

CHAPTER 20

RULES OF THE LOTTERY COMMISSION

Authority

N.J.S.A. 5:9-7.

Source and Effective Date

R.1998 d.237, effective April 21, 1998.
See: 30 N.J.R. 1030(a), 30 N.J.R. 1848(a).

Chapter Expiration Date

In accordance with N.J.S.A. 52:14B-5.1c, Chapter 20, Rules of the Lottery Commission, expires on October 18, 2003. See: 35 N.J.R. 1518(a).

Chapter Historical Note

Chapter 20, Rules of the Lottery Commission, was adopted as R.1971 d.5, effective January 5, 1971. See: 2 N.J.R. 104(a), 3 N.J.R. 31(a).

Chapter 20, Rules of the Lottery Commission, was repealed and a new Chapter 20, Rules of the Lottery Commission, Subchapters 1 through 7, was adopted by R.1983 d.472, effective November 7, 1983. See: 15 N.J.R. 1361(a), 15 N.J.R. 1871(e). Subchapter 8, Lottery Vendors' Code of Ethics, was adopted as R.1984 d.30, effective February 21, 1984. See: 15 N.J.R. 2030(a), 16 N.J.R. 380(a). Subchapter 9, Civil Penalties and Sanctions, was adopted as R.1984 d.456, effective October 15, 1984. See: 16 N.J.R. 2074(a), 16 N.J.R. 2826(a).

Pursuant to Executive Order No. 66(1978), Chapter 20, Rules of the Lottery Commission, was readopted as R.1988 d.501, effective September 26, 1988. See: 20 N.J.R. 2048(a), 20 N.J.R. 2795(a).

Pursuant to Executive Order No. 66(1978), Chapter 20, Rules of the Lottery Commission, was readopted as R.1993 d.310, effective June 1, 1993. See: 25 N.J.R. 1347(b), 25 N.J.R. 2701(b).

Pursuant to Executive Order No. 66(1978), Chapter 20, Rules of the Lottery Commission, was readopted as R.1998 d.237, effective April 21, 1998. See: Source and Effective Date. See, also, section annotations.

CHAPTER TABLE OF CONTENTS

SUBCHAPTER 1. GENERAL PROVISIONS

- 17:20-1.1 Scope
- 17:20-1.2 Erroneous or mutilated tickets
- 17:20-1.3 Persons prohibited from purchasing tickets or shares
- 17:20-1.4 Background investigations as a condition of employment or access

SUBCHAPTER 2. DEFINITIONS

- 17:20-2.1 Definitions

SUBCHAPTER 3. DIRECTOR

- 17:20-3.1 Disputes over ownership or validity of winning lottery tickets

SUBCHAPTER 4. LOTTERY AGENT'S APPLICATION AND LICENSE

- 17:20-4.1 Application; form
- 17:20-4.2 Ineligibility of minors
- 17:20-4.3 Review
- 17:20-4.4 Issuance of license; conditions
- 17:20-4.5 License renewal
- 17:20-4.6 Display of license

- 17:20-4.7 Bonding of agents
- 17:20-4.8 Conversion of agents
- 17:20-4.9 Sale of lottery tickets at specific locations licensed
- 17:20-4.10 Special or seasonal lottery agents
- 17:20-4.11 Changes and transfers of ownership (of licensed premises)

SUBCHAPTER 5. DENIAL, REVOCATION, OR SUSPENSION OF LICENSE

- 17:20-5.1 Reasons for denial, revocation, suspension, renewal rejection or imposition of civil penalties
- 17:20-5.2 Termination procedures
- 17:20-5.3 Disciplinary procedures
- 17:20-5.4 Hearings
- 17:20-5.5 Reapplication for lottery license after revocation
- 17:20-5.6 Permanent revocation
- 17:20-5.7 (Reserved)

SUBCHAPTER 6. DISTRIBUTION AND SALE OF LOTTERY TICKETS AND DEPOSIT OF LOTTERY MONIES

- 17:20-6.1 Distribution of lottery tickets; conduct of business
- 17:20-6.2 Sale and redemption of lottery tickets
- 17:20-6.3 Deposit of lottery moneys
- 17:20-6.4 Lost, stolen or cancelled tickets
- 17:20-6.5 Distribution of promotional items
- 17:20-6.6 Acquisition or distribution of counterfeit items prohibited
- 17:20-6.7 Compliance

SUBCHAPTER 7. PAYMENT OF PRIZES

- 17:20-7.1 Information to be furnished by prize claimant
- 17:20-7.2 Requirement of additional information
- 17:20-7.3 Time of award of prizes
- 17:20-7.4 Manner of payment of prizes
- 17:20-7.5 Discharge of State liability upon award
- 17:20-7.6 Unallocated prize money; breakage
- 17:20-7.7 Disclosure
- 17:20-7.8 Voluntary assignments pursuant to agreements approved prior to May 15, 1998
- 17:20-7.9 Voluntary assignment of prize pursuant to an appropriate judicial order
- 17:20-7.10 Pledges or security interests made or granted pursuant to judicial order
- 17:20-7.11 Delegation of authority to develop forms

SUBCHAPTER 8. LOTTERY VENDORS' CODE OF ETHICS

- 17:20-8.1 Lottery vendors' code of ethics

SUBCHAPTER 9. CIVIL PENALTIES AND SANCTIONS

- 17:20-9.1 Penalties not exceeding \$10,000
- 17:20-9.2 Restitution; cease and desist orders
- 17:20-9.3 Hearings; procedures
- 17:20-9.4 through 17:20-9.5 (Reserved)

SUBCHAPTERS 10 THROUGH 11. (RESERVED)

SUBCHAPTER 1. GENERAL PROVISIONS

17:20-1.1 Scope

(a) Any decision as to the construction or interpretation of these regulations shall be made by the Director of the

“Claim center” means a machine agent who has been licensed under the Act to validate and redeem winning tickets at the licensed location.

