

# LOTTERIES - THE LAW

A lottery is probably one of the most common areas of Fundraising used by Lions Clubs and other organisations throughout the country. With the introduction of the National Lottery, the Government have also introduced changes to existing lottery regulations. This article seeks to bring clubs up to date with the recent changes and to remind clubs of the legal position of lotteries. The law set out in this article applies to England, Wales and Scotland.

The starting point has to be to define what a lottery is. Rather surprisingly there is no statutory definition, but the courts have established the following: "*A lottery is the distribution of prizes by chance when the persons taking part, or a substantial number of them, make a payment or consideration in return for obtaining their chance of a prize*".

Thus games that include an element of skill are not lotteries, nor are free prize draws (hence the 'no purchase necessary' clause on many commercial draws).

The law states that all lotteries are illegal unless they are within the categories permitted by the Act. There are three types of lottery that Lions clubs may organise:-

- (i) small lotteries incidental to an exempt entertainment,
- (ii) private lotteries,
- (iii) society lotteries.

I will deal with each category in turn.

## 1. Small lotteries incidental to an exempt entertainment

An exempt entertainment is defined in the Act as "a bazaar, sale of work, fete, dinner, dance, sporting or athletic event or other entertainment of a similar character, whether limited to one day or extending over two or more days". Lotteries incidental to such entertainment must comply with the following conditions:

- (i) the proceeds after deducting expenses must, along with the proceeds of the event, be used for purposes other than private gain;
- (ii) the tickets must be sold and the result announced during the course of the event;
- (iii) not more than £250 can be spent on buying prizes;
- (iv) no money prizes can be awarded;
- (v) the opportunity to take part in the draw must not be the main attraction of the event.

If any of these conditions is contravened, *every person* connected with the event may be guilty of an offence.

## 2. Private Lotteries

A Private Lottery includes one in which the sale of tickets is confined to members of one society established and conducted for purposes not connected with gaming, betting or lotteries.

The conditions that must be fulfilled for such a lottery are as follows:

- (i) the whole proceeds, after deducting only expenses for printing and stationary, must be devoted to the provision of prizes or to the purposes of the society;
- (ii) no advertisements for the lottery may be displayed other than on the premises of the society;

- (iii) the price must be on every ticket and must be the same for each ticket (so no discounting for bulk purchase as in 5 tickets for the price of 4);
- (iv) every ticket must also include the name and address of all promoters, a statement indicating to whom the sale of tickets is restricted (eg "restricted to members of XYZ Lions Club"), and a statement that no prize will be paid other than to the person who purchased the ticket;
- (v) no ticket may be sent by post.
- (vi) the promoter must be a member of the club and appointed in writing by it.

If there is any contravention of these conditions the person who contravened them and every promoter is guilty of an offence.

### 3. Society Lotteries

This is the most common form of lottery. A society is defined as any club, institution, organisation or association of persons, by whatever name called, and any separate branch or section of such a group. To conduct a society lottery, the society must be established and conducted wholly or mainly for charitable, sports, cultural or other purposes which are neither of private gain nor of any commercial undertaking. Lions Clubs are accordingly eligible to run a society lottery.

To run such a lottery, the Lions club must firstly register with their local authority. The fee for this is presently , 35 with annual renewal on 1st January of , 17.50. These fees are of course liable to change and clubs should check current fees with their local authority.

Should any club however decide to run a large lottery to the extent that the total value of tickets on sale is in excess of , 20,000 (or the total of all lotteries run during the same year exceeds , 250,000) then the club will instead have to register with the Gaming Board and remain registered with them for all future lotteries of whatever size for at least 3 years. The fee for Board registration is presently , 510 with three-yearly renewals of , 50 plus a fee for each lottery ranging from , 60 to , 460 depending on its size.

As most clubs (if not all) will run lotteries registered with the local authority, the rest of this article deals with such lotteries. Much of the provisions will apply to both registrations, but there are differences and clubs running large lotteries should seek further guidance from the Gaming Board.

The conditions applying to society lotteries are:-

- (i) the total value of prizes must not exceed 55% of the proceeds of the lottery and the amount of expenses must not exceed 35% of the proceeds (or the actual expenses if less) unless it can be shown that the proceeds fell short of the sum reasonably estimated. The combined amount for the cost of prizes and expenses must not together exceed 80%. Please note that the law now requires that any expenses which are met by the club or by any beneficiary of the lottery should be treated as expenses appropriated from the proceeds of the lottery.  
Prizes may be donated to a lottery at a reduced cost or free provided the value of such prize does not exceed , 25,000;
- (ii) The promoter of the lottery must be a member of the Lions Club which must authorise him in writing to act as such;
- (iii) The ticket price must not exceed , 1.00 and must be the same for every ticket (ie no discounting allowed). Tickets cannot be sold on condition that more than one ticket must be purchased unless the total purchase requirement is less than , 1 (e.g. you cannot insist on the purchase of a book of 5 tickets of , 1 each to try to get around the

- price limit);
- (iv) Tickets must include the name of the society, the name and address of the promoter, a statement that it is registered with a named local authority and the date of the lottery;
  - (v) no ticket may be sold to anyone under the age of 16;
  - (vi) Tickets may only be sold in the street if from a kiosk or shop premises having no space for the accommodation of customers, though selling door to door is permitted provided you are not visiting in any other official or commercial capacity;
  - (vii) Tickets must be paid for in advance of the lottery and money once received cannot be refunded.

Any breach of these conditions will constitute an offence by the promoter (unless he didn't know of the breach) and by the person who is a party to the breach.

When a Society Lottery has been held, the promoter must send a return to the local authority by the end of the third month after the lottery. Forms for this purpose are available from the Local Authority and must be certified by two other members of the club who must have been appointed in writing by the club.

I hope that this summary has provided club members with an insight into the law relating to lotteries. Like most areas of law, there are some grey areas where the law is not perfectly clear and if any club has any specific queries then please do contact me. Most Local Authorities are also pleased to assist with any specific queries on your individual lottery.

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