

[AS REPORTED FROM THE INTERNAL AFFAIRS AND LOCAL
GOVERNMENT COMMITTEE]

House of Representatives, 28 August 1990.

Words struck out are shown in italics within bold round brackets, or with black rule at beginning and after last line; words inserted are shown in roman underlined with a single rule, or with single rule before first line and after last line.

[AS REPORTED FROM THE COMMITTEE OF THE WHOLE HOUSE]

House of Representatives, 23 July 1991.

Words inserted are shown with double rule before first line and after last line.

Hon. Graeme Lee

GAMING AND LOTTERIES AMENDMENT

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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

No. 30—3

Price
incl. GST \$2.30

and Lotteries Act 1977* (hereinafter referred to as the principal Act).

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

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PART I

AMENDMENTS TO PRINCIPAL ACT

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:

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“‘Instant game’ means a scheme, arrangement, or game—

“(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

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

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“(c) In which either—

“(i) The ticket or tickets bearing a prize are determined before, or simultaneously with, the sale of any ticket; or

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“(ii) The prize which each ticket bears is 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.”

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*1977, No. 84

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

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5 (1A) Section 2 (1) of the principal Act is hereby further amended by inserting in the definition of the term “prize competition”, after the words “does not include” (as substituted by section 2 (4) of the Gaming and Lotteries Amendment Act 1987), the words “an instant game or”.

10 (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.”.

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15 (2A) Section 2 (1) of the principal Act is hereby further amended by repealing the definition of the term “sales promotion scheme” (as amended by section 2 of the Gaming and Lotteries Amendment Act (No. 2) 1987), and substituting the following definition:

20 “Sales promotion scheme”—
“(a) Means any prize competition or lottery or instant game—
25 “(i) Promoted by the manufacturer or a distributor, wholesaler, or retailer of any goods or services for the purpose (which shall be a question of fact) of promoting the sale of those goods or services; and
“(ii) In respect of which the right to enter is dependent on the purchase, at a price not exceeding the usual retail price, of any such goods or services, or any specified quantity or value of such goods or services, within a specified period; and
30 “(iii) In respect of which no other direct or indirect consideration is paid to participate; but
35 “(b) Does not include any instant game that involves the use of a gaming machine:”.

(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 or 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 or an instant game that involves the use of a gaming machine, is deemed to be a lottery.”

(5) The Gaming and Lotteries Amendment Act 1981 (is) and section 2 of the Gaming and Lotteries Amendment Act (No. 2) 1987 are hereby consequentially repealed.

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2AA. Selling ticket or extending credit to children for instant games prohibited—The principal Act is hereby amended by inserting, after section 5, the following section:

“5A. (1) Every person commits an offence and is liable to a fine not exceeding \$1,000 who—

“(a) Knowingly sells or offers for sale any ticket in an instant game to any child under the age of 16 years, whether that ticket is purchased or intended to be

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- purchased by that child on his or her own behalf or on behalf of any other person; or
- 5 “(b) Knowingly extends credit to any child under the age of 16 years for the purpose of enabling that child to purchase a ticket in an instant game, whether that ticket is purchased or intended to be purchased by that child on his or her own behalf or on behalf of any other person.
- 10 “(2) It is a defence to a charge under **subsection (1)** of this section if the defendant proves that he or she believed on reasonable grounds that the person to whom the charge relates had attained the age of 16 years.”

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- 15 **2A. Application of Part III to sales promotion schemes**—(1) Section 18 (1) of the principal Act (as substituted by section 4 of the Gaming and Lotteries Amendment Act (No. 2) 1987) is hereby amended by inserting, after the words “applies to a”, the words “prize competition that is a”.
- 20 (2) Section 18 (2) (a) of the principal Act (as so substituted) is hereby amended by inserting, after the words “or conducts”, the word “such”.

- 25 **2B. Application of Part IV to sales promotion schemes**—The principal Act is hereby amended by inserting, after section 27, the following section:

- “27A. (1) Notwithstanding section 27 of this Act, nothing in this Part of this Act, except this section, applies to a lottery that is a sales promotion scheme.
- 30 “(2) Every person commits an offence who, in any manner whatever,—
- “(a) Organises, promotes, manages, or conducts such a sales promotion scheme that disposes of, or is intended to dispose of, any property or class of property specified in a notice for the time being in force under section 70 of this Act; or
- 35 “(b) Assists in the organisation, promotion, management, or conduct of such a sales promotion scheme; or

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“(c) Makes a direct or indirect pecuniary gain (otherwise than by way of winning a prize) from such a sales promotion scheme that that person would not otherwise have made.

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“(3) Every person who commits an offence against any of the provisions of **subsection (2)** of this section is liable,—

“(a) In the case of an individual, to imprisonment for a term not exceeding 3 months or a fine not exceeding \$2,000:

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“(b) In the case of a body corporate, to a fine not exceeding \$5,000.”

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:

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“‘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 37, and substituting the following section:

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“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 Act may engage for reward a licensed promoter to promote the instant game or prize competition or lottery on its behalf.

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“(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 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.

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

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

5 (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,”:

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

10 (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,”.

15 (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,”.

20 **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:

25 “ ‘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:”.

30 (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:

35 “ ‘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

40 “(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.”

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:

“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.”

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.”

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:

“(3) No person, other than a broadcaster with whom the Commission specifically contracts for the purpose, 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.

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5 “(5) For the purposes of **subsection (3)** of this section, ‘broadcaster’ has the meaning given to that term by section 2 of the Broadcasting Act 1989.”

10 **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—

15 “(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,—

20 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.

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

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

30 “(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.

35 “(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
40 Secretary directs.

“(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.”

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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:

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

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“(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

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“(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.

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“(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.

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“(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.”

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“(3) For the purposes of this section, the term ‘product names’ means ‘LOTTO COMBO’ and ‘INSTANT KIWI’.

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“(4) Nothing in **subsection (3)** of this section prevents the use by any person of the words ‘LOTTO’, ‘COMBO’, ‘INSTANT’, or ‘KIWI’ separately.”

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5 **12A. Participation of children in New Zealand instant games**—The principal Act is hereby amended by inserting, after section 116ZD (as inserted by section 3 (1) of the Gaming and Lotteries Amendment Act 1987), the following section:

“116ZE. (1) Every person commits an offence and is liable to a fine not exceeding \$1,000 who—

10 “(a) Knowingly sells or offers for sale any ticket in a New Zealand instant game to any child under the age of 16 years, whether that ticket is purchased or intended to be purchased by that child on his or her own behalf or on behalf of any other person; or

15 “(b) Knowingly extends credit to any child under the age of 16 years for the purpose of enabling that child to purchase a ticket in a New Zealand instant game, whether that ticket is purchased or intended to be purchased by that child on his or her own behalf or on behalf of any other person.

20 “(2) It is a defence to a charge under subsection (1) of this section if the defendant proves that he or she believed on reasonable grounds that the person to whom the charge relates had attained the age of 16 years.”

PART II

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AMENDMENTS TO OTHER ACTS

30 **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”.

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

35 **“12A. Application to New Zealand instant games—**In relation to any New Zealand instant game, this Part of this Act shall be read—

- “(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
- “(b) As if for the words ‘drawing of’ in section 10, there were substituted the words ‘closing of the sale of tickets in’; and 5
- “(c) As if for the words ‘drawing of’ in section 11 (1), there were substituted the words ‘closing of the sale of tickets in’.” 10

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,”. 15

(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’ ”. 20

(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”.

(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,”. 25

(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: 30

- “(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: 35
- “(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.” 40

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’,”.

5 (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:

10 “(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.”