“Claimant” means any person who makes a claim for a lottery prize but has not yet been determined a winner.

“Commission” means the State Lottery Commission.

“Director” means the Executive Director of the Division of the State Lottery.

“Distribution network” means all courier services, armored car services, and all other entities engaged by the Division to handle the distribution and pick-up of Lottery tickets, settlement forms and other lottery materials.

“Division” means the Division of the State Lottery.

“Installment” means any payment made pursuant to the schedule established at the time the prize was claimed.

“Instant-only agent” means a person who has been licensed under the Act to sell lottery tickets manually. When “person” is a corporation, the term includes officers, directors, and shareholders (holding greater than a 10 percent interest thereof). When “person” is a limited liability company, the term includes any person holding greater than a 10 percent interest therein.

“Key personnel” means and includes any person managing the following: operation of a lottery ticket sales terminal; the sale, validation or redemption of lottery tickets; preparing settlements; making bank deposits; or in any other manner handling lottery transactions. It also includes any person managing, or otherwise in charge of, a licensed business in the absence of the owner.

“Lottery” or “State Lottery” means the lottery established and operated pursuant to the Act.

“Machine agent” means a person who has been licensed under the Act to sell lottery tickets and in addition has been authorized by the Director to sell certain tickets through the Lottery vendor’s online gaming system. When “person” is a corporation the term includes officers, directors, and shareholders (holding greater than a 10 percent interest thereof). When “person” is a limited liability company the term includes any person holding greater than a 10 percent interest therein.

“Partial assignment” means any assignment of less than all the installments or less than any individual installment.

“Person” shall be construed to mean and include an individual, association, corporation, limited liability company, club, trust, estate, society, company, joint stock company, limited partnership, partnership, receiver, trustee, assignee, referee, or any other person acting in a fiduciary or representative capacity, whether appointed by a court or other-

wise, and any other combination of individuals. “Person” shall also be construed to mean and include all departments, commissions, agencies and instrumentalities of the State, including counties and municipalities and agencies and instrumentalities thereof.

“Promotional items” means items bearing one or more of the Lottery’s distinctive marks, other than tickets, brochures, or displays.

“Ticket” means lottery ticket issued by the State Lottery for sale to the general public.

“Winner” means a claimant who has demonstrated to the Director’s satisfaction that the claim has successfully complied with all the rules of a special lottery game so as to be eligible for the prize set forth in the rules of said game.

Amended by R.1992 d.376, effective October 5, 1992.

See: 24 N.J.R. 2238(a), 24 N.J.R. 3533(a).

Added definition “key personnel”.

Amended by R.1993 d.310, effective June 21, 1993.

See: 25 N.J.R. 1347(b), 25 N.J.R. 2701(b).

Amended by R.1996 d.201, effective May 6, 1996.

See: 28 N.J.R. 801(a), 28 N.J.R. 1375(a), 28 N.J.R. 2399(a).

Added “agent”, “applicant”, “claimant”, “instant-only agent” and “winner”; deleted “manual agent”; and amended “key personnel”, “machine agent” and “person”.

Amended by R.1998 d.237, effective May 18, 1998.

See: 30 N.J.R. 1030(a), 30 N.J.R. 1848(a).

In “Act” or “law”, inserted “and supplemented” following “amended”; in “Applicant”, substituted a reference to applications for a reference to a licensed applications; rewrote “Bank”; in “Director”, substituted a reference to the Executive Director for a reference to the Director; inserted “Distributor network”; and deleted “Main bank”. Amended by R.1998 d.509, effective October 19, 1998.

See: 30 N.J.R. 2607(a), 30 N.J.R. 3856(a).

Added “Authorized promotional items” and “Promotional items”.

Amended by R.2001 d.291, effective August 20, 2001.

See: 33 N.J.R. 2019(a), 33 N.J.R. 2822(a).

Added “Annuity”, “Assignee”, “Assignment”, “Assignor”, “Installment” and “Partial assignment”.

SUBCHAPTER 3. DIRECTOR

17:20-3.1 Disputes over ownership or validity of winning lottery tickets

In the event that a dispute arises involving the ownership of a winning lottery ticket or the validity of such a ticket, the Director shall treat the matter as a contested case within the meaning of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. and N.J.A.C. 1:1. Such treatment shall also be afforded with respect to the denial of a claim of entitlement to a lottery prize, in the Director’s discretion.

Amended by R.1998 d.237, effective May 18, 1998.

See: 30 N.J.R. 1030(a), 30 N.J.R. 1848(a).

Rewrote the section.

Case Notes

Lottery Commission regulation requiring Director of Division of State Lottery to hold hearing on dispute as to ownership of winning lottery ticket or validity of ticket did not grant Director authority to resolve issues raised by holders of alleged winning state lottery tickets who contended that language on lottery tickets was misleading. *Triano v. Division of State Lottery*, 306 N.J.Super. 114, 703 A.2d 333 (A.D. 1997).

SUBCHAPTER 4. LOTTERY AGENT'S APPLICATION AND LICENSE

17:20-4.1 Application; form

(a) Any person who wishes to be licensed as an agent of the Division of the State Lottery must first file a "Request for Evaluation" from the Division. Upon receipt of such request, the Director shall cause a preliminary investigation to be made. If the investigation discloses reasons why the requesting party or the involved location is unsuitable for licensing based on the standards set forth in the Act and this chapter, no application shall be issued, and the requesting party shall be so informed. Such action shall be tantamount to the denial of an application for purposes of N.J.A.C. 17:20-5.3.

