

# DEPARTMENT OF FINANCE

## OFFICE OF THE STATE LOTTERY

Statutory Authority: 29 Delaware Code, Sections 4805(a) (29 **Del.C.** §4805(a))  
10 **DE Admin. Code** 202

### FINAL

### ORDER

#### 202 Delaware Lottery Rules and Regulations

The Director of the Office of the State Lottery ("Director") issues this Order to take effect ten (10) days after it has been published in the Delaware *Register of Regulations*:

1. Pursuant to his statutory authority, the Director proposed for adoption revisions to the Office of the State Lottery's existing Rules and Regulations on traditional games (10 **DE Admin. Code** 202) to update and clarify certain sections. These changes are primarily administrative in nature and sometimes substantive in nature regarding licensing appeal procedures. The revisions also serve in part to clarify the intent of the Director as enacted through these regulations. These revisions should not pose additional burdens on licensees or consumers. Other regulations issued by the Director are not affected by this Order.

2. The statutory authority for these revisions is 29 **Del.C.** §4805(a).

3. A copy of the proposed regulations was published in the October 1, 2018 edition of the Delaware *Register of Regulations* and has been available for inspection in the Office of the State Lottery, 1575 McKee Road, Suite 102, Dover, Delaware 19904 during regular office hours.

4. The Director did not receive any written comments on the proposed regulations during the 30 day period following publication of the proposed regulations on October 1, 2018.

5. The Director finds that the proposed changes as set forth in the October 2018 *Register of Regulations* should be adopted.

#### DECISION AND ORDER CONCERNING THE REGULATIONS

NOW THEREFORE, under the statutory authority and for the reasons set forth above, the Director of the Office of the State Lottery does hereby ORDER that the regulations be, and that they hereby are, enacted as set forth below. The effective date of this Order is ten days from the date of its publication in the Delaware *Register of Regulations*, in accordance with 29 **Del.C.** §10118(g).

Vernon A. Kirk, Director  
Office of the State Lottery

Date: 11/7/2018

#### 202 Delaware Lottery Rules and Regulations for Traditional Games

##### 1.0 Definitions

The following words and terms, when used in this regulation, have the following meaning unless the context clearly indicates otherwise. Words importing the masculine gender include the feminine as well, except as otherwise clearly indicated by the context.

"Act" or "Law" means the Delaware State Lottery Law, Chapter 348, Volume 59, of the Laws of Delaware, as may be amended from time to time.

"Accessible" means complying with the technical requirements found in the ADA Accessibility Guidelines (ADAAG) as issued by the United States Access Board.

"Accessible route" means a continuous unobstructed path connecting all accessible elements and spaces of a building or facility.

"ADA" means the Americans with Disabilities Act (42 U.S.C. §§12101-12213 and 47 U.S.C. §225 and §611).

"Agent" or "licensee" means a person who has been licensed by the Director to sell lottery tickets and provide lottery-related services.

"Applicant" means any person who applies for a license to be an Agent as authorized under Delaware law and these Regulations.

"Bank" means and includes all banks, banking associations, and trust companies organized under the authority of this State or the United States whose principal place of business is within the State.

**"DGE"** means the Division of Gaming Enforcement established within the Department of Safety and Homeland Security under 29 Del.C. §8236 to (i) exercise exclusive jurisdiction for the criminal offenses which relate to gaming that occurs in a licensed video lottery facility or which relate the operation of the Lottery, and (ii) investigate the background, qualifications, and suitability of each applicant or licensee before any license is issued or re-issued by the Director.

**"Director"** means the Director of the State Lottery Office or the Acting Director as stipulated in the Act.

**"Drawing game"** means a lottery game in which a ticket is generated by a computer or a terminal and a drawing must take place to determine if the ticket is a winner.

**"Element"** means an architectural or mechanical component of a building, facility, space, or site, such as a telephone, curb ramp, door, drinking fountain, seating, or water closet.

**"Entrance"** means any access point to a building or portion of a building or facility used for the purpose of entering and includes the approach walk, the vertical access leading to the entrance platform, the entrance platform itself, vestibules (if provided), the entry door(s) or gate(s), and the hardware of the entry door(s) or gate(s).

**"Exterior accessible routes"** includes, but is not limited to, parking access aisles, curb ramps, crosswalks at vehicular ways, walks, ramps, and lifts.

**"Facility"** means all or any portion of buildings, structures, site improvements, complexes, equipment, roads, walks, passageways, parking lots, or other real or personal property located on a site.

**"Financial institution"** means any bank, trust company, or other institution or person either licensed under Title 5 of the Delaware Code or subject to the supervision and regulation of the State Bank Commissioner.

**"Inspection report"** means a completed survey of the retailer or applicant facility that identifies barriers to program accessibility, if any, and suggest possible solutions.

**"Instant game"** means either (a) a lottery game in which a pre-printed ticket must be scratched to reveal a play area that will determine if the ticket is a winner or (b) a lottery game in which a terminal-generated lottery ticket contains sufficient information to ascertain immediately, without reference to any other information, whether a holder of the ticket is entitled to receive a prize or winnings in the game.

**"Interior accessible route"** includes, but is not limited to, corridors, floors, ramps, elevators, lifts, and clear floor space at fixtures.

**"Licensee" or "Agent"** means a person who has been licensed to sell lottery tickets.

**"Lottery" or "State Lottery"** means the lottery public gaming systems or games established and operated pursuant to the Act Delaware Law and includes all types of lotteries that involve prize, consideration, and either pure chance or chance as the dominant factor.

**"Lottery program"** means drawings and instant games offered to the public through Agents and may include the sale of tickets, in-store promotions, and events.

**"Lottery Property"** means and includes but is not limited to any Agent's License license, unsold tickets, forms, promotional materials or any other tool issued to the agent by the State Lottery Office for the purpose of selling tickets.

**"Office" or "Lottery Office"** means the Delaware State Lottery Office created in the Act by the Delaware Code.

**"Person"** means and includes an individual, association, corporation, club, trust, estate, society, company, joint stock company, receiver, trustee, assignee, referee, or any other person individual acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals.

**"Person"** shall also mean and include all and any departments, commissions, agencies, and instrumentalities of the State, including counties and municipalities and their agencies and instrumentalities thereof.

**"Regulations"** means the regulations promulgated by the Lottery Office for the operation of the lottery Lottery.

**"SBI"** means the State Bureau of Identification within the Delaware Division of State Police that serves as the central repository for accurate and current criminal history record information in the State of Delaware.

**"Service site"** means an area within an Agent's facility where a customer may purchase a lottery-related product.

**"Technical Infeasibility"** means, with respect to an alteration of a building or a facility, that it has little likelihood of being accomplished because existing structural conditions would require removing or altering a load-bearing member which is an essential part of the structural frame or because other existing or site constraints prohibit modification or addition of elements, spaces, or features which are in full and strict compliance with the minimum requirements for new construction and which are necessary to provide accessibility.

**"Ticket"** means a lottery ticket issued by the State Lottery Office for sale to the general public.

**"Traditional lottery products"** means both drawing games and instant games.

## 2.0 Director

The Director shall have the power, duties and responsibilities as set out in ~~the enabling legislation, Chapter 348, Volume 59, Laws of Delaware, 29 Del.C. Ch. 48~~ and any subsequent amendments.

