

GUIDANCE NOTES - LOTTERIES

GAMBLING ACT 2005

1. Schedule 11, (parts 4 and 5) of the Gambling Act 2005 provides for small lotteries (e.g. a sweepstake or draw, etc.) to be promoted by non-commercial societies for raising money for any of the purposes for which the promoting society is conducted, otherwise than for private gain (These will usually be charitable, sports and other similar purposes). The society on whose behalf the lottery is promoted must be registered with the relevant local authority throughout the period that the lottery is promoted. The relevant local authority is the one for the area in which the principal office of the society is situated.

2. Registration of Society. In order to obtain a registration, the society (an expression which includes a local branch or section of a society organised on a national or area basis) must be one which is established and conducted wholly or mainly for one or more of the following purposes, that is to say:-

- (a) Charitable purposes.
- (b) Enabling participation in, or support of, sport, athletics or cultural activities.
- (c) Any other non-commercial purpose other than that of private gain.

If a society does not put on sale tickets or chances valued at more than £20,000 for any lottery and if it does not put on sale tickets or chances the value of which, when added to those sold or to be sold in all earlier lotteries in the same calendar year, amounts to over £250,000, application for registration should be made to the local authority within whose area the office or head office of the particular society is situated, forms of application are available from the offices of the local authority, and when completed should be returned to the authority, together with the statutory fee of £40. This fee is amended from time to time and it would be advisable to check with the authority as to the amount currently required to be paid on application for registration.

If a society wishes to run lotteries that will exceed the amounts mentioned above, then application for registration must be made to the Gambling Commission. Once registered with the Gambling Commission, the society must promote all further lotteries (of whatever size) held in that or the following three calendar years under the Commission's registration, and will not be able to change to local authority registration during that time.

A local authority *shall* refuse an application for registration if in the period of 5 years ending with the date of the application –

- (a) An operating licence held by the applicant for registration has been revoked under Section 119(1), or
- (b) An application for an operating licence made by the applicant for registration has been refused.

A local authority *may* refuse an application for registration if they think that

- (a) The applicant is not a non-commercial society;
- (b) A person who will or may be connected with the promotion of the lottery convicted of a relevant offence
- (c) Information provided in or with the application for registration is false or misleading.

A local authority may not refuse an application for registration unless they have given the applicant an opportunity to make representations

A local authority may revoke a registration under this part if they think that they would be obliged or permitted to refuse an application for the registration were it being made anew.

Where a local authority revokes a registration under this part they shall specify that the revocation takes effect

- (a) immediately, or
- (b) At the end of such period, beginning with the day of the revocation and not exceeding 2 months, as they may specify

A local authority may not revoke a registration under this part unless they have given the applicant an opportunity to make representations.

An applicant can appeal against refusal to register, or revocation of registration to the Magistrates Court, within 21 days of being notified of the refusal or registration.

A registered society shall pay an annual fee to the registering local authority, which shall be paid within 2 months before the anniversary of the registration. The annual fee is currently £20.00. If a society fails to comply with this requirement, the local authority may cancel the society's registration. At any time the society may apply

for its registration to be cancelled and the local authority must in any such case cancel the registration accordingly.

3. Conduct of Lotteries. The Act legalises only two types of lotteries promoted for raising money to be applied for the purposes of a registered society. The first is a lottery in which the total value of tickets or chances to be sold is £20,000 or less; the second is where the scheme has been registered with the Gambling Commission before any tickets or chances are sold. In the latter case both the total value of tickets or chances sold and the prizes offered may be greater than in the case of an unregistered scheme.

As the purpose of permitted lotteries is to raise money for non-commercial causes, the Act requires that a minimum proportion of the money raised by the lottery is channelled to the goals of the society that promoted the lottery. If a small society lottery does not comply with these limits it will be in breach of the Act's provisions, and consequently be liable for prosecution.

The limits placed on small society lotteries are as follows:

- At least 20% of the lottery proceeds must be applied to the purposes of the society (schedule 11, paragraph 33);
- No single prize may be worth more than £25,000 (schedule 11, paragraph 34);
- Rollovers between lotteries are only permitted where every lottery affected is also a small society lottery promoted by the same society, and the maximum single prize is £25,000 (schedule 11, paragraph 35); and
- Every ticket in the lottery must cost the same and the society must take payment for the ticket fee before entry into the draw is allowed (schedule 11, paragraph 37).

