

# Public Lotteries Act 1996 No 86

[1996-86]



New South Wales

## Status Information

### Currency of version

Historical version for 1 July 2000 to 14 July 2001 (accessed 16 August 2024 at 20:54)

Legislation on this site is usually updated within 3 working days after a change to the legislation.

### Provisions in force

The provisions displayed in this version of the legislation have all commenced.

### Notes—

- **Does not include amendments by**  
[Gambling Legislation Amendment \(Responsible Gambling\) Act 1999 No 49](#), Sch 4 [2]-[4] (not commenced)
- **See also**  
[Corporations \(Consequential Amendments\) Bill 2001](#)

### Authorisation

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# Public Lotteries Act 1996 No 86



New South Wales

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# Public Lotteries Act 1996 No 86



New South Wales

An Act to amend and consolidate the law relating to the conduct of public lotteries; to repeal the *Soccer Football Pools Act 1975*, the *Lotto Act 1979* and the *New South Wales Lotteries Act 1990* and regulations made under those Acts; to make consequential amendments to other Acts; and for other purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act is the *Public Lotteries Act 1996*.

### 2 Commencement

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

### 3 Objects of Act

The objects of this Act 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.

### 4 Definitions

(1) In this Act:

**agent** of a licensee means an agent appointed or approved in accordance with the conditions of the licence held by the licensee.

**commission**, in relation to a public lottery, means an amount:

- (a) paid to, deducted by or retained by an agent in connection with a subscription to the public lottery (whether or not in the person's capacity as an agent of the licensee conducting the public lottery), and
- (b) determined by or in accordance with, and identified as commission in, the

conditions of the relevant licence or the rules of the public lottery.

**conduct** a public lottery includes promote, organise and operate the public lottery.

**corresponding law** means a law of another State, Territory or country under which a person is authorised to conduct a public lottery.

**exercise** a function includes perform a duty.

**function** includes a power, authority or duty.

**inspector** means a person appointed under section 69.

**key employee** means a person (whether or not appointed under a contract of service) who is:

- (a) employed in a managerial or supervisory capacity in relation to the conduct of a public lottery by a licensee, or
- (b) authorised to make decisions, involving the exercise of his or her discretion, that regulate the operations of a licensee or an agent in relation to the conduct of a public lottery by the licensee, or
- (c) concerned or engaged, in any manner prescribed by the regulations, in the conduct of a public lottery by a licensee.

**licence** means a licence in force under this Act.

**licensee** means the holder of a licence.

**outgoings** for a public lottery conducted by a licensee means the amount required to be paid by the licensee in accordance with section 26 (1) into the prize fund kept in respect of the licensee.

**player loss** on a public lottery conducted by a licensee means the difference between:

- (a) the subscriptions to the public lottery and, if the conditions of the licensee's licence so require, the commission payable in respect of those subscriptions, and
- (b) the outgoings for the public lottery.

**public lottery** has the meaning set out in section 5.

**rules** of a public lottery means the rules relating to the conduct of the public lottery in force under Part 4.

**subscriptions** to a public lottery means the amounts paid for entries in the public lottery but does not include commission unless this Act otherwise expressly provides.



**Note—**

See sections 26 (3), 28 (4) and 29 (6).

**symbol** includes amount, word or picture.

(2) Notes in the text of this Act do not form part of this Act.

**5 Meaning of “public lottery”**

(1) For the purposes of this Act, **public lottery** means any lottery, and includes:

(a) a game of chance (including a game such as draw lottery or bingo) in which:

(i) persons choose or are allocated numbers, and

(ii) certain numbers are subsequently selected at random as prizewinning numbers, and

(iii) prizes are distributed to persons holding the prizewinning numbers, or

(b) a game of chance (including a game such as instant lottery) in which:

(i) certain numbers are designated as prizewinning numbers, and

(ii) persons are allocated numbers that have previously been selected at random, and

(iii) prizes are distributed to persons holding the prizewinning numbers, or

(c) a game of chance (including a game such as lotto, keno or powerball) in which persons choose or attempt to forecast, from designated numbers, fewer numbers to be drawn on a random basis, or

(d) the game known as soccer football pool in which persons choose or attempt to forecast, from designated numbers, fewer numbers that represent the outcome of soccer football matches.

(2) For the purposes of this section, **numbers** includes:

(a) symbols, or

(b) a single number or symbol, or

(c) a group or groups of numbers or of symbols (or of numbers and symbols), or

(d) a combination or combinations of numbers or of symbols (or of numbers and symbols), or

(e) a distribution or distributions of numbers or of symbols (or of numbers and symbols).

- (3) For the purposes of this section, a person **chooses** numbers if the person chooses the numbers personally or if the numbers are chosen for the person.

## **Part 2 Conduct of public lotteries**

### **6 Public lotteries not unlawful**

- (1) A public lottery conducted by a licensee is not unlawful, despite the provisions of any other Act or law.
- (2) In particular:
- (a) any such public lottery is not an unlawful game for the purposes of the *Unlawful Gambling Act 1998*, and
  - (b) the *Lotteries and Art Unions Act 1901* does not apply to or in respect of any such public lottery.

### **7 Contracts or agreements relating to public lotteries enforceable**

- (1) An agreement is not to be regarded as void or voidable, or otherwise unenforceable, merely because it relates to, or is made for the purposes of, a public lottery conducted by a licensee.
- (2) Without limiting subsection (1), section 56 of the *Unlawful Gambling Act 1998* does not apply to or in respect of such a public lottery.

### **8 Unlawful conduct of public lottery by licensee**

A licensee who conducts a public lottery is guilty of an offence if:

- (a) the licence does not authorise the conduct of that public lottery or public lotteries of that kind, or
- (b) the public lottery is conducted in contravention of a requirement of or made under this Act, the regulations, the rules or the conditions of the licence.

Maximum penalty: 100 penalty units.

### **9 Exculpation of certain persons from certain offences**

- (1) A person is not guilty of an offence under any law merely because:
- (a) the person is an entrant in a public lottery conducted by a licensee, or
  - (b) the person is or acts for a licensee and the person conducts a public lottery in accordance with the requirements of or made under this Act, the regulations, the rules and the conditions of the licensee's licence, or
  - (c) in relation to a public lottery conducted by a licensee in the manner referred to in

paragraph (b), the person:

- (i) is concerned in the conduct of the public lottery, or
- (ii) prints or publishes any thing relating to the conduct of the public lottery, or
- (iii) is the owner or occupier of any premises used for the purpose of, or in connection with, the conduct of the public lottery, or
- (d) the person prints or publishes the results of, or information as to the prize money payable in respect of, a public lottery conducted under a corresponding law.

(2) This section does not affect any offence against this Act.

### **Part 3 Licences to conduct public lotteries**

#### **10 Application for licence**

- (1) An application for a licence to conduct a public lottery may be made to the Minister by any one or more persons.
- (2) An application is to be in such form, and accompanied by such documents, as the Minister requires.
- (3) An application may not be made by or on behalf of a person who is under the age of 18 years.

#### **11 Special provisions relating to applications by statutory authorities**

- (1) Without limiting section 10, an application for a licence may be made by a statutory authority.
- (2) A statutory authority that is granted a licence is, to the extent that it is not otherwise authorised to do so, authorised to do anything that is necessary or expedient to be done by the statutory authority by or under the authority of this Act, the regulations, the rules or the conditions of the licence.
- (3) In this section, **statutory authority** includes:
  - (a) a person holding or occupying a particular office or position under any Act or law, or
  - (b) a body, whether incorporated or unincorporated, constituted by or under any Act or law (including a State owned corporation).

#### **Note—**

See special transitional provisions in clauses 3 and 4 of Schedule 2 for licences to which New South Wales Lotteries Corporation is, or may be, entitled.

## **12 Grant of licence**

- (1) The Minister may, after considering an application for a licence:
  - (a) grant a licence to the person making the application, or
  - (b) refuse to grant a licence.
- (2) The Minister may grant a licence subject to any conditions determined by the Minister and specified in the licence.
- (3) A licence may be granted to one person or 2 or more persons jointly.
- (4) A licensee may not transfer a licence to another person.

## **13 Conditions of licence**

- (1) The conditions of a licence may include (in addition to any other conditions referred to in this Act) conditions relating to the following:
  - (a) the approval or appointment of agents by the Minister or any other person,
  - (b) the withdrawal by the Minister of any approval or appointment of agents,
  - (c) the payment of and accounting for commission,
  - (d) the maximum amount or rate of commission,
  - (e) the application of and accounting for subscriptions received by the licensee, including the payment of prizes from the subscriptions, the deposit of subscriptions and the accounts to be kept in respect of the subscriptions,
  - (f) the contents of the rules for a public lottery,
  - (g) the display, by the licensee and the licensee's agents, of the rules and of other information relating to the conduct of a public lottery,
  - (h) the frequency with which a public lottery must or may be conducted by the licensee,
  - (i) the form and manner of entry in a public lottery,
  - (j) the printing of tickets, rules or other documents relating to the conduct of a public lottery,
  - (k) the amount payable in respect of each entry in a public lottery,
  - (l) the minimum number of entries that one person may make in one public lottery,
  - (m) the maximum number of entries that one person may make in one public lottery,

