

Trade promotion lotteries

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A trade promotion lottery is a free-entry lottery conducted to promote goods or services supplied by a business.

It is sometimes called a sweepstake, competition, contest, or giveaway.

A trade promotion lottery must genuinely promote goods or services supplied, apart from offering participation in the trade promotion lottery.

If an element of chance determines the award of a prize, the requirements outlined in this guide must be met. Unless qualified or expert judges are used and the winner is adjudged against set criteria, a competition is not based on skill – it is based on chance.

Can tickets be sold?

No. Entry must be free. However, a trade promotion lottery in which entry is gained by purchasing goods or services at their normal retail value (for example, where proof of purchase is required) is allowed.

As entry must be free, entry into the trade promotion lottery cannot be gained by participants providing anything that has intrinsic value. For example, participants cannot redeem loyalty or reward points for entry into a trade promotion lottery.

Is a permit required?

Yes, but only where the lottery promotes a trade or business. For example, a permit is not required for a free-entry lottery conducted for staff at a Christmas function.

How do I obtain a permit?

- 1 Apply online at www.licence.nsw.gov.au. On the homepage, select the 'Sign In' button. First time users should register on the site. A valid email address will be required. Those with an established account should insert their user ID and password. Highlight the 'Promotions and Competitions' menu item and then select 'Trade Promotions'. The application fee for online applications can only be paid using a Visa or MasterCard. Customer assistance guides for existing account holders and first time applicants are available online at OLGR's website at www.olgr.nsw.gov.au.
- 2 Complete and lodge a paper-based application form, accompanied by the applicable fee shown in the table on page 2 of this fact sheet. Download the application form from www.olgr.nsw.gov.au > Promotions and competitions. When completed, mail to GPO Box 7060, Sydney NSW 2001 or deliver to Level 7, 323 Castlereagh Street, Haymarket. Faxed applications are not accepted.
- 3 Please note that in order to apply for a trade promotion lottery permit you must have an ABN number. You will be asked to provide your ABN on the application form.

The application fee for manual applications can only be paid by cheque, money order or cash. Cash can only be accepted if paying over the counter at our offices. Please do not send cash in the mail.

If conducting the trade promotion lottery in NSW and elsewhere, you should contact the appropriate agency in the other State/Territory about their specific requirements. You can find their contact details at www.olgr.nsw.gov.au Promotions and competitions > Information index.



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Applicable fee

The fee depends on the total retail value of the prizes that will be awarded in NSW:

Prize value in NSW	Fee
\$10,000 or less	\$125
\$10,001 to \$50,000	\$350
\$50,001 to \$100,000	\$600
\$100,001 to 200,000	\$1,100
\$200,001 or more	\$2,100

Or apply online at www.licence.nsw.gov.au and save \$50 off your application fee.

How long does it take to process an application?

We expect applicants to lodge their applications at least 5 days before the intended lottery start date.

Allow 5 days for approval, if all information is supplied. Lotteries with special processing requirements may require up to 14 days.

'Special processing' lotteries will involve:

- 190 premium service telephone facilities, SMS and MMS (see page 4)
- pre-determined, instant win, scratch, break-open or bingo style components (see page 8)
- gaming machines (see page 5)
- a link to a charity or other not-for-profit organisation (see page 9)
- a link to a Government-licensed lottery or game (see page 9)
- Olympic themes (see page 9)
- lotteries conducted by wagering operators
- card jackpot games – for example, 'Jokers Wild, Wild Card' (see page 10)
- lotteries involving alcohol.

Permit to cover all lotteries during a specific period

We can issue a permit for a business to conduct multiple lotteries during a specific period up to 12 months, subject to certain prize restrictions.

This enables businesses to conduct spontaneous or quickly planned prize giveaways, contests etc that involve small value prizes such as CDs, theatre tickets, and dinners.

There are two types of permit: Class B and Class C. They each have different prize restrictions and application fees.

