

# **LOTTO (AMENDMENT) ACT 1992 No. 59**

## **NEW SOUTH WALES**



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**LOTTO (AMENDMENT) ACT 1992 No. 59**

NEW SOUTH WALES



**Act No. 59, 1992**

An Act to amend the Lotto Act 1979 with respect to key employees, approval of agents, credit betting and other matters. [Assented to 20 October 1992]

**The Legislature of New South Wales enacts:**

**Short title**

1. This Act may be cited as the Lotto (Amendment) Act 1992.

**Commencement**

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

**Amendment of Lotto Act 1979 No. 53**

3. The Lotto Act 1979 is amended as set out in Schedule 1.

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**SCHEDULE 1—AMENDMENTS**

(Sec. 3)

(1) Section 2 (**Definitions**):

After the definition of “inspector” in section 2 (1), insert:

“key employee” means a person (whether or not employed under a contract of service) who is:

- (a) employed in a managerial or supervisory capacity in relation to the conduct of games of lotto by a licensee; or
- (b) authorised to make decisions, involving the exercise of his or her discretion, that regulate the operations of a licensee or an agent in relation to the conduct of games of lotto by the licensee; or
- (c) concerned or engaged, in any manner prescribed by the regulations, in the conduct of games of lotto by a licensee.

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

(a) After section 6 (b), insert:

(b1) the withdrawal of any such nomination or approval by the Minister;

(b) At the end of the section, insert:

(2) Without limiting the circumstances in which the Minister may withdraw his or her nomination or approval of an agent of a licensee under the conditions of a licence, the

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SCHEDULE 1—AMENDMENTS—*continued*

Minister may withdraw any such nomination or approval if the Minister is of the opinion that the integrity or apparent integrity of a game or games of lotto conducted by the licensee is likely to be seriously prejudiced because of the criminal record, character or reputation of the agent.

(3) An agent ceases to be an agent of the licensee if the Minister's nomination or approval of the agent is withdrawn.

(4) The Minister is not to withdraw his or her nomination or approval of an agent unless the Minister:

- (a) has given the licensee and the agent notice, in writing, of the proposed withdrawal; and
- (b) has invited the licensee and agent to make representations to the Minister, within such period as is specified in the notice, concerning the proposed withdrawal; and
- (c) has, after the expiration of that period, considered any such representations.

(5) The withdrawal of the Minister's nomination or approval takes effect:

- (a) on the day that is 14 days after the day on which a notice, signed by the Minister, advising the licensee and agent of the withdrawal is given to the licensee and the agent; or
- (b) if a later day is specified in the notice—on that day.

(3) Section 9 (**Unlawful conduct of lotto by licensee**)

After "any directions given", insert "to the licensee".

(4) Section 9B:

Omit the section, insert instead:

**Directions concerning key employees**

9B. (1) If the Minister is of the opinion that the integrity or apparent integrity of a game or games of lotto conducted by a licensee is likely to be seriously prejudiced:

- (a) because of the criminal record of a key employee; or
- (b) because of the character or reputation of a key employee,

SCHEDULE 1—AMENDMENTS—*continued*

the Minister may, by notice in writing, give a direction to the licensee or other appropriate person that the employment or association by reason of which the key employee is a key employee of the licensee or that other person be terminated immediately and not be renewed.

(2) If a key employee refuses or fails to comply with a requirement of a notice served on the key employee under section 17AA, the Minister may, by notice in writing, give a direction to the licensee or other appropriate person that the employment or association by reason of which the key employee is a key employee of the licensee or that other person be terminated immediately and not be renewed.

(3) A person to whom a direction is given under this section must give effect to the direction.

Maximum penalty: 20 penalty units.

(4) It is taken to be a condition of any agreement or other arrangement entered into between a person to whom a direction is given under this section and a key employee that the person has such rights as may be necessary to enable the person to give effect to the direction.

(5) The termination of an employment or association in accordance with this section has effect despite any other Act or law, or any contract, award or enterprise or other agreement, and the Crown does not incur any liability because of such a termination.

(6) The Minister may, by notice in writing served on a person to whom a direction is given under this section, revoke or vary the direction.

(7) The Minister may, by notice in writing served on a person, require the person to furnish to the Minister returns containing:

- (a) the names of any key employees of the person and the positions held by them; and
- (b) any other relevant particulars specified in the notice in relation to key employees.

(8) Nothing in this section limits the operation of section 9A.

SCHEDULE 1—AMENDMENTS—*continued*(5) Section 10 (**Revocation or suspension of licence**):

After “a direction given” in section 10 (3A), insert “to the licensee”.

## (6) Section 12B:

After section 12A, insert:

**Credit betting prohibited**

12B. (1) A person must not, in connection with a game of lotto, accept an entry in or subscription to the game unless the entry or subscription is paid for in cash or by cheque at or before the time the entry or subscription is made.

Maximum penalty: 20 penalty units.

(2) In this section, “**cheque**” means a cheque that is drawn on a bank for a specific amount payable on demand and that is dated but not post-dated.

(7) Section 14 (**Prize funds**):

(a) At the end of section 14 (7), insert:

; and

(c) in the case of a licence that is no longer in force—in accordance with regulations made under subsection (9).

(b) After section 14 (8), insert:

(9) The regulations may make provision for or with respect to the disposal by the corporation of any money in a licensee’s prize fund (being money that is not required for payment of prizes won in a game or games of lotto) in the case where the licence is no longer in force.