- (n) in respect of a public lottery conducted by a draw, the attendance at each draw of a person nominated by the Minister,
  - (o) the number of entries that may be made in a public lottery, the amount of money prizes and the nature of other prizes,
  - (p) the minimum amounts of prizes to be paid in respect of a public lottery,
  - (q) the subsidising by the licensee of the prize fund to the extent necessary to enable prizes to be paid at the minimum amounts specified by the conditions,
  - (r) the provision by the licensee of a bond or other financial guarantee to ensure payment to the Minister of the duty, in respect of a public lottery, specified in Part 5,
  - (s) 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 public lottery, including the operating costs and other costs incurred by the licensee in the conduct of the public lottery,
  - (t) the time or times at which, and the form in which, the information must be furnished to the Minister,
  - (u) the auditing of the financial records of the licensee relating to the conduct of a public lottery, including records of the operating costs and other costs incurred by the licensee in the conduct of the public lottery,
  - (v) the conduct of a promotional lottery, being a public lottery conducted by a licensee for the purpose of promoting or marketing the public lottery and for which no subscription or other amount is charged by the licensee or an agent,
  - (w) the approval by the Minister of contracts or arrangements, entered into by the licensee or the licensee's employees or agents, or by any other person, for the purpose of conducting a public lottery,
  - (x) the approval by the Minister of persons engaged in the repair or maintenance of any device or equipment used in relation to the conduct of a public lottery,
  - (y) the security requirements in respect of a public lottery,
  - (z) the approval by the Minister of any electrical or mechanical device or equipment that is used by the licensee or agent in connection with the registration or processing of an entry in a public lottery or that otherwise affects the outcome of the public lottery,
  - (aa) any other matters that the Minister thinks fit.
- (2) The concurrence of the Treasurer must be obtained to the inclusion in a licence of a

condition specifying the general duty or licence duty, or both, to be paid by the licensee to the Treasurer in accordance with Part 5.

**Note—**

Part 5 provides for the inclusion of conditions in the licence relating to the prize fund for a public lottery, and to the payment of duty by the licensee in connection with the grant of the licence and the conduct of the public lottery.

- (3) A licence may make provision for advice to be furnished to the Minister in connection with the exercise of the Minister's functions under this Act.

**14 Withdrawal of approval or appointment of agent under conditions of licence**

- (1) The Minister may (without limitation) withdraw the approval or appointment of an agent of a licensee under the conditions of a licence if the Minister is of the opinion that the integrity or apparent integrity of a public lottery conducted by the licensee is likely to be seriously prejudiced because of the criminal record, character or reputation of the agent.
- (2) An agent ceases to be an agent of the licensee if the approval or appointment is so withdrawn, and any arrangement under which the agent was appointed as the agent of the licensee is taken to be terminated.
- (3) The Minister is not to withdraw the approval or appointment unless the Minister:
- (a) has given the licensee and the agent notice, in writing, of the proposed withdrawal, and
  - (b) has invited the licensee and the agent to make representations to the Minister, within the period specified in the notice, concerning the proposed withdrawal, and
  - (c) has, after the end of that period, considered any representations so made.
- (4) The withdrawal of the approval or appointment takes effect:
- (a) on the day that is 14 days after the day on which a notice advising the licensee and the agent of the withdrawal is given to the licensee and the agent by the Minister, or
  - (b) if a later day is specified in the notice—on that day.
- (5) It is taken to be a condition of any arrangement under which a person is appointed as an agent of a licensee that, in the event of the termination of the arrangement because of the withdrawal of an approval or appointment under this section, the licensee does not incur any liability to the agent by reason only of that termination (except to the extent agreed on between the licensee and the agent).

### 15 Alteration of conditions of licence

- (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 a condition.
- (2) The Minister must not make an alteration under this section unless the Minister:
  - (a) has given the licensee notice, in writing, setting out the terms of the proposed alteration and inviting the licensee to make representations to the Minister, within the period specified in the notice, concerning the proposed alteration, and
  - (b) has, after the end of that period, considered any representations so made by or on behalf of the licensee.
- (3) An alteration under this section takes effect:
  - (a) on the day that is 7 days after the day on which a notice advising the licensee of the alteration is given to the licensee by the Minister, or
  - (b) if a later day is specified in the notice—on that day.
- (4) Subsections (2) and (3) do not apply to an alteration made at the request of a licensee. Such an alteration takes effect on the day specified in the notice advising of the alteration that is given by the Minister to the licensee.

### 16 Term of licence

The period during which a licence is in force is the period specified by the Minister in the licence.

### 17 Disciplinary action against licensee

- (1) In this Part, **disciplinary action** means any one or more of the following actions in relation to a licence:
  - (a) the cancellation or suspension of the licence,
  - (b) the imposition on the licensee of a monetary penalty (not exceeding \$250,000),
  - (c) the alteration of the conditions of the licence by the Minister (other than under section 15),
  - (d) the service of a letter of reprimand by the Minister on the licensee.
- (2) If a licensee:
  - (a) fails to comply with this Act or the regulations, or
  - (b) fails to comply with the rules, or
  - (c) fails to comply with a condition of the licence or a direction given to the licensee

under Division 2 of Part 7, or

- (d) fails to use reasonable endeavours to ensure that the licensee's agents comply with this Act, the regulations or any direction given by the Minister under Division 2 of Part 7, or
- (e) being a natural person:
  - (i) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit, or
  - (ii) becomes an incapacitated person and incapable of conducting a public lottery in accordance with this Act, or
  - (iii) is convicted of an offence involving fraud or dishonesty, or
- (f) being a corporation:
  - (i) enters into or authorises a dealing with or in respect of shares of, or other instruments issued by, the corporation without the consent in writing of the Minister that, in the opinion of the Minister, affects the control of the corporation, or
  - (ii) becomes an externally administered corporation within the meaning of the *Corporations Law*, or
  - (iii) fails to terminate promptly the employment of a person concerned in the management of the licensee who is convicted of an offence involving fraud or dishonesty,

the Minister may serve on the licensee a notice in writing affording the licensee an opportunity to show cause within 14 days (or such longer period as the Minister may specify in the notice) why disciplinary action should not be taken against the licensee on the ground specified in the notice.

**Note—**

Division 2 of Part 7 enables the Minister to give directions to licensees and other persons engaged in the conduct of public lotteries on a licensee's behalf to protect the integrity of public lotteries and to require the termination of arrangements between licensees and agents and the employment of key employees of licensees for a similar purpose.

- (3) The licensee may, within the period allowed by the notice, arrange with the Minister for the making of submissions to the Minister as to why disciplinary action should not be taken and the Minister is to consider any submissions so made.
- (4) The Minister may then decide that it is appropriate that certain disciplinary action be taken against the licensee and may either:



- (a) take that disciplinary action by giving written notice of the action to the licensee,  
or
  - (b) as an alternative to taking that disciplinary action, take action under section 18.
- (5) Disciplinary action may be taken against a person whether or not the person has been prosecuted, convicted or penalised for any contravention that is the grounds for the action.
- (6) Disciplinary action takes effect when notice of it is given or on a later date specified in the notice.
- (7) The fact that disciplinary action is taken by the Minister under this section does not prevent the Minister from taking the same or other disciplinary action under this section if the contravention continues or a fresh contravention occurs.
- (8) A monetary penalty imposed under this section may be recovered as a debt due to the Crown in a court of competent jurisdiction.

#### **18 Rectification order as alternative to disciplinary action**

- (1) As an alternative to taking disciplinary action against a licensee, the Minister may direct the licensee in writing to take specified action within a specified time to rectify the matter that constitutes the basis for taking the disciplinary action concerned.
- (2) If a licensee fails to take the specified action within the specified time, the Minister may proceed to take the relevant disciplinary action by giving written notice of the action to the licensee, and the disciplinary action takes effect when the notice is given or on a later date specified in the notice.

#### **19 Temporary suspension of licence**

- (1) The Minister may take action under this section, without prior notice to a licensee, in order to secure compliance by a licensee with a direction given to the licensee by a notice under Division 2 of Part 7.

**Note—**

See note to section 17 (2) as to the operation of Division 2 of Part 7.

- (2) If the Minister considers it necessary or expedient for the purposes of this section, the Minister may, by notice, suspend a licensee's licence:
- (a) until a date specified in the notice of suspension, or
  - (b) if the notice so specifies—until the Minister, being satisfied that the relevant direction has been complied with, further notifies the licensee.

## **20 Completion of public lottery following cancellation, revocation or suspension of licence**

- (1) Nothing in this Part prevents the Minister, if a licence is cancelled, revoked or taken to have been revoked, or is suspended, from authorising a person to complete the conduct of any game in a public lottery that was in the course of being conducted when the licence was cancelled, revoked or taken to have been revoked, or was suspended.
- (2) In that event:
  - (a) the person so authorised is taken to be the licensee under the cancelled, revoked or suspended licence, and
  - (b) the cancelled, revoked or suspended licence is, for the purposes of enabling the completion of the conduct of the public lottery, taken not to have been cancelled, revoked or suspended.

## **21 Surrender or revocation of licence**

- (1) A licensee may surrender the licence by giving notice in writing to the Minister. If the licence is held by more than one licensee, all licensees must surrender the licence.
- (2) The surrender takes effect only if the Minister consents to the surrender.
- (3) If a licensee who is a person other than a corporation dies, the licence is taken to have been revoked on the death of the licensee.

## **Part 4 Rules for conduct of public lotteries**

### **22 Making of rules**

- (1) A licensee is required to make rules, not inconsistent with this Act, the regulations or the conditions of the licensee's licence, for or with respect to the conduct by the licensee of the public lottery.
- (2) Without limiting subsection (1), the rules may make provision as to the liability of a licensee, agent or other person acting under the authority or on behalf of a licensee in connection with the following:
  - (a) the handling of applications for subscriptions to a public lottery,
  - (b) the printing and issue of tickets in a public lottery,
  - (c) the determination of the entitlement (if any) of a subscriber to a prize in a public lottery,
  - (d) the payment of prizes in, or the refund of money subscribed to, a public lottery.
- (3) The power to make rules under this section includes power to amend or repeal any

rules made in the exercise of that power.

