

# Lotteries and Art Unions Act 1901 No 34

[1901-34]



New South Wales

## Status Information

### Currency of version

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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**

[Licensing and Registration \(Uniform Procedures\) Act 2002 No 28](#) (amended by [Lotteries and Art Unions Amendment Act 2003 No 19](#)) (not commenced)

[Law Enforcement \(Powers and Responsibilities\) Act 2002 No 103](#) (not commenced)

[Thoroughbred Racing Legislation Amendment Act 2004 No 23](#) (not commenced — to commence on 1.7.2004)

### Authorisation

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# Lotteries and Art Unions Act 1901 No 34



New South Wales

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

## Part 1 Preliminary

### 1 Name of Act

This Act may be cited as the *Lotteries and Art Unions Act 1901*.

### 2 Objects of Act

- (1) The principal object of this Act is to ensure that, on balance, the State and the community as a whole benefit from lottery activities.
- (2) This Act seeks to achieve that balance by allowing, in the public interest, the conduct of lottery activities subject to a system of regulation and control designed to protect players and the community through:
  - (a) restricting who may conduct and benefit from lottery activities, and
  - (b) ensuring the integrity and fairness of lottery activities, and
  - (c) ensuring the probity of those involved in the conduct of lottery activities, and
  - (d) minimising the potential for harm from lottery activities.
- (3) Particular objects of this Act include:
  - (a) to set and maintain appropriate standards and levels of accountability for the conduct of lottery activities, and
  - (b) to ensure that the public obtains reasonable net benefits from the conduct of lottery activities, and
  - (c) to ensure that lottery activities are not exploited for personal gain by those conducting the lottery activities, and
  - (d) to maintain and protect the integrity of lottery activities, and
  - (e) to assist the ongoing viability of organisations conducting lottery activities that

have developed in the public interest and contribute positively to the community, and

- (f) to ensure that the proceeds and profits of lottery activities are applied to the particular purposes, or go to the persons or organisations, in accordance with representations made during the conduct of the lottery activities.

## 2A Definitions

(1) In this Act:

**art union** has the meaning given to it in section 5.

**authorised inspector** means a person appointed under this Act as an inspector or a person authorised by or under this Act to exercise the functions of an authorised inspector.

**exercise** of a function includes, where the function is a duty, performance of the duty.

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

**game of chance** includes:

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

**lottery** includes:

- (a) a lottery within the meaning of section 4 conducted by or under the authority of a non-profit organisation, or
- (b) a lottery within the meaning of section 4B conducted in connection with a competition for the promotion of trade, or
- (c) a progressive lottery within the meaning of section 4F conducted as authorised by that section, or
- (d) a gratuitous lottery within the meaning of section 4G conducted as authorised by that section.

**lottery activity** means a lottery, raffle or other game referred to in section 3.

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

**prohibited prize** means any of the following:

- (a) tobacco in any form,
- (b) a firearm, or ammunition, within the meaning of the [Firearms Act 1996](#),
- (c) a prohibited weapon within the meaning of the [Weapons Prohibition Act 1998](#),
- (d) the provision of cosmetic surgery or other similar procedure the main purpose of which is to improve personal appearance or self-esteem,
- (e) any item or service prescribed by the regulations for the purposes of this definition.

**publish** means disseminate, exhibit, provide or communicate by oral, visual, written, electronic or other means (for example, by way of newspaper, radio, television or through use of the Internet, subscription TV or other on-line communications system), and includes cause to be published.

(2) For the purposes of this Act:

- (a) a person conducts a lottery activity if the person organises the activity, whether alone or with others, whether in person or by an agent or employee and whether on the person's own behalf or as an officer or member of the governing body of an organisation, and
- (b) a person participates in a lottery activity if the person solicits or receives any money, property or other benefit in the course of the activity, or assists in organising the activity, and
- (c) a person who participates in a lottery activity does not conduct the lottery activity if the person participates in it solely as the agent or employee of or for another person who is conducting the activity, and
- (d) a person does not participate in a lottery activity merely because the person gives any money or benefit in the course of the activity.

## **Part 2 Lotteries, games of chance and art unions**

### **Division 1 General prohibition**

#### **3 Selling or disposing of goods etc by lottery or chance prohibited**

- (1) No person shall under any pretence form denomination or description whatsoever or

by means of any device or contrivance whatsoever sell or dispose of or agree or promise whether with or without consideration to sell or dispose of any property whatsoever real or personal to or among any person or persons whomsoever by means of any game either of skill or of chance or of any other contrivance or device whatsoever whereby any such property is sold or disposed of or agreed or promised to be sold or disposed of or divided or allotted to or among any person or persons by lottery or chance whether by the throwing or casting of any dice or the drawing of any tickets cards lots numbers figures or by means of any wheel or otherwise howsoever.

- (2) Whosoever contrary to the provisions hereof sells or disposes of or agrees or promises whether with or without consideration to sell or dispose of any property whatsoever real or personal shall be liable to a penalty not exceeding 50 penalty units.
- (3) Whosoever prints or publishes any advertisement, information, or notice relating in any way to any such unlawful sale or disposition, made or to be made, shall be liable to a penalty not exceeding 50 penalty units.
- (4) Whosoever sells or offers for sale any ticket or share in any lottery or raffle, or accepts any money in respect of the purchase of any such ticket or share, shall be liable to a penalty not exceeding 3 penalty units.
- (5) Whosoever prints any ticket to be sold in connection with any lottery or raffle shall be liable to a penalty not exceeding 3 penalty units.
- (6) In this section the expression **lottery** shall include any event or contingency of or relating to any horse-race; and shall also include any disposition of property by means of a coupon competition, where the disposition is determined, wholly or in part, by any event or contingency of or relating to any horse-race or by chance, whether any money was received for the issue of the coupon or not, and whether full value was paid for any goods purchased apart from the coupon or not, and the expression **lottery** shall also include any competition the nature, scheme, or conduct of which, though a certain degree of skill on the part of the competitors is required, is such as in the circumstances of the case, to preclude the fair consideration of the answers of the competitors, or to render the correctness of any answer a matter of chance.
- (7) Nothing in this Act shall affect the provisions of the [Unlawful Gambling Act 1998](#) or the [Public Lotteries Act 1996](#), or any provisions of any Act regulating the use of the totalizator on racecourses.

## **Division 2 Exceptions to general prohibition**

### **4 Certain charitable and non-profit organisations authorised to conduct lotteries**

- (1) In this section:

**Lottery** means the disposition of prizes by lot but does not include a lottery conducted by means of a chocolate wheel or a game of chance or the method of



disposing of prizes by the game known as “Housie” or “Lucky Envelopes” or any game or method of disposing of prizes prescribed by regulations made under this Act.