## 3.0 Licensing of Agents

- 3.1 Application. Any person interested in obtaining a license as an Agent must first file an "Application for Lottery Sales Agent's License" with the Director ~~of the State Lottery Office~~. The applications, as well as other documents submitted to the Lottery ~~on behalf of Office and the DGE~~ by the applicant for the purposes of determining the qualifications of the applicant, ~~shall must~~ be sworn to or affirmed before a notary public, ~~or designated Lottery employee~~. The applicant must grant to the Lottery Office and the DGE the right to perform a security investigation and to release to the Lottery Office and the DGE any criminal history found by the SBI and the Federal Bureau of Investigation. The applicant must also grant to the Lottery Office and the DGE the right to perform a routine credit check on the applicant. The DGE, or persons acting at the direction of the DGE, shall conduct the security, fitness, and background checks required by the Delaware Code and these Regulations. If an applicant, licensee, registrant, or any other person who must be qualified pursuant to 29 Del.C. Ch. 48 refuses to provide information, evidence, or testimony upon formal request by the Director or the DGE, the Director may deny or revoke the application, license, registration, or qualification of such person.
- 3.2 Eligibility for License. ~~No license as an Agent to sell lottery tickets shall be issued to any person to engage in business primarily as a lottery sales Agent.~~ Before issuing such any license, the Director shall consider such certain factors, ~~including including~~, but not limited to:
  - 3.2.1 The financial responsibility and security of the person applicant and his the applicant's business or activity. ~~The applicant must be willing to grant to the Lottery the right to perform a routine credit check such as any other supplier might require before extending credit. He or she must also be willing to grant to the Lottery the right to perform a security investigation to include the release of any criminal history by the State Bureau of Identification and the Federal Bureau of Identification.~~
  - 3.2.2 The honesty and integrity of the applicant. ~~applicant;~~
  - 3.2.3 The accessibility to the public of his the applicant's place of business or activity. ~~activity; to the public.~~
  - 3.2.4 The sufficiency of the number of existing licensees to serve the public convenience. ~~convenience;~~
  - 3.2.5 The volume of expected sales. ~~sales of the applicant;~~
  - 3.2.6 The veracity of the information supplied in the "Application for Lottery Sales Agent's License". License;
  - 3.2.7 The results of the applicant's state and federal criminal history record check. ~~check;~~
  - 3.2.8 The extent to which the applicant is known to associate with persons of nefarious backgrounds or disreputable character such that the association could adversely affect the general credibility, security, integrity, honesty, fairness, or reputation of the Lottery. ~~Lottery Office;~~
  - 3.2.9 Whether the applicant's experience, character, and general fitness are such that his or her participation as an Agent would be consistent with the public interest, convenience and the purposes of Delaware lottery laws; and
  - 3.2.10 Whether the applicant has obtained from the Delaware Division of Revenue a license to conduct business and whether the applicant's license is current and has been kept current for all applicable time periods.
- 3.3 Ineligibility of Minors ~~Certain Persons~~. ~~No person under the age of twenty-one (21) shall be licensed as an Agent. Nothing herein shall be construed to mean an employee must be twenty-one (21) to sell tickets within the licensed establishment.~~
  - 3.3.1 The Lottery Office shall not issue a license to act as an Agent to any person who is under the age of twenty-one (21). Nothing herein shall be construed to mean an employee of any Agent must be twenty-one (21) years old to sell tickets within the licensed establishment.
  - 3.3.2 The Lottery Office shall not issue to any person a license to sell lottery tickets if the person will engage in business primarily as a lottery sales agent.
- 3.4 Issuance of License
  - 3.4.1 The Director shall license, in accordance with the provisions of ~~the Act~~ Delaware Law and these Regulations, ~~license~~ such persons as Agents to sell lottery tickets who, as in his option, will best serve the public convenience and promote the sale of lottery tickets.
  - 3.4.2 The issuance of a license ~~shall signify~~ signifies an agreement by the agent to abide by all of the provisions of the ~~Lottery regulations~~ Delaware Code and these Regulations. All Agents shall also sign the Lottery Retailer Agreement and abide by its terms. The Director shall provide a form of the Lottery Retailer Agreement to each Agent for his signature. The Director may revise the Lottery Retailer Agreement at his

discretion and from time to time. If an Agent fails to abide by the terms of the Lottery Retailer Agreement, such violation may result in the suspension, revocation, or non-renewal of the Agent's license.

3.4.3 An Agent's license shall be reviewed annually on or about the anniversary date of the original ~~permanent issue~~ issuance.

3.4.4 The Director reserves the right to require a surety bond from every ~~licensed~~ Agent in such amount consistent with his determination of the financial stability of said Agent so as to avoid any monetary loss to the State because of the Agent's activities in the sale of lottery tickets.

### 3.5 License to be Displayed

3.5.1 Every Agent shall prominently display his lottery license in an area visible to the general public.

3.5.2 ~~In addition, the Agent decal shall mounted on a prominent public window of the Agent's premises. Agents must also display their State of Delaware, Division of Revenue business license in an area that is prominently visible to the general public.~~

3.5.3 The Agent shall maintain and display all promotional material in conjunction with ticket sales in accordance with instructions issued by the Lottery Office.

### 3.6 Sale of Lottery Tickets at Specific Locations, Licensed and Nontransferability

3.6.1 ~~The sale of lottery tickets shall be made at a specific location named therein in the Agent's license.~~ An Agent may sell lottery tickets only pursuant to a lottery Agent's license.

3.6.2 No other sales ~~shall be~~ of lottery tickets are permitted, except as provided in the ~~Act~~ Delaware Code or these Regulations.

### 3.7 Sale and/or Transfer of Ownership of Specific Licensed Locations

3.7.1 ~~All licensed agents~~ Agents are required to notify the Lottery Office of a pending sale of a specific licensed location. This requirement of notice includes ownership change in corporations as well as individual ownership ~~change~~ changes affecting a specific licensed location. No license may be transferred, assigned, or pledged as collateral. All licenses to sell ~~Lottery~~ lottery tickets are nontransferable.

3.7.2 Any change in ownership of a specific licensed location requires a new Agent ~~Application~~ application process. Change of ownership does not automatically guarantee the granting of a ~~License~~ license to the new ownership. ~~In the event of the death of a licensee~~ If a licensee dies, the Lottery Office will suspend operations at the Agent's location ~~if and~~ until a new Agent ~~Application~~ application is approved for that location.

3.8 Liability of Lottery Office and State of Delaware. ~~It is agreed by the Agent that he~~ All Agents shall hold the Lottery Office, all Lottery employees, and the State of Delaware harmless from any liability arising in connection with conducting lottery ticket sales.

## 4.0 Suspension, Non-Renewal, or Revocation of Licenses

4.1 The license is evidence of an agency revocable at will by the Director. The Director may revoke or suspend without notice or a hearing first, the license of any Agent who violates the ~~Act~~ Delaware Code or any rule or regulation promulgated pursuant to the ~~Act~~ Delaware Code by issuing an emergency suspension or revocation order. However, if the Director does revoke a license without notice and an opportunity for a hearing, the Director shall by appropriate written notice afford the person whose license has been revoked an opportunity for a hearing within thirty (30) days after the revocation order has been issued. The notice shall also specify the intended reasons for the revocation. As a result of any such hearing, the Director may confirm his action revoking or suspending the license or he may order the restoration of such license.

4.2 An Agent's license may be suspended, revoked, or its renewal rejected for any one or more of the following reasons:

4.2.1 Whenever the Agent knowingly uses false or misleading information in obtaining the license.

4.2.2 Whenever the Agent violates any of the provisions of the ~~State Lottery Law~~ Delaware Code or any regulations, directives, or instructions promulgated or issued thereunder.

4.2.3 Whenever the ~~Agent's business address is changed~~ Agent ceases to conduct business or changes business locations without obtaining from the Director prior authorization for such relocation.

4.2.4 Whenever the Agent does not display lottery point-of-sale ~~material~~ materials in a manner which, as determined by the Director to be necessary to the interest of the public and the Lottery, is readily seen by and available to the public, ~~including failure~~ or fails to make tickets available at points-of-sale within the licensed premises ~~which the Director determines are necessary to the interest of the public and the lottery~~.

4.2.5 Whenever a an Agent commits an act which seriously impairs his reputation for honesty and integrity.

4.2.6 Whenever the Agent has been convicted of a crime.

4.2.7 Whenever the Agent has been found guilty of any fraud or misrepresentation in any connection.

- 4.2.8 Whenever the Agent's experience, character, and general fitness are such that his participation as a lottery sales Agent is inconsistent with the public interest, convenience and necessity, or the security of the Lottery operations.
- 4.2.9 Whenever the Agent is delinquent in making required accounting or fails to pay weekly all monies owed to the State of Delaware.
- 4.2.10 Whenever the Agent fails to take reasonable security precautions with regard to the handling of lottery tickets and other related materials.
- 4.2.11 Whenever the Agent sells a lottery ticket for an amount less than or greater than its stated price.
- 4.2.12 Whenever the Agent fails to report information required by these ~~regulations~~ Regulations.
- 4.2.13 Whenever the Agent sells lottery tickets to known third-party ticket ~~[resalers resellers]~~ or enters computer-generated betting slips from third-party ticket ~~[resalers resellers]~~ for the sale of lottery tickets.
- 4.3 Procedure for Revocation or Rejection of Renewal of License
  - 4.3.1 The Director may, for any of the reasons stated above, revoke or reject the renewal of an Agent's license.
  - 4.3.2 Immediately upon notice of revocation or rejection of renewal of an Agent's license, said Agent shall suspend the sale of all lottery tickets and shall forthwith comply with the provisions of these Regulations for procedures upon suspension of license, unless otherwise notified by the Director.

