

1993—No. 211

LOTTERIES AND ART UNIONS ACT 1901—REGULATION

(Relating to the conducting of “no-draw” lotteries)

NEW SOUTH WALES



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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.

MRS ANNE COHEN, MP.,
Chief Secretary

Commencement

1. This Regulation commences on 1 July 1993

Amendments

2. The Lotteries and Art Unions (Lotteries and Games of Chance) Regulation 1992 is amended:

- by omitting from the definition of “lottery” in clause 3 the word “‘lottery’” and by inserting instead the words “‘draw lottery’”;
- by inserting in clause 3 in alphabetical order “draw lottery”, the following definitions:

“‘draw’ lottery ticket” means a lottery ticket used or prepared for use in a “draw” lottery;

“lottery” (when used without qualification) means a “draw” or “no-draw” lottery;

“lottery ticket” (when used without qualification) means a “draw” lottery ticket or a “no-draw” lottery ticket;

“‘no-draw’ lottery” means a lottery in which:

- (a) tickets or rights to participate are sold to entrants in the lottery; and
- (b) the tickets, or the cards or boards, conferring those rights each contain a hidden symbol, or a number of hidden symbols, that can be exposed by removing a covering of paper or other opaque material; and
- (c) the hidden symbols or sets of hidden symbols include prizewinning symbols or sets of prizewinning symbols that are randomly distributed among the tickets or cards; and
- (d) a participant, on exposing a hidden symbol or set of hidden symbols that accords with another symbol or set of symbols specified in the rules of the lottery (whether displayed on the ticket or card or not), has a right under those rules to receive a specified prize;

“‘no-draw’ lottery card” means a card or board, produced for a “no-draw” lottery, which contains hidden symbols or sets of hidden symbols that may confer on participants in the lottery a right to a prize when the symbol or symbols are exposed;

“‘no-draw’ lottery ticket” means a ticket, produced for a “no-draw” lottery, which contains hidden symbols or sets of hidden symbols that may confer on participants in the lottery a right to a prize when the symbol or symbols are exposed;

- (c) by inserting after clause 3 the following clause:

Notes in the text

3A. A note in the text of this Regulation is an explanatory note only and does not form part of this Regulation. It is provided only in order to assist understanding.

- (d) by omitting from the heading to Part 2 the word “LOTTERIES” and by inserting instead the words “‘DRAW’ LOTTERIES”;
- (e) by omitting from clause 4 the word “lotteries” and by inserting instead the words “‘draw’ lotteries”;
- (f) by omitting clause 5 and by inserting instead the following clause:

Entry to a “draw” lottery

5. (1) Entry to a “draw” lottery is to be by the purchase of a “draw” lottery ticket.

(2) A person is to be sold a “draw” lottery ticket only:

- (a) for the amount of money displayed on the ticket concerned; or
- (b) for other consideration equivalent to that amount.

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

- (g) by omitting from clause 6 the words “Lottery tickets” and by inserting instead the words “‘Draw’ lottery tickets”;
- (h) by omitting from clause 7 (1) the words “lottery tickets prepared for use in a lottery” and by inserting instead the words “‘draw’ lottery tickets”;
- (i) by omitting from clause 7 (1) the words “lottery tickets”, where secondly and thirdly occurring, and by inserting instead the words “‘draw’ lottery tickets”;
- (j) by omitting from clauses 7 (2), (3) and (4), 8 (1) and (4), 9 and 11 (1) and (2) the words “lottery ticket”, wherever occurring, and by inserting instead the words “‘draw’ lottery ticket”;
- (k) by omitting from clauses 8 (3), 12 (1), 13 (1), 14 (1), 15 and 17 the words “a lottery”, wherever occurring, and by inserting instead the words “a ‘draw’ lottery”;
- (l) by omitting from clauses 8 (3), 10, 11 (1) and 15 (2) and (3) (paragraph (e) excepted) the words “lottery tickets”, wherever occurring, and by inserting instead the words “‘draw’ lottery tickets”;
- (m) by omitting from clause 9 the words “a lottery”, where secondly occurring, and by inserting instead the words “a ‘draw’ lottery”;
- (n) by omitting from clause 10 the matter “\$1,000” and by inserting instead the matter “10 penalty units”;
- (o) by omitting from clause 15 (3) (c) the words “printed, obtained or generated” and by inserting instead the words “produced or acquired”;
- (p) by omitting from clause 15 (3) (e) the words “person to whom lottery tickets have been distributed for sale” and by inserting instead the words “agent of the organisers to whom ‘draw’ lottery tickets have been distributed”;
- (q) by omitting from clause 18 the words “the lottery” and by inserting instead the words “the ‘draw’ lottery concerned”;

