

LOTTERIES AND AMUSEMENTS ACT 1976

EXPLANATORY NOTES FOR THE GUIDANCE OF LOCAL SOCIETIES

1. Section 5 of the Lotteries and Amusements Act 1976 (as amended by the National Lottery etc. Act 1993) authorises the conduct of small lotteries (e.g. a sweepstake or draw, etc.) by societies for raising money for charitable, sports and other similar purposes, otherwise than for private gain. The society on whose behalf the lottery is promoted must first be registered for the purposes of the said section 5 with the appropriate authority, and the lottery must be conducted in a manner complying with the Act.
2. **Registration of Society.** In order to obtain the benefits of the Act, the society (an expression which includes a local branch or section of a society organised on a national or area basis) must be one which is established and conducted wholly or mainly for one or more of the following purposes, that is to say:-
 - (a) charitable purposes;
 - (b) participation in or support of athletic sports or games or cultural activities;
 - (c) purposes which, not being described in paragraph (a) or (b) above, are neither purposes of private gain nor purposes of any commercial undertaking.

If a society does not put on sale tickets or chances valued at more than £20,000 for any lottery and if it does not put on sale tickets or chances the value of which, when added to those sold or to be sold in all earlier lotteries in the same calendar year, amounts to over £250,000, application for registration should be made to the local authority within whose area the office or the head office of the particular society is situated; forms of application are available from the offices of the local authority, and when completed should be returned to the authority, together with the statutory fee of £35. This fee is amended from time to time and it would be advisable to check with the authority as to the amount currently required to be paid on application for registration.

If a society wishes to run lotteries which will exceed the amounts mentioned above, then application for registration must be made to the Gaming Board for Great Britain. Once registered with the Gaming Board, the society must promote all further lotteries (of whatever size) held in that or the following three calendar years under the Board's registration, and will not be able to change to local authority registration during that time.

In the case of registration by the local authority, a certificate of registration will be issued by the authority to the society, unless they consider that registration should be refused because:-

- (1) the society does not appear to fall within the provisions of section 5 of the Act; or
- (2) the Gaming Board for Great Britain have refused or revoked the registration of the society within the last five years (except where such refusal was on the grounds of non-payment of fees); or
- (3) a person or persons connected with a lottery promoted or proposed to be promoted on behalf of the society has been convicted of an offence being -
 - (a) an offence under section 2 or 13 of the Lotteries and Amusements Act 1976; or
 - (b) an offence under paragraph 14 of Schedule 1, paragraph 14 of Schedule 1A, paragraph 8 or 9 of Schedule 2, or paragraph 12 of Schedule 2A to that Act, or paragraph 12 of Schedule 7 to the Betting, Gaming and Lotteries Act 1963; or
 - (c) an offence under section 42 or 45 of the 1963 Act; or
 - (d) an offence involving fraud or dishonesty' or
- (4) information given by the society in or in connection with its application for registration was false in a material particular.

If the authority propose to refuse to register the society they must first give the society an opportunity of being heard, and eventually notify their decision to the society. If registration is finally refused the society has a right to appeal to the Crown Court, except where such refusal is for the reason set out in paragraph (2) above.

Even if the society is duly registered, the local authority may subsequently decide that the registration should be revoked if the society no longer falls within the provisions of section 5 of the Act, or if there is a conviction of any person for an offence as mentioned above. In such a case the procedure applicable to a refusal of registration then applies.

Every registered society must pay to the local authority on the first day of January in every year, the statutory fee of £17.50. At any time, however, the society may apply for its registration to be cancelled and the local authority must in any such case cancel the registration accordingly.

3. **Conduct of Lotteries.** The Act legalises only two types of lotteries promoted for raising money to be applied for the purposes of a registered society. The first is a lottery in which the total value of tickets or chances to be sold is £20,000 or less; the second is where the scheme has been registered with the Gaming Board before any tickets or chances are sold. In the latter case both the total value of tickets or chances sold and the prizes offered may be greater than in the case of an unregistered scheme.

Conditions relating to societies' lotteries:

The following conditions apply in cases of lotteries where the total value of tickets or chances to be sold is £20,000 or less:

- (a) the maximum percentage of the proceeds of a society's lottery that may be appropriated for the provision of prizes is 55%;
- (b) the amount of the proceeds appropriated on account of expenses (exclusive of prizes) may not exceed the expenses actually incurred or 35% of the proceeds, whichever is the less

unless it can be shown that the proceeds fell short of the sum reasonably estimated.

The combined amounts for the cost of prizes and expenses taken from the proceeds must not exceed 80%.

Societies should seek guidance from the Gaming Board as to the prizes which may be offered under their registration. A booklet is issued by the Board for this purpose.

