

Organising small lotteries

Advice on lotteries that do not require a licence or registration
April 2016

1 Introduction

- 1.1** Lotteries are illegal unless they fall into one of the categories specifically permitted by law. Apart from the National Lottery (which has its own dedicated legislation), the relevant law is contained in the Gambling Act 2005 (the Act). The Act creates eight categories of permitted lottery. Three of these categories (small and large society lotteries and local authority lotteries) require either a licence from the Gambling Commission (the Commission) or registration with a licensing authority. Advice on these can be found in a separate document called *Promoting society and local authority lotteries*.
- 1.2** This document provides a general guide to the main provisions and requirements of the law relating to the only other types of permitted lotteries. Such lotteries are intended to be small-scale and as such they do not require either a licence or registration. These are customer lotteries; incidental lotteries (that are incidental to some other event); and three types of permitted private lottery (private society lotteries; work lotteries; and residents' lotteries). Each of these is described separately below.
- 1.3** This advice is not comprehensive or a binding interpretation of the law and anyone intending to run such a lottery should refer to the Act and if necessary seek independent legal advice to ensure that they conform to the law before proceeding.

2 Definition of a lottery

- 2.1** In simple terms a lottery is a kind of gambling that has three essential elements:
- payment is required to participate
 - one or more prizes are awarded
 - those prizes are awarded by chance.

This is set out more formally in the Act which defines two types of lottery, a simple lottery and a complex lottery.

- 2.2** An arrangement is a simple lottery if:
- people 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 people in a class
 - the prizes are allocated by a process which relies wholly on chance.
- 2.3** An arrangement is a complex lottery if:
- people 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 people in a class
 - the prizes are allocated by a series of processes
 - the first of those processes relies wholly on chance.

3 Types of lotteries that do not require a licence or registration

3.1 These are:

- (a) incidental lotteries – must be held at an event (either commercial or non-commercial), eg a charity dinner, exhibition, festival, fete.
- (b) private lotteries
 - private society lotteries – only members of the society and those on the 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
- (c) customer lotteries – only customers at the business premises may participate.

4 Incidental lotteries

4.1 An incidental lottery is one that is incidental to a commercial or non-commercial event. The lottery must be promoted wholly for a purpose other than that of private gain ie the lottery can only be promoted for charitable or other 'good cause' purposes - and cannot be run for private or commercial gain. The event may last more than a single day.

4.2 Incidental lotteries must comply with conditions set out in Schedule 11 of the Act and related Statutory Instruments¹ and includes the following:

- the promoters of the lottery may not deduct more than £100 from the proceeds in respect of the expenses incurred in organising the lottery, such as the cost of printing tickets, hire of equipment etc
- no more than £500 can be deducted from the proceeds for prizes. Other prizes may be donated to the lottery and there is no maximum limit on the value of donated prizes
- the lottery cannot involve a rollover of prizes from one lottery to another
- tickets can only be sold at the location and during the event. The results of the lottery can be drawn at the event or after it has finished. It is recommended that the organisers of the lottery make it clear to participants when the result of the lottery will be decided.

5 Private lotteries

5.1 There are three types of private lotteries permitted by the Act:

- private society lottery
- work lottery
- residents' lottery.

5.2 Private lotteries must comply with conditions set out in Schedule 11 of the Act and related Statutory Instruments². This includes 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, nor may it be sent to any other premises.

5.3 Private lotteries must also comply with conditions 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
- the price paid for each ticket in a private lottery must be the same and must be paid to the promoters of the lottery before anyone is given a ticket
- the arrangements for private lotteries must not include a rollover of prizes from one lottery to another.

¹ The Gambling Act 2005 (Incidental Lotteries) Regulations 2016, No. 239 and The Legislative Reform (Exempt Lotteries) Order 2016 (S.I. 2016/124)

² The Legislative Reform (Exempt Lotteries) Order 2016 (S.I. 2016/124)

- 5.4** Private lotteries cannot be conducted on vessels. The Act's definition of a vessel (section 353(1)) is:
- anything (other than a seaplane or amphibious vehicle), designed or adapted for navigation or other use in, on or over water
 - a hovercraft
 - anything, or any part of any place, situated on or in water.

Private society lotteries

- 5.5** A lottery is a private society lottery if it is promoted only by authorised members of a society and each person to whom a ticket is sold either is a member of the society or on premises wholly or mainly used for the administration of the society or the conduct of its affairs. The society can be any group or society, provided it is not established and conducted for purposes connected to gambling; for example private members clubs can organise such lotteries.

This type of lottery can be organised in two ways:

- a. promoted and raise proceeds for the purposes for which the society is conducted; or,
- b. promoted wholly for a purpose other than that of private or commercial gain (such as to raise funds to support a charity or 'good cause').