### **23 Approval and publication of rules**

- (1) Rules made under this Part must be submitted to the Minister for approval and have no effect unless they are approved in writing by the Minister.
- (2) If the rules are so approved, the licensee must cause the rules to be published in the Gazette.
- (3) Rules take effect:
  - (a) on and from the day on which they are published in the Gazette, or
  - (b) if a later day is specified in the rules—on and from that day.

### **24 Display of rules**

- (1) A licensee or agent who accepts entries in a public lottery must:
  - (a) display a complete copy of the rules of the public lottery in a prominent position at each place where those entries are accepted, or
  - (b) make available a complete copy of the rules of the public lottery for inspection by any person free of charge on request.
- (2) If the Minister so directs a licensee, the licensee or agent of the licensee must also display an extract of the rules approved by the Minister in a prominent position at each place where entries in the public lottery are accepted.
- (3) A licensee or agent who, in accordance with this section, displays an extract only of the rules of a public lottery at any place must keep a complete copy of those rules at that place and must produce them for inspection by any person free of charge on request.

Maximum penalty: 10 penalty units.

### **25 Rules inconsistent with Act**

If a rule becomes inconsistent with this Act, the regulations or the conditions of a licence (because of amendment of this Act or the regulations or alteration of the conditions of the licence), the rule ceases to have effect to the extent of the inconsistency.

## **Part 5 Financial provisions relating to public lotteries**

### **Division 1 Prize fund**

#### **26 Application of subscriptions to prize fund**

- (1) Out of the subscriptions received by a licensee in respect of public lotteries conducted

by the licensee, the licensee must pay into the prize fund kept in respect of the licensee an amount that, when added to any amount already applied by the licensee to the payment of prizes won in those public lotteries, is not less than the requisite percentage of the subscriptions for those public lotteries.

- (2) The requisite percentage is the percentage specified in the conditions of the licence.
- (3) In this section, a reference to subscriptions includes, if the conditions of the licence so require, a reference to commission payable in respect of those subscriptions.

## **27 Prize fund account**

- (1) The prize fund kept in respect of the licensee is to be kept in an account in a bank, building society or credit union that is nominated or approved by the Minister.
- (2) Payments under this Division are to be made in accordance with the conditions of the licence.
- (3) A licensee may draw on the prize fund:
  - (a) in order to apply money from the fund in accordance with subsection (8), or
  - (b) in order to make payments in respect of unclaimed prizes or disputed money in accordance with regulations under subsection (9),

unless the Minister has by notice in writing directed the bank, building society or credit union at which the prize fund is kept not to accommodate drawings by the licensee on the fund.

- (4) If the Minister has so directed a bank, building society or credit union, the Minister may draw on the prize fund:
  - (a) in order to enable the completion of any public lottery commenced by the licensee, or
  - (b) in order to apply money from the fund in accordance with subsection (8) (c) towards the reimbursement of the licensee, or
  - (c) in order to make payments in respect of unclaimed prizes or disputed money, in accordance with regulations under subsection (9), that the licensee is unable to make from the fund because of the direction.
- (5) Money for the time being credited to a prize fund and not immediately required for the payment of prizes may be invested in such manner as the licensee concerned requests and the Minister approves in writing.
- (6) The proceeds of an investment, or of any realisation of an investment, under subsection (5) must be paid into the relevant prize fund and form part of the fund.

- (7) At the request of the licensee, investments made from the prize fund are to be realised (unless there are special circumstances that warrant not doing so).
- (8) Apart from investment under subsection (5), money forming part of a prize fund may be applied only:
  - (a) towards the payment by the licensee of prizes won in public lotteries conducted by the licensee, and
  - (b) towards the payment, from a prize reserve fund located within the prize fund in accordance with the conditions of the licence, of the amounts specified to be paid from the prize reserve fund by the conditions of the licence, and
  - (c) to the extent that the conditions of the licence require any subsidy of the prize fund by the licensee—towards the reimbursement of the licensee, and
  - (d) towards payment of such costs for operating the prize fund as the Minister approves in writing, and
  - (e) in the case of a licence that is no longer in force—in accordance with regulations under subsection (10).
- (9) The regulations may make provision for or with respect to the disposal of unclaimed prizes or of money as to which any dispute has arisen.
- (10) The regulations may make provision for or with respect to the disposal by the Minister of any money in a prize fund (being money that is not required for payment of prizes won in a public lottery) when a licence is no longer in force.

## **Division 2 Duty payable to Treasurer**

### **28 Payment of general duty**

- (1) Out of the subscriptions received by a licensee in respect of public lotteries conducted by the licensee, the licensee must pay to the Treasurer, as general duty, an amount equal to a requisite percentage of:
  - (a) the subscriptions for those public lotteries, or
  - (b) the player loss on those public lotteries,as determined by the conditions of the licence.
- (2) The requisite percentage is the percentage specified in the conditions of the licence.
- (3) A licensee must, within 7 days after the day on which entries in respect of a public lottery close, or within such other period as the Treasurer may determine, pay to the Treasurer the general duty required by this section in respect of those public lotteries.

- (4) In this section, a reference to subscriptions includes, if the conditions of the licence so require, a reference to commission payable in respect of those subscriptions.

## **29 Payment of licence duty**

- (1) If the conditions of a licence so require, a licensee must also pay to the Treasurer, as licence duty for the licence, an amount determined in accordance with the conditions of the licence.
- (2) Different amounts may be determined for licences for different public lotteries.
- (3) An aggregate amount may be determined for several public lotteries conducted under the same licence or under different licences held by the same licensee.
- (4) The amount determined may (but need not) be:
- (a) a flat or periodic amount, or
  - (b) a percentage of the subscriptions received by the licensee in respect of public lotteries conducted by the licensee, or
  - (c) a percentage of the player loss on the public lotteries conducted by the licensee.
- (5) A licensee must, within the period specified in the conditions of the licence, or within such other period as the Treasurer may determine, pay to the Treasurer the licence duty required by this section in respect of the licence.
- (6) In this section, a reference to subscriptions includes, if the conditions of the licence so require, a reference to commission payable in respect of those subscriptions.

## **30 Additional duty because of non-payment**

- (1) If payment of general duty or licence duty is not made by the due date, the licensee must, in addition to that duty, pay to the Treasurer, as additional general duty or licence duty, an amount that is equal to the requisite percentage of the amount of the unpaid duty in respect of each month, calculated from the due date, during which that duty remains unpaid.
- (2) The requisite percentage is 10 per cent or, if another percentage is specified by the conditions of the licence, the percentage so specified.
- (3) Despite subsection (1), the Treasurer may, if the Treasurer thinks fit, forgo the whole or any part of any additional duty, or allow further time for the payment of any additional duty.

## **31 Payment of duty into Consolidated Fund**

The Treasurer must pay any money paid to the Treasurer as duty under this Division into the Consolidated Fund.

### **32 Irrevocable licence conditions**

- (1) A licence condition relating to duty under this Division may be identified in the licence as an irrevocable condition.
- (2) Any such condition may not be altered under section 15 except at the request of the licensee or in accordance with any agreement between the Treasurer and the licensee.

### **33 Sharing of duty with participating areas**

- (1) In this section, ***participating area***, in relation to any class or description of public lotteries, means any State, Territory or country declared under subsection (2) to be a participating area for the purposes of this section in relation to public lotteries of that class or description.
- (2) The Minister may, by order published in the Gazette, declare to be a participating area for the purposes of this section any State, Territory or country in which it is lawful to conduct public lotteries of any class or description under this Act.
- (3) Out of any duty received by the Treasurer under this Division, the Treasurer may, in respect of a participating area, pay in accordance with subsection (4) such proportion as the Treasurer may from time to time determine of:
  - (a) so much of the duty as, in the opinion of the Treasurer, was paid to the Treasurer in respect of:
    - (i) subscriptions paid to any person in that participating area, being subscriptions to any public lottery in respect of which the area concerned is a participating area, or
    - (ii) player loss incurred in relation to a person who subscribed to the lottery in a participating area, and
  - (b) any additional duty that, in the opinion of the Treasurer, was paid to the Treasurer and is attributable to the late payment of the portion of any duty referred to in paragraph (a).
- (4) Nothing in subsection (3) prevents the Treasurer, in respect of a participating area, from determining to pay the whole of the duty referred to in subsection (3) (a) and the whole of any additional duty referred to in subsection (3) (b).
- (5) Any payment that may be made under subsection (3) in respect of a participating area must be made to such person, on behalf of the State, Territory or country that is the participating area, as the Minister considers appropriate.
- (6) Any payment that may be made under or in accordance with subsections (3) and (5) may be made without further authority than those subsections.

## Division 3 Miscellaneous

### 34 Sport and Recreation Fund—soccer football pool duty

- (1) There is established in the Special Deposits Account an account to be called the Sport and Recreation Fund.
- (2) There is to be paid, without further appropriation than this Act, into the Sport and Recreation Fund out of the Consolidated Fund in each financial year an amount equal to two-thirds of the amount of the duty and additional duty paid to the Treasurer under this Part in respect of soccer football pools.
- (3) If any money is paid to the Treasurer under section 33 (3) pursuant to an arrangement with a participating area under that section, that money is, for the purposes of subsection (2), taken to be paid to the Treasurer as duty or additional duty.
- (4) The money paid to the Sport and Recreation Fund under subsection (2) and the [Totalizator Act 1997](#) must be used to support and develop, by way of grant or loan, those sporting and recreational facilities and services within the State that are approved by the Minister administering the [Sporting Bodies' Loans Guarantee Act 1977](#).
- (5) Any interest payable on a loan made under subsection (4), and any repayment of the principal of such a loan, is to be paid into the Sport and Recreation Fund.

