



Gambling Act 2005

Information Sheet

Small Society Lotteries

Background Information

The Gambling Act 2005 (“the Act”) repeals the Lotteries and Amusements Act 1976.

The Gambling Commission will be the regulator of gambling functions in Great Britain.

The Act establishes a new licensing regime for large non-commercial societies and local authority lotteries which will be administered by the Gambling Commission. In addition a new registration scheme will be introduced for smaller non-commercial society lotteries which will be administered by local authorities.

Definition of a lottery

The Act provides a definition of what constitutes a lottery and also provides that promoting or facilitating a lottery is illegal unless it falls within one of the two categories of permitted lotteries which are:

- Licensed lotteries; and
- Exempt lotteries

A “lottery” is an arrangement which either meets the legal description of a simple lottery or a complex lottery (section 14 of the Act)

A simple lottery

An arrangement is a simple lottery if:

- i. persons are required to pay to participate in the arrangement;
- ii. in the course of the arrangement, one or more prizes are allocated to one or more members of a class; and
- iii. the prizes are allocated by a process which relies wholly on chance.

A complex lottery

An arrangement is a complex lottery if:

- i. persons are required to pay to participate in the arrangement;

- ii. in the course of the arrangement, one or more prizes are allocated to one or more members of a class;
- iii. the prizes are allocated by a series of processes; and
- iv. the first of those processes relies wholly on chance.

Therefore, if the first stage of a lottery involves a draw or any other random method of deciding who goes on to the second stage, the process is a lottery regardless of what other form the lottery may take in latter stages. Conversely, if the first stage does not rely wholly on chance and passes the test of skill, judgement or knowledge (section 14(5)), the process is not a lottery, even if subsequent stages are determined by chance.

The Act also contains provisions which set out what is meant by payment for entry.

Illegal lotteries

The Act states that a lottery is unlawful unless:

- it is run in accordance with an operating licence issued by the Gambling Commission;
- is part of the National Lottery; or
- is an exempt lottery.

Permitted lotteries

Societies may organise lotteries if they are either licensed by the Gambling Commission or, alternatively if their proceeds are below specified levels, they fall within the exempt category and can register with the local licensing authority.

Societies

A “society” is the society or any separate branch of such a society, on whose behalf a lottery is to be promoted. The society must be non-commercial and is defined as non-commercial if it is established and conducted:

- I. for charitable purposes;
- II. for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity; or
- III. for any other non-commercial purpose other than that of private gain.

The society must have been established for one of the above purposes and the proceeds of any lottery must be devoted to those purposes.

A society must not be established for the sole purpose of facilitating lotteries, it must have some other purpose.

Lotteries licensed with the Gambling Commission

If the total value of tickets a society puts on sale in any one lottery is to exceed £20,000 or if tickets in separate lotteries in one calendar year are to exceed £250,000 in aggregate, the lottery is regarded as a large lottery and the society must hold a lottery operator's licence issued by the Gambling Commission.

Local authority lotteries

Local authorities can run lotteries if they are licensed by the Gambling Commission subject to various provisions within the Act.

Changes to previous society registration requirements

The Act allows for some relaxation of lottery law in relation to society and local authority lotteries as follows:

- Removes the individual limits on the percentage of proceeds that may be applied to expenses or prizes – although the maximum global amount that can be deducted for expenses and prizes remains at 80%, with the remaining 20% or more going to the purposes of the society or to local authority expenditure.
- Allows for the rollover of the prize fund from one lottery to another promoted by the same society or local authority;
- It allows the sale of tickets by an automated process;
- It removes the £2 maximum price for tickets.

Exempt lotteries (other than small society lotteries)

With the exception of small society lotteries which are required to be registered with the local licensing authority, there are other types of exempt lotteries which do not need to be licensed by the Gambling Commission (or the local licensing authority). These are:

Incidental non-commercial lotteries

An incidental non-commercial lottery is:

- Not promoted for private gain; and
- Is incidental to a non-commercial event.

