

## EXPLANATORY MEMORANDUM

### LOTTERIES COMMISSION AMENDMENT BILL 2011

This Bill seeks to amend the *Lotteries Commission Act 1990* (the Act) to:

- allow the Commission (operating under the Act as Lotterywest) to offer syndicates to its retail distribution network for selling to the public; and
- include the capacity for the Commission to enter into a contract or arrangement to provide consultancy and advisory services.

With some very minor amendments since its commencement in 1990, the Act has provided an adequate legislative framework for all of the new initiatives, products and services which Lotterywest has needed to introduce to ensure its business growth and to meet the expectations of its beneficiaries and others with whom Lotterywest is required to work.

The first part of the proposed amendments relates to the setting up of syndicates by Lotterywest. The setting up of syndicates by Lotterywest which the retailers can then sell as shares in the syndicate to their customers is a new initiative which Lotterywest wishes to introduce for which the Act has no provision. The amendment to the Act would allow Lotterywest the necessary power to do this.

Lotterywest has already given the retailers, for which it has the authority under the Act, the facility whereby the retailers themselves, either individually or in groups, can set up syndicates with an allocated number of shares.

These shares can then be sold to customers as 'live' syndicate share tickets into the game. What was previously a manual process in which the player received only a hand processed receipt for their entry into the game can now be done automatically through the lotto terminal giving the player a valid ticket which can be redeemed at any retail outlet.

However, any retailer who sets up such a syndicate still bears the risk of holding any unsold shares in that syndicate at the time of the draw closing. This risk can be a considerable deterrent to retailers, particularly for smaller retailers and those in regional Western Australia who cannot afford to carry the cost of unsold syndicate shares.

The amendment to the Act will allow Lotterywest to set up syndicates for the purpose of making the syndicate shares available for all retailers throughout the state to sell to their customers. This service removes all the risk to the retailers of holding unsold shares. It will give those retailers who cannot afford to offer this service a new option for their players and will give them an additional revenue stream.

The reason for Lotterywest not offering this service at present, despite having the technical capacity to do so, is that the Act in its current state does not provide for Lotterywest to 'participate' in its own lottery.

The Act also does not provide for the possibility that Lotterywest may be left with unsold syndicate shares nor does it provide for what should happen if any of those remaining shares happened to win a prize.

Although the risk of Lotterywest being left with unsold syndicate shares is minimal based on the experience of other lotteries in Australia which currently have this service for their retailers, the Act does need to be clear as to what should be done with any winnings in such an eventuality.

The amendment will allow Lotterywest to offer this service and will provide that any prizes won by Lotterywest itself will go to the funds available for distribution to the beneficiaries as specified under section 24 of the Act, the charitable and community groups to which Lotterywest provides direct grants as approved by the Minister.

It is anticipated that this service will generate in the order of \$10 million a year in sales. This will return over \$3 million to Lotterywest's beneficiaries, shared between health services, arts, sports as well as charitable and community groups. It will also generate in the order of \$900,000 in commissions to Lotterywest retailers in addition to providing another game entry option for players.

It is not anticipated at this time that these syndicates would be offered through the Lotterywest 'Play Online' channel.

This Bill is also seeking to amend the section relating to the Commission's functions and powers to include a capacity for Lotterywest to enter into a contract or arrangement to provide consultancy or advisory services with the approval of the Board and the Minister.

Lotterywest is from time to time, approached to provide professional advice on matters on which it has a significant body of knowledge and expertise primarily on grant making and community service matters but occasionally also on the lottery business.

Lotterywest is generally willing to offer these services freely as a normal part of its community service responsibility but wishes to have the authority when the request for services would involve significant resource implications to recover costs associated with providing such services.

Entering into such a contract could only occur with the Minister's approval and with the concurrence of the Treasurer.