### 35 False statements as to revenue

A person who, with respect to subscriptions received or other revenue derived from conducting a public lottery, furnishes or makes to an inspector or other person exercising a function under this Act a report, return or statement that the person knows is false or misleading in a material particular is guilty of an offence.

Maximum penalty: 100 penalty units or imprisonment for 2 years, or both.

### 36 Recovery of money

- (1) An amount that is payable by a person to the Treasurer under this Act but is not paid may be recovered from the person as a debt due to the Crown in any court of competent jurisdiction.
- (2) For the purpose of an action to recover an amount referred to in this section, a certificate of the Treasurer certifying the amount alleged to be payable by a person and that the amount has not been paid is evidence that the amount so specified is payable to the Treasurer in accordance with this Act and has not been paid.



## **Part 6 Other provisions relating to public lotteries**

### **Division 1 General**

#### **37 Special provision relating to appointment of statutory authorities as agents**

- (1) A statutory authority may be appointed as an agent of a licensee.
- (2) A statutory authority that is appointed as an agent is, to the extent that it is not otherwise authorised to do so, authorised to do anything that is necessary or expedient to be done by the statutory authority as agent by or under the authority of this Act, the regulations, the rules or the conditions of a licence.
- (3) In this section, **statutory authority** includes:
  - (a) a person holding or occupying a particular office or position under any Act or law, or
  - (b) a body, whether incorporated or unincorporated, constituted by or under any Act or law (including a State owned corporation).

#### **38 Publicity concerning prizewinners**

- (1) A licensee who publishes, or causes to be published, the identity of a person who claims a prize in a public lottery and has requested anonymity is guilty of an offence.  
Maximum penalty: 20 penalty units.
- (2) The regulations may prescribe the manner in which an entrant in a public lottery may request anonymity.
- (3) A person may at any time revoke a request for anonymity.
- (4) This section does not prevent a licensee from publishing, or causing to be published, the venue or geographic location at which a prizewinning ticket was sold and the amount of a prize won.

#### **39 Advertising of public lotteries**

- (1) A licensee or other person who publishes, or causes to be published, any public lottery advertising that:
  - (a) is false, misleading or deceptive, or
  - (b) is in contravention of any requirement of the regulations,is guilty of an offence.  
Maximum penalty: 50 penalty units.

(2) The regulations may provide for the Minister or other person to grant exemptions from a regulation made under subsection (1) (b).

(3) In this section:

**public lottery advertising** means advertising that is directly related to the conduct of a public lottery.

**publication** includes dissemination of any kind, whether effected by oral, visual, written, electronic or other means (for example, dissemination by means of cinema, video, radio or television).

#### **40 Betting syndicates**

The rules may make provision for a licensee to authorise an agent of the licensee, for fee or reward, to 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.

#### **41 Unauthorised betting syndicates prohibited**

(1) A person who, for fee or reward, promotes or takes part in the formation of a syndicate for the purpose of purchasing an entry in, or subscribing to, a public lottery conducted by a licensee is guilty of an offence.

Maximum penalty: 20 penalty units.

(2) It is a defence to a prosecution for an offence under this section if the defendant proves that the act constituting the alleged offence was authorised to be done, and was done, in accordance with the rules.

#### **42 Advertising of unauthorised betting syndicate prohibited**

(1) A person who advertises by any means that he or she or some other person will accept money for a share in an entry to be purchased in, or a subscription to be made to, a public lottery is guilty of an offence.

(2) A person who publishes such an advertisement is guilty of an offence.

(3) It is a defence to a prosecution for an offence under this section if the defendant proves that the act constituting the alleged offence was authorised to be done, and was done, in accordance with the rules.

Maximum penalty: 20 penalty units.

#### **43 Credit betting prohibited**

(1) A person who, in connection with a public lottery, accepts an entry in the public lottery that is not paid for in cash or by cheque at or before the time the entry is made is guilty of an offence.

Maximum penalty: 20 penalty units.

- (2) For the purposes of subsection (1), electronic funds transfer of an amount to an account operated by the person is taken to be payment of that amount in cash to the person.
- (3) In this section, **cheque** has the same meaning as in the *Cheques and Payment Orders Act 1986* of the Commonwealth, but does not include a cheque that is undated or post-dated.

## Division 2 Minors

### 44 Licensee or agent not to accept entry or payment from minor

- (1) A licensee or agent who accepts from a person who is under the age of 18 years, whether personally, by mail, by electronic means or otherwise, a subscription to a public lottery is guilty of an offence.

Maximum penalty: 20 penalty units.

- (2) It is a defence to a prosecution for an offence under this section if the defendant proves that the defendant had no reason to believe, and did not believe, that the person from whom the defendant accepted the subscription was under the age of 18 years.

### 45 Person not to enter or subscribe to public lottery on behalf of minor

- (1) A person who, on behalf of a person under the age of 18 years, subscribes to a public lottery is guilty of an offence.

Maximum penalty: 20 penalty units.

- (2) It is a defence to a prosecution for an offence under this section if the defendant proves that the defendant had no reason to believe, and did not believe, that the person on whose behalf the defendant subscribed to the lottery was under the age of 18 years.
- (3) It is a defence to a prosecution under this section if the defendant proves that the defendant:
  - (a) was a parent or guardian of the person on whose behalf the entry to the public lottery was made, or
  - (b) was authorised to lodge the entry to the public lottery on behalf of the person by the parent or guardian.

### 46 Minor not to enter public lottery

A person who, while under the age of 18 years, enters or subscribes to a public lottery is

guilty of an offence.

Maximum penalty: 5 penalty units.

#### **47 Minors not to be detained**

A person under the age of 18 years may not be imprisoned, or detained in a detention centre, as a consequence of a failure to pay a penalty for an offence under this Division.

### **Division 3 Instant lotteries**

#### **48 Definitions**

In this Division:

**instant lottery** means a public lottery that is an instant lottery, and includes a public lottery in which the prizes are determined (wholly or partly) by exposing the matter in panels on the tickets in the lottery (whether or not additional prizes are determined in any other manner).

**symbol** includes number.

#### **49 Application of Division**

- (1) This Division applies to all instant lotteries promoted or conducted before or after the commencement of this Division, whether under the [New South Wales Lotteries Act 1990](#) or under this Act.
- (2) This Division has effect despite any other Act or law or any agreement.

#### **50 Verification of tickets and prizes**

- (1) A licensee may record on a ticket in an instant lottery a verification code by which the licensee can determine after the sale of the ticket whether it is a valid ticket and also whether it has won a prize.
- (2) A licensee may implement other tests in respect of instant lotteries for determining whether a ticket is a valid ticket and also whether it has won a prize.
- (3) Those verification codes or other tests have the following purposes:
  - (a) to prevent forgery or fraudulent alteration of tickets,
  - (b) to provide a conclusive means of determining prizewinning tickets in accordance with the total amount allocated for prizes in that lottery.
- (4) A prize is not payable in respect of a ticket in an instant lottery if the ticket does not satisfy any such verification code or other test.
- (5) This section has effect even though the ticket may indicate that a prize has been won.

- (6) The regulations may make additional provisions for or with respect to the payment of prizes in instant lotteries.

### **51 Clarification of certain rules for winning prizes in instant lotteries**

- (1) In an instant lottery, a statement that a prize is won by matching 3 symbols or by matching 3 identical symbols (or a statement to the same effect) means, and is taken always to have meant, that a prize is won if the same symbol appears 3 times. For example:

7	1		7	1	
3	7	wins a prize	3	7	does not win a prize
4	7		3	1	

- (2) In an instant lottery, a caption to a symbol (for example, the word “one” beneath the symbol “1”) forms part of the symbol and does not constitute a separate symbol for the purposes of counting the number of symbols.
- (3) This section applies to a statement on a ticket in the instant lottery or to a statement publicly advertised or used in connection with the instant lottery.

## **Part 7 Enforcement**

### **Division 1 Provision of information to Minister**

#### **52 Licensees and agents to inform Minister of changed circumstances**

If a change of a kind prescribed by the regulations occurs in the circumstances that existed in relation to a licensee at the time the licensee was granted his or her licence or in relation to an agent at the time the agent was appointed or approved:

- (a) the licensee, in the case of a change that relates to the licensee, or
- (b) the agent, in the case of a change that relates to the agent,

must notify the Minister in writing, not later than 14 days after the change occurs, of the particulars relating to the change that the regulations prescribe.

Maximum penalty: 20 penalty units.

#### **53 Minister may require information relating to licensees and agents**

- (1) The Minister may, by notice in writing, require a licensee or agent or a person who, in the opinion of the Minister, has a direct or indirect association with a licensee or agent:
- (a) to provide the Minister or an inspector, in accordance with directions in the notice, with the information relevant to the licensee or agent or that association (or

relevant to any matter prescribed by the regulations) that is specified in the notice, or

- (b) to produce to the Minister or an inspector, in accordance with directions in the notice, the documents relevant to the licensee or agent or that association (or relevant to any matter prescribed by the regulations) that are specified in the notice and to permit examination of the documents and the taking of extracts from, and the making of copies of, them, or
- (c) to attend before the Minister or an inspector for examination in relation to any matters relevant to the licensee or agent or that association (or relevant to any matter prescribed by the regulations) and to answer any question relating to those matters.

