



New South Wales

Community Gaming Regulation 2020

under the

Community Gaming Act 2018

Her Excellency the Governor, with the advice of the Executive Council, has made the following Regulation under the *Community Gaming Act 2018*.

KEVIN ANDERSON, MP
Minister for Better Regulation and Innovation

Explanatory note

The objects of this Regulation are as follows—

- (a) to prescribe gaming activities that are permitted under the *Community Gaming Act 2018* and the requirements for each of those gaming activities,
- (b) to specify gaming activities for which an authority must be obtained and to provide for applications and other matters relating to authorities,
- (c) to prescribe general requirements relating to gaming activities, including requirements as to fairness, rules, prizes, records and payment of proceeds,
- (d) to prohibit certain advertisements of permitted gaming activities,
- (e) to make further provision with respect to who is taken to conduct gaming activities,
- (f) to require gaming activities with annual gross proceeds exceeding \$250,000 to be audited,
- (g) to prescribe fees for authorities,
- (h) to specify offences for which penalty notices may be issued.

This Regulation is made under the *Community Gaming Act 2018*, including sections 6(2)(e), 8(5)(a), 10, 11, 12(1)(d), 13(4), 46 and 49 (the general regulation-making power).

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Community Gaming Regulation 2020

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Community Gaming Act 2018

Part 1 Preliminary

1 Name of Regulation

This Regulation is the *Community Gaming Regulation 2020*.

2 Commencement

This Regulation commences on 1 July 2020 and is required to be published on the NSW legislation website.

3 Definitions

(1) In this Regulation—

art union means a voluntary association formed to purchase prizes to be awarded by lot among members of the association for the purpose of raising funds to support—

- (a) a charitable organisation, or
- (b) a non-profit organisation, or
- (c) an object of a genuinely public or charitable character.

art union gaming activity has the meaning given by clause 4.

benefiting organisation means the person or body for whose benefit a gaming activity is conducted.

bingo—see clause 5(1).

calcutta means a gaming activity in which—

- (a) each participant pays a fee for a chance to win by lot a right in respect of a competitor in a sporting or racing event, and
- (b) those rights are auctioned, and
- (c) the holder of each right is entitled to elect—
 - (i) to sell the right at the auction and receive half of the proceeds of sale, or
 - (ii) to retain the right by making (and paying half of) the highest bid.

charitable organisation means an incorporated or unincorporated body formed for, or to benefit, a benevolent, philanthropic or patriotic purpose.

charity housie means a gaming activity permitted under clause 5(2).

chocolate wheel means a gaming activity in which—

- (a) numbered tickets are sold to participants, and
- (b) the numbers on the tickets correspond to numbers on a wheel that is spun to determine the prize winners, and
- (c) a participant wins a prize if the participant holds a ticket that corresponds to the number on which the wheel comes to rest after being spun.

club bingo means a gaming activity permitted under clause 5(4).

draw lottery means a lottery in which—

- (a) numbered tickets are sold to participants in the lottery, and
- (b) a draw is held in which 1 or more numbers (corresponding to the numbers on the tickets) is or are selected at random, and
- (c) prizes are distributed to the participants holding the tickets corresponding to the numbers selected.

Note. Examples of draw lotteries include raffles and guessing competitions.

free lottery means a gaming activity permitted under clause 10.

gross proceeds of a gaming activity means the total receipts received from the sale of tickets or from other payments by participants and donations before expenses are deducted.

housie—see clause 5(1).

liquor component means a part of a prize in a gaming activity consisting of or including liquor.

lottery means a gaming activity in which prizes are awarded by lot.

Note. Examples of lotteries include art union gaming activities, draw lotteries, no-draw lotteries and progressive lotteries.

lucky envelopes means a gaming activity in which a participant—

- (a) purchases a ticket that contains a concealed number, and
- (b) wins a prize if the concealed number matches a number displayed at the point of sale of the tickets.

mini-numbers lottery means a gaming activity in which participants choose or attempt to forecast, from designated numbers, fewer numbers to be drawn on a random basis.

no-draw lottery means a gaming activity in which—

- (a) participants purchase a right to participate in the gaming activity, and
- (b) the tickets, or the cards or boards conferring the rights to participate, each contain a hidden symbol (or a set 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 gaming activity (whether or not displayed on the ticket or card), has a right under those rules to receive a specified prize.

Note. Examples of no-draw lotteries include break-open lotteries, scratch lotteries and football doubles.

non-profit organisation means an incorporated or unincorporated body not formed or conducted for private gain.

progressive lottery means a gaming activity, other than a sweep or calcutta, in which a number of draws may be conducted on various dates over a stipulated period of time and includes—

- (a) a hundred club, silver circles or other gaming activity conducted along substantially similar lines, and
- (b) a tipping competition or other gaming activity conducted along substantially similar lines in which—

- (i) the participants predict the outcome or results of a sporting or other contingency, and
- (ii) points are awarded for successful predictions, and
- (iii) the prizes are wholly distributed in accordance with the rules of the competition, and
- (iv) periodical prizes may be awarded (in accordance with the rules of the competition).

publish has the same meaning as in section 9 of the Act.

registered club means a club that holds a club licence under the *Liquor Act 2007*.

session of a gaming activity means a number of games of the activity played in succession on the same occasion at the same place.

social housie means a gaming activity permitted under clause 5(3).

sweep means a gaming activity in which each participant pays a fee for a chance to win by lot a right in respect of a competitor in a sporting or racing event.

symbol includes amount, word or picture.

the Act means the *Community Gaming Act 2018*.

ticket includes a right to participate in a gaming activity.

trade promotion gaming activity means a gaming activity conducted for the purpose of promoting goods or services provided by a business.

