



New South Wales

Lotteries and Art Unions Amendment Bill 2000

Explanatory note

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

Overview of Bill

The objects of this Bill are as follows:

- (a) to make lawful the conduct of “progressive lotteries” (eg football/sport tipping competitions, hundred clubs and silver circles) and “gratuitous” or free entry lotteries (eg lucky door prizes or lucky seat prizes),
- (b) to allow the awarding of cash prizes for certain raffles, art unions and other community-based lotteries and games of chance,
- (c) to prohibit the awarding of prizes such as firearms and cosmetic surgery in respect of lotteries, games of chance and art unions,
- (d) to make other miscellaneous and consequential amendments to the *Lotteries and Art Unions Act 1901*.

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* set out in Schedule 1.

Schedule 1 Amendments

Background

Section 3 of the *Lotteries and Art Unions Act 1901* imposes a general prohibition on the selling or disposing of money or property by way of lottery or chance. Under the Act, a number of forms of community-based gaming activities (such as raffles, housie, bingo, sweeps and calcuttas, and art unions) are currently exempted from the prohibition under section 3 so long as they are conducted in accordance with the requirements of the Act and any applicable permit conditions.

The proposed Act extends the range of gaming activities that are exempted from the prohibition to cover certain lotteries and games of chance that are referred to as progressive lotteries and gratuitous lotteries.

Progressive and gratuitous lotteries

Schedule 1 [15] inserts proposed section 4F to make lawful the conduct of “progressive lotteries” if certain requirements are complied with (eg a permit will be required to conduct the lottery if the total amount paid as entrance fees or to participate in the lottery exceeds the amount prescribed by the regulations). A “progressive lottery” is a lottery or game of chance in which a number of draws may be conducted over a stipulated period of time, and may include such things as tipping competitions. The amount of money that may be awarded as a prize in a progressive lottery must not exceed the amount prescribed by the regulations.

Schedule 1 [15] also inserts proposed section 4G to make lawful the conduct of “gratuitous lotteries” if certain requirements are complied with (eg the lottery is not to be conducted for the purposes of promoting any trade or business, and prizes must not consist of money). A “gratuitous lottery” is a free entry lottery or game of chance such as a “lucky door” or “lucky seat” prize.

Prohibited prizes

At present under the Act, tobacco in any form is prohibited as a prize in any lottery, game of chance or art union. **Schedule 1 [2]** inserts a definition of *prohibited prize* which includes tobacco and which will also include other items such as firearms and prohibited weapons and services such as cosmetic surgery. **Schedule 1 [5], [8], [9], [11], [12], [14] and [17]** contain amendments that replace existing provisions that prohibit tobacco as a prize with provisions that refer to the wider concept of prohibited prize.

Money prizes

At present under the Act, money cannot be awarded as a prize in most of the gaming activities allowed under the Act except in limited circumstances (eg money may be awarded as a prize in a sweep or calcutta, or spending money may be awarded in conjunction with tickets for a tour or journey in some cases).

Schedule 1 [5], [8] and [18] contain amendments that allow the awarding of money prizes in respect of certain activities in which money prizes are currently prohibited (eg art unions). Money prizes will be allowed in respect of progressive lotteries but not gratuitous lotteries. Money prizes will continue to be prohibited in respect of games of chance conducted in a registered club under section 4C of the Act (eg club bingo and promotional raffles). The amendments also provide that the amount of money that may be awarded as a prize in a lottery, game of chance or art union must not exceed the amount prescribed by the regulations in respect of the activity concerned.

Miscellaneous and consequential amendments

Schedule 1 [1] amends the definition of *lottery* in section 2A of the Act to take into account progressive and gratuitous lotteries.

A number of the provisions of the Act that currently allow the conduct of certain lotteries, games of chance or art unions, but which prohibit money prizes, contain a definition of *prize* that will be inconsistent with the amendments that allow the awarding of money prizes in respect of those activities. **Schedule 1 [3], [6] and [16]** remove that definition from each of those provisions.

Most of the provisions of the Act that currently allow the conduct of lotteries, games of chance or art unions contain a requirement that the value of the prizes must not exceed the amount prescribed by the regulations. **Schedule 1 [4], [7], [10], [13] and [19]** makes it clear that the amount that may be prescribed is the total value of the prizes in respect of the lottery, game of chance or art union concerned.

