



Victorian Commission
for Gambling Regulation

Trade Promotion Lottery

Information & Conditions

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IMPORTANT INFORMATION

What is a Trade Promotion Lottery?

A trade promotion lottery is a scheme that:

- promotes the products or services of a business, or promotes a community or charitable purpose; and
- offers prizes where winners are selected by a method that includes any element of chance at any stage of the scheme

Examples of methods of selecting winners which involve elements of chance include barrel draws, spinning wheels, scratch and win tickets and 1900-telephone calls.

Who can conduct a Trade Promotion Lottery?

A business which produces or sells a product or service, other than a lottery, may conduct a trade promotion lottery to promote their products or services.

Trade promotion lotteries may also be conducted by charitable or community organisations declared by the VCGR in order to promote their community or charitable purpose.

Can I sell a product and require purchase to enter?

An entry fee must not be charged. This does not prevent a person from being required to purchase a genuine product or service to be eligible to enter a trade promotion lottery. Any cost to enter or participate (eg telephone call, SMS or postage), must not exceed 55 cents.

When is a permit required?

The total retail value of prizes determines whether a permit is required. A permit is required for a trade promotion lottery where the total retail value of all prizes is **more than \$5,000**.

A trade promotion lottery where the total retail value of prizes is **\$5,000 or less** is not required to have a permit. However, the trade promotion lottery must be conducted in accordance with the Conditions (see page 3).

The 'total retail' value of prizes, including goods or services offered as prizes, is the recognised retail price regardless of whether the prize has been purchased at a discount or donated.

What about members' draws or footy tipping competitions?

Members' draws are considered trade promotion lotteries. These are usually conducted by clubs and involve the drawing of a member's number from a pool of numbers. If the total prize value of the members' draw exceeds \$5,000 (including jackpots) then a permit is required.

A trade promotion lottery using a footy tipping competition with a prize pool in excess of \$5,000

requires a permit. Football tipping competitions can be used to determine winners in a trade promotion lottery. This type of trade promotion lottery is only possible if a genuine product or service is being promoted through the use of a footy tipping competition. If no product or service is being promoted, and the prize value is going to exceed \$5,000, it will be an illegal lottery (if the prize value is less than \$5,000 then it is not an illegal lottery).

For further information contact the Minor Gaming Unit.

How do I apply for a permit?

Complete the **Application for a Trade Promotion Lottery Permit** which is available on the VCGR website, or contact the Minor Gaming Unit by phone or email. The application form contains a Lodgement Guide.

Can a lottery promote more than one trade, business or community or charitable organisation?

Yes. A trade promotion lottery permit can cover a lottery which is promoting more than one organisation. Each organisation needs to provide its details in the application for the permit.

Who is responsible for the conduct of the lottery?

The organisation applying for a Trade Promotion Lottery Permit must nominate a person over 18 years of age (the **nominee**), to be approved by the VCGR, to be responsible for the conduct of the trade promotion lottery. The nomination of a responsible person does not exempt the organisation from any legal action should a breach of its permit conditions occur.

Note: If a nominated person resigns, is dismissed, or leaves the trade, business or community or charitable organisation, the Act requires the organisation to nominate another person to be responsible for the trade promotion lottery and notify the VCGR as soon as practicable.

If the permit holder does not have a person who has been approved by the VCGR, the directors, or members of the committee of management, of the permit holder are all separately responsible and liable under the Act as permit holder.

How long does the permit last for?

A permit to conduct a trade promotion lottery will be given for the period of the trade promotion lottery, up to a maximum period of 1 year.

Are there conditions?

Yes – the permit will be issued subject to the conditions which appear on the face of the permit and the **Conditions for Conduct of a Trade Promotion Lottery** which are attached (see page 3).

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Can the conditions be changed?

Yes. You must get VCGR's approval if you wish to change any of the conditions of the permit (other than conditions which are set down in the Act, which cannot be changed), e.g. a change to the closing date for entry to the lottery. You cannot start the changes until they have been approved. To get approval you need to complete the **Application for Amendment to a Trade Promotion Lottery** form which is available on the VCGR website under Application Forms.

What if a trade promotion lottery is offensive or contrary to the public interest?

The VCGR must refuse an application to conduct a trade promotion lottery if it finds the proposed trade promotion lottery is 'offensive or contrary to the public interest'. The following VCGR Guideline provides examples of what could be 'offensive or contrary to the public interest'.

The guideline is not exhaustive and the VCGR will consider each trade promotion lottery on its merits.

A Trade Promotion Lottery must:

- Comply generally with the law, including the *Gambling Regulation Act 2003*, the *Trade Practices Act 1974*, the *Fair Trading Act 1999*, the *Firearms Act 1996*, the *Prostitution Control Act 1994*, the *Liquor Control Reform Act 1998*, the *Tobacco Act 1987* and related regulations and mandatory codes.
- Comply with the relevant approved industry code (publications, film, television, radio, internet, computer games, advertising, gaming machine games, responsible gambling) as the case may be. The industry code or standard must be approved by the relevant regulator or in the case of advertising by the Australian Association of National Advertisers (AANA).

