

1995—No. 501

**NEW SOUTH WALES LOTTERIES ACT 1990—REGULATION**

(New South Wales Lotteries (General) Regulation 1995)

NEW SOUTH WALES



*[Published in Gazette No. 105 of 1 September 1995]*

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.

Richard Face  
Minister for Gaming and Racing.

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**PART 1—PRELIMINARY**

**Citation**

1. This Regulation may be cited as the New South Wales Lotteries (General) Regulation 1995.

**Commencement**

2. This Regulation commences on 1 September 1995.

**Application**

3. This Regulation applies to public lotteries (other than instant lotteries or promotional lotteries referred to in the New South Wales Lotteries (Instant Lotteries) Regulation 1994) conducted on or after the commencement of this Regulation.

**Definitions**

4. 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 lottery tickets in draw lotteries;

**1995—No. 501**

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(b) process entries in public lotteries to which this Regulation applies;

(c) carry out any other functions relating to the conduct and promotion of such public lotteries;

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

(a) sell lottery tickets in draw lotteries;

(b) process entries in public lotteries to which this Regulation applies;

(c) carry out any other functions relating to the conduct and promotion of such public lotteries;

**“approved”** means approved for the time being by NSW Lotteries;

**“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 lottery ticket, or an entry in a promotional lottery, is a valid lottery ticket or entry and whether it has won a prize;

**“draw lottery”** means a public lottery to which this Regulation applies that is conducted under Part 2;

**“lottery ticket”** means a ticket or other approved form of written notice issued under clause 8 or 22;

**“promotional lottery”** means a public lottery conducted under Part 3, being a public lottery:

(a) that is conducted for the purpose of promoting or marketing a draw lottery; and

(b) that may be entered in such manner as may be determined by NSW Lotteries; and

(c) for which no entry fee is charged by NSW Lotteries;

**“registered purchaser”** means a person whose personal details and requests relating to payment of prizes have been provided to NSW Lotteries, and recorded on the central processing computer of NSW Lotteries, for the purpose of providing that person with a registration service;

**“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.

**PART 2—CONDUCT OF DRAW LOTTERIES****Conduct of draw lotteries generally**

**5.** Draw lotteries are to be conducted at such times as NSW Lotteries may determine from time to time.

**Price of entries in draw lotteries**

**6. (1)** NSW Lotteries is to set the amount payable to NSW Lotteries in respect of the sale of lottery tickets in a draw lottery.

**(2)** NSW Lotteries is to set the commission payable to agents in respect of the sale of lottery tickets in a draw lottery.

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

**Purchase of entries in draw lotteries**

**7. (1)** An entry in a draw lottery may be purchased from any agency or office of NSW Lotteries by means of an application made in the approved manner.

**(2)** Each entry in a draw lottery is to be allocated a distinguishing number or numbers.

**(3)** An entry in a draw lottery is to be paid for:

- (a) in cash; or
- (b) by bank draft or money order payable at Sydney to “NSW Lotteries”; or
- (c) by cheque payable to “NSW Lotteries”.

**(4)** Except where NSW Lotteries holds an appropriate bank guarantee, an entry in a draw lottery is not to be accepted if a cheque is tendered for an amount exceeding such amount as may be determined from time to time by NSW Lotteries until the cheque has been cleared for payment.

**(5)** If a cheque for an amount not exceeding the amount determined under subclause (4) is tendered in payment for an entry in a draw lottery, NSW Lotteries may nevertheless require the cheque to be cleared before accepting the entry.

**Issue of lottery tickets**

**8. (1)** An entry that has been purchased in a draw lottery is to be evidenced by the issue of a ticket (or some other form of written notice) to the purchaser.

**(2)** A lottery ticket issued under this clause must include:

- (a) the details of each entry to which it relates; and
- (b) if applicable, the registration number of the registered purchaser.

(3) NSW Lotteries may record on a lottery ticket issued under this clause a verification code or other test and use it to determine whether the entry to which the lottery ticket relates is a valid entry and whether it has won a prize.

