

Lotteries and Art Unions Amendment Bill 2003

Explanatory note

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

Overview of Bill

The object of this Bill is to amend the *Lotteries and Art Unions Act 1901*:

(a) to include a provision explicitly stating the objects of the Act, and
(b) to remove the requirement for a club registered under the *Registered Clubs Act 1976* to hold a permit before the club may conduct a game of chance,
and

(c) to remove the prohibition on a person conducting a lottery in another State or a Territory of Australia from advertising and selling tickets in New South Wales, provided the lottery complies with the same standards as those required of a lottery conducted in New South Wales, and
(d) to provide that the Minister for Gaming and Racing may, in certain circumstances:

(i) prohibit the conduct of a particular lottery activity, or
(ii) prohibit a person or organisation from conducting lottery activities for a period not exceeding 2 years.

The Bill also makes consequential amendments to the *Administrative Decisions Tribunal Act 1997* and the *Licensing and Registration (Uniform Procedures) Act 2002*.

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 giving effect to the amendments to the *Lotteries and Art Unions Act 1901*.

Clause 4 is a formal provision giving effect to the amendments to the *Administrative Decisions Tribunal Act 1997* and the *Licensing and Registration (Uniform Procedures) Act 2002*.

Schedule 1 Amendment of Lotteries and Art Unions Act 1901

Schedule 1 [1] replaces section 2 of the *Lotteries and Art Unions Act 1901* (the **Principal Act**) with a new section 2. Proposed section 2 states the objects of the Act and, in particular, provides that the principal object of the Act is to ensure that, on balance, the State and the community as a whole benefit from certain lottery activities. **Schedule 1 [10]** makes a consequential amendment.

Section 4C of the Principal Act provides that a club registered under the *Registered Clubs Act 1976* may conduct a game of chance if the club complies with conditions specified in section 4C (3), including the condition that a permit for the conduct of the game has been issued by the Minister. **Schedule 1 [4]** amends section 4C to remove the requirement that a permit be issued and makes consequential amendments to other provisions of section 4C. Consequential amendments are made by **Schedule 1 [5]–[7]**.

Sections 3 and 20 of the Principal Act create offences in relation to publishing certain advertisements, information or notices with respect to unlawful lottery activities, including foreign lotteries. **Schedule 1 [2]** amends section 2A of the Principal Act to insert a new definition of **publish**.

Part 4 of the Principal Act makes provision with respect to foreign lotteries and, in particular, prohibits the advertising of a foreign lottery or the selling of tickets in a foreign lottery. A **foreign lottery** is defined in section 19 of the Principal Act

to mean any lottery conducted or to be conducted outside New South Wales.

Schedule 1 [8] replaces the existing definition of *foreign lottery* and defines a foreign lottery as a lottery 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.

The effect of the amendment is that a person may advertise and sell tickets in a lottery conducted in another State or Territory of Australia provided that the lottery complies with the same requirements as a lottery conducted in New South Wales. However, a lottery conducted in another State or a Territory may be declared by the Minister, by order published in the Gazette, to fail to comply with the standards required of lottery activities conducted in New South Wales and, in that case, would be subject to the operation of Part 4 of the Principal Act.

Schedule 1 [3] makes a consequential amendment to section 4B.

Schedule 1 [9] replaces existing section 22A of the Principal Act with proposed sections 22A and 22AA. Proposed section 22A provides that if the Minister is satisfied:

(a) that it is likely that the provisions of the 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,

the Minister may give a direction prohibiting the conduct of the lottery activity.

Proposed section 22AA provides that if the Minister is satisfied:

(a) that a person or organisation has persistently failed to comply with the provisions of the Principal Act or the regulations or the conditions of a permit, and

(b) that the person or organisation is likely to continue to do so,

the Minister may give a direction prohibiting the person or organisation from conducting any lottery activities for a period not exceeding 2 years.

Schedule 1 [11] amends clause 1 of Schedule 2 to the Principal Act to enable regulations of a savings and transitional nature to be made consequent on the enactment of the proposed Act.

Schedule 1 [12] inserts proposed Part 3 into Schedule 2 to the Principal Act.

Proposed Part 3 contains a savings provision consequent on the enactment of the proposed Act.

Schedule 2 Consequential amendment of other Acts

Schedule 2 makes consequential amendments to the *Administrative Decisions Tribunal Act 1997* and the *Licensing and Registration (Uniform Procedures) Act 2002*.

Schedule 2.1 amends the *Administrative Decisions Tribunals Act 1997* to provide that the functions of the Administrative Decisions Tribunal in relation to the *Lotteries and Art Unions Act 1901* are allocated to the General Division of the Tribunal.

Schedule 2.2 makes consequential amendments to the *Licensing and Registration (Uniform Procedures) Act 2002*. Schedule 4.7 to that Act amends the *Lotteries and Art Unions Act 1901*. The amendments have yet to commence.

Schedule 2.2 [1] omits Schedule 4.7 [3] to the *Licensing and Registration (Uniform Procedures) Act 2002*. That item omits section 4C (4) and (4AA) of the *Lotteries and Art Unions Act 1901*. These provisions are now proposed to be omitted by Schedule 1 [3] to the proposed Act.

Schedule 2.2 [2] omits section 7 (1) (c) of the *Lotteries and Art Union Act 1901* as proposed to be inserted by Schedule 4.7 [7] to the *Licensing and Registration (Uniform Procedures) Act 2002*. Section 7 (1) (c) (as proposed to be inserted by that Act) provides for the grant of permits under section 4C of the *Lotteries and Art Unions Act 1901*. The requirement for a permit under section 4C is omitted by Schedule 1 [4] to the proposed Act.