

CONCURRENCE COPY

LOTTERIES AND ART UNIONS (AMENDMENT) BILL, 1984

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The objects of this Bill are—

- (a) to reduce from 50 per cent to 40 per cent the standard proportion of the gross takings of a lottery conducted by a non-profit organisation or a charity, or of a game of chance conducted by a charity, that is required to be paid into the funds of the organisation or charity (Schedule 1 (1), (2) (d));
- (b) to confirm that the permit issued for the conduct of a game of chance by a charity, or of a lottery or game of chance in connection with a competition for the promotion of trade, may be subject to a condition relating to the site at which the game or lottery may be conducted (Schedule 1 (2) (c), (3) (a));
- (c) to enable the permit issued for the conduct of a game of chance by a charity, or of a lottery or game of chance in connection with a competition for the promotion of trade, or of a game of chance by a registered club, to apply to a specified number of games of chance, or lotteries and games of chance, or to all games of chance, or lotteries and games of chance, conducted during a specified period (Schedule 1 (2) (e), 3 (b), (4));
- (d) to require the type of voluntary association known as an art union to submit, instead of a balance-sheet, a statement of all money received, and payments made, by it (Schedule 1 (5));
- (e) to enable the type of voluntary association known as an art union to operate pursuant to a permit issued by the Minister instead of being required to obtain a charter from the Governor (Schedule 1 (6));
- (f) to amplify the powers of the Minister to require production of records relating to a lottery, game of chance or art union (Schedule 1 (8));
- (g) to authorise recovery of the cost of an examination and audit of records relating to a lottery, game of chance or art union (Schedule 1 (9) (c));
- (h) to increase certain penalties (Schedule 2); and
- (i) to make provision for other matters consequential upon or ancillary to the foregoing.



LOTTERIES AND ART UNIONS (AMENDMENT) BILL, 1984

No. , 1984.

A BILL FOR

An Act to amend the Lotteries and Art Unions Act, 1901.

[MR CAVALIER—29 *February*, 1984.]

Lotteries and Art Unions (Amendment).

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:—

5 Short title.

1. This Act may be cited as the "Lotteries and Art Unions (Amendment) Act, 1984".

Commencement.

2. (1) Except as provided by subsections (2) and (3), this Act shall 10 commence on the date of assent to this Act.

(2) Section 5, in its application to a provision of Schedules 1 and 2, shall commence on the day on which the provision commences.

(3) The several provisions of Schedule 1 shall commence on such day 15 or days as may be appointed by the Governor in respect thereof and as may be notified by proclamation published in the Gazette.

Principal Act.

3. The Lotteries and Art Unions Act, 1901, is referred to in this Act as the Principal Act.

Schedules.

20 **4.** This Act contains the following Schedules:—

SCHEDULE 1.—GENERAL AMENDMENTS TO THE PRINCIPAL ACT.

SCHEDULE 2.—AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES.

Lotteries and Art Unions (Amendment).

Amendment of Act No. 34, 1901.

5. The Principal Act is amended in the manner set forth in Schedules 1 and 2.

Transitional provisions.

- 5 6. Section 6 of the Principal Act, as amended by this Act, does not apply to or in respect of any voluntary association formed before the commencement of Schedule 1 (6) and sections 6, 6A, 7, 8 and 9 of the Principal Act continue to apply to and in respect of such an association notwithstanding the repeals effected by this Act in relation to those sections.

10

SCHEDULE 1.

(Sec. 5.)

GENERAL AMENDMENTS TO THE PRINCIPAL ACT.

- (1) (a) Section 4 (1), definition of "Non-profit organisation"—

Omit the definition, insert instead:—

15

"Non-profit organisation" means an organisation not formed or conducted for private gain.

- (b) Section 4 (2) (a)—

Omit "a School of Arts".

- (c) Section 4 (3) (b)—

20

Omit ", School of Arts".

- (d) Section 4 (3) (c)—

Omit the paragraph.

- (e) Section 4 (3) (e) (ii)—

Omit "fifty", insert instead "40".

Lotteries and Art Unions (Amendment).

