

NEW SOUTH WALES LOTTERIES ACT 1990 No. 78

NEW SOUTH WALES



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NEW SOUTH WALES LOTTERIES ACT 1990 No. 78

NEW SOUTH WALES



Act No. 78, 1990

An Act to constitute New South Wales Lotteries and to define its functions; and to repeal the State Lotteries Act 1930. [Assented to 4 December 1990]

The Legislature of New South Wales enacts:

PART 1 - PRELIMINARY

Short title

1. This Act may be cited as the New South Wales Lotteries Act 1990.

Commencement

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

Definitions

3. (1) In this Act:

"**Board**" means the Board of Management of NSW Lotteries;

"**Fund**" means the New South Wales Lotteries Fund established under this Act;

"**General Manager**" means the General Manager of NSW Lotteries;

"**lottery**" includes a game of chance that, by virtue of section 4, is to be regarded as a lottery for the purposes of this Act;

"**member of staff**", in relation to NSW Lotteries, includes an employee of NSW Lotteries and any other person of whose services NSW Lotteries makes use under section 22;

"**NSW Lotteries**" means the corporation constituted by this Act under the name of New South Wales Lotteries;

"**private subsidiary corporation**" means a private subsidiary corporation referred to in Division 4 of Part 2;

"**public lottery**" means a lottery promoted or conducted by NSW Lotteries.

- (2) In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty; and

- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

Lotteries

4. (1) The following games of chance are to be regarded as lotteries for the purposes of this Act:

- (a) any game of chance (including games such as bingo) in which:
 - (i) a person chooses or is allocated a number or combination of numbers; and
 - (ii) certain numbers or combinations are subsequently selected at random as prizewinning numbers or combinations; and
 - (iii) prizes are distributed to persons holding the prizewinning numbers or combinations;
 - (b) any game of chance (including games such as instant lottery) in which:
 - (i) certain numbers or combinations of numbers are designated as prizewinning numbers or combinations; and
 - (ii) a person is allocated a number or combination that has previously been selected at random; and
 - (iii) prizes are distributed to persons holding the prizewinning numbers or combinations.
- (2) Notwithstanding subsection (1):
- (a) games of lotto (within the meaning of the Lotto Act 1979); and
 - (b) soccer football pools (within the meaning of the Soccer Football Pools Act 1975),

are not to be regarded as lotteries for the purposes of this Act.

(3) In this section:

- (a) a reference to a number includes a reference to a numeral or symbol; and
- (b) a reference to a combination of numbers includes a reference to a combination of numbers, numerals or symbols or numbers, numerals and symbols.

PART 2 - NEW SOUTH WALES LOTTERIES

Division 1 - NSW Lotteries

Constitution of NSW Lotteries

5. (1) There is constituted by this Act a corporation with the name of New South Wales Lotteries.

(2) NSW Lotteries is, for the purposes of any Act, a statutory body representing the Crown.

(3) In any Act or instrument, New South Wales Lotteries may be referred to as NSW Lotteries.

Objects of NSW Lotteries

6. The objects of NSW Lotteries are:

- (a) to develop, promote and conduct lotteries; and
- (b) to conduct games of lotto and soccer football pools under licences under the Lotto Act 1979 and the Soccer Football Pools Act 1975.

Functions of NSW Lotteries

7. (1) NSW Lotteries has the following functions:

- (a) such functions as are necessary or convenient to enable it to achieve its objects; and
- (b) such other functions as are conferred or imposed on it by or under this or any other Act or law.

(2) Without limiting its other functions, NSW Lotteries:

- (a) may use its staff or facilities for the purposes of any business, whether or not that business is related to its objects; and
- (b) may enter into arrangements for the provision of services to other persons and bodies; and
- (c) may charge for the services provided by it to other persons and bodies; and
- (d) may appoint agents and act as agent for other persons; and
- (e) may hold licences under the Lotto Act 1979 and the Soccer Football Pools Act 1975 and may exercise the functions of a licensee under those Acts.

(3) NSW Lotteries may exercise its functions within or beyond New South Wales.

Exercise of functions through private subsidiary corporations etc.

8. (1) Any function of NSW Lotteries may be exercised:

- (a) by NSW Lotteries; or
- (b) by a private subsidiary corporation; or
- (c) by NSW Lotteries or a private subsidiary corporation, or both, in a partnership, joint venture or other association with other persons or bodies.

(2) Such a function may not be exercised by a private subsidiary corporation unless it has been duly delegated to the corporation.

Agreements with interstate authorities

9. (1) NSW Lotteries may, on such terms as are approved by the Minister, enter into an agreement with an interstate authority with respect to:

- (a) the administration of a scheme for the promotion and conduct of lotteries among participating States; and
- (b) the manner of making payments to and by NSW Lotteries; and
- (c) related matters.

(2) In this section:

"**corresponding law**" means a law of another State or Territory under which a person is authorised to promote or conduct lotteries;

"**interstate authority**" means a person who is authorised to promote or conduct lotteries in a participating State;

"**participating State**" means a State or Territory in which a person is authorised, under a corresponding law, to promote or conduct lotteries.

Delegation of functions

10. (1) NSW Lotteries may delegate to an authorised person any of its functions, other than this power of delegation.

(2) A delegate may sub-delegate to an authorised person any function delegated by NSW Lotteries if the delegate is authorised in writing to do so by NSW Lotteries.

(3) In this section:

"**authorised person**" means:

- (a) a member of the Board; or
- (b) a member of staff of NSW Lotteries; or
- (c) a private subsidiary corporation; or
- (d) a person of a class prescribed by the regulations.

Division 2 - The Board

Establishment of the Board

11. (1) There is to be a Board of Management of NSW Lotteries.

(2) The Board is to consist of 6 members, consisting of:

- (a) the General Manager; and
- (b) 5 part-time members appointed by the Governor on the recommendation of the Minister.

(3) Of the part-time members appointed by the Governor on the recommendation of the Minister, one is to be an elected staff member who is elected (from employees, other than temporary staff members, of NSW Lotteries who have qualifications or experience of the kind referred to in subsection (4)) in the manner prescribed by regulations made for the purposes of clause 1 of Schedule 1.

(4) Each of the other persons recommended for appointment by the Minister must have such qualifications or experience in relation to:

- (a) business management; or
- (b) gaming; or
- (c) marketing and promotion; or
- (d) finance; or
- (e) information technology,

as the Minister considers necessary to enable the Board to exercise its functions.

(5) Schedule 1 has effect with respect to the constitution and procedure of the Board.

Chairperson and Deputy Chairperson

12. Of the part-time members of the Board:

- (a) one is, in and by the member's instrument of appointment or in and by a subsequent instrument executed by the Governor, to be appointed as Chairperson of the Board; and
- (b) another is, in and by the member's instrument of appointment or in and by a subsequent instrument executed by the Governor, to be appointed as Deputy Chairperson of the Board.

Board to determine the policies of NSW Lotteries

13. (1) The Board has the function of determining the policies of NSW Lotteries.

(2) In exercising that function, the Board must, as far as practicable, ensure that the activities of NSW Lotteries are carried out on a sound commercial basis.

(3) The Board is, in the exercise of its functions, subject to the control and direction of the Minister.

Non-commercial activities

14. (1) If the Board is of the opinion that:

- (a) NSW Lotteries would suffer a significant financial loss as a result of complying with a direction given by the Minister; and
- (b) the direction is not in the commercial interests of NSW Lotteries,

the Board may request the Minister to review the direction.

(2) A request for such a review must be made within 7 days after the direction is given or within such other reasonable period as the Minister may determine.

(3) If the Board requests such a review, the Board is not required to comply with the direction until it has been notified of the Minister's decision following the review.

(4) If the Minister's decision following the review is substantially the same as the original direction, and NSW Lotteries suffers a significant financial loss as a result of complying with the direction, the Board is to include, in the annual report for the year in which the loss was incurred, a statement to the effect that:

- (a) NSW Lotteries has suffered a significant financial loss (as quantified or otherwise described in the statement) as a result of complying with a direction given by the Minister; and
- (b) the direction was substantially the same as a direction in respect of which the Board had requested a review under this section.

Corporate plans

15. (1) The Board must prepare and deliver to the Minister, at least 6 weeks before the beginning of each financial year, a draft corporate plan for that year.

- (2) The Board:
 - (a) must consider any comments on the plan that are made by the Minister within 4 weeks after the plan is delivered to the Minister; and
 - (b) must deliver a completed corporate plan to the Minister before the beginning of the financial year concerned.
- (3) The Board must, as far as practicable, exercise its functions in accordance with its current corporate plan.
- (4) A corporate plan must specify:
 - (a) the goals to be achieved by NSW Lotteries; and
 - (b) the financial forecast for NSW Lotteries' activities,for the financial year concerned.

Division 3 - The General Manager

Appointment of General Manager

16. (1) The Governor may appoint a General Manager of NSW Lotteries.

(2) Before a person is appointed as General Manager, the Minister must give the Board an opportunity to recommend any one or more persons for appointment.

(3) The General Manager's employment is subject to Part 2A, but not Part 2, of the Public Sector Management Act 1988.

Acting General Manager

17. (1) The Minister may, from time to time, appoint a person to act in the office of General Manager during the illness or absence of the General Manager (or during a vacancy in the office of General Manager) and the person, while so acting, has all the functions of the General Manager and is to be regarded as the General Manager.

(2) The Minister may, at any time, remove any person from office as acting General Manager.

(3) An acting General Manager is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

General Manager to manage the affairs of NSW Lotteries

18. (1) The affairs of NSW Lotteries are to be managed and controlled by the General Manager in accordance with the policies of the Board.

(2) Any act, matter or thing done by the General Manager in the name of, or on behalf of, NSW Lotteries is to be taken to have been done by NSW Lotteries.

Division 4 - Private subsidiary corporations

Formation of private subsidiary corporations

19. (1) NSW Lotteries may:

- (a) form, or participate in the formation of, private corporations; and
- (b) acquire interests in private corporations; and
- (c) sell or otherwise dispose of interests in private corporations.

(2) NSW Lotteries must not, except with the approval of the Minister:

- (a) form, or participate in the formation of, a private subsidiary corporation; or
- (b) acquire an interest in a private corporation so that, as a result of the acquisition, the corporation becomes a private subsidiary corporation; or
- (c) sell or otherwise dispose of an interest in a private subsidiary corporation so that, as a result of the sale or disposal, the corporation ceases to be a private subsidiary corporation.

(3) A private subsidiary corporation is not, and does not represent, the Crown.

(4) In this section:

"private corporation" means a corporation within the meaning of the Companies (New South Wales) Code formed within or beyond New South Wales;

"private subsidiary corporation" means a private corporation in which NSW Lotteries has a controlling interest.

Division 5 - Staff

Employment of staff

20. NSW Lotteries may employ such staff as it requires to exercise its functions.

Conditions of employment

21. NSW Lotteries may fix the salary, wages and other conditions of employment of its staff in so far as they are not fixed by or under any other Act or law.

Use of staff or facilities of Departments etc.

