



What is a trade promotion lottery?

A trade promotion lottery is a lottery conducted by a firm or company to promote the sale of their goods or services. Entry into the promotion must be free and the winners determined by an element of chance (ie barrel draw, instant win tickets, telephone call, etc).

An instant win trade promotion lottery is a lottery in which a prize is won on a ticket which has a number, letter or symbol giving rise to a winning chance and which is realisable (without being drawn) immediately after its acquisition by the participant.

A competition in which the winners are determined by the skill of the entrant is considered to be a game of skill as the winners are determined by a panel of judges and there is no element of chance involved. A skill-based competition is not considered to be a trade promotion lottery as defined in the *Lottery and Gaming Act, 1936*.

However, in some instances, a competition may appear to be a skill-based competition (ie a tipping competition) but if there is more than one winner, the promoter allows for the conduct of a draw to allocate the prize. In this situation, it is considered that the competition is a trade promotion lottery as there is a possibility that the winner will be determined by an element of chance.

Competitions in which entrants are required to complete a minor test of skill (ie answer a simple question, etc) and then the first correct entry drawn is the winner, are considered to be trade promotion lotteries as they involve an element of chance in determining the winner.

When is a licence required?

Under the *Lottery and Gaming Act 1936* ("the Act"), it is an offence to conduct a lottery which is not authorised or exempted under the Act.

Regulation 24A of the *Lottery and Gaming Regulations 1993* ("the Regulations") sets out the rules under which all trade promotion lotteries are to be conducted.

A lottery licence is required for any trade promotion where the total value (national) of all prizes in the promotion exceeds \$500.

A minor trade promotion lottery where the total value (national) of all prizes is \$500 or less is exempt from the licensing requirements of the Act, however the lottery must be conducted in compliance with the rules set out in the Regulations.

It is not necessary to submit any information concerning a minor trade promotion lottery to Lottery Licensing unless requested to do so.

A licence is not required to conduct a competition in which the winners are determined by the skill of the entrant and where there is no element of chance involved. The winners in a skill-based competition are determined by a panel of judges.

Advice should be sought from Lottery Licensing if a proposed trade promotion lottery offers gambling products as prizes.

Applying for a licence

How is a licence obtained?

An application form for a trade promotion lottery licence must be completed and forwarded together with the appropriate application fee and required attachments. All application forms must be mailed to Lottery Licensing, GPO Box 771, Adelaide 5001, or courier/hand delivered to Lottery Licensing, 3rd Floor, East Wing, Zurich Building, 50 Grenfell Street, Adelaide, South Australia.

Application forms and the trade promotion lottery fact sheet are available from Lottery Licensing or can be downloaded from the Internet (www.olg.sa.gov.au). The webpage also has a link to an on-line application form which is only available for use by registered users who are frequent or high volume trade promotion clients.

Sending an application by fax and forwarding the licence fee through the mail does not 'fast-track' an application. Delays are often experienced matching the fee with the application form.

The application form must be submitted not more than 4 months or less than 14 days prior to the date of commencement of the lottery. A licence cannot be granted for a lottery that has already commenced. Please ensure the title of a lottery is unique to enable the lottery to be easily distinguished from other lotteries and the contact details are clearly legible.

If a lottery is also to be conducted in another State or Territory, contact should be made to the appropriate interstate licensing department to ascertain their requirements. Contact links to interstate departments can be obtained from the website.

A lottery cannot be commenced or advertised in any way until the lottery has been licensed, and the licence number must be stated in all advertising.

Who can apply for a trade promotion lottery licence?

An application for a trade promotion lottery licence may be made only by an employee of the trader or their agent. A copy of a letter of authority from the trader giving approval for an agent to act on their behalf must be attached to the application form.

What information must be attached to an application form?

