

1992—No. 484

## LOTTERIES AND ART UNIONS ACT 1901—REGULATION

(Lotteries and Art Unions (Art Unions) Regulation 1992)

NEW SOUTH WALES



*[Published in Gazette No. 105 of 28 August 1992]*

HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the Lotteries and Art Unions Act 1901, has been pleased to make the Regulation set forth hereunder.

ANNE COHEN  
Chief Secretary.

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### PART 1—PRELIMINARY

#### Citation

1. This Regulation may be cited as the Lotteries and Art Unions (Art Unions) Regulation 1992.

#### Commencement

2. This Regulation commences on 1 September 1992.

#### Definitions

3. In this Regulation:

“**art union**” means a voluntary association to which section 5 (1) (a) or (b) of the Act applies and which is deemed to be a lawful association under section 5 (1) of the Act;

“**lottery**” means a lottery conducted by an art union by which prizes are allotted by chance to members, subscribers or contributors forming part of the art union;

**“official approval”**, for the purposes of any provision of this Regulation in which the expression occurs, means approval in writing given by the Minister or by an officer of the public service authorised by the Minister to give the approval;

**“organiser”**, in relation to a lottery conducted by an art union, means any person identified, on the application form for the permit for the art union, as the promoter of the art union, as a manager of the art union or as a member of the committee of the art union;

**“promoter”**, in relation to an art union, means the person identified, on the application form for the permit for the art union, as the promoter of the art union:

**“the Act”** means the Lotteries and Art Unions Act 1901.

## **PART 2—CONDUCT OF LOTTERIES**

### **Division 1—Permits and tickets**

#### **Application for permit**

**4. (1)** An application under section 6 of the Act for a permit for the formation of an art union is to give the names and addresses of the promoter, manager and members of the committee of the proposed art union and is to be in a form approved by the Minister.

**(2)** The Minister may refuse to consider any application which does not comply with the requirements of this clause.

#### **Lottery tickets not to be printed before permit obtained**

**5.** The organisers of a lottery must not authorise the printing of lottery tickets until a permit for the formation of the art union has been issued under section 6 of the Act.

Maximum penalty: \$1,000.

#### **Entry to lottery**

**6. (1)** Entry in a lottery is to be by means of a lottery ticket.

**(2)** A person must not issue a lottery ticket to any other person otherwise than:

(a) for money to the amount of the face value of the ticket; or

(b) for other consideration equivalent to the face value of the ticket,

except as provided by subclause (3).

Maximum penalty: \$1,000.

(3) Lottery tickets may be sold at a discount, but only if the fact that they may be so sold is disclosed in all information and publicity relating to the lottery concerned.

**Distribution of lottery tickets**

7. A person must not send a lottery ticket to any other person (whether for purchase by that other person or for sale by that other person as agent for the art union) except with the prior consent of the person.

Maximum penalty: \$1,000.

**Form of lottery tickets**

8. (1) Lottery tickets must be numbered consecutively.

(2) Each lottery ticket, other than a computer-generated ticket, must consist of a purchaser's portion, a ticket-butt and a drawing-docket, each of which complies with the requirements of clause 9.

(3) Each computer-generated lottery ticket must include a purchaser's portion (complying with the requirements of clause 9) and may include a ticket-butt or a drawing-docket or both.

(4) If a computer-generated lottery ticket (whether partly pre-printed or not) does not contain a ticket-butt or drawing-docket:

- (a) the computer records for the ticket must contain the information required by this Division to be shown on a ticket-butt; and
- (b) any document generated for inclusion in the draw must contain the information required by this Division to be shown on a drawing-docket,

as appropriate.

(5) The organisers of the lottery must ensure compliance with the requirements of this clause.

Maximum penalty: \$1,000.

**Information to be available to purchasers**

9. (1) The purchaser's portion of a lottery ticket must contain the following information:

- (a) the name of the art union;
- (b) the name of the organisation for whose benefit the lottery is being conducted;
- (c) the price of each lottery ticket;

- (d) details of the prizes and their value;
- (e) the place, date and time of the draw;
- (f) details of how the results of the draw will be publicised;
- (g) the number of tickets in the lottery;
- (h) the name and address of the promoter of the art union (as given on the application form for the permit pursuant to which the art union was formed);
- (i) the number of the permit issued in respect of the art union;
- (j) the serial number of the lottery ticket.

