

Lotteries and gaming – Scouting and the law



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The general rule is that all lotteries and most forms of gambling are unlawful unless conducted as specified in various Statute(s). Lotteries include any kind of draw or raffle.

Gaming is the legal word covering all sorts of gambling, betting and wagering including such things as bingo, whist drives and some side shows commonly found at fetes, etc.

The Scout Association policy is that modest lotteries and gaming may be run for fundraising purpose provided they are both legal and acceptable to the local community in which they are to take place. As specified in POR before a Group plans such an event the approval of the District Commissioner and District Chairman must be given.

1. The Legislation

- The Gambling Act 2005 ("the Act") gives effect to the Government's proposals for reform of the law on gambling. The Act contains a new regulatory system to govern the provision of all gambling in Great Britain, other than the National Lottery and spread betting. The Act received royal assent on 7th April 2005.
- The Act repeals the Betting, Gaming and Lotteries Act 1963 (c.2), the Gaming Act 1968 (c.65) and the Lotteries and Amusements Act 1976 (c. 32).
- The Act's effect in Scotland is the same as in England, with the exception of a few sections. It is suggested that all activities are reviewed against the Gambling Commission website to ensure compliance with the relevant piece of legislation for your area.
- In Northern Ireland, the relevant legislation is:
 - Betting, Gaming, Lotteries and Amusements (NI) Order 1994; and

- Lotteries Regulations (NI) 1994.

2. What is a Lottery?

The Act defines a lottery as an arrangement whereby individuals pay for an opportunity to win a prize and the prize-winner is selected entirely by chance (or, where the selection process involves more than one stage, the first stage relies wholly on chance).

It is unlawful for a Group/District/Country to run a lottery unless it has the appropriate licences from the Gambling Commission or has registered with the local authority (as required) or the lottery falls into one of the exempt categories of lottery set out in the Act.

Are there different types of lottery?

Simply put, yes. They are:

2.1 Local Lotteries – Local Authority Scheme not applicable to The Scout Movement.

Local lotteries are lotteries promoted by a local authority and do not concern us.

2.2 Small Lotteries – Incidental, non-commercial lotteries, held during fundraising events such as draws or raffles.

This covers lotteries held, for example, during fundraising events. To fall within the exemption:

- The lottery must be promoted for a purpose other than private gain;
- Tickets must only be sold during the event, on the premises where the event is taking place;
- Although there is no restriction on the price of tickets, they must be sold at the same price and cannot be sold on an offer i.e. three for the price of two;
- The draw must take place during the event;
- The amount deducted from ticket sales must be no more than:

- for costs £100
- for prizes, £500
- with the remaining sum going to the good causes.

These amounts may change from time to time. If you are planning on running an event of this type you should check the current levels with the Gambling Commission.

2.3 Private Lotteries – These are lotteries in which the sale of tickets is confined to members of a ‘society’. Each Group, District and County is a separate ‘society’ for this purpose.

There are different types of private lottery. Residents’ lotteries and work lotteries are often sweepstake-type affairs, which only people who live in or work on the relevant premises can enter, and in which all money collected must go to the winner. They are of little relevance to charity fundraising.

Private society lotteries are more relevant. An organisation (which, in this case, includes any organisation other than one established for purposes connected to gambling) can promote a private society lottery to raise funds for any of its purposes, but the lottery must only be promoted on the organisation’s premises and tickets must be sold only to the organisation’s members and those who work on its premises.

- The promoter must be a member of the organisation and act under its written authorisation.

Tickets for private society lotteries must:

- give the name and address of each of the lottery’s promoters;
- give the ticket price;
- say who is allowed to buy tickets;
- all be sold at the same price, which must be paid over to the promoter before the buyer can be entered into the draw.

The rights attached to private society lottery tickets are non-transferable and no rollovers are allowed.

2.4 Societies’ Lotteries

Scout Groups, District and Counties are all separate ‘societies’ within the meaning of this section. This is the type of lottery allowed principally for fund raising.

Society lotteries can only be promoted for the benefit of:

- charities;
- organisations established for the purpose of enabling participation in, or supporting, sport, athletics or a cultural activity; or
- other organisations conducted for non-commercial purpose and not for private gain.

