

NEW SOUTH WALES LOTTERIES BILL 1990*

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as Introduced into Parliament)

The objects of this Bill are:

- (a) to abolish the State Lotteries Office and to replace it with a new statutory corporation to be known as New South Wales Lotteries; and
- (b) to define the structure and functions of the proposed corporation; and
- (c) to repeal the State Lotteries Act 1930; and
- (d) to make consequential amendments to other Acts.

References in this Bill to monetary penalties are expressed in penalty units. Under section 56 of the Interpretation Act 1987, 1 penalty unit is currently equivalent to \$100.

PART 1 - PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

Clause 3 defines certain expressions (in particular, "lottery" and "public lottery") for the purposes of the proposed Act.

Clause 4 specifies the games of chance that are to be regarded as lotteries for the purposes of the proposed Act.

* Amended in committee — see table at end of volume.

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PART 2 - NEW SOUTH WALES LOTTERIES

Division 1 - NSW Lotteries

Clause 5 provides for the constitution of a corporation, under the name of New South Wales Lotteries, which is to be a statutory body representing the Crown.

Clause 6 declares that the objects of New South Wales Lotteries are to develop, promote and conduct lotteries and to conduct games of lotto and soccer football pools in accordance with licences held by it under the Lotto Act 1979 and the Soccer Football Pools Act 1975.

Clause 7 equips New South Wales Lotteries with the functions appropriate to enable it to achieve its objects and, in particular, enables it to hold licences under the Lotto Act 1979 and the Soccer Football Pools Act 1975.

Clause 8 enables New South Wales Lotteries to exercise its functions through private subsidiary corporations and in association with other persons or bodies.

Clause 9 enables New South Wales Lotteries to enter into agreements with corresponding interstate authorities for the purpose of enabling lotteries to be conducted across State borders.

Clause 10 enables New South Wales Lotteries to delegate its functions to certain specified persons.

Division 2 - The Board

Clause 11 establishes a Board of Management for New South Wales Lotteries, consisting of a full-time General Manager and 4 part-time members.

Clause 12 provides for a Chairperson and Deputy Chairperson to be appointed from among the part-time members.

Clause 13 provides that the functions of the Board are to be to determine the policies of New South Wales Lotteries and to ensure, in so doing, that the activities of New South Wales Lotteries are conducted on a sound commercial basis. The Board is to be subject to the control and direction of the Minister.

Clause 14 enables the Board to request the Minister to reconsider a direction given to the Board when the Board is of the opinion that the direction would cause New South Wales Lotteries to suffer a significant financial loss and would not be in the commercial interests of New South Wales Lotteries. Where the Minister stands by the original direction and a loss is actually suffered, the clause provides that the Board is to include in its annual report a statement to the effect that it has unsuccessfully sought a review of the direction.

Clause 15 requires the Board to prepare a corporate plan for each financial year (being a plan that specifies the goals to be achieved by, and the financial forecast for, New South Wales Lotteries) and to exercise its functions in accordance with the plan.

Division 3 - The General Manager

Clause 16 provides for the appointment of a General Manager who is to be a chief executive officer within the meaning of the Public Sector Management Act 1988.

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Clause 17 provides for the appointment of an acting General Manager who is to be empowered (during the illness or absence of the General Manager) to exercise the General Manager's functions.

Clause 18 provides that the functions of the General Manager are to manage and control (in accordance with the policies of the Board) the affairs of New South Wales Lotteries.

Division 4 - Private subsidiary corporations

Clause 19 enables New South Wales Lotteries to form, and to participate in the formation of, private subsidiary corporations. A private subsidiary corporation is to be defined as a private corporation in which New South Wales Lotteries has a controlling interest.

Division 5 - Staff

Clause 20 enables New South Wales Lotteries to employ such staff as it requires to exercise its functions.

Clause 21 enables New South Wales Lotteries to fix the salary, wages and other conditions of employment of its staff in so far as they are not fixed by or under any other Act or law.

Clause 22 enables New South Wales Lotteries to use the staff and facilities of government departments, administration offices and public and local authorities.

