

Fact sheet

Gratuitous lotteries

This fact sheet outlines the applicable requirements and best practice of gratuitous lotteries.

What is a gratuitous lottery?

A gratuitous lottery is a lottery or game of chance in which entry or participation in the lottery or game is free.

It includes such lotteries or games of chance known as 'lucky door' or 'lucky seat' prizes.

A gratuitous lottery is conducted under section 4G of the *Lotteries and Art Unions Act 1901*.

What is a gratuitous lottery for?

Usually in a gratuitous lottery, persons gain the right of entry in the draw by attending an event or participating in an activity. Often these events or activities are organised to raise funds for charities and other not-for-profit organisations.

For example, the right to entry in a draw may be based on:

- ▲ the purchase of a plate at a fundraising dinner function
- ▲ the purchase of a ticket to a fundraising ball
- ▲ the purchase of a ticket for a seat at a particular fundraising event or function
- ▲ the giving of money to a charity or not-for-profit organisation as part of a fundraising appeal
- ▲ a person completing a survey for government or non-commercial bodies
- ▲ a person completing a government promotion (e.g. a bicycle or road safety promotion)

- ▲ a person participating in a function as part of a fundraising campaign for a political candidate or party.

Who can conduct a gratuitous lottery?

Anyone can conduct a gratuitous lottery. But a gratuitous lottery cannot be conducted for the purpose of promoting trade or business. To promote trade or business using a lottery or game of chance, an authorising permit must be obtained under section 4B of the Act.

For more information please refer to the 'Trade promotion lotteries' fact sheet at fairtrading.nsw.gov.au.

Is a permit required?

No.

What is the maximum value of prizes?

The total value of prizes in a gratuitous lottery cannot be more than \$30,000.

Quick facts

- ▲ No entry or participation fee must be charged in connection with the lottery
- ▲ No authorising permit needed
- ▲ Total value of prizes in the lottery capped at \$30,000
- ▲ Money prizes prohibited
- ▲ The lottery cannot be conducted for the purposes of promoting any trade or business

What types of prizes may be offered?

Prizes can consist of or include anything except a prohibited prize. Prizes can be goods, wares, merchandise, services, vouchers for goods or services that are not redeemable for money, tickets for admission to any entertainment and tickets for tours or journeys.

What prizes are prohibited?

The following are prohibited as a prize:

- ▲ money prizes (e.g. cash, cheque)
- ▲ tobacco products in any form
- ▲ firearms or ammunition
- ▲ prohibited weapons
- ▲ cosmetic surgery or other procedure designed to improve personal appearance
- ▲ liquor prizes - 20 litres of liquor with an alcohol content not exceeding 20% by volume or 5L of liquor with an alcohol content exceeding 20% by volume.

Can I charge an entry or participation fee for the lottery?

No.

Can under 18s participate?

Yes. The lottery organiser, and perhaps the intended participants, should decide this before conducting the lottery.

Can persons organising or conducting the lottery participate?

Yes. But organisers should note that, if they or their families participate in a lottery and win a prize, other participants may complain.

Organisers should consider the perceptions that other participants may form if organisers or their families are included in a lottery.

How should the lottery be conducted?

The lottery must be conducted in accordance with the rules and the information provided to the participants. All rightful participants must be included in a draw.

Are there any advertising restrictions?

Yes. You cannot publish, or cause to be published, any lottery advertising that:

- ▲ encourages a breach of the law
- ▲ depicts children participating in a lottery activity
- ▲ is false, misleading or deceptive
- ▲ suggests that winning will be a definite outcome of entering or participating in the lottery activity
- ▲ suggests that entering or participating in the lottery activity will definitely improve a person's financial prospects
- ▲ is not conducted in accordance with decency, dignity and good taste.

'Publish' means disseminate in any way, whether by oral, visual, written or other means (e.g. cinema, video, radio, television or the Internet).

You must not state or imply in any information or publicity that the lottery is authorised or approved by government or by any government agency.

How should the results of the lottery be notified?

Normally you would notify each prize winner at the event or activity attended by the lottery participants. If this is not possible, you should notify each prize winner within two days of deciding the winner.

When to give the prize to the prize winner?

You should arrange for the relevant prize to be given to each prize winner within seven days after the result is decided.

What records should be kept?

There is no requirement to keep records.

Who is responsible for the lottery?

The promoter or organisers are jointly and individually responsible for the proper management and conduct of the lottery.

Are there any penalties?

Yes. There are penalties for conducting a lottery contrary to requirements, including:

- ▲ failing to award the winner the prize
- ▲ conducting the lottery fraudulently
- ▲ making false statements
- ▲ awarding prohibited prizes
- ▲ unlawful advertising
- ▲ hindering or obstructing inspectors.

Health regulations

The offer of perishable items such as green groceries, meat and fish as prizes is regulated under the *Food Act 2003*.

Such prizes must satisfy the same requirements that apply to food sold through normal retail outlets. These include:

- ▲ the manner of handling and packaging the food
- ▲ the manner of labelling packages of food
- ▲ the temperature at which food must be kept.

Contact NSW Health for more information.

Fish prizes must also comply with the *Fisheries Management Act 1994* and the *Fisheries Act 1935*. A special permit is required.

Contact the NSW Department of Primary Industries for more information.

For further information

This guide is designed to provide accurate and authoritative information in regard to the subject matter covered, and with the understanding that NSW Fair Trading, part of NSW Department of Finance, Services and Innovation is not passing legal opinion or other professional advice. If you require a more detailed understanding of the legislation, it is recommended that you contact a specialist adviser.

The law governing the conduct of this lottery or game of chance is the *Lotteries and Art Unions Act 1901* and the *Lotteries and Art Unions Regulation 2014*. Online access to the legislation is available at legislation.nsw.gov.au