(2) A ticket-butt must show the name of the art union and the serial number of the lottery ticket and must contain provision for the name and address of the purchaser.

(3) A drawing-docket must show the serial number of the lottery ticket, but must not contain any provision for the name or address of the purchaser.

#### **Particulars to be recorded**

10. A person who sells a lottery ticket must, at the time of the sale:

- (a) cause the name and address of the purchaser or purchaser's nominee to be written legibly on the ticket-butt; or
- (b) in the case of a computer-generated ticket—cause the name and address of the purchaser or purchaser's nominee to be entered into the computer records in relation to the ticket.

Maximum penalty: \$1,000.

#### **Lottery tickets not to be sold on certain days**

11. A person must not sell lottery tickets on Christmas Day or Good Friday.

Maximum penalty: \$1,000.

### **Division 2—Draw for prizes**

#### **Draw for prizes to take place as advertised**

12. (1) A person must not change the place, date or time of the draw for the prizes, as specified on the tickets for the lottery, unless the change is given official approval.

Maximum penalty: \$1,000.

(2) If such a change is officially approved, the change is to be advertised in accordance with the directions of the person by whom the approval is given.

### **Return of butts and drawing-dockets**

13. Any person who has agreed to sell lottery tickets must, before the draw, return to the organisers of the lottery:

- (a) all butts and drawing-dockets (or appropriate computer-generated documents) relating to lottery tickets sold by the person; and
- (b) all money received from the sale of lottery tickets; and
- (c) all unsold tickets held by the person.

Maximum penalty: \$1,000.

### **All lottery tickets sold to be included in draw**

14. (1) The drawing-dockets (or relevant computer-generated documents) for all lottery tickets sold are to be included in the draw for the prizes, and each holder of a lottery ticket is to have an equal chance of winning a prize in respect of each lottery ticket that he or she holds.

(2) If the drawing-docket (or relevant computer-generated document) of a lottery ticket is not included in the draw, any money received from the sale of the ticket is to be refunded to the holder of the ticket within 7 days after the draw is held.

### **Conduct of draw**

15. (1) The winner of each prize in a lottery is to be determined by drawing lots.

(2) A mechanical or electronic device must not be used for the purpose of drawing lots unless the device has official approval.

(3) The draw is to be made:

- (a) by a person who has official approval, other than a person who is an organiser of the lottery; and
- (b) in the presence and under the supervision of 2 or more members of the committee of the art union.

(4) Any person who wishes to attend the draw may do so.

**Notification of prizewinners**

**16.** The organisers of a lottery must use their best endeavours:

- (a) to advise each prizewinner (within 2 days after the draw) of the prize that the prizewinner has won; and
- (b) to ensure that particulars of the result of the draw are published (within 7 days after the draw) in a newspaper circulating throughout New South Wales.

Maximum penalty: \$1,000.

**Division 3—Prizes****Prizes to be preserved**

**17.** The organisers of a lottery must carefully preserve all prizes in the lottery until the prizewinners have taken possession of them or until they have been sold pursuant to section 15 of the Act.

Maximum penalty: \$1,000.

**Maintenance of prizes comprising real property**

**18. (1)** The organisers of a lottery in which a prize includes real property must maintain any improvements erected on the property and must keep the property and improvements insured for their full market value against loss or damage until the date when the prize is transferred or conveyed to the prizewinner.

Maximum penalty: \$1,000.

**(2)** Until that date, the art union is liable for all outgoings on the property and is entitled to receive all rents and profits from the property.

**(3)** The prizewinner is liable for all outgoings on the property and is entitled to receive all rents and profits from the property on and from the date of the transfer or conveyance.

**(4)** Any necessary apportionment of outgoings, rents or profits is to be made as at the time of the transfer or conveyance.

**(5)** All rents and profits received by the art union (less any outgoings on the property) are taken to form part of the payments to the art union.

