



Legal issues bulletin

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Conducting fundraising activities in schools

From time to time schools may seek to raise funds by conducting general fund raising activities such as appeals, art unions, raffles and other games of chance. Fundraising of this nature is primarily governed by two separate acts - the Charitable Fundraising Act 1991 and the Lotteries and Art Unions Act 1901.

What activities are covered by the Charitable Fundraising Act 1991 ("the Fundraising Act")

Charitable fundraising may take many forms, including collections and sponsorships, fetes and the sale or auction of donated goods and services, dinners or lunches and BBQs etc, entertainments such as performances and dances, trivia nights and raffles or other competitions. These activities are described as "Fundraising Appeals".

What obligations arise under the Charitable Fundraising Act 1991 ("the Fundraising Act")

The Fundraising Act provides that the soliciting or receiving of any money, property or other benefit from the public constitutes a fundraising appeal if a representation is made or implied that the appeal is for a charitable purpose, or for the support of an organisation having a charitable object.

The Fundraising Act permits fundraising for charitable purposes, which includes the advancement of education. Accordingly, the Fundraising Act applies to fundraising by schools.

Unlike other organisations, the Fundraising Act does not require government schools to obtain an authority to conduct a fundraising appeal.

The Fundraising Act imposes a number of obligations in respect of the conduct of fundraising appeals, including:

- **Maintenance of proper books of account and record** - the organisation of activities, financial records and minutes of decisions should be properly documented.
- **Ratio of Expenses to Receipts** - for donation or collection type appeals, the organisers are to "take all reasonable steps" to ensure expenses incurred are not more than 40% of the gross proceeds. For fetes and sale of goods type appeals, the net proceeds should be "fair and reasonable". For most gaming and competitions with prizes, the expenses should not be more than 60% of the gross proceeds.
- **Identification** - participants in an appeal must wear clear identification of themselves and of the benefiting organisation. It must include an issue number (consecutive), the issue and expiry dates, and the signature of an authorised person. It must be prominently displayed and easy to read. A register must be kept of the identifications issued and their return.
- The requirement to wear an identification badge may be dispensed with in some cases. For example, an identification badge is not required when school children are involved in fundraising activities whilst in school hours and under proper supervision. Identification is also not required if the fundraising activity is being conducted on the school site - e.g. a trivia night. Further information on the dispensation of identification requirements can be obtained from the [NSW Office of Liquor, Gaming and Racing](#).

- **Advertising** - any advertising must show the name of the benefiting organisation and should disclose the appeal's purpose or how the donations collected will be distributed or used.
- **Receipts** - a receipt must be provided for all cash donations, even if not requested. An exception is the use of collection devices. Collection devices are containers that money or goods can be placed into by the donor. They can be boxes, bins, tins, jars or similar, but they must be secure and sealed with only a small opening to allow money or goods to be inserted, but not withdrawn. They can be hand-held or fixed, and must bear the name of the fundraiser and be numbered. Open buckets must not be used.

It should be noted that it is illegal for donations to be solicited from motorists on public roads.

Are there any special obligations in relation to children being involved in fundraising activities?

Yes. The Charitable Fundraising Regulation 2008 outlines a number of special requirements relating to the involvement of children in fundraising activities, namely:

- Children must be over the age of 8 years and have parental approval
- The organiser must take all reasonable steps to notify parents of the involvement of children and ensure children do not participate if parents object
- Children must always work in pairs
- If under the age of 11, children must be in constant contact with an adult
- If over the age of 11, children must be adequately supervised having regard to their age, gender and maturity
- Adequately supervising means staying within close proximity to the children and making contact with them at least every 30 minutes
- A child must not participate for more than 4 hours on a school day or 6 hours on other days, and must have a 12 hour break once the maximum number of hours is attained
- Children must only participate for 5 days per week and must not start before sunrise or finish after sunset (or 8:30pm if the following day is a school day, whichever is the earlier)
- Children must not enter a private dwelling when soliciting door-to-door or collect or sell to any person in a car
- During periods of participation, children must not be required to lift or carry loads that are likely to be dangerous to their health and they must have appropriate access to food, drink and toilet facilities
- Children must be adequately clothed and be adequately protected from the elements (e.g. provided with sun screen, sun protection etc). Provision must also be made for changes in the weather
- A child participant must work with at least one other child participant

While generally exempt, fundraising activities may be subject to the Goods and Services Tax (GST) and Fringe Benefits Tax (FBT) depending on the nature of the event. Further information on whether GST or FBT applies to a fundraising activity can be obtained from the [Australian Taxation Office website](#).