The following conditions apply to both types of lotteries:-

- (a) the promoter of the lottery must be a member of the society authorised in writing by the governing body of the society to act as such;
- (b) the advice of the Home Office and the Gaming Board is that, to prevent confusion, no two lotteries should have the same date; however, this is not prevented by law and when the date of two or more lotteries promoted on behalf of one society is the same they must be distinguished by having different serial numbers printed on the tickets;
- (c) every ticket distributed or sold must specify the name of the society, the name and address of the promoter and the date of the lottery. Where reference is made in any ticket to a person who, for reward, is acting or assisting, or has acted or assisted, in the promotion of the lottery, the size of the lettering used in such reference must not exceed the size of the smallest lettering used to specify the name of the society and any such reference must not be given greater prominence than in the society's name;
- (d) every ticket distributed or sold in a lottery must also specify that the society is registered either with the local authority, in which case the name of the authority must be included, or with the Gaming Board for Great Britain;
- (e) no ticket or chance may be sold by or to any person under the age of sixteen years;
- (f) no ticket or chance may be sold by means of any machine, or to a person in any street (except by a person present in a kiosk or shop premises having no space for the accommodation of customers) and no ticket or chance may be sold in any licensed betting office;
- (g) no ticket or chance may be sold at a price exceeding £2.00. The price of every ticket distributed or sold must be the same and must be stated on the ticket;
- (h) no prize may be offered on such terms that the winning of a prize depends on the purchase of more than one ticket or chance in the lottery, unless the price of a number of chances required to win a prize does not exceed £2.00;
- (i) no person may be admitted to participate in a lottery in respect of a ticket or chance except after payment to the society of the whole price of a ticket or chance, and no money received for or on account of a ticket or chance may in any circumstances be returned;
- (j) no payment other than the price of a ticket or chance may be required of a person as a condition of his admission to participate in a society's lottery;
- (k) the whole proceeds after deducting sums lawfully appropriated on account of expenses or for the provision of prizes, must be applied to the purposes of the society such as are described in paragraph 2 above;
- (l) no person supplying lottery tickets may be requested or required to supply them in such manner, or so marked, as to enable a winning ticket (i.e. a ticket entitling the holder to claim a prize) to be identified as such before it is sold. This regulation applies to tickets (commonly known as "instant lottery" tickets) which are manufactured or designed so as to conceal such words, figures, symbols, etc., as would, if revealed, indicate whether a ticket is a winning ticket or not;
- (m) prizes may be donated to a lottery at reduced cost or free, but the value of any such prizes must not exceed £25,000;

- (n) a society must approve a scheme for the promotion of any lottery and such scheme or modification to it must comply with the provisions of Schedule 2 to the Lotteries Regulations 1993 (S.I. 1993, No. 3223).
- (o) the amount of the proceeds of a society's lottery appropriated for the provision of prizes and expenses together must not exceed 80%.

Any breach of these conditions constitutes an offence for which the promoter (unless the contravention took place without his or her knowledge) and any person who is a party thereto will be liable to prosecution, in accordance with the provisions of section 13 of the Act.

4. **Lottery Managers.** It is permissible for a society to employ an external lottery manager or managers to undertake the running of a lottery on its behalf. Section 9A of the Act specifies the categories of persons who may lawfully manage a society's lottery, as follows:-

- (a) a member of the society
- (b) an employee of the society
- (c) a company that is wholly owned by the society
- (d) a person certified as a lottery manager by the Gaming Board under Schedule 2A to the Act
- (e) an employee of a certificated lottery manager acting in the course of his employment.

Applications for certification of lottery managers should be made to the Gaming Board.

5. **Returns.** When a lottery has been held, the promoter must send a return relating thereto to the local authority, not later than the end of the third month after the date of the lottery. Forms of return are available on request from the offices of the local authority and must comply with the terms of Schedule 1 to the Act. The return must be certified by two members of the society (other than the promoter) being persons of full age appointed **in writing** by the governing body of the society. Failure to send a return in accordance with the statutory provisions constitutes an offence, and any person who knowingly gives or certifies any false information in such a return also renders himself liable to prosecution.

The local authority may require that a society allows them to inspect and take copies of any documents or of any information kept otherwise than in documentary form (e.g. on a computer), relating to any lottery promoted on behalf of the society. The authority may also require the society to give them such assistance as they may require to enable them to inspect and check the operation of any computer and any associated apparatus or material that is or has been used in connection with the keeping of information.

6. **Pool Betting.** Pool betting duty payable (if any) in respect of a lottery may be included in the sums which may be deducted from the proceeds before they are applied to the purposes of the society. This duty is payable on all bets made by way of "pool betting", that is, bets which are not at fixed odds and in particular those where a number of persons make bets -
- (a) on terms that the winnings of such of those persons as are winners shall be, or be a share of, or be determined by reference to, the stake money paid or agreed to be paid by those persons, whether the bets are made by means of a totalisator, or by filling up and returning coupons or other printed or written forms, or otherwise howsoever; or
 - (b) on terms that the winnings of such of those persons as are winners shall be, or shall include, an amount (not determined by reference to the stake money paid or agreed to be paid by those persons) which is divisible in any proportions among such of those persons as are winners; or
 - (c) on the basis that the winners or their winnings shall, to any extent, be at the discretion of the promoter or some other person.