**Non-profit organisation** means an organisation not formed or conducted for private gain.

- (2) The provisions of section 3 do not apply so as to prohibit the conduct of a lottery, if:
  - (a) the lottery is conducted by or under the authority of a non-profit organisation, and
  - (b) the conditions specified in subsection (3) are complied with in respect of the conduct of the lottery.
- (3) The conditions referred to in paragraph (b) of subsection (2) are:
  - (a) that the total value of the prizes in any one lottery shall not exceed the prescribed amount,
  - (b) that the lottery is conducted for the purpose of raising funds in aid of the non-profit organisation by which the lottery is conducted or authorised,
  - (c) that the amount of money awarded as a prize in any one lottery does not exceed the amount prescribed by the regulations,
  - (c1) that any spending money awarded in conjunction with a prize comprising tickets for a tour or journey does not exceed the amount, or the proportion of the total value of the prize, prescribed by the regulations,
  - (d) that no prize in the lottery consists of or includes a prohibited prize,
  - (e) that the whole of the profits, or not less than the proportion of the gross proceeds prescribed by the regulations, of the lottery (whichever is the greater) are paid into the funds of the non-profit organisation, and
  - (f) that any regulations made under this Act and relating to the lottery or any function or device or scheme held or used in conjunction therewith are complied with.
- (4) Upon an application made to the Minister within twenty-one days after the conclusion of any lottery referred to in subsection (2), the Minister may, if the Minister is satisfied that circumstances of an unusual nature arose in connection with the conduct of the lottery, by writing under the Minister’s hand, determine, in relation to that lottery, that a proportion less than the proportion prescribed by the regulations for the purposes of subsection (3) (e) is to be paid into the funds of the non-profit organisation.
- (5) An application under subsection (4) shall be made by the person in the manner and within the time prescribed by regulations made under this Act.

#### **4A Certain organisations authorised to conduct games of chance**

(1) In this section:

**Game of chance** includes a game partly of skill and partly of chance and a lottery, not being a lottery within the meaning of section 4.

(2) The provisions of section 3 do not apply so as to prohibit the conduct of a game of chance, if:

(a) the game of chance is conducted in the course of a fundraising appeal within the meaning of the *Charitable Fundraising Act 1991* (not being an appeal conducted in contravention of that Act) or is conducted by or under the authority of an organisation that:

(i) was, immediately before the repeal of the *Charitable Collections Act 1934*, a charity within the meaning of that Act and registered or exempted from registration under that Act, and

(ii) has not, since the repeal of that Act, altered its constitution in so far as its constitution relates to its charitable objects, and

(b) the conditions specified in subsection (3) are complied with in respect of the game of chance.

(3) The conditions referred to in subsection (2) (b) are:

(a) that a permit for the conduct of the game has been issued by the Minister,

(b) that the total value of the prizes in any one game shall not exceed the prescribed amount or such lesser amount as may be specified in the permit,

(c) that the game is conducted for the purpose of raising funds for the charitable purposes of the organisation by which it is conducted or authorised,

(d) that any conditions subject to which the permit was issued (including any condition relating to the site at which the game may be conducted) are complied with,

(e) that the amount of money awarded as a prize in any one game does not exceed the amount prescribed by the regulations,

(e1) that any spending money awarded in conjunction with a prize comprising tickets for a tour or journey does not exceed the amount, or the proportion of the total value of the prize, prescribed by the regulations,

(f) that no prize in the game of chance consists of or includes a prohibited prize,

(g) that the whole of the profits, or not less than the proportion of the gross proceeds

prescribed by the regulations, of the game of chance (whichever is the greater) are paid into the funds of the organisation, and

(h) that any regulations made under this Act and relating to the game or any function or device or scheme held or used in conjunction therewith are complied with.

(4) An application for a permit under this section shall be made in writing to the Minister.

(4A) An application for a permit under this section may not be made by or on behalf of a person who is under the age of 18 years.

(5) A permit may be issued by the Minister under this section without conditions or subject to such conditions as may be imposed by the Minister either generally in respect of permits issued under this section or in any particular case.

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

(a) vary or revoke any conditions of the permit,

(b) impose new conditions on the permit.

(5A) Where, in a permit issued to an organisation under this section, the Minister specifies that it is issued:

(a) for a specified number of games of chance conducted during a specified period, or

(b) for all games of chance conducted during a specified period,

the permit shall be deemed to be a permit issued separately:

(c) in the case referred to in paragraph (a)—for each game of chance that is conducted by, or under the authority of, the organisation and is within a total number of games of chance so conducted during the period specified in the permit that does not exceed the number so specified, or

(d) in the case referred to in paragraph (b)—for each game of chance that is conducted by, or under the authority of, the organisation during the period specified in the permit.

(6) Upon an application made to the Minister within twenty-one days after the conclusion of any game of chance referred to in subsection (2), the Minister may, if the Minister is satisfied that circumstances of an unusual nature arose in connection with the conduct of the game of chance, by writing under the Minister's hand, determine, in relation to that game, that a proportion less than the proportion prescribed by the regulations for the purposes of subsection (3) (g) is to be paid into the funds of the organisation.

#### **4B Lotteries and games of chance for the promotion of trade**

(1) In this section:

**Game of chance** includes a game partly of skill and partly of chance.

**Lottery** means the disposition of any real or personal property by lot.

(2) The provisions of section 3 do not apply so as to prohibit the conduct of a lottery or game of chance which is conducted in connection with a competition for the promotion of trade, if the conditions specified in subsection (3) are complied with in respect of the lottery or game.

(3) The conditions referred to in subsection (2) are:

(a) that a permit for the conduct of the lottery or game has been issued by the Minister to a person or organisation,

(b) that any conditions subject to which the permit was issued (including any condition relating to the site at which the competition, or a lottery or game of chance conducted in connection therewith, may be conducted) are complied with,

(c) that no entry fee is charged in connection with the lottery or game,

(d) that no prize in the lottery or game of chance consists of or includes a prohibited prize, and

(e) that any regulations made under this Act and relating to the lottery or game or any function, device or scheme held or used in conjunction therewith are complied with.

(4) An application for a permit under this section shall be made in writing to the Minister and shall be accompanied by the prescribed fee.

(4A) An application for a permit under this section may not be made by or on behalf of a person who is under the age of 18 years.

(5) A permit may be issued by the Minister under this section without conditions or subject to such conditions as may be imposed by the Minister either generally in respect of permits issued under this section or in any particular case.

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

(a) vary or revoke any conditions of the permit,

(b) impose new conditions on the permit.

