

# LOTTERIES BILL 1997

## EXPLANATORY NOTES

### Short Title

*Lotteries Act 1997*

### Objectives of the Legislation

The legislation provides a regulatory framework for the operation of commercial lotteries in Queensland. The provisions of the legislation allow for the licensing of operators for the conduct of commercial lotteries and ensure that all lotteries are conducted with the same high levels of probity and integrity.

The proposed legislation also allows for the corporatisation of Golden Casket Lotteries Corporation (in conjunction with the relevant provisions of the *Government Owned Corporations Act 1993*) by separating the regulatory functions of the Corporation from its commercial functions.

The proposed Bill repeals and replaces the *Lotteries Act 1994*.

### Reasons for the Legislation

The Golden Casket Lottery Corporation is a Government Owned Enterprise which operates State Government sponsored lotteries under the *Lotteries Act 1994*. The Corporation was nominated as a candidate Government Owned Corporation (GOC) pursuant to the provisions of the *Government Owned Corporations Act 1993* in May 1996.

Under the Lotteries Act, the Corporation conducts commercial gaming operations and has the power to establish the rules of lottery games, to supervise the drawing of lotteries together with the Queensland Audit Office, to undertake the authorisation of new classes of agents and to dispose of unclaimed prizes.

The transfer of those regulatory functions from the Corporation to the Treasury Department's Queensland Office of Gaming Regulation (QOGR) was endorsed by Cabinet as part of the Corporatisation Charter. This approach is consistent with the National Competition Policy Agreements and the State's Corporatisation Policy, as well as being supported by the Queensland Commission of Audit.

### **Estimated Cost for Government Implementation**

The establishment of a regulatory regime for commercial lotteries separate from the Corporation involves a shift in responsibilities from the Corporation itself and the Queensland Audit Office, to the QOGR. An additional cost of approximately \$300,000 will be annually incurred by QOGR to cover regulatory and administrative expenses.

It should be noted that the Corporation with a licence issued under this Act would have the potential through a stronger commercial focus to generate a greater degree of profitability within the Corporation. These profits will be returned to the people of Queensland, thus providing a net financial benefit to the State as a result of the reform process.

### **Assessment of Bill's Consistency with Fundamental Legislative Principles**

The legislation has been prepared taking into consideration fundamental legislative principles. A deviation from these principles is the provision that decisions of the Governor in Council or the Minister, as set out in Schedule 1 of the legislation, are final and conclusive and are not subject to judicial review or court order. These decisions relate to the lottery licence and persons with an interest or potential interest in the licence. In addition, the Minister may refuse to grant a lottery licence even if satisfied with the suitability of the applicant to hold a licence.

This power is absolutely necessary in the public interest to ensure the integrity of the conduct of lotteries and is consistent with practices which have been incorporated in Queensland gaming practices for in excess of a decade.

A transitional provision has also been included which allows for a regulation to be made to cover the circumstances where the legislation does not make adequate provision to assist the transition from the repealed Act to

the new legislative framework in relation to the conduct of existing lotteries. Such a regulation may have retrospective operation to a day not earlier than the commencement date of this Bill. This regulation making power is necessary to maintain the integrity of a continuous lotteries operation into the new regulatory regime.

### **Consultation**

Inter-departmental consultation was carried out with the Department of Justice, Queensland Audit Office and Treasury's National Competition Unit.

Consultation with the Golden Casket Lottery Corporation and the Golden Casket Agents Association has occurred during the development of the legislation.

## **NOTES ON PROVISIONS**

### **PART 1—PRELIMINARY**

*Clause 1* sets out the Short Title of the Act.

*Clause 2* provides for the Act to commence on proclamation.

*Clause 3* refers to the Dictionary for the Act contained in schedule 3.

### **PART 2—AUTHORISED LOTTERIES**

*Clause 4* defines “gaming scheme” as a game, scheme or arrangement where winners are decided by chance or fate or guessing.

*Clause 5* defines “lottery” as a gaming scheme classified under a rule as a lottery.

*Clause 6* provides that a person conducting a gaming scheme in Queensland must be the holder of a lottery licence issued under the Lotteries Act or authorised under a Gaming Act and prohibits a person from participating in an unauthorised gaming scheme.

*Clause 7* provides an offence for persons who sell tickets in or promote a foreign lottery in Queensland without appropriate approvals.

*Clause 8* outlines lawful activities under this Act despite the existence of any other legislation.

*Clause 9* provides that an application for a lottery licence must be made in an approved form, must be accompanied by a prescribed application fee and must contain information or material required by the Minister in relation to the suitability of the applicant to hold a lottery licence.

*Clause 10* provides that the Minister must consider an application for a lottery licence and either grant or refuse the application.

