

Sales Promotion Schemes

A General Guide

What is a sales promotion scheme?

Sales promotion scheme is defined by the Gambling Act 2003 as gambling that does not involve a gaming machine, a prize that is prohibited, or used by a creator, distributor, or vendor of goods or services to promote the sale of those goods or services if—

- (a) participation in the gambling requires a person to purchase the goods or services promoted for a price not exceeding the usual retail price; and
- (b) the date or period on or over which the outcome of the gambling will be determined is clear to the participant at the time and place of sale; and
- (c) the person is not required to pay direct or indirect consideration other than to purchase the goods or services promoted; and
- (d) the outcome is determined—
 - (i) randomly or wholly by chance; or
 - (ii) partly by chance (whether chance plays the greater or lesser part) and partly by the application of some knowledge or skill

Does a sales promotion scheme need a licence?

Your sales promotion does not need a licence, but it must conform with the definition of sales promotion schemes set out above.

If your promotion does not match this definition, it may be illegal.

Entry into sales promotion scheme

Customers pay no more than the usual retail price of goods or services to enter sales promotion schemes. Your promotional material should state what and how much the customer has to purchase to enter the promotion. For example, they might have to buy one item, or spend a specific amount of money on the promotional product to enter.

Remember, under the act a scheme does not come within the definition of a sales promotion scheme if more than the usual retail price is asked for the good or service as a condition of entry.

A sales promotion scheme may not be legal if:

- It is operated via remote interactive gambling (e.g. over the internet, by phone or text), the exception is a lottery run as a sales promotion
- If it is conducted from overseas.

Example:

A retailer runs a lottery as sales promotion scheme to sell chocolate bars worth \$1.00 each. The winner of the promotion will get a new car.

The competition is an illegal lottery if:

Customers buy a chocolate bar, fill out an entry form and then pay 50 cents more to enter. This is because the customer is charged more than the retail cost of the chocolate bar to enter the promotion.

The competition is a sales promotion scheme if:

Customers buy a chocolate bar, fill out an entry form and go straight into the draw to win a car. This is because the customer does not pay more than the normal retail price of the chocolate bar to enter the promotion.

Do sales promotion schemes have a time limit?

The Gambling Act 2003 says that sales promotion schemes must be run within a specified period of time. The time limit should be made clear in promotional material.

Are there any prohibited prizes?

It is illegal to offer some items as prizes for sales promotion schemes. Presently prohibited items include:

- Firearms and ammunition
- Liquor
- Second hand goods
- Land not zoned residential (e.g. commercial/industrial land)
- Vouchers or entitlements for the above.

Regulations about prohibited prizes are currently being considered. Any changes to the list of prohibited prizes will be widely published and available on the Department of Internal Affairs website www.dia.govt.nz.

Is my sales promotion scheme legal?

Check your proposed scheme against the definition in section 4 of the Gambling Act 2003.

If you are still not sure that your sales promotion scheme is legal then we recommend that you contact your solicitor. Other legislation such as the Fair Trading Act may also affect your sales promotion scheme.

Need more information?

Ask the Gaming Licensing Office

The Gambling Act 2003 is administered by the Gaming and Censorship Regulation Group of the Department of Internal Affairs. Gaming Compliance can provide further advice on any questions you might have.

Check out the Gaming Compliance website, write, fax or phone:

Gaming Compliance

Level 14, State Insurance Building

46 Waring Taylor Street

PO Box 10-095

WELLINGTON

Telephone (04) 494-0700

Fax (04) 494-0656

Email: gaming.compliance@dia.govt.nz

Website: www.dia.govt.nz

While reasonable measures have been taken to ensure the quality and accuracy of the information contained in this Fact Sheet it does not replace information contained in the Gambling Act 2003 or the Racing Act 2003 or any provisions pursuant to these Acts. This Fact Sheet is for general information only and is not a substitute for independent, professional legal or financial advice.

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