

Trade Promotion Lottery Information and Conditions

What is a Trade Promotion Lottery?

A *trade promotion lottery* in general terms is a promotion activity that involves a lottery with prize winners determined by any means that includes an element of chance or a mixture of chance and skill.

A prize includes anything of value or benefit.

A Trade Promotion Lottery is a promotional activity used as an incentive to encourage people to do something, such as purchase a product or participate in an event.

A feature that distinguishes a trade promotion lottery from other lotteries is that a trade promotion lottery is free to enter.

It should be noted that the specific provisions of the *Lotteries Act 1964* will ultimately determine the eligibility or otherwise of any lottery application.

When is a permit required?

Where a promotional activity fits into the above description of a Trade Promotion Lottery then a lottery permit is required unless it meets one of the exemption categories listed below.

When is a permit not required?

Games of skill

When the determination of the prize winner involves skill only (i.e. no element of chance is involved), an approval is not required. In this context, "skill" means any competition that involves a decision or input by the participant, such as estimating a number or weight, submitting a description of an item or activity or describing or stating reasons for liking something. Skill may also include any event or competition that is judged by people qualified in a field relevant to the event or competition.

Exempt Lotteries

A permit is not required for an "exempt" lottery. Exempt lotteries include:

- a promotion where the total prize value does not exceed \$3000. Legislative conditions under which an exempt lottery must be conducted are detailed in the Exempt Lotteries factsheet on the Commission's website;
- a promotion where "prizes" or rewards consist totally of the granting of rebates, discounts or other allowances in respect of amounts payable, or the granting of refunds of amounts paid for goods sold or services performed in the course of carrying on that trade or business which are equally available to all customers; or
- a promotion which comes within the definition of a private lottery as defined in the *Lotteries Act 1964* (where participation is restricted to members of the same association or who work or reside in the same premises and where there is no external advertising of the promotion).

Website Lotteries

If a promotion involving a lottery is conducted via a website a permit is not required unless:

- the website is hosted in the ACT, or
- the website is not hosted in the ACT but the promotion is being advertised in the ACT in addition to the advertising on the website.

Definition of advertising:

In this context, "advertised" includes:

- a notice or mention on television, radio or other public broadcast;
- a notice or mention in a newspaper, magazine, pamphlet, leaflet, flier, direct mail (specific address), general mail (non-specific address), internet, email, SMS, MMS, fax, billboard, sign, poster, banner or other publicly available printed material; or
- any other method of communicating the conduct of the promotion to the public (excluding material forwarded directly to or made available to members only).

How do I apply for a permit?

The approved application form in its entirety must be completed and lodged with the Commission with the relevant fee and supporting documentation (such as rules or terms and conditions of the competition).

Agencies acting on behalf of an applicant must include a letter of authority from the promoter conducting the lottery.

An application can be completed online at <https://form.act.gov.au/smartforms/landing.htm?formCode=1093>

Processing of the application will not commence without the payment of the determined fee.

Seven working days should be allowed for processing once the Commission has received all information.

Conditions of Approval

Pursuant to Section 7(3) of the *Lotteries Act 1964*, the Commission may impose conditions on an approval of a Trade Promotion Lottery in order to protect the interests of subscribers to the lottery.

Method of entry

For a lottery using communication or delivery revenue sharing arrangements (such as SMS, MMS, 190 phone numbers or other similar electronic methods) as a mode of entry to the promotion, the following provisions apply:

- the full phone number or contact method must be stated in the terms and conditions; and
- the cost of a call or connection for a participant must not exceed 55 cents (including GST) and the actual cost of each call or connection must be clearly stated or identified in or on all advertisements and be included in the terms and conditions.

For a lottery using a postal address as a mode of entry, the postal address must be clearly stated in the terms and conditions.

For a lottery using the internet as a mode of entry, the internet address must be clearly stated in the terms and conditions.

The *Liquor Act 2010* and the *Liquor Regulation 2010* prohibit promotional activity that encourages excessive or rapid consumption of alcohol, encourages irresponsible consumption of liquor or promotes or encourages intoxication or anti-social behaviour. This legislation will be taken into consideration when assessing your application if your lottery involves the purchase or consumption of alcohol.

Entry Forms

All trade promotion lottery tickets and entry forms must, in addition to all other relevant information, include full details of the manner in which the results of the lottery will be made known.

