has conducted a lottery, game of chance or art union must (unless the person or organisation is of a class of persons or organisations prescribed by the regulations as exempt from the operation of this section) keep, in accordance with this section, records of income and expenditure in relation to each such lottery, game of chance or art union.

(2) The records must:

- (a) be kept in writing in the English language or so as to enable the records to be readily accessible and readily convertible into writing in the English language; and
- (b) include any particulars required by the regulations; and
- (c) be kept for a period of at least 7 years (or such shorter period as may be prescribed by the regulations) after the receipt of the income or the incurring of the expenditure to which they relate.

(3) A person or organisation that contravenes this section is guilty of an offence. In the case of an unincorporated organisation, every trustee or other person who, at the time of the offence, was a member of the governing body of the organisation is guilty of an offence.

Maximum penalty: 50 penalty units.

(4) Any requirement imposed by the Charitable Fundraising Act 1991 on a person or organisation to keep records is not affected by this section.

SCHEDULE 1—AMENDMENTS RELATING TO LOTTERIES,  
GAMES OF CHANCE AND ART UNIONS—*continued*

**Explanatory note**

Item (24):

- makes it an offence for certain persons to make false statements relating to matters arising under the Act (proposed section 17A); and
- makes it an offence not to keep certain records (proposed section 17B).

Items (21)–(23) make consequential amendments.

**Foreign lotteries**

(25) Section 21 (**Penalty for selling ticket etc. in foreign lottery**):

At the end of section 21, insert:

(2) This section extends to sales, offers for sale and acceptances made by telephone, facsimile or other electronic means.

**Explanatory note**

Item (25) ensures that the prohibition on the sale of tickets in a foreign lottery extends to transactions involving telephones, facsimiles and other electronic means.

**Investigations**

(26) Section 12 (**Audit etc.**):

Omit the section.

(27) Part 5, sections 21A–21H:

After section 2, insert:

**PART 5—INVESTIGATIONS****Appointment of inspectors**

21A. (1) The Minister may appoint any person to be an inspector for the purposes of this Part.

(2) The Minister may authorise a police officer or other person to exercise such of the functions of an authorised inspector under this Part as the Minister may direct.

(3) The regulations may authorise police officers of or above any specified rank to exercise all or any specified functions of an authorised inspector under this Part.

SCHEDULE 1—AMENDMENTS RELATING TO LOTTERIES,  
GAMES OF CHANCE AND ART UNIONS—*continued***Minister may inquire into lottery activity**

21B. (1) The Minister may, with respect to any matter arising under this Act, inquire into any person or organisation that:

- (a) is conducting or has conducted, or is participating or has participated in, a lottery activity; or
- (b) the Minister has reason to believe is conducting or has conducted, or is participating or has participated in, a lottery activity.

(2) The Minister may cause an inquiry under this section to be made by an authorised inspector, either with respect to a particular matter or with respect to any class of matter.

**Power of Minister to require accounts etc.**

21C. (1) For the purposes of any inquiry under this Part, the Minister or an authorised inspector may require any person to do any one or more of the following:

- (a) to furnish accounts and statements in writing with respect to any matter in question at the inquiry, being a matter about which the person has or can reasonably obtain information;
- (b) to provide answers in writing to any questions addressed to the person on any such matter;
- (c) to verify any such account, statement or answer by statutory declaration;
- (d) to attend at a specified time and place and give evidence or produce documents in the person's custody or under the person's control which relate to any matter in question at the inquiry;
- (e) to furnish copies of or extracts from any document in the person's custody or under the person's control which relate to any matter in question at the inquiry or to make any such document available for inspection.

(2) Any requirement under this section is to be made by notice in writing served on the person concerned and specifying a reasonable time within which the requirement is to be complied with.

SCHEDULE 1—AMENDMENTS RELATING TO LOTTERIES,  
GAMES OF CHANCE AND ART UNIONS—*continued*

(3) For the purposes of any inquiry under this Part, evidence may be taken on oath and the person conducting the inquiry may for that purpose administer oaths.

(4) The person conducting the inquiry may take possession of documents produced to the person for such period as the person considers necessary for the purposes of the inquiry and may make copies of or take extracts from them. During that period the person conducting the inquiry must permit a person who would be entitled to inspect any one or more of those documents if they were not in the possession of the person conducting the inquiry to inspect at all reasonable times such of those documents as that person would be entitled to inspect.