Work lotteries

- 5.6** Work lotteries can only be promoted by someone who works on a single set of premises and each person to whom a ticket is sold or supplied also works on the same work premises (see paragraph 5.10). This type of lottery can be organised in two ways:
- a. by ensuring that no profits are made (see paragraph 8 below). All the proceeds (gross ticket sales) must be used for prizes or reasonable expenses incurred in organising the lottery; or,
 - b. by promoting it wholly for a purpose other than that of private or commercial gain (such as to raise funds to support a charity or 'good cause').
- 5.7** An arrangement such as a sweepstake held in an office is an example of a work lottery. This could either be organised, simply for fun (type a), where no profits are made and all the proceeds are used for reasonable expenses and prizes. Or to raise funds for a good cause (type b) where, as well as funding reasonable expenses and prizes, the profits of the lottery must be given to the good cause.

Residents' lotteries

- 5.8** A lottery is a residents' lottery if the promoters live in a single set of premises (the residential premises) and each person to whom a ticket is sold or supplied also lives in the same residential premises (see paragraph 5.10). This type of lottery can be organised in two ways:
- a. by ensuring that no profits are made (see paragraph 8 below). All the proceeds (gross ticket sales) must be used for prizes or reasonable expenses incurred in organising the lottery; or,
 - b. by promoting it wholly for a purpose other than that of private or commercial gain (such as to raise funds to support a charity or 'good cause').
- 5.9** An arrangement such as a sweepstake held in a residential care home is an example of a residents' lottery. This could either be organised, simply for fun (type a), where no profits are made and all the proceeds are used for reasonable expenses and prizes. Or to raise funds for a good cause (type b) where, as well as funding reasonable expenses and prizes, the profits of the lottery must be given to the good cause.

Definition of ‘single set of premises’

5.10 The Commission is of the view that the wording ‘single set of premises’ was designed to include the situation where there might be multiple buildings on a single site, such as a hospital site or the many buildings which may exist within larger corporations. The residency requirement can still be satisfied where the premises are not the sole premises in which a person resides, for example student halls of residence or a residential care home with many buildings. The term does not include multiple sites; for example a company with premises in more than one location would not be able to sell tickets for a single private lottery across all of their premises.

6 Customer lotteries

6.1 A customer lottery is a lottery promoted by a person (the promoter) who occupies premises in Great Britain in the course of business. No ticket in the lottery is sold or supplied to a person except at a time when he is on the business premises as a customer of the promoter.

6.2 The Act requires that in customer lotteries:

- the lottery must be arranged to ensure that no profit is made (see section 8 below)
- the price payable for each ticket must be the same, must be shown on the ticket and must be paid to the promoter of the lottery before any person is given the ticket or any right in respect of membership of the class among whom prizes are allocated
- tickets may be sold or supplied only by or on behalf of the promoter
- tickets must not be sold to children under 16 years of age
- no advertisement may be displayed or distributed except on the business premises nor may it be 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
- the lottery cannot involve a rollover of prizes from one lottery to another.

Each ticket in a customer lottery must state:

- the name and address of the promoter of the lottery
- the price of the ticket
- the people 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 non-transferable.

6.3 Customer lotteries cannot be conducted on a vessel (see paragraph 5.4 for the definition of a vessel under the Act.)

7 Premises licences and lotteries

7.1 Under section 167 of the Act, the Secretary of State and Scottish Ministers have made regulations setting mandatory and default conditions that are attached to gambling premises licences³. These include a mandatory condition that specifies premises licensed for gambling in England and Wales may not be used for the sale of tickets in a private society lottery, work lottery or a customer lottery; and that in Scotland they may not be used for the sale of tickets in a private society or work lottery. For example, a casino operator holding a premises licence will not be permitted to hold a work lottery for its staff on those premises. It also specifies that National Lottery products may not be sold on such premises.

³ Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 (SI 2007/1409) and Gambling Act 2005 (Mandatory and Default Conditions) (Scotland) Regulations 2007 (SSI 2007/266)

8 Proceeds and profits

8.1 Section 254 of the Act clarifies what is meant by ‘proceeds’ and ‘profits’ of a lottery.

8.2 ‘Proceeds’ are the total amount paid for tickets before any deductions.

8.3 ‘Profits’ are the amount of proceeds less any deductions for prizes, rollovers, and reasonable expenses incurred in connection with running the lottery.

9 Misusing profits of lotteries

9.1 Incidental lotteries and private lotteries can all be used to raise funds (profit) for non-commercial purposes (such as a charity or a club). Under section 261 of the Act it is an offence to use or permit profits from these types of lottery to be used for any purpose other than the purposes for which the lottery was permitted or promoted.

Gambling Commission April 2016

Keeping gambling fair and safe for all

For further information or to register your interest in the Commission please visit our website at:
www.gamblingcommission.gov.uk

Gambling Commission
Victoria Square House
Victoria Square
Birmingham B2 4BP

T 0121 230 6666 F 0121 230 6720 E info@gamblingcommission.gov.uk

ADV 16/02