Such examples may include a lottery held at a school fete or at a social event such as a dinner dance. An event may be regarded as non-commercial if all the money raised at the event, including entrance fees, goes entirely to purposes that are not for private gain. For example a fundraising social event with an entrance fee would be non-commercial if the profits went to a society but would be commercial if the profits were retained by the organiser.

The Act also specifies that:

- I. The promoter of the lottery must not deduct more than the amount from the proceeds in respect of the cost of prizes or expenses, such as the cost of printing tickets, hire of equipment, irrespective of the actual cost. This limit will be set by future regulations.
- II. The lottery cannot involve a rollover of prizes from one lottery to another.
- III. Tickets must be sold at the premises during the event, and the result made public while the event takes place (ie the draw must take place on the same day/night).

Private lotteries

There are three types of private lotteries that qualify as exempt lotteries which are:

- I. **Private society lottery** – these can only be promoted by authorised members of the society; and tickets can only be sold to other members of that same society, or to persons on the society premises. The lottery can only be promoted for a purpose for which the society is conducted, and the society can be any group or society, so long as it is not established and conducted for purposes connected to gambling.
- II. **Work lottery** – the promoter of the lottery must work on the premises and tickets can only be sold to other people who work on the same premises. The lottery must not be run for profit and all the proceeds must be used for prizes or reasonable expenses incurred with organising the lottery.
- III. **Residents' lottery** – these must not be run for profit and all the proceeds must be used for prizes or reasonable expenses. The promoter of the lottery must reside on a single set of premises and tickets can only be sold to other residents of the same set of premises. A person can still satisfy the residency requirement even where the premises are not the sole premises in which a person resides.

The Act requires that no advertisements for the above private lotteries may be displayed or distributed except at the society or work premises or the relevant residence.

Rollovers are prohibited in private lotteries.

Whilst exempt from registration, private lotteries must comply with conditions set out in schedule 11 of the Act which relate to the price and format of tickets. In brief, the requirements are:

- I. A ticket in a private society lottery may only be sold or supplied by the promoter or another person who is a member of the same society, in a works lottery by the promoter or another person employed on the same premises, or in the case of a residents' lottery, by the promoter or another person who resides on the same premises,

- II. Rights conferred by tickets are not transferable and this must be made clear on the lottery tickets.
- III. Each ticket must state the name and address of the promoter(s) of the lottery and the class of persons to whom the promoter(s) can sell or supply tickets.
- IV. The price paid for each ticket in a private lottery must be the same, must be shown on the ticket and must be paid to the promoters of the lottery before any person is given a ticket,

Private lotteries may not be conducted on vessels. The definition of a vessel (section 353(1) of the Act) is:

- I. Anything (other than a seaplane or amphibious vehicle), designed or adapted for navigation or other use in, on or over water;
- II. A hovercraft; or
- III. Anything, or any part of any place, situated on or in water.

Customer lotteries

A customer lottery is a lottery run by the occupiers of business premises, who sell tickets only to customers present on their premises.

The Act sets out the following stipulations:

- I. Tickets for the lottery can only be sold to a person on the business premises as a customer of the promoter.
- II. The lottery must be arranged to ensure that no profit is made; therefore the proceeds can only be used for reasonable expenses and the provision of prizes.
- III. A ticket in a customer lottery may only be sold or supplied by the promoter or by someone on their behalf.
- IV. No advertisement may be:
 - Displayed or distributed except on the business premises;
 - Sent to any other premises;
 - The lottery therefore can only be advertised on the premises on which it is held.
- V. No ticket may result in the winner receiving a prize worth more than £50.
- VI. No rollovers of prizes are permitted.
- VII. Each ticket must state:
 - The name and address of the promoter of the lottery.

- The class of persons to whom the promoter can sell or supply tickets.
- That the rights conferred by the sale or supply of a ticket in a customer lottery are not transferable.