(5A) Where, in a permit issued under this section, the Minister specifies that it is issued:

- (a) for a specified number of lotteries and games of chance conducted during a specified period, or
  - (b) for all lotteries and games of chance conducted during a specified period,  
the permit shall be deemed to be a permit issued separately:
  - (c) in the case referred to in paragraph (a)—for each lottery and game of chance that is conducted by, or under the authority of, the holder of the permit and is within a total number of lotteries and games of chance so conducted during the period specified in the permit that does not exceed the number so specified, or
  - (d) in the case referred to in paragraph (b)—for each lottery and game of chance conducted by, or under the authority of, the holder of the permit during the period specified in the permit.
- (6) A permit shall not be issued by the Minister under this section for the conduct of the game known as “Housie”, or any like game, where the game is to be conducted by means of radio or television.
- (7) This section extends to the conduct of a lottery or game of chance by, or under authority of, a club registered under the [Registered Clubs Act 1976](#) or an interstate club within the meaning of section 30 (13) of that Act, in connection with a competition for the promotion of trade or of patronage of the club and its facilities.

#### **4C Games of chance in registered clubs**

- (1) In this section:

**game of chance** includes a game partly of skill and partly of chance and a lottery, not being a lottery within the meaning of section 4.

**prize** includes goods, wares, merchandise, services, vouchers for goods or services that are not redeemable for money, tickets for admission to any entertainment and tickets for tours or journeys.

- (2) The provisions of section 3 do not apply so as to prohibit the conduct of a game of chance, if:
- (a) the game of chance is conducted by, or under the authority of, a club registered under the [Registered Clubs Act 1976](#), and
  - (b) the conditions specified in subsection (3) are complied with in respect of the game of chance.
- (3) The conditions referred to in subsection (2) (b) are:
- (a) (Repealed)

- (b) that the total value of the prizes in any one game shall not exceed the prescribed amount in respect of the game or type of game,
- (c) that the game is conducted by or on behalf of the club for the members thereof and their guests and is conducted in the club's premises,
- (d) that, except as specified by or under the regulations in respect of the game or type of game, no charge is made or no other consideration is given for participating in the game,
- (e) that no prize in the game shall be awarded entitling the winner thereof to money,
- (f) that no prize in the game consists of or includes a prohibited prize,
- (g) that the game be conducted on such day or days and during such hours, if any, as are specified by or under the regulations in respect of the game or type of game,
- (h) that any regulations made under this Act and relating to the game or any function, device or scheme held or used in conjunction therewith are complied with, and
- (i) any other conditions imposed by or under the regulations in respect of the game or type of game.

(4)-(5) (Repealed)

#### **4D Sweepstakes in relation to Melbourne Cup and other events**

(1) In this section:

***calcutta*** means a game in which:

- (a) each player pays a fee for a chance to win by lot a right in respect of a participant in a prescribed event, and
- (b) those rights are auctioned, the holder of each right being entitled to elect:
  - (i) to sell the right and receive one half of the proceeds of sale, or
  - (ii) to retain the right by making (and paying one half of) the highest bid, and
- (c) the prize pool, comprising the entrance fees and net auction proceeds (less any deductions permitted under this section), is distributed to the ultimate holders of the rights in respect of successful participants in the prescribed event,

and includes any game conducted along substantially similar lines.

***prescribed amount*** means \$20,000.

***prescribed event*** means:

- (a) the horse race conducted by the Victoria Racing Club on the first Tuesday in November each year and known as the Melbourne Cup, and
- (b) any other event (or any class of events) specified in an order published by the Minister in the Gazette from time to time as an event in relation to which sweeps or calcuttas (or both) may be conducted.

**prescribed organisation** means:

- (a) (Repealed)
- (b) any organisation not formed or conducted for private gain, or
- (c) a political party or trade union, or
- (d) a registered club within the meaning of the [Registered Clubs Act 1976](#), or
- (e) a club registered under the Rules of Racing of the NSW Thoroughbred Racing Board, or
- (f) a greyhound racing club within the meaning of the [Greyhound Racing Act 2002](#), or
- (g) a harness racing club within the meaning of the [Harness Racing Act 2002](#).

**sweep** means a game in which:

- (a) each player pays a fee for a chance to win by lot a right in respect of a participant in a prescribed event, and
- (b) the prize pool, comprising the entrance fees (less any deductions permitted under this section), is distributed to the holders of the rights in respect of successful participants in the prescribed event,

and includes any game conducted along substantially similar lines.

- (2) For the purposes of this Act, calcuttas and sweeps are taken to be games of chance.
- (3) The provisions of section 3 do not apply so as to prohibit the conduct of a sweep or calcutta in relation to a prescribed event if the requirements of this section (including any requirement to hold a permit) are complied with in relation to the game.
- (4) The following general requirements apply:
  - (a) a sweep in which the total amount paid as entrance fees exceeds the prescribed amount may not be conducted except by the holder of a permit from the Minister,
  - (b) a calcutta in which the total amount paid as entrance fees exceeds the prescribed amount may not be conducted except by the holder of a permit from the Minister,
  - (c) no payment or other benefit is, for the purpose of participating in the game, to be

- given or sought for the right to enter any place where the game is to be played,
- (d) no payment or other benefit is to be given or sought for the right to participate in the game (otherwise than by investment of stake money),
  - (e) no commission on, percentage of or fee for bets or winnings is to be taken or sought by any person, whether or not a participant in the game,
  - (f) all money invested by players of the game is to be paid out as prizes or otherwise returned to players in accordance with the rules of the game, except as otherwise provided by this section,
  - (g) persons under the age of 16 years:
    - (i) are not to be allowed to be players in, or assist in the conduct of, the game, and
    - (ii) are not to be allowed to be present during any draw or auction for the purposes of the game,
  - (h) no prize in the game is to consist of or include a prohibited prize.
- (5) An application for a permit for the purposes of this section must be made in writing to the Minister and must be accompanied by the prescribed fee, if any.
- (5A) An application for a permit under this section may not be made by or on behalf of a person who is under the age of 18 years.
- (6) The Minister may grant a permit to an applicant unconditionally or subject to conditions, or may refuse to grant the permit.
- (7) The Minister may, at any time, by notice in writing served on the holder of a permit, revoke the permit or do either or both of the following:
- (a) vary or revoke any conditions of the permit,
  - (b) impose new conditions on the permit.
- (8) Money invested by players may be applied to costs and expenses properly incurred in connection with the conduct of the game, such as:
- (a) the cost of purchasing tickets or stationery, or
  - (b) in the case of a game conducted pursuant to a permit under this section—wages or remuneration of persons assisting the promotion of the game.
- (9) If the game is conducted by or with the authority of a prescribed organisation, money invested by players of the game and not applied to prize money in connection with the game or applied to costs and expenses referred to in subsection (8) may be applied to



the purposes of the organisation.