Note. An example of a trade promotion gaming activity is a card jackpot game.

Note. The Act and the *Interpretation Act 1987* contain definitions and other provisions that affect the interpretation and application of this Regulation.

- (2) In this clause, a reference to a number is a reference to—
 - (a) 1 or more numbers or symbols (or numbers and symbols), or
 - (b) 1 or more groups of numbers or symbols (or numbers and symbols).
- (3) Notes included in this Regulation do not form part of this Regulation.

Part 2 Permitted gaming activities

4 Art union gaming activities

The awarding of prizes by lot by an art union (an *art union gaming activity*) is a permitted gaming activity for the purposes of section 10 of the Act if the following requirements are complied with—

- (a) not less than 30% of the gross proceeds of the gaming activity are paid to the benefiting organisation,
- (b) the total value of all the prizes exceeds \$30,000,
- (c) the maximum amount of money payable as a separate prize does not exceed \$30,000,
- (d) the person conducting the activity holds an authority to do so that is in force and the activity is conducted in accordance with the authority.

5 Housie or bingo

(1) Definition

In this Regulation—

housie or *bingo* means a gaming activity—

- (a) that is played by 1 or more participants using cards or a device with numbered spaces or symbols, and
- (b) during which numbered spaces or symbols identified randomly and announced are marked off by each participant who has a card or device on which the numbered space or symbol is displayed, and
- (c) that is won by the participant who is first able to mark off all numbered spaces or symbols on the card or device that are required to be marked off for a win.

(2) Charity housie

Charity housie is a permitted gaming activity for the purposes of section 10 of the Act if the following requirements are complied with—

- (a) the gaming activity is conducted by or on behalf of a charitable organisation,
- (b) not less than 12.5% of the gross proceeds of the gaming activity are paid to the benefiting organisation,
- (c) the total value of the expenses of conducting the gaming activity (excluding the cost of prizes) does not exceed 12.5% of the gross proceeds of the gaming activity,
- (d) the total value of all of the prizes for 1 session of the gaming activity does not exceed \$10,000 and does not exceed 75% of the gross proceeds from the gaming activity,
- (e) no more than 48 tickets are permitted to be sold to the same participant.

(3) Social housie

Social housie is a permitted gaming activity for the purposes of section 10 of the Act if the following requirements are complied with—

- (a) the gaming activity is conducted solely for social purposes,
- (b) the gaming activity is not conducted on premises to which a licence under the *Liquor Act 2007* relates,
- (c) except as provided by paragraph (d), the total value of all of the available prizes for 1 session of the gaming activity does not exceed \$40,

- (d) if 1 or more individual prizes are not won, the value of any jackpot prize does not exceed \$200,
- (e) the total amount invested by participants in a session of the gaming activity, after the costs of prizes and expenses of conducting the session are deducted, is returned to participants.

(4) Club bingo

Club bingo is a permitted gaming activity for the purposes of section 10 of the Act if the following requirements are complied with—

- (a) it is conducted by or on the authority of a registered club on the registered club premises for the purpose of attracting patronage to the club's facilities,
- (b) except as provided by paragraph (c), the total value of all of the available prizes for 1 game of the gaming activity does not exceed \$70,
- (c) if a bonus prize is offered at the end of a session of club bingo, only 1 prize of a value not exceeding \$70 may be offered,
- (d) none of the prizes consist of or include money.

6 Draw lotteries

A draw lottery is a permitted gaming activity for the purposes of section 10 of the Act if the following requirements are complied with—

- (a) the gaming activity is conducted by or on behalf of a charitable organisation or a non-profit organisation,
- (b) not less than 40% of the gross proceeds of the gaming activity are paid to the benefiting organisation,
- (c) the total value of all of the prizes does not exceed \$30,000.

7 No-draw lotteries

A no-draw lottery is a permitted gaming activity for the purposes of section 10 of the Act if the following requirements are complied with—

- (a) the gaming activity is conducted by or on behalf of a charitable organisation or a non-profit organisation,
- (b) not less than 40% of the gross proceeds of the gaming activity are paid to the benefiting organisation,
- (c) the total value of all of the prizes does not exceed \$5,000,
- (d) the total number of tickets produced or obtained for sale for the lottery does not exceed 3,000.

8 Mini-numbers lotteries

A mini-numbers lottery is a permitted gaming activity for the purposes of section 10 of the Act if the following requirements are complied with—

- (a) the gaming activity is conducted by or on behalf of a charitable organisation or a non-profit organisation,
- (b) not less than 40% of the gross proceeds of the gaming activity are paid to the benefiting organisation,
- (c) the total value of all of the prizes for 1 session of the gaming activity does not exceed \$20,000,
- (d) the total value of all of the prizes for 1 session of the gaming activity is not less than 50% of the gross proceeds of the mini-numbers lottery.

9 Progressive lotteries

A progressive lottery is a permitted gaming activity for the purposes of section 10 of the Act if the following requirements are complied with—

- (a) the maximum amount of money payable as a prize does not exceed \$7,000,
- (b) if the total value of all the prizes exceeds \$30,000, the person conducting the activity holds an authority to do so that is in force and the activity is conducted in accordance with the authority.

10 Free lotteries

A free lottery is a permitted gaming activity for the purposes of section 10 of the Act if the following requirements are complied with—

- (a) the gaming activity is not a progressive lottery or a trade promotion gaming activity,
- (b) participation is free,
- (c) none of the prizes consist of or include money,
- (d) the total value of all of the prizes for the gaming activity does not exceed \$30,000.