**Substitution of prizes**

**19. (1)** An application under section 6B (2) of the Act for the Minister's approval to the substitution of a prize in a lottery is to be signed by the promoter of the art union concerned.

- (2) The application is to contain the following information:
- (a) a description (including the retail value) of the prize that was to have been awarded;
  - (b) a description (including the retail value) of the new prize;
  - (c) the reason for the proposed substitution.
- (3) The application is to be accompanied by documentary evidence of the cost to the art union, and the retail value, of the new prize.
- (4) If the application relates to a major prize, it must also contain details of
- (a) the measures to be taken to inform purchasers of lottery tickets of the proposed substitution of the prize; and
  - (b) the opportunity to be given to those purchasers to obtain refunds.
- (5) The Minister may refuse to consider any application which does not comply with the requirements of this clause.
- (6) For the purposes of the definition of “major prize” in section 6B (1) of the Act, the prescribed amount is \$25,000.

#### **Prizes to be received by prizewinners**

20. Each prizewinner in a lottery is to receive only the prize which the prizewinner has won.

### **Division 4—Records and statements**

#### **Records to be kept**

21. (1) The organisers of a lottery must keep a record of the following:
- (a) the total amount of money received from the sale of lottery tickets;
  - (b) the total value of the prizes in the lottery;
  - (c) the number of lottery tickets printed, obtained or generated for the lottery, together with their serial numbers;
  - (d) the number of lottery tickets sold or distributed for sale, together with their serial numbers;
  - (e) the name and address of each person to whom lottery tickets have been distributed for sale, together with the number of tickets distributed and the serial numbers of those tickets;
  - (f) the names and addresses of all persons who have applied to the art union for lottery tickets;

- (g) the names and addresses of all persons who have bought lottery tickets (as shown on the relevant ticket-butts or computer records);
  - (h) the names and addresses of all prizewinners, together with details of their prizes;
  - (i) the number of lottery tickets unsold and their serial numbers;
  - (i) details of all donations and payments received by the art union.
- (2) The organisers must also keep all receipts, invoices and other records concerning costs and other outgoings, and donations and other payments received, in relation to the lottery.

### **Retention and inspection of records**

**22. (1)** The organisers of a lottery:

- (a) must retain the following material for the prescribed period:
  - the records that this Regulation requires to be kept;
  - all unsold lottery tickets;
  - all accounts and other documents, and all computer records, relating to the conduct of the lottery; and
- (b) must make that material available for inspection, examination and copying by any person authorised by the Minister, the Auditor-General or the Commissioner of Police to inspect, examine or copy it; and
- (c) must cause that material to be produced to any person so authorised at such times and places as that person directs.

Maximum penalty: \$1,000.

(2) A person to whom any such material is produced may retain all or any of it for the purposes of an investigation as to whether there has been a contravention of the Act or this Regulation and for the purposes of any proceedings arising from such an investigation.

(3) For the purposes of this clause, “the prescribed period” is:

- (a) the period of 3 months after the date of the draw, in the case of drawing-dockets or corresponding computer-generated documents relating to a lottery; and
- (b) the period of 7 years after the date of the draw, in the case of all other material relating to a lottery,

or such shorter period as is given official approval either generally or in a particular case.



**Submission of statement etc.**

**23. (1)** The statement required to be furnished under section 5 (1A) (b) of the Act is to be lodged with the Minister by the promoter of the art union within 2 months after the draw for the prizes in the lottery conducted by the art union is held.

**(2)** The statement must include the following details:

- (a) details of any unclaimed prizes and other assets of the art union (including details of their retail value and of the name and address of the person having custody of them);
- (b) details of all money (other than payments for lottery tickets) received by or on behalf of the art union (including details of the source of the money);
- (c) details of all donations (other than donations in the form of money) received in connection with the promotion or conduct of the lottery;
- (d) details of all payments made for services rendered in connection with the promotion or conduct of the lottery.

**(3)** The statement must be accompanied by a report prepared by a registered company auditor (within the meaning of the Corporations Law) to the effect that the art union's accounts have been audited and that those accounts give a true and fair view of the financial matters relating to the lottery concerned.

