

Gambling Act 2005

Small Society Lottery Guidance Notes



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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.

1. Small Society Lotteries

Societies/clubs who run small society lotteries, that is to say lotteries which are not large lotteries (essentially those in which £20,000 worth of tickets, or less, 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 licensing authority.

The purpose of permitted lotteries, as set out in the Act, is to enable societies to raise money for causes that are non-commercial. The small society lottery must be established and conducted for a charitable purpose or for the purpose of enabling participation or support of: sport, athletics or cultural activities, or for any other non-commercial purpose other than that of private gain. It is inherent in this definition that the society must have been established for one of the permitted purposes and that the proceeds of any lottery must be devoted to those purposes. It is not permissible to establish a society whose sole purpose is to facilitate lotteries - it must have some other purpose.

As a result, the Act requires that a minimum amount of the money raised by the lottery be channelled to the goals of the society that promoted the lottery. If a small society lottery breaches these limits, it will be in breach of the Act and will be liable to prosecution.

2. Application and Registration

A society must be registered with a licensing authority throughout the period during which the lottery is promoted. Parts 4 and 5 of Schedule 11 of the Act set out the requirements for registration of small society lotteries.

The society is required to be registered with the licensing authority in the area where their principal office is located. If the licensing authority considers that the society's principal office is situated in another area it shall inform the society as soon as possible and also notify the other appropriate licensing authority.

The application must be in the form prescribed by regulations and will need to be accompanied by the prescribed fee of £40.00. If you would like a copy of our application form please visit the Licensing pages of the District Council's website at <http://www.eastdevon.gov.uk/licensing>. Alternatively you can telephone our helpline on 01395 517411.

The licensing authority will record details of the society and keep the details on a register. Whilst this does not have to be a public register, the Gambling Commission have recommended that licensing authorities make the register available to the public on request.

As soon as the licensing authority has granted the registration, we will notify the applicant and inform the Commission accordingly.

The Gambling Commission intends to make available on its website a dedicated webpage for the entry of registrations of small society lotteries by licensing authorities. This is to ensure that information can be transferred to the Commission quickly and accurately.

3. What are the limits placed on small society lotteries?

The limits placed on a small society lottery are:

- A small society lottery must apply at least 20% of the lottery proceeds to the purposes of the society (schedule 11, paragraph 33);
- The current limits mean that no single prize may be worth more than £25,000 (whether money or moneys worth or a mixture of both)(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 ticket fee must be paid to the society (i.e. the society must take payment) before entry into the draw is allowed. (Schedule 11, paragraph 37).
- Total value of tickets sold in a single lottery must not be more than £20,000.

4. What are the changes between the Act and the old Lotteries and Amusements Act 1976?

The Act introduces some relaxation of society lottery law and in particular:

- Removes the individual limits on the percentage of proceeds that may be applied to expenses or prizes – although the maximum global amount that can be deducted for expenses and prizes remains at 80%, with a minimum of 20% going to the purposes of the society or to local authority expenditure;
- Allows rollovers of prize funds from one lottery to another promoted by the same society, provided the maximum single prize does not exceed £25,000 or 10% of the gross proceeds;
- Permits the sale of tickets by an automated process; and
- Removes the £2 maximum limit on ticket prices.

5. What must I do to comply with the regulations under the Act?

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 be channelled to the goals of the society that promoted the lottery. If a small society lottery does not conform to these limits then it will be in breach of the Act's provisions and consequently be liable for prosecution (see 3. above for details of limits).

The legislation (Paragraph 39 of Schedule 11 in the Act) sets out the information that the society promoting a small society lottery must send to the licensing authority with which it is registered,

following each lottery held. This information will allow the authority 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 listed below:

- 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 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;
- whether any expenses incurred in connection with the lottery were not paid for by deduction from the proceeds, and, if there were, the amount of expenses and the sources from which they were paid; and
- the amount applied to the purpose for which the promoting society is conducted (this must be at least 20% of the proceeds).

The 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 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 of appointment.

A proforma return for use by societies is available for download from the East Devon District Council website <http://www.eastdevon.gov.uk/licensing> or on request from the Council’s Licensing Team on 01395 517411.

The licensing authority must make the returns submitted by societies in the preceding 18 months available for inspection by the public.

The licensing authority may receive numerous returns from some societies and therefore careful monitoring will take place to ensure that the cumulative totals for each society do not exceed the annual monetary limit.

