

LOTTERIES – RULES OF OPERATION

These guidance notes are issued under the Gambling Act 2005

The Gambling Commission can issue lottery operating licences to:

- (a) Non Commercial Societies;
- (b) Local Authorities and External Lottery Managers (section 98(1)).

A non-commercial society is a society established for cultural or sporting purposes or for a purpose that is something other than private gain.

A lottery is unlawful unless there is an operating licence issued by the Gambling Commission or it is an exempt lottery. The exemptions are:

- (a) Incidental non-commercial lotteries, e.g. the raffle or tombola at the Christmas fayre.
- (b) Private lotteries, e.g. work or residence lotteries.
- (c) Customer lotteries, e.g. a lottery run by someone running a business in this country, tickets can only be available when the person receiving the ticket is on the business premises as a customer, only the business can provide tickets and the lottery cannot be advertised anywhere else.
- (d) Small society lotteries, which are registered by a local authority.

Small Lotteries

As long as the proceeds from one lottery do not exceed £20,000 or the total income from all the lotteries run by an organisation do not exceed £250,000 in a calendar year the lottery is classed as a small lottery. If an organisation prints 25,000 tickets for sale at £1 each this is automatically a large lottery as the total income from that one lottery could exceed £20,000. Provide the lottery does not exceed the two thresholds of £20,000 or £250,000, lotteries can lawfully be run by being registered with the local authority as a small lottery.

Lottery Operating Licence

Section 99 provides that six mandatory conditions must be attached to lottery operating licences:

- (1) 20% of the proceeds must be applied to the purposes of the promoting society.
- (2) The proceeds of any lottery may not exceed £2,000,000 and the total proceeds of all lotteries promoted in a calendar year cannot exceed £10,000,000.
- (3) The maximum prize may not exceed £25,000 or, if more than this amount, 10% of the proceeds of the lottery. If there is a rollover it must comply with this provision.
- (4) Tickets must identify the promoting society, who is responsible for its promotion and give the date of the draw.
- (5) The prices of all tickets must be the same and must be shown on the tickets.
- (6) Membership of the group of people among whom prizes in any lottery promoted may not be dependent on making any payment apart from purchasing a ticket.

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Promoting a Lottery

Under section 252(1) a person promotes a lottery if he makes or participates in making the arrangements for a lottery. A person promotes a lottery if he:

- (a) makes arrangements for the printing of lottery tickets;
- (b) makes arrangements for the printing of promotional material;
- (c) arranges for the distribution or publication of promotional material;
- (d) possesses promotional material with a view to its distribution or publication;
- (e) makes other arrangements to advertise a lottery;
- (f) invites a person to participate in a lottery;
- (g) sells or supplies a lottery ticket;
- (h) offers to sell or supply a lottery ticket;
- (i) possesses a lottery ticket with a view to its sale or supply;
- (j) does or offers to do anything by virtue of which a person becomes a member of a class among whom prizes in a lottery are to be allocated;
- (k) uses premises for the purpose of allocating prizes or for any other purpose connected with the administration of a lottery (section 252(2)).

“Promotional Material” means a document which:

- (a) advertises a specified lottery;
- (b) invites participation in a specified lottery;
- (c) contains information about how to participate in a specified lottery;
- (d) lists winners in a specified lottery (section 252(3)).

Offences

Section 258: Promotion of Lottery

This section makes it an offence to promote a lottery. However, as long as the person promoting the lottery holds the relevant operating licence or acts on behalf of a person who has been granted such a licence no offence is committed.

If the lottery is an exempt lottery then no offence is committed, e.g.:

- (a) the incidental non-commercial lottery;
- (b) private lotteries;
- (c) customer lotteries;
- (d) small society lotteries registered with the licensing authority.

Section 259: Facilitating a Lottery

If a person prints tickets for a lottery, prints promotional material for a lottery or advertises one an offence is committed unless there is a relevant operating licence in force or the lottery is an exempt lottery.

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Section 260: Misusing Profits of Lottery

This section provides for a general offence of misusing the profits of a lottery, e.g. using the proceeds for a purpose other than that specified in the tickets.