The prize restrictions

- The restriction on the value of prizes depends on the application fee that applies.
- Class B permit: any one prize cannot exceed \$250 and the total value of the prizes is capped at \$50,000.
- Class C permit: any one prize cannot exceed \$1,000 and the total value of the prizes is capped at \$100,000.

Records must be kept

To ensure that the total value of prizes does not exceed the applicable prize values, you must maintain a prize register detailing:

- each prize awarded
- the date the prize was awarded
- the prize's retail value
- the name and address of the prizewinner.

By law, you must retain these records for at least 12 months after the expiration of the permit.

How to obtain one of these permits

Your application must be accompanied by an outline of the types of contests, promotions, prize giveaways etc that are planned or intended to be conducted under the authority of the permit.

You should also give us a general description of the type of prizes to be awarded and their approximate value.

You must pay the standard processing fee for a prize pool that does not exceed \$50,000 (ie \$350) or for a prize pool that does not exceed \$100,000 (ie \$600).

How long can I conduct a lottery for?

We will issue a permit for a specific period, up to 12 months. If after we issue a permit you want to extend the period (but not beyond 12 months), you must apply in writing to us for approval. You will need to obtain a new permit.

Where a trade promotion lottery has a jackpotting prize, promoters must ensure that the jackpot is drawn until won on the last possible draw date before the expiration of the 12-month period.

Do I need to formulate lottery rules?

Yes. You must formulate rules under which persons can participate in the proposed lottery. Rules are sometimes known as terms and conditions.

The rules must cover:

- the conditions of entry (including the minimum age of the participants)
- the closing date and time for the receipt of entries in the lottery
- details of the prizes and their value (including conditions, if any, relating to receiving, accepting or using the prizes)
- the place, date and time of the lottery draw
- how prizes will be awarded

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- the method for claiming prizes (including any requirement for entrants to be present at the draw)
- how prize-winners will be notified
- how the results of the lottery will be published
- the promoter's name, address and telephone number.

These rules must be available to all entrants from the commencement of the lottery.

What information must I supply with my application?

You must give us full particulars about the lottery, including its rules, any limitations, how the results will be decided and how tickets or rights will be distributed.

You must also give us sample entry forms, coupons etc and any advertising copy.

Attach to your application a detailed description of the prizes. This should include the following:

Machinery or electrical appliances – the make, model and accessories

Motor vehicles – the make, model, accessories, and whether registration and other on-road costs are included

Travel – the number of persons entitled to take advantage of the travel prize, what is included (air fares, transfers, other transport, duration, accommodation standard, meals); restrictions on when the travel must be taken; and whether spending money is included

Real estate – the type of dwelling, plans, contract details, easement details, address or other location, what is included (conveyancing and legal costs, fixtures, furniture).

What if the information I supply needs to change?

You must tell us of any changes to the particulars on or accompanying the application. The changes cannot take effect until we give written approval. This includes the rules of the lottery (for example rules as to the prizes and as to the closing date for entries).

You must pay an additional fee if the approved lottery period is to be altered, or where the prize value is to be increased.

When we receive a request to change our approval of how the lottery will be conducted, we will assess whether the proposed changes disadvantage persons who have entered the lottery up to that point.

What types of prize are allowed?

Some prizes are prohibited:

- tobacco products in any form
- firearms or ammunition
- weapons
- cosmetic surgery or other procedure designed to improve personal appearance
- alcohol - if the maximum quantity on offer exceeds 20 litres (for example, more than two standard cartons of beer containers, or more than 24 standard bottles of wine or spirits)
- alcohol that is to be consumed on licensed premises.

All other prize types, including money, are allowed.

If you propose a money prize greater than \$2,000, the prize-winner must be paid the amount exceeding \$2,000 by a crossed cheque made out to the winner (or by EFT if the winner so requests). The full prize amount can be paid in this manner, if desired.

If you propose to offer a non-cash prize but not allow winners to opt for an equivalent cash prize, the conditions of entry should clearly state 'Not Redeemable for Cash'.