## **5.0 Procedure Upon Denial, Failure to Renew, Suspension or Revocation of License**

- 5.1 The license of any Agent may be temporarily suspended by the Director without prior notice, or having a hearing, pending further investigation, settlement of delinquent account, or prosecution.
- 5.2 Upon suspension or revocation of an Agent's license for any reason whatsoever, the Agent shall meet with the Director or his designee on a date set by the Director for the purpose of rendering his final lottery accounting. This date shall be not more than seven (7) days from the date the notice of suspension or revocation was received by the Agent. Upon the Agent's failure to meet with the Director or his designee on or before the date set by the Director, the Director may take steps to impose such penalties and to enforce the powers of his Office against the delinquent Agent, his agents, or representatives, as may be provided by law and these Regulations.
- 5.3 Upon receipt of notice of suspension, revocation, or rejection, the Agent may within fourteen (14) days of receipt of said notice make written request to the Director for a hearing to show cause why his license should not be revoked. The written request must contain:
  - 5.3.1 A clear and concise assignment of each error which the licensee alleges to have been committed in the tentative determination to suspend or revoke the license. Each assignment of error should be listed in a separately numbered paragraph.
  - 5.3.2 A clear and concise statement of the facts on which the licensee relies in support of each assignment of error.
  - 5.3.3 A prayer setting forth the relief sought.
  - 5.3.4 The signature of the licensee or an officer authorized to request the hearing.
  - 5.3.5 A verification by the licensee ~~or counsel for the licensee~~ that the statements contained in the petition are true.  
~~The Director shall provide an opportunity for the petitioner to be heard within thirty (30) days of receipt of the request for a hearing.~~
- 5.4 The Director shall provide an opportunity for the petitioner to be heard within thirty (30) days of receipt of the request for a hearing. The Director may appoint a hearing officer within a reasonable time for the purpose of hearing suspension or revocation cases. Said officer shall hear the case, and within thirty (30) days of the conclusion of said hearing, submit to the ~~Director~~ Director, with a copy to the parties of record, a recommended report. Said report shall contain findings of facts and conclusions of law to support a recommendation to support the revocation, suspension, or rejection, or to support the relicensing of the Agent involved. The parties of record upon receipt of their copy of the recommended report shall have ten (10) days in which to file exceptions, objections and replies to the Director. The Director, within fourteen (14) days, will advise the Agent of his final decision. The Director's decision shall be final.
- 5.5 The licensee may appear individually, ~~by legal counsel, or by any other duly authorized representative or by the appearance of a licensed Delaware attorney.~~ In the absence of the licensee, written evidence of a representative's licensed Delaware attorney's authority to act on behalf of the licensee shall be presented to the hearing officer in a form satisfactory to the hearing officer.

- 5.6 The licensee or his duly authorized ~~representative~~, representative may, with the approval of a hearing officer, waive the hearing and agree to submit the case for decision on the record, with or without a written brief. Such a waiver or agreement shall be in writing and placed in the record.
- 5.7 The licensee shall be given the opportunity for argument within the time limits fixed by the hearing officer following submission of the evidence. The hearing officer, upon request of licensee, may accept briefs in lieu of argument. The briefs shall be filed within ten days after the hearing date or within such time as fixed by the hearing officer.
- 5.8 The hearing officer may admit any relevant evidence, except that he shall observe the rules of privilege recognized by law. The hearing officer may exclude any evidence which is irrelevant, unduly repetitious, or lacking a substantial probative effect.
- 5.9 A record shall be made of all ~~hearings~~ hearings, and all witnesses shall be sworn and subject to cross examination.

## **6.0 Erroneous or Mutilated Tickets; Malfunctions**

Unless the Director is satisfied that a mutilated lottery ticket is genuine, no credit or prize will be issued to the holder of said ticket. The Lottery Office is not responsible for paying winning tickets resulting from any system or terminal malfunction or any other type of error. Tickets misprinted due to machine error ~~shall~~ or any malfunction or other type of error must be returned to the Lottery Office, and the Agent's account ~~shall~~ will be credited. If a ticket that has been sold to the public is determined by the Director to be misprinted due to machine error (as determined by Lottery internal procedures) ~~has been sold or is determined to be erroneously issued due to a system or terminal malfunction or any other type of error,~~ the Lottery Office shall reimburse the ticket holder ~~shall be reimbursed~~ for the cost of the ticket. Such tickets ~~shall~~ will not be eligible for any prize. The Director may require Agents to comply with such directives as he deems necessary for erroneous, misprinted, or mutilated tickets received by an Agent.

## **7.0 Agent's Compensation**

All ~~licensed~~ Agents shall be entitled to a commission of a percentage of the price of each ticket sold by them as provided determined by the Director. In addition, ~~each Agent shall be entitled to such bonus(es) as may be deemed desirable by the Director~~ may determine in his sole discretion that certain or all Agents may receive a bonus or bonuses.

## **8.0 Special Agent Licensing**

- 8.1 The Director may license special lottery Agents, subject to such conditions or limitations as the Director may deem prudent and which ~~is~~ are consistent with the ~~laws of the State of Delaware~~ Code and these Regulations. These limitations or conditions may include, but are not limited to:
  - 8.1.1 Length of license ~~period~~: period;
  - 8.1.2 Hours or day of ~~sale~~: ticket sales;
  - 8.1.3 Location of ~~sale~~: ticket sales;
  - 8.1.4 Specific persons who are allowed to sell lottery ~~tickets~~: tickets; and
  - 8.1.5 Specific sporting, charitable, social, or other special events where lottery tickets may be sold if in conformity with ~~law~~ Delaware law and these Regulations.
- 8.2 Special ~~licensed~~ lottery Agents will be subject to these Regulations.

## **9.0 Obligations of Licensed Retailers**

- 9.1 Each Agent accepts and assumes the following obligations and responsibilities when he accepts a license to sell lottery tickets:
  - 9.1.1 Each ~~agent~~ Agent shall deposit all proceeds resulting from his sales of lottery tickets into a specified lottery ~~bank~~ financial institution account.
  - 9.1.2 ~~Each At all lawful times during normal business hours, each Agent should~~ shall make available ~~at all lawful times during his normal business hours~~ lottery tickets for sale to the public in the place of business designated in the license.
  - 9.1.3 Each Agent shall abide by the ~~law~~ Delaware Code, these ~~Regulations~~ Regulations, and all other directives or instructions issued by the Director.
  - 9.1.4 Each Agent and its agents and representatives grants to the Lottery Office, ~~and its Agents and representatives~~, an irrevocable license to enter upon the premises listed as location(s) on the Agent's license in which tickets may be sold or any other location under the control of the Agent where the Director may have good cause to believe lottery materials or tickets are stored or kept in order to inspect said lottery property and the premises.

- 9.1.5 All property given to an Agent remains the property of the Lottery Office, and upon demand, the Agent agrees to deliver ~~forthwith same~~ such property to the Director.
- 9.1.6 ~~All~~ Each Agent shall make available for inspection and audit of the Director and his agents, upon the Director's demand and at reasonable hours, all books and records pertaining to the Agent's lottery activities shall be made available for inspection and/ or audit at reasonable hours, upon demand, to the Director.
- 9.1.7 No Agent shall advertise or otherwise display advertising in any part of the Agent's licensed location which may be considered derogatory or adverse to the operation or dignity of the Lottery ~~Lottery~~, and the Agent shall remove same forthwith if requested by the Director or his representative.
- 9.1.8 Each licensee shall accept full responsibility for the acts and conduct of his employees, agents and representatives in connection with all activities of the Lottery Office, and shall hold the Lottery Office and its Director and employees harmless.
- 9.1.9 Each Agent is required to sell a minimum number of tickets as determined by the Director.
- 9.1.10 Each Agent is required to make available for any player's inspection the official game rules applying to any specific game ~~to any player desiring to inspect same.~~
- 9.1.11 Each Agent shall promptly report promptly to the Director any ~~violation~~ violation, or any facts or circumstances that may result in a ~~violation~~ violation, of these ~~regulations~~ Regulations, or in a violation of ~~State or Federal~~ any state or federal law, excluding violations concerning motor vehicle laws.
- 9.1.12 Each Agent shall conduct lottery operations in a manner that does not pose a threat to the public, health, safety, or welfare of the citizens of Delaware, or reflect adversely on the security or integrity of the ~~lottery~~ Lottery.
- 9.1.13 Each Agent shall exercise due diligence in the operation of all Lottery-provided equipment and shall immediately notify the Lottery Office of any communication or equipment malfunctions that may occur.

## 10.0 Lottery Accounts

- 10.1 The Director may require, in his discretion, ~~require~~ any or all lottery sales Agents to deposit to the credit of the State Lottery Fund, in ~~banks~~ financial institutions designated by the Director, all monies received by such Agents from the sale of ~~Lottery tickets, lottery tickets~~ and to file with the Director or his designated ~~agent, agent~~ reports of their receipts and transactions in the sale of lottery tickets in such form and containing such information as ~~he~~ the Director may require.
- 10.2 The Director may make such arrangements for any person, including a ~~bank~~ financial institution, to perform such functions, activities, or services in connection with the operation of the Lottery as he may deem advisable pursuant to the ~~Act~~ Delaware Code and these Regulations, ~~and such functions, activities, and services of such person.~~
- 10.3 All deposits shall must be secured in accordance with applicable ~~State and Federal~~ state and federal laws.

