

**CHAPTER 20**

**RULES OF THE LOTTERY COMMISSION**

**Authority**

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

**Source and Effective Date**

R.1993 d.310, effective June 1, 1993.  
See: 25 N.J.R. 1347(b), 25 N.J.R. 2701(b).

**Executive Order No. 66(1978) Expiration Date**

Chapter 20, Rules of the Lottery Commission, expires on June 1, 1998.

**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). Subsequently, Chapter 20 was amended by the following rule adoptions:

R.1971 d.111, effective July 13, 1971. See: 3 N.J.R. 115(d), 3 N.J.R. 165(a).

R.1971 d.182, effective October 19, 1971. See: 3 N.J.R. 184(a), 3 N.J.R. 235(b).

R.1972 d.238, effective November 29, 1972. See: 4 N.J.R. 280(a), 5 N.J.R. 22(a).

R.1973 d.80, effective March 22, 1973. See: 5 N.J.R. 124(a).

R.1973 d.178, effective July 2, 1973. See: 5 N.J.R. 294(b).

R.1973 d.179, effective July 2, 1973. See: 5 N.J.R. 294(c).

R.1973 d.353, effective January 3, 1974. See: 6 N.J.R. 36(a).

R.1974 d.146, effective June 20, 1974. See: 6 N.J.R. 277(d).

R.1974 d.329, effective December 2, 1974. See: 6 N.J.R. 452(b), 7 N.J.R. 33(b).

R.1978 d.383, effective October 30, 1978. See: 10 N.J.R. 455(e), 10 N.J.R. 566(d).

R.1979 d.125, effective March 28, 1979. See: 11 N.J.R. 263(c).

R.1980 d.67, effective February 7, 1980. See: 12 N.J.R. 263(c).

R.1980 d.460, effective October 16, 1980. See: 12 N.J.R. 681(a).

Chapter 20 was repealed by R.1983 d.472 and a new Chapter 20, Rules of the Lottery Commission, Subchapters 1 through 7, was adopted, effective November 7, 1983.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 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 was readopted as R.1993 d.310. See: Source and Effective Date. See, also, section annotations for specific rulemaking activity.

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## 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 Division of the State Lottery, and such interpretation or construction is final and binding.

(b) In the event of a conflict between these rules and the rules of a specific lottery, the specific game rules shall govern.

(c) These rules have been drafted to avoid repetition of statutory material and rules governing specific games. These materials, along with contracts and directives from the lottery, should be read to determine the rights, duties, and powers of the banks, agents, customers, and the lottery.

## 17:20-1.2 Erroneous or mutilated tickets

(a) Lottery tickets made out in error or mutilated in any way prior to purchase shall be voided by the agent.

(b) Unless a mutilated lottery ticket is proven to the satisfaction of the Director to be genuine, no credit will be issued to the agent.

## 17:20-1.3 Persons prohibited from purchasing tickets or shares

(a) In addition to N.J.S.A. 5:9-16, the following are prohibited from purchasing tickets or shares in any New Jersey State Lottery and no prize shall be paid to:

1. Any commissioner, officer, or employee of the Lottery;
2. Any officer or employee of the State, or State contracted vendor, who participates in the design or manufacture of a New Jersey Lottery game; or
3. Any person residing in the principal place of abode of such commissioner, officer or employee, excepting a tenant not related by blood or marriage.

## SUBCHAPTER 2. DEFINITIONS

## 17:20-2.1 Definitions

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

“Act” or “law” means P.L. 1970, c.13 (N.J.S.A. 5:9-1 et seq.) as amended from time to time.

“Bank” means and includes all financial institutions, courier services, armored car services, or all other entities engaged by the Division to handle the distribution and pick-up of Lottery tickets and the pick-up and deposit of Lottery moneys.

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

“Commission” means the State Lottery Commission established by the Act.

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

“Division” means the Division of the State Lottery established by the Act.