Fair trading law

The *NSW Fair Trading Act 1987* prohibits offering 'free' gifts or prizes in connection with the supply of goods or services – if you do not intend to supply those gifts, or if the prizes differ from those offered. For example:

- offers that do not adequately inform persons of the applicable terms, conditions or limitations
- obliging persons to incur additional expense when claiming a gift or prize, where this requirement was not specified in advertising
- gifts or prizes that are materially different to those offered, for example, prizes of up to \$25,000 where the prize is actually a scratch lottery ticket or where a cash prize is a store credit.

This Act also prohibits a person in trade or commerce engaging in conduct that is misleading or is likely to mislead or deceive.

Misleading conduct could include promotional material that, for example, gives readers an expectation they are guaranteed to win \$20,000 cash by returning an entry form within a set period of time, when in fact respondents' entries are placed in a draw and a selection made from the entries received.

If you do not propose to offer any alternative or substitute non-cash prizes, or allow the prize-winner to transfer the prize to another person, the conditions of entry should clearly state 'Not Transferable'.

Is there a restriction on prize value?

No. provided the retail prize value aligns with the fee you pay (see page 2).

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Telephone and SMS/MMS facilities

If your promotion uses these facilities, you must comply with these requirements:

- The telephone facility or the Short Message Service (SMS) or Multimedia Messaging Service (MMS) facility must not be linked to the provision of further information—which may involve details of the rules (conditions of entry); the provision of numbers or symbols which a person marks off or scratches off a game card or otherwise matches with other numbers or symbols hidden or displayed on a game card or other publication.
- The lottery rules must clearly state that the means of entry cost to the caller will not exceed 50 cents plus GST, and the rules of the lottery must include reference to that call cost.
- An entrant or other person must not be required to call or message a telephone service on more than one occasion to provide personal information or

particulars, or to answer questions, or for any other reason in order to obtain a right to a valid entry into the proposed trade promotion lottery.

- An entrant or other person must not be required to call or message a telephone service to obtain information or particulars about the proposed trade promotion lottery.

Without limiting the generality of the foregoing, information or particulars includes details of the conditions of entry, the provision of numbers or symbols which a person matches with other numbers or symbols hidden or displayed on a game card or in a publication.

- An entrant or other person must not incur any cost if the telephone service sends a message to that person's mobile telephone in connection with the proposed trade promotion lottery.

Liquor promotion guidelines

To ensure that licensees sell and supply liquor responsibly, guidelines have been developed for the responsible promotion of alcohol.

The *Liquor promotion guidelines* describe activities or promotions involving the responsible sale or supply of alcohol.

All the matters mentioned in this guide are of high relevance to hotels, clubs and restaurants. They are also of interest to packaged liquor premises (take away sales through a bottle shop or home delivery); and some interest to producer/wholesalers (winemakers/brewers).

All licensees should have a good understanding of these guidelines. Using the *Liquor promotion guidelines* will help you determine the risks associated with a proposed activity or promotion involving the sale and supply of alcohol. If any unacceptable risks are associated with the activity or promotion, it should not be conducted.

An important point to remember is that promotions are unacceptable where entry, participation or outcome is dependent on the consumption of more than one alcoholic beverage on the premises, and/or prizes of alcoholic beverages are awarded which involve their consumption on the premises.'

The *Liquor promotion guidelines* are available at www.olgr.nsw.gov.au > Liquor > Resources

unless the lottery is specifically conducted as an 'in house' lottery (for example among sales staff). Only members and guests of a registered club should participate in a lottery aimed at promoting the business of the club.

A child can participate in a trade promotion lottery. Where appropriate, you should restrict entry by children, by incorporating a condition into the rules of the lottery.

How do I conduct the lottery?

You must allow ample time for each phase of the lottery including:

- notifying the start of the lottery
- publishing rules for the lottery
- distributing tickets or coupons
- collecting entries
- the period between the closing date for entries, the draw, announcement of the results, and notification to winners.

You cannot terminate the lottery before the advertised closing date.

You must give prize-winners their prize within 6 weeks after the close of the lottery, unless a longer period is specified in the lottery rules.

