

# New South Wales Lotteries Corporatisation Act 1996 No 85

[1996-85]



New South Wales

## Status Information

### Currency of version

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### Provisions in force

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

### Notes—

- **See also**  
[Statute Law \(Miscellaneous Provisions\) Bill 2005](#)

### Authorisation

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# New South Wales Lotteries Corporatisation Act 1996 No 85



New South Wales

An Act to establish New South Wales Lotteries Corporation as a statutory State owned corporation to develop, promote, conduct and otherwise participate in any lawful forms of gambling and gambling-related activities; to dissolve the statutory body named New South Wales Lotteries; to make consequential amendments to other Acts; and for other purposes.

## Part 1 Preliminary

### 1 Name of Act

This Act is the *New South Wales Lotteries Corporatisation Act 1996*.

### 2 Commencement

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

### 3 Definitions

(1) In this Act:

**assets** means any legal or equitable estate or interest (whether present or future and whether vested or contingent) in real or personal property of any description (including money), and includes securities, choses in action and documents.

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

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

**liabilities** means any liabilities, debts and obligations (whether present or future and whether vested or contingent).

**Ministerial Holding Corporation** means the Ministerial Holding Corporation constituted under section 37B of the *State Owned Corporations Act 1989*.

**New South Wales Lotteries** means the statutory body constituted by the *New South Wales Lotteries Act 1990*.

**New South Wales Lotteries Corporation** means the statutory State owned

corporation constituted by this Act under the name New South Wales Lotteries Corporation.

**public lottery** has the same meaning as in the [Public Lotteries Act 1996](#).

**rights** means all rights, powers, privileges and immunities (whether present or future and whether vested or contingent).

(2) Words and expressions used in this Act and also the [State Owned Corporations Act 1989](#) have the same meanings in this Act as they have in that Act.

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

#### **4 Dissolution of New South Wales Lotteries**

(1) New South Wales Lotteries is dissolved.

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

### **Part 2 Establishment of New South Wales Lotteries Corporation as statutory State owned corporation**

#### **5 Establishment of New South Wales Lotteries Corporation as statutory SOC**

(1) There is constituted by this Act a corporation with the corporate name of New South Wales Lotteries Corporation.

(2) The [State Owned Corporations Act 1989](#) is amended by inserting in Schedule 5, in alphabetical order, the words “New South Wales Lotteries Corporation”.

#### **Note—**

The [State Owned Corporations Act 1989](#) contains many provisions that apply to New South Wales Lotteries Corporation as a statutory State owned corporation. In particular, Part 3 contains provisions relating to its status, the application of the [Corporations Act 2001](#) of the Commonwealth, the issue of shares to the Treasurer and another Minister, the employment of staff, the giving of directions by the portfolio Minister (including directions for the performance of non-commercial activities or the carrying out of public sector policies), the memorandum and articles, dividends and tax-equivalent payments, government guarantees, the sale or disposal of assets and legal capacity. Part 4 deals with the accountability of State owned corporations (including statements of corporate intent, annual reports and accounts). Part 5 deals with miscellaneous matters (including the duties and liabilities of directors and the application of public sector legislation).

Schedules 8 and 9 to the [State Owned Corporations Act 1989](#) contain provisions dealing with the board of directors and the chief executive officer that are to be read in conjunction with Part 2A of this Act.

#### **6 Objectives of New South Wales Lotteries Corporation**

(1) The principal objectives of New South Wales Lotteries Corporation are:

(a) to successfully develop, promote, conduct and otherwise participate in any lawful forms of gambling and gambling-related activities, and

- (b) to be a successful business and, to this end:
    - (i) to operate at least as efficiently as any comparable businesses, and
    - (ii) to maximise the net worth of the State's investment in the Corporation, and
    - (iii) without limiting this paragraph or paragraph (a), to be a successful participant (whether directly or indirectly) in any other business or activity that the Corporation determines is or may be of sound commercial benefit to the Corporation, and
  - (c) to exhibit a sense of social responsibility by having regard to the interests of the community in which it operates and by endeavouring to accommodate these interests if it is possible to do so.
- (2) Each of the principal objectives of New South Wales Lotteries Corporation is of equal importance.