22. NSW Lotteries may arrange for the use of the services of any staff (by secondment or otherwise) or facilities of a government department, an administrative office or a public or local authority.

Consultants

23. NSW Lotteries may engage such consultants as it requires to exercise its functions.

Division 6 - Finance

Application of subscriptions to public lotteries

24. (1) Out of the subscriptions received by it in respect of a public lottery, NSW Lotteries:

- (a) must pay to prizewinners amounts totalling a percentage of the subscriptions for that lottery determined by the Minister (whether generally or in a particular case) prior to the promotion or conduct of the lottery; and
- (b) must pay to the Minister, for payment into the Consolidated Fund, an amount (whether calculated as a percentage of the subscriptions for that lottery or otherwise) determined by the Treasurer.

(2) The amount payable to the Minister in respect of a public lottery must be paid within 1 month, or within such other period as the Minister may determine, after the close of the lottery.

Establishment of the Fund

25. There is to be a fund known as the New South Wales Lotteries Fund.

Payments into the Fund

26. The Fund is to comprise:

- (a) subscriptions received by or on account of NSW Lotteries in respect of public lotteries; and
- (b) other money received by or on account of NSW Lotteries; and
- (c) interest that accrues from the investment of money belonging to the Fund; and
- (d) money borrowed by or advanced to NSW Lotteries or appropriated by Parliament for the purposes of NSW Lotteries; and
- (e) other money (including money received under an agreement referred to in section 9) required by or under this or any other Act or law to be paid into the Fund.

Payments from the Fund

27. There may be paid from the Fund:

- (a) payments to prizewinners in public lotteries; and
- (b) dividends payable to the Minister, for payment into the Consolidated Fund, in respect of public lotteries; and
- (c) the remuneration (including allowances) of the members of the Board, the members of staff of NSW Lotteries and any person acting in the office of such a member; and
- (d) payments made on account of NSW Lotteries, or otherwise required to meet expenditure incurred by NSW Lotteries, in relation to the exercise of its functions; and
- (e) any other payments (including payments to be made under an agreement referred to in section 9) required by or under this or any other Act or law to be paid from the Fund.

Investment

28. NSW Lotteries may invest money held by it:

- (a) in such manner as may be authorised by the Public Authorities (Financial Arrangements) Act 1987; or

- (b) if that Act does not confer power to invest money held by NSW Lotteries:
 - (i) in any manner authorised for the investment of trust funds; or
 - (ii) in any other manner approved by the Minister with the concurrence of the Treasurer.

Financial year

29. (1) The financial year of NSW Lotteries is the year commencing on 1 July.

(2) A different financial year may be determined by the Treasurer under section 4 (1A) of the Public Finance and Audit Act 1983.

Division 7 - General

Personal liability of members etc.

30. Any matter or thing done by the Board, a member of the Board, a member of staff of NSW Lotteries or any person acting under the direction of NSW Lotteries does not subject such a member or a person so acting personally to any action, liability, claim or demand if the matter or thing was done in good faith for the purpose of executing this or any other Act.

Seal of NSW Lotteries

31. The seal of NSW Lotteries is to be kept by the General Manager and may be affixed to a document only:

- (a) in the presence of the General Manager or a member of staff of NSW Lotteries authorised in that behalf by the General Manager; and
- (b) with an attestation by the signature of the General Manager or that member of staff of the fact of the affixing of the seal.

Service of documents on NSW Lotteries

32. (1) A document may be served on NSW Lotteries by leaving it at, or by sending it by post to:

- (a) the office of NSW Lotteries; or
- (b) if it has more than one office - any one of its offices.

(2) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on NSW Lotteries in any other manner.

Recovery of money due to NSW Lotteries

33. Any money due to NSW Lotteries may be recovered by NSW Lotteries as a debt in a court of competent jurisdiction.

PART 3 - MISCELLANEOUS

Public lotteries not unlawful games under the Gaming and Betting Act 1912 etc.

34. (1) A public lottery is not an unlawful game for the purposes of the Gaming and Betting Act 1912.

(2) Section 16 of the Gaming and Betting Act 1912 does not apply to or in respect of a public lottery.

(3) An agreement is not to be regarded as void or voidable, or otherwise unenforceable, merely because it relates to, or is made for the purposes of, a public lottery.

Lotteries and Art Unions Act 1901 not to apply to public lotteries

35. The Lotteries and Art Unions Act 1901 does not apply to or in respect of a public lottery.

Subscriptions to public lotteries not to be accepted from minors

36. (1) A person concerned in the promotion or conduct of a public lottery must not accept a subscription to a public lottery from any person who is under the age of 18 years.

Maximum penalty: 2 penalty units.

(2) It is a sufficient defence to a prosecution for an offence against this section if the defendant proves that he or she did not know, and could not reasonably have been expected to know, that the person from whom the defendant accepted a subscription to a public lottery was under the age of 18 years.

Forging etc. of lottery tickets

37. A person must not forge a ticket in a public lottery, utter any such ticket that is forged or fraudulently alter any such ticket.

Maximum penalty: 50 penalty units or imprisonment for 2 years, or both.

Promotion of betting syndicates for public lotteries

38. (1) A person must not, for fee or reward, promote or take part in the formation of a syndicate for the purpose of purchasing an entry in a public lottery.

Maximum penalty: 10 penalty units.

(2) A person must not by any means advertise that that or some other person will accept money for a share in an entry to be purchased in a public lottery.

Maximum penalty: 10 penalty units.

Proceedings for offences

39. Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

Offences by corporations

40. (1) If a corporation contravenes any provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the management of the corporation is to be taken to have contravened the same provision if the person knowingly authorised or permitted the contravention.

(2) A person may be proceeded against and convicted under a provision pursuant to this section whether or not the corporation has been proceeded against or convicted under that provision.

(3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.

Act binds Crown

41. This Act binds the Crown.

Regulations

42. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to:

- (a) the promotion and conduct of public lotteries; and
- (b) the conditions of employment of members of staff of NSW Lotteries; and
- (c) the banking of money belonging to the Fund; and
- (d) the keeping of accounts in relation to the Fund.

(2) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

Repeal of State Lotteries Act 1930 No. 51

43. The State Lotteries Act 1930 is repealed.

Amendment of other Acts

44. Each Act mentioned in Schedule 2 is amended as set out in that Schedule.

Savings, transitional and other provisions

45. Schedule 3 has effect.

**SCHEDULE 1 - PROVISIONS RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE BOARD**

(Sec. 11)

PART 1 - CONSTITUTION

Elected staff member

1. (1) Regulations may be made for or with respect to the election of a person to hold office as an elected staff member.

SCHEDULE 1 - PROVISIONS RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE
BOARD - *continued*

(2) The Electoral Commissioner for New South Wales, or a person employed in the office of and nominated by the Electoral Commissioner, is to be the returning officer for an election, and has the functions conferred or imposed on the returning officer by the regulations made under this clause in relation to the election.

(3) Employees (other than temporary staff members) of NSW Lotteries are entitled to vote at an election in accordance with the regulations made under this clause for the elected staff member.

(4) A person's nomination as a candidate for election as the elected staff member is invalid if:

- (a) the nomination is not made by at least 2 persons who are employees (other than temporary staff members) of NSW Lotteries; or
- (b) the person is not, at the time of nomination, an employee (other than a temporary staff member) of NSW Lotteries.

(5) A person may be, at the same time, both the elected staff member and an employee of NSW Lotteries.

(6) Nothing in any law, rule, direction or other requirement that:

- (a) is applicable to the elected staff member in his or her capacity as an employee of NSW Lotteries; and
- (b) would not be applicable if the elected staff member were not such an employee,

operates so as to prevent or restrict the exercise by the elected staff member of any of the functions of an elected staff member.

(7) If no person is nominated at an election, or if for any other reason an election fails, the Governor may, on the recommendation of the Minister, appoint a person eligible for election to be an appointed member, and the person, on being appointed, is to be taken to be a person elected in the manner prescribed by the regulations made for the purposes of this clause.

(8) If a vacancy occurs in the office of elected staff member otherwise than by reason of the expiration of the period for which the elected staff member was appointed:

SCHEDULE 1 - PROVISIONS RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE
BOARD - *continued*

- (a) the Governor may, on the recommendation of the Minister, appoint a person eligible for election to hold, subject to this Schedule, the office of elected staff member for a term commencing on the date of appointment or a later date specified in the relevant instrument of appointment and ending on the commencement of the term of office of the next elected staff member; and
 - (b) the person is, on being so appointed, to be taken to be a person elected in the manner prescribed by the regulations made for the purposes of this clause.
- (9) The Governor may, on the recommendation of the Minister, pending the election of the first elected staff member after the constitution of NSW Lotteries:
- (a) appoint any person as the elected staff member to hold, subject to this Schedule, the office of elected staff member until the election of that member and the person is, on being so appointed, to be taken to be a person elected in the manner prescribed by the regulations made for the purposes of this clause; or
 - (b) appoint the other members of the Board and leave the office of elected staff member vacant pending the election of that member.

Deputies

2. (1) The Minister may, from time to time, appoint a person to be the deputy of a part-time member of the Board, and the Minister may revoke any such appointment.

(2) In the absence of a part-time member of the Board, the member's deputy:

- (a) may, if available, act in the place of the member; and
- (b) while so acting, has all the functions of the member and is to be regarded as a member.

(3) The deputy of a part-time member of the Board who is also Chairperson or Deputy Chairperson does not have the member's functions as Chairperson or Deputy Chairperson.

**SCHEDULE 1 - PROVISIONS RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE
BOARD - *continued***

(4) A person while acting in the place of a part-time member of the Board is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

Terms of office of part-time members

3. Subject to this Schedule, a part-time member of the Board holds office for such period (not exceeding 5 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

Remuneration of part-time members

4. A part-time member of the Board is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

Vacancy in office of part-time member

5. (1) The office of a part-time member of the Board becomes vacant if the member:

- (a) dies; or
- (b) completes a term of office and is not re-appointed; or
- (c) being the elected staff member, ceases to be an employee (other than a temporary staff member) of NSW Lotteries; or
- (d) resigns the office by instrument in writing addressed to the Minister; or
- (e) is removed from office by the Governor under this clause or under Part 8 of the Public Sector Management Act 1988; or
- (f) is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Board or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Board for having been absent from those meetings; or
- (g) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or

**SCHEDULE 1 - PROVISIONS RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE
BOARD - *continued***

her creditors or makes an assignment of his or her remuneration for their benefit; or

- (h) becomes a mentally incapacitated person; or
- (i) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable.

(2) The Governor may remove a part-time member of the Board from office at any time.

Filling of vacancy in office of part-time member

6. If the office of a part-time member of the Board becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

Vacation of office by Chairperson or Deputy Chairperson

7. (1) The office of Chairperson or Deputy Chairperson becomes vacant if the Chairperson or Deputy Chairperson:

- (a) resigns the office by instrument in writing addressed to the Minister; or
- (b) is removed from office by the Governor under this clause; or
- (c) ceases to be a part-time member.

(2) The Governor may remove the Chairperson or Deputy Chairperson from office at any time.