Paragraph 39 of schedule 11 in the Act sets out the information that the promoting society of a small society lottery must send as returns to the licensing authority with which it is registered, **following each lottery held**. This information allows authorities to assess, in particular, whether financial limits are being adhered to and to ensure that any money raised is being applied for the proper purpose. The information that must be submitted is as follows:

- The arrangements for the lottery – specifically the date on which tickets were available for sale or supply, the dates of any draw and the value of prizes, including any donated prizes and any rollover;
- The total proceeds of the lottery;
- The amounts deducted by the promoters of the lottery in providing prizes, including prizes in accordance with any rollovers;

- The amounts deducted by the promoters of the lottery in respect of costs incurred in organising the lottery;
- The amount applied to the purpose for which the promoting society is conducted (this **must** be at least 20% of the 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.

Paragraph 39 of schedule 11 in the Act also requires that returns must:

- Be sent to the licensing authority no later than three months after the date of the lottery draw, or in the case of ‘instant lotteries’ (scratch cards) within three months of the last date on which tickets were on sale; and
- Be signed (electronic signatures are acceptable if the return is sent electronically) by two members of the society, who must be aged eighteen or older, 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 or appointment.

Where societies run more than one lottery in a calendar year, licensing authorities must monitor the cumulative totals of returns to ensure that societies do not breach the annual monetary limit of £250,000 on ticket values.

Licensing authorities must notify the Commission if returns reveal that a society’s lotteries have exceeded the values permissible for small society lotteries, and such notifications should be copied to the society in question. The Commission will contact the society to determine if they are going to apply for a lottery operator’s licence, thereby enabling them to run large society lotteries lawfully, and will inform the licensing authority of the outcome of its exchanges with the society.

Tickets

Lotteries may involve the issuing of physical or virtual tickets to participants (a virtual ticket being non-physical, for example in the form of an email or text message). All tickets must state:

- The name of the promoting society;
- The price of the ticket (which must be the same for all tickets);
- The name and address of the member of the society who is designated as having responsibility at the society for promoting small lotteries, or (if there is one) the external lottery managers; and
- The date of the draw, or information which enables the date to be determined.

However, the requirement to provide this information can be satisfied by providing an opportunity for the participant to retain the message electronically or print it.

The Commission recommends that licensing authorities require all small society lottery operators that they register to maintain written records of any unsold and returned tickets for a period of one year from the date of the lottery draw. The licensing authority is permitted to inspect the records of the lottery for any purpose related to the lottery.

The Act requires that lottery tickets may only be sold by persons over the age of 16 to persons over the age of 16.

With regards to where small society lottery tickets may be sold, the Commission recommends that licensing authorities should apply the following criteria to all small society lottery operators:

- Tickets should not be sold in a street, where street includes any bridge, road, lane, footway, subway, square, court or passage (including passages through enclosed premises such as shopping malls); and
- Tickets may, however, be sold from a kiosk, in a shop or door to door.

This approach is consistent with the operating licence conditions imposed upon operators of large lotteries and local authority lotteries.

Prizes

Prizes awarded in small society lotteries can be either cash or non-monetary. Licensing authorities need to be aware that the value of prizes declared on returns must not exceed the limits on prizes set out by the Act – ie that combined with any expenses incurred with the running of the lottery, such as managers' fees, they must not comprise more than 80% of the total proceeds of the lottery. Donated prizes would not be counted as part of this 80% (as no money would be withdrawn from the proceeds to cover their purchase) but should still be declared on the return following the lottery draw.

The Commission recommends that licensing authorities should advise small society lottery operators to check with local police if they wish to aware items containing alcohol as prizes. This is in order to ensure that licensing law is not breached.

4. External Lottery Managers.

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

However, individuals or firms can and do provide services to a society or local authority lottery without assuming the role of an external lottery manager. When determining whether a third party is a 'service provider' only, or has assumed the role of external lottery manager, the degree of management undertaken by both the promoter and the sub-contractor will be crucial factors. Key indicators will include:

- Who decides how the lottery scheme will operate;
- Who appoints and manages any sub-contractors;
- The banking arrangements for handling the proceeds of the lottery;
- Who sells the tickets and pays the prizes; and
- Who controls promotional aspects of the lottery.

Societies employing an unlicensed external lottery manager commit an offence, and they will need to satisfy themselves that any external lottery manager they employ holds a lottery operator's licence issued by the Commission. This can be achieved by consulting the publicly-accessible register of operating licences held on the Commission's website, at www.gamblingcommission.gov.uk. Licensing authorities should advise societies planning to use or already using an external lottery manager that they should do this, and may also wish to verify that it has been done.

Further information can be found at:-

www.gamblingcommission.gov.uk/client/mediatdetail.asp?mediaid=62.