

LOTTERIES COMMISSION AMENDMENT (COVID-19 RESPONSE) BILL 2020

EXPLANATORY MEMORANDUM

Overview of the Bill

The *Lotteries Commission Amendment (COVID-19 Response) Bill 2020* (the Bill) amends the *Lotteries Commission Act 1990* (the LC Act) to implement amendments to enable the Lotteries Commission (Lotterywest) to respond to the COVID-19 crisis.

The possible closure of retail outlets, social distancing and community isolation measures necessary due to the pandemic may have a significant impact on Lotterywest's players and retailers. These measures will assist Lotterywest and its players to continue to have the ability to claim their lottery prizes during and after the emergency period by:

- Extending the prize payout period for lottery draws and instant lottery tickets in certain circumstances; and
- Allowing Lotterywest to accept a copy of a lottery ticket to pay prizes during the emergency period, rather than players having to present the actual ticket to a Lotterywest retailer or at the Lotterywest head office.

The Bill will also allow Lotterywest to utilise its expertise in grant administration to assist other public authorities to provide grant programs during and after the emergency period should the need arise. The measures will also provide that, during the emergency period, Lotterywest can distribute residual (grant) funds to other State public authorities with the approval of the Minister. This will enable Lotterywest to direct approved COVID-19 grants to worthy grant recipients which may be outside Lotterywest's existing distribution powers via other public authorities.

Amendment Bill

The Bill provides as follows:

CLAUSE 1. SHORT TITLE

Clause 1 provides that the Bill, once enacted, will be known as the *Lotteries Commission Amendment (COVID-19 Response) Act 2020*.

CLAUSE 2. COMMENCEMENT

Clause 2 provides that sections 1 and 2 will commence on Royal Assent and the rest of the Act on the day after that day.

CLAUSE 3. ACT AMENDED

Clause 3 provides that the Bill, once enacted, amends the LC Act.

CLAUSE 4. SECTION 3B INSERTED

Clause 4 inserts section 3B of the LC Act inserting new terms used in relation to the COVID-19 pandemic. It inserts definitions of “emergency circumstances” and “emergency period”.

“Emergency circumstances” are any prohibitions, restrictions or other adverse circumstances or conditions that arise out of the COVID-19 pandemic or measures taken in response to the COVID-19 pandemic. This will cover both legal restrictions and prohibitions and non-legal considerations arising in response to the COVID-19 pandemic.

The term “emergency circumstances” is used in the new section 15A in relation to evidence of winning entries in lotteries.

The “emergency period” begins on the date of the state of emergency declaration, ie 16 March 2020 and continues for 6 months (ie until 15 September 2020) or such other day fixed by a declaration made by the Minister. Section 3B(2) gives the Minister the power to vary the emergency period more than once. The Minister can only exercise this power to vary the period during the emergency period. Section 3B(4) provides that the Minister must give Lotterywest written notice of the declaration, publish it in the Gazette and publish notice of the declaration for public information. This ensures that the public is aware of any declared change in the emergency period. Section 3B(6) requires the declaration to be tabled in Parliament and included in Lotterywest’s annual report as though it were a direction given under regulations referred to in section 8B(2) of the LC Act.

The term “emergency period” is used in relation to the following:

- a) New section 3B(2) – in relation to the period in which the Minister can make a declaration to extend the emergency period;
- b) New section 15A - in relation to evidence of winning entries in lotteries;
- c) New section 16A - in relation to the extension of the period in which a participant can claim a prize in a lottery (including an instant lottery); and
- d) New section 24A – in relation to the distribution of funds to public authorities.

CLAUSE 5. SECTION 6 AMENDED

Clause 5 amends section 6 of the LC Act. Currently Lotterywest has the power, with the concurrence of the Treasurer, to enter into contracts or arrangements with a person or body (including a local government or a department of the Public Service, or other State or Commonwealth agency or instrumentality) to provide consultancy or advisory services to that person or body, whether for a fee or not. Clause 5 amends section 6(3)(c) of the LC Act to provide clarity that Lotterywest can provide grant administration services in relation to a grant programme of another local government or a department of the Public Service, or other Commonwealth or State agency or instrumentality. This amendment clarifies that Lotterywest can utilise its specialist expertise in grant administration to assist other public authorities to provide grant programs during and

after the emergency period should the need arise. When combined with the new section 24A, these provisions also provide flexibility to Lotterywest in the manner in which Lotterywest administers or assists in the administration of COVID-19 grant relief programmes.