Section 261: Misusing Profits of an Exempt Lottery

It is an offence for someone to use the proceeds of an exempt lottery for the purpose other than the one for which the lottery was permitted to be promoted.

Schedule 11 – Exempt Lotteries

Schedule 11 sets out the various categories of exempt lotteries and the principles that apply to them.

Part 1: Incidental Non-Commercial Lotteries

Incidental non-commercial lotteries are activities such as the raffle and tombola at a garden party. The lottery must be a small part of a wider ranging fund raising event, the proceeds of which are not for any private gain. To be a non-commercial lottery:

- The promoters may only deduct such sums for prizes and other costs as are prescribed in regulations.
- The lottery must be promoted purely for a non-commercial purpose, i.e. there must be no element of private gain.
- There cannot be a rollover.
- Tickets are only available at the event while it is taking place and the results are announced at the event.

Part 2: Private Lotteries

There are three types of “private lottery” which qualify as exempt lotteries:

- A private society lottery is a lottery promoted by members of a society who have been authorised to run it and people who purchase tickets are a member of that organisation or are on premises wholly or mainly used for society purposes.
- A work lottery is a lottery if the promoters work in a single set of premises and everyone who purchases the tickets also works in the same premises.
- A residents’ lottery is a lottery where the promoters live in a single set of premises and tickets can only be purchased by people living in the same premises.

All types of private lottery cannot advertise apart from on the relevant premises, e.g. a work lottery can only advertise on the premises where the people entitled to purchase the tickets work. In addition, tickets will have to give the name and address of the promoter, specify who can buy tickets and explain that the rights in tickets cannot be transferred.

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All private lotteries will have to comply with is that every ticket must be sold for the same price, which must be shown on the tickets and the tickets have to be paid for before a prize can be allocated.

Part 3: Customer Lottery

Anyone running a business and occupying business premises in Great Britain can run a customer lottery. Tickets can only be obtained by people when they are on the business's premises as a customer of the business. The lottery can only be advertised on those premises. Tickets can only be obtained from the business promoting the lottery.

The tickets must give the name and address of the promoter, specify who is entitled to purchase the tickets and explain that the rights under the ticket cannot be transferred. The price for the tickets has to be the same, must be shown on the tickets. No profit can be made for running a customer lottery. There can only be one draw a week and the maximum prize is £50.

Parts 4 and 5: Small Society Lotteries

A non-commercial society that runs a lottery where the income is below certain specified thresholds can register with the local authority.

Financial limits are that the proceeds for one individual lottery cannot exceed £20,000 and in a calendar year the total proceeds from society lotteries do not exceed £250,000 (paragraph 31 (2) and (3) schedule 11).

The organisation must produce tickets identifying the name of the society, the price of the ticket, the name of the promoter and the date of the draw (paragraph 36, schedule 11). The price of the tickets must be the same (paragraph 37, schedule 11).

The organisation must be registered with the local authority. The application will be prescribed by the Secretary of State (paragraph 42 (2) schedule 11).

As soon as practicable after receiving an application the local authority must register the society, tell the applicant this has been done and notify the Gambling Commission (paragraph 44, schedule 11).

The local authority must refuse an application for registration if, within 5 years ending with the date of the application the applicant has had an operating licence revoked by the Gambling Commission or an application for one refused (paragraph 47, schedule 11).

In addition, the local authority may refuse to register an applicant if they think:

- (a) the applicant is not a non-commercial society;
- (b) someone who will or may be connected with the promotion of the lottery has been convicted of a relevant offence;
- (c) false or misleading information has been provided in connection with the application (paragraph 48, schedule 11).

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If the local authority does register a lottery and later finds they would have grounds for refusing application the registration can be revoked (paragraph 50, schedule 11).

Registration may not be revoked without giving the society an opportunity to make representations (paragraph 50(3), schedule 11). If it is decided to revoke the registration, revocation can take place immediately or at some date in the future but no longer than two months (paragraph 50, schedule 11).

If the local authority refuses to register a society or cancels a registration there is a right of appeal to the magistrates court (paragraph 51, schedule 11).

The society must pay the annual fee to the local authority or the registration can be cancelled (paragraph 54, schedule 11).