Clause 23 enables New South Wales Lotteries to engage consultants.

Division 6 - Finance

Clause 24 provides that the prizewinners in a public lottery are to receive such proportion of the subscriptions to the lottery as the Minister may determine and that the Government is to receive (by way of payments to the Consolidated Fund) an amount determined by the Treasurer.

Clause 25 provides for the establishment of a fund to be known as the New South Wales Lotteries Fund.

Clause 26 specifies that the Fund is to comprise all money received by New South Wales Lotteries.

Clause 27 permits expenditure incurred by New South Wales Lotteries to be paid out of the Fund.

Clause 28 provides for the investment of money held by New South Wales Lotteries.

Clause 29 fixes the financial year for New South Wales Lotteries as the year commencing 1 July.

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Division 7 - General

Clause 30 exempts certain persons from personal liability for matters and things done by them or by the Board where those matters or things were done in good faith for the purpose of executing the proposed Act or any other Act.

Clause 31 provides for the custody and use of the seal of New South Wales Lotteries.

Clause 32 provides for the service of documents on New South Wales Lotteries.

Clause 33 enables any money due to New South Wales Lotteries to be recovered, as a debt, in a court of competent jurisdiction.

PART 3 - MISCELLANEOUS

Clause 34 excludes public lotteries from the operation of the Gaming and Betting Act 1912. In particular, it ensures that agreements relating to, or made for the purposes of, a public lottery are not rendered unenforceable.

Clause 35 excludes public lotteries from the operation of the Lotteries and Art Unions Act 1901.

Clause 36 prohibits a person concerned in the promotion or conduct of a public lottery from accepting a subscription in the lottery from any person who is under the age of 18 years. The maximum penalty for this offence will be 2 penalty units,

Clause 37 prohibits the forging of a ticket, or the selling of a forged ticket, in a public lottery. The maximum penalty for this offence will be 50 penalty units or imprisonment for 2 years, or both.

Clause 38 prohibits the formation (for fee or reward) of a syndicate for the purpose of purchasing an entry in a public lottery or the publication of an advertisement that a person will accept money for a share in an entry to be purchased in a public lottery. The maximum penalty for each of these offences will be 10 penalty units.

Clause 39 provides that proceedings for an offence against the proposed Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate.

Clause 40 enables the directors and other members of a corporation by which an offence against the proposed Act or the regulations has been committed to be prosecuted for the offence.

Clause 41 provides that the proposed Act is to bind the Crown.

Clause 42 enables the Governor to make regulations for the purposes of the proposed Act.

Clause 43 repeals the State Lotteries Act 1930.

Clause 44 is a formal provision that gives effect to a Schedule of amendments to other Acts.

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Clause 45 is a formal provision that gives effect to a Schedule of savings, transitional and other provisions.

SCHEDULE 1 - PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE OF THE BOARD

Part 1 of the proposed Schedule contains provisions relating to the constitution of the Board, including provisions relating to:

- (a) the appointment of deputies (clause 1); and
- (b) the term of office of part-time members (clause 2); and
- (c) the remuneration of part-time members (clause 3); and
- (d) vacancies in the office of part-time members (clause 4); and
- (e) the filling of vacancies in the office of part-time members (clause 5); and
- (f) vacation of office by the Chairperson or Deputy Chairperson (clause 6); and
- (g) disclosure of pecuniary interests (clause 7); and
- (h) the effect of certain other Acts (clause 8); and
- (i) the proof of certain procedural matters (clause 9).

Part 2 contains provisions relating to the procedure of the Board, including provisions relating to:

- (a) general procedure (clause 10); and
- (b) quorum (clause 11); and
- (c) presiding members (clause 12); and
- (d) voting (clause 13); and
- (e) transaction of business outside meetings or by telephone (clause 14); and
- (f) committees of the Board (clause 15); and
- (g) the keeping of minutes (clause 16); and
- (h) the calling of the first meeting of the Board (clause 17).