*Clause 11* outlines that the Minister must be satisfied that the prospective licensee is a suitable person, and that each business and executive person associated with the operation of the prospective licensee is suitable. The Minister also maintains the discretion to decline to issue a lottery licence.

*Clause 12* outlines the matters which may be considered when deciding whether an applicant for a lottery licence is a suitable person to hold a licence.

*Clause 13* outlines the criteria which may be considered by the Minister when deciding whether a business or executive associate with a lottery licensee's operations is a suitable person.

*Clause 14* provides that the Chief Executive may investigate, to help the Minister decide whether an applicant is a suitable person to hold a lottery licence or whether a business or executive associate of an applicant is a suitable person to be associated with a lottery licensee's operations.

*Clause 15* provides that if the Minister decides to grant a lottery licence to an applicant, the Minister must issue it promptly to the applicant. If the Minister decides to refuse to grant an application for a lottery licence, the Minister must promptly give written notice of the decision to the applicant.

*Clause 16* provides that the Minister may issue a lottery licence in accordance with conditions considered necessary for the proper conduct of lotteries in the public interest.

*Clause 17* provides that a lottery licence must be in a specified form and provide for the inclusion of specific particulars.

*Clause 18* outlines the means by which conditions of the lottery licence may be altered.

*Clause 19* provides that the lottery licensee must return the licence for endorsement of changed conditions.

*Clause 20* provides that the Minister may amend a lottery licence only with the written approval of the lottery licensee. This provision does not limit the operation of clause 18.

*Clause 21* provides that a lottery licence can only be transferred if the Minister has approved the mortgage, charge or encumbrance of the licence. Generally, if another operator is to run a lottery a new lottery licence is to be issued by the Minister.

*Clause 22* provides that the Minister's written approval is required before a lottery licensee can mortgage, charge or encumber the lottery licence. Similarly, the Minister must approve in writing of the transferee. To give this approval, the Minister must be satisfied that certain specified criteria have been satisfied. A transferee may be required to submit an application to hold a licence. The Minister must approve in writing of the appointment of a receiver or manager.

*Clause 23* provides that a lottery licensee may surrender a licence by notice in writing to the Minister, and such a notice takes effect either three months after the notice is given or a specified later date indicated in the notice or an earlier date approved by the Minister.

*Clause 24* provides grounds for suspending or cancelling a lottery licence.

*Clause 25* provides that a lottery licensee may be given a written notice (a "show cause notice") of proposed action because the Minister believes a ground exists to suspend or cancel the lottery licence and the act or omission is of a serious and fundamental nature and the act or omission has occurred which compromises the integrity of the lottery or affects the public interest in an adverse or material way. The licensee is given a period in which a response must be given as to why action should not be taken.

*Clause 26* provides that the Minister may circulate the show cause notice to persons the Minister believes to have an interest in a lottery licence. Such persons are able to make representations about the notice to the Minister.

*Clause 27* provides that the Minister must consider all written representations made during the show cause period.

*Clause 28* provides that the Minister may suspend a lottery licence immediately if the Minister believes a ground exists to suspend or cancel the licence and the circumstances are so extraordinary as to warrant an immediate suspension.

*Clause 29* provides that the Minister may censure, by notice in writing, a lottery licensee for a matter relating to a ground for suspension or cancellation of the licence if the Minister does not believe the giving of a show cause notice is not warranted.

*Clause 30* provides that the Minister may, by notice in writing, direct a lottery licensee to rectify a matter within a specified reasonable time period. Such a direction can only be issued if the Minister believes a ground exists to suspend or cancel the licence and the matter is capable of being rectified.

*Clause 31* requires the Minister to forward to the Governor in Council a written notice if the Minister believes that, after considering representations for a show cause, a ground still exists to suspend or cancel a lottery licence, it is of a serious and fundamental nature and the integrity of lotteries or the public interest may be adversely affected. This section also applies if the licensee fails to comply with a direction to rectify a matter.

*Clause 32* outlines action that may be taken by the Governor in Council after receiving a notice under clause 31. Such action includes suspension of a lottery licence, cancellation of the licence or appointment of an administrator to conduct the operation of the licensee. The Minister must promptly notify the lottery licensee of any action to be taken.

*Clause 33* provides for the term and functions of an administrator appointed by the Governor in Council to conduct operations under a lottery licence.

*Clause 34* provides that, at any time, the Governor in Council may cancel the remaining period of suspension of a lottery licence or reduce the remaining period of suspension of a licence. The Minister must promptly notify the lottery licensee of any such change.