- (10) Nothing in subsection (4) (c) applies to an entrance fee for admission to a licensed racecourse or other ground, so long as the fee is customary and unrelated to the game.

#### **4E Conduct of certain games of housie authorised**

- (1) In this section:

**game of housie** means the game known as “housie” and includes any like game.

**session of games** means a number of games of housie held in succession on the one occasion and at the one place.

- (2) The provisions of section 3 do not prohibit the conduct of a game of housie if the following requirements are complied with:
- (a) the game is not conducted on licensed premises under the [Liquor Act 1982](#) or on the premises of a club registered under the [Registered Clubs Act 1976](#),
  - (b) except as prescribed, no charge or other consideration is made or given for participating in the game,
  - (c) no charge or other consideration, for the purpose of participating in the game, is made or given to enter the place where the game is to be conducted,
  - (d) tickets, cards or other materials for the game are distributed only at the place where it is conducted,
  - (e) the amount or total value of the prizes in the game is not more than the prescribed amount,
  - (f) the amount or total value of any jackpot prizes in the session of games of which the game is part is not more than the prescribed amount,
  - (g) the prizes in the game or session of games do not consist of or include a prohibited prize,
  - (h) all money invested by the players of the game is:
    - (i) applied towards prizes or otherwise returned to players in accordance with the rules of the game, or
    - (ii) partly applied as set out in subparagraph (i) and partly applied towards costs and expenses properly incurred in connection with the conduct of the game or the session of games of which the game is part, or
    - (iii) if the game is conducted or authorised by an organisation not formed or

conducted for private gain, applied to the purposes of the organisation in addition to the purposes set out in subparagraph (i) or (ii),

- (i) no salary, wage, fee, commission, percentage or other benefit (other than a prize) is paid or given to, or taken by, any person in connection with the conduct of the game,
- (j) the total amount invested by players in the session of games of which the game is part is not more than the prescribed amount (if any),
- (k) any regulations relating to the conduct of the game or the session of games of which it is part are complied with.

#### **4F Conduct of progressive lotteries authorised**

(1) In this section:

**progressive lottery** means a lottery or game of chance in which a number of draws may be conducted on various dates over a stipulated period of time, and includes:

- (a) a “hundred club”, “silver circles” or any other lottery or game of chance conducted along substantially similar lines, and
- (b) a tipping competition (or other lottery or game of chance conducted along substantially similar lines) in which:
  - (i) the participants predict the outcome or results of a sporting or other contingency, and
  - (ii) points are awarded for successful predictions, and
  - (iii) the prize pool is distributed to the participant who accumulates the most points over a stipulated period, and
  - (iv) periodical prizes may be awarded (in accordance with the rules of the competition),

but does not include:

- (c) a sweep, or a calcutta, within the meaning of section 4D, and
  - (d) anything prescribed by the regulations as not being a progressive lottery.
- (2) The provisions of section 3 do not prohibit the conduct of a progressive lottery if the following requirements are complied with in relation to the lottery:
- (a) if the total amount paid as entrance fees in the lottery, or that is otherwise paid to participate in the lottery, exceeds the amount (if any) prescribed by the regulations, the lottery must not be conducted except by the holder of a permit from the Minister,

- (b) the total amount paid by the participants in the lottery must not exceed the amount (if any) prescribed by the regulations,
  - (c) the total value of the prizes in the lottery must not exceed the amount (if any) prescribed by the regulations,
  - (d) the amount of money awarded as a prize in the lottery must not exceed the amount (if any) prescribed by the regulations,
  - (e) any spending money awarded in conjunction with a prize comprising tickets for a tour or journey must not exceed the amount (if any), or the proportion (if any) of the total value of the prize, prescribed by the regulations,
  - (f) prizes must not consist of or include any prohibited prize,
  - (g) a charge or other consideration, for the purposes of participating in the lottery, must not be paid or given to, or be taken by, any person to enter the place where the progressive lottery, or the sporting or other contingency to which the lottery relates, is being conducted,
  - (h) if a person who intends to participate in the lottery is required to call a specified telephone number in order to participate in the lottery, the cost for calling that number must not exceed the amount (if any) prescribed by the regulations, and the person or organisation conducting the lottery must not receive, directly or indirectly, any amount that may be paid for calling the number,
  - (i) all money paid by the participants in the lottery must:
    - (i) be applied towards prizes or otherwise returned to the participants in accordance with the rules of the lottery, or
    - (ii) be partly applied as set out in subparagraph (i) and partly applied towards costs and expenses properly incurred in connection with the conduct of the lottery, or
    - (iii) if the lottery is conducted or authorised by or on behalf of an organisation not formed or conducted for private gain—be applied to the purposes of the organisation in addition to the purposes set out in subparagraph (i) or (ii),
  - (j) a salary, wage, fee, commission, percentage or other benefit (other than a prize) must not be paid or given to, or taken by, any person in connection with the conduct of the lottery,
  - (k) the lottery must be conducted in accordance with the regulations.
- (3) A person may apply to the Minister for a permit under this section.
- (4) An application:

- (a) may only be made by or on behalf of a person who is of or over the age of 18 years, and
  - (b) must be in writing, and
  - (c) must be accompanied by the fee (if any) prescribed by the regulations.
- (5) The Minister may:
- (a) grant a permit to an applicant unconditionally or subject to conditions, or
  - (b) refuse to grant a permit.
- (6) The Minister may, at any time, by notice in writing served on the holder of a permit under this section, revoke the permit or do either or both of the following:
- (a) vary or revoke any conditions of the permit,
  - (b) impose new conditions on the permit.
- (7) Nothing in subsection (2) (g) applies to an entrance fee for admission to a place so long as the fee is customary and unrelated to the lottery.

#### **4G Conduct of gratuitous (free entry) lotteries authorised**

- (1) In this section:

**gratuitous lottery** means a lottery or game of chance (including such lotteries or games of chance known as “lucky door” or “lucky seat” prizes) in which entry or participation in the lottery or game is free.

- (2) The provisions of section 3 do not prohibit the conduct of a gratuitous lottery if the following requirements are complied with in relation to the lottery:
- (a) the lottery must not be conducted for the purposes of promoting any trade or business,
  - (b) an entry or participation fee must not be charged in connection with the lottery,
  - (c) prizes must not consist of money or any prohibited prize,
  - (d) the total value of the prizes in the lottery must not exceed the amount (if any) prescribed by the regulations.

#### **5 Art unions**

- (1) In this section:

**art union** means a voluntary association formed for the purchase of any prizes to be allotted or distributed by chance or otherwise among members of the association for the aid or support of any institution or object of a genuinely charitable or public

character or for a non-profit organisation.

