



A guide to the Law relating to Lotteries for Lions Clubs

(The Gambling Act 2005)

The information set out in this article is selective to Lions Clubs and is not a definitive guide to the Law. It deals with the more common situations encountered by Lions Clubs. It should not be used for other organisations where different considerations may apply.

1. Introduction

A lottery is probably one of the most common areas of Fundraising used by Lions Clubs. The Gambling Act 2005 ('the Act'), which came into force on 1st September 2007, introduced a new regime for regulating gambling and betting. The Act has relaxed a lot of the regulations previously in force in respect of lotteries. This article seeks to bring Clubs up to date with the recent changes. The law set out in this article applies to England, Wales and Scotland.

2. What is a Lottery?

The Act, for the first time, has introduced a statutory definition of a lottery - **an arrangement whereby individuals pay for an opportunity to win a prize and the prize-winner is selected entirely by chance.**

Thus free prize draws are not lotteries (hence the 'no purchase necessary' clause on many commercial draws), nor are games that include an element of skill. However, the Act has introduced a new rule that if the element of skill, judgement or knowledge cannot reasonably be expected to prevent a significant proportion of people who wish to participate from doing so or prevent a significant proportion of people who participate from receiving a prize, then it will be treated as relying wholly on chance and thus will be a lottery. In other words, it must be a genuine test of skill, judgement or knowledge.

3. Types of Lottery

It is unlawful for a Club to run a lottery unless it complies with the categories of lottery set out in the Act. The Act has created eight different types of lottery, but there are effectively only three types of lottery that Lions Clubs are likely to organise:-

- (i) Small Society Lotteries
- (ii) Incidental Non-Commercial Lotteries
- (iii) Private Lotteries

In all these lotteries, prizes may be awarded in cash, goods or services.

I will deal with each category in turn.

3.1. Small Society Lotteries

This is the most common form of lottery used by Lions Clubs for fundraising. To conduct a small Society Lottery, a society must be established and conducted for charitable purposes or for the purpose of enabling participation in or supporting, sport, athletics or a cultural activity or other non-commercial purposes which are not for private gain. Lions Clubs are accordingly eligible to run a Society Lottery.

Should any Club decide to run a large Society Lottery - where 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 have to register with the Gambling Commission. Many of the following provisions apply to both large and small Society Lotteries but there are differences and Clubs should seek further guidance if they wish to run a large Society Lottery.

To run a small Society Lottery (that is under the above limits) the Lions Club must firstly register with their local authority. The fee for this is presently £40 with annual renewal on 1st January of £20. These fees are of course liable to change and Clubs should check current fees with their local authority. If a Club fails to pay the renewal fee its registration will lapse.

The main conditions applying to small Society Lotteries are:-

- (i) The combined amount for the cost of prizes and expenses must not exceed 80% of the ticket sales. Thus a minimum of 20% of the gross proceeds of each lottery must be retained by the Club towards their purposes. The maximum prize allowed in a small Society Lottery is £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) There is no longer any maximum price that a ticket can be sold for but the sale price must be the same for every ticket (i.e. no discounting allowed);
- (iv) Tickets must include the name of the Lions Club, the price of the ticket, the name and address of the promoter and the date of the lottery (or the means by which the date may be determined). If tickets are sold electronically, this information must be available to the purchaser to keep or print off ;
- (v) No ticket may be sold to anyone under the age of 16;
- (vi) Tickets may not be sold in the street (which is widely defined to include most public accessways whether a thoroughfare or not) unless from a kiosk or shop premises having no space for the accommodation of customers, though selling door to door is permitted;

(vii) Tickets must be paid for in advance of the lottery.

Any breach of these conditions will constitute an offence.

When a small Society Lottery has been held, the Club must send a return to their local authority within 3 months after the lottery. The information requested includes the date on which tickets were available for sale, the total proceeds of the lottery, the amount deducted for prizes, the amount deducted for expenses, the amount applied directly to the purpose of the Club, whether any expenses incurred in connection with the lottery were not paid for by deduction from the proceeds (and if so, the amount and the sources from which they were paid). Forms for this purpose are available from your local authority and must be signed by two other members of the Club who must have been appointed in writing by the Club.

3.2. Incidental Non-Commercial Lotteries

This is a lottery that is incidental to a non-commercial event. Examples of an event would include a fete or dinner dance. An event is non-commercial if all the money raised at the event including entrance fees goes entirely to purposes that are not for private gain. Such lotteries must comply with the following conditions:

- (i) the tickets must be sold at the location of and during the event and the result announced during the event;
- (ii) not more than £500 can be spent on buying prizes;
- (iii) not more than £100 may be deducted for expenses;
- (iv) the lottery cannot involve a rollover of prizes from one lottery to another;
- (v) There is no restriction on the price of tickets to be sold but they must all be the same price (so no discounting or buy 2 get one free etc.)

There are no requirements for information on the tickets so cloakroom tickets can be used.

3.3. Private Lotteries

A Private Lottery is one in which the sale of tickets is confined to members of one society established and conducted for purposes not connected with gambling. For Lions Club purposes, tickets for such a lottery could only be sold to members of the Lions Club.

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) and must be paid for before any person is given a ticket;
- (iv) every ticket must also include the name and address of the promoter, a statement

- indicating to whom the sale of tickets is restricted (e.g. "restricted to members of XYZ Lions Club"), and a statement that they are not transferrable;
- (v) the promoter must be a member of the Club and appointed in writing by it.
 - (vi) the lottery cannot involve a rollover of prizes from one lottery to another

4. Social Responsibility

Clubs must bear in mind that a Lottery is just another form of gambling. Clubs must ensure that children (here meaning under 16 years of age) and other vulnerable people are not exploited by their lottery.

5. Conclusion

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 the MD Legal Adviser. Most local authorities are also pleased to assist with any specific queries on your individual lottery.

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