

[Act 1996 No 86]



New South Wales

Public Lotteries Bill 1996

Explanatory note

This explanatory note relates to this Bill as introduced into Parliament.*

This Bill is cognate with the *New South Wales Lotteries Corporatisation Bill 1996*.

Overview of Bill

The objects of this Bill are:

- (a) to make provision for the proper conduct of public lotteries in the public interest and to minimise any harm associated with public lotteries, and
- (b) to ensure that revenue derived from the conduct of public lotteries is accounted for in a proper manner.

For that purpose, the Bill amends and consolidates the law relating to the conduct of public lotteries and repeals the *Soccer Football Pools Act 1975*, the *Lotto Act 1979* and the *New South Wales Lotteries Act 1990* and regulations made under those Acts.

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

The Bill authorises New South Wales Lotteries Corporation and others to conduct public lotteries, but only under the authority of a licence issued by the Minister. In particular, the Bill provides, in accordance with the conditions of the licence, for the allocation of a percentage of subscriptions for the payment of prizes and for the allocation of a percentage of subscriptions (and other amounts) for payment as duty to the Treasurer.

Outline of provisions

Part 1 Preliminary

Clause 1 sets out the name (also called 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 states the objects of the proposed Act.

Clause 4 defines certain words and expressions used in the proposed Act.

Clause 5 sets out the meaning of *public lottery*. The expression is defined to include draw lotteries, bingo, instant lotteries, lotto, keno, powerball, soccer football pools or any other lottery.

Part 2 Conduct of public lotteries

Clause 6 declares that public lotteries conducted by a licensee are not unlawful (and accordingly are not unlawful games under the *Gaming and Betting Act 1912*).

Clause 7 provides that an agreement relating to a public lottery conducted by a licence is not void.

Clause 8 makes it an offence for a licensee to conduct a public lottery that is not authorised by the licence or is in contravention of its conditions or of the proposed Act.

Clause 9 provides that a person is not guilty of an offence only because the person is an entrant in a public lottery conducted by a licensee is concerned in the conduct of such a public lottery or prints or publishes anything in connection with such a public lottery.

Part 3 Licences to conduct public lotteries

Clause 10 allows an application for a licence to conduct a public lottery to be made to the Minister by one or more persons.

Clause 11 enables a statutory authority to apply for a licence.

Clause 12 deals with the grant of a licence by the Minister. A licence under the proposed Act is not transferable.

Clause 13 specifies conditions that may be included in a licence.

Clause 14 allows the Minister to withdraw the approval or appointment of an agent of a licensee under the conditions of a licence.

Clause 15 enables the Minister to alter the conditions of a licence.

Clause 16 provides that a licence is in force for the period specified by the Minister in the licence.

Clause 17 provides for the circumstances in which the Minister may take disciplinary action against a licensee, including action to cancel or suspend a licence or to impose a penalty on a licensee.

Clause 18 enables the Minister to require a licensee to take rectification action as an alternative to the Minister taking disciplinary action.

Clause 19 enables the Minister to suspend a licence temporarily to secure compliance by a licensee with a direction given by the Minister under Division 2 of Part 7 (Enforcement) of the proposed Act.

Clause 20 enables the Minister to appoint a person to complete the conduct of a public lottery in circumstances where a licence is cancelled, revoked or suspended.

Clause 21 deals with the surrender of licences, and the revocation of licences on the death of a licensee.

Part 4 Rules for conduct of public lotteries

Clause 22 requires a licensee to make rules relating to the conduct of a public lottery by the licensee.

Clause 23 provides that such rules, in order to have effect, must be approved by the Minister and published in the Gazette.

Clause 24 requires a licensee or agent either to display a copy of the rules or to have a copy of them available for public inspection, free of charge. If the Minister has approved an extract of the rules, the extract must be displayed at each place where entries for the public lottery are accepted. A licensee or agent who displays an extract only must also keep a copy of the rules and produce them, free of charge, for inspection when requested.

Clause 25 provides that a rule that becomes inconsistent with the proposed Act, regulations or conditions of the relevant licence ceases to have effect to the extent of the inconsistency.

Part 5 Financial provisions relating to public lotteries

Division 1 Prize fund

Clause 26 provides for the licensee to pay into the prize fund kept in respect of the licensee the percentage, specified in the conditions of the licence, of the subscriptions received for public lotteries conducted by the licensee.

Clause 27 deals with the establishment of a prize fund account nominated by the Minister. The clause specifies the types of payments that may be made from the fund.

Division 2 Duty payable to Treasurer

Clause 28 requires a licensee to pay to the Treasurer, as general duty for the licence, the percentage, specified in the conditions of the licence, of subscriptions received in relation to public lotteries conducted by the licensee.

Clause 29 requires, if the licence so provides, that a licensee also pay to the Treasurer, as licence duty for the licence, an amount specified in the conditions of the licence.

Clause 30 requires the licensee to pay an additional amount of duty for late payment of general duty or licence duty.

Clause 31 provides that duty paid to the Treasurer must be paid into the Consolidated Fund.

Clause 32 enables licence conditions relating to duty to be identified in the licence as irrevocable, that is, only able to be altered at the request of the licensee.

Clause 33 deals with the payment of duty when public lotteries are conducted jointly with other States, Territories or countries.

Division 3 Miscellaneous

Clause 34 continues the Sport and Recreation Fund in the Special Deposits Account comprising certain revenue from soccer football pools for payment for use for sporting and recreational facilities.

Clause 35 makes it an offence for a person to provide false or misleading information in relation to subscriptions for or revenue from the conduct of a public lottery to an inspector or other person exercising functions under the proposed Act.