Services provided to another Western Australian Government agency would continue to be provided normally without charge. Cost recovery to those agencies or to any other organisation would be sought only when the

requirement for service is considerable and places resource demands on Lotterywest which would impact the capacity to provide its normal level of services. Should there be any proceeds from any such a service to any other organisation over and above cost recovery, those proceeds would be retained by Lotterywest and returned to the Western Australian community through Lotterywest's direct funding programs.

## CLAUSE NOTES

### **Clause 1:**                    **Short title**

This clause provides that the short title of this Act is the *Lotteries Commission Amendment Act 2011*.

### **Clause 2:**                    **Commencement**

This clause provides the commencement dates for the Act.

Paragraph (a) provides that sections 1 and 2 come into operation on the day on which the Act receives the Royal Assent.

Paragraph (b) provides that the rest of the Act comes into operation on the day on the day after that day.

### **Clause 3:**                    **Act amended**

This clause provides that the amendments are to the *Lotteries Commission Act 1990*.

### **Clause 4:**                    **Section 6 amended**

This clause amends section 6 of the Act which provides for the functions and powers of Commission.

Section 6(2) of the Act specifies that the Commission may do all things that are necessary or convenient to be done for or in connection with the performance of its functions.

Subclause (1) amends section 6(2) by inserting after the word “functions”, including the facilitation of syndicate entries to any games of lotto.

Subclause (2) proposes an amendment to section 6 to include a new section 3(A) which provides that for the purpose of facilitating syndicate entries to the games of lotto, the Commission may purchase entries into games of lotto and make portions of these entries available for sale as syndicate shares. This is necessary as this Bill contemplates that the Commission will have a capacity to create syndicates with syndicate shares that can then be sold by retailers to their customers.

Section 6(3) of the Act specifies that the Commission may, with the approval in writing of the Minister –

- (a) make agreements with one or more designated authorities for the joint conduct with those designated authorities of lotteries; and
- (b) conduct lotteries jointly with the designated authorities referred to in paragraph (a) in accordance with agreements made under this subsection.

Subclause (3) proposes to amend section 6(3) by including after section 6(3)(b) a new section 6(3)(c) which provides that the Commission may;

‘enter into a contract or arrangement with a person or body (including a local government or a department of the Public Service, or other agency or instrumentality, of the State or the Commonwealth), or other agency or instrumentality to provide consultancy or advisory services to that person or body, whether for a fee or not’.

There is a further new subclause (4) after section 6(3) which specifies ‘a contract or arrangement under subsection (3)(c) can be made only with the Treasurer’s concurrence and is void and unenforceable without it’.

The proposed amendment will allow the Commission, with the approval in writing of the Minister with the concurrence of the Treasurer, to enter into a contract or arrangement with a person or body (including a local government or a department of the Public Service, or other agency or instrumentality, of the State or the Commonwealth) to provide consultancy or advisory services to that person or body, whether for a fee or not.

Services provided to another Western Australian Government agency would continue to be provided without charge or when the requirement for service is considerable, only direct cost recovery charges would be applied. Should there be any proceeds from any such service to any other organisation over and above cost recovery they would be retained by Lotterywest and returned to the Western Australian community through Lotterywest’s direct funding programs.

## **Clause 5:**

### **Section 15 amended**

This clause amends section 15 of the Act which provides for the payment of prizes.

The amendment proposes that after section 15(3) a new section 15(4) be inserted. The proposed section 15(4) provides that if, as a result of holding unsold syndicate

shares at the time of a lotto draw, the Commission is the holder of a winning entry in that game of lotto, the prize allocated to that winning entry is to be treated as if it were an unclaimed prize under section 16, and the moneys credited to the relevant Account without the requirement to wait 12 months.

Section 16 of the Act provides for unclaimed prizes. In the case of section 16(1) it states that if a prize in a lottery conducted by the Commission is not claimed within 12 months after the date on which the result of that lottery was publicly declared on behalf of the Commission, the participant's right to recover, and the Commission's liability to pay or deliver that prize, are extinguished.

The proposed amendment supports the existing requirement for unclaimed prize money to be returned to the Western Australian community through Lotterywest's direct funding programs.