Disclosure of pecuniary interests

8. (1) A member of the Board:

- (a) who has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board; and
- (b) whose interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

SCHEDULE 1 - PROVISIONS RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE
BOARD - *continued*

must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.

(2) A disclosure by a member of the Board at a meeting of the Board that the member:

- (a) is a member, or is in the employment, of a specified company or other body; or
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under this clause.

(3) Particulars of any disclosure made under this clause must be recorded by the members of the Board in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the members of the Board.

(4) After a member of the Board has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the other members of the Board otherwise determine:

- (a) be present during any deliberation of the Board with respect to the matter; or
- (b) take part in any decision of the Board with respect to the matter.

(5) For the purposes of the making of a determination by the members of the Board under subclause (4), a member of the Board who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:

- (a) be present during any deliberation of the other members of the Board for the purpose of making the determination; or
- (b) take part in the making by the other members of the Board of the determination.

**SCHEDULE 1 - PROVISIONS RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE
BOARD - *continued***

(6) A contravention of this clause does not invalidate any decision of the Board.

(7) A reference in this clause to a meeting of the Board includes a reference to a meeting of a committee of the Board.

Effect of certain other Acts

9. (1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of a part-time member.

(2) If by or under any Act provision is made:

- (a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office; or
- (b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a part-time member or from accepting and retaining any remuneration payable to the person under this Act as such a member.

(3) The office of a part-time member is not, for the purposes of any Act, an office or place of profit under the Crown.

Proof of certain matters not required

10. In any legal proceedings, proof is not required (until evidence is given to the contrary) of:

- (a) the constitution of the Board; or
- (b) any resolution of the Board; or
- (c) the appointment of, or holding of office by, any member of the Board; or
- (d) the presence or nature of a quorum at any meeting of the Board.

**SCHEDULE 1 - PROVISIONS RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE
BOARD - *continued***

PART 2 - PROCEDURE

General procedure

11. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Board.

Quorum

12. The quorum for a meeting of the Board is 4 members.

Presiding member

13. (1) The Chairperson or, in the absence of the Chairperson, the Deputy Chairperson (or, in the absence of both, another member elected to chair the meeting by the members present) is to preside at a meeting of the Board.

(2) The person presiding at any meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Voting

14. A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

Transaction of business outside meetings or by telephone etc.

15. (1) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Board for the time being, and a resolution in writing approved in writing by a majority of those members is to be regarded as a decision of the Board.

(2) The Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.

**SCHEDULE 1 - PROVISIONS RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE
BOARD - *continued***

(3) For the purposes of:

- (a) the approval of a resolution under subclause (1); or
- (b) a meeting held in accordance with subclause (2),

the Chairperson and each member have the same voting rights as they have at an ordinary meeting of the Board.

(4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Board.

(5) Papers may be circulated among members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

Committees of Board

16. (1) The Board may appoint committees to enable it to exercise its functions.

(2) A committee need not include a member of the Board.

(3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings is to be as determined by the Board or (subject to any determination of the Board) by the committee.

Minutes

17. The Board must cause full and accurate minutes to be kept of the proceedings of each meeting of the Board.

First meeting

18. The Minister may call the first meeting of the Board in such manner as the Minister thinks fit.

SCHEDULE 2 - AMENDMENT OF OTHER ACTS

(Sec. 44)

Government and Related Employees Appeal Tribunal Act 1980 No. 39:
Schedule 4 (Employing authorities):

SCHEDULE 2 - AMENDMENT OF OTHER ACTS - *continued*

Insert (in alphabetical order):
New South Wales Lotteries.

Lotto Act 1979 No. 53:

(1) Section 6 (**Conditions of licence**):

After section 6 (d), insert:

- (d1) the application of and accounting for money received by the licensee from subscriptions, including the payment of prizes from such money, the banking of such money and the accounts to be kept in respect of such money;

(2) Section 13A:

After section 13, insert:

Agreements with interstate authorities

13A. (1) A statutory body holding a licence may, on such terms as are approved by the Minister, enter into an agreement with an interstate authority with respect to:

- (a) the administration of a scheme for the promotion and conduct of games of lotto among participating States; and
- (b) the manner of making payments to and by the licensee; and
- (c) related matters.

(2) In this section:

"**corresponding law**" means a law of another State or Territory under which a person is authorised to promote or conduct games of lotto;

"**interstate authority**" means a person who is authorised to promote or conduct games of lotto in a participating State;

"**participating State**" means a State or Territory in which a person is authorised, under a corresponding law, to promote or conduct games of lotto.

SCHEDULE 2 - AMENDMENT OF OTHER ACTS - *continued*

(3) Section 15 (*Payment of duty*):

From section 15 (1), omit "regulations may prescribe",
insert instead "Minister may determine".

Public Authorities (Financial Arrangements) Act 1987 No. 33:

Schedule 1 (*Authorities*):

Insert (in alphabetical order):

New South Wales Lotteries.

Public Finance and Audit Act 1983 No. 152:

(1) Schedule 2 (*Statutory bodies*):

Insert (in alphabetical order):

New South Wales Lotteries.

(2) Schedule 3 (*Departments*):

Omit the matter relating to the State Lotteries Office.

Public Sector Management Act 1988 No. 33:

(1) Schedule 2 (*Administrative offices*):

Omit the matter relating to the State Lotteries Office.

(2) Schedule 3 (*Declared authorities*):

Insert (in alphabetical order):

New South Wales Lotteries

(3) Schedule 3A (*Chief executive positions*):

(a) From Part 2 of the Schedule, omit "Director of State Lotteries".

(b) In Part 3 of the Schedule, after "Chief Executive of the Maritime Services Board", insert "General Manager of New South Wales Lotteries".

(4) Schedule 3B (*Senior executive positions*):

(a) In Part 1 of the Schedule, insert (in alphabetical order):

New South Wales Lotteries

Deputy General Manager

SCHEDULE 2 - AMENDMENT OF OTHER ACTS - *continued*

Director, Computer Services
Director, Operations
Director, Marketing

- (b) From Part 1 of the Schedule, omit the positions relating to the State Lotteries Office.

Soccer Football Pools Act 1975 No. 45:

- (1) Section 8 (**Conditions of licence**):

After section 8 (a), insert:

- (a1) the application of and accounting for money received by the licensee from subscriptions, including the payment of prizes from such money, the banking of such money and the accounts to be kept in respect of such money,

- (2) Section 13 (**Audit for certain purposes**):

Omit the section.

- (3) Section 16 (**Payment of duty**):

After "close" in section 16 (1), insert "or within such other period as the Minister may determine".

State Authorities Non-contributory Superannuation Act 1987 No. 212:

Schedule 1 (**Employers**):

- (a) From Part 1 of the Schedule, omit "State Lotteries Office".
(b) At the end of Part 1 of the Schedule, insert:
New South Wales Lotteries

State Authorities Superannuation Act 1987 No. 211:

Schedule 1 (**Employers**):

- (a) From Part 1 of the Schedule, omit "State Lotteries Office".
(b) At the end of Part 1 of the Schedule, insert:
New South Wales Lotteries

Superannuation Act 1916 No. 28:

Schedule 3 (**List of employers**):

SCHEDULE 2 - AMENDMENT OF OTHER ACTS - *continued*

- (a) From Part 1 of the Schedule, omit "State Lotteries Office".
- (b) At the end of Part 1 of the Schedule, insert:
New South Wales Lotteries

SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

(Sec. 45)

PART 1 - PRELIMINARY

Regulations

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:

New South Wales Lotteries Act 1990.

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
- (b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

PART 2 - PROVISIONS CONSEQUENT ON THE ENACTMENT OF THE NEW SOUTH WALES LOTTERIES ACT 1990

Division 1 - Preliminary

Definitions

2. In this Part:

"**appointed day**", in relation to a provision of this Part, means the day appointed under section 2 in relation to the commencement of that provision;

SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS - *continued*

"**officer**", in relation to the State Lotteries Office, means a person who, immediately before the appointed day, was an officer of the Public Service employed in that Office;

"**repealed Act**" means the State Lotteries Act 1930;

"**superannuation scheme**" means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under an Act.

Division 2 - Transfer of assets etc.

Abolition of State Lotteries Office

3. (1) The State Lotteries Office is abolished.

(2) NSW Lotteries is a continuation of, and the same legal entity as, the State Lotteries Office.

State Lotteries Account

4. (1) The State Lotteries Account in the Special Deposits Account in the Treasury is abolished.

(2) All money held in the State Lotteries Account, as at the appointed day, forms part of the Fund.

Transfer of other assets, rights and liabilities

5. (1) The Minister may, by order in writing, direct that specified assets, rights and liabilities of the Crown that relate to the State Lotteries Office be transferred to NSW Lotteries.

(2) On the commencement of the order, the following provisions have effect (subject to the order):

- (a) the assets so transferred vest in NSW Lotteries by virtue of this clause and without the need for any conveyance, transfer, assignment or assurance;
- (b) the rights and liabilities so transferred become, by virtue of this clause, the rights and liabilities of NSW Lotteries;
- (c) all proceedings relating to those assets, rights and liabilities commenced before the transfer by or against the Crown, and

SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS - *continued*

pending immediately before the transfer, are to be regarded as proceedings pending by or against NSW Lotteries;

- (d) any act, matter or thing done or omitted to be done in relation to those assets, rights and liabilities before the transfer by, to or in respect of the Crown is (to the extent to which that act, matter or thing has any force or effect) to be taken to have been done or omitted by, to or in respect of NSW Lotteries.

- (3) The operation of this clause is not to be regarded:

- (a) as a breach of contract or breach of confidence, or otherwise as a civil wrong; or
- (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities; or
- (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the legal or beneficial ownership of any asset, right or liability.

- (4) No attornment to NSW Lotteries by a lessee from the Crown is required.

Division 3 - Staff

Staff of the State Lotteries Office

6. (1) Each officer of the State Lotteries Office becomes, on the appointed day, a member of staff of NSW Lotteries.

(2) Except as otherwise provided by this Division or the regulations, the terms and conditions on which an officer of the State Lotteries Office becomes a member of staff of NSW Lotteries (including conditions as to remuneration and duration of appointment) are to be the same as they were immediately before the appointed day, and are to continue to have effect until they are lawfully varied.

Executive officers

7. Each person who, immediately before the appointed day, held an office in the State Lotteries Office referred to in Column 1 of the Table to this clause is to be taken to have been appointed, for the balance

☐ SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS - *continued*

of the person's term of office, to the corresponding office in NSW Lotteries referred to in Column 2 of that Table.

TABLE

Column 1	Column 2
Director	General Manager
Deputy Director	Deputy General Manager
Assistant Director, Computer Services	Director, Computer Services
Assistant Director, Operations	Director, Operations
Assistant Director, Marketing	Director, Marketing

Superannuation

8. (1) An officer of the State Lotteries Office who, pursuant to this Division, becomes a member of staff of NSW Lotteries:

- (a) may continue to contribute to any superannuation scheme to which the person was a contributor immediately before becoming a member of staff of NSW Lotteries; and
- (b) is entitled to receive any payment, pension or gratuity accrued or accruing to the person under any such scheme,

as if he or she had continued to be such a contributor during his or her service as a member of staff of NSW Lotteries.