**Division 5—Miscellaneous****Information and publicity generally**

**24.** The organisers of a lottery must use their best endeavours to ensure that any information or publicity in connection with the lottery includes the following:

- (a) the name of the art union;
- (b) the name of the organisation for whose benefit the lottery is conducted;
- (c) the date of the draw;
- (d) the number of lottery tickets in the lottery;
- (e) the name and address of the promoter of the art union;
- (f) the number of the permit issued in respect of the art union.

Maximum penalty: \$1,000.

**Persons under 18 not to be involved in art union**

**25.** A person must not sell a lottery ticket to any person who is under the age of 18 years or permit such a person to take any part in the management of an art union.

Maximum penalty: \$1,000.

**Money to be banked**

**26. (1)** All money received by the organisers of a lottery in relation to the lottery is to be paid into an account at a bank or building society.

**(2)** The money must be paid into the account as soon as practicable, but in any case not later than 2 business days after receipt.

**Commission etc.**

**27. (1)** A person must not allow another person any remuneration from the funds received by an art union conducting a lottery, other than commission or remuneration for services rendered in connection with the lottery pursuant to a written agreement between that other person and the art union concerned.

**(2)** Such an agreement must specify:

- (a) the service to be rendered; and
- (b) the remuneration to be provided for that service; and
- (c) the period for which the agreement is to be in force.

**(3)** A person must not pay commission in respect of the sale of a lottery ticket unless the name and address of the purchaser of the ticket (or the name and address of the purchaser's nominee) have been recorded in accordance with clause 10.

Maximum penalty: \$1,000.

**Purchase of goods for disposal by lottery**

**28. (1)** Any person purchasing any goods, wares or merchandise on behalf of an art union for sale or disposal by means of a lottery must purchase them directly from a person whose business comprises the production or sale of goods, wares or merchandise of that kind, unless the person is given official approval to do otherwise.

Maximum penalty: \$1,000.

**(2)** Any discount, rebate, commission or other allowance provided in relation to the purchase of goods, wares or merchandise for sale or

disposal by means of a lottery is taken to be a donation received on behalf of the organisation for whose benefit the lottery is conducted.

### **Deduction of expenses of conduct of lottery**

**29. (1)** The organisers of a lottery may deduct the following amounts from money received in connection with a lottery:

- (a) the cost of purchasing the goods, wares or merchandise constituting prizes in the lottery;
- (b) the reasonable cost of printing, obtaining or generating the lottery tickets for the lottery;
- (c) the reasonable cost of advertising and promoting the lottery;
- (d) the reasonable cost of hiring or operating any device, or renting any premises, for use in the conduct of the lottery;
- (e) the amount of any prize money to be paid to winners in the lottery;
- (f) the amount of any reasonable salaries, wages and commission paid to persons assisting in the conduct of the lottery; and
- (g) the cost of auditing the accounts relating to the lottery.

**(2)** The organisers must not deduct any other amounts.

Maximum penalty (subclause (2)): \$1,000.

### **Unauthorised promotions**

**30. (1)** A person concerned in the conduct of a lottery must not suggest that any of the prizes may be exchanged for money.

**(2)** A person must not, in any information or publicity, refer to a lottery as being a lottery that is approved or authorised by the Government or by any Government agency.

Maximum penalty: \$1,000.

## **PART 3—MISCELLANEOUS**

### **Duties of organisers of lotteries**

**31.** Any duty imposed by this Regulation on the organisers of a lottery:

- (a) is imposed jointly and severally on each of them; and
- (b) may be performed by any one of them.

**Repeal**

32. The Lotteries and Art Unions (Art Unions) Regulations 1935 are repealed.

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## PART 3—MISCELLANEOUS

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**EXPLANATORY NOTE**

The purpose of this Regulation is to repeal the Lotteries and Art Unions (Art Unions) Regulations 1935 and to remake it as a plain-language Regulation. The new Regulation makes provision for:

- (a) the printing and distribution of lottery tickets by an art union; and
- (b) the conducting of the draw for prizes in a lottery conducted by an art union; and
- (c) the maintenance and substitution of prizes; and
- (d) the keeping of records; and
- (e) other matters of a consequential nature.

This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.

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