

Fact sheet

Lucky envelopes Chocolate wheels

This fact sheet outlines the applicable and best practise of running a lucky envelope or chocolate wheel game of chance.

What are lucky envelopes?

Lucky envelopes are games of chance in which participants win a prize if they expose a hidden number that is the same as a winning number displayed on a chart at the point of sale.

They are not to be confused with break-open or scratch type lotteries. For further information refer to the 'No-draw Lotteries' fact sheet at fairtrading.nsw.gov.au.

What are chocolate wheels?

Chocolate wheels are games of chance where participants are sold numbered tickets. A wheel which has numbers corresponding with those on the tickets is spun. After the wheel comes to rest on a specific number, the participant holding the numbered ticket corresponding with the number on the wheel receives a prize.

Who may benefit from the conduct of these games?

These games may only be conducted to raise funds for the benefit of charity.

Is a permit required?

Yes. Lucky envelopes and chocolate wheels cannot be conducted unless a permit has been issued under the provisions of the *Lotteries and Art Unions Act 1901*. An authority under the *Charitable Fundraising*

Act 1991 may also be required. If you are unsure, please contact NSW Fair Trading on lottery.enquiries@finance.nsw.gov.au.

How is a permit obtained?

A permit is obtained by completing and lodging the Games of chance application form. Find the 'Games of chance' application form at fairtrading.nsw.gov.au.

The application may be lodged by a promoter. However, the application must be authorised by the president, treasurer or secretary of the benefiting organisation signing the application. There are no fees.

How long does a permit last?

If an application is lodged by a 'new' applicant, the permit is normally issued for a maximum period of two years. Thereafter permits may be issued for a maximum period of five years.

When may a game be conducted?

You may only conduct the games on the dates or days and times show on the permit.

What types of prizes may be offered?

Prizes may 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 (with any spending money) for tours or journeys. Spending money can be given as part of a travel prize - e.g. tour or journey - provided the total value does not exceed 20% of the total value of the travel prize.

Quick facts

- ▲ Conducted for the purpose of raising funds for a charity.
- ▲ Permit required.
- ▲ Prizes capped at \$500 with chocolate wheels.
- ▲ Ticket cost determines prize value with lucky envelopes — \$4, \$10 or \$20.
- ▲ The charity must receive at least 40% of the gross proceeds.
- ▲ Expenses cannot exceed 60% of the gross proceeds.

What types of prizes are prohibited?

The following are prohibited prizes:

- ▲ tobacco products in any form
- ▲ firearms or ammunition
- ▲ prohibited weapons
- ▲ cosmetic surgery or other procedure designed to improve personal appearance, and
- ▲ liquor prizes - more than 20 litres of liquor with an alcohol content not exceeding 20% by volume or more than 20 litres of liquor with an alcohol content exceeding 20% by volume.

Tickets for liquor prizes cannot be sold by or to a person under 18. Also a person under 18 cannot give or collect a liquor prize.

What is the maximum value of prizes?

Lucky envelopes

The value of the prize varies according to the cost of the ticket.

Cost of ticket	Max. value of any prize	Max. value of all prizes
\$0.20	\$4.00	\$40.00
\$0.50	\$10.00	\$100.00
\$1.00	\$20.00	\$200.00

Chocolate wheels

The maximum prize value that may be offered in a chocolate wheel game is \$500.

How much should the benefiting organisation receive?

The profits from the games must be at least 40% of the gross proceeds.

If the game does not achieve the required minimum of 40% profit, you must apply in writing to us for approval to accept the reduced percentage. The application must explain the unusual and unexpected circumstances that resulted in the unfavourable outcome.

What expenses may be incurred?

You may incur reasonable expenses for:

- ▲ the purchase of the prize or prizes
- ▲ the amount of prize money to be paid to the winners in the game
- ▲ the printing or purchase of the tickets
- ▲ hiring or operating any device used
- ▲ renting premises
- ▲ advertising and promoting the game
- ▲ auditing
- ▲ salaries, wages and commission.