*Clause 35* allows the Minister to approve an audit program for investigating a lottery licensee, or businesses or executive associates of a lottery licensee. Such an audit is under the responsibility of the chief

executive. A person may be investigated only if a similar investigation has not occurred within the preceding two years.

*Clause 36* provides circumstances where an investigation may be undertaken by the chief executive to determine whether the person is suitable to hold, or to continue to hold, a lottery licence. The clause also provides for circumstances where the chief executive may investigate a business or executive associate of a licensee.

*Clause 37* provides that a person may be required, by written notice from the chief executive, to give the chief executive information or document that the chief executive considers relevant to an investigation as outlined in clause 36. Penalties for failure to comply, without reasonable excuse, with such a notice are provided.

*Clause 38* requires the commissioner of the police service to provide a written report on a person's criminal history to the chief executive if the chief executive requests this information in accordance with an investigation occurring under this Part.

*Clause 39* provides that a decision made by the Governor in Council or Minister in relation to a lottery licensee is final and cannot be called in question in any way under the Judicial Review Act 1991 or otherwise and is not subject to any action in any court, tribunal or another entity on any ground.

### **PART 3—KEY EMPLOYEES AND OPERATORS**

*Clause 40* describes a key employee of a lottery licensee.

*Clause 41* provides that a key employee of a lottery licensee shall not carry out the functions relating to the conduct of lotteries unless they are licensed as a key person.

*Clause 42* provides that a lottery licensee must not employ a person as a key employee unless the person is licensed as key person.

*Clause 43* identifies persons, other than lottery employees, who—because of their influence over the licensee's operations—are to be considered as key operators of a lottery licensee.

*Clause 44* provides that the chief executive may require a key operator to apply for a key person licence or stop being a key operator of the lottery licensee.

*Clause 45* provides that the chief executive may require the person to stop being a key operator if the person's application for a key person licence is refused.

*Clause 46* provides that the chief executive may require a lottery licensee to terminate their association with the key operator if the person fails to comply with a requirement under this Part or the person's application for a key person licence is refused.

*Clause 47* sets out the requirements for an application for a key person licence.

*Clause 48* provides that the chief executive must consider an application for a key person licence only if the applicant agrees to have their photograph and fingerprints taken.

*Clause 49* provides that the chief executive may grant an application for a key person licence only if certain requirements have been fulfilled.

*Clause 50* authorises the chief executive to investigate the suitability of an applicant for a key person licence.

*Clause 51* requires the chief executive to promptly issue the licence if the application is granted, or promptly advise the applicant if the application is refused.

*Clause 52* requires that the key person licence must be in the approved form.

*Clause 53* provides the term of a key person licence.

*Clause 54* provides that a key person licence lapses at the end of one year if the person does not take up employment or if the person ceases to be involved with a lottery licensee, their licence ceases after 3 months. A key person licence lapses if the key person holding the licence is licensed as a key operator and ceases to be a key operator.

*Clause 55* allows the chief executive to impose conditions on a key person licence.

*Clause 56* allows the chief executive to change the conditions of a key person licence, or add conditions to an unconditional licence.



*Clause 57* provides that a lost, stolen, destroyed or damaged key person licence may be replaced upon application to the chief executive.

*Clause 58* provides that a key person licence may be surrendered and that the chief executive is to give notice to the lottery licensee of the surrender, if the person was employed by the licensee at that time.

*Clause 59* sets out the grounds for suspension or cancellation of a key person licence.

*Clause 60* sets out the requirements for a show cause notice given by the chief executive to a licensed key person.

*Clause 61* allows the chief executive to immediately suspend a key person licence in certain circumstances.

*Clause 62* allows the chief executive to censure a key person licensee in circumstances which do not warrant suspension or cancellation.

*Clause 63* allows the chief executive to direct a key person licensee to rectify a matter which was a ground for suspension or cancellation and is capable of being rectified.

*Clause 64* allows the chief executive to suspend or cancel a key person licence following consideration of representations received during the show cause period.

*Clause 65* allows the chief executive to cancel the remaining period of suspension or reduce the remaining period of suspension of a key person licence at any time the suspension is in force.

*Clause 66* allows the chief executive to approve an audit program for the investigation of a licensed key person. A person may only be investigated under this provision if there has not been an investigation of the same person within the preceding two years.

*Clause 67* allows the chief executive to investigate a key person licensee either if the chief executive reasonably suspects that the licensee is not or is no longer a suitable person, or under the approved audit program.

*Clause 68* provides that the chief executive may require a key person licensee to provide information relevant to an investigation, and provides limitations upon such a requirement.

*Clause 69* requires the commissioner of the police service, when requested by the chief executive pursuant to clauses 50 and 67, to provide

reports on applicants for and holders of key person licences to the chief executive.

