

Factsheet

LOTTERIES

WHAT IS A LOTTERY ?

The Gambling Act 2005 describes two types of Lottery

These are:

1. A **simple lottery** in which
 - 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.
2. A **complex lottery** in which
 - 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 these processes relies wholly on chance.

There are two categories of permitted lotteries.

1. **Licensed**
These are large society lotteries and lotteries run for the benefit of Local Authorities. Both these are regulated by the Gambling Commission.
2. **Exempt** - there are 4 of these
 - (i) Small Society Lotteries which must be registered with the Local Authority
 - (ii) Incidental Non-commercial Lotteries
 - (iii) Private Lotteries
 - (iv) Customer Lotteries

SMALL SOCIETY LOTTERIES

What is a society ?

A society for the purposes of a lottery is one that is established and conducted for:

- charitable purposes
- the purpose of enabling participation, or of supporting, sport, athletics or a cultural activity or
- any other non-commercial purpose other than that of private gain



The proceeds of any lottery must be devoted to those purposes.

It is not permissible to establish a society lottery whose sole purpose is to facilitate lotteries – it must have some other purpose.

What is a small lottery ?

A small lottery is one where the total value of tickets to be put on sale per single lottery must not exceed £20,000 or the aggregate value of tickets to be put on sale for all a society's lotteries in a calendar year must not exceed £250,000.

If the promoter aims to exceed either of these figures the lottery would be classed as 'large' and must be licensed by the Gambling Commission.

Small Society Lotteries must be registered with the Local Authority within whose area their principal office is situated.

What are the limits placed on Small Society Lotteries ?

- At least 20% of the lottery proceeds must be applied to the purposes of the lottery.
- No single prize may be worth more than £25,000.
- Rollovers between lotteries are permitted but only when every lottery affected is also a Small Society Lottery promoted by the same society and where the maximum single prize does not exceed £25,000 or 10% of the gross proceeds.
- Every ticket in the lottery must cost the same and the ticket fee must have been paid to the society before entry into the draw is allowed.

What must be done to comply with the Gambling Act ?

- Every Small Society Lottery must be registered with the relevant Local Authority.
- At least the minimum proportion of the proceeds must be channelled into the beneficial purpose of the society. To do otherwise is unlawful.
- A Return must be made to the Local Authority with whom the lottery is registered.

What information is required on the Return ?

- The date when tickets were made available.
- The date of the draw and the value of prizes (including donated prizes and any rollover).
- The proceeds of the lottery.
- The amounts deducted by the promoter for the provision of prizes and the costs incurred in organising the lottery.
- Details of any costs incurred which were not paid for from the proceeds, the amount of these costs and their source of funding.
- The amount provided to the purpose of the society.

The Return must be sent no later than 3 months from the date of the draw or, in the case of Scratch Cards, no later than 3 months from the last date on which the tickets were on sale.

The Return must be signed by two members of the society who must be aged at least 18 years and have been appointed (in writing) for that purpose.

Electronic signatures are acceptable if the Return is made electronically.

What are the rules concerning tickets ?

Tickets may be physical or virtual (e.g. in the form of an e-mail or text message) and must provide the following information:

- The name of the promoting society.
- The price of the ticket.
- The name and address of the person designated as being the promoter of the lottery or, if there is one, the external lottery manager.
- The date of the draw.

Tickets may only be sold by and to persons over the age of 16 years.

Tickets may be sold from a kiosk, from within a shop or from door to door. They must not be sold in a street.

A written record is to be kept of any unsold or returned tickets. This record to be kept for at least one year from the date of the draw.

What are the rules concerning prizes

Prizes can be either cash or non-monetary. The amount of money deducted from the proceeds to cover prizes must not exceed the limits mentioned earlier.

The amount including the costs of running the lottery must not exceed 80% of the proceeds.

Donated prizes would not be included in this because no money would have been drawn from the proceeds to cover their purchase.

Can the Local Authority refuse an application ?