(4) A lottery ticket may be given to the purchaser personally or be sent by post to the purchaser at the address shown in NSW Lotteries' records relating to the purchaser.

(5) Acceptance by a purchaser of a lottery ticket issued under this clause is to constitute the purchaser's acknowledgment of the accuracy of the particulars appearing on the lottery ticket.

#### **Return of lottery tickets**

9. (1) A purchaser may return, and request a refund for, a lottery ticket purchased under clause 8 so long as it is returned on the day of purchase to the place of purchase and before the last entry in the draw lottery is sold. In the case of a lottery ticket purchased by mail, the ticket has to be returned to NSW Lotteries before the last entry is sold.

(2) The lottery ticket may then be cancelled. Once it has been cancelled, the purchaser is entitled to a refund of the full amount of any money paid in relation to any entry to which the lottery ticket relates.

(3) Cancellation of the lottery ticket renders the lottery ticket void and cancels any entry to which it relates.

(4) NSW Lotteries may re-issue the number of any cancelled lottery ticket in a draw lottery ticket in order to ensure that all numbers in the lottery are fully allocated.

#### **Date of draw**

10. NSW Lotteries is to:

- (a) appoint a date for the drawing of prizewinning numbers in a draw lottery; and
- (b) advise such print or electronic media as are determined by NSW Lotteries of that date.

#### **Drawing of prizewinning numbers**

11. (1) Prizewinning numbers in a draw lottery are to be selected at random by such means (which may consist of or include the use of mechanical, electronic or other devices or aids) as may be approved by the Minister.

(2) A drawing is to be conducted by the General Manager or by some other person appointed in writing by the General Manager for that purpose, either generally or in any particular case.

(3) It is the duty of the person by whom a drawing is conducted to ensure the security, performance and accuracy of any device or aid used in connection with the drawing.

(4) The drawing of prizewinning numbers in every draw lottery is to be open to the public.

(5) NSW Lotteries is to cause an official record to be kept of the prizewinning numbers in every draw lottery and is to cause a copy of the record to be furnished to the Auditor-General.

(6) A drawing is not to be carried out otherwise than in the presence of the Auditor-General or an officer from The Audit Office of New South Wales nominated by the Auditor-General.

(7) The Auditor-General is to report to the Minister any aspect of practice or procedure at any drawing that, in the Auditor-General's opinion, is irregular, undesirable or prejudicial to the fairness of the drawing.

(8) The Auditor-General, or the Auditor-General's nominee, may at any reasonable time inspect and test any device or aid used in connection with any drawing.

#### **Results of draw lotteries**

12. NSW Lotteries is to:

- (a) supply such print or electronic media as are determined by NSW Lotteries with the results of every draw lottery; and
- (b) make the results available in an approved manner to any person who requests that information.

#### **Prizes**

13. (1) The prizes payable in a draw lottery are to consist of one or more of the following:

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

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

(3) A prize in a draw 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.

### **PART 3—PROMOTIONAL LOTTERIES**

#### **Conduct of promotional lotteries**

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

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

#### **Form of entry**

**15.** (1) NSW Lotteries is to determine the form of entries in a promotional lottery and whether any prize has 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 a draw 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 tickets in a draw lottery:

- (a) the manner in which each lottery is to be conducted is to be clearly displayed on separate portions of each ticket; and
- (b) the play areas (if any) of the draw 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.

(5) 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.

### **Prizes in promotional lotteries**

**16. (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**

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

(2) NSW Lotteries is to publicly advertise, in such manner as it considers appropriate, the number and nature of, and the conditions relating to payment of, prizes in each promotional lottery.

(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) If NSW Lotteries changes or alters the nature of any prize offered in a promotional lottery, the replacement prize must be substantially similar to the offered prize.

(5) 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**

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

### **PART 4—PAYMENT OF PRIZES**

#### **Payment of draw lottery prizes generally**

19. (1) Subject to this Part, a prize in a draw lottery is payable on presentation of a lottery ticket in the draw lottery indicating that the prize has been won and after NSW Lotteries has determined that the lottery ticket is valid and has won the prize.

