

**Guidance to Licensing Authorities Part Two
Small Society Lotteries**

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Section 1: Introduction

- 1.1** This guidance document is issued in accordance with section 25 of the Gambling Act 2005 ('the Act'), which requires the Gambling Commission ('the Commission') to issue guidance to licensing authorities on:
- the manner in which they are to exercise their functions under the Act; and
 - the principles to be applied by them in exercising those functions.
- 1.2** Licensing authorities 'must have regard to' the Commission's guidance in relation to a number of licensing authority functions, including the registration of small society lotteries. This does not mean that the licensing authority must always follow the guidance to the letter, but the expectation is that there should be strong and defensible reasons for departing from it.
- 1.3** This guidance is intended to support a consistency of approach across licensing authorities about the manner in which functions under the Act are carried out. This is important in two respects:
- to meet the obligations on both the Commission and on licensing authorities to pursue the licensing objectives, and in so doing achieve a consistent standard of regulation and shared priorities; and
 - in accordance with government initiatives on minimising the impact of regulation on businesses and, in particular, the Hampton Review¹ on regulation, it is part of the Commission's role to ensure that gambling operators receive sufficient advice to help them understand and comply with gambling regulation.
- 1.4** This is the second document in a series of three, known collectively as 'Guidance to Licensing Authorities'², as follows:
- **Part One** was first published on 28 April 2006, and concentrates on matters that are primarily intended to assist licensing authorities on the development and preparation of local statements of premises licensing policy;
 - **Part Two** (this document) concentrates on licensing authority responsibilities in relation to small society lotteries; and
 - **Part Three**, to be published in summer 2007, will concentrate on the compliance and enforcement responsibilities of licensing authorities.
- 1.5** The Act gives licensing authorities a number of important regulatory functions in relation to gambling, one of which is to register small society lotteries. It also requires licensing authorities to provide information to the Commission on lotteries registered with them. The guidance is intended to support licensing authorities in establishing the administrative systems required to support the change to the lotteries regime introduced by the Act, and to develop a clear understanding of their role and responsibilities towards registering societies to run small lotteries.
- 1.6** This document, alongside the other two parts in the series, will be kept under review. Any necessary revisions resulting from future consultative studies undertaken by the Commission will be incorporated into subsequent versions of the document. Periodic reviews will be undertaken by the Commission to ensure that the guidance continues to meet best practice.

¹ from Philip Hampton's HM treasury-commissioned review 'Reducing Administrative Burdens – effective inspection and enforcement', published March 2005

² Copies are available from the Commission's website at www.gamblingcommission.gov.uk

Section 2: Background

The Act

- 2.1** The Act gives effect to the Government's proposals for reform of the law on gambling, and contains a new regulatory system to govern the provision of all gambling in Great Britain, other than the National Lottery and spread betting. Further details on the Act's provisions are set out in part one of the Commission's 'Guidance to Licensing Authorities' series.
- 2.2** The Act has the following effects in relation to the regulation of lotteries:
- repeals the Lotteries and Amusements Act 1976 (c.32);
 - introduces the Commission as the regulator for gambling in Great Britain; and
 - establishes a licensing regime for large non-commercial society and local authority lotteries, to be administered by the Commission, and maintains a registration system for small non-commercial society lotteries, to be administered by licensing authorities.
- 2.3** The Act sets out a definition of a lottery and provides that promoting or facilitating a lottery is illegal, unless it falls into one of two categories of permitted lottery, namely:
- licensed lotteries; and
 - exempt lotteries.
- 2.4** Licensed lotteries are large society lotteries and lotteries run for the benefit of local authorities. They will be regulated by the Commission and require operating licences.
- 2.5** Exempt lotteries are those expressly permitted under Schedule 11 of the Act. There are four types of exempt lottery. One type is the small society lottery, which requires registration with licensing authorities and forms the basis of this guidance. The other types are discussed in section seven of this document.
- 2.6** The Act also provides that the National Lottery is not to be regulated by the Commission, but continues to be regulated by the National Lottery Commission under the National Lottery etc Act 1993.
- 2.7** The Act contains three licensing objectives which underpin the functions of the Commission and licensing authorities, which are central to the new regulatory regime:
- preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime;
 - ensuring that gambling is conducted in a fair and open way; and
 - protecting children and vulnerable people from being harmed or exploited by gambling.
- 2.8** Regulation of gambling to meet these objectives will be achieved through a variety of measures established by the Act, which for lotteries includes:
- the licensing and registration schemes mentioned above;
 - licence conditions and codes of practice imposed by the Commission; and
 - guidance from the Commission.