What is the law in relation to the conduct of raffles and games of chance?

The Lotteries & Art Unions Act 1901 governs the conduct of a variety of fundraising competitions, social entertainment competitions, lotteries and games of chance. The Lotteries & Art Unions Act operates to protect the public interest by ensuring the integrity, fairness, accountability and probity of lotteries and those who conduct them.

Schools may conduct a lottery or game of chance to raise funds.

What types of fundraising activities are available?

Fundraising lotteries and games of chance may be conducted in a variety of forms, the major ones being:

- **Raffles:** These are lotteries where the total prize pool does not exceed \$25,000. A lottery is an activity where a quantity of consecutively numbered tickets is sold and a prize, or prizes are awarded upon the conduct of a draw for the winning ticket(s) or ticket number(s). The draw should be conducted publicly at an advertised time, date and place. Every ticket should have a fair and equal chance of winning a prize. If there are a number of prizes, the major prize should be drawn first, with subsequent prizes drawn in descending order of magnitude. The draw should be conducted by the random selection of a ticket-butt or numbered marble from a container suitably sized to allow for thorough mixing of all entries. Alternatively, an electronic Random Numbers Generator type machine may be used. Follow this link to a comprehensive [Facts Sheet](#) available on the website of the Office of Liquor, Gaming and Racing.
- **Art Unions:** These are lotteries where the total prize pool is greater than \$25,000 – [Facts Sheet](#)
- **No-draw Lotteries:** Also known as "Scratchies" or "Break-open" lotteries. The purchaser receives a specially produced ticket with a hidden panel containing numbers or symbols which the participant exposes or removes. A prize is won if the hidden numbers or symbols match prize winning numbers or symbols – [Facts Sheet](#)

- **Gratuitous Lotteries:** Usually referred to as "Lucky Door Prizes" or "Lucky Seat Prizes". These are free-entry lotteries or games of chance conducted for the purpose of promoting patronage of events, activities and functions. Entry is normally based on purchasing a ticket to the event, activity or function - [Facts Sheet](#)
- **Mini-number Lotteries:** Similar to Lotto or Keno games. Participants select six numbers from a set of up to twenty (maximum) numbers. If a participant selects all six numbers drawn, they win a prize. If no-one selects all six, the prize jackpots (there are no supplementary and/or "division 5" type prizes). Only one game may be conducted at a time in any seven-day period – [Facts Sheet](#)
- **Progressive lotteries:** Including "Hundred Clubs", "Silver Circles" and Tipping Competitions. Participants purchase the right to a certain number or selection in a series of draws. Prizes may be awarded to the winner of each draw and/or the overall winner after all draws are complete – [Facts Sheet](#)
- **Lucky Envelopes:** Participants win a prize if they expose a hidden number displayed on a chart at the point of sale. They should not be confused with no-draw lotteries. Conditions apply to ticket prices and the age of participants – [Facts Sheet](#)
- **Bingo, Housie, etc:** Cards are distributed, each bearing a selection of numbers or symbols. As an announcer draws a number or symbol, the players mark it off their cards if it appears. The winner is the first person to mark all numbers or symbols appearing – [Facts Sheet](#)
- **Chocolate Wheels:** Participants purchase numbered tickets. A wheel which has numbers corresponding with those on the tickets is spun. After the wheel stops on a specific number, the participant holding the numbered ticket corresponding with the number on the wheel receives a prize – [Facts Sheet](#)
- **Sweeps and Calcuttas:** Participants purchase tickets entitling them to enter a draw (or for Calcuttas; an auction) to win a contestant in a forthcoming event. The prize pool is then distributed amongst "owners" of winning contestants. They are only permitted to be conducted in conjunction with certain prescribed sporting events – [Facts Sheet](#)
- **Guessing competitions:** These will fall within two categories. The first type is where participants purchase tickets with words or phrases with missing letters. The participant is required to fill in the missing letters correctly in order to win. This type of guessing competition is a raffle and is subject to the provisions of the Lotteries Act. It should be noted that it is not necessary to incorporate a guessing competition to validate a properly organised raffle.
- The second type of guessing competition is one which is a skill based game and therefore outside the scope of the Lotteries Act. It will usually involve participants purchasing the right to guess the number or value of items in a container. To be a valid competition, participants must be given full access to the container in order to allow them to take measurements so that they can mathematically calculate the number or value of the items in the container. If full access is not allowed, then the competition outcome will be considered a game of chance, not skill, and be subject to the Lotteries Act – [Facts Sheet](#)
- **Trivia nights:** these competitions are games of skill and not subject to the requirements of the Lotteries Act. Organisers of trivia nights must ensure such events are conducted in a fair manner for all participants.

