

Fact sheet

Progressive lotteries

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

What is a progressive lottery?

A progressive lottery is a lottery or game of chance in which a number of draws may be conducted on various dates over a stipulated period of time.

It includes a 'hundred club', 'silver circles' or any other lottery or game of chance conducted along substantially similar lines.

A hundred club is usually conducted on the basis that participants purchase the right to a certain number in a series of draws, with those rights limited (for example, 100, 200). A prize is allocated to the person holding the winning number drawn for a particular week. In many cases, the published results of another lottery (e.g. a public lottery) determines the winning number.

A progressive lottery includes a sports/ football tipping competition. For more information refer to the 'Tipping competitions' fact sheet at fairtrading.nsw.gov.au.

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

A tipping competition does not include a sweep, or a calcutta, within the meaning of section 4D of the Act. For more information refer to the 'Sweeps Calcuttas' fact sheet at fairtrading.nsw.gov.au.

For what purpose may progressive lotteries be conducted?

Social entertainment version

Progressive lotteries may be conducted as a form of social entertainment. In such cases, all money invested by participants (subject to deduction for proper expenses) must be applied towards prizes.

Fundraising version

Progressive lotteries may be conducted as part social entertainment and part for the purpose of raising funds for a not-for-profit organisation.

A not-for-profit organisation is a body of persons which is not formed for private gain, and includes charities, social clubs, registered clubs, political parties and trade unions.

If conducted for the benefit of a charity, the promoter or organiser must also comply with the requirements of the *Charitable Fundraising Act 1991*.

Who may conduct progressive lotteries?

Anyone may conduct progressive lotteries.

Is a permit required?

If total sales (entrance fees) will be \$25,000 or less

You may conduct a progressive lottery without a permit. However, you must conduct the progressive lottery in accordance with the requirements of the *Lotteries and Art Unions Act 1901* and the regulations.

If total sales (entrance fees) will be more than \$25,000

A progressive lottery cannot be conducted unless you have a permit and conduct it in accordance with the Act, regulations and any conditions imposed on the permit.

How is a permit obtained?

A permit is obtained by completing an application form. You can find the 'Games of chance application form progressive lottery' at fairtrading.nsw.gov.au. There are no fees.

The application must be accompanied by a copy of the proposed ticket and advertising and a copy of the rules or conditions of entry into the progressive lottery.

A person under 18 years cannot lodge an application for a permit.

What is the prize pool?

The prize pool comprises the total amount paid as entrance fees by participants less any costs and expenses properly incurred in connection with the conduct of the progressive lottery.

However, where the progressive lottery is conducted for the purpose of raising funds for a not-for-profit organisation, an amount may be deducted from the prize pool to be applied to that organisation.

What is the maximum value of prizes?

The total value of prizes in a progressive lottery cannot be more than \$25,000, unless an authorising permit has been granted.

Is there a limit on the total amount of money prizes?

Yes. The total amount of money prizes (excluding spending money) cannot be more than \$7,000. If a money prize is more than \$7,000 the offer of a

shopping voucher or store credit provides a viable alternative.

Spending money may be awarded in conjunction with a prize comprising tickets for a tour or journey – a travel prize. The maximum amount of spending money that may be awarded with a travel prize is 20% of the total value of the travel prize.

Quick facts

- ▲ Conducted as a social entertainment and/or to raise funds for a not-for-profit organisation
- ▲ No authorising permit required unless total amount of sales is more than \$25,000
- ▲ Total value of money prizes capped at \$7,000
- ▲ Spending money with a travel prize capped at 20% of the value of the prize
- ▲ No salary, wage, fee, commission, percentage or benefit can be paid
- ▲ No payment or other benefit can be sought for the right to enter the place where the progressive lottery is conducted
- ▲ Rights to participate in a progressive lottery cannot be sold after the closing time and date for the first draw

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.

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.

What prizes are prohibited?

The following are prohibited prizes:

- ▲ money prizes over \$7,000
- ▲ tobacco products in any form
- ▲ firearms or ammunition
- ▲ prohibited weapons
- ▲ cosmetic surgery or other procedure designed to improve personal appearance
- ▲ liquor prizes – more than 20 litres of liquor with an alcohol content not exceeding 20% by volume or more than 5 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.

Is there a maximum amount payable by participants?

No. However, the total amount paid by all participants must be consistently applied to all rights to participate in the progressive lottery. A right to participate must be disposed of for the advertised value or for some other consideration equivalent to the value.

Is there a maximum number of rights to participate that may be sold?

No.

What expenses may be deducted?

Expenses and costs properly incurred in connection with the conduct of the progressive lottery may be deducted from the total entrance fees. These include the cost of purchasing stationery.

