

NEW SOUTH WALES LOTTERIES ACT 1990—REGULATION
(New South Wales Lotteries (Instant Lotteries) Regulation 1994)

NEW SOUTH WALES



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HIS Excellency the Governor, with the advice of the Executive Council, and in pursuance of the New South Wales Lotteries Act 1990, has been pleased to make the Regulation set forth hereunder.

Mrs Anne Cohen, MP
Chief Secretary.

PART 1—PRELIMINARY

Note. In this Regulation there are a number of references to action to be taken by NSW Lotteries. Under section 18 of the Act, the General Manager of NSW Lotteries may take the action concerned. The section provides that the affairs of NSW Lotteries are managed and controlled by the General Manager. Any act, matter or thing done by the General Manager in the name of, or on behalf of, NSW Lotteries is taken to be done by NSW Lotteries.

Citation

1. This Regulation may be cited as the New South Wales Lotteries (Instant Lotteries) Regulation 1994.

Commencement

2. This Regulation commences on 1 September 1994.

Definitions

3. (1) In this Regulation:

“agency” means a place at which an agent is authorised by NSW Lotteries to do any one or more of the following things:

- (a) sell tickets in instant lotteries;
- (b) process entries in promotional lotteries;
- (c) carry out any other functions relating to the conduct and promotion of instant lotteries or promotional lotteries;

“agent” means an agent appointed by NSW Lotteries to do any one or more of the following things:

- (a) sell tickets in instant lotteries;
- (b) process entries in promotional lotteries;
- (c) carry out any other functions relating to the conduct and promotion of instant lotteries or promotional lotteries;

Note. Under section 7 of the Act, the functions of NSW Lotteries include the appointment of agents. NSW Lotteries may appoint agents on such terms and conditions as it sees fit and may do so by written or other agreement.

“entry fee” in a promotional lottery does not, if the form of entry in the lottery requires the entrant to have purchased a ticket in an instant lottery, include the cost of that ticket;

“instant lottery” has the same meaning as in section 33A of the Act;

“promotional lottery” means a lottery (whether known as “Second Chance Draw” or by another name):

- (a) that is conducted by NSW Lotteries for the purpose of promoting or marketing an instant lottery; and
- (b) that may be entered in such manner as may be determined by NSW Lotteries under Part 3; and
- (c) for which no entry fee is charged by NSW Lotteries;

“the Act” means the New South Wales Lotteries Act 1990;

“tobacco” means tobacco prepared for use, whether in the form of a cigarette or cigar or as part of a mixture intended for smoking.

(2) A reference in this Regulation to a ticket in an instant lottery or an entry in a promotional lottery includes, where a prize in that lottery is won by combining two or more tickets or entries, a reference to the combination of tickets or entries.

Notes

4. Notes included in this Regulation are explanatory notes and do not form part of this Regulation.

PART 2—INSTANT LOTTERIES**Price of entries in instant lotteries**

5. (1) NSW Lotteries is to set the amount payable to NSW Lotteries in respect of the sale of tickets in an instant lottery.

(2) NSW Lotteries is to set the commission payable to agents in respect of the sale of tickets in an instant lottery.

(3) The commission payable to any agent is not to exceed the amount set under subclause (2).

Instant lottery prizes

6. (1) The prizes payable in an instant lottery are to consist of one or more of the following:

- (a) money;
- (b) tickets in an instant lottery;
- (c) tickets in any other lottery;
- (d) such other prizes as may (subject to this clause) be determined by NSW Lotteries.

(2) A prize in an instant lottery must not consist of or include tobacco.

(3) A prize in an instant lottery may consist of or include liquor within the meaning of the Liquor Act 1982. However, the liquor component of any such prize is to be limited to such proportion of the total value of the prize, or such quantity, as may be determined by the Minister.

Determination of prizes

7. (1) NSW Lotteries is to determine the number of tickets in an instant lottery, the amount of money prizes and the number and nature of other prizes.

(2) The prizes payable in respect of an instant lottery are to be determined:

- (a) by exposing the matter in one or more panels on tickets in the lottery; or
- (b) in such other manner (if any) as is approved by NSW Lotteries for the purposes of that lottery.

(3) Without limiting subclause (2), prizes in an instant lottery may be determined by the inclusion of tickets in the lottery in a draw.

(4) If any prizes in an instant lottery are to be determined in a manner approved under subclause (2) (b), NSW Lotteries is to give notice of the manner of determination:

- (a) by indicating the manner of determining the prize on each ticket in the instant lottery; or
- (b) by publicly advertising the manner of determination of the prize, or both.