(r) by inserting after Part 2 the following Part:

PART 2A—CONDUCT OF “NO-DRAW” LOTTERIES
Division 1—Preliminary

Application

18A. This Part applies to “no-draw” lotteries conducted under section 4 of the Act and started on or after 1 July 1993.

NOTE: 1 July 1993 was the date on which this Part commenced.

Division 2—“No-draw” lottery tickets and cards

Entry to a “no-draw” lottery

18B. (1) Entry to a “no-draw” lottery is to be by the purchase of a “no-draw” lottery ticket or, if the lottery is conducted by means of “no-draw” lottery cards, the purchase of a right to participate in the lottery.

(2) A person is to be sold a “no-draw” lottery ticket, or a right to participate in a “no-draw” lottery conducted by means of “no-draw” lottery cards, only:

- (a) for the amount of money displayed on the ticket or “no-draw” lottery card concerned; or
- (b) for other consideration equivalent to that amount.

(3) However, “no-draw” lottery tickets and rights to participate in a “no-draw” lottery conducted by means of “no-draw” lottery cards may be sold at a discount, but only if it is disclosed that they may be so sold in all information and publicity relating to the “no-draw” lottery concerned.

(4) The charge for a “no-draw” lottery ticket, or for the right to participate in a “no-draw” lottery conducted by means of “no-draw” lottery cards, must not exceed \$2.00.

Distribution of “no-draw” lottery tickets etc.

18C. “No-draw” lottery tickets and “no-draw” lottery cards are not to be sent to any person (whether for purchase by that person or for sale by that person as agent for the organisers of the lottery) except with the prior consent of the person.

Not more than one “no-draw” lottery to be conducted for a non-profit organisation at any one time

18D. (1) A non-profit organisation that is conducting a “no-draw” lottery must ensure that no other “no draw” lottery is conducted by or on behalf of the organisation until the first-mentioned lottery is concluded.

(2) For the purposes of subclause (1), a “no-draw” lottery is concluded when all the tickets or rights to participate in the lottery:

- (a) are sold; or
- (b) are withdrawn from sale; or
- (c) are partly sold with the remainder having been withdrawn from sale.

Numbering of “no-draw” lottery tickets etc.

18E. (1) Each series of “no-draw” lottery tickets or “no-draw” lottery cards must be distinguished from each other series of “no-draw” lottery tickets or “no-draw” lottery cards by an identifying series number or symbol that is unique to the lottery and the tickets or cards of each series must be numbered consecutively.

(2) “No-draw” lottery tickets and “no-draw” lottery cards must be produced in such a way as to ensure that the symbol or symbols that may confer on participants a right to a prize cannot be determined without removing the opaque material that covers the symbol or symbols.

(3) In addition to complying with subclause (1), each “no-draw” lottery ticket or “no-draw” lottery card must:

- (a) specify the price to be paid for the ticket or for the right to participate in the lottery; and
- (b) specify the name of the organisation for whose benefit the lottery is being conducted.

(4) “No-draw” lottery cards must make provision for the names, and the addresses or telephone numbers, of participants to be recorded on the cards.

(5) In the case of a “no-draw” lottery conducted by means of “no-draw” lottery tickets, no more than 3,000 lottery tickets are to be produced, used or offered for sale for the lottery.

Information to be available to purchasers of “no-draw” lottery tickets etc.

