



New South Wales

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.

First print



New South Wales

Lotteries and Art Unions Amendment Bill 2003

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New South Wales

Lotteries and Art Unions Amendment Bill 2003

No. , 2003

A Bill for

An Act to amend the *Lotteries and Art Unions Act 1901* to specify the objects of the Act and with respect to the conduct of games of chance by registered clubs and the conduct of foreign lotteries; to make consequential amendments to the *Administrative Decisions Tribunal Act 1997* and the *Licensing and Registration (Uniform Procedures) Act 2002*; and for other purposes.

The Legislature of New South Wales enacts:	1
1 Name of Act	2
This Act is the <i>Lotteries and Art Unions Amendment Act 2003</i> .	3
2 Commencement	4
This Act commences on a day or days to be appointed by proclamation.	5 6
3 Amendment of Lotteries and Art Unions Act 1901 No 34	7
The <i>Lotteries and Art Unions Act 1901</i> is amended as set out in Schedule 1.	8 9
4 Consequential amendment of other Acts	10
The Acts specified in Schedule 2 are amended as set out in that Schedule.	11 12

Schedule 1 Amendment of Lotteries and Art Unions Act 1901

(Section 3)

[1] Section 2

Omit the section. Insert instead:

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.	1 2 3 4 5
[2]	Section 2A Definitions	6
	Insert in alphabetical order in section 2A (1):	7
	<i>publish</i> 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.	8 9 10 11 12
[3]	Section 4B Lotteries and games of chance for the promotion of trade	13 14
	Insert “or an interstate club within the meaning of section 30 (13) of that Act” after “ <i>Registered Clubs Act 1976</i> ” in section 4B (7).	15 16
[4]	Section 4C Games of chance in registered clubs	17
	Omit section 4C (3) (a), (4), (4AA), (4A) and (5).	18
[5]	Section 4C (3) (b)	19
	Omit “or such lesser amount as may be specified in the permit referred to in paragraph (a) in respect of the game”.	20 21
	Insert instead “in respect of the game or type of game”.	22
[6]	Section 4C (3) (d) and (g)	23
	Omit “in the permit referred to in paragraph (a) in respect of the game” wherever occurring.	24 25
	Insert instead “by or under the regulations in respect of the game or type of game”.	26 27
[7]	Section 4C (3) (i)	28
	Omit the paragraph. Insert instead:	29
	(i) any other conditions imposed by or under the regulations in respect of the game or type of game.	30 31

[8] Section 19	1
Omit the section. Insert instead:	2
19 Definition of “foreign lottery”	3
In this Part:	4
<i>foreign lottery</i> 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:	5
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	8
(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	9
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	11
(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.	12
	13
	14
	15
	16
[9] Sections 22A and 22AA	17
Omit section 22A. Insert instead:	18
22A Minister may issue direction prohibiting conduct of lottery activity	19
	20
(1) This section applies if the Minister is satisfied:	21
(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	22
	23
	24
	25
(b) that it would otherwise be against the public interest for the lottery activity to be conducted.	26
	27
(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.	28
	29
	30
(3) A person or organisation given a direction under subsection (2) must comply with the direction.	31
	32
Maximum penalty: 50 penalty units.	33

(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.	1 2 3
22AA	Minister may prohibit person or organisation from conducting lottery activities	4 5
(1)	This section applies if the Minister is satisfied:	6
(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	7 8 9
(b)	that the person or organisation is likely to continue to do so.	10 11
(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.	12 13 14 15 16
(3)	A person or organisation given a direction under subsection (2) must comply with the direction. Maximum penalty: 50 penalty units.	17 18 19
(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.	20 21 22
[10]	Schedule 1 Repeals	23
	Omit the Schedule.	24
[11]	Schedule 2 Savings and transitional provisions	25
	Insert at the end of clause 1 (1):	26
	<i>Lotteries and Art Unions Amendment Act 2003</i>	27

[12] Schedule 2, Part 3	1
Insert after Part 2:	2
Part 3 Provision consequent on enactment of Lotteries and Art Unions Amendment Act 2003	3 4 5
6 Orders under section 22A	6
An order of the Supreme Court made under section 22A and in force immediately before the commencement of Schedule 1 [9] to the <i>Lotteries and Art Unions Amendment Act 2003</i> continues in force after that commencement as if section 22A had not been substituted.	7 8 9 10 11

Schedule 2 Consequential amendment of other Acts	1
(Section 4)	2
2.1 Administrative Decisions Tribunal Act 1997 No 76	3
Schedule 2 Composition and functions of Divisions	4
Insert in alphabetical order in clause 2 (1) of Part 4:	5
<i>Lotteries and Art Unions Act 1901</i>	6
2.2 Licensing and Registration (Uniform Procedures) Act 2002 No 28	7
	8
[1] Schedule 4 Amendment of other Acts and statutory rules	9
Omit Schedule 4.7 [3].	10
[2] Schedule 4.7 [7]	11
Omit section 7 (1) (c) of the <i>Lotteries and Art Unions Act 1901</i> as proposed to be inserted by that item.	12
	13