

Gambling Act 2005

Lotteries

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 Gambling Commission.

Incidental non-commercial lotteries

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

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.

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.

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.

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

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

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.

Prize competitions and free prize draws

Prize competitions which are not otherwise betting, gaming or lotteries and free draws are exempt from regulatory control under the Gambling Act.

The Commission has no regulatory responsibilities in respect of competitions and draws, but it will monitor the boundary between them and lotteries. Where the Commission believes that a competition or draw is in fact an illegal unlicensed lottery it will have the power to investigate and if necessary prosecute.

Prize "skill" competitions

Genuine prize competitions based on skill, judgement or knowledge are exempt from statutory control. The effect of section 14(5) of the Act is that a process is not to be treated as relying wholly on chance if it contains a requirement to exercise skill and judgement or knowledge that is reasonably likely to:

- prevent a significant proportion of people who wish to participate from doing so;
- or
- prevent a significant proportion of people who do participate from receiving a prize.

A competition that requires a payment to enter and does not meet the test set out above is likely to be an illegal lottery and the operators of such competitions be liable to prosecution.

Free draws

In order for an arrangement to be a lottery persons must be required to pay to participate. Accordingly a "free" draw is not a lottery and is exempt from statutory control. Schedule 2 of the Act lays down the rules as to what is to be treated as payment for the purposes of distinguishing free draws from lotteries.

The schedule envisages two circumstances.

Firstly, cases where there is only one entry route. Here, 'free' will include any method of communication (post, telephone or other) at a 'normal rate'. 'Normal rate' is defined as "a rate which does not reflect the opportunity to enter a lottery" (paragraph 5 of Schedule 2). There can be no premium over what it would normally cost to use that method of communication.

Secondly, cases where there is a choice of entry route. Here, the arrangement will not be treated as requiring payment if:

- each individual has a choice whether to participate by paying or by sending a communication;
- that communication is either a letter sent by ordinary post or some other method which is neither more expensive nor less convenient than entering by the paid route (there can be no premium over what it would normally cost to use that method of communication);
- the choice must be publicised so that it is likely to come to the attention all potential participants; and
- the system for allocating prizes does not distinguish between using the paid or the free route.

Schedule 2 also makes provision for product promotions. These are permitted where the price of the good or service does not include any element which reflects the opportunity to participate in the promotion (paragraph 2(c) of Schedule 2).

Exempt Lotteries - If a lottery is incidental to a non-commercial event (no sum raised by the organiser by way of fees for entrance