Payment of commission and remuneration

You cannot pay any commission or remuneration to a person for services rendered in connection with the game unless there is a written agreement between that person and the benefiting organisation. The agreement must specify:

- ▲ the service to be rendered
- ▲ the remuneration to be provided for the service
- ▲ the period of the agreement.

The agreement must also comply with the authority conditions under the *Charitable Fundraising Act 1991*.

The total expenses cannot exceed 60% of the gross proceeds.

Is there a maximum price per ticket?

There is no restriction for chocolate wheels. When deciding the selling price of tickets, you must consider the potential number of tickets that may be sold and the requirement to achieve a 40% profit.

Lucky envelopes are to be sold at 20 cents, 50 cents or \$1.00 each.

What is required of the ticket?

Lucky envelopes must be opaque and sealed on all sides; and have printed on them a serial number, the price, and the full name of the benefiting organisation.

A procedure should be adopted to ensure that all game material is secure, is distributed on a purely random basis, and is not capable of manipulation.

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.

How should ticket sales be managed?

You must ensure that there is adequate control over the issue of tickets to selling agents, the receipt of money and the receipt of unsold tickets.

All tickets must be purchased by and kept in the custody of a representative of the benefiting organisation and issued as required to the manager or the promoter.

Can you advertise the games?

Yes.

Are there any advertising restrictions?

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

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

In this context, 'publish' includes disseminate in any way, whether by oral, visual, written or other means (for example, dissemination by means of 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 the Government or by any government agency.

Are children able to participate?

No. Persons under 17 are not allowed to play or assist in the conduct of lucky envelopes or chocolate wheels.

How should the game be conducted?

You should clearly inform persons of the cost of tickets, the prizes to be awarded in the session, and the conditions of entry, including the age of the persons allowed to participate.

No person conducting or assisting in the conduct of the game is to participate as a player.

Banking the proceeds

You must ensure that all money received is paid into an account at a bank, building society or credit union being an account belonging to the benefiting organisation as soon as practicable, preferably within two business days.

At least two persons must be signatories to the account, one of whom must be a member of the governing body or management committee of the charity.

What records do you need to keep?

You must keep all receipts, invoices and other records concerning costs and outgoings, and payments received and donations.

Any record keeping requirement imposed by the *Charitable Fundraising Act 1991* is in addition to those required to be kept by the *Lotteries and Art Unions Act 1901*.

You are required to maintain a record that details information about the purchase and issue of tickets. In addition, you are required to maintain a register that details information about the conduct of each game including the tickets sold, the income, the prizes awarded and the expenses.

How long are records required to be kept?

You must retain all records, accounts and other documents, and all computer records relating to the game for seven years.

Unsold tickets must be retained for at least three years after the date of the draw.

Are financial statements or returns required?

No. However, the gross receipts, expenses and the resultant profit from the conduct of the game are to be included in the Income Statement of the charity.

Who is responsible?

You must be prepared to accept full responsibility for all aspects of the conduct of the game and for ensuring that prizes are awarded.

A subcommittee may be elected from within the charity to be the organising committee. Alternatively, the charity may authorise other persons to conduct the game. The management committee of the charity should satisfy itself as to the good standing and competence of the persons organising the game.

The charity should introduce adequate controls to supervise the organisers, including:

- ▲ insisting on reports
- ▲ ratifying all expenses and prizes awarded
- ▲ having full access to records and registers
- ▲ ensuring financial records are audited.

Are the records subject to inspection?

Yes. All records are subject to inspection by our authorised officers or police.

Are there any penalties?

Yes. There is a range of penalties for conducting a game contrary to requirements, including:

- ▲ failing to award the winner the prize
- ▲ conducting the game fraudulently
- ▲ misappropriating funds or prizes
- ▲ making false statements
- ▲ failing to keep books and records
- ▲ awarding prohibited prizes
- ▲ unlawful advertising
- ▲ hindering or obstructing authorised officers or police.

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