**member** of a voluntary association includes subscribers and contributors to the association.

**non-profit organisation** means an organisation not formed or conducted for private gain.

- (2) The provisions of section 3 do not apply so as to prohibit the allotment or distribution of any prizes by chance or otherwise as a prize by an art union if the conditions specified in section 6 are complied with by the art union.
- (3) Nothing in the *Unlawful Gambling Act 1998* or any other law is taken to render unlawful an art union formed under this Part.

## **6 Conditions and permits for art unions**

- (1) The conditions referred to in section 5 (2) are as follows:
  - (a) that the Minister has issued a permit for the formation of the art union,
  - (b) that any conditions subject to which the permit is issued are complied with,
  - (c) that the total value of the allotment or distribution by the art union does not exceed the amount prescribed by the regulations or the amount specified in the permit, whichever is the lesser,
  - (d) that any prize to be allotted or distributed by the art union does not consist of or include a prohibited prize,
  - (e) that money raised by the art union is not allotted or distributed on condition that it be spent wholly or partly in purchasing a prohibited prize,
  - (f) that the whole of the profits, or not less than the proportion of the gross proceeds prescribed by the regulations, of the art union (whichever is the greater) are paid into the funds of the institution or non-profit organisation for the aid or support of which the art union was formed,
  - (g) that the amount of any money allocated or distributed by the art union to any one member as a prize does not exceed the amount prescribed by the regulations,
  - (g1) that any spending money allocated or distributed in conjunction with a prize comprising tickets for a tour or journey does not exceed the amount, or the proportion of the total value of allotment or distribution by the art union, prescribed by the regulations,
  - (h) that any regulations made under this Act as to the manner in which an allotment or distribution is to be made by the art union are complied with.

- (1A) A person may make an application to the Minister within 21 days of the conclusion of the conduct of an art union for a determination under subsection (1B).
- (1B) If the Minister is satisfied that circumstances of an unusual nature arose with the conduct of the art union justifying a determination under this subsection, the Minister may determine that a proportion less than the proportion prescribed for the purposes of subsection (1) (f) is to be paid by the art union into the funds of the institution or non-profit organisation for the aid or support of which the art union was formed.
- (1C) The Minister is to serve written notice of the determination under subsection (1B) on the person.
- (2) An application for a permit referred to in subsection (1) (a) shall be made to the Minister in writing and shall be accompanied by the prescribed fee.
- (2A) An application for a permit under this section may not be made by or on behalf of a person who is under the age of 18 years.
- (3) The Minister may, at the Minister's discretion:
- (a) grant an application for a permit referred to in subsection (1) (a) without imposing conditions,
  - (b) grant such an application subject to such conditions imposed by the Minister generally or in a particular case as are specified in the permit, or
  - (c) refuse to grant such an application.
- (4) Without prejudice to the generality of subsection (3), the Minister may, under that subsection, impose a condition of a permit limiting:
- (a) the total value of the prize to be allotted or distributed under section 5 by the art union to which the permit relates, or
  - (b) (Repealed)
- (5) The Minister may, at any time, by notice in writing served on the holder of a permit, revoke the permit or do either or both of the following:
- (a) vary or revoke any conditions of the permit,
  - (b) impose new conditions on the permit.

**6A (Repealed)**

**6B Substitution of prizes**

- (1) In this section:

***major prize*** means a prize of a value exceeding an amount prescribed for the

purposes of this definition.

**prize**, in relation to an art union, means whatever was, when the art union was first formed, proposed to be allotted or distributed by the art union by chance or otherwise among the several members, subscribers or contributors forming part of the art union.

- (2) Subject to subsections (4) and (5), the Minister may approve of the substitution by an art union of a prize if the Minister is satisfied that the prize has been lost or destroyed or for any other reason cannot be allotted or distributed by the art union.
- (3) An application for the Minister's approval under subsection (2) shall be made in writing to the Minister.
- (4) Where a prize is a major prize, the Minister shall not approve of the substitution by an art union of that prize unless:
  - (a) the Minister is satisfied that subscribers or contributors to the art union have been given adequate opportunity to withdraw from membership of the art union, and
  - (b) the Minister is satisfied that any regulations made under this Act relating to the substitution of prizes and the refund of subscriptions or contributions have been complied with.
- (5) Whatever is proposed to be substituted for a prize pursuant to this section must be, in the opinion of the Minister, substantially similar to, and not less in value than, that prize.
- (6) Whatever is approved by the Minister under this section to be substituted for a prize shall be deemed to be, and always to have been, that prize.

### **7-13 (Repealed)**

## **Division 3 Other provisions**

### **14 Falsification of records**

A person who, with intent to defraud or deceive another person:

- (a) alters or falsifies a record relating to a lottery or game of chance conducted as authorised by section 4, 4A, 4B, 4C, 4D, 4E, 4F or 4G, or
- (b) makes or concurs in the making of a false or fraudulent entry in a record relating to such a lottery or game, or
- (c) omits or concurs in omitting a material particular from a record relating to such a lottery or game,

is guilty of an indictable offence.

Maximum penalty: 200 penalty units or imprisonment for 5 years, or both.

### **15 Unclaimed prizes**

Any prize unclaimed by the person holding the ticket entitling the person to that prize, or by some person duly authorised in that behalf, for a period of three months after the drawing of the lottery or the conclusion of the game of chance, shall be sold under the direction of the Minister, and the proceeds of the sale paid into the fund for which the organisation was formed, or to the institution in aid of which the lottery or game of chance was conducted, as the case may be.

### **15A Delegation of Minister's powers**

- (1) The Minister may, by writing under the Minister's hand, delegate any of the Minister's powers or functions under this Act to an officer of the public service.
- (2) Any delegate when acting in pursuance of any such delegation shall be deemed to be the Minister.
- (3) The Minister may at any time by writing under the Minister's hand revoke any such delegation.

## **Part 3 Offences**

### **16 Misappropriation of funds or prizes**

A person who is concerned in the conduct of:

- (a) a lottery for which an art union has been formed, or
- (b) a lottery or game of chance conducted as authorised by section 4, 4A, 4B, 4C, 4D, 4E, 4F or 4G,

and who converts to his or her own use any money raised by means of the lottery or game or any prizes connected with it is guilty of an indictable offence.

Maximum penalty: 200 penalty units or imprisonment for 5 years, or both.