## 11.0 Lottery Tickets

- 11.1 ~~Lottery tickets shall be prepared for sale and allocated to the Agent by the Lottery Office~~ Instant game lottery tickets will be prepared for sale and allocated to the Agent by the Lottery Office. Ticket stock for drawing games will be allocated to the Agent by the Lottery Office. No Agent will be permitted to share instant lottery game tickets or ticket stock with another Agent or with another Agent's place of business or licensed location.
- 11.2 ~~Tickets which are not accounted for by an Agent on the settlement date and within the time period designated by the Director, regardless of the reason, shall be deemed sold to the Agent~~ Instant game lottery tickets are deemed sold, and the Lottery Office will charge the Agent's account, when the earliest of the following events occurs: (i) the instant game ticket pack reaches approximately 85% of redemption level; (ii) the Agent or one of its employees activates another ticket stock pack from the same lottery game; (iii) the Lottery Office closes an instant ticket game; (iv) the Agent notifies the Lottery Office in advance that it wishes to be charged once the Agent receives the lottery ticket pack; or (v) 90 days have passed since the Agent or one of its employees has activated a lottery ticket stock pack and none of the other conditions listed in this subsection 11.2 have occurred.
- 11.3 ~~The Lottery office shall not be responsible for lost, stolen, or mutilated tickets after sale of same to the public~~ The Lottery Office will not be held responsible for any lost, stolen, misprinted, erroneously issued, or mutilated lottery tickets that an Agent sells to the public.

## 12.0 Sale of Tickets —Limitations

- 12.1 No person may sell a ticket for less than or greater than its stated price. Any such ticket ~~shall~~ will be considered an illegal ticket and shall not be validated by the Lottery Office. No ~~Lottery lottery~~ sales Agent shall sell a ticket to a known ~~third-party~~ third-party ticket ~~resaler reseller~~ or enter computer-generated betting slips from a third-party ~~resaler reseller~~ for the sale of ~~Lottery lottery~~ tickets. No person other than a duly licensed ~~Lottery lottery~~ sales Agent or his employee may sell lottery tickets except that nothing in this section shall be construed to prevent a person who may lawfully make such a purchase from making a gift of lottery tickets to another person. An Agent shall not sell a ticket ~~away~~ from ~~any locations~~ location that is not listed in his license.
- 12.2 The Director has the discretion to determine the types and terms of payment that may be accepted for traditional lottery products.

### **13.0 Purchasing Restrictions**

- 13.1 ~~No~~ An employee of the Lottery Office or any member of the employee's immediate household shall not purchase a ticket or share in the winnings from any Delaware ~~Lottery game shall be purchased by, lottery game,~~ and ~~no prize be paid~~ the Lottery Office shall not pay any prize money or winnings to an any employee of the Lottery Office or any member of ~~their~~ the employee's immediate households household. This restriction ~~shall also prohibit the purchase of~~ prohibits a Lottery Office employee from purchasing any lottery ticket for a game in which the Delaware Lottery is a joint participant.
- 13.2 ~~No ticket or share in games where winners are determined by drawings, shall be purchased by, and no prize shall be paid to an employee of Lottery contractors, subcontractors or vendors, or any Lottery contract employee, that has any duty or responsibility associated with the Lottery's drawings, or game operations~~ An employee of any contractor, subcontractor, or vendor of the Lottery Office or a Lottery Office contract employee who has any duty or responsibility associated with the Lottery Office's drawings or game operations shall not purchase any ticket or share in any winnings from any Lottery Office games in which winners are determined by drawings. In addition, the Lottery Office shall not pay any prize or winnings from any games in which winners are determined by drawings to any contractor, subcontractor, or vendor of the Lottery Office or a Lottery Office contract employee.
- 13.3 ~~No Lottery lottery game ticket shall be purchased by, and no prize shall be paid to~~ to, any Lottery employee of a lottery instant ticket supplier employee or central computer system supplier.
- 13.4 ~~No Lottery games ticket shall be purchased and no prize shall be paid to an employee of the Lottery's on-line games computer system supplier~~ All ticket sales will be final except for tickets for cancellable games, which are PLAY 3, PLAY 4, Keno, and Multi-Win Lotto.
- 13.5 ~~All ticket sales shall be final and an Agent is not to accept ticket returns except as otherwise provided in these Regulations or with the approval of the Director~~ An Agent has the discretion to choose to refund to a customer the purchase price of a ticket from a cancellable game if the circumstances warrant such refund.
- 13.6 ~~No Agent shall sell a ticket or share shall be sold~~ to any person under the age of eighteen (18) years, but this shall not be deemed to prohibit the purchase of a ticket or share for the purpose of making a gift by a person 18 years of age or older to a person less than that age. Any Agent who knowingly sells or offers to sell a lottery ticket to any person under the age of 18 years shall be subject to the penalties as provided in the Act Delaware Code.

### **4 DE Reg. 498 (09/01/00)**

### **14.0 Types of Lotteries**

- 14.1 The Lottery Office reserves the right to institute any type of lottery game as is allowable under the Act Delaware Code any time ~~it is deemed~~ the Director deems it to be in the best interest of the State.
- 14.2 Rules and regulations concerning individual games will be promulgated by the Director as required.

### **15.0 Manner of Random Selection**

- 15.1 The dates, times, and locations for each Lottery drawing shall be determined by the Director.
- 15.2 The lottery events ~~shall~~ will be open to the public ~~with no~~ free of admission charge.
- 15.3 The Director shall define the manner of winning number selections shall be defined for each game in the rules for that game.

### **16.0 Determination of Prize Winners**

- 16.1 The Director shall adopt a prize structure for each type of lottery game administered by him and shall review, from time to time, ~~review~~ the prize structure of each lottery game and, if advisable, revise said prize structure.



- 16.2 ~~The pertinent prize structure shall become a part of the rules of each game offered by the State Lottery. The Director may post on the Lottery Office's official website or publish in brochures the prize structure for each type of lottery game.~~
- 16.3 Any prize structure or prize revisions adopted by the Director ~~and any revisions thereof shall will~~ take effect on the date announced by the Director; Director; provided, however, that no revision of the prize structure may take effect ~~after the initiated time for sale of tickets~~ for the winner determination in the game after the initiated time for the sale of tickets.

#### 4 DE Reg. 498 (09/01/00)

### 17.0 Notification of Prize Winners

As soon as practicable after each drawing, ~~each Agent shall, the Lottery Office shall post the winning lottery numbers on the Lottery Office's official website at each location for which a license has been issued, post in a prominent and conspicuous part of his business location in full view of the public, the winning lottery numbers. The winning weekly lottery numbers shall remain posted until the next weekly lottery makes new numbers available to be posted. Each Agent shall fully cooperate to give the public exposure and type of display of the winning lottery numbers in his location as may be requested by the Director. The Lottery Office shall maintain a database of all winning numbers, which database must be accessible to the public via the Lottery Office's official website.~~

### 18.0 Procedure for Claiming Prizes

- 18.1 The following ~~shall be~~ are the ~~procedure~~ procedures by which prizes may be claimed and paid ~~from the State Lottery Fund~~:
- 18.1.1 ~~Place of Claims~~— All cash prizes under an amount defined by the Director may be claimed through a ~~duly authorized~~ duly-authorized claim center, which may ~~be~~ be, but is not limited ~~to~~ to, an Agent's licensed location or at the offices of the Division of Revenue. All cash prizes greater than ~~\$5000~~ \$5,000.00 must be claimed at the ~~Lottery Office Headquarters~~ Office's main office location.
- 18.1.2 ~~Claim Forms~~— Each prize ticket winner may be required to complete a claim form and to sign the winning ticket ~~or both~~ (or both) at the discretion of the Director. If the prize ticket owner is a minor or a person unable to complete the required form(s), then said minor or person shall have his guardian, conservator, adult member of his household, or other proper representative complete the claim form in his stead. If the Director determines that the person who completed the claim form on behalf of the owner is not the proper person to claim the prize on behalf of the owner, the Director may require a new claim form be completed by a person to claim the true owner's prize. The claim form ~~shall~~ must be in such form as the Director may, deem necessary and proper, from time to time, ~~deem necessary and proper~~ to protect the Agency Lottery Office and the public interest.
- 18.1.3 ~~Listing Winning Tickets~~— ~~Each Agent will be provided with a list containing winning lottery numbers for prior weeks. Each prize ticket winner must present a physical paper ticket to claim a prize. In addition, a winner may be required to provide (i) a photo identification card that has the winner's name and current residential address and (ii) a Social Security card.~~
- 18.1.4 ~~Lottery Verification~~— ~~The Agent~~ Agents shall review ~~the~~ each winning ticket and must be assured that ~~the~~ each ticket ~~is a proper winner~~ contains winning lottery numbers and is signed by the claimant. ~~The Agent~~ Agents shall validate ~~the winning ticket~~ tickets and pay to the ~~winner~~ winners the amount of winnings up to the limit set by the Director. ~~Should the~~ If an Agent ~~have~~ has any questions about the validity of a winning ticket, the ticket must be turned in to the ~~Lottery office~~ Office for payment.
- 18.1.5 ~~Lottery Validation~~— ~~All~~ In addition to all other requirements in these Regulations, all winning tickets ~~will~~ must be validated through the lottery terminal. A winning ticket must not be counterfeit in whole or in part and must be presented by a person authorized to play the Lottery. ~~In the event it is determined that a prize was paid by an Agent on a ticket which was not a winner, for any reason, the person signing the ticket will be contacted, advised of the error and will be required to reimburse the Lottery for said payment. If an Agent pays any claim, which that was not for a winner winning ticket and the holder of the ticket fails to reimburse the Lottery Office or cannot be located, the Agent will be held responsible for the improper or erroneous payment. All winning tickets submitted on a claim form to the Lottery Office for payment shall be validated. In the event that~~ If a ticket is determined to be invalid, the Director will notify the claimant that said ticket is ~~invalid~~ invalid, and no prize will be paid. All tickets will be considered void if altered, torn, misprinted, illegible or damaged unless the Director is satisfied that the ticket is genuine. If it is determined that a ticket contains a manufacturing defect or resulted from any system or terminal malfunction or from human error which makes said ticket appear to be a winner when in fact it is not, the bearer ~~shall have the~~

~~right to expect~~ may receive reimbursement for the full purchase price of said ticket, but shall not be awarded any prize.