To avoid delays, please ensure the following attachments (if required) are included with the application form -

- a letter of authority from the trader giving approval to the applicant to apply for the licence (if the applicant is an agent of the trader);
- a travel form (if the prizes include a trip) - see Form A;
- a multiple draw form (if the lottery involves multiple draws) - see Form B;
- an instant prize tickets form and a security certificate (if the lottery involves instant tickets) - see Forms C and D;
- a statement of the cost of entry (if the lottery involves entry by telephone);
- an application for approval to act as a scrutineer if the total value of all prizes in the lottery (nationally) equals or exceeds \$20,000);
- a draw process report, independent appraisal report and a printed listing of the computerised program to be used (if the lottery is to be drawn electronically);
- a copy of the approval letter from this Section for the electronic drawing system and a covering letter advising that the system has not changed since it was approved (if a previous approval has been granted for the electronic drawing system which is to be used in the lottery);
- a copy of the proposed entry form, terms and conditions of entry and any advertisements.
- if the promotion involves multiple traders, please provide details on application form for all traders (use additional sheet if required).

How long does it take to process an application?

Please allow **14 working days** for the processing of an application form. Applicants must ensure that the application forms are lodged in sufficient time to allow for processing and licensing before the commencement of printing, advertising, etc.

Application forms and the licence fee may be returned to applicants if any discrepancies are noted during processing. This will increase the time required in which to obtain a licence. Applicants should ensure that their application forms include

all required attachments and the proposed lottery complies with the Regulations.

To facilitate the processing of your application, please indicate on the front page of the application form the date on which you require approval of your licence number to commence printing, advertising, etc.

Over what period of time can a trade promotion lottery be conducted?

A trade promotion lottery licence can only be issued for a maximum period of 12 months. This period is from the commencement date to the final closing date for entries into the lottery.

The Regulations do not make provision for licences to be issued to a trader to conduct multiple lotteries within a specified period (ie 'blanket licences').

What fees are payable on a trade promotion lottery licence?

The only fee the trader or applicant is required to submit to this Section is the licence fee. The fees for the various prize value levels are set out on the application form. The fees may be adjusted each July and payment of the fee is not subject to Goods and Services Tax (GST).

If the value of all prizes capable of being awarded to winners in South Australia is \$500 or less however the total retail value of all prizes in the lottery exceeds \$500, a trade promotion lottery licence is required before the promotion can be conducted however there is no application fee applicable.

Only cash, cheques or money orders are accepted – cheques or money orders are to be made payable to the "Liquor and Gambling Commissioner". Please note that no receipts or tax invoices will be issued and the licence fees are not refundable.

To ascertain your company's GST obligations, please contact the Australian Taxation Office. The Business Tax Infoline is – 13 28 66

Can tickets be sold?

No. Entry into a trade promotion lottery must be free, except for the cost of lodging the entry by either mail or telephone. However, to enter a lottery, a participant may be required to purchase any of the

goods or services that are the subject of the lottery.

What goods and services can be promoted by a lottery?

The goods and services to be promoted are the trader's normal business products.

A trade promotion lottery cannot be conducted for the purpose of promoting the sale of cigarettes, cigars, tobacco or any other tobacco product; or firearms or ammunition.

Advice should be sought from Lottery Licensing if a proposed trade promotion lottery offers gambling products as prizes.

What information must be included in all advertising of a lottery and on the entry form?

The following information must be included on all advertisements and entry forms :

- the method by which a participant can enter the lottery (ie: ring 1900 number, purchase a specific product, etc);
- the starting and closing dates for entry into the lottery;
- details of the nature and number of prizes and the individual prize values;
- the date and time of draw and the full street address of the draw venue (in the case of multiple draws, details must be provided for each draw);
- the name of the newspaper or magazine and the date on which the names and addresses of the winners of prizes valued at over \$100 are to be published (in the case of multiple draws, details must be provided for each draw);
- the name and address of the trader(s); and
- provision must be made to include the trade promotion lottery licence number when it has been issued (ie "SA Lic No T07/.....").

All advertisements of a lottery which are advertised on television, radio or at the cinema must include:

- the method by which a participant can enter the lottery (ie: ring 1900 number, purchase a specific product, etc);
- the licence number (if the lottery is authorised by a licence);
- the nature and value of the prizes; and

- how a copy of the terms and conditions of entry can be obtained.

What cost of entry is permitted in a lottery?

The cost of entry by fixed (landline) phone cannot exceed 55 cents (including GST).

