

GAMING AND LOTTERIES AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill amends the Gaming and Lotteries Act 1977 to encompass a new category of gaming activity known as “instant games”. These are essentially instant lotteries, whereby tickets bearing a prize are predetermined. These activities include “New Zealand instant games” run by the New Zealand Lotteries Commission, mystery envelopes, and various other small scale instant lotteries. The main object of the Bill is to allow the Commission to conduct instant games as games of chance rather than as prize competitions, obviating the need to include a “skill test”.

Clause 1 relates to the Short Title and commencement of the Bill. The Bill is to come into force on the date on which it receives the Royal assent.

Clause 2 defines the new terms “instant game” and “prize-bearing ticket” and amends certain other terms defined in section 2 of the principal Act.

Subsection (5) deems all instant games other than those promoted by the Commission under Part VII of the Act to be “games of chance”. As such they are illegal unless licensed under section 8 or falling within the provisions of section 9. Prize-bearing tickets in such games must also be determined on a random basis.

Clause 3 amends the definition of the term “promote” in section 36 of the principal Act to include instant games.

Clause 4 amends section 37 of the principal Act to provide for the engagement of a licensed promoter in relation to instant games.

Clause 5 makes several minor consequential amendments to the principal Act by extending provisions of sections 38, 54, and 66 to instant games.

Clause 6 inserts definitions of the terms “allocation” and “New Zealand instant game” into section 71 of the principal Act. New Zealand instant games are instant games promoted by the Lotteries Commission under Part VII of the Act.

Clause 7 inserts a new *section 84A* into the principal Act, providing for the promotion of New Zealand instant games by the Lotteries Commission.

Subsection (2) applies various sections in Part VII of the principal Act to New Zealand instant games.

No. 30—1

Price
incl. GST \$2.20

Subsection (3) allows the Commission to run “add-on lotteries” whereby a prize-bearing ticket in a New Zealand instant game gains a participant entry into a subsequent draw in a New Zealand lottery or New Zealand prize competition.

Clause 8 inserts a new *section 95A* into the principal Act. This allows the Commission to determine the conditions under which the allocation of prizes for a New Zealand instant game is made.

Clause 9 inserts a new *section 96A* into the principal Act. This provides for supervision by the Secretary of Internal Affairs and the Audit Office of the equipment and procedures used in allocations.

Clause 10 amends *section 98* of the principal Act to prohibit the publication or broadcast of New Zealand lottery results before their official announcement.

Clause 11 repeals *section 105* of the principal Act relating to unclaimed prizes, and substitutes a new *section 105* which extends to New Zealand instant games.

Clause 12 inserts a new *section 115A* into the principal Act, which prohibits the misuse of product names used for the Commission’s lotteries and games.

Clause 13 makes consequential amendments to the Gaming Duties Act 1971. These provide for the payment of duty in respect of New Zealand instant games in a comparable manner to that collected for New Zealand lotteries and New Zealand prize competitions.

Clause 14 makes consequential amendments to the Goods and Services Tax Act 1985 in relation to New Zealand instant games.

Clause 15 makes a consequential amendment to *section 64B* of the Income Tax Act 1976 in relation to New Zealand instant games.

Hon. Margaret Austin

GAMING AND LOTTERIES AMENDMENT

ANALYSIS

Title	8. Method of allocation
1. Short Title and commencement	9. Scrutiny of allocations
2. Interpretation	10. Official result
3. "Promote" redefined	11. Unclaimed prizes
4. Societies may engage licensed promoters	12. Protection of product names
5. Consequential amendments	13. Amendments to Gaming Duties Act 1971
6. Interpretation of Part VII	14. Amendments to Goods and Services Tax Act 1985
7. Commission may promote New Zealand instant games	15. Amendments to Income Tax Act 1976

A BILL INTITULED

An Act to amend the Gaming and Lotteries Act 1977

BE IT ENACTED by the Parliament of New Zealand as follows:

5 **1. Short Title and commencement**—(1) This Act may be cited as the Gaming and Lotteries Amendment Act 1990, and shall be read together with and deemed part of the Gaming and Lotteries Act 1977* (hereinafter referred to as the principal Act).

10 (2) This Act shall come into force on the date on which it receives the Royal assent.

