

ANNEXURE A

TRADE PROMOTION LOTTERY PERMIT CONDITIONS

Definitions

In these permit conditions:

advertisement means any advertisement, notice or information used in connection with the lottery. Without limiting the generality of the foregoing, advertisement includes the conditions of entry, entry forms, tickets or coupons, any electronic and/or print media advertisement (including on the outside or the inside of the product being promoted, or at the place where the product or service is sold or otherwise provided).

casino means the holder of a casino licence granted under the *Casino Control Act 1992*.

conditions of entry means the rules, terms and conditions upon which persons may participate in the lottery, and under which the promoter must conduct the lottery.

hotel means the holder of an hotelier's licence under the *Liquor Act 2007*.

independent person means a person who:

- (a) except for involvement with the scrutiny of the draw is not otherwise concerned with the management, conduct or promotion of the lottery for which this permit is issued; or is not a director, employee or otherwise employed by, or under contract to, the promoter, the promoter's agent, or any associated companies, businesses or agencies, and
- (b) does not have any interest or relationship, personal or commercial, with the promoter, or any person employed by that promoter which might be, or appear to be, incompatible with that person's objectivity.

official approval means approval in writing given by an authorised delegate of the Minister administering the *Lotteries and Art Unions Act 1901*.

lottery means a lottery or game of chance for the promotion of trade within the meaning of section 4B of the *Lotteries and Art Unions Act 1901*.

licensed premises means a premises holding a liquor licence under the *Liquor Act 2007*.

non-proprietary association means a corporation, club, or other unincorporated body of persons, formed for the purpose of promoting and conducting race meetings that is registered as a racing club.

promoter means the person(s) concerned with the management of the trade or business.

registered club means a club holding a club licence under the *Liquor Act 2007*.

rules means the rules formulated under condition 3.

trade or business means the sole proprietor, the partners in the partnership or the body corporate identified in the application for this permit as the benefiting trade or business for the purposes of section 4B of the *Lotteries and Art Unions Act 1901*.

Any duty imposed by these conditions:

- (1) is imposed on the promoter,
- (2) is imposed jointly and severally on each promoter, and
- (3) may be performed by any one promoter.

1 Value of individual prizes for multiple lottery permits

- (1) Type B multiple permit where total prizes during the period of the permit do not exceed \$50,000 any one prize cannot exceed \$250.
- (2) Type C multiple permit where total prizes during the period of the permit do not exceed \$100,000 any one prize cannot exceed \$1000.

2 Changes to the conduct of the lottery

- (1) For single lottery permits, the promoter must not change the method of conducting the lottery, including the rules, as particularised on or accompanying the application for this permit, unless the change is approved by NSW Fair Trading.

- (2) The promoter must not terminate the lottery before the advertised closing date, unless approved by NSW Fair Trading.
- (3) For single lottery permits, if a change is approved by NSW Fair Trading under condition 2(1) or 2(2), the promoter must make the change in accordance with any directions given by NSW Fair Trading.

3 Promoter to formulate lottery rules

- (1) The promoter must formulate rules in accordance with this condition under which persons may participate in the lottery.
- (2) The rules must provide for the following:
 - (a) the conditions of entry (including the minimum age of the participants)
 - (b) the closing date and time for the receipt of entries in the lottery
 - (c) details of the prizes and their value (including conditions, if any, relating to receiving, accepting or using the prizes)
 - (d) the place, time, date of the lottery
 - (e) the manner in which prizes are to be awarded
 - (f) the method for claiming prizes (including any requirement to be in attendance at the draw)
 - (g) the manner in which prize winners are to be notified
 - (h) details of how the results of the lottery will be published
 - (i) the name, address and telephone number of the promoter.
- (3) These rules must be advertised and available to all entrants from the commencement of the lottery.
- (4) The promoter must comply with such rules.

4 Promoter to supply information to potential lottery entrants

- (1) The promoter must ensure that in any advertisement the following information is made available to persons who may want to participate in the lottery:
 - (a) the rules
 - (b) the permit number in the format "NSW Permit No. LTPS/___/_____" or "NSW Permit No. LTPM/___/_____"
 - (c) where it is likely that a prize will not be awarded because of the nature of the lottery, an indication of the chance of winning the prize in the format, " 1 in ___ chance of winning ____" and
 - (d) if, following the determination of a winner, a subsequent lottery is used to determine the prize awarded, a statement must be made as to how the subsequent lottery is to take place and what the odds are of winning the major prize, as per (c) above.
- (2) If, in fulfilling condition 4(1)(a), the promoter is constrained by the advertising medium to supply the rules because of time or space limitations, the advertisement must stipulate:
 - (a) where those rules may be found and
 - (b) any unusual or onerous rules unless they relate to compliance with condition 13 (such as a condition of entry, the closing date of the lottery, any time constraint on a tour or journey prize).
- (3) The promoter must not represent that the lottery is conducted for, or in conjunction with an appeal for, a charitable purpose, unless approved by NSW Fair Trading.

5 Means of entry through telephone or MMS

- (1) This condition applies to a lottery that involves a 190 premium service telephone, a Short Message Service (SMS) or a Multimedia Messaging Service (MMS), hereafter called a 'telephone service'.
- (2) The cost to an entrant or other person for calling or messaging a telephone service in order to enter the lottery must not exceed \$0.50, plus the amount of GST payable in respect of the call, and the rules must include a reference to that cost.
- (3) 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 lottery.
- (4) 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 lottery.
- (5) An entrant or other person must not be required to call or message a telephone service to obtain information or particulars about the lottery. Without limiting the generality of the foregoing, information or particulars includes details of the conditions of entry, and 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.
- (6) In this condition, GST has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* of the Commonwealth.