The cost of entry by mobile phone cannot exceed the cost of the telephone call and the amount received by the holder of the trade promotion lottery licence must not exceed 50 cents.

The cost of entry by post must not exceed the normal cost of postage.

Any prohibition on the use of automated entry software or any other mechanical or electronic means that permits participants to automatically enter repeatedly must be included in any advertising.

What value can be placed on a prize?

If the prize is an antique or a piece of artwork, craftwork or collectible bric-a-brac or is secondhand, the value of the prize is the price likely to be paid for the item if sold at an auction.

In all other cases, the value of the prize is the retail price or a reasonable estimate of the likely retail price of the item.

There is no limit to the value of cash or alcohol which can be given away as a prize.

When is an approved scrutineer required?

If the total value of all prizes in the lottery equals or exceeds \$20,000 (nationally) an approved scrutineer must witness the draw.

If the lottery involves instant win and a second chance manual draw where specific prizes are allocated to the second chance draw and the total value of all prizes in the lottery (both instant win and drawn prizes) equals or exceeds \$20,000, a scrutineer is required.

What information must be provided for approval of a scrutineer?

An application for approval to act as a scrutineer must be completed.

What are the scrutineer's duties?

The scrutineer must –

- "test" the contents of the receptacle containing the entry forms, etc to establish that the

draw will produce a fair and random result;

- witness the actual draw and note details of the winning tickets in the order in which they are drawn.

What information must be provided for approval of an electronic drawing system?

A draw process report must be provided by the benefiting business. This report must be signed and include identification of the random number generating device; the draw procedure or method used to enter the range of numbers to be used; the safeguards, checks and controls to be put in place; the purpose for which the computerised device will be used and details of how the prize winner will be announced.

A printed listing is required of the technical data of the computerised program to be used.

An appraisal report must be provided by a qualified independent person. This report must be signed and include their details, including qualifications; details of the supplier, manufacturer or developer of the device or system; identification of the random number generating device; a description of the device which includes security features, operating procedures, security and other technical data.

The report must also provide assurances that the system has appropriate controls in place to avoid any manipulation of the system, provide an appropriate method of random selection and that all entrants have a fair and equal chance of winning.

Who can provide an appraisal report?

Any person with a knowledge of computerised devices and programs who is independent of the benefiting business and the company who designed the program can provide the appraisal report on an electronic drawing system.

What information must be provided if the trade promotion involves instant win tickets?

The applicant must provide a report giving details of the names and addresses of the printer, distributor and proposed outlets; how the tickets will be distributed and what information is provided on the tickets - see Form C.

The printer of the instant tickets must provide a signed security certificate - see Form D.

Sample tickets should be provided with the application form.

Compliance with trade promotion lottery rules

In special circumstances, a waiver can be granted to waive compliance with a specified trade promotion lottery rule if it is considered that the waiver does not prejudice the interests of participants in the lottery.

Additional conditions may be imposed by the grant of a waiver.

Variations to a licence

How can a licence be amended or varied?

An approved trade promotion lottery cannot be amended or varied without the prior approval of the Minister.

An application to amend a trade promotion lottery licence form must be completed and forwarded to this Section together with a copy of the amended terms and conditions of entry and the appropriate application fee. The terms and conditions must clearly indicate the proposed changes.

The amendment application fee to be paid is set out on the application form. The fees may be adjusted each July and payment of the fee is not subject to Goods and Services Tax (GST). If the total value of all prizes in the lottery has increased, a further licence fee may be required in addition to the amendment fee.

This application form must be lodged at least **14 working days** before the commencement of the lottery. The application form can be obtained from Lottery Licensing or downloaded from the Internet.

Approval to amend a licence may not be granted if the lottery has already commenced or if the participants may be disadvantaged by the proposed amendments.

To facilitate the processing of your application, please indicate on the front page of the application form the date on which you require approval of your licence number to commence printing, advertising, etc

How can a licence be cancelled or suspended?

Written application must be made to this Section seeking approval of the Minister if the trader wishes to cancel or suspend a trade promotion lottery.