Note. An example of a free lottery is a lucky door or lucky seat promotion.

11 Promotional raffles conducted by registered clubs

A raffle conducted by or on the authority of a registered club is a permitted gaming activity for the purposes of section 10 of the Act if the following requirements are complied with—

- (a) the gaming activity is conducted on the registered club premises,
- (b) the gaming activity is conducted for the purpose of attracting patronage to the club's facilities,
- (c) at least 90% of the gross proceeds of the gaming activity are used to meet the cost of the prizes in the gaming activity or other similar gaming activities,
- (d) the total value of all of the prizes for a session of the gaming activity does not exceed \$5,000,
- (e) none of the prizes consist of or include money.

12 Other gaming activities for charitable purposes

- (1) A gaming activity (including a chocolate wheel or lucky envelopes) conducted by or on behalf of a charitable organisation is a permitted gaming activity for the purposes of section 10 of the Act if the following requirements are complied with—
 - (a) not less than 40% of the gross proceeds of the gaming activity are paid to the benefiting organisation,
 - (b) the total value of all of the prizes for 1 session of the gaming activity does not exceed \$5,000.
- (2) This clause does not apply to art union gaming activities, housie, lotteries, sweeps or calcuttas.

13 Sweeps and calcuttas

- (1) A sweep or calcutta is a permitted gaming activity for the purposes of section 10 of the Act if the following requirements are complied with—
 - (a) the gaming activity is conducted—
 - (i) for or on behalf of an approved fund raising organisation, or

- (ii) for social purposes,
 - (b) no payment or benefit is payable for the right to participate in the gaming activity, other than the stake money for the activity,
 - (c) if the total value of all the prizes exceeds \$30,000, the person conducting the activity holds an authority to do so that is in force and the activity is conducted in accordance with the authority,
 - (d) the applicable requirements in this clause.
- (2) Subclause (1)(b) does not apply to the charging of a fee for entry to a venue or function at which a sweep or calcutta is conducted if the fee is not related to the sweep or calcutta and is usually charged for the entry.
- (3) If a sweep or calcutta is conducted wholly or partly for or on behalf of an approved fund raising organisation—
 - (a) a reasonable amount of the gross proceeds is paid to the organisation, and
 - (b) the amount is agreed in writing before the sweep or calcutta is conducted.
- (4) If a sweep or calcutta is not conducted wholly or partly for or on behalf of an approved fund raising organisation, the gross proceeds are distributed to the holders of the rights in respect of the successful participants in the event to which the sweep or calcutta relates.
- (5) Despite subclauses (1) and (3), if a sweep or calcutta is conducted wholly or partly for or on behalf of an approved fund raising organisation, the amount of proceeds remaining after payment of prize money and the costs and expenses of the gaming activity may be paid for the purposes of the organisation, even if that amount exceeds the agreed amount of the gross proceeds.
- (6) In this clause—

approved fund raising organisation means the following—

 - (a) a charitable organisation or non-profit organisation,
 - (b) a political party or trade union,
 - (c) a registered club,
 - (d) a club registered under the Rules of Racing of Racing New South Wales,
 - (e) a greyhound racing club within the meaning of the *Greyhound Racing Act 2017*,
 - (f) a harness racing club within the meaning of the *Harness Racing Act 2009*.

14 Trade promotion gaming activities

A trade promotion gaming activity is a permitted gaming activity for the purposes of section 10 of the Act if the following requirements are complied with—

- (a) no entry or other fee is charged to participate in the gaming activity,
- (b) the written consent has been obtained to the conduct of the gaming activity from a person who is authorised by the business benefiting from the gaming activity to provide that consent,
- (c) if the total value of all the prizes exceeds \$10,000, the person conducting the activity holds an authority to do so that is in force and the activity is conducted in accordance with the authority.

Part 3 Authorities

15 Applications for authorities

- (1) An application for an authority is to be in the form approved by the Secretary.
- (2) The application must be accompanied by the fee set out in Schedule 1.

16 Duration of registration

- (1) An application for an authority or a renewal of an authority is to nominate one of the following terms of duration for the authority (the *nominated term*)—
 - (a) 1 year,
 - (b) 3 years,
 - (c) 5 years.
- (2) The Secretary may grant or renew an authority for the nominated term or, if satisfied that it is in the public interest to do so, a shorter term than the nominated term.
- (3) If an application for renewal of an authority has been made but the application is not finally determined by the Secretary before the expiry of the authority, the authority (if not suspended or sooner cancelled) continues in force until the application is finally determined.
- (4) If an authority is granted or renewed for a shorter term than the nominated term, the Secretary is to refund to the applicant the difference between the fee for the nominated term and the fee for the term that was granted.
- (5) The suspension of an authority does not affect the term of the authority.

17 Amendment of Licensing and Registration (Uniform Procedures) Act 2002 No 28

(1) Schedule 1 Licences to which Part 2 of Act applies

Insert in appropriate order—

Community Gaming Act 2018

section 11(1), authority to conduct permitted gaming activity

- (2) For the purpose of applying Part 2 of the *Licensing and Registration (Uniform Procedures) Act 2002* to an authority to conduct a permitted gaming activity—
 - (a) the authority may be amended under that Act, and
 - (b) sections 10(1), 15 and 18 of that Act do not apply to an application for an authority, and
 - (c) the reference to 14 days in section 14(3) of that Act (as to the period within which further information must be provided) is to be read as a reference to 21 days.