*Clause 70* requires a lottery licensee to notify the chief executive of the commencement of employment of a licensed employee within 7 days.

*Clause 71* provides that the chief executive may require a lottery licensee to provide a list of licensed and unlicensed employees.

*Clause 72* requires a lottery licensee to notify the chief executive of the cessation of employment of licensed key persons within 7 days.

*Clause 73* provides that the chief executive may require a lottery licensee to end the employment of an employee where the employee no longer holds a key person licence. If the licensee ends the employment of the employee or ends the employee's role as a key employee requiring to hold a key person licence, the licensee will not breach any Act or law or industrial award or agreement, or incur any liability.

*Clause 74* requires the lottery licensee to notify the chief executive if a person who holds a key person licence as a key operator ceases to be a key operator.

*Clause 75* provides that the chief executive may require a lottery licensee to end the association with a key operator where the key operator no longer holds a key person licence. If the licensee ends the association, the licensee will not breach any Act or law, or incur any liability.

*Clause 76* makes it an offence for an applicant for a key person licence to make false or misleading statements in any application made under Part 3.

*Clause 77* requires the chief executive to have the fingerprints of a key person licensee destroyed if their licence lapses or is cancelled.

## **PART 4—LOTTERY AGENTS**

*Clause 78* provides that an agency agreement is an agreement between a lottery licensee and another person where the other person (the "lottery agent") is appointed for specific purposes in relation to the conduct of lotteries by the licensee. An agency agreement also deals with each lottery agent's authority, states the conditions under which a lottery agent acts and

remains an agent of the lottery licensee and other conditions agreed between the lottery agent and the lottery licensee.

*Clause 79* provides conditions for entering into agency agreements, including eligibility of persons to be agents and required provisions of the agency agreement.

*Clause 80* requires a lottery licensee to notify the chief executive of an agent's name and place of operation within 7 days of entering the agency agreement.

*Clause 81* provides that agency agreements can only be amended with the approval of the chief executive. The chief executive may withhold approval of a proposed amendment only if it is necessary to do so in the public interest.

*Clause 82* requires a lottery licensee to provide a list of current agents to the chief executive at least once every 6 months.

*Clause 83* sets out the grounds for directing the termination of an agency agreement.

*Clause 84* sets out the requirements for a show cause notice given by the chief executive to an agent of a lottery licensee and requires a copy of the notice to be given to the lottery licensee.

*Clause 85* allows the chief executive to immediately suspend an agent of a lottery licensee's operations in certain circumstances.

*Clause 86* allows the chief executive, after considering the accepted representations for the show cause notice, to censure an agent of a lottery licensee in circumstances which do not warrant the termination of an agreement.

*Clause 87* allows the chief executive, after considering the accepted representations for the show cause notice, to direct an agent of a lottery licensee to rectify a matter which is a ground for termination of an agency agreement and is capable of being rectified.

*Clause 88* allows the chief executive, in certain circumstances, following the consideration of representations received in response to the show cause notice, to direct a lottery licensee to terminate an agency agreement.

*Clause 89* requires a lottery licensee to terminate an agency agreement if a notice is given by the chief executive under clause 88. The agency

agreement is terminated by the Act if the licensee fails to comply with the direction.

*Clause 90* requires a lottery licensee to notify the chief executive of the termination of an agency agreement other than because of a direction of the chief executive within 7 days of termination.

*Clause 91* allows the chief executive to investigate the suitability of agents and their associates.

*Clause 92* authorises the chief executive to require information or documentation to be provided in an investigation of agents and their associates, and provides limitations upon such a requirement.

*Clause 93* requires the commissioner for the police service, when requested by the chief executive, to provide reports on the criminal history of an agent and associates of agents to the chief executive.

## **PART 5—LOTTERY TAX AND LICENCE FEE**

*Clause 94* requires a lottery tax to be calculated and paid to the chief executive, in accordance with the conditions of the lottery licence.

*Clause 95* requires that a lottery licensee give consideration in the form of licence fees for the lottery licence and that such licence fees are calculated and paid to the chief executive in accordance with the conditions of the licence.

*Clause 96* requires that a lottery licensee must provide the chief executive with returns, in the approved form, as required under the conditions of the lottery licence.

*Clause 97* provides for a penalty to be imposed at the rate prescribed by regulation upon any lottery tax or licence fee not remitted by the due date, and for additional penalties to be imposed for each succeeding month for which the amount remains outstanding.

*Clause 98* provides that any unpaid lottery tax, licence fee or penalty is a debt payable to the State.

*Clause 99* provides penalties for a lottery licensee who evades the

payment of lottery tax or licence fee, or knowingly lodges a return that contains false or misleading information.

