

LOTTO (AMENDMENT) BILL 1988

NEW SOUTH WALES



EXPLANATORY NOTE

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

The objects of this Bill are—

- (a) to amend the Lotto Act 1979 so as to permit the separate sponsoring of lotto games (or games in the nature of lotto, such as keno) by more than one licensed person (or consortium) at the same time; and
- (b) to make other miscellaneous amendments to the Lotto Act 1979; and
- (c) to validate the conduct of lotto games by the original licensees after the date on which the first lotto licence expired.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the commencement of the proposed Act. Provisions relating to validations commence on the date of assent. Other provisions commence on a day or days to be appointed by proclamation.

Clause 3 is a formal provision which gives effect to the Schedule of amendments to the Lotto Act 1979.

Clause 4 is a formal provision which gives effect to the Schedule containing the validations referred to above.

SCHEDULE 1—AMENDMENTS

Term of lotto licence

Schedule 1 (3) (a) amends section 5 (2) of the Principal Act so as to dispense with the requirement that a lotto licence must be given for a minimum term of 5 years.

New lotto licences

Schedule 1 (3) (b) repeals section 5 (3) of the Principal Act. That subsection prevents the grant of a lotto licence while another such licence is already in force (so that, to date, only one licensee has conducted the game).

Lotto (Amendment) 1988

Schedule 1 (1), (9)–(12) and (16) make amendments to the Principal Act as a consequence of the repeal effected by Schedule 1 (3) (b). The provisions affected, as they were originally enacted, reflect the principle (in accordance with existing section 5 (3)) that only one licence at a time can be in force.

Licence conditions

Schedule 1 (4) (b) and (c) amend section 6 of the Principal Act so as to add to the matters that can be addressed by the conditions of a licence under the Principal Act. The new matters relate to—

- contracts and arrangements entered into for the conduct of lotto games;
- the repair and maintenance of equipment used in connection with lotto operations; and
- security aspects of lotto games.

Matters affecting integrity of lotto games

Schedule 1 (6) inserts new sections 9A, 9B and 9C into the Principal Act. These provisions may be summarised as follows:

Proposed section 9A allows the Minister to give directions to a licensee in relation to the conduct by the licensee of games of lotto. The Minister's power is dependent on facts or circumstances affecting the integrity of the game.

Proposed section 9B allows the Minister to require a licensee to dispense with the services of a person employed by or associated with the licensee or any of its agents in some key management or supervisory position, if the Minister is satisfied that this is necessary in order to protect the integrity of the game.

Proposed section 9C prohibits a licensee or agent from using, for lotto purposes, any device or equipment that is not approved by the Minister.

Schedule 1 (5) makes a consequential amendment.

Suspension of licences

Schedule 1 (7) amends section 10 of the Principal Act. The section as it presently stands deals with the circumstances in which a licence under the Principal Act may be revoked. The amendment provides for—

- suspension of a licence as an alternative to revocation;
- suspension or revocation on the (new) ground that the licensee has failed to comply with a direction given under proposed section 9A or proposed section 9B; and
- suspension of a licence pending compliance by the licensee with such a direction.

Schedule 1 (2) amends section 3 of the Principal Act as a consequence of these amendments.

Disposition of lotto subscriptions

Schedule 1 (8) substitutes section 13 of the Principal Act. The new section allows the conditions of a lotto licence to prescribe the respective amounts (as a proportion of the takings) payable towards lotto prizes and the public revenue. At present the relevant proportions are fixed by the section, subject to any increase provided by the regulations. The section is substituted as a consequence of the introduction of the new forms of lotto, in order to allow for the appropriate distribution, in due course, of the surplus generated by the new games.

Schedule 1 (4) (a) makes a consequential amendment.

Lotto (Amendment) 1988

Unclaimed lotto prizes

Schedule 1 (9), which substitutes section 14 of the Principal Act for reasons mentioned elsewhere in this note, also alters the procedure for dealing with unclaimed lotto prizes. At the moment they are dealt with under the Unclaimed Money Act. As a result of the amendment (see new section 14 (8)) unclaimed prizes will be dealt with in accordance with the regulations.

Payment of Government duty

At the moment, duty must be paid within a time fixed by the Principal Act. Schedule 1 (11) amends section 15 of the Principal Act so as to enable the time to be fixed by the regulations (by which different times may be fixed for different forms of lotto).

Delegation of functions

Schedule 1 (13) inserts a new section 15B into the Principal Act so as to allow the Minister to delegate functions vested in the Minister by the Act.

Powers of inspectors

Schedule 1 (14) amends section 16 of the Principal Act so as to confer on inspectors new powers of inspection and seizure in relation to lotto records and equipment and so as to make further provision with respect to the powers of inspectors.

Powers of Minister

Schedule 1 (15) omits section 17 from the Principal Act and inserts new sections 17, 17A, 17B and 17C. These provisions may be summarised as follows:

Proposed section 17 requires a licensee or agent, in certain cases, to notify the Minister of a change in the circumstances existing in relation to the licensee or agent (relative to circumstances existing at the time the licence was granted). The section also enables the Minister to require a licensee or agent, or an associate of a licensee or agent, to provide the Minister with relevant information and documents and, if necessary, to submit to an interview with the Minister or a nominated inspector.

Proposed section 17A enables the Minister to appoint a person to carry out an investigation into the affairs of a licensee or agent or other person concerned in lotto operations. The investigator has the same powers as the Minister under proposed section 17.

Proposed section 17B introduces the concept of a "prescribed contract" (defined in subsection (8) of the proposed section) and enables the Minister—

- to serve notice on the parties to such a contract, requiring them to show cause why it should not be terminated; and
- if thought necessary in the public interest, to terminate such a contract.

Proposed section 17C prohibits the furnishing of false or misleading information to the Minister, an inspector or an investigator under the Principal Act in relation to revenue derived from conducting lotto games.

Schedule 1 (1) (d) makes a consequential amendment.

Statute law revision

Schedule 1 (7) (c), (11) (f), (14) (a) and (h) and (17) amend the Principal Act by appropriate omission or replacement of out-of-date references.

Lotto (Amendment) 1988

SCHEDULE 2—VALIDATION OF CERTAIN LOTTO TRANSACTIONS

On 31 October 1986 the first licence granted under the Principal Act expired. The licence purported to be extended, from that date until 31 January 1989, by a document which has since been determined, by expert legal opinion, to have been ineffective. That document also purported to vary certain conditions of the licence.

A further licence was granted on 27 July 1988 for a term of 5 years.

Schedule 2 to the proposed Act provides as follows:

- The original licence is to be regarded as having been issued for a term ending on 31 January 1989 (clause 2).
 - The variation of the conditions of the licence that was attempted on 31 October 1986 was and is valid (clause 3).
 - The subsequent licence issued on 27 July 1988 is void (clause 4).
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