A licensee, agent or person who fails to comply with a requirement of a notice is guilty of an offence.

Maximum penalty: 50 penalty units.

- (2) A natural person is not excused from complying with a notice under this section on the ground that compliance might tend to incriminate the person. However, if the person claims, before complying with the notice, that compliance might tend to incriminate the person, information provided in compliance with the notice is not admissible in evidence against the person in criminal proceedings other than proceedings under this Act.
- (3) If documents are produced under this section, the Minister or inspector to whom they are produced may retain possession of them for a reasonable period so that they may be examined and extracts taken from, or copies made of, them.
- (4) The Minister or inspector must permit inspection of the documents, at any reasonable time during which they are retained under this section, by a person who would be entitled to inspect them if they were not in the possession of the Minister or inspector.
- (5) A person who complies with a requirement of a notice under this section does not on that account incur a liability to another person.

#### **54 Minister may require person to provide particulars concerning key employees**

The Minister may, by notice in writing served on a person, require the person to provide the Minister, within a reasonable time specified in the notice, with the following:

- (a) the names of all persons who are key employees of the person,
- (b) the positions held by, and the duties of, those employees,
- (c) any other relevant particulars relating to those employees as are specified in the notice.

A person who fails to comply with a requirement of a notice is guilty of an offence.

Maximum penalty: 50 penalty units.

**55 Minister may require key employees to provide information**

- (1) The Minister may, by notice in writing served on a key employee, require the key employee:
  - (a) to consent, in accordance with directions in the notice, to having his or her photograph, finger prints and palm prints taken, and
  - (b) to provide, in accordance with directions in the notice, the information (verified by statutory declaration) relevant to the key employee that is specified in the notice, and
  - (c) to produce, in accordance with directions in the notice, the documents relevant to the key employee that are specified in the notice and to permit examination of the documents and the taking of extracts from, and the making of copies of, them, and
  - (d) to furnish the authorities and consent that the Minister may require for the purpose of obtaining further information (including financial and other confidential information) from other persons and institutions.
- (2) The Minister is to refer to the Commissioner of Police copies of photographs, finger prints and palm prints obtained in respect of a key employee under this section and with any supporting information that the Minister considers should be referred to the Commissioner.
- (3) The Commissioner of Police is to inquire into, and report to the Minister on, any matters concerning the key employee that the Minister may request.
- (4) A key employee is not excused from complying with a notice under this section on the ground that compliance might tend to incriminate the employee. However, if the employee claims, before complying with the notice, that compliance might tend to incriminate the employee, information provided in compliance with the notice is not admissible in evidence against the employee in any criminal proceedings other than proceedings under this Act.
- (5) A key employee who complies with a requirement of a notice under this section does not on that account incur a liability to another person.

**56 Failure of key employee to provide required information**

- (1) The Minister may, if a key employee refuses or fails to comply with a requirement of a notice served on the key employee under section 55, by notice in writing, direct:

(a) the licensee, or

(b) any other appropriate person,

to terminate immediately and not to renew the employment or arrangement by reason of which the key employee is a key employee of the licensee or other person.

(2) A person who does not give effect to a direction given to the person under this section is guilty of an offence.

Maximum penalty: 100 penalty units.

### **57 Power to terminate employment of key employee at Minister's direction**

(1) This section applies in respect of a direction given by the Minister under this Division or Division 2 to an employer to terminate the employment of a key employee or the other arrangement by reason of which a key employee is a key employee of the employer.

(2) It is taken to be a condition of any agreement or other arrangement entered into between an employer and a key employee that the employer has the rights required to enable the employer to give effect to a direction to which this section applies.

(3) The termination of an employment or arrangement in accordance with this section has effect despite any other Act or law, or any contract, award or enterprise or other agreement, and the State does not incur any liability because of such a termination.

(4) In this section, **employer** means a licensee or other person to whom a direction to which this section applies is given.

### **58 Destruction of finger and palm prints of former key employees**

(1) Any finger prints or palm prints obtained under this Division, and any copies of them, are to be destroyed as soon as the key employee from whom they were obtained is no longer a key employee.

(2) A person:

(a) who has possession of finger prints or palm prints obtained by the Minister under this Division, or copies of them, and

(b) who fails to deliver them to the Minister, in accordance with the written directions of the Minister, to enable subsection (1) to be complied with,

is guilty of an offence.

Maximum penalty (subsection (2)): 20 penalty units.



## **Division 2 Directions by Minister**

### **59 Prejudice to integrity of public lottery involving licensees or other persons**

- (1) The Minister may give a direction under this section if the Minister is of the opinion that the integrity or apparent integrity of a public lottery conducted by a licensee is likely to be seriously prejudiced because of:
  - (a) any irregularity or alleged irregularity of any kind, or
  - (b) the character or reputation of any person concerned in the management or supervision of the public lottery, or
  - (c) any other fact or circumstance reported to the Minister.
- (2) The Minister may, for the purpose of avoiding the prejudice referred to in this section, by notice in writing, direct:
  - (a) the licensee, or
  - (b) any other person engaged, in whatever capacity, in the conduct of a public lottery on the licensee's behalf,to take (or to refrain from taking) any action specified in the notice in relation to all or any specified public lottery conducted by the licensee.
- (3) A person who does not comply with a direction given to the person under this section is guilty of an offence.

Maximum penalty: 50 penalty units.

### **60 Minister may direct licensee to terminate certain agency arrangements**

- (1) If a person who is an agent does not comply with a direction given to the person under section 59, the Minister may, by notice in writing, direct the licensee by whom the person is engaged to terminate, within a time specified in the notice, the arrangement under which the person is appointed as the agent of the licensee.
- (2) A licensee who does not comply with a notice given to the licensee under this section is guilty of an offence.

Maximum penalty: 50 penalty units.
- (3) It is taken to be a condition of any arrangement entered into between a licensee and an agent that the licensee has the rights required to enable the licensee to give effect to a direction to which this section applies.
- (4) The termination of an arrangement in accordance with this section has effect despite any other Act or law and neither the State nor the Minister incurs any liability by

reason of that termination.

### **61 Prejudice to integrity of public lottery involving key employee**

- (1) The Minister may give a direction under this section if the Minister is of the opinion that the integrity or apparent integrity of a public lottery conducted by a licensee is likely to be seriously prejudiced because of:
  - (a) the criminal record of a key employee, or
  - (b) the character or reputation of a key employee.
- (2) The Minister may, by notice in writing, direct:
  - (a) the licensee, or
  - (b) any other appropriate person,to terminate immediately and not to renew the employment or arrangement by reason of which the key employee is a key employee of the licensee or other person.
- (3) A person who does not comply with a direction given to the person under this section is guilty of an offence.

Maximum penalty (subsection (3)): 50 penalty units.

## **Division 3 Contracts**

### **62 Definitions**

In this Division:

**contract** includes any kind of agreement or arrangement.

**controlled contract** means:

- (a) a contract that relates wholly or partly to the supply of goods or services to a licensee or agent in connection with the conduct of a public lottery and that is:
  - (i) for the purchase or servicing, or purchase and servicing, of any device or equipment used in connection with the conduct of the public lottery or the security arrangements in relation to the conduct of the public lottery, or
  - (ii) for a total consideration that exceeds \$100,000 per annum, or
  - (iii) a contract, or a contract of a class, the Minister has specified in the conditions of the licence because it involves the public interest, or
- (b) a contract of a class that is prescribed by the regulations as a controlled contract for the purposes of this definition,

but does not include an exempt contract.

**exempt contract** means:

- (a) a contract that relates solely to the construction or alteration of premises used or to be used by a licensee or agent in connection with the conduct of a public lottery, or
- (b) a contract of a class that is prescribed by the regulations as exempt from the definition of controlled contract.

**63 Notice of proposed controlled contracts or variations of controlled contracts to be given**

- (1) This section applies only to controlled contracts that the conditions of a licence or the regulations require to be notified to the Minister and so applies in respect of:
  - (a) such controlled contracts that are entered into after the commencement of this section, and
  - (b) variations of such controlled contracts, whether the contracts were entered into before or after that commencement.
- (2) A licensee or agent must not enter into or become a party to a controlled contract, or the variation of a controlled contract, to which this section applies until the licensee or agent has given the Minister written notice of the details of the proposed contract or variation of contract that are specified in the conditions of a licence or prescribed by the regulations and the investigation time that the Minister is allowed by this section has elapsed.
- (3) The notice must be accompanied by the fee specified by the conditions of the licence or prescribed by the regulations.
- (4) The Minister may object to the proposed contract or variation of contract by notice in writing given to the licensee or agent during the investigation time that the Minister is allowed by this section, in which case the licensee or agent must not enter into or become a party to the contract or variation of contract.
- (5) The Minister is not required, despite any rule of law to the contrary, to give reasons for an objection made under subsection (4).
- (6) The Minister is allowed 28 days investigation time (starting from when the notice under subsection (2) is given to the Minister) but that time can be shortened or extended in a particular case by the Minister by notice in writing to the licensee or agent.
- (7) Investigation time is not to be extended unless the Minister is of the opinion that the special circumstances of the case (such as, for example, the complex nature of the inquiries that need to be made or the need to consult other agencies) make the

extension necessary or desirable and that public interest considerations justify the extension.

(8) Investigation time can be extended more than once but cannot in any case be extended to more than 6 months after the notice was given to the Minister.

(9) It is a condition of:

(a) a licence that the licensee must comply with this section, or

(b) the approval or appointment of an agent that the agent must comply with this section,

but failure to comply with this section does not affect the validity of any contract or variation of contract.