## **PART 6—COMPLIANCE REQUIREMENTS**

*Clause 100* requires a lottery licensee to have an approved control system that relates to its agents, and to conduct lotteries under the system, and prohibits changes to the system unless directed or approved by the chief executive.

*Clause 101* sets out the requirements for submissions to the chief executive for approval of a lottery licensee's control system.

*Clause 102* sets out the requirements for submissions to the chief executive for approval to change a lottery licensee's control system.

*Clause 103* provides that the chief executive must consider the submission and either approve or refuse to approve the control system or change of the control system. The chief executive may by written notice require further information to be provided by a lottery licensee.

*Clause 104* provides that the chief executive may direct a lottery licensee to change the licensee's approved control system.

*Clause 105* provides that the chief executive may approve a place at which lottery records may be kept, and exempt certain records from being kept at that place.

*Clause 106* requires a lottery licensee to keep records at the licensee's public office or an approved place for records, unless the record is an exempt lottery record.

*Clause 107* requires lottery records relating to an unclaimed prize to be kept for 7 years and other lottery records to be kept for 5 years.

*Clause 108* provides for the keeping of accounting records by a lottery licensee.

*Clause 109* provides for the preparation of financial statements and accounts by a lottery licensee.

*Clause 110* provides for the lottery licensee to submit reports, about the licensee's lottery operations, to the chief executive.

*Clause 111* requires a lottery licensee to keep financial institution accounts approved by the chief executive for banking transactions for the licensee's lottery operations.

*Clause 112* provides that a lottery licensee must not use an approved financial institution account other than for approved purposes.

*Clause 113* requires the lottery licensee to cause the licensee's books, records and financial statements for the licensee's lottery operations to be audited by a registered company auditor approved by the chief executive at the end of each financial year.

*Clause 114* sets out the requirements for lodgment by the auditor of the audit report with the chief executive.

*Clause 115* allows the chief executive to require a lottery licensee to provide further information about a matter relating to the licensee's operations mentioned in the audit report.

## **PART 7—CONDUCT OF APPROVED LOTTERIES**

*Clause 116* provides that a lottery licensee must not enter into an ancillary lottery agreement without the Minister's approval.

*Clause 117* provides that upon application by the lottery licensee, the Minister may approve ancillary lottery agreements.

*Clause 118* provides that the Minister may require a lottery licensee to provide information about certain related agreements.

*Clause 119* allows the Minister to issue a show cause notice to a lottery licensee with respect to a related agreement in certain circumstances.

*Clause 120* allows the Minister to direct the termination of a related agreement in certain circumstances following consideration of representations made during the show cause period.

*Clause 121* provides for the making of rules by the Minister.

*Clause 122* requires a lottery licensee to conduct an approved lottery in accordance with the rules.

*Clause 123* requires a lottery licensee to take reasonable steps to ensure that agents of the lottery licensee comply with the rules for the conduct of an approved lottery.

*Clause 124* requires an agent to comply with the rules in doing an act for the conduct of an approved lottery by the lottery licensee.

*Clause 125* provides requirements for places of operation of a lottery by a lottery licensee and appointed agents.

*Clause 126* requires the chief executive's approval of the price of lottery tickets.

*Clause 127* provides that the chief executive must ensure the supervision of approved lotteries.

*Clause 128* provides that, in order to ensure the integrity of the conduct of an approved lottery, the chief executive may, by written notice to a lottery licensee, direct that certain things in relation to the conduct of that lottery cannot occur unless an inspector is present.

*Clause 129* provides for claims for prizes in approved lotteries and the continuance of a participant's entitlement to claim a prize until either the prize is paid or after the end of 7 years after the closure of the approved lottery.

*Clause 130* limits the payment of the amount of a prize by an agent to the amount stated in the agency agreement. Provides for the payment of the prize to the holder of a lottery ticket.

*Clause 131* allows for the disposal of unclaimed prizes which are property, in an approved lottery, three months after that lottery closes. After disposal, the prize entitlement is the proceeds from the sale less costs of disposal.

*Clause 132* provides that prize money which remains unclaimed for 1 year may be used by the lottery licensee for the payment of a prize or an additional prize. This does not affect a person's entitlement to claim a prize for 7 years after the closure of an approved lottery.

*Clause 133* provides that the chief executive may approve or refuse to approve lottery equipment to be used in the conduct of a lottery and

modifications of such equipment. The chief executive may, if considered necessary, evaluate the equipment on payment of the prescribed fee.

*Clause 134* provides that a lottery licensee or agent must not use equipment, prescribed in the regulation, that has not been approved by the chief executive or modify such equipment without the approval of the chief executive.