(2) Service by an officer of the State Lotteries Office as a member of staff of NSW Lotteries is to be regarded as service as an officer of the State Lotteries Office for the purposes of any law under which the person continues to contribute to any such scheme or by which an entitlement under any such scheme is conferred.

(3) An officer of the State Lotteries Office who, pursuant to this Division, becomes a member of staff of NSW Lotteries is to be regarded as an officer or employee, and NSW Lotteries is to be regarded as the employer, for the purposes of the superannuation scheme to which he or she is entitled to contribute under this clause.

SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS - *continued*

(4) If a person would, but for this subclause, be entitled under this clause to contribute to a superannuation scheme or to receive any payment, pension or gratuity under any such scheme:

- (a) the person is not so entitled on the person's becoming a contributor to any other superannuation scheme; and
- (b) the provisions of subclause (3) cease to apply to or in respect of the person and NSW Lotteries where the person becomes a contributor to any such other superannuation scheme.

(5) Subclause (4) does not prevent the payment to a person, on the person's ceasing to be a contributor to a superannuation scheme, of such amount as would have been payable to the person if the person had ceased, by reason of resignation, to be such a contributor.

Annual leave, long service or extended leave and sick leave

9. (1) An officer of the State Lotteries Office who, pursuant to this Division, becomes a member of staff of NSW Lotteries retains any rights to:

- (a) annual leave; and
- (b) long service or extended leave; and
- (c) sick leave,

accrued or accruing to the person as an officer of the State Lotteries Office.

(2) A person's entitlement to any such leave is to be calculated:

- (a) for such part of any period during which that leave accrued or was accruing as occurred before the appointed day - at the rate for the time being applicable to the person, as an officer of the State Lotteries Office, before that day; and
- (b) for such part of that period as occurred after the appointed day - at the rate for the time being applicable to the person, as a member of staff of NSW Lotteries, after that day.

No entitlement to dual benefits

10. An officer of the State Lotteries Office who, pursuant to this Division, becomes a member of staff of NSW Lotteries is not entitled

SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS - *continued*

to claim, both under this Act and any other Act, dual benefits of the same kind in respect of the same period of service.

Public servants may re-apply for positions in the Public Service

11. (1) An officer of the State Lotteries Office who, immediately before the appointed day, was a public servant may, within the period of 3 years immediately following that day, apply for a position in the Public Service as if the person were still a public servant.

(2) An officer of the State Lotteries Office who applies for such a position, or who is appointed to or employed in such a position, is, for the purposes of:

- (a) the Public Sector Management Act 1988; and
- (b) the Government and Related Employees Appeal Tribunal Act 1980; and
- (c) the Industrial Arbitration Act 1940,

to be regarded as a public servant in relation to the application, appointment or employment.

(3) For the purposes of this section, a reference to a public servant is a reference to an officer employed within the Public Service.

Temporary staff etc.

12. (1) Each member of staff of the State Lotteries Office (other than an officer) becomes, on the appointed day, a temporary staff member of NSW Lotteries.

(2) Except as otherwise provided by this Division or the regulations, the terms and conditions on which a member of staff of the State Lotteries Office becomes a temporary staff member of NSW Lotteries (including conditions as to remuneration and duration of appointment) are the same as they were immediately before the appointed day, and are to continue to have effect until they are lawfully varied.

Operation of Industrial Arbitration Act 1940 unaffected

13. Nothing in this Division affects the operation of the Industrial Arbitration Act 1940.

SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS - *continued*

Redundancy of transferred staff

14. The employment of a member of staff of NSW Lotteries may not be terminated on the ground of redundancy arising from the abolition of the State Lotteries Office, and the establishment of NSW Lotteries, effected by this Act.

Division 4 - General

Current lotteries

15. (1) Any lottery that was being promoted or conducted under the repealed Act before the appointed day may be completed under this Act.

(2) This Act applies to and in respect of a lottery referred to in subclause (1) in the same way as it applies to a lottery promoted or conducted under this Act.

First annual report

16. The first annual report of NSW Lotteries is to include matters concerning the work and activities of the State Lotteries Office since 1 July 1990.

Regulations

17. The following regulations are to be regarded as regulations made under this Act and may be amended or repealed accordingly:

- (a) State Lotteries (General) Regulation 1989;
- (b) State Lotteries (Instant Lotteries) Regulation 1983.

Construction of certain references

18. In any other Act or instrument:

- (a) a reference to the State Lotteries Office is to be construed as a reference to New South Wales Lotteries; and
- (b) a reference to the Director of State Lotteries is to be construed as a reference to the General Manager; and
- (c) a reference to an officer of the State Lotteries Office is to be construed as a reference to a member of staff of NSW Lotteries.

[Minister's second reading speech made in -
Legislative Assembly on 17 October 1990
Legislative Council on 20 November 1990]

FIRST PRINT

NEW SOUTH WALES LOTTERIES BILL 1990

NEW SOUTH WALES



EXPLANATORY NOTE

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

The objects of this Bill are:

- (a) to abolish the State Lotteries Office and to replace it with a new statutory corporation to be known as New South Wales Lotteries; and
- (b) to define the structure and functions of the proposed corporation; and
- (c) to repeal the State Lotteries Act 1930; and
- (d) to make consequential amendments to other Acts.

References in this Bill to monetary penalties are expressed in penalty units. Under section 56 of the Interpretation Act 1987, 1 penalty unit is currently equivalent to \$100.

PART 1 - PRELIMINARY

Clause 1 specifies 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 defines certain expressions (in particular, "lottery" and "public lottery") for the purposes of the proposed Act.

Clause 4 specifies the games of chance that are to be regarded as lotteries for the purposes of the proposed Act.

New South Wales Lotteries 1990

PART 2 - NEW SOUTH WALES LOTTERIES

Division 1 - NSW Lotteries

Clause 5 provides for the constitution of a corporation, under the name of New South Wales Lotteries, which is to be a statutory body representing the Crown.

Clause 6 declares that the objects of New South Wales Lotteries are to develop, promote and conduct lotteries and to conduct games of lotto and soccer football pools in accordance with licences held by it under the Lotto Act 1979 and the Soccer Football Pools Act 1975.

Clause 7 equips New South Wales Lotteries with the functions appropriate to enable it to achieve its objects and, in particular, enables it to hold licences under the Lotto Act 1979 and the Soccer Football Pools Act 1975.

Clause 8 enables New South Wales Lotteries to exercise its functions through private subsidiary corporations and in association with other persons or bodies.

Clause 9 enables New South Wales Lotteries to enter into agreements with corresponding interstate authorities for the purpose of enabling lotteries to be conducted across State borders.

Clause 10 enables New South Wales Lotteries to delegate its functions to certain specified persons.

Division 2 - The Board

Clause 11 establishes a Board of Management for New South Wales Lotteries, consisting of a full-time General Manager and 4 part-time members.

Clause 12 provides for a Chairperson and Deputy Chairperson to be appointed from among the part-time members.

Clause 13 provides that the functions of the Board are to be to determine the policies of New South Wales Lotteries and to ensure, in so doing, that the activities of New South Wales Lotteries are conducted on a sound commercial basis. The Board is to be subject to the control and direction of the Minister.

Clause 14 enables the Board to request the Minister to reconsider a direction given to the Board when the Board is of the opinion that the direction would cause New South Wales Lotteries to suffer a significant financial loss and would not be in the commercial interests of New South Wales Lotteries. Where the Minister stands by the original direction and a loss is actually suffered, the clause provides that the Board is to include in its annual report a statement to the effect that it has unsuccessfully sought a review of the direction.

Clause 15 requires the Board to prepare a corporate plan for each financial year (being a plan that specifies the goals to be achieved by, and the financial forecast for, New South Wales Lotteries) and to exercise its functions in accordance with the plan.

Division 3 - The General Manager

Clause 16 provides for the appointment of a General Manager who is to be a chief executive officer within the meaning of the Public Sector Management Act 1988.

New South Wales Lotteries 1990

Clause 17 provides for the appointment of an acting General Manager who is to be empowered (during the illness or absence of the General Manager) to exercise the General Manager's functions.

Clause 18 provides that the functions of the General Manager are to manage and control (in accordance with the policies of the Board) the affairs of New South Wales Lotteries.

Division 4 - Private subsidiary corporations

Clause 19 enables New South Wales Lotteries to form, and to participate in the formation of, private subsidiary corporations. A private subsidiary corporation is to be defined as a private corporation in which New South Wales Lotteries has a controlling interest.

Division 5 - Staff

Clause 20 enables New South Wales Lotteries to employ such staff as it requires to exercise its functions.

Clause 21 enables New South Wales Lotteries to fix the salary, wages and other conditions of employment of its staff in so far as they are not fixed by or under any other Act or law.

Clause 22 enables New South Wales Lotteries to use the staff and facilities of government departments, administrative offices and public and local authorities.

Clause 23 enables New South Wales Lotteries to engage consultants.

Division 6 - Finance

Clause 24 provides that the prizewinners in a public lottery are to receive such proportion of the subscriptions to the lottery as the Minister may determine and that the Government is to receive (by way of payments to the Consolidated Fund) an amount determined by the Treasurer.

Clause 25 provides for the establishment of a fund to be known as the New South Wales Lotteries Fund.

Clause 26 specifies that the Fund is to comprise all money received by New South Wales Lotteries.

Clause 27 permits expenditure incurred by New South Wales Lotteries to be paid out of the Fund.

Clause 28 provides for the investment of money held by New South Wales Lotteries.

Clause 29 fixes the financial year for New South Wales Lotteries as the year commencing 1 July.

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Division 7 - General

Clause 30 exempts certain persons from personal liability for matters and things done by them or by the Board where those matters or things were done in good faith for the purpose of executing the proposed Act or any other Act.

Clause 31 provides for the custody and use of the seal of New South Wales Lotteries.

Clause 32 provides for the service of documents on New South Wales Lotteries.

Clause 33 enables any money due to New South Wales Lotteries to be recovered, as a debt, in a court of competent jurisdiction.

PART 3 - MISCELLANEOUS

Clause 34 excludes public lotteries from the operation of the Gaming and Betting Act 1912. In particular, it ensures that agreements relating to, or made for the purposes of, a public lottery are not rendered unenforceable.

Clause 35 excludes public lotteries from the operation of the Lotteries and Art Unions Act 1901.

Clause 36 prohibits a person concerned in the promotion or conduct of a public lottery from accepting a subscription in the lottery from any person who is under the age of 18 years. The maximum penalty for this offence will be 2 penalty units.

Clause 37 prohibits the forging of a ticket, or the selling of a forged ticket, in a public lottery. The maximum penalty for this offence will be 50 penalty units or imprisonment for 2 years, or both.

Clause 38 prohibits the formation (for fee or reward) of a syndicate for the purpose of purchasing an entry in a public lottery or the publication of an advertisement that a person will accept money for a share in an entry to be purchased in a public lottery. The maximum penalty for each of these offences will be 10 penalty units.