Basically, YES for any of the following reasons:

- If an operating licence (issued by the Gambling Commission to the applicant) has been revoked or an application for an operating licence has been refused within the past 5 years.
- If the society concerned cannot be deemed non-commercial.
- If a person who will be connected with the promotion of the lottery has been convicted of a 'relevant offence'.
- If information provided in or with the application for registration is found to be false or misleading.

However if we are minded to refuse an application we will inform the applicant of our intention and reasons and give them the opportunity to make representations against refusal. The matter may need to be decided at a formal Hearing of the Council's Licensing Committee.

Any decision made at the Hearing may be appealed through the Magistrates Court.

Offences under the Gambling Act involving Small Society Lotteries

- Misusing the profits of a lottery.
- Purporting to operate a Small Society Lottery when not registered, or failing to make the required returns, or making false or misleading returns.
- Obstructing or failing to cooperate with an authorised person.
- Giving false or misleading information to the Commission or the Licensing Authority (Council).

OTHER EXEMPT LOTTERIES

Incidental Non-commercial Lotteries

An incidental non-commercial lottery is one that is not promoted for private gain and which 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 deemed 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 fund raising social event with an entrance fee would be non-commercial if the profits went to a society but would be commercial if the profits were retained by the organiser.

What are the regulations:

- The promoters of the lottery may not deduct more than £500 from the proceeds in respect of the cost of prizes.
- The promoters of the lottery may not deduct more than £100 from the proceeds in respect of the cost of other expenses, such as the cost of printing tickets or hire of equipment.
- The lottery cannot involve a rollover of prizes from one lottery to another.
- Tickets must only be sold at the premises during the event, and the result must be made public while the event takes place.

Private Lotteries

There are three categories of private lottery that qualify as exempt lotteries:

- **Private society lottery** – these can only be promoted by authorised members of a society, and tickets can only be sold to other members of that same society, or to persons on the society premises. 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. Examples of this type of lottery would include those limited to members of a working men's club or a sports club, where guests at the club would not be permitted to participate.
- **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.
- **Residents' lottery** – the promoter of the lottery must reside on a single set of premises and tickets can only be sold to other residents of the same set of premises (the residency requirement can still be satisfied where the premises are not the sole premises in which a person resides). 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.

It is a requirement of the Act 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, nor can such advertisements be sent to any other premises.

Rollovers are prohibited in private lotteries.

What are the regulations:

- A ticket in a private society lottery may only be sold or supplied by the promoter or another person who is a member of the same society, in a works lottery by the promoter or another person employed on the same premises, or in the case of a residents' lottery by the promoter or another person who resides on the same premises.
- Rights conferred by tickets are not transferable and this should be made clear on the lottery tickets.
- Each ticket must state the name and address of the promoter or promoters of the lottery and the class of persons to whom the promoter(s) can sell or supply tickets. The price paid for each ticket in a private lottery must be the same, must be shown on tickets, and must be paid to the lottery promoter before any person is given a ticket.

Private lotteries cannot be conducted on vessels.

Customer Lotteries

Customer lotteries are run by the occupiers of business premises, who sell tickets only to customers present on their premises.

What are the regulations:

- A ticket in a customer lottery may only be sold or supplied by the promoter or by someone on their behalf.
- No advertisement may be displayed or distributed except on the business premises, or sent to any other premises.
- No ticket may result in the winner receiving a prize worth more than £50.
- No rollovers of prizes between lotteries are permitted.
- Each ticket must state:
 - the name and address of the promoter of the lottery;
 - the class of 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.
- Customer lotteries may not take place within seven days of another customer lottery promoted on the same business premises.

Customer lotteries may not be conducted on vessels.

Free Draws and Prize Competitions

Free draws are exempt from statutory control under the Gambling Act.

Prize 'skill' competitions are distinguished from lotteries in that they depend, in part, on the exercise of skill, judgement or knowledge by participants. The Gambling Act provides that genuine prize competitions must be reasonably likely to:

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

If these barriers to entry and success can be proven, the process will not be deemed to rely wholly upon chance and will, therefore, not be defined as a lottery.