18F. (1) The organisers of a “no-draw” lottery must use their best endeavours to ensure that the following additional information is available to potential participants in a “no-draw” lottery:

- (a) details of the prizes and their value;

- (b) details of how prizes may be claimed by the winners or, in the case of a “no-draw” lottery where participants are not able to determine whether they have won a prize (either immediately or by reference to the outcome of some subsequent event which the public may reasonably be expected to know about), details of how the prizewinners will be notified and of the way in which the results will be publicised;
- (c) the rules under which persons may participate in the lottery,

(2) It is sufficient compliance with the requirements of subclause (1) if the information is printed on the “no-draw” lottery tickets or “no-draw” lottery cards concerned.

Return of unsold “no-draw” lottery tickets etc.

18G. (1) Any person who has agreed to sell tickets or rights to participate in a “no-draw” lottery must, when requested by the organisers of the lottery to do so and in any event as soon as the lottery is concluded, return to the organisers of the lottery:

- (a) all money received from the sale of those tickets or rights; and
- (b) in the case of a “no-draw” lottery conducted by means of “no-draw” lottery cards—all “no-draw” lottery cards issued to the person; and
- (c) in the case of a “no-draw” lottery conducted by means of “no-draw” lottery tickets—all unsold tickets held by the person.

Maximum penalty: 10 penalty units.

(2) For the purposes of subclause (1), a “no-draw” lottery is concluded when all the tickets or rights to participate in the lottery:

- (a) are sold; or
- (b) are withdrawn from sale; or
- (c) are partly sold with the remainder having been withdrawn from sale.

Division 3—Miscellaneous

Notification of prizewinners in certain cases

18H. In the case of a “no-draw” lottery where participants are not able to determine whether they have won a prize (either

immediately or by reference to the outcome of some subsequent event which the public may reasonably be expected to know about), the organisers of the lottery must use their best endeavours to advise each prizewinner, within 2 days after the result of the lottery is determined, of the prize that the prizewinner has won.

Money to be banked

181. (1) All money received by the organisers of a “no-draw” lottery in relation to the lottery must 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.

Records to be kept

18J. (1) The organisers of a “no-draw” lottery must keep all receipts, invoices and other records concerning the costs and other outgoings, and donations and other payments received, in relation to the lottery.

(2) The organisers of a “no-draw” lottery must also keep a record of each of the following:

- (a) the total amount of money received from the sale of lottery tickets or, if the lottery is conducted by means of “no-draw” lottery cards, from the sale of rights to participate in the lottery;
- (b) the total value of prizes in the lottery;
- (c) the total number of “no-draw” lottery tickets or “no-draw” lottery cards produced or acquired for the lottery, together with the relevant serial numbers and the relevant unique identifying series number or symbols;
- (d) the total number of “no-draw” lottery tickets or “no-draw” lottery cards distributed and the total number of lottery tickets or rights to participate in the lottery that were sold, together with the relevant serial numbers and the relevant unique identifying series number or symbols;
- (e) the name and address of each agent of the organisers to whom “no-draw” lottery tickets or “no-draw” lottery cards have been distributed, together with the number of tickets or cards issued to the person and the relevant serial numbers and the relevant unique series identifying number or symbols;
- (f) the names and addresses of all prizewinners, together with details of their prizes;

(g) the number of tickets or rights to participate in the lottery remaining unsold and the serial numbers of those tickets or the relevant lottery cards.

Maximum value of prizes

18K. For the purposes of section 4 (3) (a) of the Act, the prescribed amount is \$5,000 for a “no-draw” lottery.

Prizes to be received by prizewinners in a “no-draw” lottery

18L. Each prizewinner in a “no-draw” lottery is to receive only the prize that the prizewinner has won.

Errors not to affect the availability of prizes

18M (1) A participant in a “no-draw” lottery is not to be deprived of an entitlement to a prize in the lottery merely because of a mistake in the production of the relevant “no-draw” lottery tickets or “no-draw” lottery cards.

NOTE: For example, a non-profit organisation must not refuse to hand over a prize only because “no-draw” lottery tickets or “no-draw” lottery cards produced for a lottery include more prize winning symbols than the organisation or an agent of the organisation intended.