### **17 Fraudulent conduct of lotteries and games of chance**

Any person:

- (a) who with intent to defraud conducts, or assists or participates in the conduct of, any lottery referred to in section 4, 4B or 4F, or any game of chance referred to in section 4A, 4B, 4C, 4D or 4E, not being a game partly of skill and partly of chance, in such a manner or on such conditions that all persons who have purchased tickets or shares in the lottery or have entered the game of chance have not an equal chance of winning a prize, or



- (b) who fraudulently conducts, or assists or participates in the conduct of, a game of chance referred to in section 4A, 4B, 4C, 4D, 4E, 4F or 4G, being a game partly of skill and partly of chance,

shall be liable to a penalty not exceeding 50 penalty units.

### **17A False statements**

- (1) A person who:

- (a) in an application or notice made or given under this Act, or

- (b) in any record or document relating to a lottery, game of chance or art union,

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

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

- (2) A person:

- (a) who is conducting or proposing to conduct a lottery, game of chance or art union,  
or

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

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

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

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

### **17B Keeping of records**

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

- (2) The records must:

- (a) be kept in writing in the English language or so as to enable the records to be readily accessible and readily convertible into writing in the English language, and

(b) include any particulars required by the regulations, and

(c) be kept for a period of at least 7 years (or such shorter period as may be prescribed by the regulations) after the receipt of the income or the incurring of the expenditure to which they relate.

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

Maximum penalty: 50 penalty units.

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

### **18 Penalty for selling tickets in or near to streets**

Whosoever within the area of any council within the meaning of the *Local Government Act 1993*:

(a) in a street, sells or offers for sale any ticket in a lottery, or

(b) in a right-of-way, doorway, or on any private land adjoining a street, sells or offers for sale to any person in such street, any ticket in a lottery,

shall be liable to a penalty not exceeding 3 penalty units, unless that council has given permission in writing for the sale of tickets in that lottery as aforesaid.

### **18A Entitlement of winner to prize**

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

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

Maximum penalty: 50 penalty units.

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

### **18B Liquor prizes**

(1) This section applies to a prize in a lottery or game of chance and a prize to be allotted

or distributed by an art union.

- (2) A prize may consist of or include liquor within the meaning of the *Liquor Act 1982*.
- (3) The regulations may provide for the liquor component of any prize to be limited to such proportion of the total value of the prize, or such quantity, as may be prescribed.
- (4) A person under the age of 18 years must not:
  - (a) sell a ticket for a prize having a liquor component, or
  - (b) collect a prize having a liquor component.

Maximum penalty: 10 penalty units.

- (5) A person must not:
  - (a) sell a ticket for a prize having a liquor component to a person under the age of 18 years, or
  - (b) give a prize having a liquor component to a person under the age of 18 years.

Maximum penalty: 10 penalty units.

- (6) It is a defence to a prosecution under subsection (5) if the defendant proves that he or she did not know, and could not reasonably have been expected to know, that the person to whom a ticket was sold or a prize given was under the age of 18 years.
- (7) A minor may not be imprisoned, or detained in a detention centre, as a consequence of a failure to pay a penalty under this section.
- (8) In this section, **liquor component** means that part of a prize in a lottery, game of chance or an art union consisting of or including liquor.

## Part 4 Foreign lotteries

### 19 Definition of "foreign lottery"

In this Part:

**foreign lottery** means a lottery (whether it is described as a lottery, or as a sweep, or called by any other name or designation), including a lottery within the meaning of section 3, that:

- (a) is conducted or to be conducted outside Australia and whether or not it is legal in the place where it is or is to be conducted, or
- (b) is conducted or to be conducted in another State or a Territory and is declared by the Minister, by order published in the Gazette, to be a lottery that fails to comply with the standards required of lottery activities conducted in New South Wales.

### **19A Application of Act to lotteries conducted outside NSW**

A lottery (however described) is subject to section 3 and the other provisions of this Act even if it is conducted or to be conducted outside New South Wales (whether or not it is subject to a declaration under paragraph (b) of the definition of **foreign lottery** in section 19).

### **20 Penalty for advertising etc foreign lottery**

Whosoever prints or publishes any advertisement, notice, or information relating to a foreign lottery in furtherance of the conduct of the lottery or announcing its result or displays upon any premises in the person's occupation any card, poster, or notice relating to a foreign lottery in furtherance of the conduct of the lottery or announcing its result shall be liable to a penalty not exceeding 50 penalty units.

### **21 Penalty for selling ticket etc in foreign lottery**

- (1) Whosoever sells or offers for sale or accepts any money in respect of the purchase of any ticket or share in a foreign lottery shall be liable to a penalty not exceeding 25 penalty units.
- (2) This section extends to sales, offers for sale and acceptances made by telephone, facsimile or other electronic means.

## **Part 5 Investigations**

### **21A Appointment of inspectors**

- (1) The Minister may appoint any person to be an inspector for the purposes of this Part.
- (2) The Minister may authorise a police officer or other person to exercise such of the functions of an authorised inspector under this Part as the Minister may direct.
- (3) The regulations may authorise police officers of or above any specified rank to exercise all or any specified functions of an authorised inspector under this Part.

### **21B Minister may inquire into lottery activity**

- (1) The Minister may, with respect to any matter arising under this Act, inquire into any person or organisation that:
  - (a) is conducting or has conducted, or is participating or has participated in, a lottery activity, or
  - (b) the Minister has reason to believe is conducting or has conducted, or is participating or has participated in, a lottery activity.
- (2) The Minister may cause an inquiry under this section to be made by an authorised inspector, either with respect to a particular matter or with respect to any class of

matter.

### **21C Power of Minister to require accounts etc**

- (1) For the purposes of any inquiry under this Part, the Minister or an authorised inspector may require any person to do any one or more of the following:
  - (a) to furnish accounts and statements in writing with respect to any matter in question at the inquiry, being a matter about which the person has or can reasonably obtain information,
  - (b) to provide answers in writing to any questions addressed to the person on any such matter,
  - (c) to verify any such account, statement or answer by statutory declaration,
  - (d) to attend at a specified time and place and give evidence or produce documents in the person's custody or under the person's control which relate to any matter in question at the inquiry,
  - (e) to furnish copies of or extracts from any document in the person's custody or under the person's control which relate to any matter in question at the inquiry or to make any such document available for inspection.
- (2) Any requirement under this section is to be made by notice in writing served on the person concerned and specifying a reasonable time within which the requirement is to be complied with.
- (3) For the purposes of any inquiry under this Part, evidence may be taken on oath and the person conducting the inquiry may for that purpose administer oaths.
- (4) The person conducting the inquiry may take possession of documents produced to the person for such period as the person considers necessary for the purposes of the inquiry and may make copies of or take extracts from them. During that period the person conducting the inquiry must permit a person who would be entitled to inspect any one or more of those documents if they were not in the possession of the person conducting the inquiry to inspect at all reasonable times such of those documents as that person would be entitled to inspect.