Schedule 1 [20] is a consequential amendment in relation to money prizes for art unions.

Schedule 1 [21]–[24] extend the operation of provisions of the Act relating to falsification of records, misappropriation and fraudulent conduct to progressive and gratuitous lotteries.

Schedule 1 [25] extends the regulation-making power to authorise the making of regulations with respect to the conduct of progressive and gratuitous lotteries.

First print



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No. , 2000

A Bill for

An Act to amend the *Lotteries and Art Unions Act 1901* to make lawful the conduct of progressive and gratuitous lotteries, to allow money to be awarded as a prize in certain lotteries, games of chance and art unions and to prohibit the awarding of certain prizes; 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 2000</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

Schedule 1 Amendments	1
(Section 3)	2
[1] Section 2A Definitions	3
Insert at the end of the definition of <i>lottery</i> in section 2A (1):	4
, or	5
(c) a progressive lottery within the meaning of section 4F conducted as authorised by that section, or	6 7
(d) a gratuitous lottery within the meaning of section 4G conducted as authorised by that section.	8 9
[2] Section 2A (1)	10
Insert in alphabetical order:	11
<i>prohibited prize</i> means any of the following:	12
(a) tobacco in any form,	13
(b) a firearm, or ammunition, within the meaning of the <i>Firearms Act 1996</i> ,	14 15
(c) a prohibited weapon within the meaning of the <i>Weapons Prohibition Act 1998</i> ,	16 17
(d) the provision of cosmetic surgery or other similar procedure the main purpose of which is to improve personal appearance or self-esteem,	18 19 20
(e) any item or service prescribed by the regulations for the purposes of this definition.	21 22
[3] Section 4 Certain charitable and non-profit organisations authorised to conduct lotteries	23 24
Omit the definition of <i>Prize</i> from section 4 (1).	25
[4] Section 4 (3) (a)	26
Insert “total” before “value”.	27

[5] Section 4 (3) (c), (c1) and (d)	1
Omit the paragraphs. Insert instead:	2
(c) that the amount of money awarded as a prize in any one lottery does not exceed the amount prescribed by the regulations,	3 4 5
(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,	6 7 8 9
(d) that no prize in the lottery consists of or includes a prohibited prize,	10 11
[6] Section 4A Certain organisations authorised to conduct games of chance	12 13
Omit the definition of <i>Prize</i> from section 4A (1).	14
[7] Section 4A (3) (b)	15
Insert “total” before “value”.	16
[8] Section 4A (3) (e), (e1) and (f)	17
Omit section 4A (3) (e) and (f). Insert instead:	18
(e) that the amount of money awarded as a prize in any one game does not exceed the amount prescribed by the regulations,	19 20 21
(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,	22 23 24 25
(f) that no prize in the game of chance consists of or includes a prohibited prize,	26 27
[9] Section 4B Lotteries and games of chance for the promotion of trade	28
Omit section 4B (3) (d). Insert instead:	29
(d) that no prize in the lottery or game of chance consists of or includes a prohibited prize, and	30 31

[10] Section 4C Games of chance in registered clubs	1
Insert “total” before “value” in section 4C (3) (b).	2
[11] Section 4C (3) (f)	3
Omit the paragraph. Insert instead:	4
(f) that no prize in the game consists of or includes a prohibited prize,	5 6
[12] Section 4D Sweepstakes in relation to Melbourne Cup and other events	7
Insert after section 4D (4) (g):	8
(h) no prize in the game is to consist of or include a prohibited prize.	9 10
[13] Section 4E Conduct of certain games of housie authorised	11
Insert “total” before “value” wherever occurring in section 4E (2) (e) and (f).	12 13
[14] Section 4E (2) (g)	14
Omit the paragraph. Insert instead:	15
(g) the prizes in the game or session of games do not consist of or include a prohibited prize,	16 17
[15] Sections 4F and 4G	18
Insert after section 4E:	19
4F Conduct of progressive lotteries authorised	20
(1) In this section:	21
<i>progressive lottery</i> 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:	22 23 24
(a) a “hundred club”, “silver circles” or any other lottery or game of chance conducted along substantially similar lines, and	25 26 27
(b) a tipping competition (or other lottery or game of chance conducted along substantially similar lines) in which:	28 29