Can I pay any commissions or other benefits?

No salary, wage, fee, commission, percentage or other benefit (other than a prize) can be paid or given to, or taken by, any person in connection with the conduct of the game.

Can I organise the progressive lottery to raise funds?

Yes. The progressive lottery can be conducted to raise funds for a not-for-profit organisation. In such cases, the progressive lottery must be conducted or authorised by that benefiting organisation.

If a progressive lottery is conducted to raise funds for a charity, an authority under the *Charitable Fundraising Act 1991* may be required. Contact [NSW Fair Trading](#) for more information.

How much should the benefiting not-for-profit organisation receive?

Where the progressive lottery is conducted for the purpose of raising funds for a not-for-profit organisation, there is no stipulated amount or percentage that must be provided to the benefiting organisation. However, the organisation should receive a reasonable return.

Any advertising or promotion of the lottery will need to show the amount or percentage of the total amounts paid by participants to be applied to the benefiting organisation.

Can I charge a fee other than the purchase price of the right to participate?

Except for the charge for the right to participate in the progressive lottery no charge or other consideration is to be paid or given to, or taken by, any person to enter the place where the progressive lottery or the sporting or other contingency to which the progressive lottery relates is being conducted.

This does not apply to an entrance fee for admission to a place so long as the fee is customary and unrelated to the progressive lottery.

What restrictions apply to the means by which persons may participate in progressive lotteries?

If a person who intends to participate in a progressive lottery is required to call a 1900-telephone number or other premium telecommunications services in order to participate, the cost for calling that number must not exceed 50 cents plus the amount of GST payable in respect of the call.

The organiser conducting the lottery must not receive, directly or indirectly, any amount that is paid for calling the 1900-telephone number.

Are minors able to participate?

The law does not forbid a minor from participating or assisting in the conduct of a progressive lottery. This is a matter for the organiser and perhaps the intended participants to determine, and is required to

be included in the rules under which a person may participate in the lottery. Refer to the section 'What must the rules of the lottery provide?'

What information is to be made available to participants?

You must make the following information available to participants:

- ▲ the rules under which persons may participate
- ▲ the price to be paid for the right to participate
- ▲ if applicable, the name of the not-for-profit organisation for whose benefit the game is being conducted
- ▲ the closing date and time for receipt of entries
- ▲ the name, address and telephone number of the organiser of the progressive lottery.

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.

You must not enter into or extend the duration of a contract or arrangement for the publication of any lottery advertising that does any of these things.

In this context, 'publish' includes disseminate in any way, whether by oral, visual, written or other means (e.g. 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.

What must the rules of the lottery provide?

You must formulate rules under which person may participate in the progressive lottery. The rules must include:

- ▲ the conditions of entry into the game, including the age of the persons allowed to participate
- ▲ the charge to be made for participating and the method, if any, for discounting the charge
- ▲ the manner in which any prizes are calculated, determined and awarded
- ▲ the manner in which participants are required to enter and participate
- ▲ the closing date and time for receipt of entries
Note: Rights to participate cannot be sold after the first determination of results. For more information refer to the section 'Can rights to participate be sold after the first determination of results?'
- ▲ the place, time and date of the determination of the draw or draws
- ▲ the method for claiming prizes, including the course of action to be adopted in the case of unclaimed prizes
- ▲ You cannot impose, as a condition of an entitlement to a prize, a requirement that the holder of a prize-winning ticket must be present at the draw
- ▲ the manner in which prize winners are to be notified
- ▲ the manner of disputes concerning the conduct of the lottery or the claiming of prizes are to be resolved.

The rules must be prominently displayed at the place where the rights to participate are sold. This requirement is satisfied by the use of a notice board or similar type of display.

The rules cannot be inconsistent with the provisions of the Act and the Regulation.

Can persons organising or conducting the lottery participate?

There is no restriction on persons conducting or assisting in the conduct of the lottery participating or winning.

However, organisers should be mindful that if they and their families participate in a lottery, complaints may arise about them often winning prizes to the concern of other participants. Such issues affect the integrity of the lottery because of the perception of wrongdoing.

How should sales be managed?

You must ensure that there is adequate control over all aspects of the management of the progressive lottery including control over the sale of rights to participate and the receipt of monies.

You must ensure that you keep all rights to participate and periodical predictions by each participant safe until the results have been determined.

You must not sell rights to participate after the closing time for entry in the lottery.

Progressive lotteries with liquor prizes

Where a progressive lottery includes liquor prizes, the rights to participate cannot be sold by or to a person under 18. Also a person under 18 cannot give or collect a liquor prize.