18 Application for authority to conduct art union gaming activity

- (1) This clause applies in addition to any other provision of this Part.
- (2) The Secretary may require an applicant for an authority to conduct an art union gaming activity to provide additional information relating to the following—
 - (a) the conduct of previous art union gaming activities by the applicant or persons associated with the applicant,
 - (b) a real property prize proposed for the gaming activity.

19 Time period for restoration of authorities

- (1) An application for the restoration of an authority must be made—
 - (a) within 3 months of the expiry of the authority, or
 - (b) within the further period determined by the Secretary on the application of the person seeking the restoration of the authority.
- (2) Without limiting subclause (1)(b), the Secretary may extend the period within which an application for the restoration of an authority may be made if the Secretary is satisfied that—
 - (a) in a case where the applicant failed to apply for renewal before the authority expired—the failure to apply for renewal was due to inadvertence, or
 - (b) it is just and equitable to restore the authority.
- (3) An authority that has been cancelled must not be restored.
- (4) An application for the restoration of an authority must—
 - (a) be made in the form approved by the Secretary, and
 - (b) be accompanied by the fee set out in Schedule 1, and
 - (c) nominate a term of duration for the authority.

20 Condition of authority—rules to be given to Secretary

It is a condition of each authority that no gaming activity take place under the authority unless, at least 10 working days before the gaming activity takes place, the Secretary has been given a copy of the rules of the gaming activity.

21 Register of authorities

- (1) The Secretary is to maintain a register containing information about authorities.
- (2) The register is to be available on the internet for access by members of the public free of charge.
- (3) The Secretary may include any information about authorities in the register including the following information—
 - (a) the name and business address of the holder of the authority,
 - (b) the number of the authority and particulars of the gaming activity for which it is issued,
 - (c) the date of issue and expiry date of the authority,
 - (d) any conditions to which the authority is subject,
 - (e) particulars of any enforcement actions taken against the holder of the authority in respect of the conduct of any gaming activity.

Part 4 Requirements for conduct of permitted gaming activities

Division 1 Offences

22 Offences

- (1) A person or body that conducts a gaming activity must ensure that every requirement of Division 2 or 3 that relates to the gaming activity, including the conduct of the gaming activity and the proceeds of the activity, is complied with.
Maximum penalty—50 penalty units.
- (2) If a body fails to comply with this clause, each trustee or other person who was a member of the governing body of the body at the time of the offence is guilty of an offence, if the trustee or person knowingly authorised or permitted the failure to comply.
Maximum penalty—50 penalty units.

23 Return of ticket-butts and drawing-dockets

A person who has agreed to sell tickets in an art union gaming activity or other lottery, a sweep or calcutta must, before the draw, return to the organisers of the gaming activity—

- (a) all ticket-butts and drawing-dockets (or appropriate computer-generated documents) relating to tickets sold by the person, and
 - (b) all money received from the sale of tickets, and
 - (c) all unsold tickets held by the person.
- Maximum penalty—20 penalty units.

Division 2 General requirements for gaming activities

24 Fairness

- (1) A permitted gaming activity must be conducted in a manner that a reasonable person would consider fair and impartial.
- (2) Without limiting subclause (1), the following apply to the conduct of a permitted gaming activity—
 - (a) all valid tickets or entries for the gaming activity must be included in the determination and selection of prize winners,
 - (b) the cost (if any) of participating in the gaming activity must be reasonable and clearly stated or made available to a participant before the participant agrees to participate in the gaming activity,
 - (c) participation in the gaming activity must not be limited in a way that is unfair or discriminates on the basis of a physical or other characteristic that is irrelevant to the gaming activity,
 - (d) if the prize winner is determined by a draw (however made) and is not awarded on the basis of a specific outcome, the prize winner should be determined randomly so that each ticket has a fair and equal chance of being drawn.
- (3) The person or body conducting a gaming activity must take all reasonable steps to ensure that, if there is a change in the way in which a gaming activity is conducted, including when the draw for prizes in a lottery takes place, information about the change is notified to participants or made publicly available within a reasonable time before the activity or draw takes place.

25 Rules of gaming activities—transparency

- (1) The person or body conducting a gaming activity must take all reasonable steps to ensure that rules are prepared for the gaming activity that—
 - (a) are clearly expressed and kept up to date, and
 - (b) set out the date when entry is closed for participation if applicable, and
 - (c) set out whether or not participants may enter more than once, and
 - (d) set out the prizes to be awarded and the value of each prize, and
 - (e) set out any costs of, or associated with, claiming a prize, and
 - (f) set out whether or not a participant may win more than 1 prize and any limits on the number of prizes a participant may win, and
 - (g) set out any age limit for participants, and
 - (h) set out whether or not bonus prizes may be awarded, and
 - (i) set out the manner in which disputes concerning the conduct of the gaming activity or claiming a prize are to be resolved, and
 - (j) identify the person conducting the gaming activity and any benefiting organisation, and
 - (k) prohibit the following persons from participating in the gaming activity—
 - (i) a person conducting the gaming activity including any person who determines who is to win a prize in the gaming activity,
 - (ii) a person involved in the management of any benefiting organisation, and
 - (l) if applicable, set out—
 - (i) the manner of determining, notifying and announcing the prize winners and the dates and times at which these will take place, and
 - (ii) the period for claiming a prize, and
 - (iii) the circumstances in which a redetermination of prize winners may occur, and
 - (m) if applicable, require that, if there is no prize winner or the prize winner cannot be found, that information must be published.
- (2) A person or body that conducts a gaming activity must comply with the rules of the gaming activity.