## **7 Functions of New South Wales Lotteries Corporation**

- (1) New South Wales Lotteries Corporation has the functions conferred or imposed on it by or under this or any other Act or law.
- (2) The principal functions of New South Wales Lotteries Corporation are:
  - (a) to develop, promote, conduct and otherwise participate in any lawful forms of gambling and gambling-related activities, and
  - (b) to hold licences, and conduct the public lotteries for which it holds those licences, in accordance with the requirements of the [Public Lotteries Act 1996](#).
- (3) New South Wales Lotteries Corporation may:
  - (a) provide facilities or services that are necessary, ancillary or incidental to its principal functions, and
  - (b) conduct any business or activity (whether or not related to its principal functions) that it considers will further its objectives.
- (4) This section does not limit the functions of New South Wales Lotteries Corporation apart from this section, but is subject to the provisions of this Act, the [State Owned Corporations Act 1989](#), the [Public Lotteries Act 1996](#) and any other Act or law.

## **8-10 (Repealed)**

## **Part 2A Constitution and procedure**

### **11 Application of Part**

The provisions of this Part are in addition to and (except to the extent to which this Part

provides) do not derogate from the provisions of the *State Owned Corporations Act 1989*.

#### **11A Board of directors**

- (1) New South Wales Lotteries Corporation is to have a board of directors.
- (2) The board is to consist of:
  - (a) the chief executive officer, and
  - (b) one director appointed by the voting shareholders on the recommendation of a selection committee comprising:
    - (i) 2 persons nominated by the portfolio Minister, and
    - (ii) 2 persons nominated by the Labor Council of New South Wales, being a person selected by the committee from a panel of 3 persons nominated by the Labor Council, and
  - (c) at least 2 and not more than 5 other directors, to be appointed by the voting shareholders at their discretion.
- (3) The procedures for constituting a selection committee for the purposes of subsection (2) (b), for making nominations and for determining other matters relating to the selection process are to be determined by the regulations or (subject to the regulations) by the voting shareholders.
- (4) One of the directors referred to in subsection (2) (c) is (in and by the director's instrument of appointment or in and by another instrument executed by the voting shareholders) to be appointed as Chairperson of the board.
- (5) The board is accountable to the voting shareholders in the manner set out in Part 4 of the *State Owned Corporations Act 1989* and in the constitution of New South Wales Lotteries Corporation.
- (6) The voting shareholders may remove a director, or the Chairperson, from office at any time for any or no reason and without notice (but only at a duly convened meeting of the voting shareholders) and, in that event, the office of the director or Chairperson is taken to have become vacant for the purposes of Schedule 8 to the *State Owned Corporations Act 1989*.
- (7) Subject to subsections (8) and (9), Schedule 8 to the *State Owned Corporations Act 1989* has effect with respect to the constitution and procedures of the board.
- (8) The provisions of section 20J of the *State Owned Corporations Act 1989* and of clauses 2 (1) and (2) and 7 (1) (d) and (2) of Schedule 8 to that Act do not apply to New South Wales Lotteries Corporation or to the Chairperson.

- (9) The provisions of clause 6 of Schedule 8 to the *State Owned Corporations Act 1989* do not apply to the chief executive officer, and the chief executive officer is not entitled to remuneration under that clause, in his or her capacity as a director.