If after receiving a return, the licensing authority is of the opinion that the ticket sales are shown to be above the prescribed limits, then they must notify the Gambling Commission in writing and should copy the notification to the society concerned. The Commission will then contact the society to establish whether they are going to apply for a lottery operator’s licence which would enable them to run large society lotteries legally. The Commission will inform the licensing authority of the outcome of its exchanges with the society.

6. Can a Lottery registration be refused? If so on what grounds?

Yes, we will refuse an application for any of the following reasons:

- In the previous five years either an operating licence held by the applicant for registration has been revoked or an application for an operating licence by the applicant has been refused;
- The applicant is not a non-commercial society;
- A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence; or
- Information provided in or with the application for registration is false or misleading.

However, we may only refuse an application for registration after the society has had the opportunity to make representations against the refusal. These can be taken at a formal hearing or taken via correspondence. We will inform the society of the reasons why we are minded to refuse registration and will provide it with at least an outline of the evidence on which we have reached that preliminary conclusion – in order to enable it to make any representations it sees fit.

The applicant or society may decide to make an appeal against the decision. They must lodge an appeal within 21 days of receipt of the notice of the decision, and this must be made directly to the local magistrates' court.

7. Revocation

A licensing authority can revoke a society's registration if it thinks that they would have to, or would be entitled to; refuse an application for registration if it were being made at that time of original registration. No revocations can take place unless the society has had an opportunity to make representations as outlined in section 6 above.

8. What are the regulations concerning lottery 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). Schedule 11(36) requires that a purchaser of a small society lottery ticket must receive a document which:

- Identifies the name of the promoting society;
- States the price of the ticket (must be the same for all tickets);
- States 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 manager; and
- State the date of the draw, or the means by which the date may 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 Act requires that lottery tickets may only be sold by persons over the age of 16 to persons over the age of 16.

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

The Gambling Commission recommends that societies maintain written records of unsold and returned tickets for a period of one year. The licensing authority is permitted to inspect the records of the lottery for any purpose related to the lottery.

9. What are the regulations concerning prizes?

Prizes awarded in small society lotteries can be either cash or non-monetary. However the amount of money deducted from the proceeds of the lottery to cover prizes must not exceed the limits set out by the Act - i.e. that combined with any expenses incurred with the running of the lottery, such as manager's fees, 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 (see 5 above).

10. What are the offences applicable to Lotteries under the Act?

| Section of the Act | Offence |
|--------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| s. 258 | Promoting a non-exempt lottery without a licence |
| s. 259 | Facilitating a non-exempt lottery without a licence |
| s. 260 | Misusing the profits of a lottery |
| s. 261 | Misusing the profits of an exempt lottery |
| s. 262 | Purporting to operate a small society lottery when not registered, or failing to make the required, or making false or misleading, returns in respect of such lotteries. |
| s. 326 | Without reasonable excuse, obstructing or failing to co-operate with an authorised person exercising his/her powers |
| s. 342 | Without reasonable excuse, giving false or misleading information to the Commission or a licensing authority. |

11. Exempt Lotteries

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 provided they are registered with the Licensing Authority which in East Devon is the District Council.

Apart from small society lotteries there are three types of exempt lottery:

- Incidental non-commercial lotteries
- Private lotteries
- Customer lotteries.

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 for this type of lottery:

- The promoters of the lottery may not deduct more than £100 from the proceeds in respect of the expenses, such as the cost of printing tickets, hire of equipment etc.;
- Not more than £500 can be spent on prizes;
- 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 Place 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.

12. Fees

The initial application fee to accompany an application for registration is £40. This may be paid by cheque or debit card.

Once registered, the society must pay an annual fee of £20 to the registering licensing authority. This fee must be paid within the period of two months which ends immediately before each anniversary of the registration. If the registered society fails to pay the annual fee, the licensing authority may cancel the society's registration.

For those societies registered previously under the Lotteries and Amusements Act 1976 the first Annual Fee must be paid between 1 November 2007 and 31 December 2007. Subsequent Annual Fees must be paid between 1 November and 31st December in each calendar year.

For those societies not registered previously under the Lotteries and Amusements Act 1976 the Annual Fee must be paid during the period of two months ending on the anniversary of the registration.

Failure to pay the renewal fee is likely to result in the Society's registration being cancelled meaning that any lottery activity will be illegal unless and until a new application under the Gambling Act 2005 has been granted. It is the Society's responsibility to ensure the annual fee is paid on time. Once a registration has been cancelled it cannot be reactivated and if continued registration is required a fresh application would have to be made and a new application fee of £40 paid.

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