There are two types of society lottery:

- Small society lotteries, where the value of tickets put on sale in any one lottery is not more than £20,000 and the proceeds from lottery tickets do not exceed £250,000 in any year. You must register with the Local Authority in the area in which it is based (100,200 Clubs are included in this category);
- Large society lotteries, where the above limits are exceeded. These lotteries must be run under licence from the Gambling Commission. The Scout Association do not support these.

2.4.1 Small Society Lottery rules are:

The whole proceeds for the lottery, after deducting permitted expenses and provision of prizes, must be used for the charitable purpose of the society, e.g. Group funds.

2.4.2 Licences/registration

- The society must register with the local authority of the area in which it is based before it can run any small society lotteries.
- The local authority will be able to provide registration forms.
- A local authority may refuse to register a society in certain circumstances.
- A smaller society may fall within the “small scale operator exemption”. If so, it will not need a personal management licence, but must appoint a “responsible person”, who must complete a personal declaration form and a Criminal Records Bureau disclosure form (in England and Wales) or a Scottish Criminal Records Office disclosure form (if in Scotland).
- The individual named who holds the personal management licence or the one who is appointed as a responsible person is responsible for ensuring that the lotteries are conducted lawfully.
- Application forms, guidance notes on the different types of licence and fee details are available from the Gambling Commission’s website.

3. Taxation

Groups/Districts/Counties should consider taking professional advice on potential tax issues. Further information is available from HMRC's website.

Briefly:

Income/corporation tax

In England and Wales, the proceeds of ticket sales of a lottery run by a charity is tax-exempt, provided it is run in accordance with the law, under the proper licences or registration, where applicable.

The proceeds of lotteries run by other organisations are subject to income or corporation tax, as applicable.

VAT

For the purposes of VAT, the sale of lottery tickets is an exempt supply i.e. VAT is not chargeable to purchasers of tickets and VAT incurred in connection with the lottery cannot be reclaimed.

4. Gaming

Gaming is the legal word covering all sorts of gambling, betting and wagering including such things as bingo, whist drives and some side shows commonly found at fetes, etc.

4.1 Prize competitions and free draws

Prize competitions and free prize draws are free from statutory control under the Gambling Act. They are not entirely unregulated and are subject to consumer protection law and codes such as the Advertising Standards Authority's Code on Sales Promotions. The definitions of these types of arrangement are such that promoters of prize competitions and free draws must be careful to ensure that they do not inadvertently find themselves running illegal lotteries. For this reason, organisations wanting to use these arrangements should read the Gambling Commission's guidance "Prize competitions and free draws: the requirements of the Gambling Act 2005".

4.2 Prize competitions

The prize competition must require the participant to exercise knowledge or judgement or to display an element of skill in order to be eligible for a prize. This is unlike lotteries, which rely wholly on chance.

The Act offers guidelines on the minimum amount of skill required for an arrangement to qualify as a prize competition. Before the Act came into force,

it was common (for example, on television programmes) for supposed prize competitions to demand a derisory level of knowledge. This will no longer be sufficient: a purported prize competition that requires insufficient skill or knowledge will be treated as a lottery.

4.3 Free draws

The key with a free draw is to ensure that there is a "free" method of entry. It is acceptable for there to be a way for people to participate that involves payment, at a 'normal rate' i.e. first or second class post, standard telephone charges etc.

The free route **must** also be convenient, accessible and the participant **must** have the same chance as if entering by the paid route (see 6.1 and the Gambling Commission's guidance referred to in 8.2 for further information on what constitutes "payment to enter").

A "free draw" is like a lottery, except that participants do not have to pay to enter. Schedule 2 of the Act provides full details of what is to be treated as "payment to enter". Broadly speaking, a method of entry will be free if it involves paying only the normal rate for the form of communication used to enter, e.g. regular telephone rates or the cost of a postage stamp. Where a premium is charged, over and above what it normally costs to use that form of communication, that method of communication will be treated as involving a "payment to enter". For more details on what constitutes a payment, see the guidance on the Gambling Commission's website.

Additional information

If you require information relating to Bingo, Horse Races on Film, Poker Nights, Gaming Machines etc please contact the Gambling Commission whose role it is to support and advise.

The Gambling Commission Contact Details

In the first instance please go to the Gambling Commission FAQ's. They have a very comprehensive list that answer all questions fully.

www.gamblingcommission.gov.uk/client/faqs.asp

Telephone Number: 0121 230 6666

Website address:

www.gamblingcommission.gov.uk