

GAMBLING ACT 2005

LOTTERIES AND THE LAW

1. Definition of a Lottery

1.1 An arrangement is a simple lottery if:

- Persons are required to pay to participate in the arrangement;
- In the course of the arrangement one or more prizes are allocated to one or more members of a class; and
- The prizes are allocated by a process which relies wholly on chance.

1.2 An arrangement is a complex lottery if:

- Persons are required to pay to participate in the arrangement;
- In the course of the arrangement one or more prizes are allocated to one or more members of a class;
- The prizes are allocated by a series of processes; and
- The first of those processes relies wholly on chance.

1.3 By virtue of section 14(5) of the Act, for the purpose of these definitions a process which requires persons to exercise skill or judgement or display knowledge is to be treated as relying wholly on chance if:

- The requirement cannot reasonably be expected to prevent significant proportion of persons who participate in the arrangement from receiving a prize; and
- It cannot reasonably be expected to prevent a significant proportion of persons who wish to participate in the arrangement from doing so.

2 Types of Lotteries

Society Lotteries

2.1 Society lotteries promoted for the benefit of a non-commercial society. A society is non-commercial if it is established and conducted:

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

Local Authority Lotteries

2.2 A local authority may use the net proceeds of its lottery for any purpose for which it has power to incur expenditure.

Exempt Lotteries

- 2.3 Exempt lotteries do not require a licence from the Gambling Commission, although small society lotteries are required to register with their local authority. In addition to small society lotteries, exempt lotteries include:
- Incidental non-commercial lotteries – commonly held at charity fund raising events;
 - Private society lotteries – only members of the society and those on society premises can participate in the lottery;
 - Work lotteries – only people who work together on the same premises may participate;
 - Residents' lotteries – only people who live at the same premises may participate; and
 - Customer lotteries – only customers at the business premises may participate

3 Small Society Lotteries

- 3.1 Societies who run small society lotteries, that is to say lotteries which are not large lotteries (essentially those in which £20,000 (or less) worth of tickets are put on sale and where the society's aggregate proceeds from lotteries do not exceed £250,000 a year) may operate without a Gambling Commission licence provided they register with their local authority.
- 3.2 The promoting society of a small society lottery must, throughout the period during which the lottery is promoted, be registered with a local authority in England and Wales or licensing board in Scotland.
- 3.3 The societies will be required to be registered with their local authority in the area where their principal office is located. If the local authority believes that the society's principal office is situated in another area it should inform the society as soon as possible and if possible inform that other authority.
- 3.4 Details of registration requirements and procedures will be available from the licensing department of the relevant local authority.
- 3.5 Societies who run small society lotteries under registration with a local authority and who sell tickets by means of remote communication (internet, telephone etc) will not be required to hold a remote gambling licence issued by the Commission.

4 Remote Lotteries

- 4.1 Section 4 of the Gambling Act specifies that remote gambling means gambling in which people participate by the use of remote communication including the internet, telephone, television, radio or any other electronic or technological method of communication. Note

that normal letter post is not a form of remote communication for the purposes of the Act.

- 4.2 Society and local authority lotteries who allow players to participate in their lottery by means of remote communication will be required to hold a remote lottery operating licence.
- 4.3 Holders of a remote lottery operating licence will be required to comply with the technical standards and other specific licence conditions and codes of practice issued by the Commission that relate to remote gambling. Details are available on the Commission's website. (www.gamblingcommission.gov.uk).
- 4.4 Society lotteries registered with local authorities who allow persons to participate in their lottery by way of remote communication are not required to hold a remote lottery operating licence.

5 Ticket Information

- 5.1 All tickets in a society lottery licensed by the Commission or registered with a local authority must state:
 - The name of the society on whose behalf the lottery is being promoted;
 - The price of the ticket;
 - The name and address of the member of the society responsible for the promotion of the lottery; and
 - The date of the draw, or the means by which the date may be determined;
- 5.2 Tickets which are issued through a form of remote communication or any other electronic manner must specify this information to the purchaser of the ticket and ensure that the message can be either retained or printed.