SCHEDULE 2 - AMENDMENT OF OTHER ACTS

The proposed Schedule amends the following Acts:

Government and Related Employees Appeal Tribunal Act 1980 No. 39

The amendment will ensure that the staff of New South Wales Lotteries will have the same right of appeal to the Government and Related Employees Appeal Tribunal as the staff of the State Lotteries Office currently have.

Lotto Act 1979 No. 53

The amendments:

- (a) will permit statutory bodies that hold licences under the Act (of which New South Wales Lotteries is one) to enter into agreements with interstate authorities with respect to the joint administration of the conduct of games of lotto; and

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- (h) will allow licences under the Act to include conditions relating to the payment of prizes, the banking of subscriptions and the keeping of accounts.

Public Authorities (Financial Arrangements) Act 1987 No. 33

The amendment will enable New South Wales Lotteries to obtain financial accommodation in accordance with the Act in the same way as the State Lotteries Office can currently obtain financial accommodation.

Public Finance and Audit Act 1983 No. 152

The amendment will ensure that the Act applies to New South Wales Lotteries, as a statutory authority, in the same way as the Act currently applies to the State Lotteries Office, as an Administrative Office.

Public Sector Management Act 1988 No. 33

The amendments will ensure that New South Wales Lotteries is a declared authority for the purposes of the Act. The State Lotteries Office is currently an Administrative Office for the purposes of the Act. The amendments will also establish senior executive officer positions for New South Wales Lotteries corresponding to the existing senior executive officer positions for the State Lotteries Office.

Soccer Football Pools Act 1975 No. 45

The amendments will allow licences under the Act to include conditions relating to the payment of prizes, the banking of subscriptions and the keeping of accounts.

State Authorities Non-contributory Superannuation Act 1987 No. 212

The amendments will ensure that the staff of New South Wales Lotteries are entitled to contribute to the superannuation scheme established by the Act in the same way as the staff of the State Lotteries Office are currently entitled to contribute to that scheme.

State Authorities Superannuation Act 1987 No. 211

The amendments will ensure that the staff of New South Wales Lotteries are entitled to contribute to the superannuation scheme established by the Act in the same way as the staff of the State Lotteries Office are currently entitled to contribute to that scheme.

Superannuation Act 1916 No. 28

The amendment will ensure that the staff of New South Wales Lotteries are entitled to contribute to the superannuation scheme established by the Act in the same way as the staff of the State Lotteries Office are currently entitled to contribute to that scheme.

SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

Part 1 enables the regulations to contain savings and transitional provisions consequent on the enactment of the proposed Act (clause 1).

Part 2 contains provisions consequent on the enactment of the proposed Act, including provisions:

- (a) defining certain expressions (clause 2); and
 - (b) abolishing the State Lotteries Office (clause 3); and
 - (c) abolishing the State Lotteries Account (clause 4); and
 - (d) transferring certain government assets, rights and liabilities to New South Wales Lotteries (clause 5); and
 - (e) transferring staff from the State Lotteries Office to New South Wales Lotteries (clause 6); and
 - (f) continuing the current contracts of senior executive officers employed within the State Lotteries Office (clause 7); and
 - (g) preserving certain superannuation entitlements (clause 8); and
 - (h) preserving entitlements to annual leave, long service or extended leave and sick leave (clause 9); and
 - (i) ensuring that transferred officers cannot claim dual benefits (clause 10); and
 - (j) allowing transferred officers 3 years within which to re-apply for certain Public Service positions (clause 11); and
 - (k) continuing the employment of temporary staff (clause 12); and
 - (l) preserving the operation of the Industrial Arbitration Act 1940 (clause 13); and
 - (m) ensuring that the proposed Act does not give rise to staff redundancies (clause 14); and
 - (n) continuing existing lotteries (clause 15); and
 - (o) requiring the first annual report of New South Wales Lotteries to include matters pertaining to the work and activities of the State Lotteries Office since 1 July 1990 (clause 16); and
 - (p) preserving the State Lotteries (General) Regulation 1989 and the State Lotteries (Instant Lotteries) Regulation 1983 (clause 17); and
 - (q) providing for the construction of certain references (clause 18).
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