



Australian Capital Territory

Lotteries (Approvals) Amendment Act 2015

A2015-41

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Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

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Australian Capital Territory

Lotteries (Approvals) Amendment Act 2015

A2015-41

An Act to amend the *Lotteries Act 1964*, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 Name of Act

This Act is the *Lotteries (Approvals) Amendment Act 2015*.

2 Commencement

This Act commences on the day after its notification day.

Note The naming and commencement provisions automatically commence on the notification day (see [Legislation Act](#), s 75 (1)).

3 Legislation amended

This Act amends the *Lotteries Act 1964*.

Note This Act also amends the *Gambling and Racing Control (Code of Practice) Regulation 2002* (see sch 1).

**4 Exempt lotteries
Section 6 (1) and (2)**

substitute

- (1) For this Act, an *exempt lottery*—
- (a) means—
 - (i) a lottery that is conducted in the course of carrying on a trade or business and in which the prizes consist of the granting of rebates, discounts or other allowances in relation to amounts payable, or the granting of refunds of amounts paid, for goods sold or services performed in the course of carrying on the trade or business; or
 - (ii) a lottery in relation to which the total value of the prizes does not exceed an amount determined by the commission; or
 - (iii) a private lottery; but

- (b) does not include a lottery in which the prizes are, or are capable of being, drawn, thrown or competed for or gained in any other way by or by reference to the playing of an unlawful game.
- (1A) For subsection (1) (a) (ii), the amount may be—
- (a) determined by—
- (i) stating the amount; or
 - (ii) setting a rate, or providing a formula or other method, by which the amount is to be worked out; or
 - (iii) a combination of a stated amount and a rate, formula or other method; or
- (b) determined for a stated period.
- (2) A determination under subsection (1) (a) (ii) is a disallowable instrument.

Note 1 A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

Note 2 Power to make a statutory instrument includes power to make different provision in relation to different matters or different classes of matters (see [Legislation Act](#), s 48).

5 Section 6 (3)

omit everything before paragraph (a), substitute

- (3) In this section:
private lottery means a lottery—

6 **New section 6A**

insert

6A **Exempt lotteries—conditions**

- (1) An exempt lottery is subject to the following conditions:
- (a) each ticket or entry in the lottery must have an equal chance of winning;
 - (b) the winning ticket or entry, and, if available, the identity of the person who holds the winning ticket or entry, must be recorded by the person conducting the lottery;
 - (c) the person conducting the lottery must—
 - (i) make the results of the lottery available to subscribers; and
 - (ii) if the identity of a person who holds the winning ticket or entry is known—tell the person the results of the lottery;

Example—par (c) (i)

Publishing the winning ticket number in a newsletter or on a website.

Note An example is part of the Act, is not exhaustive and may extend, but does not limit, the meaning of the provision in which it appears (see [Legislation Act](#), s 126 and s 132).

- (d) a person who wins a prize must not be charged a fee when the person receives the prize;

Examples—fee

- an administrative fee
- a delivery fee

- (e) the person conducting the lottery must not conduct the lottery or advertise the lottery in a way that, having regard to the lottery participants, could be considered inappropriate or offensive;

Example—par (e)

A raffle targeted at children and young people that offers a cosmetic surgery procedure as the prize.

- (f) for a lottery with 2 or more prizes—the major prize must be drawn first, unless a winning ticket or entry is eligible to win another prize;
- (g) the person conducting the lottery must do everything reasonably necessary to ensure that a person entitled to a prize in the lottery receives the prize;
- (h) if a prize is not claimed within a reasonable period, taking into account the nature of the prize, the person conducting the lottery must draw another winning ticket or entry.

Examples—nature of the prize

- perishable food with a ‘use by’ date
- tickets to an event that occurs soon after the lottery is drawn

- (2) For subsection (1) (b) and (c) (ii), the person conducting the lottery must take reasonable steps to identify a person who holds a winning ticket or entry.
- (3) A lottery that is exempt under section 6 (1) (a) (ii) is also subject to any condition determined by the commission.