“Key personnel” means and includes any person operating a lottery ticket sales terminal, engaging in sales or redemptions of lottery tickets, preparing settlements, making bank deposits or in any other way 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.

“Main bank” means the principal office of a bank.

“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 a computer linked lottery machine. When “person” is a corporation the term includes officers thereof.

“Manual 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 thereof.

“Person” shall be construed to mean and include an individual, association, corporation, 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 otherwise, 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.

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

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.1988 d.94, effective March 7, 1988.  
 See: 19 N.J.R. 1969(a), 20 N.J.R. 545(a).

**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).

**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 schedule and hold a hearing in accordance with N.J.A.C. 1:1.

**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 request an "Application for Lottery Agent's License" from the Division. Upon receipt of such request, the Director shall cause a preliminary field investigation to be made. If the investigation discloses reasons why the requesting party or the involved location is obviously 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 a form 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 must 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 form shall include the applicant's consent to credit checks and criminal record searches, along with such waiver and release provisions as may be needed to assure a full and complete review of the application.

Amended by R.1988 d.94, effective March 7, 1988.  
 See: 19 N.J.R. 1969(a), 20 N.J.R. 545(a).

**17:20-4.2 Ineligibility of minors**

No person under the age of legal majority may make application or be licensed as an agent.

**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 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 type of business in which the applicant engages;
  - iii. The presence or absence of similar type 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, arrived at by comparing 10-week average sales for agents in the applicant's municipality with the statewide per-agent average for the same time period and by analyzing the public cross-section frequenting establishments for the applicant's type;
  - vii. The relative saturation of the involved municipality (arrived at by computing the ratio of agents per capita by use of census data);
  - viii. 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.

#### 17:20-4.4 Issuance of license; conditions

(a) The Director may license an applicant to be a manual 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) Subject to (f) below, 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) The Director may require annual certifications from any agent regarding continuing compliance with the Act and with this chapter, and providing such other information as the Director may deem necessary for the proper administration of the Division's activities. Failure to submit the completed form when requested may be cause for license suspension or revocation.

(g) All applicants and 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).

#### 17:20-4.5 License to be displayed

(a) Every agent shall prominently display in an area visible to the general public:

1. The license; and
2. Lottery promotional signs.

(b) In addition, the "Authorized Lottery Agent" decal shall be mounted on a prominent public window of the agent's premises.

(c) The agent shall maintain and display all Lottery flyers, betting cards and other circulating material in an area open to the public.

Amended by R.1988 d.94, effective March 7, 1988.  
 See: 19 N.J.R. 1969(a), 20 N.J.R. 545(a).

#### Case Notes

Retailer's failure to comply with regulation requiring that it display poster indicating earlier drawing was not substantial contributing factor in causing player to be uninformed of change. *Driscoll v. State, Dept. of Treasury, Div. of Lottery, 265 N.J.Super. 503, 627 A.2d 1167 (L.1993).*

#### 17:20-4.6 Bonding of agents

The Director may require a non-refundable annual bonding fee from any or every licensed agent. For agents operating less than a full calendar year, the fee may be determined proportionately.

Amended by R.1988 d.94, effective March 7, 1988.  
 See: 19 N.J.R. 1969(a), 20 N.J.R. 545(a).

#### 17:20-4.7 Conversion of agents

The Director may, in the exercise of discretion, convert any licensed location from a manual agent to a machine agent, or vice versa.

Amended by R.1988 d.94, effective March 7, 1988.  
 See: 19 N.J.R. 1969(a), 20 N.J.R. 545(a).

#### 17:20-4.8 Sale of lottery tickets at specific locations licensed

An agent shall not sell tickets at any location other than that which is specified in the license. All transactions involved in the sale of said tickets shall occur at the licensed location, and not elsewhere, but the holder of a winning ticket need not redeem such ticket at the place of purchase.