(2) Subclause (1) applies even though the pool of prizes or money set aside for the purchase of prizes has been exhausted or is insufficient to provide the relevant prize, but does not apply when:

- (a) the mistake is in the prizewinning symbol or symbols on the relevant lottery ticket or lottery card; and
- (b) the purchaser of the ticket or right to participate in the lottery, at or before the time of purchase, was provided with information as to, or was otherwise aware of, the prizes being offered by the organisers.

(3) The cost of supplying additional prizes as a result of the operation of this clause:

- (a) is to be met by the organisers of the lottery; and
- (b) is not to be met from the receipts of the lottery unless the lottery is conducted by the organisation concerned as principal.

Application for reduction in percentage of takings to be paid to organisation

18N. An application under section 4 (4) of the Act in relation to a “no-draw” lottery is to be made to the Minister in writing and is to specify the circumstances of an unusual nature which arose in connection with the conduct of the lottery,

Dispensing machines not to be used for the sale of “no-draw” lottery tickets

18O. A person who sells “no-draw” lottery tickets by means of a coin-operated ticket dispensing machine is guilty of an offence.

Maximum penalty: 5 penalty units.

- (s) by inserting in clause 29 (1) (a), after the words “unsold lottery tickets”, the words “and all “no-draw” lottery cards (whether the participatory rights in those cards are sold or unsold)”;
- (t) by omitting from clause 29 the matter “\$1,000”, wherever occurring, and by inserting instead the matter “10 penalty units”;
- (u) by inserting in clause 30 (3), after the words “a lottery”, the words “(other than a “no-draw” lottery)”;
- (v) by omitting from clause 32 (b) the words “printing, purchasing or generating the tickets” and by inserting instead the words “producing or acquiring the tickets, cards or boards”.

EXPLANATORY NOTE

The object of this Regulation is to regulate the operation of “no-draw” lotteries (such as “scratch” and “break-open” lotteries) conducted by or on behalf of non-profit making organisations under the authority conferred by section 4 of the Lotteries and Art Unions Act 1901.

The Lotteries and Art Unions (Lotteries and Games of Chance) Regulation 1992, as amended by this Regulation, will, in the case of a “no-draw” lottery:

- provide that a participant in the lottery is not to be deprived of an entitlement to a prize in the lottery merely because of a mistake in the production of the relevant “no-draw” lottery tickets or “no-draw” lottery cards; and
- require “no-draw” lottery tickets and cards to be produced so that prize-winning symbols cannot be ascertained except by removing the opaque coverings concealing the symbols; and
- require “no-draw” lottery tickets and cards to display a serial number, specify the purchase price and the name of the organisation for whose benefit the lottery is being conducted and, where appropriate, make provision for the name and contact particulars of entrants to be recorded on the relevant ticket or card; and
- prohibit more than 3,000 tickets or rights to participate from being sold for the lottery; and
- prohibit the lottery from being conducted by or for an organisation if any other “no-draw” lottery is currently being conducted by or for the organisation; and
- prohibit the purchase price for a ticket or the right to participate in the lottery from exceeding \$2.00; and

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- prohibit the total value of prizes in a “no-draw” lottery from exceeding \$5,000: and
- require the organiser of the lottery to ensure that information about the prizes being offered and the rules of participation are made available to potential participants in the lottery; and
- require sellers of “no-draw” lottery tickets or rights to participate in the lottery to return to the organiser of the lottery all unsold tickets, all “no-draw” lottery cards and the proceeds of all sales: and
- require the organiser of the lottery to keep details of the tickets or cards produced or acquired for the lottery, the number of tickets or rights to participate that has been sold, the amount of the proceeds of sale, the prizes offered, the names and addresses of all prizewinners and the names and addresses of agents engaged to sell tickets or rights to participate in the lottery; and
- require the organiser of the lottery, where appropriate, to notify each prizewinner of the result of the lottery within 2 business days of the determination of the result; and
- prohibit coin-operated dispensing machines from being used for the sale of “no-draw” lottery tickets.

This Regulation is made under the Lotteries and Art Unions Act 1901, including section 23 (the general regulation making power).