2. Interpretation—(1) Section 2 (1) of the principal Act is hereby amended by inserting, after the definition of the term "illegal prize competition", the following definition:

15 "Instant game" means a scheme, arrangement, or game—

"(a) In respect of which direct or indirect consideration is paid to participate; and

*1977, No. 84

Amendments: 1979, No. 90; 1981, No. 70; 1987, No. 76; 1987, No. 143; 1988, No. 186; 1989, No. 118

“(b) Which is played with a view to winning money or money’s worth; and

“(c) In which the ticket or tickets bearing a prize are determined before, or simultaneously with, the sale of any ticket—

but does not include any such game to which Part VII of this Act applies.”

(2) Section 2 (1) of the principal Act is hereby further amended by inserting, after the definition of the term “prize competition”, the following definition:

“‘Prize-bearing ticket’, in relation to an instant game or any portion of an instant game, means a ticket sold to a participant, and determined in accordance with an allocation to bear a prize.”

(3) Section 2 (1) of the principal Act is hereby further amended by repealing the definition of the term “ticket”, and substituting the following definition:

“‘Ticket’, in relation to—

“(a) A game of chance; or

“(b) An instant game or a New Zealand instant game; or

“(c) A lottery or a New Zealand lottery; or

“(d) A prize competition or a New Zealand prize competition,—

means any document or thing evidencing or prepared for the purpose of evidencing a right to participate in the game of chance, instant game, New Zealand instant game, lottery, New Zealand lottery, prize competition, or New Zealand prize competition; and, in a case where no such document or thing is issued to a participant, includes the right to participate itself.”

(4) Section 2 of the principal Act is hereby further amended by adding the following subsections:

“(3) For the purposes of this Act, except section 33, an instant game, other than a New Zealand instant game, is deemed to be an illegal game of chance unless—

“(a) It is authorised under, and in compliance with, the provisions of section 8 or section 9 of the Act; and

“(b) The prize-bearing ticket or tickets are determined on a random basis or wholly by chance.

“(4) For the purposes of section 33 of this Act, an instant game, other than a New Zealand instant game, is deemed to be a lottery.”

(5) The Gaming and Lotteries Amendment Act 1981 is hereby consequentially repealed.

3. “Promote” redefined—Section 36 (1) of the principal Act is hereby amended by repealing the definition of the term “promote”, and substituting the following definition:

5 “Promote’, in relation to an instant game, prize competition, or lottery, means organise or conduct the sale of tickets in that instant game, prize competition, or lottery.”.

4. Societies may engage licensed promoters—The principal Act is hereby further amended by repealing section 10 37, and substituting the following section:

 “37. (1) Notwithstanding anything in Part I or Part III or Part IV of this Act, any society that proposes to conduct an instant game or a prize competition or a lottery pursuant to a licence issued to it under section 8 or section 26 or section 35 of this 15 Act may engage for reward a licensed promoter to promote the instant game or prize competition or lottery on its behalf.

 “(2) The fact that any remuneration is paid to a promoter for promoting the instant game, prize competition, or lottery under **subsection (1)** of this section shall not of itself render the instant 20 game, prize competition, or lottery illegal, unless at the time of payment, the society knows that the promoter no longer holds a licence under this Part of this Act, or that the promoter’s licence has been suspended.

 “(3) Nothing in **subsection (1)** of this section shall be construed as authorising a society to engage a licensed promoter for the 25 promotion of any instant game that involves the use of a gaming machine.”

5. Consequential amendments—(1) Section 38 of the principal Act is hereby amended—

30 (a) By omitting from subsection (1), and also from subsection (3), the words “prize competition”, and substituting in each case the words “instant game, prize competition,”;

35 (b) By inserting in subsection (1), after the word “under”, the words “section 8 or”.

 (2) Section 54 (1) of the principal Act is hereby amended by omitting the words “prize competition”, and substituting the words “instant game, prize competition,”.

40 (3) Section 66 of the principal Act is hereby amended by omitting from paragraph (h), and also from paragraph (i), the words “prize competition”, and substituting in each case the words “instant game, prize competition,”.

(4) Section 66 of the principal Act is hereby further amended by omitting from paragraph (j), and also from paragraph (k), the words “prize competitions”, and substituting in each case the words “instant games, prize competitions,”.