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.377, effective October 5, 1992.  
 See: 24 N.J.R. 2239(a), 24 N.J.R. 3534(b).  
 Revised text.

#### 17:20-4.9 Special or seasonal lottery agents

(a) The Director may, upon proper application, license special or seasonal lottery agents.

(b) A special license may be issued subject to such special conditions or limitations as the Director in the exercise of discretion may deem prudent, consistent with the dignity of the State, the general welfare of the people and the dignity and integrity of the Lottery.

(c) These limitations or conditions may include, but are not limited to the following:

1. Length of licensure period;
2. Hours of sale;
3. Location;
4. Specific persons who may sell lottery tickets; or
5. Specific sporting, charitable, social or other special events where lottery tickets may be sold.

(d) Agents holding special lottery licenses shall be subject to all rules and regulations of the Lottery Commission not inconsistent with this rule.

Amended by R.1988 d.94, effective March 7, 1988.  
See: 19 N.J.R. 1969(a), 20 N.J.R. 545(a).

**17:20-4.10 Transfers of ownership (of licensed premises)**

(a) A lottery license issued pursuant to these regulations is not transferable without the approval of the Director.

(b) The Lottery Commission must be notified in writing at least 30 days prior to any change in ownership or any corporate stock transfer of an agent. Immediate written notice is also due when an agent advertises the sale of the licensed business.

(c) If the business to which a license is issued or the ownership thereof, including ownership of shares of stock, substantially changes, the Lottery license may be suspended immediately and, after notice to the agent, revoked.

(d) The new owner(s) of such a business may be issued a temporary license for a period not to exceed 90 days during which an application for licensure may be filed and reviewed, provided that the Division has received timely notice as described above.

(e) The Director may set a date on which responsibility passes from the current agent to the prospective agent with respect to obligations to and compensation from the Lottery. Such date may be the closing date submitted to the Division by the parties. The Director may also establish other procedures to facilitate such events.

Amended by R.1984 d.586, effective January 7, 1985.  
See: 16 N.J.R. 2758(a), 17 N.J.R. 115(a).  
Section substantially amended.

**SUBCHAPTER 5. DENIAL, REVOCATION OR SUSPENSION OF LICENSE**

**17:20-5.1 Reasons for denial, revocation, suspension or imposition of civil penalties**

(a) An application may be denied or a license suspended, revoked or its renewal rejected by the Director in the exercise of discretion for any one or more of the following reasons:

1. Whenever the application for a license or renewal thereof contains knowingly false or misleading information or is incomplete;
2. Whenever the agent violates any of the provisions of the Act or these rules and regulations or the instructions of the Lottery;
3. Whenever a person:
  - i. Has been indicted, arrested for or convicted of a crime, disorderly persons offense or violation of ordinance or administrative regulation relating adversely to the duties of a lottery agent; or
  - ii. Has been the subject of a complaint or accusation for such offense; or
  - iii. Has failed to notify the Director in writing within five days of any of the above actions.
4. Whenever an agent engages in conduct detrimental to a sound business relationship between the agent and the Lottery;
5. Whenever it is determined that such action would be in the best interest of the Lottery based on actions which reflect upon the agent's moral character or affect the integrity of the Lottery;
6. Whenever an applicant does not, or an agent can no longer satisfy the criteria set forth in N.J.S.A. 5:9-11 or these regulations for the issuance of a license;
7. Whenever ownership has been changed without the Director's approval;
8. Whenever the agent fails to meet minimum sales quotas set by the Director;
9. 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.

(b) The Director may 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; or
3. To protect the lottery from economic harm.

(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 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.

#### 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).

#### 17:20-5.2 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.

(b) Upon the failure of any agent to settle accounts on or before the designated date, the courier shall immediately notify the Director.

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.

#### 17:20-5.3 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 Rules of Practice, N.J.A.C. 1:1-1.1 et seq. 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) (Reserved)

(e) 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.

(f) 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.