(2) Prizes other than money prizes or free tickets are to be forwarded to the prizewinner in such manner as is determined by NSW Lotteries.

#### **Payment of promotional lottery prizes**

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

- (a) the entry submitted in the promotional lottery is in the form determined by NSW Lotteries under clause 15; and
- (b) if the form of entry requires the entrant to have purchased a lottery ticket in a draw lottery, the ticket satisfies any test used by NSW Lotteries to determine whether the lottery ticket is valid,

and the claimant has complied with all conditions relating to the promotional lottery advertised under clause 17 (2).

(2) If NSW Lotteries records on an entry in a promotional lottery a verification code or test as referred to in clause 15 (5), a prize is not payable in respect of the entry if the entry does not satisfy the test.

#### **Payment of money prizes**

21. (1) A money prize in a public lottery:

- (a) may be paid by NSW Lotteries or an agent up to an amount determined by NSW Lotteries; or
- (b) may be paid by cheque posted to the prizewinner at the address shown in NSW Lotteries records relating to the purchaser (or to such other address as the prizewinner may specify); or



(c) may be paid in such other manner as may be determined by NSW Lotteries.

(2) If payment of a money prize is to be made by an agent, the prizewinner may collect the money prize from an agent (on the surrender of the relevant prizewinning lottery ticket or entry) at any time during a period determined by NSW Lotteries following the date on which the lottery was drawn.

(3) A prizewinner who does not collect a money prize from an agent during the period determined by NSW Lotteries:

- (a) in the case of a registered purchaser, is to be forwarded the prize by NSW Lotteries as soon as practicable after the expiry of the period; or
- (b) in any other case, is to be paid the prize by NSW Lotteries on claiming the prize from NSW Lotteries.

(4) A money prize above the amount determined by NSW Lotteries as payable by an agent is:

- (a) in the case of a prizewinner who is a registered purchaser, to be forwarded to the prizewinner by NSW Lotteries as soon as practicable after the draw; or
- (b) in any other case, to be paid to the prizewinner by NSW Lotteries on the prizewinner claiming the prize from NSW Lotteries.

(5) If payment of a money prize is to be made by NSW Lotteries, NSW Lotteries is to cause a cheque to be sent by post to the name and address shown in NSW Lotteries' records (including completed prize claim forms) for the purchaser to whom the relevant prizewinning lottery ticket or entry relates.

(6) 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 lottery ticket or shown on, or otherwise indicated on submission of, the prizewinning entry; and
- (b) must be crossed and marked "not negotiable."

(7) Payment by cheque is to be taken to be effected on the date the cheque is posted.

(8) A certificate signed by the General Manager to the effect that a particular cheque was posted on a particular date establishes, until the contrary is proved, that the cheque was posted on that date.

(9) If a person wins 2 or more money prizes in a public lottery, payment of those prizes may be made by means of a single cheque.

**Free entries in future draw lotteries**

**22. (1)** A free entry in a future draw lottery is to be evidenced by the issue of a ticket (or some other form of written notice) to the prizewinner.

**(2)** A lottery ticket issued under this clause is to bear:

- (a) the details of each entry to which it relates; and
- (b) if applicable, the registration number of the registered purchaser.

**(3)** A lottery ticket issued under this clause:

- (a) may be given to the prizewinner personally by NSW Lotteries or by an agent; or
- (b) in the case of a prizewinner who is a registered purchaser, may be posted to the prizewinner at the address shown in NSW Lotteries' records.

**(4)** A prizewinner may collect the lottery ticket issued under this clause from an agent at any time during a period determined by NSW Lotteries following the date on which the lottery was drawn.

**(5)** A prizewinner who does not collect the lottery ticket from an agent is:

- (a) in the case of a registered purchaser, to be forwarded the prize by NSW Lotteries; or
- (b) in any other case, to be given the prize by NSW lotteries on claiming the prize from NSW Lotteries.

**(6)** A person who is issued a lottery ticket under this clause is to be regarded as having purchased the entry which it evidences.

