

GAMBLING ACT 2005

LOTTERIES

On 1 September 2007 the Gambling Act 2005 repealed the Lotteries and Amusements Act 1976. Lotteries and their promoters now need to be licensed by the Gambling Commission unless they are declared exempt under the Act.

The following advice is intended as a guide. If you intend to run a lottery you should consult the Gambling Act 2005 and take any necessary legal advice to ensure that you comply with the law. Further information can be found on the Gambling Commission's web site at www.gamblingcommission.gov.uk under 'Lotteries and the Law (Gambling Act 2005)'.

Definition of Lottery

A lottery is defined by Section 14 of the Gambling Act 2005.

A simple lottery is where

- Persons are required to pay to participate;
- 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.

A complex lottery is where

- Persons are required to pay to participate;
- 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.

Society Lotteries

A society lottery is a lottery 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 supporting of sport, athletics or a cultural activity, or
- For any other non-commercial purpose other than that of private gain.

It is not permissible to establish a society whose sole purpose is to facilitate lotteries.

Exempt Lotteries

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.

There are special rules for these types of lottery and they can be found in the document 'Lotteries and the Law', available on the Gambling Commission's website.

Small Society Lotteries

Generally, small society lotteries are those in which £20,000 worth, or less, of tickets are put on sale and where the aggregate from all the society's lotteries does not exceed £250,000 in a year. They may operate without a Gambling Commission licence provided they are registered with their local authority.

A small society lottery must be registered with a local authority throughout the period during which it is being promoted. The society will be required to register with the local authority in whose area the principal office of the society is located. If the local authority believe that a society's principal office is within the area of another authority, they will inform both the society and the other authority as soon as possible.

A small society lottery may become a large lottery if –

- The arrangements for the lottery are such that the proceeds may exceed £20,000;
- The aggregate of the promoting society's proceeds from society lotteries promoted wholly or partly during that year exceeds £250,000;
- The arrangements are such that, disregarding any other lottery for which the sale of tickets has not concluded, it may become a large lottery by virtue of the preceding bullet point.

If the society promotes a large lottery under the above circumstances (“the first lottery”), then any other lottery promoted by the society will be classed as a large lottery if it is wholly or partly promoted

- After the beginning of the promotion of the first lottery and in a calendar year during which the first lottery is wholly or partly promoted, or
- In any of the three calendar years successively following the calendar year during which the first lottery was wholly or partly promoted.

If these circumstances apply, or would appear likely to apply, to a lottery promoted by a small society they should be licensed by the Gambling Commission.

If a society runs a small society lottery registered with a local authority and they wish to sell tickets by means of remote communication (Internet, telephone, etc.) they will not need to hold a remote gambling licence issued by the Gambling Commission.

Section 257 of the Gambling Act 2005 defines an external lottery manager as a person or company who makes arrangements for a lottery on behalf of a society, but is not a member, officer or employee of the society. Where a registered society wishes to employ an external lottery manager to run all or part of its lottery, it is the responsibility of the society ensure that the manager holds a lottery manager’s operating licence issued by the Gambling Commission. A list of licensed external lottery managers is available on the Commission’s website. The employment of an external lottery manager does not absolve the society from its responsibility to ensure that the lottery is conducted in such a way as to ensure that it is lawful and fully complies with all licensing conditions and codes of practice.

A person will commit an offence under the Act if they promote a lottery unless -

- They are an officer, employee or a member of a licensed or registered society, or
- They are a licensed external lottery manager directed by a society to run all or part of its lottery.

Monetary Limits

You must apply a minimum of 20% of the gross proceeds of each lottery to the purposes of the society.

Up to a maximum of 80% of the gross proceeds of each lottery may be divided between prizes and the expenses of the lottery.

- The maximum prize in a small society lottery is £25,000.
- Roll-overs are permitted provided the maximum single prize limit is not breached.

- No lottery may operate in such a way that a player can win a prize greater than the statutory prize limit.
- No lottery may be linked to any other lottery in such a way that a person who wins a prize in one also wins a prize in another, unless the aggregate of those prizes is less than or equal to the statutory prize limit.

Tickets

Every ticket must be the same price and the cost of purchased tickets must be paid to the society before entry to the draw is allowed. There is no maximum price of a lottery ticket.

All tickets in a society lottery 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 (this may be the name and address of an external lottery manager if one is being used);
- The date of the draw, or the means by which the draw will be determined.

Lottery Returns

Every society registered with a local authority to run a small society lottery must submit a statement that shows the following information –

- The date on which the 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 (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.

A registered society's statement must be sent to the local authority within 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.

Social Responsibility

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

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 (i.e. incidental non-commercial lotteries, private lotteries, work lotteries and residents' lotteries). Societies must have written policies and procedures in place to help prevent and deal with cases of under-age play.

Nobody under the age of 16 years may sell lottery tickets.

Register of Small Society Lotteries

Licensing Authorities are required to keep a register of all registered small society lotteries. Copies will be forwarded to the Gambling Commission. The Commission have issued guidance that recommends that the register be made available for public inspection upon request.