



New South Wales

Public Lotteries Legislation Amendment Act 2004 No 13

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Public Lotteries Legislation Amendment Act 2004 No 13

Act No 13, 2004

An Act to amend the *Public Lotteries Act 1996* to make further provision with respect to the conduct of, and offences in relation to, public lotteries; and to repeal certain provisions of the *New South Wales Lotteries Corporatisation Act 1996*; and for other purposes. [Assented to 24 March 2004]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Public Lotteries Legislation Amendment Act 2004*.

2 Commencement

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

3 Amendment of Public Lotteries Act 1996 No 86

The *Public Lotteries Act 1996* is amended as set out in Schedule 1.

4 Amendment of New South Wales Lotteries Corporatisation Act 1996 No 85

The *New South Wales Lotteries Corporatisation Act 1996* is amended as set out in Schedule 2.

Schedule 1 Amendment of Public Lotteries Act 1996

(Section 3)

[1] Section 4 Definitions

Omit “kept in respect of the licensee” from the definition of *outgoings* in section 4 (1).

Insert instead “for the lottery”.

[2] Section 4 (1), definition of “subscriptions”

Omit the definition (but not the note). Insert instead:

subscriptions to a public lottery means the amounts paid for entries in the public lottery, but does not include the following:

- (a) amounts charged to subscribers by the licensee’s agents for providing ancillary services in connection with the subscriptions (as referred to in section 13 (1) (e1)),
- (b) commission, unless this Act otherwise expressly provides.

[3] Section 4 (1)

Insert in alphabetical order:

unclaimed prize means a prize that remains unclaimed by the prizewinner for a period of one year after the date on which the public lottery to which the prize relates was conducted.

[4] Section 13 Conditions of licence

Insert after section 13 (1) (e):

- (e1) the authorisation of agents to charge subscribers to a public lottery for providing such ancillary services in connection with subscriptions as may be approved by the Minister,

[5] Section 13 (1) (q)

Insert “for a public lottery” after “fund”.

[6] Section 25A

Insert before section 26:

25A Separate prize funds

A separate prize fund is to be kept in respect of a licensee for each kind of public lottery that the licensee is licensed to conduct.

[7] Section 26 Application of subscriptions to prize fund

Omit section 26 (1). Insert instead:

- (1) Out of the subscriptions received by a licensee in respect of a public lottery conducted by the licensee, the licensee must pay into the prize fund for the lottery an amount that, when added to any amount already applied by the licensee or the licensee's agents to the payment of prizes won in the lottery, is not less than the requisite percentage of the subscriptions for the lottery.

[8] Section 27 Prize fund account

Omit "The prize fund kept in respect of the licensee" from section 27 (1).

Insert instead "A prize fund for a public lottery kept in respect of a licensee".

[9] Section 27 (4) (a)

Omit "any public lottery".

Insert instead "a public lottery to which the fund relates that has been".

[10] Section 27 (8) (a)

Omit "of prizes won in public lotteries conducted by the licensee".

Insert instead "or the licensee's agents of prizes won in a public lottery in respect of which the fund is kept".

[11] Section 27 (8) (a1)

Insert after section 27 (8) (a):

- (a1) towards the payment of contributions by the licensee to prizes won in a public lottery conducted pursuant to an agreement entered into by the licensee under section 37A, and

[12] Section 27 (9)

Insert “the time within which claims for unclaimed prizes must be made and” after “respect to”.

[13] Section 37A

Insert after section 37:

37A Agreements with interstate authorities

- (1) A licensee may, on such terms as are approved by the Minister, enter into an agreement with an interstate authority with respect to:
 - (a) the administration of a scheme for the conduct of public lotteries among participating States, and
 - (b) the manner of making payments to and by the licensee, and
 - (c) related matters.
- (2) In this section:

corresponding law means the law of another State or Territory under which a person is authorised to conduct public lotteries.

interstate authority means a person who is authorised to conduct public lotteries in a participating State.

participating State means a State or Territory in which a person is authorised, under a corresponding law, to conduct public lotteries.

[14] Section 39A

Insert after section 39:

39A Direct payment of prizes by agent

The rules may make provision for a licensee to authorise an agent of the licensee to pay a prize won in a public lottery conducted by the licensee, being a prize that does not exceed the amount prescribed by the regulations in relation to the lottery.

[15] Section 40 Betting syndicates

Insert after the heading to the section:

- (1A) A licensee may, for fee or reward, promote or take part in the formation of a syndicate for the purpose of purchasing an entry in, or subscribing to, a public lottery conducted by the licensee.