A Trade Promotion Lottery must not:

- Advertise gaming machines outside an approved gaming venue.
- Encourage a person to gamble more on gaming machines by means which may offend the principles of responsible gambling.
- Suggest that entering a trade promotion lottery will improve a person's financial prospects, social status or make a person more attractive to others.
- Suggest that a person's skill can influence the outcome of a game that is purely a game of chance.
- Allow or encourage minors to participate if the goods or services being promoted by the trade promotion lottery or the prizes awarded in the trade promotion lottery would be illegal for them to purchase.

- Use a lottery method for a trade promotion lottery targeted to a minor that is similar to other gambling products.
- Promote cigarettes, tobacco or tobacco products.
- Promote firearms except by a licensed firearms dealer
- Promote prostitution services other than in accord with law.
- Promote or involve an objectionable contract (for example, where the consequences to be imposed on an entrant in a promotion are so dire that a court would be unlikely to enforce them).
- Misrepresent the goods or services of the trade, business or community or charitable organisation being promoted.
- Promote or involve unconscionable conduct.
- Require or encourage a person to undertake acts which are dangerous, violent, humiliating, or involving harm to the person or harm to a person's property.
- Involve behaviour, language or depiction that would generally be regarded as indecent or offensive if conducted/published/broadcast in/to the public (eg pornographic or cause undue offence on religious, cultural, disability or gender grounds).
- Involve anything that would cause alarm or distress to children, or expose them to behaviour, language or depictions inconsistent with the requirements of the applicable legislation or industry code.
- Involve a breach of a person's privacy.
- Promote products or services which do not comply with a relevant safety standard.
- Promote products, or offer a product as a prize, without informing participants of a relevant licensing requirement.

Other Legislative Requirements

Examples of other legislation which may impact on the conduct of a trade promotion lottery include:

Olympic Insignia Protection Act 1987

Should you wish to use the Olympic symbol, protected designs or protected expressions, you must provide a copy of your approval from the Australian Olympic Committee with your application.

Sports Event Ticketing (Fair Access) Act 2002

Should you wish to award tickets for a "declared" sports event (eg. the AFL Grand Final) as a prize, you must provide a copy of your approval from the relevant controlling sports body (eg. the AFL). **Note:** You should seek your own legal advice on whether any other legislation will impact on the conduct of a proposed trade promotion lottery.

CONDITIONS FOR TRADE PROMOTION LOTTERY WITH PRIZE VALUE OF \$5,000 OR LESS

Entry/Participation

No entry fee shall be required from any person for the right to participate in the lottery. This does not prevent a person from being required to purchase a genuine product or service to be eligible to enter. In addition, any ancillary costs (eg telephone call, SMS or postage) must not exceed 55 cents.

Conduct of lottery

A person who conducts a trade promotion lottery MUST:

- (a) obtain the prior written consent for the conduct of the lottery from the person whose trade, business or community or charitable organisation is to be promoted by the lottery; and
- (b) conduct the lottery so as to benefit primarily the trade, business or community or charitable organisation being promoted; and
- (c) ensure that all information designed or likely to induce a person to enter the lottery, and any scratch and win card that is or forms part of the lottery, includes the following:
 - (i) the closing date of the lottery; and
 - (ii) if applicable, where and when the lottery will be drawn; and
 - (iii) the name and date of the publication in which the names of the winners will be published; and
 - (iv) the requirements, if any, that must be met to be eligible to enter the lottery; and
- (d) cause the names of winners of all prizes worth more than \$250 to be published in any one of the following:
 - (i) a newspaper circulating generally in Victoria, or
 - (ii) if the lottery was advertised solely through a trade journal, promotional magazine or similar publication, that publication; or
 - (iii) if the value of the prizes in the lottery is \$500 or less, a newspaper circulating in the area in which the trade promotion lottery was held; and
- (e) advise the winners of those prizes in writing.

Entrants must be advised if information provided by them may be used for an additional purpose such as the compilation of a mailing list. Each purpose must be stated in the conditions of entry and the person conducting the trade promotion lottery must not use, or permit to be used, the information relating to an entrant for any other purpose.

Drawing of Prize(s)

Entrants in the lottery **cannot** be required to attend the draw to be eligible to win any prize in the lottery. The exception to this rule is where entry to the lottery is only available at the premises in which the draw is to take place and the draw is to take place within 24 hours after the commencement of the lottery.

The method of the draw must allow each ticket in the draw a random and equal chance of being drawn. If a winner is present at the draw or is otherwise readily identified, the permit holder must pay or otherwise transfer the prize to the winner within 28 days after the draw.

- If:
- (a) a winner of a prize is not readily identified; and
 - (a) reasonable efforts have unsuccessfully been made to identify the winner of the prize; and
 - (b) the conditions of entry provide that the person conducting the lottery may draw an additional entrant's name in such a situation; and
 - (c) an additional entrant's name is drawn
- the additional entrant's name is substituted for the name of the winner of that prize.