SCHEDULE 1—*continued.*GENERAL AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (f) Section 4 (3) (e)—
Omit “, School of Arts”.
- 5 (g) Section 4 (4)—
Omit “fifty”, insert instead “40”.
- (2) (a) Section 4A (2) (a)—
Omit “, or a School of Arts”.
- (b) Section 4A (3)—
10 Omit “or School of Arts” wherever occurring.
- (c) Section 4A (3) (d)—
After “issued”, insert “(including any condition relating to the site at which the game may be conducted)”.
- (d) Section 4A (3) (g) (ii)—
15 Omit “fifty”, insert instead “40”.
- (e) Section 4A (5A)—
After section 4A (5), insert:—
- (5A) Where, in a permit issued to a charity under this section, the Minister specifies that it is issued—
- 20 (a) for a specified number of games of chance conducted during a specified period; or

Lotteries and Art Unions (Amendment).

SCHEDULE 1—*continued.*GENERAL AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) for all games of chance conducted during a specified period,
- 5 the permit shall be deemed to be a permit issued separately—
- (c) in the case referred to in paragraph (a)—for each game of chance that is conducted by, or under the authority of, the charity and is within a total number of games of chance so conducted during the period
- 10 specified in the permit that does not exceed the number so specified; or
- (d) in the case referred to in paragraph (b)—for each game of chance that is conducted by, or under the authority of, the charity during the period specified in
- 15 the permit.
- (f) Section 4A (6)—
- Omit “fifty”, insert instead “40”.
- (3) (a) Section 4B (3) (b)—
- 20 After “issued”, insert “(including any condition relating to the site at which the competition, or a lottery or game of chance conducted in connection therewith, may be conducted)”.
- (b) Section 4B (5A)—
- After section 4B (5), insert:—
- (5A) Where, in a permit issued under this section, the Minister specifies that it is issued—
- 25 (a) for a specified number of lotteries and games of chance conducted during a specified period; or

Lotteries and Art Unions (Amendment).

SCHEDULE 1—*continued.*GENERAL AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) for all lotteries and games of chance conducted during a specified period,

5 the permit shall be deemed to be a permit issued separately—

- (c) in the case referred to in paragraph (a)—for each lottery and game of chance that is conducted by, or under the authority of, the holder of the permit and is within a total number of lotteries and games of chance so conducted during the period specified in the permit that does not exceed the number so specified; or

- 10 (d) in the case referred to in paragraph (b)—for each lottery and game of chance conducted by, or under the authority of, the holder of the permit during the period specified in the permit.

15 (4) Section 4c (5)—

After section 4c (4), insert:—

(5) Where, in a permit issued to a club under this section, the Minister specifies that it is issued—

- 20 (a) for a specified number of games of chance conducted during a specified period; or

(b) for all games of chance conducted during a specified period, the permit shall be deemed to be a permit issued separately—

- 25 (c) in the case referred to in paragraph (a)—for each game of chance that is conducted by, or under the authority of, the club and is within a total number of games of chance so conducted during the period specified in the permit that does not exceed the number so specified; or

- 30 (d) in the case referred to in paragraph (b)—for each game of chance that is conducted by, or under the authority of, the club during the period specified in the permit.

Lotteries and Art Unions (Amendment).

SCHEDULE 1—*continued.*GENERAL AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(5) (a) Section 5 (1A) (b)—

5 Omit “balance-sheet” wherever occurring, insert instead “statement”.

(b) Section 5 (1A) (b)—

Omit “showing the receipts, disbursements, and dispositions of all moneys received”, insert instead “of all moneys received, and all payments made,”.

10 (6) Section 6—

Omit the section, insert instead:—

Permits—art unions.

6. (1) The conditions subject to which, pursuant to section 5 (1), a voluntary association is deemed to be a lawful association include—

15 (a) that the Minister has issued a permit for the formation of the association;

(b) that any conditions subject to which the permit is issued are complied with;

20 (c) that the total value of the allotment or distribution made by the association as referred to in section 5 (1) shall not exceed—

(i) the amount prescribed by the regulations made under this Act; or

25 (ii) the amount specified in the permit,
whichever is the lesser;

Lotteries and Art Unions (Amendment).