Each of these listed activities has regulatory requirements peculiar to that activity. A [Ready Reference Guide](#) prepared by the Office of Liquor, Gaming and Racing summarises the main features of each of the different games of chance.

Prizes

Subject to the specified monetary limit applicable to each type of activity, prizes may be in the form of cash, goods, services, or vouchers for goods or services. The following cannot be used as prizes in any game:

- Any tobacco products
- Firearms or ammunition
- Prohibited weapons
- Cosmetic surgery or similar procedures to "improve" appearances.

Liquor may be used as prizes but a total of only twenty litres may be offered in any one game. This equates to approximately 2 cases of beer, 2 dozen bottles of wine or 28 bottles of spirits.

Generally (refer to the Ready Reference Guide) total cash prizes must not amount to more than \$5,000 and individual payouts of \$2,000 or more should be in the form of a crossed cheque or direct deposit by electronic banking. Vouchers for goods or services must not be redeemable for cash or prohibited prizes. In the case of a travel prize, any spending money that is included must not exceed 20% of the total value of the prize.

Tickets and prices

Generally, the higher the value of the prize pool, the more formal in appearance any tickets should be. All tickets and ticket-butts must bear the same ticket number from a consecutive series. Additional information that should be available to participants at point-of-sale, in brochures, or on the tickets themselves, includes:

- details of the prizes and their value

- the place, time and date of the draw
- details of how the prize-winners will be notified. Notification should occur within 2 days after the draw.

For games where the prize pool exceeds \$5,000, any tickets should be specially produced and include not only the above information but also the name of the benefiting organisation and the ticket price. The ticket-butts must have provision for the participant's name and address. A contact number should also be requested. Further, the organisers must ensure that particulars of the result are published within 7 days after the draw in a newspaper circulating in the region in which the lottery was conducted.

Some types of gaming are regulated as to the amount that can be charged per entry (ticket). Mini-numbers and no-draw lotteries must not charge more than \$2.00 each and Housie cards are restricted to a 5¢ maximum. Activities such as raffles and art unions have no limit on the value of each ticket or the number of tickets that can be sold.

Organisers must not require participants to be present at the draw to win a prize. If all reasonable efforts to contact a prize-winner have failed, the prize must be retained for three months. In the case of perishable goods, they may be sold or otherwise disposed of, but a cash amount to the prize value must be held in trust. After three months, the organisers must apply in writing to the Office of Charities for permission to re-affle, sell, or otherwise dispose of the prize.

Special obligations in relation to children

Principals should note the following special requirements in relation to the involvement of children in fundraising lotteries and games of chance:

- Children must not be involved in any way with a lottery which includes liquor as prizes. This includes buying or selling tickets, and giving or collecting prizes
- Children are not permitted to be depicted as participating in a lottery activity in any associated advertising
- Persons under the age of seventeen must not take part in Chocolate Wheels and Lucky Envelopes
- Mini-numbers lotteries are not open to children under the age of eighteen.

Permits

Some forms of gaming require a permit (check Ready Reference Guide). These permits are free and issued by the department of Gaming and Racing. Application forms should be submitted at least two weeks before the intended commencement date. Further details, including application forms, can be obtained from the [NSW Office of Liquor, Gaming and Racing](#).

Parents and Citizens Associations (P&C's)

The requirements of both the Fundraising Act and the Lotteries Act apply to P&C's. The department of Gaming and Racing advises that there is no need for P&C's to obtain an authority to undertake any charitable fundraising under the Fundraising Act.

Any further enquiries regarding fundraising activities can be directed to Legal Services on telephone 9561 8538 or the [NSW Office of Liquor, Gaming and Racing](#) website.

About Legal Services

Legal Services is here to support our government schools. **[Staff can contact Legal Services by email or phone.](#)**

Legal Services can only provide legal advice to departmental staff. It is not able to provide legal advice or assistance to parents, students or members of the public due to the potential for a conflict of interest.