18.1.6 ~~Appeal by Claimant~~— If a claimant is aggrieved by the Director's denial of his claim or a prize, he may request an informal hearing with the Director to discuss his ~~grievances~~ grievance and a reconsideration of his claim by the Director. If the Director concludes that there is meritorious basis for the claimant's complaint, he may revise his prior decision. If the Director concludes there is no meritorious basis for the claimant's complaint, the Director may finalized his decision in writing and deny the claim. The decision of the Director shall be final.

18.1.7 ~~Duration of Ticket Redeemability~~— A winning ~~on-line~~ ticket ~~will be redeemable~~ may be redeemed for a period of twelve (12) calendar months from the ~~Drawing Date of the lottery for which it was purchased~~ date of the drawing or event in which the prize was won. A winning instant scratch game ticket ~~will~~ may be ~~redeemable~~ redeemed for a period of twelve (12) calendar months from the announced end of that game's sales. ~~Prizes not collected within that period revert to the State Lottery Fund of the Delaware State Lottery in order to fulfill the statutory prize requirement~~ If no person claims a prize for a winning ticket within such calendar year, the prize money will revert to the State Lottery Fund as mandated by the Delaware Code.

18.2 The Director reserves the right to offer special prizes above and beyond the normal prize structure. These prizes may be ~~only~~ redeemable only for a specific time period after which no prize will be awarded. These special situations will be clearly detailed in announcements to the public ~~providing~~ so that there will be ample time for claims.

18.3 The Director may establish and modify procedures by which prizes may be claimed and paid by ~~authorized~~ Agents.

**4 DE Reg. 498 (09/01/00)**

## **19.0 Ownership of Lottery Tickets**

Until such time as a name is imprinted or placed upon the rear portion of the lottery ticket in an area designated for "name", a lottery ticket which has been sold ~~shall~~ will be owned by the physical possessor of said ticket. Unsold tickets remain the property of the Lottery Office. When a name is placed on the rear of said ticket in the place designated therefor, the person(s) whose name(s) appear in that area ~~shall~~ will be the owner(s) of said ticket and ~~shall~~ will be entitled to any prize attributed thereto. Unless there is a conflict between the information on the claim form and the signature(s) on the back of the ticket, the Lottery Office shall ~~make payment~~ pay to the person(s) whose name(s) ~~appearing~~ appear on the back of the ticket in the ~~space designated therefor, provided~~ designated space; provided, however, if more than one name appears on the rear of the lottery ticket, one of those persons whose name appears thereon may be designated to receive payment. This may be done by indicating on the claim form and by the signature on the claim form of all persons whose names appear on the rear of the ticket. The person(s) appearing for payment shall must be the same as those whose name(s) that which appear on the rear portion of the lottery ticket in the designated space designated.

**4 DE Reg. 498 (09/01/00)**

## **20.0 Prize Rights Unassignable**

No right of any person to a drawn prize ~~drawn~~ shall be assignable, except that payment of any drawn prize ~~drawn~~ may be paid to the ~~designated Beneficiary(ies) estate~~ of a deceased prize winner, and except that any person pursuant to an appropriate judicial order may be paid the prize to which the winner is entitled. The Director shall be discharged of all liability upon payment of a prize pursuant to this section.

## **21.0 Payment of Prizes to Persons Under 18 Years of Age**

If the person entitled to a prize for any winning ticket is under the age of eighteen (18) years, and such prize is less ~~that~~ than \$5,000.00, the Director may direct payment of the prize by a check or draft payable to the order of the minor via delivery to an adult member of the minor's family or a guardian of the minor ~~of a check or draft payable to the order of the minor~~. If the person entitled to a prize ~~on for~~ for any winning ticket is under the age of eighteen (18) years, and the prize is \$5,000.00 or more, the Director may direct payment of the prize to the minor by depositing the amount of the prize ~~in~~ into a bank financial institution to the credit of an adult member of the minor's family or a guardian of the minor as a custodian in accordance with Delaware Law ~~law~~, and ~~for~~ For the purpose purposes of this ~~section~~ section, the term "adult member of the minor's family," "guardian of the minor," and "bank financial institution" ~~shall~~ have the same meaning meanings as stated in the Uniform Gifts Transfers to Minors Act, as applicable in Delaware 29 Del.C. Ch. 45. The Director shall be discharged of all liability upon payment of a prize to a minor pursuant to this section.

## **22.0 Prizes Payable After Death or Disability of Owner**

All prizes or a portion thereof which remain unpaid at the time of the prize winner's death ~~shall~~ will be payable to the

prize winner's ~~designated beneficiary(ies) estate~~. ~~The payment~~ Payment by the Lottery Office to the ~~designated beneficiary(ies) estate~~ of the deceased owner of any prize winnings ~~by the Lottery Office shall will~~ absolve the Lottery Office and ~~its any~~ Agents of any further liability for payment of said prize winnings. ~~The Lottery Office need not look to the payment of the prize winning beyond the payee thereof.~~ Under no circumstances will the payment of prize money be accelerated beyond its normal dates of payment by the Lottery Office. The Director reserves the right to petition any court of competent jurisdiction to request a determination for the payments of any prize winnings, including those winnings which are or may become due payable to the ~~designated beneficiary(ies) estate~~ of a deceased owner or an owner under a disability because of, but not limited to, underage minority of age, mental deficiency, or physical or mental incapacity. If the ~~legatee(s) legatees, or heir(s) heirs~~ of a deceased owner entitled to prize winnings ~~obtain obtains~~ an order from a court of competent jurisdiction directing payments due and to become due from the Lottery Office to be paid directly to said legatee(s) or heir(s) or otherwise directs the Lottery Office to make payments to another ~~in the event of if an owner's disability owner is disabled~~ or otherwise, the Lottery Office shall pay the prize winnings accordingly.

### 23.0 Payment of Prizes

- 23.1 All prizes ~~shall will~~ be paid within a reasonable time after ~~they are awarded~~ the winning numbers are announced and after the claims are verified by the Director. For each prize requiring annual payments, all payments after the first payment ~~shall will~~ be made on the anniversary date of the first payment in accordance with the type of prize awarded. The Director may delay, at any time, ~~delay~~ any payment in order to review a change of circumstances relative to the prize awarded, the payee, the claim, or any other matter that may have come to his attention. All delayed payments will be ~~brought up to date immediately upon the Director's confirmation made once the Director confirms the circumstances of the prize payment, and payments will~~ continue to be paid on each original anniversary date thereafter.
- 23.2 For Grand Prizes in the Lottery's Powerball game, those prizes shall be paid at the election of the player made no later than 60 days after the player becomes entitled to the prize with either a per winner annuity or cash payment. If the payment election is not made at the time of purchase and is not made by the player within 60 days after the player becomes entitled to the prize, then the prize shall be paid as an annuity prize. An election for an annuity payment made by a player before ticket purchase or by system default or design may be changed to a cash payment at the election of the player until the expiration of 60 days after the player becomes entitled to the prize. The election to take the cash payment may be made at the time of the prize claim or within 60 days after the player becomes entitled to the prize. An election made after the winner becomes entitled to the prize is final and cannot be revoked, withdrawn, or otherwise changed. Shares of the Grand Prize shall be determined by dividing the cash available in the Grand Prize pool equally among all winners of the Grand Prize. Winner(s) who elected a cash payment shall be paid their share(s) in a single cash payment. The annuitized option prize shall be determined in accordance with the rules and procedures approved by The Lottery Office is a participating member of the Multi-State Lottery Association (MUSL) and the Mega Millions Product Group (M2G2), of which the Delaware Lottery is a participating member. Neither the Multi-State Lottery Association MUSL, M2G2, nor the member lotteries lotteries, including the Delaware Lottery Lottery, shall will be responsible or liable for changes in the advertised or estimated annuity prize amount and the actual amount purchased after the prize payment method is actually known to the Multi-State Lottery Association MUSL or M2G2. In certain instances announced by the Multi-State Lottery Association MUSL or M2G2, the Grand Prize shall will be a guaranteed an estimated amount and shall will be determined pursuant to MUSL or M2G2 rules and procedures. If individual shares of the cash held to fund an annuity is less than \$250,000, the MUSL Product Group, in its sole discretion, may elect to pay the winners their share of the cash held in the Grand Prize pool. All annuitized prizes shall be paid annually in twenty-five equal payments with the initial payment being made in cash, to be followed by twenty-four payments funded by the annuity.