Clause 39 provides that proceedings for an offence against the proposed Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate.

Clause 40 enables the directors and other members of a corporation by which an offence against the proposed Act or the regulations has been committed to be prosecuted for the offence.

Clause 41 provides that the proposed Act is to bind the Crown.

Clause 42 enables the Governor to make regulations for the purposes of the proposed Act.

Clause 43 repeals the State Lotteries Act 1930.

Clause 44 is a formal provision that gives effect to a Schedule of amendments to other Acts.

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Clause 45 is a formal provision that gives effect to a Schedule of savings, transitional and other provisions.

SCHEDULE 1 - PROVISIONS RELATING TO THE CONSTITUTION AND PROCEDURE OF THE BOARD

Part 1 of the proposed Schedule contains provisions relating to the constitution of the Board, including provisions relating to:

- (a) the appointment of deputies (clause 1); and
- (b) the term of office of part-time members (clause 2); and
- (c) the remuneration of part-time members (clause 3); and
- (d) vacancies in the office of part-time members (clause 4); and
- (e) the filling of vacancies in the office of part-time members (clause 5); and
- (f) vacation of office by the Chairperson or Deputy Chairperson (clause 6); and
- (g) disclosure of pecuniary interests (clause 7); and
- (h) the effect of certain other Acts (clause 8); and
- (i) the proof of certain procedural matters (clause 9).

Part 2 contains provisions relating to the procedure of the Board, including provisions relating to:

- (a) general procedure (clause 10); and
- (b) quorum (clause 11); and
- (c) presiding members (clause 12); and
- (d) voting (clause 13); and
- (e) transaction of business outside meetings or by telephone (clause 14); and
- (f) committees of the Board (clause 15); and
- (g) the keeping of minutes (clause 16); and
- (h) the calling of the first meeting of the Board (clause 17).

SCHEDULE 2 - AMENDMENT OF OTHER ACTS

The proposed Schedule amends the following Acts:

Government and Related Employees Appeal Tribunal Act 1980 No. 39

The amendment will ensure that the staff of New South Wales Lotteries will have the same right of appeal to the Government and Related Employees Appeal Tribunal as the staff of the State Lotteries Office currently have.

Lotto Act 1979 No. 53

The amendments:

- (a) will permit statutory bodies that hold licences under the Act (of which New South Wales Lotteries is one) to enter into agreements with interstate authorities with respect to the joint administration of the conduct of games of lotto; and

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- (b) will allow licences under the Act to include conditions relating to the payment of prizes, the banking of subscriptions and the keeping of accounts.

Public Authorities (Financial Arrangements) Act 1987 No. 33

The amendment will enable New South Wales Lotteries to obtain financial accommodation in accordance with the Act in the same way as the State Lotteries Office can currently obtain financial accommodation.

Public Finance and Audit Act 1983 No. 152

The amendment will ensure that the Act applies to New South Wales Lotteries, as a statutory authority, in the same way as the Act currently applies to the State Lotteries Office, as an Administrative Office.

Public Sector Management Act 1988 No. 33

The amendments will ensure that New South Wales Lotteries is a declared authority for the purposes of the Act. The State Lotteries Office is currently an Administrative Office for the purposes of the Act. The amendments will also establish senior executive officer positions for New South Wales Lotteries corresponding to the existing senior executive officer positions for the State Lotteries Office.

Soccer Football Pools Act 1975 No. 45

The amendments will allow licences under the Act to include conditions relating to the payment of prizes, the banking of subscriptions and the keeping of accounts.

State Authorities Non-contributory Superannuation Act 1987 No. 212

The amendments will ensure that the staff of New South Wales Lotteries are entitled to contribute to the superannuation scheme established by the Act in the same way as the staff of the State Lotteries Office are currently entitled to contribute to that scheme.

State Authorities Superannuation Act 1987 No. 211

The amendments will ensure that the staff of New South Wales Lotteries are entitled to contribute to the superannuation scheme established by the Act in the same way as the staff of the State Lotteries Office are currently entitled to contribute to that scheme.

Superannuation Act 1916 No. 28

The amendment will ensure that the staff of New South Wales Lotteries are entitled to contribute to the superannuation scheme established by the Act in the same way as the staff of the State Lotteries Office are currently entitled to contribute to that scheme.

SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

Part 1 enables the regulations to contain savings and transitional provisions consequent on the enactment of the proposed Act (clause 1).

Part 2 contains provisions consequent on the enactment of the proposed Act, including provisions:

- (a) defining certain expressions (clause 2); and
 - (b) abolishing the State Lotteries Office (clause 3); and
 - (c) abolishing the State Lotteries Account (clause 4); and
 - (d) transferring certain government assets, rights and liabilities to New South Wales Lotteries (clause 5); and
 - (e) transferring staff from the State Lotteries Office to New South Wales Lotteries (clause 6); and
 - (f) continuing the current contracts of senior executive officers employed within the State Lotteries Office (clause 7); and
 - (g) preserving certain superannuation entitlements (clause 8); and
 - (h) preserving entitlements to annual leave, long service or extended leave and sick leave (clause 9); and
 - (i) ensuring that transferred officers cannot claim dual benefits (clause 10); and
 - (j) allowing transferred officers 3 years within which to re-apply for certain Public Service positions (clause 11); and
 - (k) continuing the employment of temporary staff (clause 12); and
 - (l) preserving the operation of the Industrial Arbitration Act 1940 (clause 13); and
 - (m) ensuring that the proposed Act does not give rise to staff redundancies (clause 14); and
 - (n) continuing existing lotteries (clause 15); and
 - (o) requiring the first annual report of New South Wales Lotteries to include matters pertaining to the work and activities of the State Lotteries Office since 1 July 1990 (clause 16); and
 - (p) preserving the State Lotteries (General) Regulation 1989 and the State Lotteries (Instant Lotteries) Regulation 1983 (clause 17); and
 - (q) providing for the construction of certain references (clause 18).
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FIRST PRINT

NEW SOUTH WALES LOTTERIES BILL 1990

NEW SOUTH WALES



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NEW SOUTH WALES LOTTERIES BILL 1990

NEW SOUTH WALES



No. , 1990

A BILL FOR

An Act to constitute New South Wales Lotteries and to define its functions; and to repeal the State Lotteries Act 1930.

The Legislature of New South Wales enacts:

PART 1 - PRELIMINARY

Short title

1. This Act may be cited as the New South Wales Lotteries Act 1990.

Commencement

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

Definitions

3. (1) In this Act:

"Board" means the Board of Management of NSW Lotteries;

"Fund" means the New South Wales Lotteries Fund established under this Act;

"General Manager" means the General Manager of NSW Lotteries;

"lottery" includes a game of chance that, by virtue of section 4, is to be regarded as a lottery for the purposes of this Act;

"member of staff", in relation to NSW Lotteries, includes an employee of NSW Lotteries and any other person of whose services NSW Lotteries makes use under section 22;

"NSW Lotteries" means the corporation constituted by this Act under the name of New South Wales Lotteries;

"private subsidiary corporation" means a private subsidiary corporation referred to in Division 4 of Part 2;

"public lottery" means a lottery promoted or conducted by NSW Lotteries.

- (2) In this Act:

- (a) a reference to a function includes a reference to a power, authority and duty; and

- (b) a reference to the exercise of a function includes, where the function is a duty, a reference to the performance of the duty.

Lotteries

4. (1) The following games of chance are to be regarded as lotteries for the purposes of this Act:

- (a) any game of chance (including games such as bingo) in which:
 - (i) a person chooses or is allocated a number or combination of numbers; and
 - (ii) certain numbers or combinations are subsequently selected at random as prizewinning numbers or combinations; and
 - (iii) prizes are distributed to persons holding the prizewinning numbers or combinations;
 - (b) any game of chance (including games such as instant lottery) in which:
 - (i) certain numbers or combinations of numbers are designated as prizewinning numbers or combinations; and
 - (ii) a person is allocated a number or combination that has previously been selected at random; and
 - (iii) prizes are distributed to persons holding the prizewinning numbers or combinations.
- (2) Notwithstanding subsection (1):
- (a) games of lotto (within the meaning of the Lotto Act 1979); and
 - (b) soccer football pools (within the meaning of the Soccer Football Pools Act 1975),
- are not to be regarded as lotteries for the purposes of this Act.

(3) In this section:

- (a) a reference to a number includes a reference to a numeral or symbol; and
- (b) a reference to a combination of numbers includes a reference to a combination of numbers, numerals or symbols or numbers, numerals and symbols.

PART 2 - NEW SOUTH WALES LOTTERIES

Division 1 - NSW Lotteries

Constitution of NSW Lotteries

5. (1) There is constituted by this Act a corporation with the name of New South Wales Lotteries.

(2) NSW Lotteries is, for the purposes of any Act, a statutory body representing the Crown.

(3) In any Act or instrument, New South Wales Lotteries may be referred to as NSW Lotteries.

Objects of NSW Lotteries

6. The objects of NSW Lotteries are:

- (a) to develop, promote and conduct lotteries; and
- (b) to conduct games of lotto and soccer football pools under licences under the Lotto Act 1979 and the Soccer Football Pools Act 1975.

Functions of NSW Lotteries

7. (1) NSW Lotteries has the following functions:

- (a) such functions as are necessary or convenient to enable it to achieve its objects; and
- (b) such other functions as are conferred or imposed on it by or under this or any other Act or law.

(2) Without limiting its other functions, NSW Lotteries:

- (a) may use its staff or facilities for the purposes of any business, whether or not that business is related to its objects; and
- (b) may enter into arrangements for the provision of services to other persons and bodies; and
- (c) may charge for the services provided by it to other persons and bodies; and
- (d) may appoint agents and act as agent for other persons; and
- (e) may hold licences under the Lotto Act 1979 and the Soccer Football Pools Act 1975 and may exercise the functions of a licensee under those Acts.

(3) NSW Lotteries may exercise its functions within or beyond New South Wales.

Exercise of functions through private subsidiary corporations etc.

8. (1) Any function of NSW Lotteries may be exercised:

- (a) by NSW Lotteries; or
- (b) by a private subsidiary corporation; or
- (c) by NSW Lotteries or a private subsidiary corporation, or both, in a partnership, joint venture or other association with other persons or bodies.

(2) Such a function may not be exercised by a private subsidiary corporation unless it has been duly delegated to the corporation.

Agreements with interstate authorities

9. (1) NSW Lotteries may, on such terms as are approved by the Minister, enter into an agreement with an interstate authority with respect to:

- (a) the administration of a scheme for the promotion and conduct of lotteries among participating States; and
- (b) the manner of making payments to and by NSW Lotteries; and
- (c) related matters.

(2) In this section:

"corresponding law" means a law of another State or Territory under which a person is authorised to promote or conduct lotteries;

"interstate authority" means a person who is authorised to promote or conduct lotteries in a participating State;

"participating State" means a State or Territory in which a person is authorised, under a corresponding law, to promote or conduct lotteries.