**11B Chief executive officer**

- (1) The chief executive officer of New South Wales Lotteries Corporation is to be appointed by the board after consultation with the voting shareholders.
- (2) The board may remove a person as chief executive officer at any time for any or no reason and without notice, but only after consultation with the voting shareholders.
- (3) The chief executive officer is entitled to be paid such remuneration (including travelling and subsistence allowances) as the board may determine.
- (4) The board may, after consultation with the voting shareholders, fix the conditions of employment of the chief executive officer in so far as they are not fixed by or under any other Act or law.
- (5) The *Public Sector Management Act 1988* (Part 8 included) does not apply to the chief executive officer.
- (6) Subject to subsection (7), Schedule 9 to the *State Owned Corporations Act 1989* has effect with respect to the chief executive officer.
- (7) The provisions of section 20K of the *State Owned Corporations Act 1989*, and of clauses 2, 3 and 6 of Schedule 9 to that Act, do not apply to the chief executive officer.

**11C Acting chief executive officer**

- (1) The board may, from time to time, appoint a person to act in the office of chief executive officer during the illness or absence of the chief executive officer.
- (2) The board may remove a person from office as acting chief executive officer at any time for any or no reason and without notice.
- (3) A person, while acting in the office of chief executive officer:
  - (a) has all the functions of the chief executive officer and is taken to be the chief executive officer, and
  - (b) is entitled to be paid such remuneration (including travelling and subsistence allowances) as the board may determine.
- (4) For the purposes of this section, a vacancy in the office of a chief executive officer is regarded as an absence from office of the chief executive officer.
- (5) Clause 5 of Schedule 9 to the *State Owned Corporations Act 1989* does not apply to an acting chief executive officer of New South Wales Lotteries Corporation.



## Part 3 Miscellaneous

### 12 Service of documents on New South Wales Lotteries Corporation

- (1) A document may be served on New South Wales Lotteries Corporation by leaving it at, or by sending it by post to, the principal office of New South Wales Lotteries Corporation.
- (2) Nothing in this section affects the operation of any other Act or law, or of any rules of court, that authorise a document to be served on New South Wales Lotteries Corporation in any other manner.

### 13 Regulations

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.

### 14 (Repealed)

### 15 Savings, transitional and other provisions

Schedule 4 has effect.

### 16 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 Transfer of New South Wales Lotteries staff

(Section 4)

### 1 Definition

In this Schedule, **former New South Wales Lotteries staff** means the members of staff of New South Wales Lotteries immediately before the dissolution of New South Wales Lotteries (including any holder of a chief executive or senior executive position under Part 2A of the *Public Sector Management Act 1988*). The term here also refers to the General Manager of New South Wales Lotteries appointed under section 16 of the *New South*

*Wales Lotteries Act 1990.*

**2 Transfer of former New South Wales Lotteries staff to New South Wales Lotteries Corporation**

- (1) The former New South Wales Lotteries staff are transferred to New South Wales Lotteries Corporation and are to be regarded for all purposes as having become employees of New South Wales Lotteries Corporation on the day on which New South Wales Lotteries is dissolved.
- (2) New South Wales Lotteries is taken to be an authority to which Schedule 4 (Provisions relating to certain staff) of the *State Owned Corporations Act 1989* applies.

**3 General saving of conditions of employment**

- (1) A person who is transferred under this Schedule is (until other provision is duly made under any Act or law) to be employed in accordance with any relevant statutory provisions, awards, agreements and determinations that would have applied to the person if the person had not been transferred but had instead remained on the staff of New South Wales Lotteries (and New South Wales Lotteries had continued in existence).
- (2) However, nothing in this clause affects the application of section 36 (1) of the *State Owned Corporations Act 1989* to New South Wales Lotteries Corporation. Accordingly, the *Government and Related Employees Appeal Tribunal Act 1980* does not apply to New South Wales Lotteries Corporation or any subsidiary of New South Wales Lotteries Corporation.

**4 Saving of leave**

A member of the staff of New South Wales Lotteries Corporation who is a member of the former New South Wales Lotteries staff retains any rights to annual leave, extended service leave, sick leave, and other forms of leave, accrued or accruing in his or her employment with New South Wales Lotteries.