### **21D Power of entry and inspection**

- (1) If an authorised inspector believes on reasonable grounds that any documents relevant to an inquiry under this Part are likely to be found on any premises, the authorised inspector may:
  - (a) enter the premises, and
  - (b) require production of the documents, and

- (c) take copies of or extracts from the documents or take possession of the documents for such period as he or she considers necessary for the purposes of the inquiry.
- (2) Section 21C (4) applies to documents taken under subsection (1) (c).
- (3) A power conferred by this section:
  - (a) may not be exercised in relation to any premises used as a dwelling, or in relation to a part of any premises so used, except with the consent of the occupier of the premises or part or by the authority of a search warrant, and
  - (b) may be exercised only at reasonable times and on reasonable notice to the occupier of any affected premises, except where the Minister has certified that, in the circumstances, the power may be otherwise exercised (in which case it may be exercised in accordance with the Minister's directions).
- (4) A power conferred by this section may not be exercised unless the person exercising it is in possession of a certificate issued by the Minister which:
  - (a) states that it is issued under this Act, and
  - (b) gives the name of the person to whom it is issued, and
  - (c) describes the nature of the powers conferred, and
  - (d) bears the signature of the Minister.
- (5) A person exercising a power to enter premises must produce his or her certificate to the occupier of the premises.
- (6) If damage is caused by a person exercising a power to enter premises, a reasonable amount of compensation is recoverable as a debt owed by the Crown to the owner of the premises unless the occupier hindered or obstructed the exercise of the power.

### **21E Search warrant**

- (1) An authorised inspector may apply to an authorised justice (within the meaning of the [Search Warrants Act 1985](#)) for a search warrant if the inspector has reasonable grounds for believing that documents relating to any matter in question at an inquiry being conducted under this Part are kept at a particular place and that:
  - (a) the place is used as a dwelling, or
  - (b) a person having custody or control of those documents has neglected or failed to comply with a requirement under this Act to produce them or to furnish copies of or extracts from them, or
  - (c) the place is unoccupied or the occupier is temporarily absent.

- (2) The authorised justice to whom the application is made may, if satisfied that there are reasonable grounds for doing so, issue a search warrant authorising an authorised inspector named in the warrant to enter the place and to search for and take possession of documents of a kind specified in the warrant.
- (3) An authorised inspector who enters any place by virtue of such a warrant may take with him or her such other persons as may be necessary, and on leaving any unoccupied place so entered must, as far as practicable, leave it as effectively secured against trespassers as he or she found it.
- (4) Part 3 of the *Search Warrants Act 1985* applies to a search warrant issued under this section.

#### **21F Auditor-General to act as or provide inspector**

- (1) For the purposes of this Part, the Auditor-General may (and on the request of the Minister, is required to):
  - (a) exercise the functions of an authorised inspector under this Part or the regulations or assist and advise the Minister on any matter arising in the execution of this Act or the regulations, or
  - (b) provide some suitably qualified member or members of the Auditor-General's staff to do so.
- (2) The Auditor-General or such a member of staff has the functions of an authorised inspector under this Part and the regulations.

#### **21G Recovery of certain expenses**

- (1) If the Minister so directs, the whole or any part of the expenses incurred by the Auditor-General in or in connection with the exercise by the Auditor-General or a member of the Auditor-General's staff of any of the functions of an authorised inspector in relation to a particular person or organisation is payable by the person or organisation and recoverable from the person or organisation by the Auditor-General as a debt in a court of competent jurisdiction.
- (2) If the Minister so directs, the remuneration of and any expenses incurred by an authorised inspector who is not an employee of the Crown are, where the remuneration and expenses are referable to the exercise of any of the functions of the inspector under this Part in relation to a particular person or organisation, payable by the person or organisation and recoverable in a court of competent jurisdiction as a debt due to the Crown.
- (3) The amount recoverable from a person or organisation under subsection (1) is an amount certified by the Auditor-General to be the amount so recoverable.
- (4) The amount recoverable from a person or organisation under subsection (2) is an

amount certified by the Minister to be the amount so recoverable.

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

#### **21H Offences in relation to inquiries**

A person who:

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

is guilty of an offence.

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

### **Part 6 Miscellaneous**

#### **22 Proceedings for offences**

- (1) Proceedings for an offence against this Act (other than an offence under section 14 or 16) or the regulations are to be dealt with summarily by a Local Court constituted by a Magistrate sitting alone.
- (2) Any such proceedings may be commenced at any time within 3 years after the offence was allegedly committed.

#### **22A Minister may issue direction prohibiting conduct of lottery activity**

- (1) This section applies if the Minister is satisfied:
  - (a) that it is likely that the provisions of this Act or the regulations or the conditions of a permit have not been, or will not be, complied with in relation to a lottery activity, or
  - (b) that it would otherwise be against the public interest for the lottery activity to be conducted.
- (2) The Minister may, by written notice given to the person or organisation conducting the lottery, give a direction prohibiting the conduct of the lottery activity.
- (3) A person or organisation given a direction under subsection (2) must comply with the



direction.

Maximum penalty: 50 penalty units.

- (4) A person or organisation given a direction under subsection (2) may apply to the Administrative Decisions Tribunal for a review of the decision by the Minister to give the direction.

#### **22AA Minister may prohibit person or organisation from conducting lottery activities**

- (1) This section applies if the Minister is satisfied:

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

- (2) The Minister may, by written notice given to the person or organisation, give a direction prohibiting the person or organisation from conducting any lottery activities for a period not exceeding 2 years after the notice is given to the person or organisation.

- (3) A person or organisation given a direction under subsection (2) must comply with the direction.

Maximum penalty: 50 penalty units.

- (4) A person or organisation given a direction under subsection (2) may apply to the Administrative Decisions Tribunal for a review of the decision by the Minister to give the direction.

#### **22B 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 some person apparently resident at that place and apparently not less than 16 years of age, or
- (d) by leaving the document at the person's last known place of business with someone apparently in the service of the person and apparently not less than 16 years of age.

- (2) A document required or permitted by or under this Act to be served on a person may,

if the person is a corporation, be served:

- (a) by sending the document by post addressed to the corporation at its registered office or principal place of business in New South Wales, or
  - (b) by leaving it at the registered office or principal place of business in New South Wales of the corporation with some person apparently employed in connection with the business of the corporation and apparently not less than 16 years of age.
- (3) A document required or permitted by or under this Act to be served on an organisation may, if the organisation is not incorporated, be served:
- (a) by sending the document by post addressed to the trustees or members of the governing body of the organisation at its registered office, or
  - (b) by serving it on any such trustee or member of the governing body in any manner that, by this section or otherwise according to law, constitutes sufficient service on a natural person.
- (4) The provisions of this section are in addition to, and do not prejudice the operation of, any other law prescribing procedures sufficient for service of documents.

