

By Amela Murica, Solicitor

11 January 2016

More changes to trade promotions – this time from the Australian Capital Territory. As we start 2016 - when are trade promotion lottery permits still necessary?

As you probably know, each State and Territory in Australia has its own laws that regulate competitions conducted for the promotion of trade or business, where winners are determined by chance or mixed chance and skill. For many, many years, the States and Territories requiring permits have been consistent (even though the other lottery requirements seemingly change month to month). Recently all that has changed, as the permit system continues to modernise.

Following Victoria's decision to abolish its requirements to obtain permits for trade promotions (effective since June of 2015), the ACT government has also recently, effective from November 2015, amended its *Lotteries Act 1964* to alter its requirements.

Amongst the most important changes is the inclusion of trade promotions with prize pools of \$3,000 or less into the 'exempted lotteries' category, meaning that they are now lotteries that do not require a permit before being conducted. You still must comply with the laws and regulations, you just do not need to jump through the hoops to obtain a permit in the ACT when your prize pool is \$3,000 or less in the ACT. The permit requirement still remains in the ACT for trade promotions that have total prize pools over the value of \$3,000 in the ACT.

A number of other important changes have been made to trade promotion requirements in the ACT, including:

- Generally, all winners, if their identity is available, must be published in a suitable format (a website will generally suffice in this respect). Prior to November 2015, only winners of prizes over \$1,000 needed to be published in the ACT. There is no exception to this rule for massive promotions, so promotions with hundreds or thousands of winners (i.e. of smaller prizes) may become more burdensome to conduct.
- If a prize is unclaimed, an unclaimed prize draw is required after a "reasonable period". The minimum waiting period of 3 months no longer applies in the ACT, however, it is still mandatory in NSW except in certain instances (this is relevant for any promotion open to NSW residents, including national promotions).

The above changes were implemented as part of the ACT Government's red tape reduction campaign. While the exemption of certain trade promotions from permit requirements is certainly welcome, the need to publish all known winners could put significant strain on companies conducting multiple winner promotions, and arguably is not entirely in line with the Government's new philosophy. Nonetheless, the ACT Gambling and Racing Commission is standing behind it at this time.

Permits around the country

Given the recent changes, it is important to note that as of now, with the exception of NSW, all jurisdictions in Australia either do not require permits to be obtained for trade promotions at all (VIC, QLD, WA, TAS), or employ some type of minimum prize pool or other technical threshold before permit requirements kick in (SA, ACT and NT). NSW is now the only jurisdiction in Australia where a permit must be obtained for all trade promotions, regardless of prize pool. It will be interesting to see if NSW takes note of the changes made by the other States/Territories and seeks to reduce its own massive administrative burden also.

Contact us

If you would like further information regarding the changes in the ACT or trade promotions generally, and how they impact on you or your business, please contact one of our experts below.

ABN 40 134 644 689

Sydney • Suite 301, 22 Atchison Street, St Leonards NSW 2065 • T +61 2 9460 6611 F +61 2 9460 7200

Melbourne • Level 5, 492 St Kilda Road, Melbourne VIC 3004 • PO Box 7271, Melbourne VIC 3004 • T +61 3 9866 3644 F +61 3 9866 2844

Central Coast • Suite 3, Erina Plaza, 210 The Central Coast Highway, Erina NSW 2250 • PO Box 3685, Erina NSW 2250 • T +61 2 4331 0400 F +61 2 4331 0499

For instance, if you would like more details on when exactly trade promotion lottery permits are necessary, especially given all the recent changes, simply get in touch. We can also provide a full range of services in the competitions and promotions area, including tailored legal and practical advice to assist you with reviewing your proposed promotions, drafting/reviewing Terms and Conditions, clearing advertising material, obtaining permits, conducting draws and notifying winners.

Amela Murica

(03) 9907 4305

amela.murica@anisimoff.com.au

James Barker

(02) 8935 8802

james.barker@anisimoff.com.au



www.anisimoff.com.au



<https://www.facebook.com/AnisimoffLegal>



<https://twitter.com/AnisimoffLegal>



<http://www.linkedin.com/company/anisimoff-legal>