A copy of the ticket or entry form must accompany the lottery application.

Trade Promotion Lotteries and Other Types of Gambling

If the lottery involves or includes gambling (such as the playing of gaming machines, betting at the casino, betting or wagering with a bookmaker or TAB agency), then the conduct of the lottery must not:

- encourage people to gamble for a minimum period of time to qualify for a reward, entry ticket or other benefit;
- encourage people to gamble a minimum amount to qualify for rewards unless it is part of a gaming machine player reward scheme that is only advertised within the gambling facility, or a commission-based player scheme at the Canberra Casino or if the gambling activity that is being promoted has already been granted approval under the *Lotteries Act 1964*;
- encourage people who play gaming machines to increase their frequency of betting at the facility or the amount of each bet; or
- offer people who play gaming machines cash or free or discounted gambling credits unless the offer of cash or credits is made to all players of gaming machines at the facility as part of the facility's usual or regular prize schedule.

Where a promotion requires a patron to participate by playing gaming machines, the promoter must offer at least one other method of entry in addition to requiring the patron to enter by playing the gaming machines.

Trade promotion lotteries must not include reference to or the playing of an unlawful game. An unlawful game is defined in the *Unlawful Gambling Act 2009* or you can contact the Commission for more information.

The Draw or Selection of the Winners

The determination of the winner must be undertaken in a fair and transparent manner with each participant having an equal chance of winning the lottery.

If more than one prize is being determined at a draw, the major prize must be drawn first (to ensure that all entries have a chance of winning that prize) unless winning entries are eligible to be redrawn.

Winning must not be contingent on the participant being present at the drawing of the lottery except for lucky-badge draws. It is acceptable to offer bonus prizes if the winner is present as long as the bonus prize does not exceed the value of the base or initial prize.

Unless otherwise approved by the Commission, the drawing of a Trade Promotion lottery must occur within 12 months of the issue date of the permit.

Multiple draws may be conducted in one lottery, as long as the method of entry and prize details is the same for each draw. Details of multiple draws must be specified in the terms and conditions of the lottery.

Redraw

All prizes in the lottery must be distributed or allocated as approved. If a prize is not claimed within a reasonable period, taking into account the nature of the prize, the person conducting the promotion must draw another winning ticket or entry.

The method, date, time and place of the redraw must be stated in the terms and conditions of the lottery.

Notification of winners

The results must be available within 7 days of the determination of the prize winners, if requested.

All winners must be notified directly, by written means (email, mail, fax or SMS) within 21 days of the determination of the results.

The person conducting the promotion must make the results of the lottery available to entrants. The method of advertising the results of the promotion must be congruent with the type of lottery conducted eg. it would be appropriate to publish the results of the lottery on a website if the promotion was conducted via a website.

Details of how winners will be notified must be included in the terms and conditions of the lottery.

Prizes

Where participants are (or could be) under the age of 18 years the Commission will refuse to approve an application where the Commission considers the prizes to be unlawful or inappropriate eg. liquor products, tobacco products or dangerous goods.

Where prizes include alcohol, lottery entrants must be aged eighteen (18) years or older. The *Liquor Act 2010* and the *Liquor Regulation 2010* will be taken into consideration when assessing your application if your lottery involves the awarding of alcohol as a prize.

The winner of a prize must not be charged an administrative or delivery fee upon receipt of their prize.

If a prize involves travel all relevant information must be included in the terms and conditions of the lottery. Details of departure point and destination, the number of people included in the fare, class of travel, inclusion of transfers, name and location of accommodation, duration of stay, inclusions, date by which travel must be taken, availability, transferability, restrictions and spending money must be listed if applicable.

For the purposes of these conditions and calculating the application determined fee, the total prize value is calculated as the summation of the values of all possible prizes that could be attained based on the prize allocation options.

If prizes in the promotion are allocated on a state-by-state basis, the relevant prize for the purposes of calculating the determined fee is the prize or prizes that ACT residents are eligible to win.

The value of individual prizes is the usual or recommended retail or market value of the goods or services offered as the prize.

Details of the prizes must be listed in the terms and conditions of the lottery.

Terms and Conditions

Terms and conditions are the rules that govern the conduct of the lottery. They provide information about the lottery to subscribers and must be approved by the Commission.