**5 No payment out on transfer or dual benefits**

- (1) This clause applies to a person who becomes, because of this Schedule, a member of the staff of New South Wales Lotteries Corporation.
- (2) A person to whom this clause applies is not entitled to receive any payment or other benefit merely because the person ceases to be a member of the staff of New South Wales Lotteries.
- (3) A person to whom this clause applies is not entitled to claim, both under this Act and under any other Act, dual benefits of the same kind for the same period of service.

**Schedule 3 (Repealed)**

## Schedule 4 Savings, transitional and other provisions

(Section 15)

### Part 1 Regulations

#### 1 Regulations

- (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of this Act or the *Public Lotteries Act 1996*.
- (2) Such a provision may deal, among other things, with the interpretation of references to New South Wales Lotteries, to any member of the Board or employee of New South Wales Lotteries or to an Act repealed by this Act or any provision of such an Act.
- (3) Such a provision may, if the regulations so provide, take effect on the date of assent to this Act or a later date.
- (4) To the extent to which such a provision takes effect on 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, New South Wales Lotteries Corporation, New South Wales Lotteries or any 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, New South Wales Lotteries Corporation, New South Wales Lotteries or any 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 this Act

#### 2 (Repealed)

#### 3 References in other Acts or instruments

In any Act (other than this Act), in any instrument made under any Act or in any document, a reference to New South Wales Lotteries is taken to be a reference to New South Wales Lotteries Corporation.

#### 4-9 (Repealed)

#### 10 New South Wales Lotteries Corporation same entity as New South Wales Lotteries

- (1) On the dissolution of New South Wales Lotteries, New South Wales Lotteries Corporation is taken for all purposes, including the rules of private international law, to be a continuation of and the same legal entity as New South Wales Lotteries.
- (2) (Repealed)

## **Part 3 Provisions consequent on enactment of New South Wales Lotteries Corporatisation Amendment Act 2000**

### **11 Continuation of appointment of directors**

- (1) A person holding office as a director of New South Wales Lotteries Corporation immediately before the commencement of section 11A:
  - (a) continues to hold office for the residue of his or her term, and
  - (b) is taken to have been appointed under section 11A.
- (2) The remuneration determined for a director immediately before the commencement of section 11A is taken to be the remuneration determined for a director under that section.

### **12 Continuation of appointment of Chairperson**

A director of New South Wales Lotteries Corporation holding office as Chairperson of the Board immediately before the commencement of section 11A:

- (a) continues to hold office as Chairperson, and
- (b) is taken to have been appointed as Chairperson under that section.

### **13 Continuation of appointment of chief executive officer**

- (1) A person appointed as chief executive officer of New South Wales Lotteries Corporation immediately before the commencement of section 11B:
  - (a) continues to hold office as chief executive officer for the residue of his or her term of office, and
  - (b) is taken to have been appointed under that section, and
  - (c) despite section 11B (5), continues as chief executive officer to be a person to whom Division 5 of Part 2A of the *Public Sector Management Act 1988* applies.
- (2) The conditions of employment (including remuneration) of the chief executive officer immediately before the commencement of section 11B are taken to be the conditions fixed for the chief executive officer under that section.
- (3) However, a chief executive officer who was receiving remuneration as a director under clause 6 of Schedule 8 to the *State Owned Corporations Act 1989* immediately before the commencement of section 11B ceases to be entitled to receive such remuneration on the commencement of that section.

### **14 Continuation of appointment of acting chief executive officer**

- (1) A person appointed as acting chief executive officer of New South Wales Lotteries

Corporation immediately before the commencement of section 11C:

- (a) continues to hold office during the absence or illness of the chief executive officer,  
and
  - (b) is taken to have been appointed under that section.
- (2) The remuneration determined for an acting chief executive officer immediately before the commencement of section 11C is taken to be the remuneration determined for the acting chief executive officer under that section.