[16] Section 41 Unauthorised betting syndicates prohibited

Omit section 41 (2). Insert instead:

- (2) This section does not apply to:
- (a) any person who is authorised by the rules to so promote or take part in the formation of a syndicate, but only in relation to such promotion or participation by the person that is in accordance with the rules, or
 - (b) the licensee conducting the public lottery concerned.

[17] Section 42 Advertising of unauthorised betting syndicate prohibited

Omit section 42 (3). Insert instead:

- (3) This section does not apply to:
- (a) any person who is authorised by the rules to so advertise, but only in relation to such advertising by the person that is in accordance with the rules, or
 - (b) the licensee conducting the public lottery concerned.

[18] Sections 43A–43D

Insert after section 43:

43A Unauthorised selling of entries in or subscriptions to public lottery prohibited

A person (other than a licensee, or a person acting for the licensee, in the lawful conduct of a public lottery) who sells an entry in, or a subscription to, a public lottery is guilty of an offence.

Maximum penalty: 100 penalty units.

43B Unauthorised promotion or marketing of public lottery prohibited

A person (other than a licensee, or a person acting for the licensee, in the lawful conduct of a public lottery) who promotes or markets a public lottery is guilty of an offence.

Maximum penalty: 100 penalty units.

43C Person not to enter or subscribe to public lottery for or on behalf of another for fee or reward

A person (other than a licensee, or a person acting for the licensee, in the lawful conduct of a public lottery) who, for fee or reward, purchases, for or on behalf of another person, an entry in, or a subscription to, a public lottery, is guilty of an offence.

Maximum penalty: 100 penalty units.

43D False claims for prizes

Any person who lodges a claim for a prize in a public lottery knowing that it is false or misleading in a material respect is guilty of an offence.

Maximum penalty: 100 penalty units.

[19] Section 48 Definitions

Omit the definition of *symbol*. Insert instead:

numbers has the same meaning as in section 5 (2).

[20] Section 51 Clarification of certain rules for winning prizes in instant lotteries

Omit “symbols” and “symbol” wherever occurring.

Insert instead “numbers” and “number”, respectively.

[21] Section 52 Licensees and agents to inform Minister of changed circumstances

Insert at the end of the section (before the penalty):

- (2) Despite subsection (1), if the licensee or the agent is not aware, and could not reasonably be expected to be aware, of a relevant change at the time it occurs, the licensee or agent (as the case may be) must notify the Minister in writing not later than 14 days after becoming aware of the change.

[22] Section 79A Review by Administrative Decisions Tribunal of certain decisions under this Act

Insert after section 79A (b):

- (c) a decision of the Minister under section 14 (1) to withdraw the approval or appointment of the person as an agent of a licensee under the conditions of a licence.

[23] Schedule 2 Savings, transitional and other provisions

Insert at the end of clause 1 (1):

Public Lotteries Legislation Amendment Act 2004

[24] Schedule 2, Part 3

Insert after Part 2:

Part 3 Provisions consequent on enactment of Public Lotteries Legislation Amendment Act 2004

29 Definition

In this Part:

amending Act means the *Public Lotteries Legislation Amendment Act 2004*.

30 Time limits for claiming unclaimed prizes

The amendment made by Schedule 1 [12] to the amending Act extends to prizes that are unclaimed prizes on the commencement of that amendment.

31 Validation

Anything done before the commencement of section 37A (as inserted by Schedule 1 [13] to the amending Act) which would have been validly done had that section been in force when it was done is validated.

32 Pending proceedings for offences against section 41 or 42

- (1) Any proceedings for an offence against section 41 that were instituted but not finally determined before the commencement of the amendment made to that section by Schedule 1 [16] to the amending Act are to be determined as if that amendment had not commenced.
- (2) Any proceedings for an offence against section 42 that were instituted but not finally determined before the commencement of the amendment made to that section by Schedule 1 [17] to the amending Act are to be determined as if that amendment had not commenced.

Schedule 2 Amendment of New South Wales Lotteries Corporatisation Act 1996

(Section 4)

[1] Section 4 Dissolution of New South Wales Lotteries

Omit section 4 (2). Insert instead:

- (2) Schedule 2 (Transfer of New South Wales Lotteries staff) has effect.

[2] Sections 8–10 and Schedule 1

Omit the sections and the Schedule.

[3] Schedule 4 Savings, transitional and other provisions

Omit clauses 2, 4–9 and 10 (2).

[Second reading speech made in—

Legislative Assembly on 18 February 2004

Legislative Council on 16 March 2004]

BY AUTHORITY