(b) The Director may prescribe forms of application to call for such information as may be deemed necessary or helpful in evaluating the factors for licensing as set forth in the Act and this chapter.

(c) An applicant for licensure shall divulge any previous application to or licensure with the New Jersey State Lottery or any other State agency, along with any record of arrests or convictions in this or any other State.

(d) The application process shall include such consents to credit checks, criminal record searches, and such other waivers and release provisions as may be required by the Director to assure a full and complete review of the application.

(e) An applicant who is denied a lottery license shall not reapply for a period of one year. However, the Director may, if conditions which were the basis for the denial change, allow the applicant to reapply in less than one year.

(f) All applicants must report to the Director any change in status, such as ownership, control, address or other data relevant to licensure, within 10 days of occurrence.

(g) All officers and shareholders shall be disclosed and listed on an Application for License or a License Renewal Application with the percentage of shares owned by each. The Corporate Identification number and Federal Identification number including all New Jersey Division of Taxation assigned suffixes shall also be noted. Failure to disclose the aforementioned information shall be cause for denial of a New Jersey Lottery license under N.J.A.C. 17:20-5.1(a)1.

Amended by R.1988 d.94, effective March 7, 1988.

See: 19 N.J.R. 1969(a), 20 N.J.R. 545(a).

Amended by R.1996 d.201, effective May 6, 1996.

See: 28 N.J.R. 801(a), 28 N.J.R. 1375(a), 28 N.J.R. 2399(a).

In (a) substituted "Request for Evaluation" for "Application for Lottery Agent's License", rewrote (d), and added (e) and (f).

Amended by R.1998 d.237, effective May 18, 1998.

See: 30 N.J.R. 1030(a), 30 N.J.R. 1848(a).

In (f), substituted a reference to the Director for a reference to the Executive Director; and added (g).

17:20-4.2 Ineligibility of minors

(a) No person under the age of 21 shall make application to become, or be licensed as an agent.

(b) No person under the age of 18 shall operate a lottery terminal, sell, validate, and redeem lottery tickets, or participate in any lottery operation or transaction.

Amended by R.1988 d.94, effective March 7, 1988.

See: 19 N.J.R. 1969(a), 20 N.J.R. 545(a).

Amended by R.1996 d.201, effective May 6, 1996.

See: 28 N.J.R. 801(a), 28 N.J.R. 1375(a), 28 N.J.R. 2399(a).

Added (b).

Amended by R.1998 d.509, effective October 19, 1998.

See: 30 N.J.R. 2607(a), 30 N.J.R. 3856(a).

In (a), substituted "21" for "legal majority" and inserted "to become" following "application"; and in (b), substituted "18" for "legal majority".

Case Notes

Denial of application to be lottery agent based in part on the nature of applicant's businesses and or the sufficiency of existing licensees, without first promulgating rules establishing standards for such denial, held an abuse of the Division's discretion. *613 Corp. v. State, Div. of State Lottery*, 210 N.J.Super. 485, 510 A.2d 103 (App.Div.1986).

17:20-4.3 Review

(a) Upon receipt of an application which appears to be complete and in order, the Director shall subject it to a thorough review, including:

1. Verification of references;
2. A check of credit reporting sources, other State departments and agencies and criminal justice agencies;
3. A separate marketing study which may include (but need not be limited to) the following factors:
 - i. The applicant's hours of operation;
 - ii. The types of businesses in which the applicant engages;
 - iii. The presence or absence of similar types of businesses among nearby licensed agents;
 - iv. The distance from the applicant's location to nearby licensed agents;
 - v. Traffic patterns, parking access, store type and other factors which affect public access;

vi. The potential for increased ticket sales, which may be arrived at by comparing 13-week average sales for agents in the applicant's municipality with the State-wide per-agent average for the same time period or by analyzing the public cross-section frequenting establishments of the applicant's type, or by analysis of the other geodemographic data; and

vii. The applicant's business experience and marketing attitude; and

4. Such other procedures as may be needed to substantiate the moral character of the applicant and key personnel and the ability of the applicant to satisfy the other licensing criteria as set forth in the Act and in this chapter.

(b) The Director may schedule and hold a public information gathering hearing to facilitate the review of a license application, in addition to any hearing which may be requested pursuant to N.J.A.C. 17:20-5.3.

(c) The Director may dispense with such of the above procedures or factors as are deemed unnecessary in completing a particular application review.

New Rule, R.1988 d.94, effective March 7, 1988.

See: 19 N.J.R. 1969(a), 20 N.J.R. 545(a).

Amended by R.1992 d.376, effective October 5, 1992.

See: 24 N.J.R. 2238(a), 24 N.J.R. 3533(c).

Revised (a)4.

Amended by R.1996 d.201, effective May 6, 1996.

See: 28 N.J.R. 801(a), 28 N.J.R. 1375(a), 28 N.J.R. 2399(a).

In (a)2 added "other state agencies", in (a)3vi added "analysis of other geodemographic data", and deleted former (a)3vii relating to the relative saturation of the involved municipality.

Amended by R.1998 d.237, effective May 18, 1998.

See: 30 N.J.R. 1030(a), 30 N.J.R. 1848(a).

In (a)3vi, substituted a reference to 13-week average sales for a reference to 10-week average sales.