3 DE Reg. 523 (10/01/99)

### 24.0 Discharge of State Lottery Upon Payment

The State of Delaware, its ~~Agents agents,~~ officers, employees and representatives, and the Lottery Office, its Director, ~~Agents agents,~~ officers, employees and representatives, shall will be discharged of all liability upon payment of a prize or any one installment thereof to the holder of any winning lottery ticket or in accordance with the information set forth on the claim form supplied ~~by to~~ the Director. If there is a conflict between the information on the winning lottery ticket and the information on the claim form, the Lottery Office may rely on the claim form after the ticket has been validated as a winning ticket and, in so doing, it will be relieved of all responsibility and liability in the payment of a prize in accordance with the information set forth therein. The ~~Lottery Office's Director's~~ decision and judgment in respect to the determination of a winning ticket or of any other dispute arising from payment or awarding of prizes shall will be final and binding upon all participants in the Lottery unless otherwise provided by law or these regulations Regulations. ~~In the event If~~ a question arises ~~relative to regarding~~ the winning ticket, a claim form, the payment, or the awarding of any prize, the ~~Lottery Office~~

Director may deposit the prize winnings into an escrow fund until it he determines a resolution of the controversy and reaches a decision, or it the Director may petition a court of competent jurisdiction for instructions and a resolution of the controversy.

## **25.0 Declaratory Rulings by the Lottery Office**

- 25.1 On petition of any interested person, the Director may issue a declaratory ruling with respect to the applicability to any person, property or state of facts of any rule or statute enforceable by it, or the Director may refer such matters to the State Attorney General for such disposition.
- 25.2 In the case of any matter concerning which a Declaratory ruling is brought for appeal, the petitioner may be represented by an attorney.

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## **26.0[25.026.0] Postponement of Drawings**

The Director may postpone any drawing to a certain time and publicize ~~the same if he finds, in his sole discretion, that such postponement will serve the public interest and protect the public interest~~ the new time of the drawing.

## **27.0[26.027.0] Amendments**

The Director may amend, modify, or otherwise change these Regulations upon full compliance with law; Delaware laws. ~~said~~ Any amendments, modifications or changes ~~shall~~ will become as effective and applicable to ~~Lottery~~ Lottery's business and administration as if part of the original Regulations.

## **28.0[27.028.0] Fingerprinting Procedures Determination of Suitability and Appeal Process**

- 28.1 State Bureau of Identification
  - 28.1.1 ~~[27.128.1]~~ The applicant ~~All applicants~~ or licensee ~~will~~ licensees must contact the State Bureau of Identification SBI to make arrangements for fingerprint processing. The SBI shall forward the results of the state and federal criminal history record checks to the attention of the Director in a confidential manner. The SBI shall also send to the Director any subsequently-obtained criminal history information of an applicant or licensee.
  - 28.1.2 ~~[27.228.2]~~ A fee is required for state and federal processing of fingerprint cards and criminal history records; payment. Payment shall must be made in the form of a certified check, credit card, or money order, payable to the Delaware State Police Video Lottery Enforcement Unit (VLEU). ~~The fee is set by the State Bureau of Identifications and payment is to be~~ All applicants and licensees must directly pay the appropriate fee at the time the processing request is made directly to that agency.
  - 28.1.3 ~~[27.328.3]~~ the waiver form to release criminal history record information to the Director. At the time of the processing, the applicant All applicants must show proof of identification to complete the criminal history request and pay the appropriate fee.
    - 28.1.3.1 ~~The applicant must contact the VLEU and submit the completed license application form and fingerprint verification/receipt for processing. No investigation will proceed without a copy of the SBI fingerprinting receipt.~~
    - 28.1.3.2 ~~Investigators assigned to the VLEU will conduct an initial investigation to determine the suitability of the applicant. If the applicant is approved, a temporary license may, at the discretion of the Director, be issued at that time pending SBI's final report. This temporary license is valid for thirty (30) days from the issue date.~~
    - 28.1.3.3 ~~A waiver will be signed by the applicant indicating that should an unfavorable criminal history background check be received by the VLEU, including any detrimental information or failure to fully disclose criminal history, the applicant's temporary license may be revoked. If revoked, the applicant will then be required to respond to VLEU within five (5) working days for another interview.~~
  - 28.1.3.4 ~~[27.428.4]~~ Should ~~If the Director determine~~ decides that the applicant is ~~to be fully licensed~~ or licensee may receive a full license, the Lottery Office shall send the applicant or licensee a letter ~~stating such~~ that confirms the Director's decision to issue a full license.

28.1.4 ~~[27.528.5]~~ Certified SBI shall send to the Director certified copies of the applicant's or licensee's criminal history and regular copies of the criminal history to the applicant or licensee will be forwarded to the Director of the Lottery, with a copy available to the applicant upon request.

28.1.5 ~~A Verification Form of Processing will be completed by Delaware State Police personnel and provided to the applicant.~~

28.1.6 ~~[27.628.6]~~ The State Bureau of Identification shall act as the intermediary for the receipt of the federal criminal history record checks performed by the Federal Bureau of Identification. The State Bureau of Identification shall forward the results of these federal record checks to the attention of the Lottery Director in a confidential manner. All applicants and Agents shall notify the Lottery Office within seventy-two (72) hours of any changes in their criminal history information. The Lottery Office shall use this subsequent criminal history information in determining an applicant's suitability for licensure and an Agent's continued suitability as a licensee.

## 28.2 Lottery Office

### 28.2.1 Determination of Suitability and Appeal Process

28.2.1.1 ~~[27.728.7]~~ A person subject to 29 Del.C. §4807A shall have the opportunity to respond to the Lottery Director regarding any information obtained prior to a determination of suitability for licensure. Such a response shall must be made within ten (10) working business days of the person's receipt of the criminal background information from the State Bureau of Identification SBI. The determination of suitability for licensure shall be made by the Lottery Office pursuant to the factors listed in 29 Del.C. §4807A §§4830(a)-(e) in regard to an applicant's criminal history and the factors listed in Section 3.0 of these Regulations. The Lottery Office will also consider the any other additional factors contained in 29 Del.C. Ch. 48 and the Lottery Regulations in considering agent applications for licensure.

28.2.1.2 ~~[27.828.8]~~ The Lottery Office shall communicate the results of the determination of suitability in writing, within thirty (30) days of the receipt of the person's response to the criminal history information, unless extenuating circumstances require a longer period. If a determination is made to deny a person licensure, the person shall have an opportunity to appeal for reconsideration as set out below the denial decision as set forth in subsections 5.2 to 5.9 of these Regulations.

28.2.1.2.1 ~~Appeal shall be initiated by a person notified that he/she is being denied a license pursuant to 29 Del.C. §4807A and in compliance with Section 5(c) of these Regulations by submitting a letter of appeal to the Lottery Director within ten (10) working days of the receipt of the written notice.~~

28.2.1.2.2 ~~The appeal shall be reviewed by the Lottery Director and the person shall be given the right to be heard by the Director or the Director's designee within ten (10) working days of the receipt of letter of appeal, unless extenuating circumstances require a longer period.~~

28.2.1.2.3 ~~A written decision shall be rendered by the Director or the Director's designee within thirty (30) working days of the hearing, unless extenuating circumstances require a longer period. All decisions made by the Lottery under this appeal procedure are final.~~

## 28.3 ~~[27.928.9]~~ Confidentiality

28.3.1 ~~[27.9.128.9.1]~~ All records pertaining to criminal background checks, checks pursuant to 29 Del.C. §4807A and all copies of suitability determinations of applicants or licensees for licensure, shall must be maintained in a confidential manner, including, but not limited to, the following:

28.3.1.1 ~~[27.9.1.128.9.1.1]~~ Access to records of criminal background check records and checks, letters of reference accompanying out-of-state criminal background checks, and determinations of suitability of applicants shall or licensees must be limited to the Director and designated personnel;

28.3.1.2 ~~[27.9.1.228.9.1.2]~~ All such records shall be kept in locked, fireproof cabinets;

28.3.1.3 ~~[27.9.1.328.9.1.3]~~ No information from such records shall may be released without the signed approval of of, and appropriate signed release of of, the applicant or licensee.