**Identity of claimant**

**23.** NSW Lotteries may require a claimant for a prize in a public lottery:

- (a) to furnish such evidence of the claimant's identity as NSW Lotteries considers sufficient to establish the claimant's identity; and
- (b) to verify that evidence in such manner as NSW Lotteries considers appropriate; and
- (c) to surrender to NSW Lotteries the lottery ticket or entry that evidences the prizewinning entry.

**Effect of payment**

**24. (1)** NSW Lotteries is not required to inquire into the entitlement to claim a prize of any person who presents a prizewinning lottery ticket or entry in a public 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 ticket or entry.

### **Disqualification**

**25. (1)** An entry in a public lottery may be disqualified if NSW Lotteries considers that it should be disqualified.

**(2)** Without limiting the generality of subclause (1), NSW Lotteries may disqualify an entry in a public lottery:

- (a) if the purchaser of the lottery ticket has tendered insufficient payment for the ticket or has presented a cheque that is subsequently dishonoured or if the form of payment is not otherwise acceptable to NSW Lotteries; or
- (b) if the purchaser has defaulted in respect of any payment for an entry in a previous draw lottery; or
- (c) if NSW Lotteries has reasonable cause to suspect that there has been fraud or attempted fraud; or
- (d) if the relevant lottery ticket or entry fails any security tests of NSW Lotteries; or
- (e) if NSW Lotteries has reasonable cause to suspect that there has been an unauthorised use of a computer linked terminal.

**(3)** NSW Lotteries may re-issue the number of any disqualified entry in a public lottery in order to ensure that all numbers in the lottery are fully allocated.

**(4)** NSW Lotteries is to attempt to notify a purchaser, whose name and address appears in NSW Lotteries' records, that an entry has been disqualified, including the reason for disqualification, and to refund any amount paid.

**(5)** If the name and address of a purchaser is unknown, NSW Lotteries is to publicise, in a manner determined by the General Manager, the disqualification of the entry.

### **Circumstances when prizes not payable**

**26. (1)** A prize is not payable in a public lottery:

- (a) if the lottery ticket or entry is, at the time the prizewinner claims the prize, damaged or lost; or
- (b) if the lottery ticket or entry is stolen or is a lottery 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; or

(d) if the purchaser of the lottery ticket has tendered insufficient payment for the lottery 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 lottery ticket or entry or as have been publicly advertised by NSW Lotteries in relation to the public lottery.

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

(3) NSW Lotteries must use its best endeavours to notify a person who has claimed a prize that the prize is not payable under this clause and must provide reasons why it is not payable.

(4) Nothing in subclause (1) prevents a prize from being paid in respect of a damaged or lost lottery 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 or lost lottery ticket or entry without the approval of the Minister.

### **Unclaimed prizes in draw lotteries**

27. (1) In this clause:

“**unclaimed prize**” means a prize in a draw lottery that remains unclaimed for a period of 2 years from the date on which the prize was first payable.

(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 of \$50 or more:

- (a) the draw lottery in which the prize was awarded;
- (b) the prizewinning 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 dispose of funds arising from unclaimed prizes by applying those funds in payment of prizes in any public lottery.

(5) The disposal of an unclaimed prize under this clause does not affect a prizewinner's entitlement to the prize in accordance with this Regulation.

**PART 5—MISCELLANEOUS****Registration service**

**28. (1)** NSW Lotteries may, on payment of a fee determined by NSW Lotteries, provide a registration service to persons wishing to purchase entries in draw lotteries.

**(2)** An application for registration as a registered purchaser may be made in the approved manner to NSW Lotteries or to an agent.

**(3)** A person is not to be registered as a registered purchaser if the person is apparently under the age of 18 years.

**(4)** A person who is registered as a registered purchaser is to be allocated a registration number.

**Publicity**

**29. (1)** The identity of a person claiming a prize in a draw lottery must not be published by NSW Lotteries if the person has requested anonymity.

**(2)** A request for anonymity may be made:

**(a)** in the case of a registered purchaser—by marking the appropriate section of the approved registration form; or

**(b)** in any other case—by indicating to NSW Lotteries when claiming the prize that the person does not want his or her identity published.