*Clause 135* requires persons advertising the conduct of a lottery to ensure that the advertising is not indecent or offensive, is based on fact, and is not false, misleading or deceptive in a material particular.

*Clause 136* allows the chief executive to issue and enforce directions with respect to advertising which does not comply with clause 135.

*Clause 137* requires a lottery licensee and the chief executive to inquire into written complaints, and allows the chief executive to refer complaints to the lottery licensee in the first instance.

*Clause 138* requires a lottery licensee to resolve a claim for payment of a prize in an approved lottery or notify the claimant if the licensee is not able to resolve the claim. If the claim is not resolved the claimant may ask the chief executive to resolve the claim or review the licensee's decision.

*Clause 139* requires a lottery licensee or agent to report dishonest acts and contraventions of the Act to the chief executive, and provides for the protection of persons providing such information.

*Clause 140* prohibits cheating in lottery games.

*Clause 141* makes it an offence for a person to forge or utter a forged official lottery document.

*Clause 142* makes it an offence for a person to impersonate an agent, a key person licensee or lottery official.

*Clause 143* provides for an offence on the part of a lottery official and persons who bribe or attempt to bribe a lottery official.

*Clause 144* prohibits a lottery employee and lottery official from participating in a lottery in which the person is involved in the draw. Such persons are not eligible to win a prize in a lottery from which they are prohibited.

*Clause 145* provides for the declaration of key officials by the chief executive and for the giving of directions not to participate in lotteries or



have a financial relationship with a lottery licensee or agent.

*Clause 146* provides that a key official who has received a direction, must not at that time or within 1 year after ceasing to be a key official, be an employee of a lottery licensee or agent, or knowingly have a direct or indirect business or financial association or interest with them without the approval of the chief executive.

*Clause 147* requires a key official who has been directed by the chief executive not to have a financial relationship with a lottery licensee or agent, to notify the chief executive of any business or financial association or interest with a prospective lottery licensee, and allows the chief executive to direct the official to end the association or interest.

*Clause 148* provides that a lottery licensee or agent must not have a business or financial association with a key official who has been so directed, if the lottery licensee or agent knows, or ought reasonably to know, of the direction.

*Clause 149* provides for an offence to accept a lottery subscription from a minor, however it is a defence that the person had no reason to believe the person was a minor.

*Clause 150* prohibits a person from giving an entry form to a lottery licensee or agent which contains a name that is obscene, indecent or offensive.

*Clause 151* prohibits a person, unless authorised under an agency agreement, from inducing someone to take part in a lottery, distributing entry forms, promoting the taking part in a lottery or performing other services in relation to a lottery as described.

*Clause 152* allows for the anonymity of a person, if requested by that person, who has participated in or who has won or claimed a prize in a lottery.

## **PART 8—INVESTIGATION AND ENFORCEMENT**

*Clause 153* provides that an officer holding appointment as an inspector under the *Art Unions and Public Amusements Act 1992*, the *Casino Control*

Act 1982, *Gaming Machine Act 1991* or the *Keno Act 1996* is an inspector for the purposes of this Act.

*Clause 154* defines the powers of inspectors.

*Clause 155* sets out the circumstances in which an inspector ceases to hold office.

*Clause 156* provides requirements for the identity cards of inspectors.

*Clause 157* sets out requirements for the production and display of an inspector's identity card when exercising powers under the Act.

*Clause 158* allows an inspector to enter certain places without consent or warrant.

*Clause 159* provides that an inspector may only enter places not listed in section 158 with the consent of the occupier or a warrant.

*Clause 160* provides a procedure for obtaining the consent of the occupier for an inspector to enter a place.

*Clause 161* provides evidentiary presumptions in relation to whether the occupier's consent for an inspector to enter a place has been obtained.

*Clause 162* sets out requirements for applications by an inspector to a Magistrate for a warrant to enter a place.

*Clause 163* sets out requirements for a Magistrate to issue a warrant and for the contents of any such warrant.

*Clause 164* provides for the application for and issue of a special warrant in urgent and other special circumstances.

*Clause 165* provides evidentiary presumptions in relation to proving that a special warrant was issued.

*Clause 166* sets out general powers of inspectors where entry to a place is authorised.

*Clause 167* provides a penalty for the failure by a person to assist an inspector when required to do so under section 166(3)(g).

*Clause 168* provides a penalty for the failure by a person to give information required by an inspector under clause 166(3)(h).

*Clause 169* provides that inspectors may ask police officers for assistance in exercising powers.

*Clause 170* allows an inspector to seize a thing that the inspector reasonably believes is evidence of an offence at a place referred to in clause 158, where entry may be made without consent or warrant.

*Clause 171* provides requirements for an inspector to seize a thing at a place not provided for in clause 170.