6. Interpretation of Part VII—(1) Section 71 of the principal Act (as substituted by section 3 (1) of the Gaming and Lotteries Amendment Act 1987) is hereby amended by inserting, before the definition of the term “Board”, the following definition:

“ ‘Allocation’, in relation to a New Zealand instant game, or any portion of a New Zealand instant game, means the determination of the prize-bearing ticket or tickets, being a determination conducted before, or simultaneously with, the sale of any ticket, on a random basis or wholly by chance:”.

(2) Section 71 of the principal Act (as so substituted) is hereby amended by inserting, after the definition of the term “Commission”, the following definition:

“ ‘New Zealand instant game’ means a game promoted under this Part of this Act,—
 “(a) In respect of which direct or indirect consideration is paid to participate; and
 “(b) Which is played with a view to winning money or money’s worth; and
 “(c) In which the ticket or tickets bearing a prize are determined in accordance with an allocation:”.

7. Commission may promote New Zealand instant games—The principal Act is hereby amended by inserting, after section 84 (as substituted by section 3 (1) of the Gaming and Lotteries Amendment Act 1987), the following section:

“84A. (1) The Commission may from time to time promote, organise, and conduct New Zealand instant games.

“(2) The provisions of this Part of this Act, other than sections 95 to 98 and section 105, so far as they are applicable and with the necessary modifications, shall apply—

“(a) As if every reference to a New Zealand lottery were a reference to a New Zealand instant game; and

“(b) As if every reference to a draw were a reference to an allocation.

“(3) The Commission may from time to time determine additional prizes to be distributed in accordance with a New Zealand lottery or a New Zealand prize competition, entry to which is limited to prize winners in any New Zealand instant

game, or to any particular class of such prize winners determined by the Commission.”

5 **8. Method of allocation**—The principal Act is hereby amended by inserting, after section 95 (as substituted by section 3 (1) of the Gaming and Lotteries Amendment Act 1987), the following section:

10 “95A. Every allocation of prizes for a New Zealand instant game shall, subject to any rules made under section 90 of this Act, be conducted in such a manner and under such conditions as the Commission from time to time determines.”

15 **9. Scrutiny of allocations**—The principal Act is hereby amended by inserting, after section 96 (as substituted by section 3 (1) of the Gaming and Lotteries Amendment Act 1987), the following section:

“96A. The Secretary and the Audit Office shall exercise such scrutiny over the equipment and procedures used in connection with an allocation as will ensure its security and proper operation.”

20 **10. Official result**—Section 98 of the principal Act (as substituted by section 3 (1) of the Gaming and Lotteries Amendment Act 1987) is hereby amended by adding the following subsections:

25 “(3) No person shall publish or broadcast the announced results of a New Zealand lottery before the official result is publicly notified or announced pursuant to **subsection (2)** of this section.

“(4) Every person who contravenes **subsection (3)** of this section commits an offence and is liable on summary conviction to a fine not exceeding \$200.”

30 **11. Unclaimed prizes**—The principal Act is hereby amended by repealing section 105 (as substituted by section 3 (1) of the Gaming and Lotteries Amendment Act 1987), and substituting the following section:

“105. (1) If—

35 “(a) Any prize in a New Zealand lottery is not claimed within 12 months from the drawing of that lottery; or

“(b) Any prize in a New Zealand instant game is not claimed within 12 months from the date of closure of that instant game,—

40 the Commission shall, where it is so provided in any rules made under section 90 of this Act, retain the prize in the account

opened for the purposes of section 101 of this Act, and the prize shall form, in accordance with those rules, a prize pool for any New Zealand lottery or New Zealand instant game conducted at a later date.

“(2) For the purposes of **subsection (1)** of this section, the date of closure of a New Zealand instant game shall be— 5

“(a) The date on which the last ticket is sold, or any tickets remaining unsold are cancelled by the Commission; or

“(b) Where provision is made by the Commission for additional prizes in accordance with **section 84A (3)** of this Act, the date on which those additional prizes are determined. 10

“(3) Notwithstanding **subsection (1)** of this section, if rules made under section 90 of this Act do not provide for the retention of any unclaimed prize in the account opened for the purposes of section 101 of this Act, the Commission shall, at the expiration of the period of 12 months that applies under that subsection, pay the amount of the prize from that account into such account opened under section 116U of this Act as the Secretary directs. 15 20

“(4) Where a prize in a New Zealand lottery or a New Zealand instant game is paid into another account under **subsection (3)** of this section, the amount of the prize shall be dealt with as if it were part of the undistributed profits of New Zealand lotteries.” 25