6 Instant win and scratch-type lotteries

- (1) If the lottery is an instant win, scratch-type or pre-determined lottery, the rules of the lottery must include the following:
 - (a) a statement that all prizes from the advertised total prize pool will be distributed during, or after the completion of, the lottery, together with a statement that details how prizes are to be distributed after the completion the lottery, unless NSW Fair Trading waives this requirement.
 - (b) a statement that at the end of the lottery all existing claims to prizes and entitlements will be met notwithstanding the advertised prize pool has been exceeded, and
 - (c) a statement that printing errors or other quality control matters outside the control of individual players must not be used as the sole basis for refusing to award a prize.
 - (d) Condition 6(1)(a) does not apply if the prizes are perishable food or drink products.
- (2) Security measures must be adopted to eliminate the potential for the manipulation of the distribution of winning tickets or other game material.
- (3) All details of claims for prizes over \$100 which are denied shall be retained. These details must include the name and address of the claimants and the reason why the claim was not met.
- (4) A claimant must be promptly informed of the reasons for refusing to award a prize, unless forgery or similar tampering with the ticket, entry form, etc. is suspected.

7 General requirements for conducting the lottery

- (1) All entries to the lottery must be treated equally.
- (2) All entries must be included into the draw.
- (3) No person is to receive an unfair advantage or unfair gain over another.
- (4) The outcome of the lottery must not be determined on the basis of an unlawful game within the meaning of the *Unlawful Gambling Act 1998*.
- (5) A lottery cannot be conducted that imposes a condition that places some participants at a disadvantage. A condition that requires a participant to claim a prize at a draw you must allow at least four minutes for them to do so. This requirement must be clearly stated in the rules of the lottery.
- (6) The promoter must ensure that each and every draw is open for public scrutiny, and anyone must be afforded the opportunity to witness the draw.
- (7) The determination of the winner, whether by draw or instant win must take place in Australia.
- (8) If more than one prize is being offered, the major prize must be drawn first, and the other prizes then drawn in descending order of number and value. If the draw is to be conducted in other manner or method, the rules must describe the manner or method to be used to determine the winner of the lottery.
- (9) Prizewinners should receive their prizes within a maximum period of six weeks after the draw of the prizes, unless otherwise stated in the rules of the lottery.

8 Scrutiny of draw and notification of prizewinners

- (1) This condition applies if the total value of prizes in a draw is greater than \$10,000 (unless all the prizes are determined by an instant win, scratch-type or bingo-style lottery, in which case this condition does not apply).
- (2) The draw and the announcement of the prize winners must be scrutinised by an independent person, unless NSW Fair Trading waives this requirement.
- (3) Any waiver given under condition 8(2) remains current until revoked, or the particulars upon which the waiver was granted have been modified without the prior approval of NSW Fair Trading, or the particulars upon which the waiver was granted are not being complied with by the promoter or the promoter's agent.

9 Computerised systems for drawing prizewinners

Where a computerised system is used to determine the winner of a lottery, the promoter or the promoter's agent must, prior to the draw, obtained signed appraisal and draw procedure reports from a suitably qualified independent person into the operation and integrity of the computerised draw system.

10 Announcement of prizewinners

- (1) As far as practicable, the promoter must notify all prize winners within two days of the draw of the prizes.
- (2) The prize winners must be personally notified (by face-to-face, telephone, mail, email or by other reasonable means).
- (3) The promoter must ensure that the name of the winner of any prize exceeding \$500 is announced in a newspaper generally circulating in the area where the lottery was conducted, or by radio or television generally received in the area where the lottery was conducted, or by the Internet, in accordance with the rules of the lottery.

11 Unclaimed prizes

- (1) If within three months after the determination of the winner of the lottery, a prize (other than a prize consisting of perishable goods) has not been claimed by the winner, the promoter must take all reasonable steps to deliver the prize to the prize winner. At the conclusion of the three months, if the prize cannot be delivered, the promoter must notify NSW Fair Trading and, subject to NSW Fair Trading's approval, re-determine the winner of the prize in accordance with any directions by NSW Fair Trading.
- (2) If requesting approval under condition 11(1), the notification must set out the steps taken to deliver the unclaimed prize, and the last known address of the winner of the unclaimed prize.
- (3) If the prize is perishable and is not claimed by its winner on the day of the determination of the winner, the promoter may dispose of the prize in any manner the promoter considers fit. However, if the promoter disposes of the prize by selling it, the proceeds of the sale must be held as if it was the prize.

12 Record keeping

- (1) The records that relate to the lottery (e.g. ticket butts, entry forms and lists of entrants) must be kept for a period of at least three months after the date on which the winner is determined.
- (2) Where a determination is made under condition 11, the records must be kept for at least a further three months after the last determination is made.
- (3) A register detailing prizes and their values must be maintained for multiple lottery permits for a period of at least 12 months.

13 Lotteries conducted by wagering operators

A non-proprietary association or licensed wagering operator or their employee that conducts a lottery must not publish any advertising that offers any credit, voucher or reward as an inducement to participate, or to participate frequently, in any gambling activity including as an inducement to open a betting account.

14 Bingo style lotteries

Bingo style games other than instant win or scratch type lotteries must not be conducted on licensed premises as a trade promotion.

15 Cash prizes on gaming machine premises

If the lottery is conducted on the premises of a registered club, hotel (excluding general bar licences) or casino, cash prizes must not be offered between the hours of 10:00pm and 8:00am the following day. If a cheque is provided as a prize, the cheque must be made payable to the winner and cannot be cashed by the venue.

16 Electronic devices that resemble gaming machines

Where a device resembling a gaming machine is used to determine the winner of a lottery, the device must be situated in an area of a hotel or registered club premises where minors are not permitted.