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

**(4)** Subclause (1) does not prevent NSW Lotteries from publishing the syndicate name of a prizewinner or the name of the suburb or other geographic area connected with the prizewinner. However, NSW Lotteries must not publish any such information if the prizewinner has requested NSW Lotteries not to publish it.

**Printing of lottery tickets and entries**

**30. (1)** NSW Lotteries is to cause lottery tickets in draw 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 lottery tickets printed for a draw 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 lottery tickets in draw lotteries or entries in promotional lotteries.

### **Display of Regulation**

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

### **Limitation of liability**

**32. (1)** If, as a consequence of a negligent act or omission by NSW Lotteries or by any agent or other person acting under the authority or on behalf of NSW Lotteries, a person's application for an entry in a public lottery is lost or destroyed, or is improperly dealt with:

- (a) NSW Lotteries is to refund to the person the full amount of any money paid in relation to the application; and
- (b) there is no entitlement to any prize in respect of the application; and
- (c) NSW Lotteries is under no liability in respect of the application.

**(2)** In the event that the particulars appearing on a lottery ticket are inconsistent with the particulars recorded in NSW Lotteries' records, then the latter is to apply to the exclusion of the former and is to determine what prize (if any) the purchaser may be entitled to.

**(3)** The payment of any prize or refund in accordance with this Regulation discharges NSW Lotteries from all liability in relation to that prize or refund.

**(4)** A prize or refund is to be taken to have been paid to a person when a cheque for the prize or refund is posted to the person notwithstanding any loss or delay in the delivery of, or any negotiation of, the cheque.

**(5)** If more than one name appears in NSW Lotteries' records in relation to a prizewinning entry, payment of a prize to any one person whose name so appears discharges NSW Lotteries from all liability in relation to that prize.

### **Repeal**

**33. (1)** The State Lotteries (General) Regulation 1989 is repealed.

**(2)** Any act, matter or thing that, immediately before the repeal of the State Lotteries (General) Regulation 1989, had effect under that Regulation continues to have effect under this Regulation.

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## NOTES

## TABLE OF PROVISIONS

## PART 1—PRELIMINARY

1. Citation
2. Commencement
3. Application
4. Definitions

## PART 2—CONDUCT OF DRAW LOTTERIES

5. Conduct of draw lotteries generally
6. Price of entries in draw lotteries
7. Purchase of entries in draw lotteries
8. Issue of lottery tickets
9. Return of lottery tickets
10. Date of draw
11. Drawing of prizewinning numbers
12. Results of draw lotteries
13. Prizes

## PART 3—PROMOTIONAL LOTTERIES

14. Conduct of promotional lotteries
15. Form of entry
16. Prizes in promotional lotteries
17. Determination of prizes
18. Agreements relating to promotional lotteries

## PART 4—PAYMENT OF PRIZES

19. Payment of draw lottery prizes generally
20. Payment of promotional lottery prizes
21. Payment of money prizes
22. Free entries in future draw lotteries
23. Identity of claimant
24. Effect of payment
25. Disqualification
26. Circumstances when prizes not payable
27. Unclaimed prizes in draw lotteries

## PART 5—MISCELLANEOUS

28. Registration service
  29. Publicity
  30. Printing of lottery tickets and entries
  31. Display of Regulation
  32. Limitation of liability
  33. Repeal
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**EXPLANATORY NOTE**

The object of this Regulation is to repeal and remake, with a number of modifications, the State Lotteries (General) Regulation 1989. 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:

- relating to the verification of tickets and prizes payable in draw lotteries
- relating to promotional lotteries to be conducted by NSW Lotteries for the purpose of promoting or marketing draw lotteries
- to prohibit tobacco being offered as a prize and to limit the component of a prize that may consist of alcohol
- requiring the Regulation to be displayed at NSW Lotteries offices and agencies.

This Regulation is made under the New South Wales Lotteries Act 1990, including section 42 (the general regulation making power), in particular, section 42 (1) (a). This Regulation is made in connection with the staged repeal of subordinate legislation under the Subordinate Legislation Act 1989.

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