Draw for instant lottery prizes

8. (1) This clause applies when NSW Lotteries determines that some of the prizes in an instant lottery are to be determined by a draw.

(2) A ticket in an instant lottery is eligible to be included in a draw in such circumstances as may be indicated or publicly advertised in accordance with clause 7 (4).

(3) A draw is to be conducted at such times and in such manner as NSW Lotteries may determine.

(4) Prizewinners in a draw are to be selected at random by such means (including the use of mechanical, electronic or other devices or aids) as the Minister may approve.

(5) A draw is to be carried out under the control and direction of NSW Lotteries or by a person appointed in writing by NSW Lotteries for that purpose, either generally or in any particular case.

(6) NSW Lotteries is, as far as is reasonably practicable, to ensure the security, performance and accuracy of any device or aid used in connection with a draw.

(7) Each draw in an instant lottery is to be open to the public.

(8) NSW Lotteries is, if possible, to notify prizewinners in a draw that they have won a prize and may require them to claim the prize before payment of the prize.

Functions of Auditor-General

9. (1) NSW Lotteries is to cause an official record to be kept of the names and addresses of the prizewinners in each draw under clause 8 and a copy of that record is to be forwarded to, and be retained by, the Auditor-General.

(2) A draw is not to be carried out except in the presence of the Auditor-General or an officer from the office of the Auditor-General nominated by the Auditor-General.

(3) The Auditor-General is to report to the Minister any aspect of practice or procedure at any draw which, in the opinion of the Auditor-General, was irregular or undesirable or prejudicial to the fairness of the draw.

(4) The Auditor-General or the nominee of the Auditor-General may, at any reasonable time, inspect and test any device or aid used in connection with any draw.

PART 3—PROMOTIONAL LOTTERIES

Conduct of promotional lotteries

10. (1) NSW Lotteries may conduct a promotional lottery in such manner at such times and places as NSW Lotteries determines.

(2) A promotional lottery may be conducted in conjunction with an instant lottery or separately from an instant lottery.

Form of entry

11. (1) NSW Lotteries is to determine the form of entries in a promotional lottery and that will be used by NSW Lotteries in determining whether one or more prizes have been won in the promotional lottery.

(2) Without limiting subclause (1). NSW Lotteries may determine that entries in a promotional lottery are to be in the form of any of the following (or combination of the following):

- (a) portions of tickets in an instant lottery nominated by NSW Lotteries;
- (b) any other tickets or documents;
- (c) entries made by means of an electronic or mechanical device or by a telecommunications system.

(3) If entries in a promotional lottery are to consist of portions of instant lottery tickets:

- (a) the manner in which each game is to be played is to be clearly displayed on separate portions of each ticket; and
- (b) the play areas of the instant lottery and promotional lottery are to be displayed on separate portions of each ticket.

(4) If entries in a promotional lottery are to consist of tickets or documents, a ticket or document issued to an entrant in the promotional lottery:

- (a) constitutes the entrant's official receipt; and

- (b) is, following its acceptance, to constitute the entrant's acknowledgment of the details on the entry; and
- (c) is to be the only document issued by NSW Lotteries or its agents to the entrant evidencing the processing of an entry in the promotional lottery.

Prizes in promotional lotteries

12. (1) The prizes payable in a promotional lottery may consist of one or more of the following:

- (a) money;
- (b) holidays;
- (c) travel;
- (d) accommodation;
- (e) services or goods provided by persons or bodies other than NSW Lotteries, whether or not for valuable consideration;
- (f) such other prizes as may (subject to this clause) be determined by NSW Lotteries.

(2) A prize in a promotional lottery must not consist of or include tobacco.

(3) A prize in a promotional lottery may consist of or include liquor within the meaning of the Liquor Act 1982. However, the liquor component of any such prize is to be limited to such proportion of the total value of the prize, or such quantity, as may be determined by the Minister.

Determination of prizes

13. (1) NSW Lotteries is to determine the number and nature of prizes in each promotional lottery.

(2) NSW Lotteries is to publicly advertise the number and nature of, and the conditions relating to payment of, prizes in each promotional lottery conducted by it.

(3) NSW Lotteries may change or alter the nature of any prize offered in a promotional lottery, including (but not limited to) the following:

- (a) the replacement of any holiday destination offered as a prize or part of a prize with another holiday destination;
- (b) the replacement of any mode of travel offered as a prize or part of a prize with another mode of travel;
- (c) the replacement of any form of accommodation offered as a prize or part of a prize with another form of accommodation;

(d) the conversion of any prize (or part of a prize) provided by another person or body into a money equivalent.

(4) The prizes in a promotional lottery are payable in such manner as is approved by NSW Lotteries for the purposes of the lottery.