**Power of entry and inspection**

21D.(1) If an authorised inspector believes on reasonable grounds that any documents relevant to an inquiry under this Part are likely to be found on any premises, the authorised inspector may:

- (a) enter the premises; and
- (b) require production of the documents; and
- (c) take copies of or extracts from the documents or take possession of the documents for such period as he or she considers necessary for the purposes of the inquiry.

(2) Section 21C (4) applies to documents taken under subsection (1) (c).

(3) A power conferred by this section:

- (a) may not be exercised in relation to any premises used as a dwelling, or in relation to a part of any premises so used, except with the consent of the occupier of the premises or part or by the authority of a search warrant; and
- (b) may be exercised only at reasonable times and on reasonable notice to the occupier of any affected premises, except where the Minister has certified that, in the circumstances, the power may be otherwise exercised (in which case it may be exercised in accordance with the Minister's directions).

**SCHEDULE 1—AMENDMENTS RELATING TO LOTTERIES,  
GAMES OF CHANCE AND ART UNIONS—*continued***

(4) A power conferred by this section may not be exercised unless the person exercising it is in possession of a certificate issued by the Minister which:

- (a) states that it is issued under this Act; and
- (b) gives the name of the person to whom it is issued; and
- (c) describes the nature of the powers conferred; and
- (d) bears the signature of the Minister.

(5) A person exercising a power to enter premises must produce his or her certificate to the occupier of the premises.

(6) If damage is caused by a person exercising a power to enter premises, a reasonable amount of compensation is recoverable as a debt owed by the Crown to the owner of the premises unless the occupier hindered or obstructed the exercise of the power.

**Search warrant**

21E. (1) An authorised inspector may apply to an authorised justice (within the meaning of the Search Warrants Act 1985) for a search warrant if the inspector has reasonable grounds for believing that documents relating to any matter in question at an inquiry being conducted under this Part are kept at a particular place and that:

- (a) the place is used as a dwelling; or
- (b) a person having custody or control of those documents has neglected or failed to comply with a requirement under this Act to produce them or to furnish copies of or extracts from them; or
- (c) the place is unoccupied or the occupier is temporarily absent.

(2) The authorised justice to whom the application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an authorised inspector named in the warrant to enter the place and to search for and take possession of documents of a kind specified in the warrant.

**SCHEDULE 1—AMENDMENTS RELATING TO LOTTERIES,  
GAMES OF CHANCE AND ART UNIONS —*continued***

(3) An authorised inspector who enters any place by virtue of such a warrant may take with him or her such other persons as may be necessary, and on leaving any unoccupied place so entered must, as far as practicable, leave it as effectively secured against trespassers as he or she found it.

(4) Part 3 of the Search Warrants Act 1985 applies to a search warrant issued under this section.

**Auditor-General to act as or provide inspector**

21F. (1) For the purposes of this Part, the Auditor-General may (and on the request of the Minister, is required to):

- (a) exercise the functions of an authorised inspector under this Part or the regulations or assist and advise the Minister on any matter arising in the execution of this Act or the regulations; or
- (b) provide some suitably qualified member or members of the Auditor-General's staff to do so.

(2) The Auditor-General or such a member of staff has the functions of an authorised inspector under this Part and the regulations.

**Recovery of certain expenses**

21G. (1) If the Minister so directs, the whole or any part of the expenses incurred by the Auditor-General in or in connection with the exercise by the Auditor-General or a member of the Auditor-General's staff of any of the functions of an authorised inspector in relation to a particular person or organisation is payable by the person or organisation and recoverable from the person or organisation by the Auditor-General as a debt in a court of competent jurisdiction.

(2) If the Minister so directs, the remuneration of and any expenses incurred by an authorised inspector who is not an employee of the Crown are, where the remuneration and expenses are referable to the exercise of any of the functions of the inspector under this Part in relation to a particular person or organisation, payable by the person or organisation and recoverable in a court of competent jurisdiction as a debt due to the Crown.