## 28.4 Subsequent Criminal History Information

28.4.1 ~~Subsequent criminal history shall be sent by the State Bureau of Identification to the Director of the Lottery and shall be used by the Lottery in making a determination about the person's continued suitability as a licensee.~~

4 DE Reg. 498 (09/01/00)

10 DE Reg. 1821 (06/01/07)

20 DE Reg. 370 (11/01/16)

## 29.0~~[28.029.0]~~ Non-Discrimination on the Basis of Disability in Delaware Lottery Programs

### 29.1 Definitions

**“Accessible”** means complying with the technical requirements found in the ADA Accessibility Guidelines (ADAAG).

**“Accessible Route”** means a continuous unobstructed path connecting all accessible elements and spaces of a building or facility. Interior accessible routes may include corridors, floors, ramps, elevators, lifts, and clear floor space at fixtures. Exterior accessible routes may include parking access aisles, curb ramps, crosswalks at vehicular ways, walks, ramps, and lifts.

**“ADA”** means the Americans with Disabilities Act (42 United States Code, §§12101-12213 and 47 United States Code §225 and §611).

**“Director”** means the Director of the State Lottery Office.

**“Entrance”** means any access point to a building or portion of a building or facility used for the purpose of entering. An entrance includes the approach walk, the vertical access leading to the entrance platform, the entrance platform itself, vestibules if provided, the entry door(s) or gate(s), and the hardware of the entry door(s) or gate(s).

**“Facility”** means all or any portion of buildings, structures, site improvements, complexes, equipment, roads, walks, passageways, parking lots, or other real or personal property located on a site.

**“Inspection Report”** means a completed survey of the retailer or applicant facility that identifies barriers to program accessibility, if any and suggest possible solutions.

**“Lottery Program”** means on-line and instant games offered to the public through retailer licensees.

**“Lottery” or “State Lottery Office”** means the lottery established by the Delaware State Lottery Law, Chapter 348, Volume 59, of the Laws of Delaware.

**“Lottery Retailer” or “Retailer”** means a business entity housed in a specific retail facility that is under license with the Delaware Lottery to provide lottery related services.

**“Service Site”** means an area within a lottery retailer facility where a customer can purchase a lottery related product. This is usually the cashier’s station.

**“Technically Infeasible”** means, with respect to an alteration of a building or a facility, that it has little likelihood of being accomplished because existing structural conditions would require removing or altering a load-bearing member which is an essential part of the structural frame; or because other existing or site constraints prohibit modification or addition of elements, spaces, or features which are in full and strict compliance with the minimum requirements for new construction and which are necessary to provide accessibility.

## 29.2 ~~[28.2]~~29.1] Purpose

29.2.1 ~~[28.2.1]~~29.1.1] The Americans with Disabilities Act ADA (P.L. 101-336, 42 U.S.C. §§ 12131-12134), known as the ADA, prohibits discrimination on the basis of disability in the delivery of programs offered by entities of any state or local government or other instrumentality of a state or local government. The purpose of this regulation section is to ensure that the Delaware Lottery Office is in compliance with the ADA by ensuring that people persons with disabilities have access to Delaware Lottery the lottery programs.

29.2.2 ~~[28.2.2]~~29.1.2] In defining the scope or extent of any duty imposed by these regulations Regulations including compliance with the standard of accessibility defined in paragraph 3(b) subsection ~~[28.2.2]~~ 29.2.2], any higher or more comprehensive obligations established by otherwise applicable federal, state or local enactment may be considered.

## 29.3 ~~[28.2]~~29.2] General Requirements

29.3.1 ~~[28.2.1]~~29.2.1] Prohibition of discrimination. No lottery retailer Agent shall discriminate against any individual on the basis of a disability in the full and equal enjoyment of lottery-related lottery-related goods, services, facilities, privileges, advantages, or accommodations of any lottery-licensed Agent’s facility.

29.3.2 ~~[28.2.1]~~29.2.2] Standard of accessibility. Each Retailer Agent is required to meet a standard of accessibility that enables people with disabilities, including those who use wheelchairs, to enter the lottery-licensed Agent’s facility and participate in the lottery program. All agents must provide an accessible route must be provided that is comprised of the following accessible elements:

29.3.2.1 ~~[28.2.2.1]~~29.2.2.1] Parking, if parking is provided to the general public;

29.3.2.2 ~~[28.2.2.2]~~29.2.2.2] Exterior route connecting parking (or a public way if no parking is provided) to an accessible entrance;

29.3.2.3 ~~[28.2.2.3]~~29.2.2.3] Entrance;

29.3.2.4 ~~[28.2.2.4]~~29.2.2.4] Interior Route connecting route that connects the entrance to a service site.

29.3.3 ~~[28.2.3]~~29.2.3] Each Unless a permitted exemption exists, each element shall set forth in subsection ~~[28.2.2.2]~~ 29.2.2.2] must meet the design standards set forth in the ADA Accessibility Guidelines (ADAAG), published in the Federal Register on July 26, 1991 as applicable.

#### 29.4 ~~[28.329.3]~~ New License Applicants

29.4.1 ~~[28.3.429.3.1]~~ License applicants. The State Lottery Office shall inspect the site of all applicants for compliance with ~~this regulation~~ Section [28.029.0] of the Regulations prior to granting a license. The State Lottery Office ~~will~~ shall not grant a license to an applicant who is not in compliance with ~~this regulation~~ all of the requirements of Section [28.029.0].

~~[28.3.229.3.2]~~ If the ownership of an Agent changes, the Lottery Office shall treat such Agent as an applicant for a new license, and such applicant must comply with all of the requirements set forth in Section 28.0.

29.4.2 ~~[28.3.329.3.3]~~ Inspection reports. The State Lottery Office, prior to granting a license, shall provide lottery applicants with an ~~Inspection Report~~ inspection report that ~~shall~~ will identify barrier removal actions, if any, necessary to provide lottery program accessibility. The identified actions must be completed within 90 days of the receipt of the inspection report and prior to the granting of a license.

#### 29.5 Current Retailers

29.5.1 ~~The State Lottery Office shall inspect the site of each lottery retailer for compliance with this regulation.~~

29.5.2 ~~Inspection reports. The State Lottery Office shall provide to all current retailers an Inspection Report that shall identify barrier removal actions necessary to provide program accessibility. The identified actions must be completed within 90 days of receipt of the Inspection Report.~~

29.5.3 ~~[28.3.429.3.4]~~ Extensions. The Director may grant an extension of up to 90 days to allow ~~a current retailer~~ an applicant to complete barrier removal actions identified in the ~~Inspection Report~~ inspection report.

29.5.3.1 ~~[28.3.529.3.5]~~ Any request for an extension must be in ~~writing~~, writing and ~~shall~~ must include specific reasons for an extension and supporting documentation.

29.5.3.2 ~~[28.3.629.3.6]~~ The Director shall grant an extension to an applicant only upon a showing of good cause.

#### 29.6 ~~[28.429.4]~~ Permitted exemptions

29.6.1 ~~[28.4.129.4.1]~~ The following exemptions to the requirements of this ~~rule~~ section may be granted by the Director. The Director shall review the circumstances and supporting documentation provided by the ~~retailer applicant~~ to determine if the ~~retailer's applicant's~~ request for an exemption should be granted. The Director ~~shall~~ will determine the type and scope of documentation ~~to be~~ required for each exemption classification. All decisions made by the Director ~~shall~~ will be ~~final~~; final. ~~any retailer~~ Any applicant whose request for an exemption is denied by the Director shall be required to satisfy the requirements of ~~this rule~~ these Regulations as a condition for maintaining its eligibility for a ~~Lottery retailer contract~~ license.

29.6.1.1 ~~[28.4.1.129.4.1.1]~~ Historic properties. To the extent a historic building is exempt under federal law, and if barrier removal would threaten or destroy the historic significance of the structure, ~~this rule~~ shall the requirement of this section will not apply to a qualified historic building or facility that is listed in or is eligible for listing in the National Register of Historic Places under the National Historic Preservation Act or is designated as historic under ~~State~~ state or ~~Local~~ local law.

29.6.1.2 ~~[28.4.1.229.4.1.2]~~ Legal impediment to barrier removal. Any law, act, ordinance, state regulation, ruling or decision which prohibits ~~the lottery retailer~~ any applicant from removing a structural impediment or from making a required improvement to the facility may be the basis for an exemption to this ~~rule~~ section. ~~A lottery retailer requesting~~ An applicant who requests an exemption for a legal impediment will not be required to formally seek a zoning variance to establish such impediment, but the applicant will be required to document that ~~they have~~ it has applied for and ~~have~~ has been refused whatever permit(s) are necessary to remove the identified barrier(s).

29.6.1.3 ~~[28.4.1.329.4.1.3]~~ Landlord refusal. An exemption may be granted based on the refusal of a landlord to grant permission to ~~a Lottery retailer~~ an applicant and/or to pay to make improvements required by the Lottery Office under this ~~rule~~ section, or based on the refusal of a landlord to pay for improvements required by the Lottery Office under this ~~rule~~ section. The exemption shall only apply only to the ~~retailer's applicant's~~ current term and does not include any possible renewal periods under the lease. To request such an exemption, the ~~retailer applicant~~ must submit documentation to the Director to show that the ~~retailer applicant~~ requested the ~~Landlord's~~ landlord's permission and financial participation to make the required structural improvements, that such request was denied by the landlord, and the reasons for the denial. In making a decision on the exemption request, the Director shall take into consideration, but not be limited to, the sufficiency of the reasons provided by the landlord for denying the ~~retailer's applicant's~~ request.