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- (i) the participants predict the outcome or results of a sporting or other contingency, and 1
 - (ii) points are awarded for successful predictions, and 2
 - (iii) the prize pool is distributed to the participant who accumulates the most points over a stipulated period, and 3
 - (iv) periodical prizes may be awarded (in accordance with the rules of the competition), 4
- but does not include: 5
- (c) a sweep, or a calcutta, within the meaning of section 4D, and 6
 - (d) anything prescribed by the regulations as not being a progressive lottery. 7
- (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: 8
- (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, 9
 - (b) the total amount paid by the participants in the lottery must not exceed the amount (if any) prescribed by the regulations, 10
 - (c) the total value of the prizes in the lottery must not exceed the amount (if any) prescribed by the regulations, 11
 - (d) the amount of money awarded as a prize in the lottery must not exceed the amount (if any) prescribed by the regulations, 12
 - (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, 13
 - (f) prizes must not consist of or include any prohibited prize, 14

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|-------|--|------------------------------------|
| (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, | 1
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| (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, | 6
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| (i) | all money paid by the participants in the lottery must: | 13 |
| (i) | be applied towards prizes or otherwise returned to the participants in accordance with the rules of the lottery, or | 14
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| (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 | 17
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| (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), | 21
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| (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, | 26
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29 |
| (k) | the lottery must be conducted in accordance with the regulations. | 30
31 |
| (3) | A person may apply to the Minister for a permit under this section. | 32
33 |
| (4) | An application: | 34 |
| (a) | may only be made by or on behalf of a person who is of or over the age of 18 years, and | 35
36 |
| (b) | must be in writing, and | 37 |

(c)	must be accompanied by the fee (if any) prescribed by the regulations.	1 2
(5)	The Minister may:	3
(a)	grant a permit to an applicant unconditionally or subject to conditions, or	4 5
(b)	refuse to grant a permit.	6
(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:	7 8 9
(a)	vary or revoke any conditions of the permit,	10
(b)	impose new conditions on the permit.	11
(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.	12 13 14
4G	Conduct of gratuitous (free entry) lotteries authorised	15
(1)	In this section:	16
	<i>gratuitous lottery</i> 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.	17 18 19 20
(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:	21 22 23
(a)	the lottery must not be conducted for the purposes of promoting any trade or business,	24 25
(b)	an entry or participation fee must not be charged in connection with the lottery,	26 27
(c)	prizes must not consist of money or any prohibited prize,	28
(d)	the total value of the prizes in the lottery must not exceed the amount (if any) prescribed by the regulations.	29 30 31
[16]	Section 5 Art unions	32
	Omit the definition of <i>prize</i> from section 5 (1).	33

[17] Section 6 Conditions and permits for art unions	1
Omit section 6 (1) (d) and (e). Insert instead:	2
(d) that any prize to be allotted or distributed by the art union does not consist of or include a prohibited prize,	3
	4
(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,	5
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	7
[18] Section 6 (1) (g) and (g1)	8
Omit section 6 (1) (g). Insert instead:	9
(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,	10
	11
	12
(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,	13
	14
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[19] Section 6 (4) (a)	18
Insert “total” before “value”.	19
[20] Section 6 (4) (b)	20
Omit the paragraph.	21
[21] Section 14 Falsification of records	22
Omit “or 4E” from section 14 (a). Insert instead “, 4E, 4F or 4G”.	23
[22] Section 16 Misappropriation of funds or prizes	24
Omit “or 4E” from section 16 (b). Insert instead “, 4E, 4F or 4G”.	25
[23] Section 17 Fraudulent conduct of lotteries and games of chance	26
Omit “or 4B” from section 17 (a). Insert instead “, 4B or 4F”.	27

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[24] Section 17 (b)	1
Omit “or 4E”. Insert instead “, 4E, 4F or 4G”.	2
[25] Section 23 Regulations	3
Insert after section 23 (1) (p):	4
(q) The conduct of progressive lotteries referred to in section 4F or gratuitous lotteries referred to in section 4G.	5 6 7
(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.	8 9 10