#### **64 Notice to show cause why controlled contract should not be terminated**

(1) The Minister may serve on each party to a controlled contract a notice in writing affording the party an opportunity to show cause within 14 days why the contract should not be terminated on the ground that it is not in the public interest for the contract to remain in force.

(2) The notice is to specify the reasons why it is considered that it is not in the public interest for the contract to remain in force.

(3) A party to the contract may, within the period specified in the notice, arrange with the Minister for the making of submissions as to why the contract should not be terminated.

(4) The Minister may:

(a) after considering any submissions so made, or

(b) if no arrangements are made within the period specified in the notice, or no submissions are received in accordance with arrangements made,

by notice in writing served on each party to the contract, require the contract to be terminated within a time specified in the notice.

(5) If a contract is not terminated as required by a notice, it is terminated by this Act as and from the expiration of the time specified in the notice for the termination of the contract.

(6) This section applies to controlled contracts whether entered into before or after the commencement of this section.

## **65 Effect of termination**

If a contract is terminated in accordance with this Division:

- (a) the termination does not affect a right acquired, or a liability incurred, before the termination by a person who was a party to the contract, as a result of the performance before the termination of any obligation imposed by the contract, and
- (b) no liability for breach of contract is incurred by a person who was a party to the contract by reason only of that termination, and
- (c) neither the State nor the Minister incurs any liability by reason of that termination.

## **66 Parties to terminated contract must not give effect to it**

A party to a contract terminated in accordance with this Division who gives further effect to the contract is guilty of an offence.

Maximum penalty: 100 penalty units.

## **67 Parties to contract may be required to provide information**

Section 53 (Minister may require information relating to licensees and agents) applies to a party to a controlled contract in the same way as it applies to a licensee.

# **Division 4 Investigations**

## **68 Investigations**

- (1) The Minister may appoint a person to investigate and report on matters and circumstances specified by the Minister relating to:
  - (a) the conduct of any public lottery, or
  - (b) a licensee or agent or a person who, in the opinion of the Minister, is an associate of a licensee or agent, or
  - (c) a specified person who, or a specified class of persons that includes persons who, in the opinion of the Minister, could be in a position to exercise direct or indirect control over a licensee or agent, in relation to the conduct of a public lottery.
- (2) A person appointed to carry out an investigation may, for the purpose of the investigation, exercise:
  - (a) the functions conferred by section 53 (Minister may require information relating to licensees and agents) on the Minister, and
  - (b) any other functions of the Minister specified by the Minister in the instrument of appointment.

- (3) The exercise of functions under this section by a person other than the Minister has effect as if the functions had been exercised by the Minister.

## **Division 5 Inspectors**

### **69 Appointment of inspectors**

- (1) The Minister may appoint a public servant to be an inspector for the purposes of this Act.
- (2) A person is not eligible to be appointed as an inspector unless the person possesses the highest standard of integrity.
- (3) The question of whether a person possesses the highest standard of integrity is to be determined by the Minister.
- (4) For the purpose of making the determination, the Minister is to cause to be carried out all investigations and inquiries that the Minister considers proper and, in particular, is to obtain and consider a report from the Commissioner of Police in relation to any person being considered.
- (5) The Commissioner of Police is to furnish the report at the request of the Minister and may for the purpose of the report require a person to whom the report relates to consent to having his or her photograph, finger prints or palm prints taken.
- (6) If a person refuses or fails to comply with a request by the Commissioner, the person is not eligible to be appointed to a position as an inspector while the refusal or failure continues.
- (7) An inspector is, in the exercise of the inspector's functions as an inspector, subject to the direction and control of the Minister.

### **70 Identification of inspectors**

- (1) An inspector is not authorised to exercise the functions of an inspector unless he or she is in possession of an identity card issued by the Minister.
- (2) If an inspector proposing to exercise the functions of an inspector fails to produce on demand his or her identity card, the inspector is not authorised to exercise those functions in relation to the person making the demand.

### **71 Right of inspectors to enter premises**

- (1) An inspector may, for the purpose of exercising functions under this Act or the regulations, at any reasonable time:
  - (a) enter any part of the premises of a licensee, or
  - (b) enter any part of the premises of an agent, or

- (c) enter any part of the premises of a person, not being a licensee, whom the inspector reasonably suspects of conducting a public lottery, or
  - (d) enter any part of the premises of a person, not being an agent, whom the inspector reasonably suspects of receiving entries in a public lottery.
- (2) An inspector is not entitled to exercise the powers conferred by this section in relation to any part of any premises used for residential purposes, except:
- (a) with the consent of the occupier of the premises, or
  - (b) under the authority conferred by a search warrant issued under section 72.
- (3) An inspector who enters premises under this section is not authorised to remain in the premises if, on the request of the licensee, agent or other occupier of the premises, the inspector does not show his or her identity card to the licensee, agent or other occupier.

## 72 Search warrant

- (1) An inspector may apply to an authorised justice for the issue of a search warrant if the inspector believes on reasonable grounds that a provision of this Act or the regulations is being or has been contravened on any premises.
- (2) An authorised justice to whom any such application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an inspector named in the warrant:
- (a) to enter the premises, and
  - (b) to exercise any function of an inspector under this Act.
- (3) Part 3 of the [Search Warrants Act 1985](#) applies to a search warrant issued under this section.
- (4) In this section, **authorised justice** has the same meaning as in the [Search Warrants Act 1985](#).

## 73 Powers of inspectors

- (1) An inspector may do any one or more of the following:
- (a) require any person whom the inspector reasonably suspects of being in possession or control of any documents that relate to, or that the inspector reasonably suspects relate to, the conduct of a public lottery to produce the documents for inspection and to answer questions or provide information relating to the documents,
  - (b) make copies of, take extracts from and notes relating to, any documents,

- (c) require a licensee, agent or other person whom the inspector reasonably suspects of having possession or control of any device or equipment that is, or that appears to the inspector to be, used in relation to the conduct of a public lottery to produce the device or equipment for inspection and to answer questions or provide information relating to the device or equipment,
  - (d) inspect and test any device or equipment in the possession or control of a licensee, agent or other person that is, or that appears to the inspector to be, used in relation to the conduct of a public lottery,
  - (e) for the purpose of any such inspection or testing:
    - (i) require the licensee, agent or other person to provide the inspector with any assistance that the inspector reasonably requires, or
    - (ii) if practicable, remove the device or equipment to another place, for any time that is reasonably necessary for that purpose,
  - (f) if the inspector considers it to be necessary to do so for the purpose of obtaining evidence of the commission of an offence—seize any document or any device or equipment inspected or tested under this subsection,
  - (g) by notice in writing require any licensee, agent or other person concerned, in whatever capacity, in the conduct of a public lottery, to attend before the inspector at a specified time and place and answer questions, or provide information, with respect to the conduct of any public lottery,
  - (h) call to his or her aid:
    - (i) another inspector, or a police officer, if he or she is obstructed, or believes on reasonable grounds that he or she will be obstructed, in the exercise of his or her functions, or
    - (ii) a person considered by the inspector to be competent for the purpose,
  - (i) exercise any other functions prescribed by the regulations as functions of an inspector.
- (2) If an inspector seizes any document, device or equipment under this section, it may be retained by the inspector until the completion of any proceedings (including proceedings on appeal) in which it may be tendered in evidence but only if, in the case of documents, the person from whom the documents were seized is provided, within a reasonable time after the seizure, with a copy of the documents certified by an inspector as a true copy.
- (3) Subsection (2) ceases to have effect in relation to anything seized if, on the application of a person aggrieved by the seizure, the court in which proceedings



referred to in that subsection are instituted so orders.

- (4) A copy of documents provided under subsection (2) is, as evidence, of equal validity to the documents of which it is certified to be a true copy.
- (5) A person is not required by this section to answer a question that might incriminate the person.
- (6) A person has, while acting in aid of an inspector under this section, the functions of an inspector.

#### **74 Offences relating to inspectors**

- (1) A person who:
  - (a) prevents an inspector from exercising any function conferred on the inspector by or under this Act, or
  - (b) hinders or obstructs an inspector in the exercise of any such function, or
  - (c) fails to comply with a requirement of an inspector by or under this Act, or
  - (d) furnishes to an inspector (whether in answer to a question asked by an inspector or otherwise) information that the person knows is false or misleading in a material particular,

is guilty of an offence.

Maximum penalty: 50 penalty units.

- (2) It is a defence to a prosecution for an offence under subsection (1) (c) for the failure of the defendant to answer a question asked by an inspector for the purposes of this Act if the defendant proves that the defendant did not know, and could not with reasonable diligence ascertain, the answer to the question.
- (3) If an answer to a question asked by an inspector for the purposes of this Act, or any information, is given to an inspector by an officer of a corporation (within the meaning of the [Corporations Law](#)) that is concerned in the conduct of a public lottery, the answer and information are, for the purposes of any proceedings against the corporation under this Act, binding on and admissible in evidence against the corporation unless it is proved that the answer or information was given on a matter in respect of which the officer had no authority to bind the corporation.

### **Division 6 Proceedings for offences**

#### **75 Proceedings for offences**

Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

## **76 Time within which proceedings may be commenced**

- (1) Proceedings for an offence under this Act or the regulations may be commenced not later than 2 years after the date alleged to be the date on which the offence was committed.
- (2) This section has effect despite the *Justices Act 1902* or any other Act.

## **77 Persons who may bring proceedings**

Proceedings for an offence under this Act may be brought by:

- (a) an inspector, or
- (b) a police officer, or
- (c) any other person, or person of a class, prescribed by the regulations.