17:20-4.4 Issuance of license; conditions

(a) The Director may license an applicant to be an instant-only agent or a machine agent as the facts and circumstances may warrant. Before issuing a license, the

Director shall provide training to all applicants and key personnel to the extent the Director deems appropriate, and shall require that training be administered to such persons as will best preserve the integrity and most effective operation of the Lottery. Training shall cover machine operations, handling of instant tickets, redemption and settlement procedures and all other aspects of transacting business as an agent of the Lottery.

(b) The Director may grant a license subject to such conditions as may reasonably assure satisfaction of the licensing criteria set forth in the Act and this chapter.

(c) The Director may grant a license for a trial period, subject to further review and evaluation.

(d) No license shall be issued to an applicant whose business primarily involves:

1. The sale, rental or display of sexually explicit material; or
2. The sale of literature or equipment dealing with the cultivation or use of controlled dangerous substances.

(e) An agent's license shall remain in full force and effect until the license is suspended or revoked by the Director or until the Director receives a written resignation from the agent.

(f) All agents shall report any change in status, such as ownership, control, address or other data relevant to licensure, within 10 days of occurrence. Failure to do so shall be cause for discipline under N.J.A.C. 17:20-5.1.

Amended by R.1988 d.94, effective March 7, 1988.

See: 19 N.J.R. 1969(a), 20 N.J.R. 545(a).

Amended by R.1992 d.376, effective October 5, 1992.

See: 24 N.J.R. 2238(a), 24 N.J.R. 3533(c).

Revised (a).

Amended by R.1996 d.201, effective May 6, 1996.

See: 28 N.J.R. 801(a), 28 N.J.R. 1375(a), 28 N.J.R. 2399(a).

In (a) substituted "instant-only agent" for "manual agent" and deleted former (f) providing for annual certification.

10. Whenever the agent fails to make prompt and timely payment of a civil penalty imposed under N.J.A.C. 17:20-9.1, et seq.

11. Whenever it is determined that an agent has discounted a prize associated with a winning ticket resulting in a reduced prize payment to the holder of a winning ticket of less than the actual prize or prize share value;

12. Whenever an agent has violated the Federal Organized Crime Control Act of 1970, or committed the crime of embezzlement, theft, forgery, bribery, falsification or destruction of records, perjury, false swearing, receiving stolen property, obstruction of justice, or any other offense indicating a lack of business integrity or honesty or committed an act of moral turpitude;

13. Whenever an agent has violated the Federal or State antitrust statutes or of the Federal Anti-Kickback Act (18 U.S.C. § 874, 40 U.S.C. § 276b, c);

14. Whenever an agent has violated any laws governing the conduct of elections of the Federal Government, State of New Jersey or of its political subdivisions, or any other State;

15. Whenever an agent has violated any laws governing the conduct of occupations or professions or regulated industries;

16. Whenever an agent has violated any laws, ordinances, regulations of the Federal government, State of New Jersey, its political subdivisions, or any other State which may bear upon a lack of fiscal responsibility or moral integrity;

17. Whenever an agent has made any offer or agreement to pay or has made payment either directly or indirectly, any fee, commission, compensation, gift, gratuity, or other thing of value of any kind to any State officer or employee as defined by N.J.S.A. 52:13D-13b and c, in the Department of Treasury or any other agency with which such an agent transacts and offers or proposes to transact business, or to any member of the immediate family as defined by N.J.S.A. 52:13D-13i, of any such officer or employee, or any partnership, firm, or corporation with which they are employed or associated, or in which such officer or employee has an interest within the meaning of N.J.S.A. 52:13D-13g under circumstances from which it might reasonably be inferred that such offer, agreement or payment was made for the purpose of influencing the recipient as to the discharge of official duties regarding the agent by the recipient or by any person affiliated with the recipient within the meaning of N.J.S.A. 52:13D-13b, 13c or 13d;

18. Whenever any agent has influenced or attempted to influence or caused to be influenced, any State officer or employee or special State officer or employee in his or her official capacity in any manner which might tend to impair the objectivity or independence of judgment of said officer or employee;

19. Whenever any agent has caused or influenced or attempted to cause or influence, any State officer or employee or special State officer or employee to use, or attempt to use, his or her official position to secure unwarranted privileges or advantages for the agent or any other person; or

20. Whenever it is determined that an agent has intentionally removed or defaced any portion of an instant scratch off lottery ticket latex overlay coating for the purpose of compromise.

(b) The Director may summarily suspend a license for up to five consecutive days without prior notice if such suspension is deemed imminently necessary.

1. To prevent a breach of security;
2. In the event of the misuse of a lottery machine or other lottery equipment;
3. To protect the Lottery from economic harm; or
4. Whenever any activity, policy or conduct of an agent presents a serious or imminent hazard to the health, safety and well being of the public or whenever any activity, policy or conduct presents a threat to the integrity or business operations of the State Lottery.

(c) Notices of suspension, including the reasons therefor, shall be given to agents as promptly as possible and by means deemed most effective by the Director.

(d) The following conditions shall apply concerning the suspension or revocation of a lottery agent license:

1. Suspension of a license shall be imposed with the approval of the Director;
2. The existence of any of the causes set forth in N.J.A.C. 17:20-5.1(a) shall not necessarily require that a license be suspended or revoked. In each instance, the decision to suspend or revoke shall be made within the discretion of the Director, unless required by law, and shall be made in the best interest of the State;
3. All mitigating factors shall be considered in determining the seriousness of the offense, failure or inadequacy of performance in deciding whether suspension or revocation is warranted;
4. Any suspension or revocation shall be imposed in accordance with the provisions of the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1.