A copy of the terms and conditions of the lottery must accompany your application. The terms and conditions must be printed on the entry form and advertising of the lottery. If the terms and conditions cannot be placed on the entry form and advertising media, reference must be made to a place where the terms and conditions are available. The terms and conditions must include:

- how to enter the lottery;
- who may enter the lottery;
- the full prize details and their values;
- the start date of the lottery;
- the closing date of the lottery;
- the time and date of the draw;
- the address/location where the draw will take place;
- the manner in which winners will be notified including the name of the publication (if applicable) and the date of the notification;
- full details of the name of the promoter and their ABN/ACN; and
- the redraw arrangements.

Variation to approval

Any variation to the application after the Commission has commenced its processing must be submitted through an *Application for an Amendment to an Approval to Conduct a Lottery* form and be accompanied by the determined fee for a variation. The Commission must approve a variation to the promotion before any amendment can be implemented.

A copy of the amendment form can be obtained from the Commission website at www.gamblingandracing.act.gov.au (click on the link to "Lotteries").

Permit Number

Once an application has been approved the Commission will issue the applicant with a permit number. All entry forms and advertisements must include the permit number issued for that promotion.

Records

All records concerning the lottery, including entries, must be kept for a minimum period of twelve months after the determination of the results.

Can Records Be Inspected?

Yes, the Commission may write to you to request records relating to your Trade Promotion Lottery.

Records that the Commission may request include:

- a written statement showing the whole of receipts and disbursements in connection with the Trade Promotion Lottery; and
- all books, documents and vouchers relating to the lottery.

The legislation also empowers the Commission to attend a Trade Promotion Lottery in order to monitor or supervise the conduct of the lottery.

Do Penalties Apply?

Yes, penalties may be applied for:

- conducting a lottery other than an approved or exempt lottery;
- advertising a lottery other than an approved or exempt lottery;
- selling tickets in a lottery other than an approved or exempt lottery;
- printing tickets in connection with a lottery other than an approved or exempt lottery;
- not complying with a written request to provide statements, books, documents, vouchers or any other requested information relating to a lottery;
- misappropriation of funds or prizes in connection with a lottery; and
- fraudulent drawing of a lottery.

Conditions for Specific Trade Promotion Lotteries

Blanket Permits

"Blanket" or multiple lottery permits allow organisations to conduct multiple minor lotteries during a specific period without the need to obtain a permit for each lottery.

"Blanket" or multiple lotteries are subject to the following conditions:

- the maximum value of any single prize is \$1000;
- the total or accumulated maximum prize value cannot be greater than \$100,000; and
- the maximum period in which the multiple lotteries can occur is 12 months.

To apply for a "blanket" permit, the trade promotion lottery application form must be completed however it must clearly identify this type of lottery.

Generic terms and conditions must be included with the application, with dates and prize values left blank. The generic terms and conditions must be completed by the promoter for each lottery conducted under the "blanket" permit.

The number of lotteries expected to be conducted must be stated separately, along with the approximate value and type of prizes that are being offered.

If the exact number of prizes or lotteries is not known, an estimate should be provided which must not be exceeded without submitting a variation to the original application or a new application.

The fees determined for Trade Promotion lotteries apply to the total prize value estimated for a "blanket" permit, up to an amount of \$100,000.

A record must be kept of each lottery conducted under the "blanket" permit. This record must include a copy of the completed terms and conditions, prize details and the name and address of winners.

Lucky Badge Draws

Organisations that are made up of members, such as clubs, may conduct lucky badge or membership draws. It is permissible to have as a condition of the draw that the winner must be present, however they must be allowed a minimum of three minutes to claim a prize.

A "seeding" or initial stake amount is offered which can be of any value. In these circumstances, the total prize value is calculated using the initial seeding amount and then adding the full potential of the progressive or incremental prizes without additional seeding amounts.

Tipping Competitions

A tipping competition is a lottery where the outcome of a sporting event or other contingency is predicted by participating entrants. Points are usually awarded for correct predictions and prizes distributed based on accumulated points totals.

A tipping competition includes any other event that is run along similar lines.

A tipping competition may or may not include an entrance fee, however should a fee be a condition of participating in the competition, the majority of this fee must be contributed to the prize pool.

Organisers of such competitions must obtain a permit prior to the commencement of the tipping competition.

Contacting the Commission About Your Lottery

Email: lotteries@act.gov.au

Telephone enquiries can be directed to the Lotteries Officer on telephone 02 6207 0361.