A trade promotion lottery must be conducted fairly:

- all entries must be treated equally

- all game material in instant win style lotteries must be secure, and distributed on a purely random basis, and the game must not be capable of manipulation
- winning game material must not be added during the course of the lottery
- the prize structure must not be altered.

If you impose conditions on who may enter, when the prize must be taken etc, you must adhere to these conditions. Also you must not alter these conditions during the lottery, and these conditions must be specified on all advertising material, entry forms etc.

Who can participate in the lottery?

It is inappropriate for business directors, management and employees, their immediate families, their retailers, suppliers, associated companies and agencies to participate in a lottery conducted for their own business -

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A child should not be allowed to participate in a lottery where the type of prize may cause problems between a parent/guardian and the child – unless the lottery rules require a parent/guardian to give written permission for the child to participate. Prizes unsuitable for children should not be offered.

Trade promotion lotteries with alcohol prizes

Tickets or rights for alcohol prizes cannot be distributed by – or to – a person under 18. Nor can a person under 18 dispense or collect a alcohol prize.

How should I advertise or promote the lottery?

The rules (including conditions of entry) must be clearly advertised and readily available to participants. Consumers must be fully and clearly informed of the rules so that they can make informed decisions about entering a lottery, thus minimising the prospect of complaints about the integrity of the lottery and the promoter.

Be careful to avoid the risk of false or misleading advertising.

Sometimes it may not be possible to publish the rules in an advertisement or on the wrapper of a product. In this case any advertisement, notice or information must state where the full rules are to be found – for example, a website.

However, any unusual or onerous conditions must be clearly and prominently stated on the outside of the product, without the consumer having to purchase the product or service to discover those details.

An example of a promotion that fails the test of adequate disclosure of the conditions of entry is where a simple sticker is placed on the wrapper of a product that tells consumers they have a chance to win \$100,000 by purchasing the product. Although the sticker may state that the rules of entry are contained on the game card which is enclosed in the product, there is no information on the outside of the wrapper stating the closing date of the lottery (which may have already passed). Failure to

provide this most basic information will breach the permit conditions and may breach the fair trading laws.

The public must be clearly informed of:

- the name and address of the person or business for whose benefit the trade promotion lottery is conducted
- the rules (or terms and conditions of entry)
- the period of the lottery, especially the closing date for the receipt of entries

- details of the drawing of the prizes (ie place, date and time etc)
- details of each prize and its recommended retail value – including any conditions (for example, must be taken before a certain date)
- the chance of winning a prize if the nature of the lottery means that it is likely that a prize will not be awarded (when we assess this type of lottery, we will look closely at

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Gaming machine promotions

Under section 45 of the *Gaming Machines Act 2001*, prizes paid as part of a player reward scheme or other gaming machine promotion must not:

- be cash
- exceed \$1,000 in value
- be exchangeable or redeemable for cash.

Promotional prize means any prize or reward offered to patrons in connection with a player reward scheme or any other marketing or promotional activity that involves gaming machines. An authorising trade promotion lottery permit is required in most cases.

A player reward scheme means a system in which players of gaming machines accumulate bonus or reward points. An authorising trade promotion lottery permit is not required because there is no separate draw.

Cash includes cheques and electronic transfer of funds (EFT), or gold or silver coins.

Raffle or lottery tickets as prizes – an application must be accompanied by written advice which declares the number of entries anticipated in each prize draw.

Gift voucher prizes redeemable at the registered club or hotel – an application must be accompanied by written advice which states that it cannot be exchanged in whole or part for cash. This includes an amount of money that could be given as change (balance between the purchase

price and the value of the voucher) to the voucher holder. Gift vouchers redeemable away from the venue do not have to meet this requirement.

Membership prize promotion – if membership relates in any way to the marketing of gaming machines these prize restrictions apply.

Smart card prize promotion – gaming machine win or bonus points cannot be credited to smart card.

Your lottery rules must include a reference to these prize restrictions.

Promotions with a draw

Where persons obtain the right to enter a draw for a prize based on the play of a gaming machine, you must apply for a permit to conduct a trade promotion lottery. In such cases, the machine does not determine the winner or the prize, it simply determines that the person playing the machine has the right to receive an entry into the draw.