## **78 Offences by corporations**

- (1) If a corporation contravenes, whether by act or omission, 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 this section whether or not the corporation has been proceeded against or been convicted under that provision.
- (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.

## **Part 8 Miscellaneous**

### **79 Act binds Crown**

This Act binds the Crown in right of New South Wales and, in so far as the legislative power of Parliament permits, the Crown in all its other capacities.

### **79A Review by Administrative Decisions Tribunal of certain decisions under this Act**

A person may apply to the Administrative Decisions Tribunal for a review of any of the following decisions:

- (a) a decision of the Minister under section 17 (4) to take disciplinary action against the person,
- (b) a decision of the Minister under section 18 (1) directing the person to take action to rectify the matter that constitutes the basis for taking disciplinary action concerned.

## **80 Secrecy**

(1) A person who:

- (a) acquires information in the exercise of a function under this Act, and
- (b) directly or indirectly, makes a record of the information or divulges it to another person,

is guilty of an offence unless the information is recorded or divulged in the exercise of functions under this Act.

Maximum penalty: 50 penalty units.

(2) Despite subsection (1), information may be divulged:

- (a) to a particular person or persons, if the Minister certifies that it is necessary in the public interest that the information be divulged to the person or persons, or
- (b) to a person who is expressly or impliedly authorised to obtain it by the person to whom the information relates, or
- (c) to a person or authority prescribed by the regulations.

(3) It is not an offence under this section if, in legal proceedings, a person:

- (a) divulges information in answer to a question that the person is compellable to answer, or
- (b) produces a document or other thing that the person is compellable to produce.

(4) An authority or person to whom information is divulged under this section, and a person or employee under the control of that authority or person, are, in respect of that information, subject to the same rights, privileges and duties under this section as they would be if that authority, person or employee were a person exercising functions under this Act and had acquired the information in the exercise of those functions.

(5) This section does not apply to the divulging of information to any of the following:

- (a) the Independent Commission Against Corruption,
- (b) the National Crime Authority,
- (c) the New South Wales Crime Commission,
- (d) the Ombudsman,
- (e) any other person or body prescribed by the regulations for the purposes of this subsection.

- (6) This section does not prevent a person being given access to a document in accordance with the *Freedom of Information Act 1989* unless the document:
- (a) contains matter the disclosure of which could reasonably be expected to do any of the following:
    - (i) prejudice the investigation of any contravention or possible contravention of the law (including any revenue law) whether generally or in a particular case,
    - (ii) enable the existence or identity of any confidential source of information, in relation to the enforcement or administration of the law, to be ascertained,
    - (iii) prejudice the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law (including any revenue law), or
  - (b) is a document the disclosure of which would disclose any of the following information:
    - (i) information concerning the business, commercial, professional or financial affairs of a licensee, agent or key employee,
    - (ii) information obtained in the course of an investigation of a licensee, agent or key employee.
- (7) In this section, a reference to the divulging of information includes a reference to the production of a document or other thing and the provision of access to the document or other thing.

## **81 Delegation**

The Minister or Treasurer may delegate to a public servant or an officer of a class prescribed by the regulations all or any of the functions conferred or imposed on the Minister or Treasurer by or under this Act, other than this power of delegation.

## **82 Service of documents**

- (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 a 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 a person apparently in the service of the person and apparently not less than 16 years of age.
- (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 the document 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) If a document is to be served on a licensee and the licence concerned is held by 2 or more licensees, service of the document on one licensee in accordance with this section is taken to be service, in accordance with this section, on each other licensee.
- (4) The provisions of this section are in addition to, and do not prejudice the operation of, any other law prescribing procedures sufficient for the service of documents.

### **83 Regulations**

- (1) The Governor may make regulations, not inconsistent 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 convenient to be prescribed for carrying out or giving effect to this Act.
- (2) In particular, the regulations may make provision for or with respect to the following:
  - (a) the days on which and the hours between which a licensee or an agent may not accept entries in a public lottery,
  - (b) the payment of prizes in a public lottery,
  - (c) any other matter for which the conditions of a licence may make provision.
- (3) A regulation may create an offence punishable by a penalty not exceeding 50 penalty units.

### **83A Responsible conduct of gambling activities**

- (1) The regulations may make provision for or with respect to requiring or encouraging the adoption of responsible practices in the conduct of public lotteries.
- (2) In particular, the regulations may make provision for or with respect to the following:
  - (a) the standards to be observed for the conduct of responsible gambling activities,

- (b) the prohibition or restriction of the offering of inducements, or inducements of a kind, specified by the regulations,
  - (c) the information to be provided and signs to be displayed with respect to the conduct of, entry into and subscription to public lotteries,
  - (d) without limiting paragraph (c), the inclusion on each entry or ticket for a public lottery of:
    - (i) a warning notice about gambling, and
    - (ii) the name and contact details of a gambling counselling service specified, or of a kind specified, by the regulations.
- (3) The regulations under this section may create offences punishable by a penalty not exceeding 50 penalty units.
- (4) It is the intention of Parliament that regulations under this section will be made as soon as practicable after the date of assent to the *Gambling Legislation Amendment (Responsible Gambling) Act 1999*.

#### **84 Repeals**

The following Acts and regulations are repealed:

- *Soccer Football Pools Act 1975 No 45*
- *Lotto Act 1979 No 53*
- *Lotto (Amendment) Act 1981 No 37*
- *New South Wales Lotteries Act 1990 No 78*
- *New South Wales Lotteries (Amendment) Act 1993 No 49*
- *New South Wales Lotteries (Elected Staff Member) Regulation 1991*
- *New South Wales Lotteries (Instant Lotteries) Regulation 1994*
- *New South Wales Lotteries (General) Regulation 1995*
- *Lotto Regulation 1995*
- *Soccer Football Pools (General) Regulation 1996*.

#### **85 (Repealed)**

#### **86 Savings, transitional and other provisions**

Schedule 2 has effect.

## **87 Review of Act**

- (1) The Minister is to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of the Act remain appropriate for securing those objectives.
- (2) The review is to be undertaken as soon as possible after the period of 5 years from the date of assent to this Act.
- (3) A report on the outcome of the review is to be tabled in each House of Parliament within 12 months after the end of the period of 5 years.

## **Schedule 1 (Repealed)**

## **Schedule 2 Savings, transitional and other provisions**

(Section 86)

### **Part 1 Savings and transitional regulations**

#### **1 Regulations**

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

    this Act

*New South Wales Lotteries Corporatisation Act 1996*

*Intergovernmental Agreement Implementation (GST) Act 2000*

- (2) Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later day.
- (3) To the extent to which any such provision 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 anything done or omitted to be done before the date of its publication.

### **Part 2 Provisions consequent on enactment of **Public Lotteries Act****

## 1996

### 2 Definitions

In this Part:

**New South Wales Lotteries Corporation** means New South Wales Lotteries Corporation constituted by the [New South Wales Lotteries Corporatisation Act 1996](#).

**repealed Act** means the [Soccer Football Pools Act 1975](#), the [Lotto Act 1979](#) or the [New South Wales Lotteries Act 1990](#).

**Lotteries Act** means the [New South Wales Lotteries Act 1990](#).

**Lotto Act** means the [Lotto Act 1979](#).

**Soccer Football Pools Act** means the [Soccer Football Pools Act 1975](#).

### 3 Special provision relating to licences granted to New South Wales Lotteries Corporation

- (1) In this clause, **the transition period** means the period from the repeal of the Lotteries Act until 1 July 2007.
- (2) New South Wales Lotteries Corporation is entitled to a licence during the transition period for the conduct of the public lotteries that were being conducted by New South Wales Lotteries immediately before its dissolution. The licence may, when granted or after a later amendment, authorise the conduct of variations of those public lotteries.
- (3) No other person may, during the transition period, be granted a licence for the conduct of a public lottery for which New South Wales Lotteries Corporation has been granted a licence under this clause.
- (4) This clause ceases to apply to a public lottery if the licence of the New South Wales Lotteries Corporation for that public lottery is cancelled or otherwise ceases to have effect under this Act.
- (5) This clause ceases to apply to a public lottery if the New South Wales Lotteries Corporation applies for the grant of a licence for the conduct of that public lottery jointly with some other person.

### 4 Special provision relating to grant of licences for certain new public lotteries

- (1) This clause applies in respect of games that:
  - (a) immediately before the repeal of the Lotteries Act were regarded as lotteries for the purposes of section 4 of that Act, and
  - (b) are considered by the Minister to be games to which this clause should apply because of the nature and degree of developmental and related resources that



have been expended on their development by New South Wales Lotteries, and

(c) are described in, and declared by, the Minister by notice in writing published in the Gazette on or before the repeal of the Lotteries Act, to be games to which this clause applies.

(2) The Minister may grant to New South Wales Lotteries Corporation or a statutory authority, or to New South Wales Lotteries Corporation and a statutory authority jointly, one or more licences to conduct the public lotteries to which this clause applies.

(3) No other person may, during the transition period, be granted a licence for the conduct of a public lottery to which this clause applies.

(4) This clause ceases to apply to a public lottery if the licence granted in pursuance of this clause for that public lottery is cancelled or otherwise ceases to have effect under this Act.

(5) In this clause:

**statutory authority** means a person or body referred to in section 11 (3) (a) or (b).

**the transition period** means the period from the repeal of the Lotteries Act until 1 July 2007.

## 5 Saving of licences in force under repealed Acts

(1) This clause applies to:

- (a) a licence in force under the Lotteries Act and the repealed *New South Wales Lotteries (General) Regulation 1995* made under that Act for the conduct of the game of powerball immediately before the repeal of that Act and Regulation, and
- (b) a licence in force under the Lotto Act for the conduct of games of Lotto, Oz Lotto, Lotto Strike and Keno immediately before the repeal of that Act, and
- (c) a licence in force under the Soccer Football Pools Act for the promotion, conduct and operation of Soccer Football Pools immediately before the repeal of that Act.