26 Rules of gaming activities to be made available

- (1) The person or body conducting a gaming activity must take all reasonable steps to ensure that the rules of the gaming activity are—
 - (a) made available, free of charge, to a participant or potential participant by the person or body conducting the activity if the participant or potential participant so requests, and
 - (b) made available—
 - (i) by displaying them in a prominent position on a publicly available website maintained by the person or body conducting the activity, or
 - (ii) by publishing them at the place where the gaming activity is being conducted.
- (2) It is sufficient for the purposes of subclause (1)(a) if the participant or potential participant is informed about the location of the rules made available in accordance with subclause (1)(b).

27 Display of authority number on advertising material

The holder of an authority to conduct a gaming activity must take all reasonable steps to ensure that any advertising material associated with the gaming activity clearly displays the authority number.

28 Changes to gaming activities to be notified by authority holders

- (1) If there is a substantial change to the conduct of a gaming activity (including a substantial change to the rules), the holder of the authority to conduct the gaming activity must—
 - (a) as soon as reasonably practicable after the change, give written notice of the change to the Secretary, and
 - (b) take reasonable steps to notify participants in the gaming activity of the change.
- (2) Without limiting subclause (1), any of the following may, depending on the circumstances, constitute a substantial change to the conduct of a gaming activity—
 - (a) a change to the prizes or the value of the prizes,
 - (b) a change in the date on which prize winners are to be determined or the method for determining prize winners,
 - (c) a change in the details of the authority holder,
 - (d) a significant change in the number of tickets.

29 Maximum cost of remote participation

- (1) This clause applies if a person who wishes to participate in a gaming activity is required to call a specified telephone number or to use a specified electronic application in order to participate in the gaming activity.
- (2) The person must be informed of the cost of participating by telephone or using an electronic application.
- (3) The cost of the telephone call, or to use the electronic application, must not exceed the standard costs and charges payable in respect of a local call or use of the electronic application.
- (4) The person or body that conducts the gaming activity must not receive, or be entitled to receive, directly or indirectly any money paid for the cost of providing a telephone service or electronic application used to participate in a gaming activity.

30 Records

- (1) A person or body that conducts a gaming activity for which an authority is required must keep records, as set out in subclauses (3) and (4), for a period of not less than 7 years after the gaming activity ceases.
- (2) A person or body that conducts a gaming activity for which an authority is not required must keep appropriate records, that may include the matters set out in subclause (3), for the period that the person or body thinks fit.
- (3) The records must set out the following—
 - (a) all expenses incurred in relation to the gaming activity,
 - (b) the date on or period during which the gaming activity was conducted,
 - (c) the date on which prize winners were determined and announced,
 - (d) the prizes offered and the total value of all prizes offered,
 - (e) the gross proceeds from the gaming activity,

- (f) the proceeds paid to the benefiting organisation (if applicable) and the ratio of those proceeds to the gross proceeds received, expressed as a percentage,
 - (g) if reasonably practicable, the names and contact details of the prize winners and the prizes won by them.
- (4) In the case of a gaming activity for which an authority is required, the records must include the following additional matters—
 - (a) a statement of the income and expenses related to the conduct of the gaming activity, including related assets and liabilities,
 - (b) the total amount of money (including donations) received from participants in the gaming activity,
 - (c) the number of tickets printed, obtained or generated (if applicable),
 - (d) the number of tickets sold or distributed for sale (if applicable),
 - (e) the number of unsold tickets (if applicable),
 - (f) in the case of a lottery, the names and contact details of all persons who bought tickets in the lottery, as shown on the relevant ticket-butts or corresponding computer records.
- (5) This clause does not apply to the following gaming activities—
 - (a) a trade promotion gaming activity,
 - (b) a free lottery,
 - (c) a sweep or calcutta,
 - (d) housie if—
 - (i) no charge is made for the right to participate in the gaming activity, or
 - (ii) the gross proceeds of the gaming activity, less costs and expenses properly incurred in connection with the conduct of the gaming activity, are wholly applied towards prizes or are otherwise returned to the players in accordance with the rules of the gaming activity,
 - (e) a progressive lottery if—
 - (i) the total amount received from the sale of tickets in the gaming activity is less than \$10,000, and
 - (ii) the gross proceeds of the gaming activity, less costs and expenses properly incurred in connection with the conduct of the gaming activity, are wholly applied towards prizes or are otherwise returned to the participants in the gaming activity in accordance with the rules of the gaming activity.

31 Deposit of proceeds

The person or body conducting a gaming activity must take all reasonable steps to ensure that—

- (a) money received in relation to a gaming activity is paid into an account at an authorised deposit-taking institution not later than 2 business days after the money is received, and
- (b) the account is—
 - (i) an account of the person or body, or
 - (ii) if the money is part of proceeds payable to a benefiting organisation, an account of the benefiting organisation.

32 Commission and other payments for gaming activities requiring authority

- (1) This clause applies to a gaming activity for which an authority is required.

- (2) A person must not provide remuneration to another person from the funds received from conducting a gaming activity unless—
 - (a) it is for payment of a commission or remuneration for services rendered in connection with the gaming activity, and
 - (b) it is provided under a written agreement with the person or body conducting the gaming activity, and
 - (c) the agreement specifies the services to be rendered, the commission or remuneration to be provided and the term of the agreement.
- (3) This clause does not authorise the payment of a commission or remuneration in connection with a gaming activity if the payment is prohibited by another provision of this Regulation.

