



New South Wales

Public Lotteries Legislation Amendment Bill 2004

Explanatory note

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

Overview of Bill

The object of this Bill is to make a number of miscellaneous amendments to the *Public Lotteries Act 1996* with respect to the conduct of public lotteries and offences in relation to public lotteries. The Bill also makes a number of ancillary and consequential amendments to that Act and repeals certain redundant provisions of the *New South Wales Lotteries Corporatisation Act 1996*.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

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

Clause 3 is a formal provision that gives effect to the amendments to the *Public Lotteries Act 1996* set out in Schedule 1.

Clause 4 is a formal provision that gives effect to the amendments to the *New South Wales Lotteries Corporatisation Act 1996* set out in Schedule 2.

Schedule 1 Amendment of Public Lotteries Act 1996

Authorisation of agents to charge subscribers for providing ancillary services

Schedule 1 [4] amends section 13 of the *Public Lotteries Act 1996* (the *Principal Act*) to make it clear that licences to conduct public lotteries may include conditions relating to the authorisation of licensees' agents to charge subscribers for providing such ancillary services in connection with subscriptions as may be approved by the Minister.

Schedule 1 [2] substitutes the definition of *subscriptions* in section 4 of the Principal Act to make it clear that the term does not include amounts charged by agents for providing such ancillary services.

Separate prize fund to be kept for each kind of public lottery that a licensee is licensed to conduct

Schedule 1 [6] inserts a new section 25A into the Principal Act which requires a separate prize fund to be kept in respect of a licensee for each kind of public lottery the licensee is licensed to conduct. **Schedule 1 [1], [5] and [7]–[10]** make consequential amendments.

Time limit for claiming unclaimed prizes

Schedule 1 [12] amends section 27 of the Principal Act to allow regulations to be made for or with respect to the time within which claims for unclaimed prizes in public lotteries must be made. **Schedule 1 [24]** (which inserts proposed clause 30 into Schedule 2 to the Act) provides that the amendment extends to existing unclaimed prizes.

Licensees may enter into agreements with interstate authorities to jointly conduct public lotteries

Schedule 1 [13] inserts a new section 37A into the Principal Act which allows licensees to enter into agreements with their interstate counterparts with respect to the joint administration of the conduct of public lotteries. **Schedule 1 [24]** inserts a new clause 31 into Schedule 2 to the Act which validates any such agreement entered into before the commencement of proposed section 37A. **Schedule 1 [11]** makes a consequential amendment.

Agents may pay prizes not exceeding the prescribed amount directly to winners

Schedule 1 [14] inserts a new section 39A into the Principal Act to make it clear that licensees' agents may pay prizes in a public lottery, being prizes that do not exceed the amount prescribed by the regulations in relation to the lottery, directly to the winners. **Schedule 1 [7] and [10]** make consequential amendments.

Licensees may promote or form betting syndicates

Schedule 1 [15] amends section 40 of the Principal Act to extend to a licensee the same right as licensees' agents have under the Act to promote or take part in forming betting syndicates in relation to public lotteries.

Sections 41 and 42 of the Act create offences relating to the promotion or formation of betting syndicates (section 41) and the advertising of betting syndicates (section 42). **Schedule 1 [16] and [17]** amend sections 41 and 42 to extend the defence to those sections to licensees who conduct the public lotteries to which the syndicates relate.

Schedule 1 [24] (which inserts proposed clause 32 into Schedule 2 to the Act) makes a consequential amendment of a savings and transitional nature.

Further offences in relation to public lotteries

Schedule 1 [18] inserts new sections 43A–43D into the Principal Act which create the offences of unauthorised selling of entries in or subscriptions to public lotteries (proposed section 43A), unauthorised promotion or marketing of public lotteries (proposed section 43B), entering or subscribing to public lotteries for or on behalf of another for fee or reward (proposed section 43C) and lodging false claims for prizes in public lotteries (proposed section 43D).

Duty of licensees and agents to inform Minister of changed circumstances

Schedule 1 [21] amends section 52 of the Principal Act to allow licensees and agents who are not aware, and could not reasonably be expected to be aware, of a notifiable change in circumstances at the time the change occurs, to notify the Minister within 14 days of becoming aware of the change. (The section currently requires licensees and agents to notify the Minister of notifiable changes within 14 days of their occurring.)

Minister's decision to withdraw approval or appointment of agents subject to review by ADT

Schedule 1 [22] amends section 79A of the Principal Act to allow a person to apply to the Administrative Decisions Tribunal for a review of a decision of the Minister under the Act to withdraw the approval or appointment of the person as an agent of a licensee.

Other minor and ancillary amendments

Schedule 1 [3] amends section 4 of the Principal Act to insert a definition of *unclaimed prize*.

Schedule 1 [19] and [20] amend sections 48 and 51 of the Principal Act to ensure that certain terms are used consistently throughout the Act.

Schedule 1 [23] amends Schedule 2 to the Principal Act to provide for the making of savings and transitional regulations as a consequence of the proposed amendments to the Act.