Scratch and Win Cards

The conditions of entry for a trade promotion lottery conducted with scratch and win cards must include:

- Number of cards to be distributed
- Total number and individual value of prizes
- A condition that printing error(s) and other quality control matters will not be used as a reason for refusing payment of prizes

Keeping of Records

A person who conducts a trade promotion lottery must ensure that records are kept that provide the following:

- (a) an accurate financial accounting of the lottery; and
- (b) an accurate accounting for all entries; and
- (c) an accurate reporting of the distribution of the prizes.

CONDITIONS OF A PERMIT TO CONDUCT A TRADE PROMOTION LOTTERY WITH PRIZES IN EXCESS OF \$5,000

Entry/Participation

Each application for a permit to conduct a trade promotion lottery must provide information on eligibility and how to enter the lottery. These become the Conditions of Entry and form part of the Terms and Conditions applicable to the lottery. Examples of eligibility requirements include having a proof of purchase, collection of tokens, entering an event or completing a survey form. Once entrants have complied with the Conditions of Entry, they are eligible for prize draws as specified in the Terms and Conditions.

No entry fee shall be required from any person for the right to participate in the lottery. This does not prevent a person from being required to purchase a genuine product or service to be eligible to enter. In addition, any ancillary costs (eg telephone call, SMS or postage) must not exceed 55 cents.

All information designed to, or likely to, induce a person to enter a trade promotion lottery, and any scratch and win card that is or forms part of the lottery, MUST include:

- (i) the permit number; and
- (ii) the closing date of the lottery, and
- (ii) if applicable, where and when the lottery will be drawn; and
- (iii) the name and date of the publication in which the names of winners will be published, and
- (iv) the requirements, if any, for eligibility to enter the lottery.

Entrants must be advised if information provided by them may be used for an additional purpose such as the compilation of a mailing list. Each purpose must be stated in the conditions of entry and the information relating to an entrant must be used only in accordance with the purpose stated in the conditions of entry.

Drawing of Prizes

Entrants in the lottery **cannot** be required to attend the draw to be eligible to win any prize in the lottery. The exception to this rule is where entry to the lottery is only available at the premises in which the draw is to take place and the draw is to take place within 24 hours after the commencement of the lottery.

The permit holder must pay or otherwise transfer each prize in a lottery to a winner within 28 days of the drawing of the lottery or any other period that may be agreed between the permit holder and the winner. If a winner of a prize is not readily identified and reasonable efforts have unsuccessfully been made to identify the winner of any unclaimed prize(s), the procedures outlined in the terms and conditions will prevail.

If the lottery is to be drawn, the method of the draw must allow each ticket in the draw a random and equal chance of being drawn.

Notification and Publication of Winners

All prize winners must be notified in writing as specified in the terms and conditions.

The names of winners of prizes worth more than \$250 must also be published in a generally circulated newspaper/journal in the area in which the lottery was held. Publication in a journal is required where the lottery was advertised solely through a trade journal, promotional magazine or similar publication.

Scratch and Win Cards

The conditions of entry for a trade promotion lottery conducted with scratch and win cards must include:

- Number of cards to be distributed
- Total number and individual value of prizes
- Confirmation that printing error(s) and other quality control matters will not be used as a reason for refusing payment of prizes.

Keeping of Records

The trade promotion lottery permit holder must keep records for three years after the completion of the lottery. The records must consist of:

- the manner in which entries to the trade promotion were solicited;
- when and how the trade promotion lottery was drawn; and
- the names and addresses of the winners of any prize valued at \$1,000 or more and a description of their respective prizes.

Prizes of a Particular Nature

Where a prize in a lottery consists of one of the following items, the additional information shown below must also be included in the Terms and Conditions.

TYPE OF PRIZE *	ADDITIONAL INFORMATION REQUIRED
Motor vehicle (including Motorcycle, Trailer, Horse Float)	Detailed description, including whether new, make, model and accessories Note: All on-road costs must be included in the prize
Machinery or electrical appliance/s	Detailed description, including make, model and accessories
House and land	<ul style="list-style-type: none">• Exact location of land• Exact nature of prize (ie. fully furnished, separate garage, landscaped garden, paved driveway)• Valuation of house and land• All legal, government and transfer costs must be included in the prize
Travel and/or Accommodation	<ul style="list-style-type: none">• Destination of the prize• Number of people the trip is for (Adults/Children)• Duration of trip (number of days/nights)• Mode and class of transport (First Class / Business / Economy)• Whether any transfer costs are included• How much spending money is provided (if any)• Details of any accommodation, meals, entertainment included (if any)• Period for which the prize is valid• Whether the prize is subject to any restrictions on availability• Whether non-peak periods apply• Whether the prize is redeemable for cash• Whether the prize is transferable• Whether any other conditions apply
Jewellery	<ul style="list-style-type: none">• If valued over \$5,000 an independent valuation is required

* Further information may be sought by the Minor Gaming Unit about other particular prizes.