Note Power to make a statutory instrument includes power to make different provision in relation to different matters or different classes of matters (see [Legislation Act](#), s 48).

- (4) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the [Legislation Act](#).

**7 Approval of lotteries
Section 7 (1) and (2)**

substitute

- (1) A person may apply, in writing, to the commission for approval to conduct a lottery.

Note 1 If a form is approved under the *Gambling and Racing Control Act 1999*, s 53D, for this provision, the form must be used.

Note 2 A fee may be determined under s 18A for an application.

- (1A) Subsection (1) does not apply to—
- (a) an exempt lottery; or
 - (b) a lottery in which the prizes are, or are capable of being, drawn, thrown or competed for or gained in any other way by or by reference to the playing of an unlawful game.
- (2) The commission may grant or refuse the approval.

**8 Unclaimed prizes
Section 17**

omit

9 New section 18AA

after section 18, insert

18AA Protection of personal information

- (1) A person conducting a lottery must ensure that—
- (a) personal information about a subscriber to the lottery is only collected if the information is necessary for the conduct of the lottery; and
 - (b) any information collected is—
 - (i) used only in accordance with this Act; and

- (ii) stored and disposed of securely.
- (2) In this section:
- personal information***—
- (a) means information or an opinion, whether true or not, about—
 - (i) an identified individual; or
 - (ii) an individual whose identity can reasonably be worked out from the information or opinion; and
 - (b) includes an individual's name.

**10 Determination of fees
Section 18A**

omit

, in writing,

11 New section 100

insert

100 Transitional—Lotteries (Approvals) Amendment Act 2015

- (1) On the commencement day an old approval is taken to be an approval granted under section 7 (Approval of lotteries) subject to the same conditions (if any) as the old approval.
- (2) If, immediately before the commencement day, the commission had not decided an old approval application, on the commencement day the application—
 - (a) if the lottery to which the application relates is an exempt lottery—lapses; or
 - (b) in any other case—is taken to be an application under section 7.

(3) If an old approval application lapses under subsection (2) (a), the commission may refund the application fee to the applicant.

(4) In this section:

commencement day means the day the *Lotteries (Approvals) Amendment Act 2015*, section 4 commences.

old approval means an approval to conduct a lottery—

(a) granted under section 7 as in force before the commencement day; and

(b) in force immediately before the commencement day.

old approval application means an application for approval to conduct a lottery made under section 7 as in force before the commencement day.

(5) This section expires 1 year after the commencement day.

12 Dictionary, note 2

substitute

Note 2 For example, the [Legislation Act](#), dict, pt 1, defines the following terms:

- disallowable instrument (see s 9)
- Executive
- penalty unit (see s 133).

13 Dictionary, new definition of *subscriber*

insert

subscriber, to a lottery, means a person with a ticket or entry in the lottery.

Schedule 1 Gambling and Racing Control (Code of Practice) Regulation 2002— Consequential amendments

(see s 3)

[1.1] Section 5, definition of *licensee*, paragraph (f) (v)

omit

other than housie

[1.2] New section 5 (2)

insert

(2) In this section:

exempt lottery does not include housie, unless the housie is exempt under the *Lotteries Act 1964*, section 6 (1) (a) (ii).

Note Under the *Lotteries Act 1964*, a lottery is an *exempt lottery* if the total value of the prizes does not exceed an amount determined by the commission (see s 6 (1) (a) (ii)) or if the lottery is a private lottery (see s 6 (1) (a) (iii)).

[1.3] Schedule 1, part 1.1, section 1.1, definition of *licensee*, paragraph (f) (v)

omit

other than housie

[1.4] Schedule 1, part 1.1, section 1.1, note

substitute

(2) In this section:

exempt lottery—see section 5 (2).

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 24 September 2015.

2 Notification

Notified under the [Legislation Act](#) on 4 November 2015.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.

I certify that the above is a true copy of the Lotteries (Approvals) Amendment Bill 2015, which was passed by the Legislative Assembly on 27 October 2015.

Clerk of the Legislative Assembly

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