*Clause 172* provides for the securing of things seized by an inspector.

*Clause 173* provides a penalty for tampering with a thing seized by an inspector.

*Clause 174* allows an inspector to require a person in control of a thing to take action in order to enable a thing to be seized, and provides an offence for failure to comply with the requirement.

*Clause 175* provides for the issue of a receipt for anything seized by an inspector.

*Clause 176* provides for the forfeiture to the State of things seized by an inspector in certain circumstances.

*Clause 177* requires an inspector to return seized things which have not been forfeited within 6 months of seizure, at the end of any proceeding for an offence or appeal from the proceeding, or when the thing is no longer required as evidence.

*Clause 178* provides for an owner to obtain access to a seized thing which has not been forfeited or returned.

*Clause 179* allows an inspector to direct a person to stop using a thing in the conduct of lottery.

*Clause 180* sets out the requirements for the issue of a direction by an inspector to stop using a thing for the conduct of a lottery.

*Clause 181* provides an offence for failure to comply with the direction of an inspector.

*Clause 182* provides that an inspector may require a person to state their name and address in certain circumstances, and provides limitations on such a requirement.

*Clause 183* provides an offence for the failure by a person to provide an inspector with the person's name and address.

*Clause 184* sets out the steps which police officers may take where a

person fails to provide an inspector with the person's name and address.

*Clause 185* allows an inspector to require the production of a document for the purposes of copying the document, and the certification of a copy of the document.

*Clause 186* provides an offence for failure to produce a document to an inspector when required.

*Clause 187* provides an offence for failure to certify a document required by an inspector.

*Clause 188* allows an inspector to require a person to attend before the inspector at a reasonable time and place to answer questions about a document required to be produced under clause 185, or the operations of a lottery licensee conducted under a lottery licence or its agent .

*Clause 189* provides an offence for failure to attend before the inspector under clause 188, failure to answer a question or provide information, or making false and misleading statements.

*Clause 190* provides that an inspector may require information from the manager of a place of business of a financial institution with respect to accounts of a lottery licensee and agents.

*Clause 191* provides that the manager of a place of business of a financial institution is not liable for breach of trust by complying with the requirements of an inspector.

*Clause 192* provides an offence for failure to comply with the requirement of an inspector.

*Clause 193* provides that the Minister may direct, in writing, a lottery licensee or agent to stop, or change, a management practice in certain circumstances.

*Clause 194* allows a Court to order forfeiture of things which have been used to commit an offence or are the subject of an offence where a person has been convicted of an offence under the Act.

*Clause 195* provides that a thing which has been forfeited to the Crown under clause 176 or 194 becomes the property of the Crown and may be destroyed by the chief executive.

*Clause 196* requires an inspector to notify an owner whose property has been damaged by the inspector in the exercise of the inspector's powers.

*Clause 197* allows a person to claim compensation from the Crown where the person suffers loss or damage as a result of the exercise of certain powers by inspectors under the Act.

*Clause 198* provides immunity to the Minister, chief executive, an inspector or person acting under the direction of an inspector from civil liability for any act done honestly and without negligence under the Act.

*Clause 199* provides an offence for giving a false or misleading statement to an inspector.

*Clause 200* provides an offence for providing a document containing false or misleading information to an inspector.

*Clause 201* provides an offence for obstructing an inspector in the exercise of a power.

*Clause 202* sets out the steps which a police officer may take if an inspector is obstructed while exercising a power.

## **PART 9—LEGAL PROCEEDINGS**

*Clause 203* specifies the application of Division 1 of this part.

*Clause 204* contains evidentiary provisions in relation to appointments and authorities.

*Clause 205* is an evidentiary provision in relation to signatures of the chief executive and inspectors.

*Clause 206* contains evidentiary provisions in relation to matters certified by the chief executive.

*Clause 207* sets out the offences in the Act which are indictable offences.

*Clause 208* provides for the hearing of indictable offences by summary proceedings or on indictment.

*Clause 209* specifies indictable offence proceedings which must be heard before a Magistrate.

*Clause 210* limits the time for starting summary proceedings for an offence under the Act.

*Clause 211* defines the responsibility of a person for acts or omissions by the person's representative.

*Clause 212* requires executive officers of corporations to ensure that the corporation complies with the Act and extends liability for offences committed by corporations to executive officers of the corporation in certain circumstances.

*Clause 213* provides that it is an offence to attempt to commit an offence against the Act.

## **PART 10—APPEALS**

*Clause 214* provides a lottery licensee with a right of appeal against the decisions of the chief executive set out in schedule 2, part 1.

*Clause 215* provides an applicant for a key person licence with a right of appeal if the application for the licence is refused by the chief executive.