33 Prohibited commissions

- (1) This clause applies to a gaming activity that is a sweep, calcutta, social housie, mini-numbers lottery or progressive lottery.
- (2) No payment may be made as a salary, wage, fee, commission, percentage or other benefit to a person who conducts a gaming activity to which this clause applies, whether or not the person participates in the gaming activity.
- (3) This clause does not prevent the payment of salary or wages to persons assisting in the promotion of a sweep or calcutta.

34 Deduction of expenses of conducting gaming activities

- (1) This clause does not apply to a gaming activity for which participation is free.
- (2) The following amounts are the only amounts that may be deducted from the gross proceeds of a gaming activity—
 - (a) the reasonable cost of producing or obtaining the tickets or the no-draw lottery cards for the gaming activity,
 - (b) the reasonable cost of advertising and promoting the gaming activity,
 - (c) the reasonable cost of hiring or operating a device, or renting premises, for use in the conduct of the gaming activity,
 - (d) the cost of prizes to be awarded, and the amount of any prize money to be paid, to prize winners,
 - (e) the amount of any reasonable salaries, wages and commission paid to persons assisting in the conduct of the gaming activity (if permitted under this Part),
 - (f) the reasonable cost of auditing the accounts relating to the gaming activity,
 - (g) other amounts that, under an authority, a person or organisation is permitted to deduct from money received in connection with the gaming activity to which the authority relates.

35 Benefiting organisation must authorise conduct of gaming activity

If a gaming activity is conducted wholly or partly for the purposes of raising funds for a charitable or non-profit organisation, the conduct of the gaming activity must be authorised in writing by the benefiting organisation.

36 Consecutive or concurrent gaming activities

- (1) If a gaming activity is conducted immediately following a gaming activity conducted at the same place for another purpose, the participants in the subsequent gaming activity must be notified before the commencement of that gaming activity that it is being conducted for a different purpose.

- (2) If a gaming activity is conducted concurrently with another gaming activity (the *concurrent activity*) at the same place for another purpose, the participants in the gaming activity must be notified before the commencement of the gaming activity that the concurrent activity is being conducted for a different purpose.

37 Payment of gross proceeds of progressive lotteries

- (1) The gross proceeds of a progressive lottery, less costs and expenses referred to in clause 34, must be wholly applied towards prizes in the gaming activity or returned to participants, subject to subclause (2).
- (2) If a progressive lottery is conducted wholly or partly for or on behalf of a charitable organisation or a non-profit organisation—
 - (a) a reasonable amount of the gross proceeds must be paid to the organisation, and
 - (b) the manner of calculating the amount must be agreed in writing with the organisation before the progressive lottery is conducted.

Division 3 Prizes and prize winners

38 Errors not to affect availability of prizes

- (1) A participant in a gaming activity is not to be deprived of a right to a prize in the lottery merely because of a mistake (such as the inclusion of the wrong number of prizewinning symbols) in the production of the tickets for the activity or cards used for the purpose of the activity.
- (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.
- (3) Subclause (1) does not apply if—
 - (a) the mistake is in the prizewinning symbol or symbols on the relevant ticket or card, and
 - (b) the purchaser of the ticket, at or before the time of purchase, was provided with information as to, or could reasonably be expected to be otherwise aware of, the prizes being offered by the organisers.
- (4) 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 gaming activity, and
 - (b) is not to be met from the gross proceeds of the gaming activity unless the gaming activity is conducted by the organisation concerned as principal.

39 Liquor prizes

- (1) A prize for a gaming activity may consist of or include liquor within the meaning of the *Liquor Act 2007*.
- (2) The liquor component of all the prizes in a gaming activity must not exceed—
 - (a) 20 litres of liquor with an alcohol content not exceeding 20% by volume, or
 - (b) 5 litres of liquor with an alcohol content exceeding 20% by volume.

40 Liquor prizes and minors

- (1) A person must not—
 - (a) sell a ticket for a prize having a liquor component to a person under the age of 18 years, or

- (b) give a prize having a liquor component to a person under the age of 18 years, or
- (c) permit a person under the age of 18 years to sell a ticket for a prize having a liquor component, or
- (d) permit a person under the age of 18 years to give a prize having a liquor component.

Maximum penalty—10 penalty units.

- (2) It is a defence to a prosecution under this clause if the defendant proves that he or she did not know, and could not reasonably have been expected to know, that the person to whom a ticket was sold or a prize given was under the age of 18 years.

41 Prohibited prizes

- (1) The following prizes are prescribed for the purposes of section 12 of the Act—
 - (a) a tobacco, smoking or vaping product (within the meaning of section 23 of the *Public Health (Tobacco) Act 2008*),
 - (b) the provision of cosmetic surgery,
 - (c) a prize involving the administration to a person of a substance to which Division 1A of Part 3 of the *Poisons and Therapeutic Goods Act 1966* applies,
 - (d) a prize that, if offered, contravenes a provision of any other law of this State or the Commonwealth.

Note. See section 45 of the *Gaming Machines Act 2001* which prohibits a promotional prize that exceeds \$1,000 in value in connection with an approved gaming machine.

- (2) In this clause—

cosmetic surgery means cosmetic surgery within the meaning of the *Private Health Facilities Regulation 2017* that is for the purpose of improving a person's personal appearance.

Note. The offering of a prize that is prohibited because of this clause would mean that the gaming activity is not a permitted gaming activity and the conduct of the activity would be an offence under section 8 of the Act.

42 Defence—entitlement of winner to prize

- (1) It is a defence to a prosecution for an offence under section 13 of the Act if the person or body complied with the requirements of clause 44 or 48.
- (2) It is a defence to a prosecution for an offence under section 13 of the Act if the person or body did not award the prize to the prize winner because of unforeseeable or other special circumstances.

