

2015

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Minister for Racing and Gaming)

# Lotteries (Approvals) Amendment Bill 2015

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## A Bill for

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

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

1 **1 Name of Act**

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

3 **2 Commencement**

4 This Act commences on the day after its notification day.

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

7 **3 Legislation amended**

8 This Act amends the *Lotteries Act 1964*.

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

11 **4 Exempt lotteries**  
12 **Section 6 (1) and (2)**

13 *substitute*

14 (1) For this Act, an *exempt lottery*—

15 (a) means—

16 (i) a lottery that is conducted in the course of carrying on a  
17 trade or business and in which the prizes consist of the  
18 granting of rebates, discounts or other allowances in  
19 relation to amounts payable, or the granting of refunds of  
20 amounts paid, for goods sold or services performed in the  
21 course of carrying on the trade or business; or

22 (ii) a lottery in relation to which the total value of the prizes  
23 does not exceed an amount determined by the  
24 commission; or

25 (iii) a private lottery; but

- 1 (b) does not include a lottery in which the prizes are, or are  
2 capable of being, drawn, thrown or competed for or gained in  
3 any other way by or by reference to the playing of an unlawful  
4 game.
- 5 (1A) For subsection (1) (a) (ii), the amount may be—
- 6 (a) determined by—
- 7 (i) stating the amount; or
- 8 (ii) setting a rate, or providing a formula or other method, by  
9 which the amount is to be worked out; or
- 10 (iii) a combination of a stated amount and a rate, formula or  
11 other method; or
- 12 (b) determined for a stated period.
- 13 (2) A determination under subsection (1) (a) (ii) is a disallowable  
14 instrument.
- 15 *Note 1* A disallowable instrument must be notified, and presented to the  
16 Legislative Assembly, under the [Legislation Act](#).
- 17 *Note 2* Power to make a statutory instrument includes power to make different  
18 provision in relation to different matters or different classes of matters  
19 (see [Legislation Act](#), s 48).

## 20 **5 Section 6 (3)**

21 *omit everything before paragraph (a), substitute*

- 22 (3) In this section:

23 *private lottery* means a lottery—

1 **6 New section 6A**

2 *insert*

3 **6A Exempt lotteries—conditions**

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

15 **Example—par (c) (i)**

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

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

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

22 **Examples—fee**

- 23 • an administrative fee  
24 • a delivery fee

- 1 (e) the person conducting the lottery must not conduct the lottery  
2 or advertise the lottery in a way that, having regard to the  
3 lottery participants, could be considered inappropriate or  
4 offensive;
- 5 **Example—par (e)**  
6 A raffle targeted at children and young people that offers a cosmetic  
7 surgery procedure as the prize.
- 8 (f) for a lottery with 2 or more prizes—the major prize must be  
9 drawn first, unless a winning ticket or entry is eligible to win  
10 another prize;
- 11 (g) the person conducting the lottery must do everything  
12 reasonably necessary to ensure that a person entitled to a prize  
13 in the lottery receives the prize;
- 14 (h) if a prize is not claimed within a reasonable period, taking into  
15 account the nature of the prize, the person conducting the  
16 lottery must draw another winning ticket or entry.
- 17 **Examples—nature of the prize**  
18 • perishable food with a ‘use by’ date  
19 • tickets to an event that occurs soon after the lottery is drawn
- 20 (2) For subsection (1) (b) and (c) (ii), the person conducting the lottery  
21 must take reasonable steps to identify a person who holds a winning  
22 ticket or entry.
- 23 (3) A lottery that is exempt under section 6 (1) (a) (ii) is also subject to  
24 any condition determined by the commission.
- 25 *Note* Power to make a statutory instrument includes power to make different  
26 provision in relation to different matters or different classes of matters  
27 (see [Legislation Act](#), s 48).
- 28 (4) A determination is a disallowable instrument.
- 29 *Note* A disallowable instrument must be notified, and presented to the  
30 Legislative Assembly, under the [Legislation Act](#).

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

3 *substitute*

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

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

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

- 9 (1A) Subsection (1) does not apply to—

- 10 (a) an exempt lottery; or  
11 (b) a lottery in which the prizes are, or are capable of being,  
12 drawn, thrown or competed for or gained in any other way by  
13 or by reference to the playing of an unlawful game.

- 14 (2) The commission may grant or refuse the approval.

15 **8 Unclaimed prizes**  
16 **Section 17**

17 *omit*

18 **9 New section 18AA**

19 *after section 18, insert*

20 **18AA Protection of personal information**

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



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

9 **10 Determination of fees**

10 **Section 18A**

11 *omit*

12 , in writing,

13 **11 New section 100**

14 *insert*

15 **100 Transitional—Lotteries (Approvals) Amendment Act 2015**

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

- 1 (3) If an old approval application lapses under subsection (2) (a), the  
2 commission may refund the application fee to the applicant.
- 3 (4) In this section:
- 4 *commencement day* means the day the *Lotteries (Approvals)*  
5 *Amendment Act 2015*, section 4 commences.
- 6 *old approval* means an approval to conduct a lottery—
- 7 (a) granted under section 7 as in force before the commencement  
8 day; and
- 9 (b) in force immediately before the commencement day.
- 10 *old approval application* means an application for approval to  
11 conduct a lottery made under section 7 as in force before the  
12 commencement day.
- 13 (5) This section expires 1 year after the commencement day.

## 14 **12 Dictionary, note 2**

15 *substitute*

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

- 17 • disallowable instrument (see s 9)
- 18 • Executive
- 19 • penalty unit (see s 133).

## 20 **13 Dictionary, new definition of *subscriber***

21 *insert*

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

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

5 (see s 3)

6 **[1.1] Section 5, definition of *licensee*, paragraph (f) (v)**

7 *omit*

8 other than housie

9 **[1.2] New section 5 (2)**

10 *insert*

11 (2) In this section:

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

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

18 **[1.3] Schedule 1, part 1.1, section 1.1, definition of *licensee*,**  
19 **paragraph (f) (v)**

20 *omit*

21 other than housie

22 **[1.4] Schedule 1, part 1.1, section 1.1, note**

23 *substitute*

24 (2) In this section:

25 *exempt lottery*—see section 5 (2).

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## Endnotes

**1 Presentation speech**

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

**2 Notification**

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

**3 Republications of amended laws**

For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).

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