

Gambling Act 2005

This advice provides a general guide to the main principles and requirements of lotteries law as contained in the Gambling Act 2005 which repeals the Lotteries and Amusements Act 1976

The advice is not comprehensive or a binding interpretation of the law and if necessary, seek independent legal advice to ensure that they conform to the law before proceeding. Separate advice has been issued to local authorities in respect of **small society lotteries** under their jurisdiction.

Small Society Lotteries which will be registered with licensing authorities (local authorities).

The Gambling Act 2005 allows for a general relaxation of lottery law, in particular it:

- relaxes the limits on the percentage of proceeds that may be applied to expenses or prizes;
- allows rollovers of the prize fund from one lottery to another;
- allows for the sale of tickets by an automated process; and
- removes the maximum price for a lottery ticket.

Definition of a lottery

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.

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

- the requirement cannot reasonably be expected to prevent a 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.

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.
- Detailed guidance on exempt lotteries is given at pages 13 to 15.

Small Society Lotteries

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.

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.

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.

Details of registration requirements and procedures will be available from the licensing department of the relevant local authority.

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.

Society and local authority lotteries - proceeds and other monetary limits

A society or local authority lottery must apply a minimum of 20% of the gross proceeds of each lottery directly to the purposes of the society or in the case of a local authority a purpose for which the authority has power to incur expenditure.

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 single lottery is £25,000 in the case of a small society lottery and £25,000 or 10% of the proceeds (gross ticket sales), whichever is greater.

Rollovers are permitted provided the maximum single prize limit is not breached.

Every ticket in the lottery must be the same price and the cost of purchased tickets must be paid to the society before entry into the draw is allowed.

There is no maximum price of a lottery ticket.

Ticket information

All tickets in a lottery 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
- the date of the draw, or the means by which the date may be determined; and

- the fact, that the society is licensed by the local authority

Sale of tickets

To minimise the risk of fraud societies should adopt one or more of the following measures when sending unsolicited mailings of lottery tickets:

- prohibit the unsolicited mailing of lottery tickets to non members of the promoting society;
- limit the value of tickets sent to any one address which is not that of a member of the promoting society to £20; or
- maintain records of tickets distributed and not returned; (the Commission recommends that these records should include details of the address to which the tickets have been sent, their total value and their serial number. Information on unsold tickets not returned by the date of the lottery draw should be retained for at least six months.)

Financial requirements

records must be retained for a minimum of three years from the date of any lottery to which they relate and they must be made available for inspection on request. These records must contain, in respect of each lottery, details of the total proceeds of each lottery, the expenses of the lottery, and the number of sold and unsold tickets.

A qualifying auditor is a person who is eligible for appointment as a company auditor under section 25 of the Companies Act 1989 but is not, in the case of a society:

- a member of the society;
- a partner, officer or employee of such a member; or
- a partnership of which a person falling within (a) or (b) is a partner.

Lottery returns

Every society must submit a return for each lottery which shows the total proceeds and how they have been distributed between prizes and expenses and the amount applied directly to the society's purposes, or purpose for which the local authority has power to incur expenditure, as the case may be.

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.



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

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).

Further information about social responsibility requirements is contained in the Commission's Licence Conditions and Codes of Practice document.

17 Exempt Lotteries

17.1 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.

17.2 This section is intended to provide information on whether proposals for a lottery give rise to the need for either a Commission licence or registration with the local authority.

17.3 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

17.4 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.

The Gambling Act 2005 specifies that:

- the promoters of the lottery may not deduct more than the amount prescribed by the Secretary of State (or Scottish Minister) from the proceeds in respect of the expenses, such as the cost of printing tickets, hire of equipment etc. This is currently £250; (this may increase to £500 following DCMS Consultation);
- not more than £250 can be spent on prizes; (this may increase to £500 following DCMS consultation);
- 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

17.6 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 students halls of residence.