43 Payment of monetary prizes

That part of a monetary prize for a gaming activity that exceeds \$5,000 must be paid—

- (a) if the prize winner so requests—by electronic funds transfer to an account nominated by the prize winner, or
- (b) in any other case—in a manner (other than in cash) that is agreed between the prize winner and the person paying the prize.

44 Changes to prizes

- (1) A prize winner who is determined to have won a prize in a gaming activity may be awarded a substitute prize that is different to the prize specified by the rules of the gaming activity if—

- (a) the specified prize is not available because of unforeseeable or other special circumstances, and
 - (b) the substitute prize is similar to the specified prize, and
 - (c) the substitute prize is of equal or greater value than the specified prize.
- (2) However, if the value of the specified prize exceeds \$100,000, a substitute prize must not be awarded unless, before the prize winners are determined, the participants in the gaming activity have been—
- (a) given written notice of the substitute prize, and
 - (b) offered the opportunity to choose whether to—
 - (i) continue to participate in the gaming activity, or
 - (ii) cease to participate in the gaming activity and to receive a refund of any entry fee paid to participate.

45 Maintenance of prizes comprising real property

The following requirements apply to a real property prize in a gaming activity before the prize is transferred or conveyed to the prize winner—

- (a) improvements erected on the property are to be maintained,
- (b) the property and improvements erected on the property are to be insured for their full market value against loss or damage,
- (c) all expenses accrued before the transfer in relation to the property have been paid,
- (d) all legal requirements relating to the property and the transfer of the property have been complied with.

46 Preservation of prizes

- (1) The person or body conducting a gaming activity must take all reasonable steps to ensure that this clause is complied with.
- (2) The prizes in a gaming activity must be carefully preserved until the prize winners have taken possession of them or they have been disposed of in accordance with this Part.

47 Scrutiny of determination of prizes

- (1) This clause applies to a gaming activity for which an authority is required.
- (2) The determination of prize winners for the gaming activity is to be carried out in the presence and under the supervision of a person who is independent of the person or body conducting the gaming activity and the benefiting organisation (if applicable).
- (3) The Secretary may exempt a person or body conducting a gaming activity from the requirement to comply with this clause.

48 Unclaimed prizes where authority required

- (1) This clause applies to a gaming activity for which an authority is required.
- (2) For the purposes of this clause, a prize is taken to be unclaimed if the person or body conducting the gaming activity cannot, after making all reasonable inquiries, award the prize to the prize winner because the prize winner cannot be located or because of other special circumstances.

Note. Section 13 of the Act provides that the prize winner must be awarded the prize but provides for a defence where the prize winner cannot be located.

- (3) The prize winner may be redetermined in the time specified in the rules of the gaming activity or, if no time is specified, at least 3 months after the prize winner was previously determined.
- (4) An unclaimed prize that is perishable may be sold or otherwise disposed of by or on behalf of the person or body conducting the gaming activity.

Part 5 Miscellaneous

49 Conduct of gaming activity

For the purposes of section 6(2)(e) of the Act, a person who conducts a gaming activity on behalf of another person is also a person who conducts the gaming activity.

50 Proceeds requirements may be varied by Secretary

- (1) This clause applies to a gaming activity if this Regulation requires that a specified or other amount of proceeds of the activity be paid to a benefiting organisation.
- (2) The Secretary may, on application by the person conducting the gaming activity, vary or remove the requirement in its application to a specified activity if the Secretary is satisfied that—
 - (a) the specified amount is not able to be paid, or
 - (b) in the circumstances of the case, it is not reasonable to apply the requirement.
- (3) If a requirement that applies to a gaming activity is varied or removed by the Secretary under this clause and the proceeds of the activity are paid in accordance with the decision of the Secretary, the gaming activity is taken to be a permitted activity despite the fact that the proceeds are not paid in accordance with the varied or removed requirements.

51 Fees

- (1) The fees payable for the purposes of the Act are listed in Schedule 1.
- (2) An amount specified in relation to an application fee in Column 3 of the Table to clause 1 of Schedule 1 under the heading “**Processing component**” is taken to be a fee to cover the costs incurred by the Secretary in processing the application.

Note. This amount is consequently a **processing fee** for the purposes of Part 2 of the *Licensing and Registration (Uniform Procedures) Act 2002*. If an application is made by electronic communication, the processing fee is discounted (see section 13 of that Act). If an application is refused or withdrawn, the applicant is entitled to a refund of all fees paid, other than the processing fee (see section 22 of that Act).

52 Advertising of gaming activities

A person must not cause to be published an advertisement promoting a gaming activity that—

- (a) encourages a breach of the law, or
- (b) depicts children participating in a gaming activity, or
- (c) suggests that winning will be a definite outcome of entering or participating in the gaming activity, or
- (d) suggests that entering or participating in the gaming activity will definitely improve a person’s financial prospects.

Maximum penalty—50 penalty units.

53 Audit of conduct of gaming activities

- (1) The accounts of a person or body that conducts a gaming activity must be audited annually by a qualified auditor if the gross proceeds of the gaming activity, or of gaming activities conducted by the person or body in a year commencing on 1 July, exceed \$250,000.
- (2) The audit is to cover the accounts that relate to receipts and expenses in connection with the gaming activity or gaming activities.