6. Lottery Returns

- 6.1 Every society registered with a local authority to run small society lotteries must submit a statement providing the following information:
 - The date on which tickets were available for sale or supply and the date of the draw;
 - The total proceeds of the lottery;
 - The amounts deducted by promoters of the lottery in providing prizes, including rollovers;
 - The amounts deducted by the promoters of the lottery in respect of costs incurred in organising the lottery;
 - The amount applied directly to the purpose for which the promoting society is conducted or for which the local authority has power to incur expenditure (at least 20% of the gross proceeds); and

- 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.

6.2 A registered society's statement must be sent to the local authority with the three months beginning on the day on which the draw (or last draw) in the lottery took place. It must be signed by two members of the society appointed in writing for that purpose by the society's governing body and accompanied by a copy of that appointment.

7 **Social Responsibility**

7.1 Lotteries are a form of gambling and as such societies and local authorities are required to ensure that children and other vulnerable people are not exploited by their lottery.

7.2 The minimum age for participation in a lottery is 16 years of age. A person commits an offence if they invite or allow a child to enter a lottery other than certain classes of exempt lottery (ie: incidental non-commercial lotteries, private lotteries, work lotteries and residents' lotteries). Societies and local authorities running lotteries must have written policies and procedures in place to help prevent and deal with cases of under-age play.

8 **Exempt Lotteries**

8.1 Exempt lotteries are all those specified in the Gambling Act 2005 as permitted to be run without a licence from the Gambling Commission. These include small society lotteries which can be run under a registration with a local authority.

8.2 Apart from small society lotteries there are three types of exempt lottery: incidental non-commercial lotteries, private lotteries and customer lotteries.

Incidental non-commercial Lotteries

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

8.4 The Gambling Act 2005 specifies that:

- The promoters of the lottery may not deduct more than the amount prescribed by the Secretary of State from the proceeds

in respect of the expenses, such as the cost of printing tickets, hire of equipment etc. This is currently £250;

- Not more than £250 can be spent of prizes;
- The lottery cannot involve a rollover of prizes from one lottery to another; and
- All tickets must be sold at the location during the event, and the result made public while the event takes place.

Private Lotteries

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

- Private lottery – these can only be promoted by one of its members and tickets can only be sold to other members of that same society and persons on premises used for the administration of the society. The lottery may only be promoted for a purpose for which the society is conducted, and the society can be any group or society, provided it is not established and conducted for purposes connected to gambling e.g. private members clubs.
- 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 in organising the lottery e.g. a Grand National sweepstake.
- 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 the premises and tickets can only be sold to other residents of the same premises. The residency requirement can still be satisfied where the premises are not the sole premises in which a person resides e.g. a student halls of residence.

8.6 Private lotteries must comply with conditions relating to advertising which state that no advertisement for a private society, work or residents' lottery may be displayed or distributed except at the society or work premises, or the relevant residence, or sent to any other premises.

8.7 Private lotteries must comply with conditions set out in schedule 11 of the Act relating to tickets. In summary these are:

- A ticket in a private lottery may be sold or supplied only by or on behalf of the promoters
- Tickets (and the rights they represent) are non-transferable.
- Each ticket must state the name and address of the promoter of the lottery, the persons to whom the promoter can sell or supply tickets and the fact that they are not transferable.

- 8.8 Private lotteries cannot be conducted on vessels. The Act's definition of a vessel (section 353-1) is:
- anything (other than a seaplane or amphibious vehicle), designed or adapted for navigation or other use in, on or over water;
 - a hovercraft; or
 - anything, or any part of any place, situated on or in water.
- 8.9 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.

Customer Lotteries

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

- 8.11 The Act requires that in customer lotteries:
- the lottery must be arranged to ensure that no profit is made;
 - tickets may be sold or supplied only by or on behalf of the promoter;
 - no advertisement may be displayed or distributed except on the business premises nor sent to any other premises;
 - another customer lottery cannot take place within seven days on the same business premises;
 - tickets (and the rights they represent) are non transferable;
 - no ticket may result in the winner receiving a prize worth more than £50;
 - no rollovers of prizes are permitted.

Each ticket in a customer lottery must state;

- the name and address of the promoter of the lottery;
- the persons to whom the promoters can sell or supply tickets;
- that the rights conferred by the sale or supply of a ticket in a customer lottery are not transferable.