**SCHEDULE I—AMENDMENTS RELATING TO LOTTERIES,  
GAMES OF CHANCE AND ART UNIONS—*continued***

(3) The amount recoverable from a person or organisation under subsection (1) is an amount certified by the Auditor-General to be the amount so recoverable.

(4) The amount recoverable from a person or organisation under subsection (2) is an amount certified by the Minister to be the amount so recoverable.

(5) If the organisation concerned is an unincorporated organisation, the trustees or persons who are members of the governing body of the organisation are jointly and severally liable for any debts of the organisation under this section.

**Offences in relation to inquiries**

21H. A person who:

- (a) neglects or fails to comply with a requirement duly made by a notice under this Part within the time specified in the notice; or
- (b) alters, destroys or conceals any document referred to in section 21C (1) (e); or
- (c) refuses to take an oath required to be taken under this Part; or
- (d) hinders or obstructs the Minister or any authorised inspector in the exercise of his or her functions under this Part,

is guilty of an offence.

Maximum penalty: 50 penalty units or imprisonment for 6 months, or both.

**Explanatory note**

Item (27) inserts a new Part 5 dealing with the investigations of activities under the Act.

Proposed section 21A provides for the appointment of inspectors.

Proposed section 21B enables the Minister to cause an inquiry to be made by an authorised inspector into a person or organisation conducting or participating in a lottery activity.

Proposed section 21C confers certain powers on the Minister and authorised inspectors in relation to accounts and other documents of such persons and organisations. It also requires the giving of reasonable notice to a person or organisation to whom the exercise of a power is to be directed.



**SCHEDULE 1—AMENDMENTS RELATING TO LOTTERIES,  
GAMES OF CHANCE AND ART UNIONS—*continued***

Proposed section 21D confers certain powers of entry and inspection on authorised inspectors if:

- in relation to dwellings—the occupier consents; and
- the powers are exercised at reasonable times and on reasonable notice given to the occupier (unless the Minister certifies otherwise); and
- the authorised inspector has been issued with a certificate signed by the Minister authorising the inspector to conduct the entry and inspection.

An authorised officer is to produce his or her certificate of authorisation to the occupier of the premises. Any damage caused by an entry entitles the occupier to a reasonable amount of compensation from the Crown unless the occupier hindered or obstructed the entry.

Proposed section 21E enables an authorised inspector to seek a search warrant in certain circumstances, including when the premises are a dwelling or unoccupied.

Proposed sections 21F and 21G relate to the appointment of the Auditor-General (or members of his or her staff) as authorised inspectors and the recovery of expenses.

Proposed section 21H creates certain offences concerning interference with or hindering investigations under the new Part. The maximum penalty for such offences will be 50 penalty units (currently \$5,000) or imprisonment for 6 months, or both.

Item (26) makes a consequential amendment.

**Proceedings for offences, court orders and service of documents**

(28) Sections 22–22C:

Omit section 22, insert instead:

**Proceedings for offences**

22. (1) Proceedings for an offence against this Act (other than an offence under section 14 or 16) or the regulations are to be dealt with summarily by a Local Court constituted by a Magistrate sitting alone.

(2) Any such proceedings may be commenced at any time within 3 years after the offence was allegedly committed.

**Minister may seek orders from Supreme Court**

22A. (1) The Minister may make an application to the Supreme Court for an order:

- (a) to prevent the conduct of a particular lottery activity (“**a special order**”); or
- (b) to prohibit a person or organisation from conducting any lottery activities for a period not exceeding 2 years (“**a general order**”).

SCHEDULE 1—AMENDMENTS RELATING TO LOTTERIES,  
GAMES OF CHANCE AND ART UNIONS—*continued*

(2) The Supreme Court may make a special order if it is satisfied:

- (a) that it is likely that the provisions of this Act or the regulations or the conditions of a permit have not been, or will not be, complied with; or
- (b) that it would otherwise be against the public interest for the lottery activity to be conducted.

(3) The Supreme Court may make a general order if it is satisfied:

- (a) that a person or organisation has persistently failed to comply with the provisions of this Act or the regulations or the conditions of a permit; and
- (b) that the person or organisation is likely to continue to do so.

(4) A special order is not stayed by the lodgment of an appeal.