If a trader subsequently decides to continue with the promotion following the suspension, they must apply to amend the licence.

Conduct of trade promotion lottery

How should a trade promotion lottery be conducted?

You must allow sufficient time for each phase of the trade promotion lottery, including printing of tickets, advertising of the lottery, collection of entries, drawing of winners, publication of winners details, etc.

How should the draw be conducted?

The lottery must be drawn on the date and at the time and place specified in the advertisements of the lottery. An approved person must scrutinise the draw if the total value of all prizes in the lottery equals or exceeds \$20,000, or if the Minister directs.

Every entry must have a fair and equal chance of winning a prize in a lottery. A participant cannot be restricted to winning only one prize if they are permitted to submit multiple entries.

If more than one prize is to be allocated, the prizes must be drawn in descending order of value, ie the first prize is the prize with the highest value, the second prize is the prize with the second highest value, etc.

The participants in a lottery cannot be required to be present at the drawing of a lottery in order to win a prize. Therefore, a prize cannot 'jackpot' if the winner is not present or a further draw conducted if the winner is not present.

What safety measures are required if instant win tickets are included in a trade promotion lottery?

If some of the prizes in a lottery are instant prizes, the tickets in the lottery must be manufactured, packaged and stored in a manner that satisfies the Minister that the prizes, numbers, letters or symbols that give rise to the winning chance cannot be detected by any person before the person

participating in the lottery has acquired them.

When must the prizes be delivered?

If a prize is not delivered to the winner at the time of draw, the winner must be advised within 14 days of the prize they have won and how it will be delivered or collected.

How should winners be notified of the results?

The name and address of each winner of a prize valued at over \$100 must be published in a newspaper circulating generally throughout South Australia within 30 days of the draw, unless the winner has requested their details not be published.

However, if the lottery has only been advertised in a particular newspaper or magazine, the winners details can be published in that newspaper or magazine.

If the lottery involves multiple draws, the winners' details from each draw must be published within 30 days of that draw.

What information must be provided to the Minister at the conclusion of a lottery?

The name and address of each winner of an instant win prize valued at over \$100 or any drawn prize must be forwarded to the Minister within 14 days of the drawing of the lottery.

What if the prizes are not claimed?

The winner of a prize has 3 months in which to claim their prize. If the prize remains unclaimed after the expiry of this period, the trader must notify the Minister and directions will be given on how to dispose of the prize, which may include the conduct of an unclaimed prize draw. An unclaimed prize draw cannot be conducted earlier than 3 months after the final draw date.

If the prize is perishable (ie food or groceries), the trader may sell the prize and retain the proceeds of the sale until claimed by the winner or until given directions by this Section.

Prizes involving a limited timeframe for use (ie tickets to a specific event) are not considered to be perishable.

For what period of time are the lottery records to be maintained?

Ticket butts, entry forms and other records relating to the lottery must be retained for a period of at least 3 months after the drawing of the lottery.

Instant Win Trade Promotion Lotteries

What is an instant win trade promotion lottery?

An instant win trade promotion lottery is a lottery in which a prize is won on a ticket which has a number, letter or symbol giving rise to a winning chance and which is realisable (without being drawn) immediately after its acquisition by the participant.

An instant win trade promotion lottery must be conducted under the rules set out in Regulation 24A(2) of the Regulations. If a lottery includes an instant win section and a draw section or a second chance draw in which specific prizes are to be allocated, the lottery must be conducted under the rules set out in Regulation 24A(1) of the Regulations.

How is an instant win trade promotion lottery to be conducted?

An instant win trade promotion lottery must comply with the following rules –

- entry into an instant win trade promotion lottery must be free, however a participant may be required to purchase any of the goods or services that are the subject of the lottery. Each ticket must give rise to an equal chance of winning a prize.
- tickets in the lottery must be manufactured, packaged and stored in a manner that satisfies the Minister that the prizes, numbers, letters or symbols that give rise to the winning chance cannot be detected by any person before the person participating in the lottery has acquired them.
- an instant win trade promotion lottery can only be issued for a maximum period of 12 months. This period is from the commencement date to the closing date of the lottery.
- all advertising of an instant win trade promotion lottery must include –
- the name and address of the trader;
- the licence number;
- the duration of the lottery; and
- the nature and value of prizes to be won.