Promotions without a draw

You do not have to apply for a permit to conduct a promotion where persons obtain a bonus prize based on the play of a gaming machine or where players accumulate bonus or reward points. Such promotions do not involve a draw to determine the prizewinner. These promotions may involve the awarding of vouchers, stamps, tokens, points, or play money.

Trade promotion lotteries

Integrity controls

Scrutiny of the draw

In any draw where the total value of the prizes is over \$10,000, the draw and the announcement of the prize winner(s) must be scrutinised by an independent person - unless we grant an exemption.

This requirement does not apply where the winners are solely decided through a pre-determined, instant win, scratch, break-open or bingo-style lottery or game of chance. Refer to the processing requirements for these types of lotteries on page 7.

The scrutiniser observes the draw process and decides to the best of that person's knowledge and belief whether all entries to the lottery have been treated equally, and that no person has received an unfair advantage or unfair gain. The scrutiniser should take nothing for granted and should look directly at all relevant activities when a draw is undertaken.

If you are of the opinion that the nature of the draw system or process to be used in conjunction with the proposed trade promotion lottery makes this scrutiny requirement unduly onerous, you should attach to your application a request for exemption from the need to comply with this requirement. Your application will be assessed on its merits. However, it should be noted that approval will only be granted in exceptional cases.

Who is an independent person?

An independent person is a person who, except for his or her involvement with the scrutiny of the draw:

- is not otherwise concerned with the management, conduct or promotion of the lottery for which the permit is issued
- is not a director, employee or otherwise employed by, or under contract to, the benefiting business or trade or an associated company, business or agency.

In addition, an independent person is a person who does not have any interest or relationship, personal or commercial, with the benefiting business or trade, or any person employed by the benefiting business or trade which might be, or appear to be, incompatible with that person's independence.

The requirement for an independent person to scrutinise the draw is a standard condition, unless the benefiting business has received written approval from us saying it does not apply.

How do I seek approval for a non-independent person to scrutinise the draw?

Apply to us in writing, giving full particulars about the draw process including safeguards and controls designed to overcome any person manipulating the draw.

We will assess each application on its merits. Approval will be in writing and will remain current until revoked or the particulars upon which it was granted are modified without prior approval.

Lottery where prize value above \$10,000

In any lottery where the total value of the prizes is over \$10,000, the person who scrutinises the draw must complete a statutory declaration.

The declaration must state the scrutineer is independent (unless otherwise approved), that he or she scrutinised the draw, and that the details of the winners of prizes have been verified.

Approval of computerised system

Where a computerised system is used to decide the winners of prizes (including a device used in connection with a 190-telephone service, a SMS telephone facility, a MMS telephone facility or the Internet) the application must be

accompanied by two reports—an Appraisal Report and a Draw Procedure Report.

The Appraisal Report must detail whether the computerised system is random in its selection of winners and has appropriate safeguards and controls in place (for example, passwords, two or more persons acting independently) to overcome the possibility of any person manipulating the system.

The Draw Procedure Report must detail the safeguards and controls in place to overcome any possibility of any person manipulating any stage of the draw or announcement of the prize winner processes.

Any costs in producing these reports are to be borne by the applicant / benefiting business or its agent. Each report should include the particulars mentioned below. We will assess each application on its merits.

Any decision to grant approval to the computerised draw process will be in writing and will state that it would remain current until revoked or the particulars upon which it was granted are modified without prior approval or the particulars upon which we have granted it are not being complied with by the benefiting business or its agent.

This requirement contemplates a once only report - it does not require a new report for each draw using the same system. Once a device or system is approved for use, only include a copy of our approval letter with your application.

However, you must seek reassessment and approval from us if there are any changes to the system.

If the device or system (in particular a random number generator) has been approved for use by another business, we only need the name, model and manufacturer of the device. However, you must still give us a draw procedure report.

Continued next page.

Trade promotion lotteries

Integrity controls cont.