(e) The Director may impose civil penalties pursuant to N.J.A.C. 17:20-9.1, et seq., in addition to any other action, for violations of this section.

Amended by R.1985 d.308, effective June 17, 1985.

See: 17 N.J.R. 272(b), 17 N.J.R. 1586(b).

Substantially amended.

Amended by R.1987 d.77, effective February 2, 1987.

See: 18 N.J.R. 1927(a), 19 N.J.R. 304(d).

Added violation of ordinance or administrative regulation.
Amended by R.1996 d.201, effective May 6, 1996.

See: 28 N.J.R. 801(a), 28 N.J.R. 1375(a), 28 N.J.R. 2399(a).

Rewrote section.

Amended by R.1998 d.237, effective May 18, 1998.

See: 30 N.J.R. 1030(a), 30 N.J.R. 1848(a).

In (a), inserted "or fails to perform in accordance with" following "violates" in 2, substituted a reference to this chapter for a reference to these regulations in 6, substituted a reference to fiscal responsibility for a reference to responsibility in 16, deleted former 17, recodified former 18 as 17 and added provisions relating to circumstances at the end, recodified former 19 and 20 as 18 and 19, and added a new 20; and in (d)1 and 2, substituted references to the Director for references to the Executive Director.

Case Notes

Refusal to license party previously convicted of gambling, bookmaking and other related criminal misconduct on premises for which license was sought was not arbitrary, capricious, or unreasonable, despite gubernatorial pardon for convictions. *Storcella v. State*, Dept. of Treasury, Div. of State Lottery, 296 N.J.Super. 238, 686 A.2d 789 (A.D.1997).

Denial of application to be lottery agent based in part on the nature of applicant's businesses and/or the sufficiency of existing licensees, without first promulgating rules establishing standards for such denial, held an abuse of the Division's discretion. *613 Corp. v. State*, Div. of State Lottery, 210 N.J.Super. 485, 510 A.2d 103 (App.Div.1986).

17:20-5.2 Termination procedures

(a) Upon termination of an agent's license by revocation, resignation or cessation of operations, the agent shall appear on a date and at a location designated by the Director to render a final lottery accounting and surrender the license and other lottery property including, but not limited to:

1. Signage;
2. Decals;
3. Point of sale material;
4. Bet slips;
5. Ticket dispenser; and
6. Any other items provided by the Lottery to the agent and all physical references to the Lottery.

Amended by R.1985 d.308, effective June 17, 1985.

See: 17 N.J.R. 272(b), 17 N.J.R. 1586(b).

Substantially amended.

Amended by R.1996 d.201, effective May 6, 1996.

See: 28 N.J.R. 801(a), 28 N.J.R. 1375(a), 28 N.J.R. 2399(a).

Rewrote section.

Amended by R.1998 d.237, effective May 18, 1998.

See: 30 N.J.R. 1030(a), 30 N.J.R. 1848(a).

Rewrote the section.

17:20-5.3 Disciplinary procedures

(a) Disciplinary procedures shall follow a progression, depending on the frequency and/or severity of the infraction and the history of the agent. Disciplinary action will usually start with a reprimand, and/or an informational conference and/or imposition of a civil penalty.

(b) In the case of a decision to suspend a license, the agent shall be notified of the reason for suspension. In addition, the agent shall be afforded an opportunity for an informational conference and/or hearing.

New Rule, R.1996 d.201, effective May 6, 1996.

See: 28 N.J.R. 801(a), 28 N.J.R. 1375(a), 28 N.J.R. 2399(a).

17:20-5.4 Hearings

(a) The Director may personally hold hearings required by law and any person entitled to a hearing shall receive one upon proper request. All hearings shall be conducted pursuant to the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1. Where the suspension has been instituted summarily, the agent shall be entitled to a hearing on an expedited basis.

(b) The request for a hearing shall:

1. Be in writing, signed by the petitioner or attorney on behalf of the petitioner and include the petitioner's mailing address.
2. Specify the ruling, action or matter on which the hearing is requested and indicate what relief is desired.

(c) A petition or request to the Director for hearing or other relief, unless otherwise required by law or these rules and regulations, must be received by the Director within 15 days after the date of service of the notice of the action.

(d) If the petitioner without sufficient reasons fails to appear at the scheduled hearing, such failure may be treated as a withdrawal of the petition or request. The Director may in the exercise of discretion dismiss the petition, adjourn the hearing to a future date or take such action as may be just and proper under the circumstances.

(e) All hearings and contested cases will be held in the Main Lottery Office unless otherwise specified by the Director or unless referred to the Office of Administrative Law.

(f) All proceedings before the Director shall be audio-taped. Upon receipt of a request for a transcript of a hearing held before the Director and recorded on audio tape, the Director shall send the appropriate tape or tapes to an outside transcribing service for preparation of the transcript. The cost of preparing said transcript shall be billed to the party making the request, who shall also be responsible for any deposit which may be required by the transcriber or by administrative rule.

Amended by R.1985 d.308, effective June 17, 1985.

See: 17 N.J.R. 272(b), 17 N.J.R. 1586(b).

Substantially amended.

Correction: Substituted "indicate" for "indicated" in (b)2.

See: 21 N.J.R. 347(a).

Recodified from 17:20-5.3 and amended by R.1996 d.201, effective May 6, 1996.

See: 28 N.J.R. 801(a), 28 N.J.R. 1375(a), 28 N.J.R. 2399(a).

In (f) provided proceedings shall be audiotaped.
Amended by R.1998 d.237, effective May 18, 1998.
See: 30 N.J.R. 1030(a), 30 N.J.R. 1848(a).