12. Protection of product names—The principal Act is hereby amended by inserting, after section 115 (as substituted by section 3 (1) of the Gaming and Lotteries Amendment Act 1987), the following section: 30

“115A. (1) No person other than the Commission shall, either alone or with any other person or persons,—

“(a) Promote, organise, or conduct any instant game, prize competition, lottery, or game of chance under the product names specified in **subsection (3)** of this section; or 35

“(b) Promote, organise, or conduct any instant game, prize competition, lottery, or game of chance under any other name, knowing that the name so resembles a product name specified in **subsection (3)** of this section as to be likely to mislead any person. 40

“(2) Every person who contravenes **subsection (1)** of this section commits an offence and is liable on summary conviction to a fine not exceeding \$200.

“(3) For the purposes of this section, the term ‘product names’ means ‘LOTTO’, ‘LOTTO COMBO’, ‘INSTANT KIWI’, and such other names as may be specified from time to time by the Governor-General by Order in Council.”

5 **13. Amendments to Gaming Duties Act 1971—**

(1) Section 3 of the Gaming Duties Act 1971 is hereby amended by inserting in the definition of the term “lottery” (as substituted by section 10(1) of the Gaming and Lotteries Amendment Act 1987), before the words “New Zealand lottery”, the words “New Zealand instant game or a”.

10 (2) The Gaming Duties Act 1971 is hereby further amended by inserting, after section 12, the following section:

“12A. **Application to New Zealand instant games**—In relation to any New Zealand instant game, this Part of this Act shall be read—

15 “(a) As if for the words ‘represented in the drawing of any lottery, whether the tickets have been disposed of by sale or otherwise’ in section 9, there were substituted the word ‘sold’; and

20 “(b) As if for the words ‘drawing of’ in section 10, there were substituted the words ‘closing of the sale of tickets in’; and

“ (c) As if for the words ‘drawing of’ in section 11 (1), there were substituted the words ‘closing of the sale of tickets in’.”

25 **14. Amendments to Goods and Services Tax Act 1985—**(1) Section 5 (10) of the Goods and Services Tax Act 1985 is hereby amended by inserting, after the words “chance, lottery”, in each place where they occur, the words “New Zealand instant game,”.

30 (2) Section 5 (11) (aa) of the Goods and Services Tax Act 1985 (as inserted by section 11 (1) (b) of the Gaming and Lotteries Amendment Act 1987) is hereby amended by inserting, before the words “ ‘New Zealand lottery’ ”, the words “ ‘New Zealand instant game’ ”.

35 (3) Section 9 of the Goods and Services Tax Act 1985 is hereby amended by inserting in the proviso to subsection (2) (e), before the words “game of chance”, the words “New Zealand instant game, or to any”.

40 (4) Section 10 (14) of the Goods and Services Tax Act 1985 is hereby amended by inserting, after the words “chance”, lottery”, in each place where they occur, the words “New Zealand instant game,”.

(5) Section 10 of the Goods and Services Tax Act 1985 is hereby further amended by repealing subsection (15) (as substituted by section 7 (1) of the Goods and Services Tax Amendment Act 1988), and substituting the following subsection:

“(15) For the purposes of subsection (14) of this section—

“(a) The terms ‘game of chance’, ‘lottery’, and ‘prize competition’ have the same meanings as defined in section 2 of the Gaming and Lotteries Act 1977:

“(b) The terms ‘New Zealand instant game’, ‘New Zealand lottery’, and ‘New Zealand prize competition’ have the same meanings as defined in section 71 of the Gaming and Lotteries Act 1977.”

15. Amendments to Income Tax Act 1976—(1) Section 64B (3) of the Income Tax Act 1976 (as inserted by section 2 (1) of the Income Tax Amendment Act 1987) is hereby amended by omitting from paragraph (a) the words “‘New Zealand lottery’, ‘New Zealand prize competition’,”.

(2) Section 64B (3) of the Income Tax Act 1976 (as so inserted) is hereby further amended by inserting, after paragraph (a), the following paragraph:

“(aa) The terms ‘New Zealand instant game’, ‘New Zealand lottery’, and ‘New Zealand prize competition’ have the same meanings as defined in section 71 of the Gaming and Lotteries Act 1977.”