Application for approval of computerised device

Appraisal Report from independent person

The appraisal report must be sourced from an independent person with knowledge of computerised devices and programs. That person must satisfy the same criteria expected of a person who scrutinises the draw. For further information refer to 'Who is an independent person?' at the beginning of this boxed item.

The Appraisal Report must include:

- the name, title, address and expertise of the person giving the appraisal report
- the name and address of the supplier, manufacturer or developer of the device or system
- the name and model number of the random number generating device – or the name of the application or software of the computerised random number generator

- a description of the device or system including:
 - control and security features (login, passwords)
 - operating procedures
 - whether the system is tamper-proof
 - whether all entrants have an equal chance of winning
 - technical data and promotional material
 - whether a hard-copy of the prize-winners' list is provided.

Draw Procedure Report

- purposes for which the device will be used
- procedures used in entering the range of numbers or the draw procedure
- safeguards and controls exercised over the draw process (accessibility, passwords, supervision)
- how the results are to be announced, and what precautions are taken to ensure there is no substitution of prizewinners.

Health regulations

The offer of perishable items such as green groceries, meat and fish as prizes is regulated by 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.

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lottery integrity and proper disclosure)

- any qualifying requirements, including the category of persons entitled to take part or be excluded, and any requirement to attend the drawing of the prizes
- the method used to decide prize winners
- the name of the newspaper, other publication or website where the names of prize-winners will be published
- the date of publication
- any arrangement for a second chance draw for unclaimed prizes.

The lottery rules, any electronic and/or print media advertising material and any entry forms, coupons, wrappers, labels, tickets or other documents must disclose the permit number in the format 'NSW Permit No. LTP./././.....'.

You must not state or imply that the lottery is to be conducted for charity or a charitable purpose, or for a not-for-profit organisation, unless approved by us. See the box on page 9 for more information.

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 (for example, cinema, video, radio, television or the Internet).

Where a proposed trade promotion lottery is associated with a NSW Government licensed lottery or game of chance, your application must include a written clearance by the licensee (for example, NSW Lotteries).

Trade promotion lotteries

Pre-determined, instant win, scratch and bingo-style lotteries

The following requirements apply to trade promotion lotteries involving:

- **instant win lotteries**
- **break-open tickets or cards**
- **scratch or rub-off instant win lotteries**
- **bingo-style games of chance**
- **pre-determined result lotteries**
(for example, letters are sent to potential customers, each containing different numbers – the customer does not know whether the number is a winning number or not – after returning the entry form the promoter advises the customer whether the number allotted was winning number).

What you must include in the published rules for these lotteries

Prizes

You must include a statement in the lottery rules stating that all prizes from the advertised prize pool will be distributed. You must give us details as to how all the prizes will be distributed.

Printing errors

Due to the possibility of printing errors, structural faults or similar factors, a situation may arise where claims for prizes are received in excess of those prizes specified in the advertised prize structure.

To address this possibility, you must include a statement in the rules stating that at the end of the lottery all existing claims for prizes and entitlements to claims will be met notwithstanding the advertised prize pool has been exceeded.

In addition, you must include a statement in the rules stating that printing errors or other quality assurance matters outside the control of the individual player must not be used as the sole basis for refusing to award a prize.

Random games

In respect of random games (games where the number of possible winners is not known beforehand, being the result of chance or lot)

- **prize value less than \$5,000**
where there is more than one claim for a particular prize of \$5,000 or less, each claimant is to receive an equal share of the prize or \$1,000, whichever is the higher
- **prize value more than \$5,000**
where there is more than one claim for a particular prize of over \$5,000, each claimant is to receive an equal share of the prize, 10% of the prize, or \$2,000, whichever is the higher.

Controlled games

In respect of controlled games (games where the number of possible winners is known beforehand, based on the number of winning game material printed) the sharing of prizes is not permitted.

Printing requirements

Where the value of prizes is high, the game material and other advertising must include the words total prize pool in a prominent manner against the prize pool value.

Where possible, the game material comprising tickets or cards must provide:

- the maximum number of game material to be distributed
- the rules
- the total prize structure.