Schedule 2 Amendment of New South Wales Lotteries Corporatisation Act 1996

Schedule 2 [2] omits certain redundant provisions from the *New South Wales Lotteries Corporatisation Act 1996* (the **Principal Act**) relating to the transfer of assets, rights and liabilities of the dissolved New South Wales Lotteries to New South Wales Lotteries Corporation. **Schedule 2 [1]** makes a consequential amendment.

Schedule 2 [3] omits from the Principal Act certain redundant provisions of a savings or transitional nature that were inserted as a consequence of the enactment of the Principal Act.



New South Wales

Public Lotteries Legislation Amendment Bill 2004

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New South Wales

Public Lotteries Legislation Amendment Bill 2004

No. , 2004

A Bill for

An Act to amend the *Public Lotteries Act 1996* to make further provision with respect to the conduct of, and offences in relation to, public lotteries; and to repeal certain provisions of the *New South Wales Lotteries Corporatisation Act 1996*; and for other purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Public Lotteries Legislation Amendment Act 2004*.

2 Commencement

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

3 Amendment of Public Lotteries Act 1996 No 86

The *Public Lotteries Act 1996* is amended as set out in Schedule 1.

4 Amendment of New South Wales Lotteries Corporatisation Act 1996 No 85

The *New South Wales Lotteries Corporatisation Act 1996* is amended as set out in Schedule 2.

Schedule 1 Amendment of Public Lotteries Act 1996

(Section 3)

[1] Section 4 Definitions

Omit “kept in respect of the licensee” from the definition of *outgoings* in section 4 (1).

Insert instead “for the lottery”.

[2] Section 4 (1), definition of “subscriptions”

Omit the definition (but not the note). Insert instead:

subscriptions to a public lottery means the amounts paid for entries in the public lottery, but does not include the following:

- (a) amounts charged to subscribers by the licensee’s agents for providing ancillary services in connection with the subscriptions (as referred to in section 13 (1) (e1)),
- (b) commission, unless this Act otherwise expressly provides.

[3] Section 4 (1)

Insert in alphabetical order:

unclaimed prize means a prize that remains unclaimed by the prizewinner for a period of one year after the date on which the public lottery to which the prize relates was conducted.

[4] Section 13 Conditions of licence

Insert after section 13 (1) (e):

- (e1) the authorisation of agents to charge subscribers to a public lottery for providing such ancillary services in connection with subscriptions as may be approved by the Minister,

[5] Section 13 (1) (q)

Insert “for a public lottery” after “fund”.

[6] Section 25A	1
Insert before section 26:	2
25A Separate prize funds	3
A separate prize fund is to be kept in respect of a licensee for each kind of public lottery that the licensee is licensed to conduct.	4 5 6
[7] Section 26 Application of subscriptions to prize fund	7
Omit section 26 (1). Insert instead:	8
(1) Out of the subscriptions received by a licensee in respect of a public lottery conducted by the licensee, the licensee must pay into the prize fund for the lottery an amount that, when added to any amount already applied by the licensee or the licensee's agents to the payment of prizes won in the lottery, is not less than the requisite percentage of the subscriptions for the lottery.	9 10 11 12 13 14 15
[8] Section 27 Prize fund account	16
Omit "The prize fund kept in respect of the licensee" from section 27 (1).	17
Insert instead "A prize fund for a public lottery kept in respect of a licensee".	18 19
[9] Section 27 (4) (a)	20
Omit "any public lottery".	21
Insert instead "a public lottery to which the fund relates that has been".	22
[10] Section 27 (8) (a)	23
Omit "of prizes won in public lotteries conducted by the licensee".	24
Insert instead "or the licensee's agents of prizes won in a public lottery in respect of which the fund is kept".	25 26

[11] Section 27 (8) (a1)	1
Insert after section 27 (8) (a):	2
(a1) towards the payment of contributions by the licensee to	3
prizes won in a public lottery conducted pursuant to an	4
agreement entered into by the licensee under section	5
37A, and	6
[12] Section 27 (9)	7
Insert “the time within which claims for unclaimed prizes must be made	8
and” after “respect to”.	9
[13] Section 37A	10
Insert after section 37:	11
37A Agreements with interstate authorities	12
(1) A licensee may, on such terms as are approved by the	13
Minister, enter into an agreement with an interstate authority	14
with respect to:	15
(a) the administration of a scheme for the conduct of public	16
lotteries among participating States, and	17
(b) the manner of making payments to and by the licensee,	18
and	19
(c) related matters.	20
(2) In this section:	21
<i>corresponding law</i> means the law of another State or	22
Territory under which a person is authorised to conduct public	23
lotteries.	24
<i>interstate authority</i> means a person who is authorised to	25
conduct public lotteries in a participating State.	26
<i>participating State</i> means a State or Territory in which a	27
person is authorised, under a corresponding law, to conduct	28
public lotteries.	29