Delegation of functions

10. (1) NSW Lotteries may delegate to an authorised person any of its functions, other than this power of delegation.

(2) A delegate may sub-delegate to an authorised person any function delegated by NSW Lotteries if the delegate is authorised in writing to do so by NSW Lotteries.

(3) In this section:

"authorised person" means:

- (a) a member of the Board; or
- (b) a member of staff of NSW Lotteries; or
- (c) a private subsidiary corporation; or
- (d) a person of a class prescribed by the regulations.

Division 2 - The Board

Establishment of the Board

11. (1) There is to be a Board of Management of NSW Lotteries.
- (2) The Board is to consist of 5 members, consisting of:
- (a) the General Manager; and
 - (b) 4 part-time members appointed by the Governor on the recommendation of the Minister.
- (3) A person recommended for appointment by the Minister must have such qualifications or experience in relation to:
- (a) business management; or
 - (b) gaming; or
 - (c) marketing and promotion; or
 - (d) finance; or
 - (e) information technology,
- as the Minister considers necessary to enable the Board to exercise its functions.
- (4) Schedule 1 has effect with respect to the constitution and procedure of the Board.

Chairperson and Deputy Chairperson

12. Of the part-time members of the Board:
- (a) one is, in and by the member's instrument of appointment or in and by a subsequent instrument executed by the Governor, to be appointed as Chairperson of the Board; and
 - (b) another is, in and by the member's instrument of appointment or in and by a subsequent instrument executed by the Governor, to be appointed as Deputy Chairperson of the Board.

Board to determine the policies of NSW Lotteries

13. (1) The Board has the function of determining the policies of NSW Lotteries.
- (2) In exercising that function, the Board must, as far as practicable, ensure that the activities of NSW Lotteries are carried out on a sound commercial basis.

(3) The Board is, in the exercise of its functions, subject to the control and direction of the Minister.

Non-commercial activities

14. (1) If the Board is of the opinion that:

- (a) NSW Lotteries would suffer a significant financial loss as a result of complying with a direction given by the Minister; and
- (b) the direction is not in the commercial interests of NSW Lotteries,

the Board may request the Minister to review the direction.

(2) A request for such a review must be made within 7 days after the direction is given or within such other reasonable period as the Minister may determine.

(3) If the Board requests such a review, the Board is not required to comply with the direction until it has been notified of the Minister's decision following the review.

(4) If the Minister's decision following the review is substantially the same as the original direction, and NSW Lotteries suffers a significant financial loss as a result of complying with the direction, the Board is to include, in the annual report for the year in which the loss was incurred, a statement to the effect that:

- (a) NSW Lotteries has suffered a significant financial loss (as quantified or otherwise described in the statement) as a result of complying with a direction given by the Minister; and
- (b) the direction was substantially the same as a direction in respect of which the Board had requested a review under this section.

Corporate plans

15. (1) The Board must prepare and deliver to the Minister, at least 6 weeks before the beginning of each financial year, a draft corporate plan for that year.

(2) The Board:

- (a) must consider any comments on the plan that are made by the Minister within 4 weeks after the plan is delivered to the Minister; and
- (b) must deliver a completed corporate plan to the Minister before the beginning of the financial year concerned.

(3) The Board must, as far as practicable, exercise its functions in accordance with its current corporate plan.

(4) A corporate plan must specify:

- (a) the goals to be achieved by NSW Lotteries; and
- (b) the financial forecast for NSW Lotteries' activities,

for the financial year concerned.

Division 3 - The General Manager

Appointment of General Manager

16. (1) The Governor may appoint a General Manager of NSW Lotteries.

(2) Before a person is appointed as General Manager, the Minister must give the Board an opportunity to recommend any one or more persons for appointment.

(3) The General Manager's employment is subject to Part 2A, but not Part 2, of the Public Sector Management Act 1988.

Acting General Manager

17. (1) The Minister may, from time to time, appoint a person to act in the office of General Manager during the illness or absence of the General Manager (or during a vacancy in the office of General Manager) and the person, while so acting, has all the functions of the General Manager and is to be regarded as the General Manager.

(2) The Minister may, at any time, remove any person from office as acting General Manager.

(3) An acting General Manager is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

General Manager to manage the affairs of NSW Lotteries

18. (1) The affairs of NSW Lotteries are to be managed and controlled by the General Manager in accordance with the policies of the Board.

(2) Any act, matter or thing done by the General Manager in the name of, or on behalf of, NSW Lotteries is to be taken to have been done by NSW Lotteries.

Division 4 - Private subsidiary corporations

Formation of private subsidiary corporations

19. (1) NSW Lotteries may:

- (a) form, or participate in the formation of, private corporations; and
- (b) acquire interests in private corporations; and
- (c) sell or otherwise dispose of interests in private corporations.

(2) NSW Lotteries must not, except with the approval of the Minister:

- (a) form, or participate in the formation of, a private subsidiary corporation; or
- (b) acquire an interest in a private corporation so that, as a result of the acquisition, the corporation becomes a private subsidiary corporation; or
- (c) sell or otherwise dispose of an interest in a private subsidiary corporation so that, as a result of the sale or disposal, the corporation ceases to be a private subsidiary corporation.

(3) A private subsidiary corporation is not, and does not represent, the Crown.

(4) In this section:

"**private corporation**" means a corporation within the meaning of the Companies (New South Wales) Code formed within or beyond New South Wales;

"**private subsidiary corporation**" means a private corporation in which NSW Lotteries has a controlling interest.

Division 5 - Staff

Employment of staff

20. NSW Lotteries may employ such staff as it requires to exercise its functions.

Conditions of employment

21. NSW Lotteries may fix the salary, wages and other conditions of employment of its staff in so far as they are not fixed by or under any other Act or law.

Use of staff or facilities of Departments etc.

22. NSW Lotteries may arrange for the use of the services of any staff (by secondment or otherwise) or facilities of a government department, an administrative office or a public or local authority.

Consultants

23. NSW Lotteries may engage such consultants as it requires to exercise its functions.

Division 6 - Finance

Application of subscriptions to public lotteries

24. (1) Out of the subscriptions received by it in respect of a public lottery, NSW Lotteries:

- (a) must pay to prizewinners amounts totalling a percentage of the subscriptions for that lottery determined by the Minister (whether generally or in a particular case) prior to the promotion or conduct of the lottery; and
- (b) must pay to the Minister, for payment into the Consolidated Fund, an amount (whether calculated as a percentage of the subscriptions for that lottery or otherwise) determined by the Treasurer.

(2) The amount payable to the Minister in respect of a public lottery must be paid within 1 month, or within such other period as the Minister may determine, after the close of the lottery.

Establishment of the Fund

25. There is to be a fund known as the New South Wales Lotteries Fund.

Payments into the Fund

26. The Fund is to comprise:

- (a) subscriptions received by or on account of NSW Lotteries in respect of public lotteries; and
- (b) other money received by or on account of NSW Lotteries; and
- (c) interest that accrues from the investment of money belonging to the Fund; and

- (d) money borrowed by or advanced to NSW Lotteries or appropriated by Parliament for the purposes of NSW Lotteries; and
- (e) other money (including money received under an agreement referred to in section 9) required by or under this or any other Act or law to be paid into the Fund.

Payments from the Fund

27. There may be paid from the Fund:

- (a) payments to prizewinners in public lotteries; and
- (b) dividends payable to the Minister, for payment into the Consolidated Fund, in respect of public lotteries; and
- (c) the remuneration (including allowances) of the members of the Board, the members of staff of NSW Lotteries and any person acting in the office of such a member; and
- (d) payments made on account of NSW Lotteries, or otherwise required to meet expenditure incurred by NSW Lotteries, in relation to the exercise of its functions; and
- (e) any other payments (including payments to be made under an agreement referred to in section 9) required by or under this or any other Act or law to be paid from the Fund.

Investment

28. NSW Lotteries may invest money held by it:

- (a) in such manner as may be authorised by the Public Authorities (Financial Arrangements) Act 1987; or
- (b) if that Act does not confer power to invest money held by NSW Lotteries:
 - (i) in any manner authorised for the investment of trust funds; or
 - (ii) in any other manner approved by the Minister with the concurrence of the Treasurer.

Financial year

29. (1) The financial year of NSW Lotteries is the year commencing on 1 July.

(2) A different financial year may be determined by the Treasurer under section 4 (1A) of the Public Finance and Audit Act 1983.

Division 7 - General

Personal liability of members etc.

30. Any matter or thing done by the Board, a member of the Board, a member of staff of NSW Lotteries or any person acting under the direction of NSW Lotteries does not subject such a member or a person so acting personally to any action, liability, claim or demand if the matter or thing was done in good faith for the purpose of executing this or any other Act.

Seal of NSW Lotteries

31. The seal of NSW Lotteries is to be kept by the General Manager and may be affixed to a document only:

- (a) in the presence of the General Manager or a member of staff of NSW Lotteries authorised in that behalf by the General Manager; and
- (b) with an attestation by the signature of the General Manager or that member of staff of the fact of the affixing of the seal.

Service of documents on NSW Lotteries

32. (1) A document may be served on NSW Lotteries by leaving it at, or by sending it by post to:

- (a) the office of NSW Lotteries; or
- (b) if it has more than one office - any one of its offices.

(2) Nothing in this section affects the operation of any provision of a law or of the rules of a court authorising a document to be served on NSW Lotteries in any other manner.

Recovery of money due to NSW Lotteries

33. Any money due to NSW Lotteries may be recovered by NSW Lotteries as a debt in a court of competent jurisdiction.

PART 3 - MISCELLANEOUS

Public lotteries not unlawful games under the Gaming and Betting Act 1912 etc.

34. (1) A public lottery is not an unlawful game for the purposes of the Gaming and Betting Act 1912.

(2) Section 16 of the Gaming and Betting Act 1912 does not apply to or in respect of a public lottery.

(3) An agreement is not to be regarded as void or voidable, or otherwise unenforceable, merely because it relates to, or is made for the purposes of, a public lottery.

Lotteries and Art Unions Act 1901 not to apply to public lotteries

35. The Lotteries and Art Unions Act 1901 does not apply to or in respect of a public lottery.

Subscriptions to public lotteries not to be accepted from minors

36. (1) A person concerned in the promotion or conduct of a public lottery must not accept a subscription to a public lottery from any person who is under the age of 18 years.

Maximum penalty: 2 penalty units.

(2) It is a sufficient defence to a prosecution for an offence against this section if the defendant proves that he or she did not know, and could not reasonably have been expected to know, that the person from whom the defendant accepted a subscription to a public lottery was under the age of 18 years.

Forging etc. of lottery tickets

37. A person must not forge a ticket in a public lottery, utter any such ticket that is forged or fraudulently alter any such ticket.

Maximum penalty: 50 penalty units or imprisonment for 2 years, or both.

Promotion of betting syndicates for public lotteries

38. (1) A person must not, for fee or reward, promote or take part in the formation of a syndicate for the purpose of purchasing an entry in a public lottery.

Maximum penalty: 10 penalty units.

(2) A person must not by any means advertise that that or some other person will accept money for a share in an entry to be purchased in a public lottery.