Where this is impossible, this information must be otherwise given to players.

What you must lodge with an application for these lotteries

- the name and address of the business which is responsible for preparing and printing the game material
- how and by whom the winning numbers or symbols are to be determined
- how and by whom the winning game material is to be distributed
- the full prize structure to be won over the period of the trade promotion lottery
- the estimated prize payouts (if appropriate) for each week of the trade promotion lottery

- a written assurance that the system cannot be tampered with in any way by any person or organisation involved in the production or distribution of the game material
- evidence may be required of insurance coverage held by the promoter against any damage or loss caused by any structural faults or breakdowns which affect the successful conduct of the trade promotion lottery.

Permit conditions

In addition to the standard permit conditions, the following conditions apply to these lotteries:

- all details of claims for prizes over \$100 which are denied must be retained. These details shall include the names and addresses of the claimants and the reason(s) why the claims were not met
- players must be informed as soon as possible of the reasons for refusing to award a prize, unless forgery or similar tampering with the card is suspected and the reason for the refusal to award the prize cannot be given to the claimant because of possible legal consequences
- adequate security measures must be adopted to eliminate the potential for the manipulation of the distribution of winning cards
- a condition may be imposed that, following the completion of the lottery, the:
 - (a) whether the lottery was conducted in such a manner as to give every person who entered a fair and equal chance of winning
 - (b) whether the security controls were in place, and
 - (c) whether the permit conditions, the lottery rules and the Act were complied with.

Note: No game material is to be marketed or promoted in a manner which may mislead the public into thinking that the game material is a NSW Government licensed lottery or game of chance.

Trade promotion lotteries

Involvement of charities and not-for-profit organisations

Our permit conditions stipulate that a permit holder cannot represent that a trade promotion lottery is conducted for, or in conjunction with, an appeal for funds for a not-for-profit organisation. We can set aside this condition in a particular case, upon request.

If there is a link to a fundraising appeal for a not-for-profit organisation (including a charity) in connection with your application, you must give us:

- a letter from the not-for-profit organisation consenting to the link with the lottery
- an assurance that the proceeds of the fundraising appeal will not be used to fund the conduct of, or prizes in, the lottery
- an assurance that the proceeds of the fundraising appeal will be banked intact into the account of the benefiting organisation.

The Office of Liquor, Gaming and Racing will consider each application on its merits, and may need to seek additional information.

Olympic theme promotions

If a trade promotion lottery is based on the Olympics or an Olympic theme, you must obtain a written clearance from the Australian Olympic Committee (AOC) that the proposed lottery is acceptable to that organisation. You must lodge the clearance document with your application.

How should I conduct the draw?

Each participant must have a fair and equal chance of winning.

If more than one prize is offered, the major prize should be the first drawn. Then the other prizes should be drawn in descending order of number and value. If you decide to conduct the draw in another manner, you should make clear in any advertising material the method that will be used to decide the winner.

The draw must take place in Australia.

If there is a chance of unclaimed prizes, especially with instant result games, you must incorporate in the game structure a second chance draw or similar device to distribute those unclaimed prizes.

You cannot conduct a lottery that imposes a condition that places some participants at a disadvantage. If you have a condition that requires a participant to claim a prize at the draw, you must allow at least four minutes for them to do so. This caters for participants who may be attending toilet facilities and also for situations at crowded venues.

Results may not be decided by games of chance where those games may have some detrimental effect on the conduct of fundraising games of chance by charities. Those games include housie/bingo, hoi, lucky envelopes, chocolate wheels and similar games.

When do I have to deliver the prize?

You must deliver prizes to the prize-winners within 6 weeks after the close of the lottery – unless you clearly stipulate a longer period in your published lottery rules. All prizes must be distributed.

How should I notify the results of the draw?

You should notify prize winners within 2 days of the draw. If the prize value:

- is more than \$10, the prize winners are to be personally notified (face-to-face, mail, telephone, or e-mail)
- is more than \$500, you must also make a public announcement by print or electronic media.