(5) If the Minister makes an application for an order under this section, the Supreme Court is not to require the Minister, as a condition of granting an interim order, to give an undertaking as to the payment of damages and any interlocutory order made is not to contain an undertaking of that kind.

**Service of documents**

22B. (1) A document required or permitted by or under this Act to be served on a person may, if the person is a natural person, be served:

- (a) by delivering the document to the person; or
- (b) by sending the document by post addressed to the person at the person's last known place of residence; or
- (c) by leaving the document at the person's last known place of residence with some person apparently resident at that place and apparently not less than 16 years of age; or
- (d) by leaving the document at the person's last known place of business with someone apparently in the service of the person and apparently not less than 16 years of age.

SCHEDULE 1—AMENDMENTS RELATING TO LOTTERIES,  
GAMES OF CHANCE AND ART UNIONS—*continued*

(2) A document required or permitted by or under this Act to be served on a person may, if the person is a corporation, be served:

- (a) by sending the document by post addressed to the corporation at its registered office or principal place of business in New South Wales; or
- (b) by leaving it at the registered office or principal place of business in New South Wales of the corporation with some person apparently employed in connection with the business of the corporation and apparently not less than 16 years of age.

(3) A document required or permitted by or under this Act to be served on an organisation may, if the organisation is not incorporated, be served:

- (a) by sending the document by post addressed to the trustees or members of the governing body of the organisation at its registered office; or
- (b) by serving it on any such trustee or member of the governing body in any manner that, by this section or otherwise according to law, constitutes sufficient service on a natural person.

(4) The provisions of this section are in addition to, and do not prejudice the operation of, any other law prescribing procedures sufficient for service of documents.

**Offences by corporations**

22C. (1) If a corporation contravenes any provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the management of the corporation is taken to have contravened the same provision if the person knowingly authorised or permitted the contravention.

(2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or convicted under that provision.

SCHEDULE 1—AMENDMENTS RELATING TO LOTTERIES,  
GAMES OF CHANCE AND ART UNIONS—*continued*

(3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.

**Explanatory note**

Item (28) enables proceedings for an offence to be commenced within 3 years of the alleged offence (proposed section 22). At present, proceedings must (because of section 56 of the Justices Act 1902) be brought within 6 months. It also makes it clear that offences contained in the Act (other than indictable offences under sections 14 or 16) are to be dealt with by a Magistrate.

Item (28) also enables the Minister to seek an order from the Supreme Court to enjoin the conduct of a particular lottery activity (“a special order”) or enjoin a person or organisation from conducting any lottery activities for a period not exceeding 2 years (“a general order”). The Court may make a special order if it is satisfied that it is likely that the provisions of the Act, the regulations or permit conditions have not been complied with or when it would otherwise be against the public interest for the activity to continue. The Court may make a general order if it is satisfied that a person or organisation has persistently failed to comply with the provisions of the Act, the regulations or permit conditions (proposed section 22A).

Item (28) also makes provision for the service of documents (proposed section 22B) and the liability of corporations for offences (proposed section 22C).

**Savings and transitional provisions**

(29) Section 2 (**Repeals**):

Omit “the Schedule” insert instead “Schedule 1”.

(30) Section 24:

After section 23, insert:

**Savings and transitional provisions**

24. Schedule 2 has effect.

(31) The Schedule, heading:

Omit the heading, insert instead:

**SCHEDULE 1—REPEALS**

SCHEDULE 1—AMENDMENTS RELATING TO LOTTERIES,  
GAMES OF CHANCE AND ART UNIONS—*continued*

(32) Schedule 2:

After Schedule 1, insert:

**SCHEDULE 2—SAVINGS AND TRANSITIONAL  
PROVISIONS**

(Sec. 24)

**PART 1—GENERAL**

**Savings and transitional regulations**

1. (1) The regulations may contain provisions of a savings and transitional nature consequent on the enactment of the following Acts:

Lotteries and Art Unions (Amendment) Act 1994.

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect on or from the date of assent to the Act concerned 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; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of any thing done or omitted to be done before the date of its publication.

**PART 2—PROVISIONS CONSEQUENT ON THE  
ENACTMENT OF THE LOTTERIES AND ART  
UNIONS (AMENDMENT) ACT 1994**

**Definitions**

2. In this Part:

“**amending Act**” means the Lotteries and Art Unions (Amendment) Act 1994.