#### **22C Offences by corporations**

- (1) If a corporation contravenes any provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the management of the corporation is taken to have contravened the same provision if the person knowingly authorised or permitted the contravention.
- (2) A person may be proceeded against and convicted under a provision pursuant to subsection (1) whether or not the corporation has been proceeded against or convicted under that provision.
- (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.

#### **22D Remedial orders**

- (1) A court that finds a person guilty of an offence against this Act or the regulations, being an offence that is prescribed by the regulations for the purposes of this section, may, by order, suspend or revoke a permit issued under this Act to the person or take any other action prescribed by the regulations, in addition or as an alternative to any penalty that it may impose in respect of the offence.
- (2) A person who, without lawful excuse, fails to comply with an order under this section is guilty of an offence.

Maximum penalty: 20 penalty units.

## 23 Regulations

- (1) The Governor may make regulations not inconsistent with this Act prescribing all matters which by this Act are required or permitted to be prescribed or which are necessary or convenient to be prescribed for giving effect to this Act, and without limiting the generality of the foregoing power in particular in regard to all or any of the following matters:
- (a) The forms of application to be made for any approval, sanction, or permit required to be obtained under this Act.
  - (b) The persons by whom such applications must be made and to whom such approval, sanction, or permit shall be issued.
  - (c) The terms and conditions subject to which such approval, sanction, or permit will be granted.
  - (d) The conduct and management of any art union, lottery or game of chance, including a game partly of skill and partly of chance, or of any function or device or scheme held or used in conjunction therewith, including the books of account and records to be kept, and the inspection or audit at any stage by authorised persons of such conduct or management, or any such books of account or records.
  - (e) The collection and audit of any funds derived from such art union, lottery or game of chance, including a game partly of skill and partly of chance, or any such function, or the use of such device or scheme or any matter relating thereto.
  - (f) The fees to be paid for any permit or other document.
  - (g) The amount to be paid as salary, commission, or wages, or in connection with the organisation, conduct or management of any art union, or any function or device or scheme held or used in conjunction with an art union or lottery.
  - (h) The amount paid for rent or hire of any chocolate wheel or device used in connection with a lottery or game of chance, including a game partly of skill and partly of chance.
  - (i) The proportion of the gross takings to be paid to the institution or object in aid or in support of which the art union is formed or the lottery or game of chance, including a game partly of skill and partly of chance, is conducted.
  - (j) The terms of agreement between persons promoting:
    - (i) art unions, or
    - (ii) functions at or in conjunction with which lotteries or games of chance, including a game partly of skill and partly of chance, are conducted by, or under the authority of, charities or non-profit organisations referred to in

section 4 or 4A,

in aid of any charitable institution or returned soldiers' institution, and the persons controlling such institution.

- (k) The terms upon which persons may be allowed to act as agents for the sale of tickets in any art union.
  - (l) (Repealed)
  - (m) The terms of agreement between persons promoting:
    - (i) games of chance referred to in section 4C or games of housie referred to in section 4E, or
    - (ii) functions at or in conjunction with which those games are conducted,and the persons, clubs or organisations conducting or authorising the conduct of the games.
  - (n) The substitution, under section 6B, of prizes by art unions and the refund of subscriptions or contributions where prizes are so substituted, including:
    - (i) the making of applications for approval of the substitution of prizes, and
    - (ii) the imposing of terms and conditions subject to which prizes may be substituted.
  - (o) Restricting or prohibiting the conduct of promotions or other activities (including advertising) relating to lottery activities.
  - (p) The information to be provided and signs to be displayed at venues where games of chance are to be conducted.
  - (q) The conduct of progressive lotteries referred to in section 4F or gratuitous lotteries referred to in section 4G.
  - (r) The awarding of money as a prize in any lottery or game of chance, or the allocation or distribution by an art union of money as a prize in the art union.
- (1A) Regulations may be made so as to apply differently according to such factors as may be specified in the regulations.
- (2) The regulations may impose a penalty not exceeding 20 penalty units for any breach thereof or of the rules and regulations relating to the proceedings of any art union formed for the purposes of section 5 or of the terms and conditions of any approval, sanction or permit relating to an art union, lottery, game of chance, including a game partly of skill and partly of chance, or of the terms of any contracts of agency for the sale of tickets in any art union.

(3) (Repealed)

## **24 Savings and transitional provisions**

Schedule 2 has effect.

## **Schedule 1 (Repealed)**

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

(Section 24)

### **Part 1 General**

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

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

*Lotteries and Art Unions (Amendment) Act 1994*

*Lotteries and Art Unions Amendment Act 2003*

(2) A provision referred to in subclause (1) may, if the regulations so provide, take effect on or from the date of assent to the Act concerned or a later day.

(3) To the extent to which a provision referred to in subclause (1) takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication, or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of any thing done or omitted to be done before the date of its publication.

### **Part 1A Provision consequent on enactment of **Lotteries and Art Unions (Amendment) Act 1984****

#### **1A Transitional provision**

(1) Section 6, as amended by the amending Act, does not apply to or in respect of any voluntary association formed before 1 August 1984.

(2) Sections 6, 6A, 7, 8 and 9 (as in force before the commencement of the amending Act) continue to apply to and in respect of such an association despite the repeal of those sections by the amending Act.

- (3) This clause is taken to have commenced on 13 June 1984 (the date of assent to the amending Act).
- (4) Subclauses (1) and (2) re-enact (with minor modifications) section 6 of the amending Act. Subclauses (1) and (2) are transferred provisions to which section 30A of the *Interpretation Act 1987* applies.
- (5) In this clause:  
**amending Act** means the *Lotteries and Art Unions (Amendment) Act 1984*.

## **Part 2 Provisions consequent on the enactment of the *Lotteries and Art Unions (Amendment) Act 1994***

### **2 Definitions**

In this Part:

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

### **3 Art unions—section 5**

- (1) A voluntary association that was deemed to be a lawful association under section 5 immediately before the commencement of Schedule 1 (15) to the amending Act is taken to be an art union within the meaning of section 5, as amended.
- (2) A permit issued in respect of the association before that commencement is taken to be issued under section 6 as amended and is subject to the same conditions (if any) as those to which it was subject immediately before that commencement.

### **4 Proceedings for offences—section 22**

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

### **5 Investigations—Part 5**

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

## **Part 3 Provision consequent on enactment of *Lotteries and Art Unions Amendment Act 2003***

### **6 Orders under section 22A**

An order of the Supreme Court made under section 22A and in force immediately before the commencement of Schedule 1 [9] to the *Lotteries and Art Unions Amendment Act 2003* continues in force after that commencement as if section 22A had not been

substituted.