(g) 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).

#### 17:20-5.4 through 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 MONEYS

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

(a) After an application has been accepted and approved by the Director, the agent shall be assigned to a courier.

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

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

(d) The agent 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, minus any commissions, bonuses and reimbursements for redeemed tickets to which the agent is entitled.

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).

**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. 770.1995233155;;;188;164;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.

(c) The agent may not turn down, during normal business hours, his or her machine without prior permission of the Director.

(d) No person under the legal age of majority may sell a Lottery ticket nor a share therein.

(e) No person shall sell a Lottery ticket, nor 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.

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).

**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 moneys**

(a) Agents shall remit their 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 his or her discretion, require the agent to fully account for any and all lottery tickets issued to him or her and to remit immediately all sums due the lottery.

(b) Moneys 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 moneys received from the sale of lottery tickets, and shall hold such moneys 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 his or her 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 moneys to the lottery notwithstanding the degree of care exercised with respect to such moneys by the agent.

(e) The agent shall keep current records of all operations in conformity with the State Lottery Law 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 Division of the State 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 State Lottery with a statement of all transactions as required.

(h) Net settlements due to the State 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 . . .".

**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. 770.1995233155;;;188;164;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 or stolen tickets

(a) Agents are responsible to the Lottery for lost, damaged, destroyed, stolen 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 or claim forms, 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 moneys or property appear to be missing at the time.

(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).

## SUBCHAPTER 7. PAYMENT OF PRIZES

### 17:20-7.1 Information to be furnished by prize claimant

(a) Before receiving any prize, the claimant shall furnish the Director with a Social Security number if one exists, or with any identifying number or account number assigned by the Internal Revenue Service for Federal Income Tax purposes, in addition to such other identification data as may be requested by the Director.

(b) Prize claimants who are nonresident aliens for Federal Income Tax purposes shall also file with the Director proof of their nonresident alien status.

(c) The Director may require proof of age prior to the award of any prize.

(d) If more than one person claims ownership of a winning ticket, that fact must be shown on the ticket or claim form submitted to the Lottery, and each claimant must provide the required data.

Amended by R.1988 d.93, effective March 7, 1988.

See: 19 N.J.R. 1889(b), 20 N.J.R. 546(a).  
Substantially amended.

#### Case Notes

Claim for lottery prize denied without production of winning ticket; held that a winning lottery ticket, by virtue of legislative fiat limiting payment to holders, is itself the obligation and debt (citing former N.J.A.C. 17:21-4 and 7.1). *Karafa v. New Jersey State Lottery Commission*, 129 N.J.Super. 499, 324 A.2d 97 (Ch.Div.1974).

### 17:20-7.2 Waiver of conditions

The Director may waive compliance with any of the requirements of this subchapter in appropriate cases if satisfied that such compliance is unnecessary.

Amended by R.1988 d.93, effective March 7, 1988.  
See: 19 N.J.R. 1889(b), 20 N.J.R. 546(a).  
Deleted text "he or she is".

### 17:20-7.3 Requirement of additional information

In any case where additional information is required to show that a person claiming a prize is the owner of the ticket and is entitled to receive payment of said prize, the Director may require the claimant to supply such further evidence as may be appropriate under the circumstances of the case.

### 17:20-7.4 Time of award of prizes

(a) Except as herein provided, prizes shall be awarded as soon as reasonably possible after the claimant has been identified to the satisfaction of the Director and the claim validated pursuant to the applicable game rules.

(b) Unless the individual game rules provide otherwise, the payment of prizes to winners who are to be paid in installments shall be made annually on or about the anniversary date of the claim except that the first payment shall be made as soon as reasonably possible.

(c) Upon the death of a prize winner, all moneys or any portion thereof that remain payable to his or her estate shall be paid either to an executor (executrix) or administrator (administratrix) of the decedent's estate, in accordance with the provisions of N.J.S.A. 54:35-19 and individual game rules.