*Clause 216* provides a licensed employee with a right of appeal against the decisions of the chief executive set out in schedule 2, part 2.

*Clause 217* provides an agent with a right of appeal against the decisions of the chief executive set out in schedule 2, part 3.

*Clause 218* provides the owner of a thing seized by an inspector with a right of appeal against the decision of the inspector to forfeit the thing.

*Clause 219* provides for appeals to be made to the Magistrates Court.

*Clause 220* sets out the procedure for starting an appeal.

*Clause 221* allows the Magistrates Court to stay the operation of a decision appealed from in order to secure the effectiveness of the appeal, and sets out the requirements of the stay.

*Clause 222* provides procedures for the Magistrates Court's hearing of an appeal. An appeal is by way of re-hearing.

*Clause 223* sets out the actions the Magistrates Court may take in relation to the decision appealed from.

*Clause 224* allows an appeal from a decision of the Magistrates Court to the District Court only on a question of law.

## **PART 11—MISCELLANEOUS**

*Clause 225* provides requirements for confidentiality of information by inspectors and officers of the department, but allows disclosure with the approval of the chief executive to certain persons and entities.

*Clause 226* allows the delegation of the Minister's and chief executive's powers under the Act and provides that the chief executive must notify licensees of current delegations..

*Clause 227* authorises the chief executive to approve forms for use under the Act.

*Clause 228* authorises the making of regulations for the purposes of the Act.

## **PART 12—REPEALS, AMENDMENTS AND TRANSITIONAL PROVISIONS**

*Clause 229* repeals the Lotteries Act 1994.

*Clause 230* requires that any reference to the repealed Act in other legislation is to be taken as reference to the Lotteries Act 1997.

*Clause 231* amends the Art Unions Act 1992 to identify that a lottery conducted under the Lotteries Act 1997 is not an art union.

*Clause 232* amends the Casino Control Act 1982 to replace references to the Lotteries Act 1994 with references to the Lotteries Act 1997.

*Clause 233* amends the Gaming Machine Act 1991 to replace references to the Lotteries Act 1994 with references to the Lotteries Act 1997.

*Clause 234* amends the Keno Act 1996 to replace references to the Lotteries Act 1994 with references to the Lotteries Act 1997.

*Clause 235* provides that Division 3 of this Part only applies if the corporation becomes the holder of a lottery licence on the commencement day of the Bill.

*Clause 236* provides definitions for the terms “commencement day”, “corporation” and “repealed Act”.

*Clause 237* provides that the corporation may be issued an exclusive licence for a specified term and on specified conditions and the lottery licence may be issued on conditions about the exclusive right of the corporation to conduct certain gaming schemes.

*Clause 238* provides that if the corporation makes a control system submission on the commencement day, the corporation’s control system is deemed to be an approved control system until the submission is determined.

*Clause 239* provides that if the corporation applies to the chief executive for approval of the corporation’s regulated lottery equipment on the commencement day, the corporation’s regulated lottery equipment is taken to be approved lottery equipment until the application is determined.

*Clause 240* provides for the continued operation of lotteries commenced by the Golden Casket Lottery Corporation prior to the commencement of this Act. The provision also ensures that any money identified as unclaimed prize money for a lottery under the repealed Act must be identified as unclaimed prize money under this Act and that, if the corporation was entitled to use unclaimed prize money for a lottery under the repealed Act, the corporation may use that money as prize money under this Act.

*Clause 241* provides that sections 17(2), 18 and 24(1) to (5) of the repealed Act and any rules under the repealed Act are deemed to be provisions and rules under the Lotteries Act 1997.

*Clause 242* provides that a lottery employee who submits an application for a key person licence on the commencement of this Act, is deemed to be a licensed employee until the application is determined.

*Clause 243* provides that an agency agreement made under the repealed Act and is in force is deemed to be made under this Act. Golden Casket Lottery Corporation is required to inform the chief executive of the details of all such agents within seven days of the commencement of the Act.

*Clause 244* provides that an agreement with a foreign agency in force before the commencement day is deemed to be an agreement under the Lotteries Act 1997.



*Clause 245* provides for regulations to be made that are of a transitional nature.

*Clause 246* revives section 22A of the repealed Golden Casket Art Union Act 1978 relating to the identification of winning Instant Casket tickets.

### *Schedules*

*Schedule 1* sets out the decisions of the Governor in Council and the Minister which pursuant to clause 39 are not subject to appeal.

*Schedule 2* sets out the decisions of the chief executive against which lottery licensees, key persons licensees and lottery agents have a right of appeal.

*Schedule 3* contains the Dictionary which defines the terms used in the Act.