Can rights to participate be sold after the first determination of results?

No. Rights to participate cannot be sold after the closing time for the first draw unless approval is obtained from us. This requirement must be included in the rules formulated for the lottery and displayed.

This requirement disallows card jackpot games (for example, Joker Poker, Wild Card).

How should the lottery be conducted?

The lottery must be conducted in accordance with the rules and the information provided to the participants.

If a change to the place, date or time of the draw is advertised or communicated to the participants, as advertised or communicated.

All rights to participate sold must be included in a draw or round for prizes, irrespective of how many times a participant has won.

The draw must be conducted in a place at which the public may attend. Any person who wishes to attend the draw may do so.

You cannot impose, as a condition of an entitlement to a prize, a requirement that the holder of a prize-winning ticket must be present at the draw.

How should the results of the lottery be notified?

You should notify each prize winner within two days of the determination of the winner(s). If the total value of prizes exceeds \$10,000, you must also publish the results in a newspaper within seven days after the draw.

How must I arrange for the prize to be given to the prize winner?

Whether or not the prize winner has claimed the prize, you must arrange for the relevant prize to be given to each prize winner within seven days after the determination of results.

Where a money prize exceeds \$2,000, the organiser must pay to the prize winner the amount as exceeds \$2,000 by means of a crossed cheque payable to the prize winner, or if the prize winner so requests, by means of electronic transfer of funds to an account nominated by the prize winner.

Note: the maximum value of a money prize is \$7,000. If the total value of a prize is more than \$7,000, the amount as exceeds \$7,000 must be in the form of a shopping voucher or other non-prohibited prize.

What records do I need to keep?

Social entertainment version with total proceeds less than \$10,000

There is no requirement to keep records where:

- ▲ the total proceeds from the lottery is less than \$10,000, and
- ▲ the lottery is organised on the basis that the gross proceeds from the lottery, less costs and expenses properly incurred in connection with the conduct of the lottery, are wholly returned to participants in the form of prizes.

However, it is recommended that records be maintained as far as practicable. This will assist you to manage the lottery properly.

Where the total proceeds is more than \$10,000 you must keep records of income and expenditure particularised under the heading 'Records to be kept'.

Fundraising version

You are generally required to keep all records or receipts, invoices and other records concerning costs and out goings, and payments received.

If the game is conducted to raise funds for a charity, 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 must keep the records of income and expenditure as outlined in the section 'Records to be kept'.

Records to be kept

The following particulars relate to progressive lotteries conducted:

- ▲ for the purpose of raising funds for not-for-profit organisations, or
- ▲ where the total proceeds is more than \$10,000.

You are specifically required to keep the following particulars in the records of income and expenditure:

- ▲ the total proceeds of the lottery

- ▲ the details of the prizes.

Where the total proceeds is more than \$10,000, the following particulars must also be included in the records of income and expenditure:

- ▲ any costs and expenses (itemised as to payee, amount and date of payment, and documented by receipts and invoices)
- ▲ the number of rights to participate available for sale and, if applicable, details of the serial number, unique number or symbol of those tickets
- ▲ the number of rights to participate not sold and, if applicable, details of the serial number, unique number or symbol of those tickets
- ▲ the names and contact details of all persons who have bought rights to participate, details of the serial number, unique number or symbol of those tickets
- ▲ the names and contact details of all prize winners, together with details of their prizes
- ▲ the total amount of the proceeds of the lottery paid to the benefiting not-for-profit organisation, and details of any receipts from that organisation in respect of that amount.

Banking of proceeds

You must place all money received 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.

How long are records required to be kept?

Fundraising version

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

Social entertainment version

You must retain records, accounts and other documents, relating to the lottery for at least three months.

Are financial statements or returns required?

No. You are not required to submit a return to us, unless specifically requested. However, the organisation in whose benefit the lottery is conducted must ensure that the organisation's financial statements detail the gross proceeds and expenses of the lottery.

Who is responsible?

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

A subcommittee may be elected from within the benefiting organisation to be the organising committee. Alternatively, the benefiting organisation may authorise persons outside the organisation to conduct the lottery on its behalf. In such cases the management committee of the benefiting organisation should satisfy itself as to the good standing and competence of the persons organising the game.

The benefiting organisation should introduce adequate controls to oversight the organisers, including:

- ▲ insisting on reports
- ▲ ratifying all expenses and prizes awarded
- ▲ having full access to records and registers
- ▲ ensuring financial records are audited
- ▲ exercising proper internal controls over the purchase, sale and safekeeping of tickets including unsold tickets.

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 lottery contrary to requirements, including:

- ▲ failing to award the winner the prize
- ▲ conducting the lottery 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