17:20-5.5 Reapplication for lottery license after revocation

Any agent whose license has been revoked shall not reapply for one year from the date of the written revocation except where the Director in the exercise of discretion determines that the conditions underlying the revocation have been remedied.

New Rule, R.1996 d.201, effective May 6, 1996.
See: 28 N.J.R. 801(a), 28 N.J.R. 1375(a), 28 N.J.R. 2399(a).
Amended by R.1998 d.237, effective May 18, 1998.
See: 30 N.J.R. 1030(a), 30 N.J.R. 1848(a).

17:20-5.6 Permanent revocation

Notwithstanding the provisions of N.J.A.C. 17:20-1 through 9, the Director is empowered to revoke any agent's license for acts impairing the integrity and security of the Lottery.

New Rule, R.1996 d.201, effective May 6, 1996.
See: 28 N.J.R. 801(a), 28 N.J.R. 1375(a), 28 N.J.R. 2399(a).
Amended by R.1998 d.237, effective May 18, 1998.
See: 30 N.J.R. 1030(a), 30 N.J.R. 1848(a).
Rewrote the section.

17:20-5.7 (Reserved)

Repealed by R.1985 d.308, effective June 17, 1985.
See: 17 N.J.R. 272(b), 17 N.J.R. 1586(b).

SUBCHAPTER 6. DISTRIBUTION AND SALE OF LOTTERY TICKETS AND DEPOSIT OF LOTTERY MONIES

17:20-6.1 Distribution of lottery tickets; conduct of business

(a) An agent may delegate authority to an employee regarding transactions with the Lottery or distribution network. However, the agent shall remain liable to the Lottery regardless of what the delegate may do or fail to do.

(b) The Director may issue an identification card to any agent which, if issued, must be displayed whenever the agent transacts business with the Lottery contracted vendor.

(c) The agency accepts all tickets in trust for the Lottery. Tickets in the hands of an agent are the agent's sole responsibility and it is the agent's sole duty as a fiduciary of the Lottery either to return the tickets to the Lottery within the specified time or to remit the face value of the tickets to the Lottery, less any commissions, bonuses and reimbursements for redeemed tickets to which the agent is entitled. Tickets shall remain the property of the Lottery.

Amended by R.1984 d.585, effective January 7, 1985.

See: 16 N.J.R. 2758(b), 17 N.J.R. 115(b).

Section substantially amended.

Correction: deleted "either to return the tickets" which was duplicated in (d).

See: 21 N.J.R. 347(a).

Amended by R.1996 d.201, effective May 6, 1996.

See: 28 N.J.R. 801(a), 28 N.J.R. 1375(a), 28 N.J.R. 2399(a).

Rewrote section.

Amended by R.1998 d.237, effective May 18, 1998.

See: 30 N.J.R. 1030(a), 30 N.J.R. 1848(a).

In (a), added a reference to distribution networks at the end of the first sentence.

Case Notes

New Jersey Rules of the Lottery Commission created "express trust" relationship between Commission and lottery ticket agents with respect to tickets and sale proceeds, for purposes of discharge exception based on fraud or defalcation by fiduciary. In re Kaczynski, Bkrcty.D.N.J. 1995, 188 B.R. 770.

17:20-6.2 Sale and redemption of lottery tickets

(a) At all times during normal business hours, agents shall make current lottery tickets available for sale to the public, and shall, within the limits set forth by law and these rules, redeem all winning tickets by payment of cash or check to the holder.

(b) The agent shall sell only legal New Jersey State Lottery tickets. No other lottery tickets or facsimiles thereof shall be sold by any agent.

(c) The agent shall not deactivate the machine during normal business hours without prior permission of the Director.

(d) No person under the age of 18 may sell a lottery ticket or share.

(e) No person shall sell a lottery ticket or share at a greater or lesser price than that fixed by individual game rules.

(f) Lottery ticket sales shall not be combined with the sale of any other product or service without the express written approval of the Director. This prohibition shall not apply to promotions, conducted entirely at the expense of the agent, involving losing tickets, tickets for which the drawing date or claiming period has expired, or other tickets which no longer have value for lottery purposes.

(g) Notwithstanding (f) above, the Director may, in accordance with the provisions of this chapter, approve special promotions which are proposed by agents which may include the sale of lottery tickets at less than face value. The agent shall remain liable to the Lottery for the face value of all tickets sold or distributed.

Amended by R.1987 d.77, effective February 2, 1987.

See: 18 N.J.R. 1927(a), 19 N.J.R. 304(d).

(f) added.

Amended by R.1992 d.378, effective October 5, 1992.

See: 24 N.J.R. 2239(b), 24 N.J.R. 3534(a).

Amended by R.1996 d.201, effective May 6, 1996.

See: 28 N.J.R. 801(a), 28 N.J.R. 1375(a), 28 N.J.R. 2399(a).

In (b) excluded other lottery tickets, and added (g).

Amended by R.1998 d.237, effective May 18, 1998.

See: 30 N.J.R. 1030(a), 30 N.J.R. 1848(a).

Rewrote (c).

Amended by R.1998 d.509, effective October 19, 1998.

See: 30 N.J.R. 2607(a), 30 N.J.R. 3856(a).

In (d), substituted "18" for "majority" and deleted "legal" preceding "age".

Case Notes

Second party agreement to share lottery prize in return for payment was unenforceable. *Della Croce v. Ports*, 228 N.J.Super. 581, 550 A.2d 533 (L.1988).