## (8) Sections 17AA, 17AB:

After section 17A, insert:

**Information relating to key employees**

17AA. (1) The Minister may, by notice in writing served on a key employee, require the key employee:

(a) to consent, in accordance with directions in the notice, to having his or her photograph, finger prints and palm prints taken; and

SCHEDULE 1—AMENDMENTS— *continued*

- (b) to provide, in accordance with directions in the notice, such information (verified by statutory declaration) relevant to the key employee as is specified in the notice; and
- (c) to produce, in accordance with directions in the notice, such documents relevant to the key employee as are specified in the notice and to permit examination of the documents, the taking of extracts from them and the making of copies of them; and
- (d) to furnish such authorities and consents as the Minister may require for the purpose of obtaining further information (including financial and other confidential information) from other persons and institutions.

(2) The Minister is to refer to the Commissioner of Police copies of any photographs, finger prints and palm prints taken in respect of a key employee under this section and any supporting information that the Minister considers to be appropriate for referral to the Commissioner.

(3) The Commissioner of Police is to inquire into, and report to the Minister on, such matters concerning the key employee as the Minister may request.

(4) A key employee is not excused from complying with a requirement of a notice under this section on the ground that compliance might tend to incriminate the employee. However, if the employee claims, before complying with the requirement, that compliance might tend to incriminate the employee, information provided in compliance with the requirement is not admissible in evidence against the employee in any criminal proceedings.

(5) A key employee who complies with a requirement of a notice under this section does not on that account incur a liability to another person.

(6) Nothing in this section limits the operation of section 17 or 17A.

**Destruction of finger and palm prints**

17AB. (1) Any finger prints or palm prints obtained under section 17AA, and any copies of them, are to be destroyed as soon as the key employee from whom they were obtained is no longer a key employee.

SCHEDULE 1—AMENDMENTS— *continued*

(2) A person who has possession of finger prints or palm prints obtained by the Minister under this Act, or copies of them, must deliver them to the Minister, in accordance with the written directions of the Minister, to enable subsection (1) to be complied with.

Maximum penalty (subsection (2)): 20 penalty units.

(9) Section 19A:

After section 19, insert:

**Secrecy**

19A. (1) A person who acquires information in the exercise of functions under this Act must not, directly or indirectly, make a record of the information or divulge the information to another person, except in the exercise of functions under this Act.

Maximum penalty: 50 penalty units.

(2) Despite subsection (1), information may be divulged:

- (a) to a particular person or persons, if the Minister certifies that it is necessary in the public interest that the information be divulged to the person or persons; or
- (b) to a prescribed person or prescribed authority; or
- (c) to a person who is expressly or impliedly authorised to obtain it by the person to whom the information relates.

(3) It is not an offence under this section if, in any legal proceedings, a person divulges the information:

- (a) in answer to a question that the person is compellable to answer; or
- (b) by providing a document or other thing that the person is compellable to produce.

(4) An authority or person to whom information is divulged under this section, and a person or employee under the control of that authority or person, are, in respect of that information, subject to the same rights, privileges and duties under this section as they would be if that authority, person

SCHEDULE 1—AMENDMENTS— *continued*

or employee were a person exercising functions' under this Act and had acquired the information in the exercise of those functions.

(5) This section does not apply to the divulging of information to any of the following:

- the Independent Commission Against Corruption;
- the National Crime Authority;
- the New South Wales Crime Commission;
- the Ombudsman;
- any other person or body prescribed for the purposes of this subsection.

(6) This section does not prevent a person being given access to a document in accordance with the Freedom of Information Act 1989, unless the document:

- (a) contains matter the disclosure of which could reasonably be expected to do any of the following:
  - (i) prejudice the investigation of any contravention or possible contravention of the law (including any revenue law) whether generally or in a particular case;
  - (ii) enable the existence or identity of any confidential source of information, in relation to the enforcement or administration of the law, to be ascertained;
  - (iii) prejudice the effectiveness of any lawful method or procedure for preventing, detecting, investigating or dealing with any contravention or possible contravention of the law (including any revenue law); or
- (b) is a document the disclosure of which would disclose any of the following information:
  - (i) information concerning the business, commercial, professional or financial affairs of a licensee, agent or key employee;
  - (ii) information obtained in the course of an investigation of a licensee, agent or key employee.

**SCHEDULE 1—AMENDMENTS—*continued***

(7) In this section, a reference to the divulging of information includes a reference to the production of a document or other thing and the provision of access to the document or other thing.

(10) Section 23:

After section 22, insert:

**Savings and transitional provisions**

23. Schedule 1 has effect.

(11) Schedule 1:

At the end of the Act, insert:

**SCHEDULE 1—SAVINGS AND TRANSITIONAL  
PROVISIONS**

(Sec. 23)

**PART 1—SAVINGS AND TRANSITIONAL  
REGULATIONS**

**Savings and transitional regulations**

1. (1) The regulations may contain provisions of a savings and transitional nature consequent on the enactment of the Lotto (Amendment) Act 1992.

(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 before the date of its publication.

SCHEDULE 1—AMENDMENTS— *continued*

**PART 2—PROVISIONS CONSEQUENT ON THE  
LOTTO (AMENDMENT) ACT 1992**

**Withdrawal of approval etc. of agents**

2. The amendment to section 6 made by Schedule 1 (2) (b) to the Lotto (Amendment) Act 1992 extends to an agent appointed or approved before the commencement of that amendment.

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*[Minister's second reading speech made in—  
Legislative Assembly on 30 June 1992  
Legislative Council on 13 October 1992]*