**SCHEDULE 1—AMENDMENTS RELATING TO LOTTERIES,  
GAMES OF CHANCE AND ART UNIONS —*continued*****Art unions—section 5**

3. (1) A voluntary association that was deemed to be a lawful association under section 5 immediately before the commencement of Schedule 1 (15) to the amending Act is taken to be an art union within the meaning of section 5, as amended.

(2) A permit issued in respect of the association before that commencement is taken to be issued under section 6 as amended and is subject to the same conditions (if any) as those to which it was subject immediately before that commencement.

**Proceedings for offences—section 22**

4. Section 22, as in force immediately before the commencement of Schedule 1 (28) to the amending Act, continues to apply in relation to offences alleged to have been committed before that commencement.

**Investigations—Part 5**

5. The provisions of Part 5 extend to any lottery activity conducted before the commencement of that Part.

**Explanatory note**

Items (30) and (32) provide for provisions of a savings and transitional nature to be included in proposed Schedule 2.

Items (29) and (31) make consequential amendments.

**SCHEDULE 2—AMENDMENTS RELATING TO PENALTIES  
AND BY WAY OF STATUTE LAW REVISION**

(Sec. 3)

**Long title and headings**

(1) The long title:

Omit the long title, insert instead:

An Act with respect to the conduct of lotteries, games of chance and art unions.

(2) The whole Act (**Italicised headings to sections**):

Omit the italicised headings before sections 3, 4, 16, 19 and 22.

SCHEDULE 2—AMENDMENTS RELATING TO PENALTIES  
AND BY WAY OF STATUTE LAW REVISION—*continued*

(3) Part 1, heading:

Before section 1, insert:

**PART 1—PRELIMINARY**

(4) Part 2, Division 1, headings:

Before section 3, insert:

**PART 2—LOTTERIES, GAMES OF CHANCE AND  
ART UNIONS**

**Division 1—General prohibition**

(5) Part 2, Division 2, heading:

Before section 4, insert:

**Division 2—Exceptionsto general prohibition**

(6) Part 2, Division 3, heading:

Before section 14, insert:

**Division 3—Other provisions**

(7) Part 3, heading:

Before section 16, insert:

**PART 3—OFFENCES**

(8) Part 4, heading:

Before section 19, insert:

**PART 4—FOREIGN LOTTERIES**

(9) Part 6, heading:

Before section 22, insert:

**PART 6—MISCELLANEOUS**

**Explanatory note**

Items (1)–(9) insert a new long title and Part and Division headings in the Act.

SCHEDULE 2—AMENDMENTS RELATING TO PENALTIES  
AND BY WAY OF STATUTE LAW REVISION—*continued*

**Penalties**

- (10) Section 3 (**Selling or disposing of goods etc. by lottery or chance prohibited**):
- (a) From section 3 (2), omit “10 penalty units”, insert instead “50 penalty units”.
  - (b) From section 3 (3), omit “5 penalty units”, insert instead “50 penalty units”.
  - (c) From section 3 (4) and (5), omit “0.5 penalty unit” wherever occurring, insert instead “3 penalty units”.
- (11) Section 14 (**Falsification of books etc.**):  
Omit “five years”, insert instead “5 years, or to a penalty not exceeding 200 penalty units, or both”.
- (12) Section 16 (**Misappropriation of funds of prizes**):  
Omit “five years”, insert instead “5 years, or to a penalty not exceeding 200 penalty units, or both”.
- (13) Section 17 (**Fraudulent conduct of lotteries and games of chance**):  
Omit “10 penalty units”, insert instead “50 penalty units”.
- (14) Section 18 (**Penalty for selling tickets in or near to streets**):  
Omit “0.5 penalty unit”, insert instead “3 penalty units”.
- (15) Section 20 (**Penalty for advertising etc. foreign lottery**):  
Omit “5 penalty units”, insert instead “50 penalty units”.
- (16) Section 21 (**Penalty for selling ticket etc. in foreign lottery**):  
Omit “5 penalty units”, insert instead “25 penalty units”.
- (17) Section 23 (**Regulations**):  
From section 23 (2), omit “10 penalty units”, insert instead “20 penalty units”.