SCHEDULE 1—*continued.*GENERAL AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(d) that—

5 (i) the allotment or distribution made by the association as referred to in section 5 (1) shall not consist of, or include, an allotment or distribution of fermented or spirituous liquor or tobacco in any form, or any right thereto; and

10 (ii) none of the money raised by the association shall be allotted or distributed on condition that it be expended wholly or partly in purchasing fermented or spirituous liquor or tobacco in any form; and

15 (e) that any regulations made under this Act as to the manner in which an allotment or distribution referred to in section 5 (1) is to be made by the association are to be complied with.

(2) An application for a permit referred to in subsection (1) (a) shall be made to the Minister in writing and shall be accompanied by the prescribed fee.

20 (3) The Minister may, at the Minister's discretion—

(a) grant an application for a permit referred to in subsection (1) (a) without imposing conditions;

25 (b) grant such an application subject to such conditions imposed by the Minister generally or in a particular case as are specified in the permit; or

(c) refuse to grant such an application.

(4) Without prejudice to the generality of subsection (3), the Minister may, under that subsection, impose a condition of a permit limiting—

30 (a) the value of the articles, real property or tickets to be allotted or distributed as referred to in section 5 (1) (b) by the association to which the permit relates; or

Lotteries and Art Unions (Amendment).

SCHEDULE 1—*continued.*GENERAL AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(b) the amount of money to be allocated or distributed with any such ticket.

(7) Sections 6A, 7, 8, 9—

Omit the sections.

(8) Sections 10, 11—

Omit the sections, insert instead:—

Production of accounts and records.

10 10. (1) In this section—

“prescribed documents” in relation to a lottery, game of chance or association means—

15 (a) all records that relate to the lottery, game of chance or association and are written in the English language; and

20 (b) statements, written in the English language, specifying all the information contained in the records relating to the lottery, game of chance or association that are not written or are not written in the English language;

“record” includes book, account, deed, writing or document and any other source of information compiled, recorded or stored in written form, or on microfilm, or by electronic process, or in any other manner or by any other means.

Lotteries and Art Unions (Amendment).

SCHEDULE 1—*continued.*GENERAL AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

5 (2) In this section, a reference to a person who is, or was, concerned in the conduct of a lottery, game of chance or association includes a reference—

10 (a) in the case of a lottery within the meaning of section 4 conducted by, or under the authority of, a charity or non-profit organisation referred to in that section—to the promoter, secretary or treasurer of the charity or organisation;

(b) in the case of a game of chance within the meaning of section 4A conducted by, or under the authority of, a charity referred to in that section—to the promoter, secretary or treasurer of the charity;

15 (c) in the case of a lottery or game of chance within the meaning of section 4B conducted in connection with a competition referred to in that section—the promoter of the competition;

20 (d) in the case of a game of chance within the meaning of section 4C conducted by, or under the authority of, a club referred to in that section—the president, secretary or treasurer of the club; and

(e) in the case of an association referred to in section 5 (1)—the promoter, secretary or treasurer of the association.

25 (3) The Minister may, by notice in writing, require a person who is, or before the commencement of this section was, concerned in the conduct of a lottery or game of chance referred to in section 4, 4A, 4B or 4C or the conduct of an association referred to in section 5 (1)—

30 (a) to lodge with the Minister a statement, written in the English language, of all money received, and all payments made, in connection with the lottery or game of chance, or by the association; and

Lotteries and Art Unions (Amendment).

SCHEDULE 1—*continued.*GENERAL AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- 5 (b) to produce to a person specified in the notice, at a time and place so specified, the prescribed documents relating to the lottery, game of chance or association.
- (4) A notice under subsection (3) does not operate to require a person to produce a prescribed document that is a record, or a statement relating to a record, if the record is not in the custody or under the control of the person.
- 10 (9) (a) Section 12—
Omit “When any such balance-sheet, books, documents, or vouchers have”, insert instead “Where a statement referred to in section 10 (3) (a) has, or prescribed documents referred to in section 10 (3) (b) have,”.
- 15 (b) Section 12—
Omit “Auditor-General, who”, insert instead “Auditor-General or any other person nominated by the Minister, and the Auditor-General or person so nominated”.
- (c) Section 12 (2)–(4)—
- 20 At the end of section 12, insert:—
- (2) If the Minister so directs, the cost of an examination or audit carried out pursuant to subsection (1), or any part thereof specified in the direction, is recoverable as a debt due to the Crown from—
- 25 (a) any person holding funds to which the statement or prescribed documents the subject of the audit relates or relate;
- (b) the charity, non-profit organisation, club, charitable or public institution or body for the benefit of
- 30 which any such funds were raised; or