Maximum penalty: 10 penalty units.

Proceedings for offences

39. Proceedings for an offence against this Act or the regulations are to be dealt with summarily before a Local Court constituted by a Magistrate sitting alone.

Offences by corporations

40. (1) If a corporation contravenes any provision of this Act or the regulations, each person who is a director of the corporation or who is concerned in the management of the corporation is to be taken to have contravened the same provision if the person knowingly authorised or permitted the contravention.

(2) A person may be proceeded against and convicted under a provision pursuant to this section whether or not the corporation has been proceeded against or convicted under that provision.

(3) Nothing in this section affects any liability imposed on a corporation for an offence committed by the corporation against this Act or the regulations.

Act binds Crown

41. This Act binds the Crown.

Regulations

42. (1) The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act and, in particular, for or with respect to:

- (a) the promotion and conduct of public lotteries; and
- (b) the conditions of employment of members of staff of NSW Lotteries; and

- (c) the banking of money belonging to the Fund; and
- (d) the keeping of accounts in relation to the Fund.

(2) A regulation may create an offence punishable by a penalty not exceeding 5 penalty units.

Repeal of State Lotteries Act 1930 No. 51

43. The State Lotteries Act 1930 is repealed.

Amendment of other Acts

44. Each Act mentioned in Schedule 2 is amended as set out in that Schedule.

Savings, transitional and other provisions

45. Schedule 3 has effect.

**SCHEDULE 1 - PROVISIONS RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE BOARD**

(Sec. 11)

PART 1 - CONSTITUTION

Deputies

1. (1) The Minister may, from time to time, appoint a person to be the deputy of a part-time member of the Board, and the Minister may revoke any such appointment.

(2) In the absence of a part-time member of the Board, the member's deputy:

- (a) may, if available, act in the place of the member; and
- (b) while so acting, has all the functions of the member and is to be regarded as a member.

(3) The deputy of a part-time member of the Board who is also Chairperson or Deputy Chairperson does not have the member's functions as Chairperson or Deputy Chairperson.

**SCHEDULE 1 - PROVISIONS RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE
BOARD - *continued***

(4) A person while acting in the place of a part-time member of the Board is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the person.

Terms of office of part-time members

2. Subject to this Schedule, a part-time member of the Board holds office for such period (not exceeding 5 years) as is specified in the member's instrument of appointment, but is eligible (if otherwise qualified) for re-appointment.

Remuneration of part-time members

3. A part-time member of the Board is entitled to be paid such remuneration (including travelling and subsistence allowances) as the Minister may from time to time determine in respect of the member.

Vacancy in office of part-time member

4. (1) The office of a part-time member of the Board becomes vacant if the member:

- (a) dies; or
- (b) completes a term of office and is not re-appointed; or
- (c) resigns the office by instrument in writing addressed to the Minister; or
- (d) is removed from office by the Governor under this clause or under Part 8 of the Public Sector Management Act 1988; or
- (e) is absent from 4 consecutive meetings of the Board of which reasonable notice has been given to the member personally or in the ordinary course of post, except on leave granted by the Board or unless, before the expiration of 4 weeks after the last of those meetings, the member is excused by the Board for having been absent from those meetings; or
- (f) becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit; or

**SCHEDULE 1 - PROVISIONS RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE
BOARD - *continued***

- (g) becomes a mentally incapacitated person; or
- (h) is convicted in New South Wales of an offence which is punishable by penal servitude or imprisonment for 12 months or more or is convicted elsewhere than in New South Wales of an offence which, if committed in New South Wales, would be an offence so punishable.

(2) The Governor may remove a part-time member of the Board from office at any time.

Filling of vacancy in office of part-time member

5. If the office of a part-time member of the Board becomes vacant, a person is, subject to this Act, to be appointed to fill the vacancy.

Vacation of office by Chairperson or Deputy Chairperson

6. (1) The office of Chairperson or Deputy Chairperson becomes vacant if the Chairperson or Deputy Chairperson:

- (a) resigns the office by instrument in writing addressed to the Minister; or
- (b) is removed from office by the Governor under this clause; or
- (c) ceases to be a part-time member.

(2) The Governor may remove the Chairperson or Deputy Chairperson from office at any time.

Disclosure of pecuniary interests

7. (1) A member of the Board:

- (a) who has a direct or indirect pecuniary interest in a matter being considered or about to be considered at a meeting of the Board; and
- (b) whose interest appears to raise a conflict with the proper performance of the member's duties in relation to the consideration of the matter,

must, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Board.

SCHEDULE 1 - PROVISIONS RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE
BOARD - *continued*

(2) A disclosure by a member of the Board at a meeting of the Board that the member:

- (a) is a member, or is in the employment, of a specified company or other body; or
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or to a specified person,

is a sufficient disclosure of the nature of the interest in any matter relating to that company or other body or to that person which may arise after the date of the disclosure and which is required to be disclosed under this clause.

(3) Particulars of any disclosure made under this clause must be recorded by the members of the Board in a book kept for the purpose and that book must be open at all reasonable hours to inspection by any person on payment of the fee determined by the members of the Board.

(4) After a member of the Board has disclosed the nature of an interest in any matter, the member must not, unless the Minister or the other members of the Board otherwise determine:

- (a) be present during any deliberation of the Board with respect to the matter; or
- (b) take part in any decision of the Board with respect to the matter.

(5) For the purposes of the making of a determination by the members of the Board under subclause (4), a member of the Board who has a direct or indirect pecuniary interest in a matter to which the disclosure relates must not:

- (a) be present during any deliberation of the other members of the Board for the purpose of making the determination; or
- (b) take part in the making by the other members of the Board of the determination.

**SCHEDULE 1 - PROVISIONS RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE
BOARD - *continued***

(6) A contravention of this clause does not invalidate any decision of the Board.

(7) A reference in this clause to a meeting of the Board includes a reference to a meeting of a committee of the Board.

Effect of certain other Acts

8. (1) Part 2 of the Public Sector Management Act 1988 does not apply to or in respect of the appointment of a part-time member.

(2) If by or under any Act provision is made:

(a) requiring a person who is the holder of a specified office to devote the whole of his or her time to the duties of that office;
or

(b) prohibiting the person from engaging in employment outside the duties of that office,

the provision does not operate to disqualify the person from holding that office and also the office of a part-time member or from accepting and retaining any remuneration payable to the person under this Act as such a member.

(3) The office of a part-time member is not, for the purposes of any Act, an office or place of profit under the Crown.

Proof of certain matters not required

9. In any legal proceedings, proof is not required (until evidence is given to the contrary) of:

(a) the constitution of the Board; or

(b) any resolution of the Board; or

(c) the appointment of, or holding of office by, any member of the Board; or

(d) the presence or nature of a quorum at any meeting of the Board.

**SCHEDULE 1 - PROVISIONS RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE
BOARD - *continued***

PART 2 - PROCEDURE

General procedure

10. The procedure for the calling of meetings of the Board and for the conduct of business at those meetings is, subject to this Act and the regulations, to be as determined by the Board.

Quorum

11. The quorum for a meeting of the Board is 3 members.

Presiding member

12. (1) The Chairperson or, in the absence of the Chairperson, the Deputy Chairperson (or, in the absence of both, another member elected to chair the meeting by the members present) is to preside at a meeting of the Board.

(2) The person presiding at any meeting of the Board has a deliberative vote and, in the event of an equality of votes, has a second or casting vote.

Voting

13. A decision supported by a majority of the votes cast at a meeting of the Board at which a quorum is present is the decision of the Board.

Transaction of business outside meetings or by telephone etc.

14. (1) The Board may, if it thinks fit, transact any of its business by the circulation of papers among all the members of the Board for the time being, and a resolution in writing approved in writing by a majority of those members is to be regarded as a decision of the Board.

(2) The Board may, if it thinks fit, transact any of its business at a meeting at which members (or some members) participate by telephone, closed-circuit television or other means, but only if any member who speaks on a matter before the meeting can be heard by the other members.

**SCHEDULE 1 - PROVISIONS RELATING TO THE
CONSTITUTION AND PROCEDURE OF THE
BOARD - *continued***

(3) For the purposes of:

- (a) the approval of a resolution under subclause (1); or
- (b) a meeting held in accordance with subclause (2),

the Chairperson and each member have the same voting rights as they have at an ordinary meeting of the Board.

(4) A resolution approved under subclause (1) is, subject to the regulations, to be recorded in the minutes of the meetings of the Board.

(5) Papers may be circulated among members for the purposes of subclause (1) by facsimile or other transmission of the information in the papers concerned.

Committees of Board

15. (1) The Board may appoint committees to enable it to exercise its functions.

(2) A committee need not include a member of the Board.

(3) The procedure for the calling of meetings of a committee and for the conduct of business at those meetings is to be as determined by the Board or (subject to any determination of the Board) by the committee.

Minutes

16. The Board must cause full and accurate minutes to be kept of the proceedings of each meeting of the Board.

First meeting

17. The Minister may call the first meeting of the Board in such manner as the Minister thinks fit.

SCHEDULE 2 - AMENDMENT OF OTHER ACTS

(Sec. 44)

Government and Related Employees Appeal Tribunal Act 1980 No. 39:

Schedule 4 (Employing authorities):

Insert (in alphabetical order):

New South Wales Lotteries.

Lotto Act 1979 No. 53:

(1) **Section 6 (Conditions of licence):**

After section 6 (d), insert:

- (d1) the application of and accounting for money received by the licensee from subscriptions, including the payment of prizes from such money, the banking of such money and the accounts to be kept in respect of such money;

(2) **Section 13A:**

After section 13, insert:

Agreements with interstate authorities

13A (1) A statutory body holding a licence may, on such terms as are approved by the Minister, enter into an agreement with an interstate authority with respect to:

- (a) the administration of a scheme for the promotion and conduct of games of lotto among participating States; and
- (b) the manner of making payments to and by the licensee; and
- (c) related matters.

(2) In this section:

"**corresponding law**" means a law of another State or Territory under which a person is authorised to promote or conduct games of lotto;

"**interstate authority**" means a person who is authorised to promote or conduct games of lotto in a participating State;

SCHEDULE 2 - AMENDMENT OF OTHER ACTS - *continued*

"participating State" means a State or Territory in which a person is authorised, under a corresponding law, to promote or conduct games of lotto.

(3) Section 15 (Payment of duty):

From section 15 (1), omit "regulations may prescribe", insert instead "Minister may determine".

Public Authorities (Financial Arrangements) Act 1987 No. 33:

Schedule 1 (Authorities):

Insert (in alphabetical order):

New South Wales Lotteries.

Public Finance and Audit Act 1983 No. 152:

(1) Schedule 2 (Statutory bodies):

Insert (in alphabetical order):

New South Wales Lotteries.

(2) Schedule 3 (Departments):

Omit the matter relating to the State Lotteries Office.

Public Sector Management Act 1988 No. 33:

(1) Schedule 2 (Administrative offices):

Omit the matter relating to the State Lotteries Office.