Participant who sells shares in possible recovery for sum greater than permitted violates law. *Della Croce v. Ports*, 228 N.J.Super. 581, 550 A.2d 533 (L.1988).

Participant in lottery bonus drawing who sells share in possible recovery does not qualify as player excepted from criminal liability. *Della Croce v. Ports*, 228 N.J.Super. 581, 550 A.2d 533 (L.1988).

17:20-6.3 Deposit of lottery monies

(a) Agents shall remit net lottery receipts to the bank on the dates specified by the lottery game in question. Notwithstanding the rules of any specific game to the contrary, the Director may, in the exercise of discretion, require the agent to account fully for any and all lottery tickets issued to that agent and to remit immediately all sums due the Lottery.

(b) Monies received by an agent from the sale of lottery tickets are the property of the Lottery and are held by the agent in trust for the Lottery. The agent shall immediately segregate all monies received from the sale of lottery tickets, and shall hold such monies in trust for the Lottery in a bank account specifically designated as a New Jersey Lottery account.

(c) Agents shall file with the Director or the Director's designee reports of their receipts and transactions concerning the sale and redemption of lottery tickets in a form as prescribed by the respective game instructions.

(d) The agent shall be absolutely liable for payment of such monies to the Lottery notwithstanding the degree of care exercised with respect to such monies by the agent.

(e) The agent shall keep current records of all operations in conformity with the Act and this chapter, and such other instructions as may be issued by the Director.

(f) All agent lottery operations, reports and records shall be subject, upon demand, to inspection and audit by representatives of the Lottery, but such reports and records shall remain confidential for all purposes except income tax reporting required by law.

(g) The bank shall provide the Lottery with a statement of all transactions as required.

(h) Net settlements due to the Lottery shall bear interest at the legal rate from the date payment is due until it is received by the Lottery; however, the Director may establish grace periods for payment without the accrual of such interest.

As amended, R.1984 d.445, effective October 15, 1984.

See: 16 N.J.R. 2074(a), 16 N.J.R. 2826(a).

(h) added.

Amended by R.1988 d.198, effective May 2, 1988.

See: 20 N.J.R. 48(a), 20 N.J.R. 998(b).

Added text to (f) "but such reports . . .".

Amended by R.1998 d.237, effective May 18, 1998.

See: 30 N.J.R. 1030(a), 30 N.J.R. 1848(a).

Case Notes

New Jersey Rules of the Lottery Commission created "express trust" relationship between Commission and lottery ticket agents with respect to tickets and sale proceeds, for purposes of discharge exception based on fraud or defalcation by fiduciary. *In re Kaczynski, Bkrtcy.D.N.J.* 1995, 188 B.R. 770.

Lottery Commission held to have absolute right to file complaint objecting to discharge of certain debt arising out of defalcation of trust funds; claim filed well beyond claim deadline permitted where Commission received no notice of bankruptcy and was unaware of same until indirectly informed, and then took prompt and diligent action (citing former N.J.A.C. 17:20-6.1 and 10.1). *Decker v. Roes*, 32 B.R. 385 (D.N.J.1983).

17:20-6.4 Lost, stolen or cancelled tickets

(a) Agents are responsible to the Lottery for lost, damaged, destroyed, stolen, improperly cancelled tickets or missing lottery receipts and tickets notwithstanding the degree of care which they may have exercised with regard to the tickets and receipts.

(b) Agents are responsible to the Lottery for the consequences of the loss of tickets, the improper cancellation of tickets, or for other breaches of these rules or game rules. Such responsibility includes reimbursement to the Lottery for prizes paid to ticket holders.

(c) Agents shall make prompt reports to the Lottery regarding any theft from, or unauthorized entry upon, licensed premises, whether or not any lottery monies or property appear to be missing at the time and shall supplement such report regarding any lottery monies and property (including full and partial pack numbers and ticket sequence numbers) that are missing.

(d) No prize shall be paid to any agent with respect to stolen tickets or regarding unclaimed winning tickets unless the Director so determines.

Amended by R.1987 d.77, effective February 2, 1987.

See: 18 N.J.R. 1927(a), 19 N.J.R. 304(d).

Substantially amended.

Amended by R.1993 d.310, effective June 21, 1993.

See: 25 N.J.R. 1347(b), 25 N.J.R. 2701(b).

Amended by R.1996 d.201, effective May 6, 1996.

See: 28 N.J.R. 801(a), 28 N.J.R. 1375(a), 28 N.J.R. 2399(a).

In (a) and (b) added improperly cancelled tickets, and in (b) deleted reference to loss of claim forms.

Amended by R.1998 d.237, effective May 18, 1998.

1. The Director is promptly informed of such activities; and

2. They are not violative of State law or such other ethical standards as may apply. (Lottery Commissioners and Division officers and employees are covered by a separate Code of Ethics. See (i) below.)

(c) Any relationships subject to (b) above shall be reported in writing forthwith to the Executive Commission on Ethical Standards, which may grant a waiver of this restriction upon application of the State officer or employee or special State officer or employee upon a finding that the present or proposed relationship does not present the potential, actuality or appearance of a conflict of interest.

(d) No Lottery vendor shall cause or influence, or attempt to cause or influence, any Lottery Commissioner, officer or employee to act in his or her official capacity in any manner which might tend to impair the objectivity or independence of judgment of said Lottery Commissioner, officer or employee.

(e) No Lottery vendor shall cause or influence, or attempt to cause or influence, any Lottery Commissioner, officer or employee to use, or attempt to use, his or her official position to secure unwarranted privileges or advantages for the Lottery vendor or for any other person.