What if a prize is unclaimed?

If, despite every reasonable effort, you cannot contact a prize-winner, you must retain the prize for 3 months after the draw.

However, if a prize is perishable (for example, a meat tray), the prize may be sold or otherwise disposed of in a way that you consider will bring a reasonable price. The money realised (after deducting the reasonable costs of sale or disposal) must be held in trust by you or the organisation for the winner of the unclaimed prize.

At the end of 3 months, if the prize remains unclaimed, you should send a letter or email to us setting out full details of the steps that you took to contact the winner and deliver the prize – and asking our permission for a redraw.

What records do I need to keep?

All entry forms and other records must be retained for at least 3 months after the date on which the winners are decided, unless a prize remains unclaimed – in which case you must keep records for at least 3 months after we approve the re-draw.

Who is responsible?

We will grant the permit in the name of the trade or business. The sole proprietor, the partners in the partnership or directors of the body corporate will be responsible for the proper conduct of the trade promotion lottery, as the holder of the permit.

Trade promotion lotteries

Card jackpot games

A card jackpot game normally involves a pack of 52 playing cards plus a joker, each laying face-down on a flat surface. Qualifying participants are given the opportunity to turn over one of the cards for a chance to win the prize. If the joker card is not drawn, the prize jackpots and the draw is repeated on another occasion. 'Jokers Wild' and 'Wild Card' are two of these games.

We will only grant a permit for a card jackpot game promotion if standard terms and conditions of entry are agreed to by the applicant/promoter/benefiting organisation.

The standard terms and conditions require the applicant to answer specific questions about how the card jackpot game will be conducted.

Free-entry card jackpot games may be linked to participants having to purchase a ticket in a fundraising raffle for a not-for-profit organisation. No part of the proceeds from the sale of tickets in the raffle can be used or applied to the provision of prizes or otherwise in the card jackpot game.

Where this form of entry is employed there must be at least one other form of entry available, for example, purchase of meal at bistro.

Further information about these types of trade promotion lotteries is available in the Card Jackpot Games fact sheet. This fact sheet contains the standard terms and conditions which must be completed and lodged with the accompanying declaration form (if necessary) and the application form.

Can records be inspected?

Yes, by our authorised officers or police.

Do penalties apply?

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

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

Help us provide a better service

Is your application complete?

The following list identifies the most common problem areas:

- the terms and conditions of entry are not provided
- no advertising copy is supplied (this may be either the completed artwork or a hand-drawn facsimile)
- scant information is provided about how the lottery is to be conducted — a full description is required (we read the application without having your background knowledge)
- the start or finish dates are not advised or are uncertain (please be specific)
- the declaration is not completed and signed by the applicant, promoter and/or benefiting business
- there is no information about unclaimed prizes and the second chance draw date
- the total prize value is not recorded on the application
- there is little or no information as to whether a prize consisting of a vehicle includes on-road costs, comprehensive insurance, etc.
- incomplete details regarding travel prizes are lodged
- incomplete particulars where a trade promotion lottery involves participants using a 190 telephone facility (see page 4 of this fact sheet)
- incomplete particulars where the lottery involves the use of instant win, scratch, break-open, or bingo style games (see page 7)
- insufficient or no fee is paid (see the fee schedule on page 2)
- where the applicant, promoter, or benefiting business is a company the correct legal name of the entity and its ABN number are recorded on the application
- a reasonable time must be given for persons to claim a prize (for example, a members' badge draw must allow at least 4 minutes for the prizewinner to claim a prize)
- where a random number generating device is used to decide winners this must be a device approved by us (see page 6). If the device has been previously approved, please include a copy of our approval letter with your application.

This guide is designed to provide accurate and authoritative information in regard to the subject matter covered, and with the understanding that the NSW Office of Liquor, Gaming and Racing, part of Communities NSW, 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 legislation governing trade promotion lotteries is the *Lotteries and Art Unions Act 1901* and the *Lotteries and Art Unions Regulation 2007*. Online access to the legislation is available at www.legislation.nsw.gov.au