



Lotteries and the Gambling Act 2005 (the Act)

This guidance does not constitute legal advice. It is a general description that is not intended to be definitive in particular situations. If you have any queries over and above this guidance then you should seek advice from a solicitor. Please see the general *exclusion of liability*.

Lotteries

There are two types of lottery, simple and complex:

(1) A simple lottery is one where:

- Persons are required to pay in order to participate in the arrangement;
- In the course of the arrangement one or more prizes are allocated to one or more members of a class;
- The prizes are allocated by a process which relies wholly on chance.

(2) A complex lottery is where:

- Persons are required to pay in order to participate in the arrangement;
- In the course of the arrangement one or more prizes are allocated to one or more members of a class;
- The prizes are allocated by more than one process, the first of which relies wholly on chance.

An example of a complex lottery is a television phone-in quiz. Callers are picked at random by a computer to go through to the studio to try and answer a question. The initial element of chance qualifies the arrangement as a lottery irrespective of the skill later required.

A lottery is a form of gambling and promotion or facilitation is unlawful unless it falls within one or more of the authorisations or exemptions provided by the Act which are:

- A lottery run in accordance with an operating licence issued by the Gambling Commission; or
- An exempt lottery.

Exempt lotteries are:

- Small society lotteries for which registration is required with the Moray Licensing Board;
- Incidental non commercial lotteries;
- Private lotteries;
- Customer lotteries.

Therefore for any lottery to be exempt it must fall under one of the exempt categories and comply with the conditions of that exemption. If it does not then promoters must approach the Gambling Commission for an operating licence or they will commit an offence. Taking the exemptions in turn:

Small Society Lotteries

Exclusion of Liability - In no event does the Moray Licensing Board or the Moray Council or their employees or agents offer legal advice or accept liability of any description, including liability for negligence for any damages or losses (including, without limitation, loss of business, revenue, profits, or consequential loss) whatsoever resulting howsoever including but not limited to the use of or inability to use this information. We accept no responsibility for keeping the information in these pages up to date or liability for any failure to do so. **If you are in any doubt you must seek advice from a solicitor.**

To be exempt from the requirement to obtain an operating licence from the Gambling Commission, a small society lottery must fulfil the following conditions:

1. It must be promoted wholly on behalf of a non-commercial society i.e. one established and conducted for charitable purposes or purposes enabling participation in or support of sport or culture or any non-commercial purpose other than private gain;
2. It must be small i.e. proceeds of less than £20000.00 or proceeds of all lotteries in a calendar year must be below £250000.00;
3. It must be promoted for the purposes of the society. No private gain;
4. At least 20% of the proceeds go to the society's purposes AND a maximum prize of £25000.00;
5. Requirements relating to tickets and payment;
6. It must be registered with the Moray Licensing Board. Registration is on a standard form available from the Moray Council's website or by request from the Council offices;
7. Both a registration fee and an annual fee are payable and are subject to change so operators should satisfy themselves as to the fee at any particular time;*
8. Returns are required to the Moray Licensing Board within 3 months of the draw.

**The fees are set by Regulations and so are subject to change. As from the 24th September 2007 the fees were set as follows: the first registration fee is £40 and the annual fee £20. The Board will endeavour to publish the fees on the website.*

Incidental Non-Commercial Lotteries

This lottery must be incidental to a non-commercial event. The common example would be a raffle at a fete. There are no registration or licensing requirements as long as the following conditions of exemption are adhered to:

1. The event must be non-commercial i.e. where the money raised by organisers goes entirely to purposes that are not for private gain (sums raised by other persons may be appropriated for private gain e.g. refreshments provided at the event by an independent third party);
2. There must not be a rollover;
3. Promoters cannot deduct more than the prescribed sums in respect of costs of prizes or costs incurred in organising the lottery. The sums are prescribed within Regulations and so may be subject to change. Organisers should satisfy themselves as to the limits at any particular time;*
4. Ticket may only be sold or supplied on the premises where the event is taking place and only at the time when the event is taking place;
5. The draw must take place and the result announced while the event is still taking place.

**(As from the 1st September 2007: the maximum amount that may be deducted from the proceeds of an incidental lottery for expenses of organising the lottery is set at £100; and the maximum sum that may be deducted by the promoters in respect of the cost of prizes is set at £500. This may be subject to change.)*

NB. Please note that gaming for good causes may also qualify to be run under the non commercial gaming provisions in Part 14 of the Act, which may be more beneficial to organisers.

Private Lotteries

1. This category is sub-divided into 3 and again there are no registration or licensing requirements as long as all the general conditions of exemption as well as the conditions for exemption for each sub category are adhered to:

1.1. Private Society lotteries is a lottery where:

- 1.1.1. It is promoted only by authorised (in writing) members of the society (any group or society established and conducted for purposes other than gambling);
- 1.1.2. Each person to whom a ticket is sold must be a member of the society or on premises wholly or mainly used for the conduct of society affairs;

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- 1.1.3. It must be promoted only for society purposes;
- 1.1.4. There can be no advertisement of the lottery displayed or distributed except on society premises.
- 1.2. **Work** lotteries are where:
 - 1.2.1. The promoters work on a single set of premises and each person to whom a ticket is sold also works on the work premises;
 - 1.2.2. There can be no profit;
 - 1.2.3. There can be no advertisement displayed or distributed other than on work premises.
- 1.3. **Residents'** lotteries are where:
 - 1.3.1. The promoters live on a single set of premises and each person to whom a ticket is sold also live on the residential premises;
 - 1.3.2. There can be no profit;
 - 1.3.3. There can be no advertisement displayed or distributed other than on work premises.
- 2. For ALL private lotteries the following conditions also apply:
 - 2.1. Each ticket must be a document, must be sold or supplied only by promoters and cannot be posted;
 - 2.2. Tickets cannot be transferable;
 - 2.3. Each ticket must state the name and address of each promoter, specify the class of persons to whom tickets can be supplied and must explain that rights are not transferable;
 - 2.4. The price paid for each ticket must be the same, must be shown on the ticket and must be paid before the ticket is given;
 - 2.5. There cannot be a rollover;
 - 2.6. The only permitted deductions allowed are for printing and stationary and the money raised can be used totally for prizes or divided between prizes and the society's funds.

Customer Lotteries

A customer lottery is one run by proprietors of business premises who sell tickets only to customers present on their premises e.g. a supermarket holding a hamper raffle. There are no registration or licensing requirements as long as the following conditions for exemption are adhered to:

- 1. Each ticket must be a document, must be sold or supplied only by promoters and cannot be posted;
- 2. No profit can be made;
- 3. No advert can be displayed or distributed except on the business premises;
- 4. No single ticket can win a prize worth more than £50;
- 5. Each ticket must state the name and address of each promoter, specify the class of persons to whom tickets can be supplied and must explain that rights are not transferable;
- 6. The price paid for each ticket must be the same, must be shown on the ticket and must be paid before the ticket is given;
- 7. There cannot be a rollover;
- 8. There cannot be a draw within 7 days of a previous draw or customer lottery.

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