29.6.1.4 ~~[28.4.1.429.4.1.4]~~ Undue financial hardship. A limited exemption may be granted if ~~a retailer~~ there is a change of ownership of an Agent and the applicant can demonstrate that the cost of removing a structural barrier or of making the required structural modification(s) to the ~~retailer's applicant's~~ facility is an undue financial hardship in that the cost of making such a ~~change(s)~~ change or

changes exceeds 25% of the ~~retailer's~~ location's compensation from the Lottery Office for the prior calendar ~~year~~ year. ~~(An An annualized sales figure based upon the retailer's previous owner's most current 13-week sales period shall will be used for those retailer locations with less than a full year's history of sales.)~~ sales. Under the terms of this limited exemption, ~~a retailer an applicant~~ would be required to annually make save, set aside, or spend an amount for those improvements and modifications that ~~can be financed within an amount that is are~~ approximately equal to 25% of the total compensation earned from the Lottery Office in the prior calendar year. This requirement would continue on a year-to-year basis until all the improvements and modifications required by this ~~rule~~ section have been completed. ~~A retailer An applicant~~ shall provide all supporting documentation requested by the Director to substantiate the cost estimates of making the required improvements to the ~~retailer's applicant's~~ location.

29.6.1.5 ~~[28.4.1.6]~~ **[29.4.1.5]** Technical Infeasibility. ~~[A] permanent [An]~~ exemption may be granted if ~~a retailer an applicant~~ can demonstrate that the removal of architectural barriers identified in the inspection report is not possible due to technical infeasibility. If such a claim is made, the Lottery Office may have the barrier removal action evaluated by a person knowledgeable in accessibility codes and construction to determine the merits of the claim.

29.6.1.6 ~~[28.4.1.6]~~ **[29.4.1.6]** Alternative methods. ~~Where If~~ an exemption is granted in accordance with the provisions of this ~~sub-chapter~~ section, the ~~lottery retailer applicant~~ shall make the ~~lottery-related~~ lottery-related goods and services available through alternative methods. Examples of alternative methods include, but are not limited to:

29.6.1.6.1 ~~[28.4.1.6.1]~~ **[29.4.1.6.1]** Providing curb service;

~~[28.4.1.6.2]~~ **[29.4.1.6.2]** Having an accessible service window;

~~[28.4.1.6.3]~~ **[29.4.1.6.3]** Having an accessible doorbell;

29.6.1.6.2 ~~[28.4.1.6.4]~~ **[29.4.1.6.4]** Directing customers by signage to the nearest accessible lottery retailer.

## 29.7 Complaints Relating to Non-Accessibility

29.7.1 ~~[28.529.5]~~ **[29.529.5]** An aggrieved party may file an accessibility complaint concerning accessibility to the lottery programs with the Lottery U.S. Department of Justice or the State Human Relations Commission with a copy to the Director or designee for review. Complaints must be in writing and, where possible, submitted on an ADA complaint form. As soon as practical, but not later than 30 days after the filing of a complaint, each complaint will be investigated. After the completion of the investigation, if the agency determines that the lottery retailer is not in compliance with this regulation, a letter of non-compliance will be issued to the lottery retailer with a copy to the complainant. If the lottery retailer is determined to be in compliance, a letter so stating will be mailed to the retailer and complainant. Regardless of whether a complaint has been filed, the agency will issue a letter of non-compliance within 30 days after the completion of an onsite inspection of the ~~[lottery retailer Agent's or licensee's]~~ facility if the agency determines that the ~~[lottery retailer Agent or licensee]~~ is not in compliance with this [regulation subsection].

29.7.2 ~~[28.629.6]~~ **[29.629.6]** If the a letter of non-compliance shows deficiencies in the accessibility of the retailer facility, the ~~lottery retailer Agent~~ shall submit a plan to the agency within 30 days of the issuance of the letter of non-compliance. The plan shall describe in detail how the ~~[lottery retailer Agent]~~ will achieve compliance with this [regulation section]. Compliance shall be accomplished within 90 days of the letter of non-compliance. The Lottery **[Office]** may, upon request and for good cause, grant the ~~lottery retailer Agent~~ additional time to submit the plan.

29.7.3 ~~[28.729.7]~~ **[29.729.7]** Within 20 days of the submission of the compliance plan to the agency, the Lottery shall notify the ~~lottery retailer Agent~~ of the agency's acceptance or rejection of the plan. If the plan is rejected, the notification shall contain the reasons for rejection of the plan and the corrections needed to make the plan acceptable to the Lottery **[Office]**. If the ~~retailer Agent~~ agrees to make the required corrections, the Lottery **[Office]** shall accept the plan as modified.

29.7.4 ~~[28.829.8]~~ **[29.829.8]** If ~~a retailer an Agent~~ fails to submit a plan within 30 days of issuance of the letter of non-compliance and has not requested an extension of time to submit a plan, the Lottery **[Office]** may proceed to initiate termination proceedings.

29.7.5 ~~[28.929.9]~~ **[29.929.9]** If approved, the plan must be completely implemented within 60 days of the agency's notice of approval. The Lottery **[Office]** may, upon request, grant the ~~lottery retailer Agent~~ additional time for good cause. Notice of any extension will also be sent to the complainant, if applicable. Any such extension will commence immediately upon expiration of the first 60 day period.

29.7.6 ~~[28.1029.10]~~ **[29.1029.10]** If the corrective action taken by the ~~lottery retailer Agent~~ corrects the deficiencies specified in the letter of non-compliance as originally issued or as later revised or reissued or if the onsite inspection of the lottery retailer facility reveals compliance with this regulation, the Lottery **[Office]** will issue a notice of compliance. Until this notice is issued, a complaint will be considered pending.



~~29.7.7~~ **[28.1129.11]** Failure to make the identified modifications in compliance with the accessibility standards and within the required time period will result in the initiation of proceedings to suspend or revoke the lottery license by the agency.

~~29.7.8~~ **[28.1229.12]** A license will be suspended if the Lottery **[Office]** determines that the ~~lottery retailer~~ Agent has made significant progress toward correcting deficiencies listed in the compliance report, but has not completed implementation of the approved compliance plan. If the Lottery determines that the ~~lottery retailer~~ Agent has not made a good faith effort to correct the deficiencies listed in the compliance report, this inaction will result in the revocation of the lottery license for that lottery licensed facility.

~~29.7.9~~ **[28.1329.13]** While proceedings to suspend or revoke ~~a lottery retailer's~~ an Agent's license are pending pursuant to this regulation, and until a notice of compliance is issued pursuant to ~~29.7.3 subsection~~ **[28.7.329.10, of this] section [subsection,]** the Lottery **[Office]** shall withhold incentive payments from the ~~lottery retailer~~ Agent. In addition, if a license is revoked pursuant to this **[regulation section]**, and incentive payments and other privileges have been withheld from the affected ~~retailer~~ Agent pending review of the complaint, the ~~lottery retailer~~ Agent forfeits any claim to such incentive payments or other privileges.

## **29.8 Request for Hearings**

~~29.8.1~~ If the Lottery proposes the denial of an application for a license or the suspension or revocation of a lottery retailer's license pursuant to this regulation, the agency shall give the applicant or lottery retailer written notice of the time and place of the administrative hearing not later than thirty (30) days before the date of the hearing.

~~29.8.2~~ All relevant rules of evidence and time limits established in these rules shall apply to hearings conducted under this regulation.

## **[29.14 Request for Hearings**

**29.14.1** If the Lottery Office proposes the denial of an application for a license or the suspension or revocation of an Agent's license pursuant to this section, the agency shall give the applicant or Agent written notice of the time and place of the administrative hearing not later than thirty (30) days before the date of the hearing.

**29.14.2** All relevant rules of evidence and time limits established in these rules shall apply to hearings conducted under this regulation.]

## **~~29.9 Non-Exclusivity of Remedies~~**

~~29.9.1~~ **[28.1429.15]** Remedies Any remedies established by these regulations Regulations are not intended to supplant, restrict or otherwise impair a person's resort to remedies otherwise available under law, including those authorized by the ADA, the federal regulations of 29 C.F.R §§ 35.173, 35.175, and 35.176, and Del. Code Ann., Title 6, Ch. 45 (1993) the provisions of 6 **Del.C.** §4508(g) and (h).

**3 DE Reg. 523 (10/01/99)**

**3 DE Reg. 951 (01/01/00)**

**4 DE Reg. 498 (09/01/00)**

**10 DE Reg. 1821 (06/01/07)**

**20 DE Reg. 370 (11/01/16)**

**22 DE Reg. 494 (12/01/18) (Final)**