



**HYNDBURN**

making Hyndburn a better place to live, work and visit

## **GAMBLING ACT 2005 SMALL SOCIETY LOTTERY GUIDANCE NOTES**

### **1. What is a Lottery?**

In essence a lottery is an arrangement which satisfies the statutory description of *either* a **simple lottery** or a **complex lottery**, as per section 14 of the Gambling Act 2005 (“the Act”).

An arrangement is a **simple lottery** if:

- 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.

An arrangement is a **complex lottery** if:

- persons are required to pay to participate;
- one or more prizes are allocated to one or more members of class;
- the prizes are allocated by a series of processes; and
- the first of those processes relies wholly on chance.

Arrangements that fulfil all of the criteria of either of the above categories are defined as a lottery under the Act.

## 2. What is a Society?

Section 19 of the Act defines a society as such if it is established and conducted:

- for charitable purposes;
- for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity; or
- 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.

## 3. What is a Small Lottery under the Act?

The Act defines a small society lottery with the definition breaking down into two distinct areas:

- *society status* – the society in question must be ‘non-commercial’ (per “Definition of Society” as outlined at **2.** above).
- *size of lottery* - the total value of tickets to be put on sale per single lottery must be £20,000 or less, or the aggregate value of tickets to be put on sale for all their lotteries in a calendar year must not exceed £250,000. If the operator plans to exceed either of these values then they will be classed as a large lottery operator, and must be licensed with the Gambling Commission (“the Commission”) instead.

The promoting society of a small society lottery must, throughout the period during which the lottery is promoted, be registered with a licensing authority. The licensing authority with which a small society lottery is required to register must be in the area where their principal office is located. If a licensing authority believes that a society’s principal office is situated in another area, it should inform the society and the other authority as soon as possible.

#### **4. What are the limits placed on small society lotteries?**

The limits are as follows:

- at least 20% of the lottery proceeds must be applied to the purposes of the society (schedule 11, paragraph 33);
- no single prize may be worth more than £25,000 (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).

#### **5. 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.

#### **6. 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 is channelled to the goals of the society that promoted the lottery. If a small society lottery does not acquiesce with these limits then it will be in breach

of the Act's provisions, and consequently be liable for prosecution (see **4.** above for details of limits).

Paragraph 39 of Schedule 11 in the Act sets out the information that the promoting society of a small society lottery must send as returns to the licensing authority with which it is registered, **following each lottery held**. This information will allow us 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 as follows:

- 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 so, 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).

Paragraph 39 of the Act also requires that returns must:

- be sent to us 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 (electronic signatures are acceptable if the return is sent electronically) 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.

## **7. Can you refuse a Lottery registration? If so on what grounds?**

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

- an operating licence held by the applicant for registration has been revoked or an application for an operating licence made by the applicant for registration has been refused, within the past 5 years.
- the society in question cannot be deemed non-commercial.
- a person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence.
- information provided in or with the application for registration is found to be 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.

## **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;
- the price of the ticket (must be the same for all tickets);
- 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
- the date of the draw, or enables the date 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.

### **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, they 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 6. above).

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

<b>Section of the Act</b>	<b>Offence</b>
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. What are 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

fundraising 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.

For this type of lottery, part one of schedule 11 of the Act, and regulations laid by the regulations, specify the following:

- 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.

**12. Do I have to pay an annual fee to stay registered?**

Yes. It must be paid within the period of two months which ends immediately before each anniversary of the registration.