Lotteries and Art Unions (Amendment).

SCHEDULE 1—*continued.*GENERAL AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- 5 (c) where the statement or prescribed documents referred to in paragraph (a) relates or relate to a lottery or game of chance conducted in connection with a competition referred to in section 4B—the promoter of the competition.
- 10 (3) Notwithstanding subsection (2), the amount that may be recovered from a person referred to in subsection (2) (a) shall not exceed—
- 15 (a) the amount specified in a written demand for payment, signed by, or by the authority of, the Minister and served on the person so referred to, being the amount specified in the direction given under subsection (2) in relation to the person; or
- (b) the amount of the funds referred to in subsection (2) (a) that are held by the person immediately before service of the demand referred to in paragraph (a), whichever is the lesser.
- 20 (4) A person served with a demand referred to in subsection (3) (a)—
- 25 (a) may satisfy the demand by payment from the funds referred to in subsection (2) (a) and, to the extent of the amount so paid, is discharged from any liability to account for those funds; or
- (b) where the amount demanded is recovered by action—is entitled to be indemnified from those funds to the extent of the amount recovered.
- (10) (a) Section 13 (1)—
- 30 Omit “balance-sheet or to produce any books, documents, or vouchers in accordance with section 10 or 11”, insert instead “statement referred to in section 10 (3) (a) or to produce prescribed documents referred to in section 10 (3) (b)”.

Lotteries and Art Unions (Amendment).

SCHEDULE 1—*continued.*GENERAL AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

- (b) Section 13 (2)—
5 After “Auditor-General”, insert “or person nominated by the Minister under section 12”.
- (11) (a) Section 14—
 Omit “, School of Arts” wherever occurring.
- (b) Section 14—
 After “4A, a” wherever occurring, insert “lottery or”.
- 10 (c) Section 14 (a)—
 Omit “books, documents, or vouchers”, insert instead “record within the meaning of section 10 (including any prescribed document within the meaning of that section and any statement referred to in section 10 (3) (a))”.
- 15 (d) Section 14 (b)—
 Omit “book, document, or voucher”, insert instead “record within the meaning of section 10 (including any prescribed document within the meaning of that section and any statement referred to in section 10 (3) (a))”.
- 20 (e) Section 14 (c)—
 Omit “book, document, voucher or balance-sheet”, insert instead “record within the meaning of section 10 (including any prescribed document within the meaning of that section and any statement referred to in section 10 (3) (a))”.
- 25 (12) Section 15A (1)—
 (a) After “sections”, insert “4,”.
 (b) Omit “, 11”.

Lotteries and Art Unions (Amendment).

SCHEDULE 1—*continued.*

GENERAL AMENDMENTS TO THE PRINCIPAL ACT—*continued.*

(13) Section 16—

(a) Omit “School of Arts,”.

5 (b) After “or a”, insert “lottery or”.

(14) (a) Section 23 (1) (j)—

(i) Omit “, Schools of Arts”.

(ii) Omit “, or any School of Arts”.

(b) Section 23 (2)—

10 After “union,”, insert “lottery,”.

SCHEDULE 2.

(Sec. 5.)

AMENDMENTS TO THE PRINCIPAL ACT RELATING TO PENALTIES.

(1) Section 13 (2)—

15 Omit “\$500”, insert instead “\$1,000”.

(2) Section 23 (2)—

Omit “\$200”, insert instead “\$1,000”.

BY AUTHORITY

D. WEST, GOVERNMENT PRINTER, NEW SOUTH WALES—1984