Agreements relating to promotional lotteries

14. NSW Lotteries may enter into agreements or arrangements with other persons or bodies for the purpose of promoting any promotional lottery.

PART 4—PAYMENT OF PRIZES

Payment of instant lottery prizes

15. A prize in an instant lottery is payable only on presentation of a ticket in the lottery indicating that the prize has been won and after NSW Lotteries has determined that the ticket is valid and has won the prize.

Note. Section 33B of the Act provides that a prize is not payable in an instant lottery if the ticket concerned does not satisfy any verification code or other test used by NSW Lotteries to determine whether it is a valid ticket and whether it has won a prize. One purpose of such a code or test is to prevent forgery or fraudulent alteration of tickets. Clause 20 sets out some additional circumstances when a prize is not payable.

Payment of promotional lottery prizes

16. (1) A prize is not payable in a promotional lottery unless:

- (a) the entry submitted in the lottery is in the form determined by NSW Lotteries under clause 11; and
- (b) if the form of entry requires the entrant to have purchased a ticket in an instant lottery, the ticket satisfies any test used by NSW Lotteries to determine whether the ticket is valid,

and the claimant has complied with all conditions relating to the promotional lottery advertised under clause 13.

(2) NSW Lotteries may record on an entry in a promotional lottery a verification code or other test and use it to determine whether the entry in a promotional lottery is a valid entry and whether it has won a prize. A prize is not payable in respect of an entry in a promotional lottery on which such a test is recorded if the entry does not satisfy the test.

Payment of money prizes

17. (1) A money prize in an instant lottery or a promotional lottery may be paid to the person presenting a prizewinning ticket in the instant lottery, or entry in the promotional lottery, or to a person who has

submitted a prizewinning entry in a form other than a ticket or other document in the promotional lottery:

- (a) in the case of a prize below an amount to be specified from time to time by NSW Lotteries—at any agency or office of NSW Lotteries or at such other location as NSW Lotteries may, from time to time, determine; and
 - (b) in the case of a prize above an amount to be specified from time to time by NSW Lotteries—at such locations as NSW Lotteries may, from time to time, determine.
- (2) A prize in an instant lottery or a promotional lottery may be paid:
- (a) by cheque posted to the person whose name and address is shown on the prizewinning ticket or entry, or as is otherwise indicated on submission of the prizewinning entry; or
 - (b) by such other means as NSW Lotteries may from time to time determine.
- (3) Any cheque drawn in payment of a prize:
- (a) must be made payable to the order of one named prizewinner as shown on the prizewinning ticket or shown on, or otherwise indicated on submission of, the prizewinning entry; and
 - (b) must be crossed and marked “not negotiable”.
- (4) Payment by cheque is taken to have been effected when payment of the cheque has been made by the bank on which the cheque is drawn.

Identity

18. NSW Lotteries may require a claimant for a prize in an instant lottery or promotional lottery:

- (a) to furnish such evidence of the claimant’s identity as NSW Lotteries thinks sufficient to establish the claimant’s identity; and
- (b) to verify that evidence in such manner as NSW Lotteries considers appropriate.

Effect of payment

19. (1) NSW Lotteries need not inquire into the entitlement to claim a prize of any person who presents a prizewinning ticket in an instant lottery or presents or submits a prizewinning entry in a promotional lottery.

(2) Payment of a prize to such a claimant in accordance with this Part discharges NSW Lotteries from any action, liability, claim or demand from any other person in relation to the entry.

Note. In some cases the person claiming a prize may intend to hold the prize on behalf of another person e.g. an adult may claim a prize on a ticket the adult purchased as a gift for a child, an executor may claim a prize to be held on behalf of the purchaser of a ticket who has died. NSW Lotteries has no obligation to inquire into such arrangements or to ensure the claimant carries out his or her obligations.

Additional circumstances when prizes not payable

20. (1) A prize is not payable in an instant lottery or promotional lottery:

- (a) if the ticket in the instant lottery or an entry in the form of a ticket or document in the promotional lottery presented by the claimant for the prize is damaged; or
- (b) if the ticket or entry is stolen or is a ticket or entry that has been printed but not issued by NSW Lotteries; or
- (c) if NSW Lotteries has reasonable cause to suspect there has been unauthorised use of a computer linked terminal in relation to the verification code or any other test used in determining whether the ticket or entry is a valid ticket or entry and whether it has won a prize; or
- (d) if the purchaser of the ticket has tendered insufficient payment or commission for the ticket or has presented a cheque that is subsequently dishonoured or if the form of payment tendered is not otherwise acceptable to NSW Lotteries; or
- (e) in such other circumstances as are specified on the ticket or entry or as have been publicly advertised by NSW Lotteries in relation to the lottery.