(2) Schedule 3 (Declared authorities):

Insert (in alphabetical order):

New South Wales Lotteries

(3) Schedule 3A (Chief executive positions):

(a) From Part 2 of the Schedule, omit "Director of State Lotteries".

(b) In Part 3 of the Schedule, after "Chief Executive of the Maritime Services Board", insert "General Manager of New South Wales Lotteries".

SCHEDULE 2 - AMENDMENT OF OTHER ACTS - *continued*

(4) Schedule 3B (Senior executive positions):

- (a) In Part 1 of the Schedule, insert (in alphabetical order):

New South Wales Lotteries

Deputy General Manager
Director, Computer Services
Director, Operations
Director, Marketing

- (b) From Part 1 of the Schedule, omit the positions relating to the State Lotteries Office.

Soccer Football Pools Act 1975 No. 45:

(1) Section 8 (Conditions of licence):

After section 8 (a), insert:

- (a1) the application of and accounting for money received by the licensee from subscriptions, including the payment of prizes from such money, the banking of such money and the accounts to be kept in respect of such money;

(2) Section 13 (Audit for certain purposes):

Omit the section.

(3) Section 16 (Payment of duty):

After "close" in section 16 (1), insert "or within such other period as the Minister may determine".

State Authorities Non-contributory Superannuation Act 1987 No. 212:

Schedule 1 (Employers):

- (a) From Part 1 of the Schedule, omit "State Lotteries Office".

- (b) At the end of Part 1 of the Schedule, insert:

New South Wales Lotteries

State Authorities Superannuation Act 1987 No. 211:

Schedule 1 (Employers):

- (a) From Part 1 of the Schedule, omit "State Lotteries Office".

SCHEDULE 2 - AMENDMENT OF OTHER ACTS - *continued*

- (b) At the end of Part 1 of the Schedule, insert:
New South Wales Lotteries

Superannuation Act 1916 No. 28:

Schedule 3 (List of employers):

- (a) From Part 1 of the Schedule, omit "State Lotteries Office".
(b) At the end of Part 1 of the Schedule, insert:
New South Wales Lotteries

**SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS**

(Sec. 45)

PART 1 - PRELIMINARY

Regulations

1. (1) The regulations may contain provisions of a savings or transitional nature consequent on the enactment of the following Acts:
New South Wales Lotteries Act 1990.

(2) Any such provision may, if the regulations so provide, take effect from the date of assent to the Act concerned or a later date.

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

- (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or
(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done or omitted to be done before the date of its publication.

**SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS - *continued***

**PART 2 - PROVISIONS CONSEQUENT ON THE ENACTMENT
OF THE NEW SOUTH WALES LOTTERIES ACT 1990**

Division 1 - Preliminary

Definitions

2. In this Part:

"**appointed day**", in relation to a provision of this Part, means the day appointed under section 2 in relation to the commencement of that provision;

"**officer**", in relation to the State Lotteries Office, means a person who, immediately before the appointed day, was an officer of the Public Service employed in that Office;

"**repealed Act**" means the State Lotteries Act 1930;

"**superannuation scheme**" means a scheme, fund or arrangement under which any superannuation or retirement benefits are provided and which is established by or under an Act.

Division 2 - Transfer of assets etc.

Abolition of State Lotteries Office

3. (1) The State Lotteries Office is abolished.

(2) NSW Lotteries is a continuation of, and the same legal entity as, the State Lotteries Office.

State Lotteries Account

4. (1) The State Lotteries Account in the Special Deposits Account in the Treasury is abolished.

(2) All money held in the State Lotteries Account, as at the appointed day, forms part of the Fund.

Transfer of other assets, rights and liabilities

5. (1) The Minister may, by order in writing, direct that specified assets, rights and liabilities of the Crown that relate to the State Lotteries Office be transferred to NSW Lotteries.

SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS - *continued*

- (2) On the commencement of the order, the following provisions have effect (subject to the order):
- (a) the assets so transferred vest in NSW Lotteries by virtue of this clause and without the need for any conveyance, transfer, assignment or assurance;
 - (b) the rights and liabilities so transferred become, by virtue of this clause, the rights and liabilities of NSW Lotteries;
 - (c) all proceedings relating to those assets, rights and liabilities commenced before the transfer by or against the Crown, and pending immediately before the transfer, are to be regarded as proceedings pending by or against NSW Lotteries;
 - (d) any act, matter or thing done or omitted to be done in relation to those assets, rights and liabilities before the transfer by, to or in respect of the Crown is (to the extent to which that act, matter or thing has any force or effect) to be taken to have been done or omitted by, to or in respect of NSW Lotteries.
- (3) The operation of this clause is not to be regarded:
- (a) as a breach of contract or breach of confidence, or otherwise as a civil wrong; or
 - (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of assets, rights or liabilities; or
 - (c) as giving rise to any remedy by a party to an instrument, or as causing or permitting the termination of any instrument, because of a change in the legal or beneficial ownership of any asset, right or liability.
- (4) No attornment to NSW Lotteries by a lessee from the Crown is required.

Division 3 - Staff

Staff of the State Lotteries Office

6. (1) Each officer of the State Lotteries Office becomes, on the appointed day, a member of staff of NSW Lotteries.
- (2) Except as otherwise provided by this Division or the regulations, the terms and conditions on which an officer of the State Lotteries

**SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS - *continued***

Office becomes a member of staff of NSW Lotteries (including conditions as to remuneration and duration of appointment) are to be the same as they were immediately before the appointed day, and are to continue to have effect until they are lawfully varied.

Executive officers

7. Each person who, immediately before the appointed day, held an office in the State Lotteries Office referred to in Column 1 of the Table to this clause is to be taken to have been appointed, for the balance of the person's term of office, to the corresponding office in NSW Lotteries referred to in Column 2 of that Table.

TABLE

Column 1	Column 2
Director	General Manager
Deputy Director	Deputy General Manager
Assistant Director, Computer Services	Director, Computer Services
Assistant Director, Operations	Director, Operations
Assistant Director, Marketing	Director, Marketing

Superannuation

8. (1) An officer of the State Lotteries Office who, pursuant to this Division, becomes a member of staff of NSW Lotteries:

- (a) may continue to contribute to any superannuation scheme to which the person was a contributor immediately before becoming a member of staff of NSW Lotteries; and
- (b) is entitled to receive any payment, pension or gratuity accrued or accruing to the person under any such scheme,

as if he or she had continued to be such a contributor during his or her service as a member of staff of NSW Lotteries.

(2) Service by an officer of the State Lotteries Office as a member of staff of NSW Lotteries is to be regarded as service as an officer of the State Lotteries Office for the purposes of any law under which the

SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER PROVISIONS - *continued*

person continues to contribute to any such scheme or by which an entitlement under any such scheme is conferred.

(3) An officer of the State Lotteries Office who, pursuant to this Division, becomes a member of staff of NSW Lotteries is to be regarded as an officer or employee, and NSW Lotteries is to be regarded as the employer, for the purposes of the superannuation scheme to which he or she is entitled to contribute under this clause.

(4) If a person would, but for this subclause, be entitled under this clause to contribute to a superannuation scheme or to receive any payment, pension or gratuity under any such scheme:

- (a) the person is not so entitled on the person's becoming a contributor to any other superannuation scheme; and
- (b) the provisions of subclause (3) cease to apply to or in respect of the person and NSW Lotteries where the person becomes a contributor to any such other superannuation scheme.

(5) Subclause (4) does not prevent the payment to a person, on the person's ceasing to be a contributor to a superannuation scheme, of such amount as would have been payable to the person if the person had ceased, by reason of resignation, to be such a contributor.

Annual leave, long service or extended leave and sick leave

9. (1) An officer of the State Lotteries Office who, pursuant to this Division, becomes a member of staff of NSW Lotteries retains any rights to:

- (a) annual leave; and
- (b) long service or extended leave; and
- (c) sick leave,

accrued or accruing to the person as an officer of the State Lotteries Office.

(2) A person's entitlement to any such leave is to be calculated:

- (a) for such part of any period during which that leave accrued or was accruing as occurred before the appointed day - at the rate for the time being applicable to the person, as an officer of the State Lotteries Office, before that day; and

**SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS - *continued***

- (b) for such part of that period as occurred after the appointed day
- at the rate for the time being applicable to the person, as a
member of staff of NSW Lotteries, after that day.

No entitlement to dual benefits

10. An officer of the State Lotteries Office who, pursuant to this Division, becomes a member of staff of NSW Lotteries is not entitled to claim, both under this Act and any other Act, dual benefits of the same kind in respect of the same period of service.

Public servants may re-apply for positions in the Public Service

11. (1) An officer of the State Lotteries Office who, immediately before the appointed day, was a public servant may, within the period of 3 years immediately following that day, apply for a position in the Public Service as if the person were still a public servant.

(2) An officer of the State Lotteries Office who applies for such a position, or who is appointed to or employed in such a position, is, for the purposes of:

- (a) the Public Sector Management Act 1988; and
- (b) the Government and Related Employees Appeal Tribunal Act 1980; and
- (c) the Industrial Arbitration Act 1940,

to be regarded as a public servant in relation to the application, appointment or employment.

(3) For the purposes of this section, a reference to a public servant is a reference to an officer employed within the Public Service.

Temporary staff etc.

12. (1) Each member of staff of the State Lotteries Office (other than an officer) becomes, on the appointed day, a temporary staff member of NSW Lotteries.

(2) Except as otherwise provided by this Division or the regulations, the terms and conditions on which a member of staff of the State Lotteries Office becomes a temporary staff member of NSW Lotteries (including conditions as to remuneration and duration of appointment)

**SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS - *continued***

are the same as they were immediately before the appointed day, and are to continue to have effect until they are lawfully varied.

Operation of Industrial Arbitration Act 1940 unaffected

13. Nothing in this Division affects the operation of the Industrial Arbitration Act 1940.

Redundancy of transferred staff

14. The employment of a member of staff of NSW Lotteries may not be terminated on the ground of redundancy arising from the abolition of the State Lotteries Office, and the establishment of NSW Lotteries, effected by this Act.

Division 4 - General

Current lotteries

15. (1) Any lottery that was being promoted or conducted under the repealed Act before the appointed day may be completed under this Act.

(2) This Act applies to and in respect of a lottery referred to in subclause (1) in the same way as it applies to a lottery promoted or conducted under this Act.

First annual report

16. The first annual report of NSW Lotteries is to include matters concerning the work and activities of the State Lotteries Office since 1 July 1990.

Regulations

17. The following regulations are to be regarded as regulations made under this Act and may be amended or repealed accordingly.

**SCHEDULE 3 - SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS - *continued***

- (a) State Lotteries (General) Regulation 1989;
- (b) State Lotteries (Instant Lotteries) Regulation 1983.

Construction of certain references

18. In any other Act or instrument:

- (a) a reference to the State Lotteries Office is to be construed as a reference to New South Wales Lotteries; and
 - (b) a reference to the Director of State Lotteries is to be construed as a reference to the General Manager; and
 - (c) a reference to an officer of the State Lotteries Office is to be construed as a reference to a member of staff of NSW Lotteries.
-