VIII. Customer lotteries may not take place within seven days of another customer lottery promoted on the same business premises.

Customer lotteries are not permitted to be conducted on vessels as per the definition outlined above.

Administration & returns

The Gambling Commission intend to produce information for non-commercial societies about the administration of small society lotteries. This will be available in due course on their website www.gamblingcommission.gov.uk. The licensing authority shall have regard to this advice and will refer applicants to its contents.

Lottery requirements

The purpose of permitted lotteries as set out in the Act is so that societies can raise money for causes that are non-commercial and therefore the Act requires that a minimum of the money raised by the lottery is channelled to the goals of the society that promoted the lottery. If a small society lottery breaches these limits, it will be in breach of the Act and will be liable to prosecution.

The limits placed on small society lotteries are as follows:

- A small society lottery must apply at least 20% of the proceeds of the lottery to the purposes of the society.
- The current limits mean that no single prize in a small society lottery may be worth more than £25,000.
- Rollovers are only permitted where every lottery affected is also a small society lottery promoted by the same society, and the maximum single prize does not exceed £25,000.
- Every ticket in the lottery must cost the same and the fee must be paid to the society before entry into the draw is allowed.

Returns

The requirements for information that the society must supply to the local authority with whom they are registered are contained within paragraph 39, Schedule 11 of the Act.

Provision of this information allows the local authority to assess whether the financial limits are being adhered to and to ensure that any money raised is applied for the proper purpose. The information to be submitted is as follows:

- I. The arrangements for the lottery (including the date on which tickets were available for sale or supply, the dates of any draw and the value of prizes, including any rollover);
- II. The proceeds of the lottery;
- III. The amounts deducted by the promoters of the lottery in respect of providing prizes, including prizes in accordance with any rollovers;
- IV. The amounts deducted by the promoters of the lottery in respect of costs incurred in organising the lottery;
- V. Any amount applied to a purpose for which the promoting society is conducted (at least 20% of the proceeds); and
- VI. Whether any expenses incurred in connection with the lottery were not paid for by deduction from the proceeds, and if so, the amount of expenses and the sources from which they were paid.

The return must:

- I. Be sent to the licensing authority by no later than 3 months after the date of the draw (or the last draw) in the lottery; and
- II. Be signed by two members of the society, who must be over the age of 18, are appointed for the purpose in writing by the society or, if it has one, its governing body, and accompanied by a copy of their letter or letters of appointment.

The licensing authority must make the returns submitted by societies in the preceding 18 months available for inspection by the public.

The licensing authority may receive numerous returns from some societies and therefore careful monitoring will take place to ensure that the cumulative totals for each society do not exceed the annual monetary limit.

If after receiving a return, the licensing authority is of the opinion that the ticket sales are shown to be above the prescribed limits then they must notify the Gambling Commission in writing and should copy the notification to the society concerned. The Commission will then contact the society to establish whether they are going to apply for a lottery operator's licence which would enable them to run large society lotteries legally. The Commission will inform the licensing authority of the outcome of its exchanges with the society.

Regulations may prescribe the form in which the return may be submitted but the licensing authority shall allow for manual as well as electronic returns. The return form shall be published on the Council's website and also in a leaflet form.

Small societies using an external lottery manager

External lottery managers can be an individual, firm or company appointed by the society to manage a lottery or lotteries on behalf of the society. They are consultants and generally take their fees from the expenses of the lottery.

External lottery managers must hold an operator's licence issued by the Commission to manage any lottery including small society lotteries registered with a licensing authority.

Any society which employs an unlicensed external lottery manager commits an offence so societies will need to satisfy themselves that any external lottery manager they wish to employ is licensed by the Gambling Commission. Societies will be able to do this by looking at the register of licences held on the Gambling Commission's website.