- (3) The auditor must report on the following—
- (a) whether the accounts show a true and fair view of the financial result of the gaming activity or gaming activities,
 - (b) whether the accounts and associated records have been properly kept,
 - (c) whether money received as a result of the gaming activity or gaming activities has been properly accounted for and applied in accordance with the Act and this Regulation,
 - (d) the solvency of the person or body.
- (4) A person or body must ensure that its accounts are audited in accordance with this clause.
Maximum penalty—50 penalty units.
- (5) If a body fails to comply with this clause, each trustee or other person who was a member of the governing body of the body at the time of the offence is guilty of an offence, if the trustee or person knowingly authorised or permitted the failure to comply.
Maximum penalty—50 penalty units.
- (6) A person is a **qualified auditor** for the purposes of this clause if the person—
- (a) is a registered company auditor within the meaning of the Corporations Act, or
 - (b) is an authorised audit company within the meaning of the Corporations Act, or
 - (c) is a member of a professional accounting body within the meaning of the *Australian Securities and Investments Commission Act 2001* of the Commonwealth and holds a Public Practice Certificate or Certificate of Public Practice issued by the body, or
 - (d) is a person who has been nominated by the person whose records and documents are to be audited and who has been approved by the Secretary by order in writing.
- (7) A person is not a **qualified auditor** for the purposes of this clause if the person has been, at any time within 2 years before the last day of the period in respect of which the audit is to be made, or is—
- (a) an employee or partner of the person whose accounts are to be audited, or
 - (b) engaged in the business carried on by the person whose accounts are to be audited, other than as an auditor for the purposes of this clause.
- (8) A reference in this clause to a person engaged in a business carried on by another person (the **business operator**) is a reference to a person—
- (a) who is engaged by the business operator, other than as an employee of the business operator, to provide services in the course of the business conducted by the business operator, or
 - (b) whose services are or have been provided to the business operator in the course of the business carried on by the business operator, other than as an employee of the business operator, under an arrangement entered into by the business operator with another person.
- (9) In this clause—
Corporations Act means the *Corporations Act 2001* of the Commonwealth.

54 Secretary's power to waive, reduce, postpone or refund fees

The Secretary may waive, reduce, postpone or refund, in whole or part, a fee payable or paid under the Act or this Regulation if the Secretary is satisfied it is appropriate because—

- (a) the person who is to pay or has paid the fee is suffering financial hardship, or
- (b) special circumstances exist.

Note. An example of 'special circumstances' is circumstances involving a natural disaster or recovery from a natural disaster.

Schedule 1 Fees

(Clauses 15, 19 and 51)

1 Fees

The following fees are payable under this Regulation—

Column 1	Column 2	Column 3	Column 4
Matter for which fee payable	Fixed component (in fee units)	Processing component (in fee units)	Total fee (in fee units)
Application for authority (including restoration or renewal), for 1 year	1.0	3.0	4.0
Application for authority (including restoration or renewal), for 3 years	3.0	3.0	6.0
Application for authority (including restoration or renewal), for 5 years or period other than 1 or 3 years	5.0	3.0	8.0

2 Definitions

In this Schedule—

CPI number means the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics in the latest published series of that index.

financial year means a period of 12 months commencing on 1 July.

3 Calculation of fee unit

- (1) For the purposes of this Schedule, a **fee unit** is—
- until the end of the financial year 2020–2021—\$105.48, and
 - in each subsequent financial year—the amount calculated as follows—

$$100 \times \frac{A}{B}$$

where—

A is the CPI number for the March quarter in the financial year immediately preceding the financial year for which the amount is calculated.

B is the CPI number for the March quarter of 2017.

- The amount of a fee unit is to be rounded to the nearest cent (and an amount of 0.5 cent is to be rounded down).
- However, if the amount of a fee unit calculated for any financial year is less than the amount that applied for the previous financial year, then the amount for that previous financial year applies instead.

4 Rounding of fee amounts

The amount of a fee calculated by reference to a fee unit is to be rounded to the nearest dollar (and an amount of 50 cents is to be rounded up).

5 Notice of indexed fees

- (1) As soon as practicable after the CPI number for the March quarter is first published by the Australian Statistician, the Secretary is required to—
 - (a) notify the Parliamentary Counsel of the amount of the fee unit for the next financial year so that notice of the amount can be published on the NSW legislation website, and
 - (b) give public notice on the website of the Department of the actual amounts of the fees applying in each financial year resulting from the application of the amount of a fee unit calculated under this Schedule.
- (2) This Schedule operates to change an amount of a fee that is calculated by reference to a fee unit and that change is not dependent on the notification or other notice required by this clause.

Schedule 2 Penalty notice offences

1 Application of Schedule

- (1) For the purposes of section 46 of the Act—
- (a) each offence created by a provision specified in this Schedule is an offence for which a penalty notice may be issued, and
 - (b) the amount payable for the penalty notice is the amount specified opposite the provision.
- (2) If the provision is qualified by words that restrict its operation to limited kinds of offences or to offences committed in limited circumstances, the penalty notice may be issued only for—
- (a) that limited kind of offence, or
 - (b) an offence committed in those limited circumstances.

Column 1	Column 2
Provision	Penalty
Offences under the Act	
Section 8(1)	\$550
Section 8(2)	\$550
Section 8(3)	\$550
Section 8(4)	\$550
Section 9(1)	\$550
Section 13(2)	\$550
Section 30(6)	\$550
Section 33(2)	\$550
Section 34(2)	\$550
Section 39	\$1,100
Section 45(2)	\$1,100
Offences under this Regulation	
Clause 22(1)	\$1,100
Clause 23	\$220
Clause 52	\$550
Clause 53(5)	\$550