The name and address of each winner of a prize valued at over \$100 must be published in a newspaper within 30 days of the closing of the lottery, unless the winner has requested their details not be published.

However, if the lottery has only been advertised in a particular newspaper or magazine, then the winners details can

be published in that newspaper or magazine

The name and address of each winner of a prize valued at over \$100 must be forwarded to the Minister within 14 days of the close of the lottery.

If the prize in an instant win trade promotion lottery is unclaimed at the close of the lottery, the trader may dispose of the prize as they see fit.

Minor Trade Promotion Lotteries

In addition to the rules under which a trade promotion lottery must be conducted, a minor trade promotion lottery must also comply with the following rules -

- a list of the prizes and their winners (or winning ticket numbers) must be displayed in a prominent place at the draw venue for at least 7 days after the drawing of the lottery;
- if the prize is not delivered to its winner at the time of draw and the winner's identity is known, the winner must be advised within 14 days of the prize they have won and how it will be delivered or collected
- all prize winning ticket butts and the list of prizes and prize winners must be retained for a period of at least 3 months after the drawing of the lottery;
- a trader must retain the prize in a minor trade promotion lottery until it is claimed by its winner or until the expiry of a period of 1 month after the draw. After this period, if the prize remains unclaimed, the trader may dispose of the prize and the winner will have forfeited any right to the prize; and
- if the prize is perishable (ie food or groceries) and has not been claimed before the time it is likely to deteriorate, the trader may dispose of the prize and the winner will have forfeited any right to the prize

Where can you obtain a copy of the:-

- **Lottery and Gaming Act, 1936 and**
- **Lottery and Gambling Regulations, 1993**

Copies of the Act and Regulations can be obtained from:-

Service SA
101 Grenfell Street,
Adelaide SA 5000

Contact Telephone number:
13 2324 or

download from the following internet sites:-

www.parliament.sa.gov.au
or
www.olgc.sa.gov.au

General Conditions

How does the Privacy Act affect the conduct of trade promotion lotteries?

Applicants should contact the Office of the Commissioner of Privacy to ensure their lottery complies with the *Privacy Act, 1988*.

Information is available from:

Telephone – 1300 363 992

Internet – www.privacy.gov.au

Are there penalties involved in breaches of the Act or Regulations?

There is a range of penalties for conducting a trade promotion lottery in breach of the requirements of the Act or Regulations.

Also, Section 113A of the Act provides that a person involved (whether as principal, agent or employee) in the conduct of any lawful or unlawful lottery, gaming or betting operations who acts in a dishonest, deceptive or misleading manner in connection with the operations is guilty of an offence. The maximum penalty to be applied to a person found guilty of an offence against Section 113A of the Act is \$50,000 or 2 years imprisonment.

Form C: Instant prize tickets form
(To be completed by the applicant)

Name and address of the manufacturer/printer of the tickets

.....

Name and address of the distributor of the tickets

.....

Method of distribution of the tickets

.....

Name and address of the outlets used (attach additional list if necessary)

.....

Will the instant tickets clearly show the following –

The maximum number of tickets to be distributed	Yes / No
The rules of entry	Yes / No
The total prize structure	Yes / No
The licence number (when allocated)	Yes / No

Form D Security certificate
(To be completed by manufacturer/printer on printer's letterhead)

I certify that –

- In respect of instant tickets, adequate security measures have been adopted to ensure that the tickets have been manufactured, packaged and stored in a manner that prevents the numbers, letters or symbols that give rise to the winning chance or chances in the lottery from being detected before the persons participating in the lottery have acquired them.
- The name and address of the person or company responsible for preparing and printing the tickets and other game material is –
Name
Address
- The winning prize patterns will be determined prior to printing by –
Name
- The full prize structure to be won is as follows –
(list number and type of prizes and individual prize values)
- The total number of tickets, promotional packs, cards, etc produced is.....
Date.....
Name of printer
Signature of printer.....