[14] Section 39A	1
Insert after section 39:	2
39A Direct payment of prizes by agent	3
The rules may make provision for a licensee to authorise an agent of the licensee to pay a prize won in a public lottery conducted by the licensee, being a prize that does not exceed the amount prescribed by the regulations in relation to the lottery.	4 5 6 7 8
[15] Section 40 Betting syndicates	9
Insert after the heading to the section:	10
(1A) A licensee may, for fee or reward, promote or take part in the formation of a syndicate for the purpose of purchasing an entry in, or subscribing to, a public lottery conducted by the licensee.	11 12 13 14
[16] Section 41 Unauthorised betting syndicates prohibited	15
Omit section 41 (2). Insert instead:	16
(2) This section does not apply to:	17
(a) any person who is authorised by the rules to so promote or take part in the formation of a syndicate, but only in relation to such promotion or participation by the person that is in accordance with the rules, or	18 19 20 21
(b) the licensee conducting the public lottery concerned.	22
[17] Section 42 Advertising of unauthorised betting syndicate prohibited	23 24
Omit section 42 (3). Insert instead:	25
(3) This section does not apply to:	26
(a) any person who is authorised by the rules to so advertise, but only in relation to such advertising by the person that is in accordance with the rules, or	27 28 29
(b) the licensee conducting the public lottery concerned.	30

[18] Sections 43A–43D	1
Insert after section 43:	2
43A Unauthorised selling of entries in or subscriptions to public lottery prohibited	3
A person (other than a licensee, or a person acting for the licensee, in the lawful conduct of a public lottery) who sells an entry in, or a subscription to, a public lottery is guilty of an offence.	4
Maximum penalty: 100 penalty units.	5
43B Unauthorised promotion or marketing of public lottery prohibited	6
A person (other than a licensee, or a person acting for the licensee, in the lawful conduct of a public lottery) who promotes or markets a public lottery is guilty of an offence.	7
Maximum penalty: 100 penalty units.	8
43C Person not to enter or subscribe to public lottery for or on behalf of another for fee or reward	9
A person (other than a licensee, or a person acting for the licensee, in the lawful conduct of a public lottery) who, for fee or reward, purchases, for or on behalf of another person, an entry in, or a subscription to, a public lottery, is guilty of an offence.	10
Maximum penalty: 100 penalty units.	11
43D False claims for prizes	12
Any person who lodges a claim for a prize in a public lottery knowing that it is false or misleading in a material respect is guilty of an offence.	13
Maximum penalty: 100 penalty units.	14
[19] Section 48 Definitions	15
Omit the definition of <i>symbol</i> . Insert instead:	16
<i>numbers</i> has the same meaning as in section 5 (2).	17

[20]	Section 51 Clarification of certain rules for winning prizes in instant lotteries	1 2
	Omit “symbols” and “symbol” wherever occurring.	3
	Insert instead “numbers” and “number”, respectively.	4
[21]	Section 52 Licensees and agents to inform Minister of changed circumstances	5 6
	Insert at the end of the section (before the penalty):	7
	(2) Despite subsection (1), if the licensee or the agent is not aware, and could not reasonably be expected to be aware, of a relevant change at the time it occurs, the licensee or agent (as the case may be) must notify the Minister in writing not later than 14 days after becoming aware of the change.	8 9 10 11 12
[22]	Section 79A Review by Administrative Decisions Tribunal of certain decisions under this Act	13 14
	Insert after section 79A (b):	15
	(c) a decision of the Minister under section 14 (1) to withdraw the approval or appointment of the person as an agent of a licensee under the conditions of a licence.	16 17 18
[23]	Schedule 2 Savings, transitional and other provisions	19
	Insert at the end of clause 1 (1):	20
	<i>Public Lotteries Legislation Amendment Act 2004</i>	21
[24]	Schedule 2, Part 3	22
	Insert after Part 2:	23
	Part 3 Provisions consequent on enactment of Public Lotteries Legislation Amendment Act 2004	24 25 26
	29 Definition	27
	In this Part:	28
	<i>amending Act</i> means the <i>Public Lotteries Legislation Amendment Act 2004</i> .	29 30

30 Time limits for claiming unclaimed prizes

The amendment made by Schedule 1 [12] to the amending Act extends to prizes that are unclaimed prizes on the commencement of that amendment.

31 Validation

Anything done before the commencement of section 37A (as inserted by Schedule 1 [13] to the amending Act) which would have been validly done had that section been in force when it was done is validated.

32 Pending proceedings for offences against section 41 or 42

- (1) Any proceedings for an offence against section 41 that were instituted but not finally determined before the commencement of the amendment made to that section by Schedule 1 [16] to the amending Act are to be determined as if that amendment had not commenced.
- (2) Any proceedings for an offence against section 42 that were instituted but not finally determined before the commencement of the amendment made to that section by Schedule 1 [17] to the amending Act are to be determined as if that amendment had not commenced.

**Schedule 2 Amendment of New South Wales Lotteries
Corporatisation Act 1996**

(Section 4)

[1] Section 4 Dissolution of New South Wales Lotteries

Omit section 4 (2). Insert instead:

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

[2] Sections 8–10 and Schedule 1

Omit the sections and the Schedule.

[3] Schedule 4 Savings, transitional and other provisions

Omit clauses 2, 4–9 and 10 (2).