(2) A prize in an instant lottery or promotional lottery is not payable to a person apparently under the age of 18 years.

Note. Section 36 of the Act makes it an offence to accept a subscription in a public lottery from any person who is under the age of 18 years.

(3) NSW Lotteries must use its best endeavours to notify a person whose name and address is shown on a ticket or entry on which a prize is not payable under this clause and must provide reasons why the prize is not payable.

(4) Nothing in subclause (1) prevents a prize from being paid in respect of a damaged ticket or entry if NSW Lotteries determines that the ticket or entry is a valid ticket or entry and that it has won a prize. However, NSW Lotteries is not to pay a prize of \$5,000 or more in respect of a damaged ticket or entry without the approval of the Minister.

(5) In this clause:

“computer linked terminal” means computer equipment that is located in an office of NSW Lotteries or an agency and that is linked to the central processing computer of NSW Lotteries and enables NSW Lotteries or an agent to verify that a ticket in an instant lottery or entry in a promotional lottery is a valid ticket or entry and whether it has won a prize.

Unclaimed instant lottery prizes

21. (1) In this clause, “unclaimed prize” means a prize in an instant lottery which remains unclaimed for a period of 2 years from the date on which the sale of tickets in that instant lottery first commenced.

(2) NSW Lotteries is to cause to be published in the Gazette, at least once in each year, a list containing the following particulars of each unclaimed prize:

- (a) the instant lottery in respect of which the prize was awarded;
- (b) the prizewinning sequential entry number;
- (c) the value of the prize;
- (d) the name of the prizewinner, if known.

(3) Particulars of an unclaimed prize included in a list under this clause need not be included in any subsequent list under this clause.

(4) NSW Lotteries may use funds arising from unclaimed prizes towards the payment of prizes (including bonus prizes consisting of tickets) in any public lottery.

(5) The use of an unclaimed prize under this clause does not affect a prizewinner’s entitlement to the prize.

PART 5—MISCELLANEOUS

Publicity

22. (1) A claimant of a prize in an instant lottery may indicate that anonymity is desired by clearly marking the box styled “NFP” on the ticket in the lottery with a cross or tick to indicate that the details relating to the claimant shown on the ticket should not be published.

(2) The identity of a person who has marked a ticket in this manner must not be published by NSW Lotteries.

(3) A person may at any time revoke a request for anonymity and participate in any promotion or marketing of NSW Lotteries’ products.

Printing of tickets and entries

23. (1) NSW Lotteries is to cause tickets in instant lotteries and entries in the form of tickets or other documents in promotional lotteries to be printed.

(2) The Auditor-General (or a person nominated by the Auditor-General) may, at any reasonable time:

- (a) inspect any tickets printed for an instant lottery; and
- (b) inspect any entries printed for a promotional lottery; and
- (c) inspect and test any device or aid used for or in connection with the printing of tickets in instant lotteries or entries in promotional lotteries.

Display of Regulation

24. This Regulation must be displayed and made available for inspection at each office of NSW Lotteries and at each agency.

Application of Regulation

25. This Regulation applies to all instant lotteries and promotional lotteries promoted or conducted after the commencement of this Regulation.

Repeal

26. The State Lotteries (Instant Lotteries) Regulation 1983 is repealed.

Consequential amendment

27. The State Lotteries (General) Regulation 1989 is amended by omitting clause 3 and by inserting instead the following clause:

Application

3. The provisions of this Regulation do not apply to or in respect of an instant lottery or a promotional lottery referred to in the New South Wales Lotteries (Instant Lotteries) Regulation 1994.

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EXPLANATORY NOTE

The object of this Regulation is to repeal and remake, with a number of modifications, the State Lotteries (Instant Lotteries) Regulation 1983. That Regulation was made under the State Lotteries Act 1930 which has been repealed by the New South Wales Lotteries Act 1990. A number of modifications relate to changes flowing from the abolition by that Act of the State Lotteries Office and its replacement by NSW Lotteries.

Other significant modifications include provisions:

- for or with respect to the payment of prizes to supplement those contained in section 33B of the Act relating to verification of tickets and prizes payable in instant lotteries
- relating to promotional lotteries to be conducted by NSW Lotteries for the purpose of promoting or marketing instant lotteries
- to prohibit tobacco being offered as a prize and to limit the component of a prize that may consist of alcohol.

This Regulation is made under the New South Wales Lotteries Act 1990, including sections 33B (6) and 42 (the general regulation-making power). This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.