1. Said moneys may be transferred either by intestate succession or by testamentary disposition.

2. Upon payment to the estate, the Lottery shall be absolved of any further liability for award of prizes.

(d) Under no circumstances will prize awards be accelerated.

(e) Claims may be amended prior to the issuance of checks, with the approval of the Director. Thereafter, no change shall be made except in conformity with N.J.S.A. 5:9-13.

Amended by R.1988 d.93, effective March 7, 1988.  
See: 19 N.J.R. 1889(b), 20 N.J.R. 546(a).  
Substantially amended.

**Case Notes**

Administrative rules governing state lotteries must be strictly construed. *Driscoll v. State, Dept. of Treasury, Div. of Lottery*, 265 N.J.Super. 503, 627 A.2d 1167 (L.1993).

Rules printed on back of lottery ticket precluded player whose winning ticket was bought minutes after drawing. *Driscoll v. State, Dept. of Treasury, Div. of Lottery*, 265 N.J.Super. 503, 627 A.2d 1167 (L.1993).

**17:20-7.5 Manner of payment of prizes**

(a) Payment of monetary prizes shall be made by check payable to the bearer of the ticket; however, the Director may, in the exercise of discretion, withhold payment pending clarification of ownership of the ticket. The Director may authorize cash redemption of certain prizes payable to the bearer of the "winning" ticket. With respect to machine issued tickets, the Director may refuse payment if the computer file and other validation records show that payment has been made.

(b) In cases of multiple ownership, a check will be issued to the group representative designated on the claim form.

1. Each winner may request the issuance of a separate check. Separate checks will not be issued in amounts less than \$600.

2. Where multiple winners are issued a single check, the individual designated to represent the group shall be responsible for filing the appropriate income tax form with the Lottery and distributing the moneys to co-winners.

(c) Non-cash prizes such as tickets to theatres or other places of amusement, meals or tangible property shall be awarded by the Director in such manner as is consistent with the dignity and integrity of the Lottery, the convenience of the winner and of the provider of the prize. The Director may establish time limits for the filing of claims for prizes where the event is one of limited duration.

Amended by R.1988 d.93, effective March 7, 1988.  
See: 19 N.J.R. 1889(b), 20 N.J.R. 546(a).  
Substantially amended.

**17:20-7.6 Discharge of State liability upon award**

(a) The State of New Jersey, its subdivisions, agents, officers, and employees, the State Lottery Commission, the Director, the Division of the State Lottery, its agents, officers, and employees shall be discharged of all liability upon award of a prize.

(b) The Director's decision regarding the determination of a winning ticket shall be final.

(c) In the event of a dispute between two or more persons claiming to be the owners of a winning ticket, the

Director may with or without holding a hearing, deposit the prize money in the Superior Court of the State of New Jersey and interplead all known claims. The Lottery shall thereafter be relieved of any further responsibility or liability with respect to such moneys.

Amended by R.1988 d.93, effective March 7, 1988.  
See: 19 N.J.R. 1889(b), 20 N.J.R. 546(a).  
Substantially amended.

**17:20-7.7 Unallocated prize money; breakage**

(a) Upon the conclusion of any specific game, when the prize allocation is in excess of the allocation necessary to sustain the payment of prizes within the prize pool, such excess shall be allocated as unclaimed prize money pursuant to N.J.S.A. 5:9-17.

(b) During the term of any specific game, when the prize allocation is in excess of the allocation necessary to sustain the payment of prizes within the prize pool as a result of rounding-off to even dollar amounts ("breakage"), such excess shall be added to the pool of moneys available for the award of future prizes pursuant to specific game rules.

Amended by R.1988 d.93, effective March 7, 1988.  
See: 19 N.J.R. 1889(b), 20 N.J.R. 546(a).  
Substantially amended.

**17:20-7.8 Disclosure**

The Lottery may use the names, addresses, prize amounts and photographs of winners. The address used shall not contain the street or house number of the winner.