(f) No Lottery vendor shall pay, offer to pay, or agree to pay, either directly or indirectly, to any Lottery Commissioner, officer or employee or to any member of the immediate family, as defined by N.J.S.A. 52:13D-13i, of any such person, or any partnership, firm, or corporation with which such person is employed or associated, or in which such person has an interest within the meaning of N.J.S.A. 52:13D-13g, any fee, commission, compensation, gift, favor, service or other thing of value under circumstances from which it might be reasonably inferred that such gift, service, or other thing of value was given or offered for the purpose of influencing the recipient in the discharge of his or her official duties. The solicitation of any fee, commission, compensation, gift, gratuity or other thing of value by any Commissioner, officer or employee from any State vendor shall be reported in writing forthwith by the vendor to the Attorney General and the Executive Commission on Ethical Standards.

(g) This Code of Ethics shall also apply to any licensed agent of the New Jersey State Lottery.

(h) No Lottery vendor shall, without the written approval of the Director, disclose, directly or indirectly, any information not generally or legally available to the public concerning the affairs of the Division.

(i) This code is intended to augment and not replace existing administrative orders and pertinent codes of ethics. It shall not be construed to prohibit a State officer or employee or special State officer or employee from receiving

gifts from or contracting with vendors under the same terms and conditions as are offered or made available to members of the general public subject to any guidelines the Executive Commission on Ethical Standards may promulgate. If any part of this Code shall be found ineffective or inoperative, such finding shall not affect the other parts of the Code.

Correction: Added "not" in (b)2; substituted "officer" for "office" in (e).

See: 21 N.J.R. 347(a).

Amended by R.1989 d.381, effective July 17, 1989.

See: 21 N.J.R. 631(a), 21 N.J.R. 2055(c).

Definitions amended to conform to State vendor's Code of Ethics and Executive Order No. 189 (1988).

Amended by R.1998 d.237, effective May 18, 1998.

See: 30 N.J.R. 1030(a), 30 N.J.R. 1848(a).

SUBCHAPTER 9. CIVIL PENALTIES AND SANCTIONS

17:20-9.1 Penalties not exceeding \$10,000

(a) The Director may, after notice and hearing, impose civil penalties on licensed agents in an amount up to \$10,000 per incident for violations of the Act or this chapter.

(b) The Director shall make findings of fact in each instance where penalties are imposed and shall report periodically to the Commission regarding the imposition of such penalties.

(c) In assessing civil penalties under this section, the Director shall give due consideration to:

1. The nature of the conduct or offense;
2. The impact of the offense upon the operations of the Division;
3. The prior history of the agent and any mitigating factors which may be proven;
4. The need to preserve the dignity of the State and the integrity of the Lottery;
5. The need for deterrence of future violations by the party charged or by others; and
6. The amount of the penalty in relation to the severity of the offense and the financial means of the agent.

Amended by R.1996 d.201, effective May 6, 1996.

See: 28 N.J.R. 801(a), 28 N.J.R. 1375(a), 28 N.J.R. 2399(a).

Increased maximum penalty.

Amended by R.1998 d.237, effective May 18, 1998.

See: 30 N.J.R. 1030(a), 30 N.J.R. 1848(a).

17:20-9.2 Restitution; cease and desist orders

(a) The Director shall exercise the power to order restitution and/or enter cease and desist orders pursuant to P.L. 1983, c.429.

(b) In the absence of a petition for review the Director shall be empowered to seek judicial relief for the enforcement of orders entered under this section.

Recodified from 17:20-9.4 and amended by R.1996 d.201, effective May 6, 1996.

See: 28 N.J.R. 801(a), 28 N.J.R. 1375(a), 28 N.J.R. 2399(a).

Rewrote section. Former 17:20-9.2, "Civil penalties between \$2,500 and \$5,000", repealed.

17:20-9.3 Hearings; procedures

All determinations under this subchapter shall be made in conformity with N.J.A.C. 17:20-5.3.

Recodified from 17:20-9.5 and amended by R.1996 d.201, effective May 6, 1996.

See: 28 N.J.R. 801(a), 28 N.J.R. 1375(a), 28 N.J.R. 2399(a).

Deleted provision on costs of review. Former section, "Civil penalties in excess of \$5,000", repealed.

17:20-9.4 (Reserved)

Recodified as 17:20-9.2 by R.1996 d.201, effective May 6, 1996.

See: 28 N.J.R. 801(a), 28 N.J.R. 1375(a), 28 N.J.R. 2399(a).

17:20-9.5 (Reserved)

Recodified as 17:20-9.3 by R.1996 d.201, effective May 6, 1996.

See: 28 N.J.R. 801(a), 28 N.J.R. 1375(a), 28 N.J.R. 2399(a).

SUBCHAPTER 10. (RESERVED)

Historical Note

This subchapter was originally filed and became effective January 5, 1971 as R.1971 d.5. See: 2 N.J.R. 104(a), 3 N.J.R. 31(a). The subchapter was entitled "Distribution of Tickets to Agents". It was deleted as part of a recodification and amendment by R.1983 d.472, eff. November 7, 1983. See: 15 N.J.R. 1361(a), 15 N.J.R. 1871(e).

SUBCHAPTER 11. (RESERVED)

Historical Note

This subchapter was originally filed and became effective January 5, 1971 as R.1971 d.5. See: 2 N.J.R. 104(a), 3 N.J.R. 31(a). The subchapter was entitled "Limitations and Prohibitions". It was deleted as part of a recodification and amendment by R.1983 d.472, eff. November 7, 1983. See: 15 N.J.R. 1361(a), 15 N.J.R. 1871(e).