“Grant administration services” are defined in section 6(1A) to mean administration services in relation to another person’s or body’s grant programme, including assessing and evaluating applications for grants under the programme and monitoring compliance with conditions attached to grants made under the programme.

Section 6(5) makes it clear that any moneys of that other person or body distributed or allocated in grants under such a contract or arrangement are not moneys received by Lotterywest for the purposes of sections 20 or 24 of the LC Act. Those moneys remain the moneys of the other person or body. Section 6(6) provides that details of the grants made by the person or body under such a contract or arrangement do not need to be included in Lotterywest’s annual grant schedule laid before Parliament under section 26(1) of the LC Act.

CLAUSE 6. SECTION 15A INSERTED

Clause 6 inserts section 15A of the LC Act. Under existing section 15 of the LC Act, a player must present the physical winning ticket for Lotterywest or a retailer to pay the winning prize. In the event players are unable to attend at a Lotterywest retailer or the Lotterywest office during the emergency period, players may be unable to present physical tickets to claim their prize. The new section 15A applies during the emergency period and allows Lotterywest to pay a lottery prize to a participant on the production of a digital copy of the usual evidence (ie the ticket). Lotterywest must be satisfied that, by reason of emergency circumstances, it is not reasonably practicable for the participant to produce the usual physical evidence required when claiming a prize. The rules will specify the type and mode of presenting the alternative evidence or information, which may include a copy, photograph, image or facsimile of the ticket presented by, for example, post or electronic message. This would allow players to claim prizes remotely or in isolation during the emergency period.

CLAUSE 7. SECTION 16A INSERTED

Clause 7 inserts section 16A of the LC Act. Under existing section 16 of the LC Act, players have a 12 month timeframe in which to claim their prize before their right to claim the prize is extinguished. In the event players are unable to attend at a Lotterywest retailer or the Lotterywest office during the emergency period, players may be unable to claim a prize within the current 12 month timeframe and may have their right to claim the prize extinguished. The new section 16A(3) extends the period for which a prize in a lottery (other than an instant lottery) can be claimed to the following dates:

- a) if the result of the lottery is declared in the period from 16 March 2019 to 15 March 2020 — 16 March 2021;

- b) if the result of the lottery is declared in the emergency period — the day which is 24 months after the day on which the result of the lottery is declared.

The new section 16A(4) extends the period for which a prize in an instant lottery (ie Scratch'n'Win ticket) can be claimed to the following dates:

- c) if the closure day is in the period from 16 March 2019 to 15 March 2020 — 16 March 2021;
- d) if the closure day is in the emergency period — the day which is 24 months after the closure day.

The term “closure day” is the day on which the last ticket or tickets in each lot of tickets are issued by Lotterywest to any person in respect of that particular series of instant lottery, which mirrors the existing wording in section 16.

The 12 month timeframe to claim a prize in section 16 will then apply to any lotteries declared or instant lotteries closing after the end of the emergency period.

CLAUSE 8. SECTION 24A INSERTED

Clause 8 inserts section 24A of the LC Act. Under section 24 of the LC Act, Lotterywest can distribute its residual funds by way of grants to such eligible organizations for such approved purposes as Lotterywest thinks fit and the Minister approves. Some proposed COVID-19 programs are outside Lotterywest's existing distribution powers in section 24 of the LC Act. The new section 24A provides that during the emergency period, Lotterywest can distribute grants to:

- a) such eligible organizations for such approved purposes as Lotterywest thinks fit and the Minister approves; or
- b) to such public authorities for such purposes as Lotterywest thinks fit and the Minister approves.

This would permit Lotterywest to continue to fund eligible not-for-profit organisations for charitable or benevolent purposes during the emergency period. The measure will also expand Lotterywest's ability to fund another public authority to undertake a grant program during the emergency period where such a grant program would be beyond Lotterywest's distribution powers in section 24 of the LC Act. Any public authority receiving a distribution under section 24A must apply the money to such purposes as Lotterywest thinks fit and the Minister approves.

“Public authority” is defined in section 24A(1) to include any of the following:

- a) a Minister of the Crown;
- b) an agency or an organisation as those terms are defined in the Public Sector Management Act 1994 section 3(1);
- c) a local government or regional local government;
- d) a body or instrumentality, whether incorporated or not, or the holder of an office, that is established or continued for a public purpose under a written law and that, under the authority of a written law, performs a statutory function on behalf of the State.