Tickets

Lotteries may involve the issuing of physical or virtual tickets to participants. Schedule 11 of the Act requires that all tickets must:

- Identify the promoting society;
- State the price of the ticket which must be the same for all tickets;
- State the name and address of the member of the society who is designated as having responsibility at the society for the promotion of the lottery, or if there is one, the external lottery manager; and
- State the date of the draw, or enable the date of the draw to be determined.

"Ticketless" or electronic lotteries must allow the participant to retain the message electronically, or print it.

The Gambling Commission recommends that societies maintain written records of unsold and returned tickets for a period of one year. The licensing authority is permitted to inspect the records of the lottery for any purpose related to the lottery.

Application and registration

A society must be registered with a local authority throughout the period during which the lottery is promoted. Parts 4 and 5 of Schedule 11 of the Act set out the requirements for societies and licensing authorities as regards registration of small society lotteries.

The society is required to be registered with the local authority in the area where their principal office is located. If the local authority considers that the society's principal office is situated in another area it shall inform the society as soon as possible and also notify the other appropriate local authority.

The application must be in the form prescribed by regulations and will need to be accompanied by the prescribed fee of £40 and any documents the licensing authority will need to assess the application.

The licensing authority will record details of the society and keep the details on a register. Whilst this does not have to be a public register, the Gambling Commission have recommended that licensing authorities make the register available to the public on request.

As soon as the registration has been granted by the licensing authority, it must notify the applicant of the registration and inform the Commission accordingly.

The Gambling Commission intends to make available on its website a dedicated webpage for the entry of registrations of small society lotteries by licensing authorities. This is so as to ensure that information can be transferred to the Commission quickly and accurately.

Annual fees

Once registered, the society must pay an annual fee of £20 to the registering local authority. This fee must be paid within the period of two months which ends immediately before each anniversary of the registration. If the registered society fails to pay the annual fee, the local authority may cancel the society's registration.

Refusals

Paragraphs 47 and 48 of Schedule 11 of the Act set out the grounds for refusal of registrations. In summary these are:

- I. In the previous five years either an operating licence held by the applicant for registration has been revoked or an application for an operating licence by the applicant has been refused;
- II. The applicant is not a non-commercial society;
- III. A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence; or
- IV. Information provided in or with the application for registration is false or misleading.

In respect of I above, the Gambling Commission website will maintain details of those people who hold a lottery operating licence. Consideration is currently being given as to whether details can be included of those who have had an operating licence.

Should the licensing authority be concerned that an applicant for registration may have been refused an application for an operating licence, the Gambling Commission will be consulted for further information.

Information concerning the purposes for which the society is established will be requested by the licensing authority. Under the previous registration regime, licensing authorities often required applications for registration to declare that they represented a bona fide non-commercial society and had no relevant convictions. The Gambling Commission believes that a similar declaration will be required under the new registration arrangements. The licensing authority will wish to consider the particular circumstances of each individual application and may require further information depending upon the nature of the application.

A licensing authority may only refuse an application after the society has had the opportunity to make representations. Licensing authorities will inform the society of the reasons why it is minded to refuse the registration and the evidence it relied upon to reach that preliminary conclusion. Licensing authorities have the discretion to decide how to handle representations but it is considered good practice for those procedures to be made available to applicants. The Gambling Commission is currently considering whether it can usefully provide any further guidance.

Revocations

A licensing authority can revoke the registration of a society if it thinks that they would have to, or would be entitled to, refuse an application for registration if it were being made at that time. No revocations can take place unless the society has had an opportunity to make representations and consideration of what procedures shall be put into effect are as outlined in the above paragraph.

Appeals

Paragraph 51 of Schedule 11 of the Act sets out the processes for appeals against refusal or revocation of small society lottery registrations. The applicant or registered society may appeal if the licensing authority has rejected an application for registration or revoked the registration.

The appeal must be made within 21 days of receipt of a notice of the decision and must be made to the local magistrates' court.

On appeal, the magistrates' court may take the following action:

- Affirm the decision of the licensing authority;
- Reverse the decision; or
- Make any other order (which may include a transitional provision).