

**NEW SOUTH WALES LOTTERIES (AMENDMENT) BILL
1993**

NEW SOUTH WALES



EXPLANATORY NOTE

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

The object of this Bill is to amend the New South Wales Lotteries Act 1990 to clarify the circumstances in which prizes are payable in instant lotteries in the light of the decision of the Court of Appeal on 19 May 1993 in *State Lotteries Office v. Burgin*.

To this end, the proposed Act provides that in an instant lottery a statement that a prize is won by matching 3 symbols (or matching 3 identical symbols) means, and is taken always to have meant, that a prize is won if the same symbol appears 3 times. In *Burgin's* case, it was decided that 3 different pairs of numbers would qualify for a prize. Examples of the operation of the proposed Act are as follows:

<table border="1"><tr><td>7</td><td>1</td></tr><tr><td>3</td><td>7</td></tr><tr><td>4</td><td>7</td></tr></table>	7	1	3	7	4	7	wins a prize	<table border="1"><tr><td>7</td><td>1</td></tr><tr><td>3</td><td>7</td></tr><tr><td>3</td><td>1</td></tr></table>	7	1	3	7	3	1	does not win a prize
7	1														
3	7														
4	7														
7	1														
3	7														
3	1														

The opportunity has been taken to transfer from the regulations under the Act provisions relating to verification codes and other tests for determining winning tickets. The purposes of those verification codes or other tests are to prevent forgery or fraudulent alteration of tickets and to provide a conclusive means of determining prize-winning tickets in accordance with the total amount allocated for prizes in that lottery. In *Burgin's* case, the purpose of those verification codes or other tests was construed as being limited to detecting forgery. Their wider purpose is confirmed by the proposed Act.

The proposed Act applies to all instant lotteries (including those promoted or conducted before the commencement of the proposed Act).

Since *Burgin's* case, legal proceedings have been instituted by persons who had retained instant lottery tickets. Some of the proceedings relate to tickets with 3 different pairs of numbers in lotteries in which the instruction was to match 3 numbers (as in *Burgin's* case), while others relate to similar tickets in subsequent lotteries in which the instruction was changed as a result of that case so as to refer to a prize being won only

New South Wales Lotteries (Amendment) 1993 [Act 1993 No. 49]

if 3 identical symbols were matched. The proposed Act provides that the rights of a claimant to a prize in an instant lottery are to be determined in accordance with the proposed Act even if proceedings are pending, or the claimant has obtained a summary or other judgment for the payment of a prize in proceedings instituted before the commencement of the proposed Act, However, nothing in the proposed Act affects the judgment of the Court of Appeal in Burgin's case as between the parties to those proceedings.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act commences on the date of assent.

Clause 3 amends the New South Wales Lotteries Act 1990 as outlined above.