**Explanatory note**

Items (10)–(17) make amendments to penalties for offences to make them consistent with the penalties for similar offences in the Charitable Fundraising Act 1991.



SCHEDULE 2—AMENDMENTS RELATING TO PENALTIES  
AND BY WAY OF STATUTE LAW REVISION—*continued*

Gender neutral language

- (18) Section 4 (**Certain charitable and non-profit organisations authorised to conduct lotteries subject to conditions**):  
From section 4 (4), omit “he” and “his”, insert instead “the Minister” and “the Minister’s” respectively.
- (19) Section 4A (**Certain organisations authorised to conduct games of chance**):  
From section 4A (6), omit “he” and “his”, insert instead “the Minister” and “the Minister’s” respectively.
- (20) Section 6B (**Substitution of prizes**):
- (a) From section 6B (2), omit “he”, insert instead “the Minister”.
  - (b) From section 6B (4), omit “he” wherever occurring, insert instead “the Minister”.
- (21) Section 15 (**Unclaimed prizes**):  
Omit “him thereto”, insert instead “the person to that prize”.
- (22) Section 15A (**Delegation of Minister’s powers**):  
Omit “his” wherever occurring, insert instead “the Minister’s”.
- (23) Section 16 (**Misappropriation of funds or prizes**):  
Omit “his”, insert instead “the person’s”.
- (24) Section 20 (**Penalty for advertising etc. foreign lottery**):  
Omit “his”, insert instead “the person’s”.

**Explanatory note**

Items (18)–(24) replace certain gender specific language with gender neutral language.

**Outdated references to Acts**

- (25) Section 4B (Lotteries and games of chance for the promotion of trade):  
From section 4B (7), omit “or Part 3A of the Gaming and Betting Act 1912”.

*Lotteries and Art Unions (Amendment) Act 1994 No. 12*

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SCHEDULE 2—AMENDMENTS RELATING TO PENALTIES  
AND BY WAY OF STATUTE LAW REVISION—*continued*

- (26) Section 4C (**Games of chance in registered clubs**):  
From section 4C (2) (a), omit “or Part 3A of the Gaming and Betting Act 1912”.
- (27) Section 4D (**Sweepstakes in relation to the Melbourne Cup and other events**):  
From section 4D (1) omit paragraph (a) of the definition of “prescribed organisation”.
- (28) Section 18 (**Penalty for selling tickets in or near to streets**):  
Omit “Local Government Act 1919”, insert instead “Local Government Act 1993”.
- (29) Section 23 (**Regulations**):  
Omit section 23 (1) (l).

**Explanatory note**

Items (25)–(29) remove outdated references to Part 3A of the Gaming and Betting Act 1912 and the Charitable Collections Act 1934 and replace a reference to the Local Government Act 1919 with a reference to the Local Government Act 1993.

**Clarification of the operation of certain provisions**

- (30) Section 3 (**Selling or disposing of goods etc. by lottery or chance prohibited**):  
In section 3 (3), after “any such”, insert “unlawful”.
- (31) Section 4B (**Lotteries and games of chance for the promotion of trade**):  
In section 4B (3) (a), after “Minister”, insert “to a person or organisation”.
- (32) Section 17 (**Fraudulent conduct of lotteries and games of chance**):
- (a) From section 17 (a), omit “section 4, 4B or 4C”, insert instead “section 4 or 4B”.
  - (b) From section 17 (a) and (b), omit “section 4A, 4B or 4D” and “section 4A, 4B or 4C” wherever occurring, insert instead “section 4A, 4B, 4C or 4D”.

**Explanatory note**

Item (30) makes it clear that section 3 (3) prohibits advertising of lotteries prohibited by section 3 (1) and (2).

*Lotteries and Art Unions (Amendment) Act 1994 No. 12*

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SCHEDULE 2—AMENDMENTS RELATING TO PENALTIES  
AND BY WAY OF STATUTE LAW REVISION— *continued*

Item (31) makes it clear that the Minister may issue a permit to a person or organisation to conduct a lottery or game of chance for the promotion of trade.

Item (32) corrects certain cross-references.

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*[Minister's second reading speech made in—  
Legislative Assembly on 17 March 1994  
Legislative Council on 20 April 1994]*