Amended by R.1988 d.93, effective March 7, 1988.  
See: 19 N.J.R. 1889(b), 20 N.J.R. 546(a).  
Substantially amended.

**SUBCHAPTER 8. LOTTERY VENDORS' CODE OF ETHICS**

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

(a) No Lottery vendor shall employ any person or maintain any business relationship with any person who is a Lottery Commissioner, officer or employee having any duties or responsibilities in connection with the purchase, acquisition or sale of any property or services by or to the Lottery or with his or her immediate family or with any person, firm or entity with which he or she is employed or associated or in which he or she has an interest within the meaning of N.J.S.A. 52:13D-13g. As used in this section, Lottery vendor means any person, firm or corporation engaging or seeking to engage in business with the Division of the State Lottery.

(b) The maintenance of a business relationship shall be deemed to include, but not be limited to, any interest, financial or otherwise, direct or indirect, any business trans-

action or professional activity involving a Commissioner, officer or employee, including the sale of any interest in the vendor. However, it shall not be a violation of this paragraph for a Lottery Commissioner, officer or employee to seek future outside employment or to correspond with a Lottery vendor with respect thereto, provided that:

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 separate Codes 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).

## SUBCHAPTER 9. CIVIL PENALTIES AND SANCTIONS

### 17:20-9.1 Penalties not exceeding \$2,500

(a) The Director may, after notice and hearing, impose civil penalties on licensed agents in an amount up to \$2,500 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.

**17:20-9.2 Civil penalties between \$2,500 and \$5,000**

(a) The Director may assess civil penalties pursuant to N.J.A.C. 17:20-9.1 in amounts from \$2,500 to \$5,000 per incident, subject to the right of the person against whom the penalty is assessed to seek review of the assessment before the Commission.

(b) Petitions for review under (a) above shall be filed with the Director, acting as Secretary of the Commission, within 15 days of the service of notice that a penalty has been assessed.

(c) Upon receipt of a petition for review, the Director shall place the matter on the agenda for the next meeting of the Commission, at which the matter shall be acted upon unless, for good cause, it is carried until a subsequent meeting.

(d) The Commission shall consider the matter on the record compiled by the Director and shall have the power to reverse, modify or amend the Director's actions, including an increase in the penalties assessed, but only if it finds that such actions constituted a gross abuse of discretion by the Director amounting to a miscarriage of justice.

**17:20-9.3 Civil penalties in excess of \$5,000**

(a) The Director may assess civil penalties in excess of \$5,000 per incident in accordance with N.J.A.C. 17:20-9.1, pursuant to Commission review in accordance with N.J.A.C. 17:20-9.2.

(b) Such review will be a consideration de novo of the record compiled before the Director, and the Commission may call for further evidence, or seek oral argument, if it deems such actions, or either of them, to be necessary.

(c) Upon review under this section, the Commission shall make independent findings of fact if its action alters the action of the Director.

(d) The Commission may increase a penalty if it deems such increase proper under the criteria set forth in N.J.A.C. 17:20-9.1(c).

(e) No penalty shall exceed \$10,000 per incident.

**17:20-9.4 Restitution; Cease and Desist Orders**

(a) The Director shall exercise the power to order restitution and/or enter cease and desist orders pursuant to L. 1983, c.429, acting as Secretary of the Commission, subject to the right of the person against whom an order is entered to seek review by the Commission.

(b) Petitions for relief shall be filed and considered in accordance with N.J.A.C. 17:20-9.2(b), (c) and (d).

(c) In the absence of a petition for review, or if the Commission has acted upon a petition, the Director shall be empowered to seek judicial relief for the enforcement of orders entered under this section.

**17:20-9.5 Hearings; procedures**

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

(b) The cost of all appeals to the Commission, including transcript preparation, shall be borne by the party seeking review.

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**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).

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**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).