(2) A licence to which this clause applies:

- (a) is taken to be a licence, granted under this Act, to conduct the public lottery to which the licence under the relevant repealed Act related, and
- (b) continues in force, subject to this Act, as if granted for a term expiring on 1 July 2007.

(3) The requirements as to the payment of duty of:

(a) the repealed Acts, and

(b) a licence referred to in subclause (1),

are taken to be conditions of a licence continued in force under this clause until such time as the licence is replaced under this clause or is duly amended under this Act.

(4) For the purposes of the application of this clause, a licence issued under the Lotteries Act and the repealed *New South Wales Lotteries (General) Regulation 1995* made under that Act for the conduct of the game of powerball:

(a) is taken to be a licence granted under the Lotto Act, and

(b) the rules made for or with respect to the conduct by a licensee of a game of powerball are taken to have been made under the Lotto Act.

(5) Nothing in this clause affects the power of the Minister to amend a licence, including a licence continued in force under this clause, in accordance with this Act.

(6) This clause does not apply if the Minister, in accordance with this Act, grants a licence, in replacement of a licence referred to in subclause (1), to take effect on and from the appointed day.

## **6 Saving of Keno Prize Fund**

The prize fund account known as the Keno Prize Fund established under the licence in force immediately before the repeal of the Lotto Act in respect of the conduct of the public lottery known as keno is taken to be a prize fund account established under section 27 (Prize fund account).

## **7 Regulations may provide for continued conduct of certain public lotteries**

(1) The regulations under clause 1 may make provision for the continued conduct by New South Wales Lotteries Corporation of a draw lottery, instant lottery or other public lottery after the repeal of the Lotteries Act and pending the grant of a licence under this Act for the public lottery.

(2) Without limiting subclause (1), a regulation to which this clause applies may provide for the continued operation of provisions of any one or more of the following:

(a) the Lotteries Act,

(b) the *New South Wales Lotteries (Instant Lotteries) Regulation 1994*,

(c) the *New South Wales Lotteries (General) Regulation 1995*.

## **8 Rules**

(1) Any rules in force under a repealed Act immediately before the repeal of that Act

continue in force as if they were rules made and in force in accordance with Part 4 of this Act.

(2) Subclause (1) does not affect the future amendment or repeal of the rules.

## **9 Current lotteries**

(1) Any public lottery that was being conducted under the Lotteries Act immediately before the repeal of that Act may be completed under this Act.

(2) This Act applies to and in respect of a public lottery referred to in this clause in the same way as it applies to a public lottery conducted under this Act.

## **10 Current games of powerball**

(1) Any game of powerball that was being conducted under the Lotteries Act immediately before the repeal of that Act may be completed under this Act.

(2) This Act applies to and in respect of a game of powerball referred to in this clause in the same way as it applies to a game of powerball conducted under this Act.

## **11 Current games of lotto**

(1) Any game of lotto that was being conducted under the Lotto Act immediately before the repeal of that Act may be completed under this Act.

(2) This Act applies to and in respect of a game of lotto referred to in this clause in the same way as it applies to a game of lotto conducted under this Act.

## **12 Current soccer football pools**

(1) Any soccer football pool that was being promoted, conducted or operated under the Soccer Football Pools Act immediately before the repeal of that Act may be completed under this Act.

(2) This Act applies to and in respect of a soccer football pool referred to in this clause in the same way as it applies to a soccer football pool conducted under this Act.

## **13 Saving of existing agreements with interstate authorities**

(1) An agreement in force under:

(a) section 9 of the Lotteries Act, or

(b) section 13A of the Lotto Act, or

(c) section 14B of the Soccer Football Pools Act,

immediately before the repeal of that section is taken, for the balance of the term of the agreement, to be an arrangement made for the purposes of section 33 (Sharing of

duty with participating areas).

- (2) The Treasurer is to continue to make payments in respect of duty under an agreement referred to in this clause on the same basis on which duty was paid under the agreement before the repeal of the relevant section for the balance of the term of the agreement (unless otherwise lawfully varied), despite any requirement of section 33.

#### **14 Disclosure of certain contracts**

Nothing in this Act requires a licensee to disclose to the Minister the existence or making of a contract or the making of a variation to a contract if the making or existence of the contract or the making of the particular variation to the contract was disclosed to the Minister before the commencement of section 63 (Notice of proposed controlled contracts or variations of controlled contracts to be given) of this Act pursuant to a licence in force immediately before that commencement.

#### **15 Agents**

A person who was an agent of a licensee under a repealed Act immediately before the repeal of that Act is taken to be an agent of the licensee under this Act in accordance with the terms and conditions applying immediately before that repeal.

#### **16 Approved representatives**

- (1) A person who, immediately before the repeal of section 10 of the Soccer Football Pools Act, was duly appointed as an approved representative of a licensee under that section is taken to have been appointed or approved as an agent of the licensee in accordance with the conditions of a licence granted under this Act.
- (2) A reference in any other Act, in any instrument made under an Act or in any other document to an approved representative of a licensee is to be read as a reference to an agent of the licensee.

#### **17 Inspectors**

A person who was an inspector under a repealed Act immediately before the repeal of that Act is taken:

- (a) to be an inspector under this Act, and
- (b) to have satisfied the requirements of this Act as to the standard of integrity required for appointment as an inspector.

#### **18 Delegations**

Any delegation in force under a repealed Act immediately before the repeal of that Act is taken to have been given under this Act and continues to have effect as if it had been given under this Act.

## **19 Disclosure of information**

Any information acquired by a person in the exercise of functions under a repealed Act is taken to have been acquired by the person in the exercise of functions under this Act.

## **20 Pending or previous proceedings (instant lotteries)**

- (1) The rights of a claimant to a prize in an instant lottery are to be determined in accordance with Division 3 (Instant lotteries) of Part 6 (Other provisions relating to public lotteries) of this Act even if proceedings in relation to the payment of a prize in the instant lottery to the claimant are pending at the commencement of that Division.
- (2) If, before or after the commencement of that Division:
  - (a) the claimant of a prize in an instant lottery has obtained a judgment with respect to the claim in proceedings instituted before that commencement, and
  - (b) the rights of the claimant have not been determined in accordance with that Division,the judgment is, by force of this clause, vacated and set aside.
- (3) Nothing in this clause or Division 3 of Part 6 affects the judgment of the Court of Appeal of the Supreme Court in *State Lotteries Office v Burgin* (No CA 40133/93) as between the parties to those proceedings.
- (4) In this section, **judgment** includes a summary or default judgment or order.

## **21 Directions to licensee or other person if prejudice to integrity of public lottery involved (lotto)**

A direction given by the Minister to a licensee or other person under section 9A of the Lotto Act that has not been complied with before the repeal of that Act is taken to be a direction given under section 59 (Prejudice to integrity of public lottery involving licensees or other persons) of this Act and is to have effect accordingly.

## **22 Directions concerning key employees (lotto)**

A direction given by the Minister to a licensee or other person under section 9B of the Lotto Act that has not been complied with before the repeal of that Act is taken to be a direction given under section 56 (Failure of key employee to provide required information) or 61 (Prejudice to integrity of public lottery involving key employee) of this Act and is to have effect accordingly.

## **23 Information relating to licensees or agents (lotto)**

Any information notified to the Minister by a licensee or agent in accordance with the requirements of section 17 (1) of the Lotto Act before the repeal of that Act is taken to be information provided for the purposes of this Act.

#### **24 Notices to key employees (lotto)**

A notice served by the Minister on a key employee under section 17AA of the Lotto Act that has not been complied with before the repeal of that Act is taken to be a notice served under section 55 (Minister may require key employees to provide information) of this Act and is to have effect accordingly.

#### **25 Investigations (lotto)**

An investigation undertaken under section 17A of the Lotto Act that is pending immediately before the repeal of that Act is taken to be an investigation under section 68 (Investigations) of this Act and may be continued and completed in accordance with the requirements of this Act.

#### **26 Termination of certain contracts (lotto)**

- (1) Section 17B of the Lotto Act and clause 13 of the repealed *Lotto Regulation 1995* continue to apply to and in respect of a notice, served by the Minister on the parties to a prescribed contract under section 17B (1) of the Lotto Act, that has not been dealt with before the repeal of that Act.
- (2) Any decision concerning the termination of a contract that results from the service of a notice to which this clause applies is taken to have been made or effected under Division 3 (Contracts) of Part 7 (Enforcement) of this Act as if the prescribed contract concerned was a controlled contract, and is to have effect accordingly.

#### **27 Revocation or suspension of licences (lotto)**

- (1) Section 10 of the Lotto Act continues to apply to and in respect of the revocation or suspension, before the repeal of that Act, of a licence granted under that Act.
- (2) The Minister may authorise the completion of any game of lotto that was in the course of being conducted on the revocation or suspension of a licence to which this clause applies in the manner provided for by section 20 (Completion of public lottery following cancellation, revocation or suspension of licence).

#### **28 General saving**

- (1) If anything done or commenced under a provision of a repealed Act or a regulation repealed by this Act before the repeal of that provision and still having effect or not completed immediately before that repeal could have been done or commenced under this Act if this Act had been in force when the thing was done or commenced:
  - (a) the thing done continues to have effect, or
  - (b) the thing commenced may be completed,as if it had been done or commenced under this Act.

(2) This clause is subject to any express provision of this Act on the matter.