Clause 36 provides for the recovery of duty and other amounts required to be paid under the proposed Act.

Part 6 Other provisions relating to public lotteries

Division 1 General

Clause 37 enables a statutory authority to be appointed as an agent of a licensee.

Clause 38 prohibits the identity of a prizewinner in a public lottery from being published if the person has requested anonymity. The clause permits a licensee to publicise the venues or geographic locations at which prizewinning tickets are sold and the amounts of prizes won.

Clause 39 prohibits the approval for publication or the publication of certain types of advertising in connection with the conduct of a public lottery.

Clause 40 provides that the rules may make provision for the authorisation of agents to promote or take part in forming a betting syndicate in relation to public lotteries conducted by the licensee.

Clause 41 prohibits the promotion or formation of unauthorised betting syndicates.

Clause 42 prohibits the advertising of unauthorised betting syndicates.

Clause 43 prohibits the use of credit to pay for an entry in a public lottery.

Division 2 Minors

Clause 44 prohibits a licensee or agent from accepting an entry, or payment for an entry or subscription, in a public lottery from a person under 18 years of age (a minor).

Clause 45 prohibits a person from subscribing to a public lottery on behalf of a minor. Certain exceptions are specified, including where the person subscribing to the public lottery was a parent or guardian of the minor.

Clause 46 prohibits a minor from subscribing to a public lottery.

Clause 47 prevents a minor from being imprisoned or detained in a detention centre for a failure to pay a penalty under the proposed Act.

Division 3 Instant lotteries

Clause 48 defines *instant lottery* for the purposes of the Division.

Clause 49 applies the Division to future and previous instant lotteries.

Clause 50 makes provision for the verification of tickets and the payment of prizes in instant lotteries.

Clause 51 re-enacts the existing provision for the clarification of the payment of prizes for matching 3 symbols following the case of *State Lotteries Office v Burgin*.

Part 7 Enforcement

Division 1 Provision of information to Minister

Clause 52 requires licensees and agents to inform the Minister of changes in their circumstances of the kind prescribed by the regulations.

Clause 53 enables the Minister to obtain relevant information relating to licensees and their agents.

Clause 54 enables the Minister to obtain relevant information about key employees of a person.

Clause 55 enables the Minister to require key employees of a licensee to provide relevant information.

Clause 56 provides that the Minister may direct a licensee to terminate the employment of a key employee who refuses to provide relevant information.

Clause 57 deals with any such termination of employment of a key employee.

Clause 58 provides for the destruction of finger prints and palm prints of a key employee after they cease to be key employees.

Division 2 Directions by Minister

Clause 59 enables the Minister to give directions to licensees to protect the integrity of public lotteries.

Clause 60 provides that the Minister may direct a licensee to terminate an agency arrangement if an agent fails to comply with a direction of the Minister under clause 59.

Clause 61 provides that the Minister may direct the licensee to terminate the employment of a key employee because the criminal record, character or reputation of the employee seriously prejudices the integrity of a public lottery.

Division 3 Contracts

Clause 62 contains definitions. *Controlled contract* means a contract of a specified kind that concerns the supply of goods and services to a licensee or agent in connection with the conduct of a public lottery or other matters prescribed by the regulations.

Clause 63 provides for the Minister to be notified of a proposal to enter into, or vary, a controlled contract and for the Minister to object, in which event the licensee or agent must not enter into the contract or variation of contract.

Clause 64 provides that the Minister may require a party to a controlled contract to show cause why the contract should not be terminated in the public interest, to consider submissions made and to terminate the contract.

Clause 65 deals with the effect of the termination of a controlled contract.

Clause 66 makes it an offence for a party to a controlled contract that is terminated to give any further effect to the contract.

Clause 67 enables the Minister to require parties to a controlled contract to give relevant information.

Division 4 Investigations

Clause 68 enables the Minister to appoint a person to investigate and report on the conduct of a public lottery or a licensee, agent or associated person.

Division 5 Inspectors

Clause 69 provides for the appointment of inspectors by the Minister.

Clause 70 requires inspectors to be given and to produce identity cards.

Clause 71 provides inspectors with a right of entry into premises.

Clause 72 provides for the issue of search warrants to inspectors.

Clause 73 deals with the powers of inspectors.

Clause 74 sets out offences relating to inspectors.

Division 6 Proceedings for offences

Clause 75 requires proceedings for offences to be dealt with summarily.

Clause 76 extends the time for instituting proceedings for offences from 6 months to 2 years.

Clause 77 enables inspectors, police officers or other persons prescribed by the regulations to bring proceedings for offences.

Clause 78 makes directors and others liable for offences committed by corporations if they knowingly authorise or permit the corporation to commit the offence.

Part 8 Miscellaneous

Clause 79 provides that the Act binds the Crown.

Clause 80 imposes a requirement of secrecy on persons who acquire information in the exercise of functions under the proposed Act.

Clause 81 enables the Minister or Treasurer to delegate functions under the proposed Act.

Clause 82 provides for the service of documents.

Clause 83 empowers the making of regulations.

Clause 84 repeals the Acts and regulations being consolidated by the proposed Act.

Clause 85 gives effect to the Schedule of amendments of other Acts.

Clause 86 gives effect to the Schedule of savings, transitional and other provisions.

Clause 87 provides for a review of the proposed Act after 5 years.

Schedule 1 contains amendments of other Acts.

Schedule 2 contains savings, transitional and other provisions. In particular, the Schedule preserves existing licences under the repealed Acts and provides for the exclusive issue of licences to New South Wales Lotteries Corporation until 1 July 2007.