Definition of licensing authority

- 2.9** The term 'licensing authority' is generally understood to mean the department or function operating within a local authority that has ultimate responsibility for managing licensing matters. Some sections of the Act pertaining to lotteries refer to 'local authorities', but for the purposes of this guidance we have interpreted the two terms to have largely the same definition. In the interests of consistency this document uses the term 'licensing authority'.
- 2.10** Section 2 of the Act defines the following as licensing authorities

In relation to England:

- a district council;
- a county council for a county in which there are no district councils;
- a London borough council;
- the Common Council of the City of London; and
- the Council of the Isles of Scilly.

In relation to Wales:

- a county council; and
- a county borough council.

In relation to Scotland:

- a licensing board constituted under the Licensing (Scotland) Act 1976³.

Section 3: Legal status of lotteries under the Act

Definition of lottery

3.1 Licensing authorities need firstly to have an understanding of how a lottery is defined as such. In essence a lottery is an arrangement which satisfies the statutory description of *either* a **simple lottery** or a **complex lottery**, under section 14 of the Act.

3.2 An arrangement is a **simple lottery** if:

- persons are required to pay to participate;
- one or more prizes are allocated to one or more members of a class; and
- the prizes are allocated by a process which relies wholly on chance.

3.3 An arrangement is a **complex lottery** if:

- persons are required to pay to participate;
- one or more prizes are allocated to one or more members of a class;
- the prizes are allocated by a series of processes; and
- the first of those processes relies wholly on chance.

3.4 Arrangements that fulfil all of the criteria of either of the above categories are defined as a lottery under the Act.

Definition of society

3.5 Licensing authorities should define “society” as the society or any separate branch of such a society, on whose behalf a lottery is to be promoted. They also need to understand the purposes for which a society has been established, and ensure that it is a non-commercial organisation. Section 19 of the Act defines a society as such if it is established and conducted:

- for charitable purposes⁴;
- for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity; or
- for any other non-commercial purpose other than that of private gain.

3.6 It is inherent in this definition that the society must have been established for one of the permitted purposes, and that the proceeds of any lottery must be devoted to those purposes.

³ until superseded by the Licensing (Scotland) Act 2005.

⁴ as defined by section 2 of the Charities Act 2006.

It is not permissible to establish a society whose sole purpose is to facilitate lotteries - it must have some other purpose.

Local authority lotteries

- 3.7** Local authorities are also entitled to operate their own lotteries, but may only do so if they are licensed by the Commission. Authorities must commit a minimum of 20% of the proceeds for a purpose for which they have power to incur expenditure, and must also adhere to the other relevant provisions in the Act. They may also need to hold a remote gambling operating licence, in the event that they wished to sell lottery tickets via electronic or technological methods such as over the telephone.
- 3.8** This document will not focus in detail on this type of lottery, but local authorities wishing to operate their own lotteries can find relevant information on the Commission's website, www.gamblingcommission.gov.uk, or by contacting the Commission via the contact details shown at section eight of this document.

Key changes from the Lotteries and Amusements Act 1976

- 3.9** Licensing authorities are currently responsible for registering small society lotteries and are governed by the Lotteries and Amusements Act 1976 in doing so. There are however a number of differences between the regimes operating before and after the 1st September 2007.

- 3.10** The Act introduces some relaxation of society lottery law and in particular:

- removes the individual limits on the percentage of proceeds that may be applied to expenses or prizes – although the maximum global amount that can be deducted for expenses and prizes remains at 80%, with a minimum of 20% going to the purposes of the society or to local authority expenditure;
- allows rollovers of prize funds from one lottery to another promoted by the same society, provided the maximum single prize does not exceed £25,000 or 10% of the gross proceeds;
- permits the sale of tickets by an automated process; and
- removes the £2 maximum limit on ticket prices.

Section 4: Registration of small society lotteries by licensing authorities

Small society lotteries

- 4.1** When licensing authorities are approached by societies wishing to register with them to operate lotteries, they will need to understand how the Act defines a small society lottery. The definition breaks down into **two distinct areas**:
- **society status** – the society in question must be 'non-commercial' (as per paragraph 3.5 of this document).
 - **size of lottery** - the total value of tickets to be put on sale per single lottery must be £20,000 or less, or the aggregate value of tickets to be put on sale for all their lotteries in a calendar year must not exceed £250,000. If the operator plans to exceed either of these values then they will be classed as a large lottery operator, and must be licensed with the Commission instead.

Application and registration process for small society lotteries

- 4.2** The Commission has published an advisory document entitled 'Lotteries and the Law'⁵ that provides information for those seeking to run lotteries, and looks specifically at large society lotteries and the operating licence regime managed by the Commission. In the first instance it will enable potential lottery operators to determine which category they best fit, and as such licensing authorities may wish to refer applicants to it. The Commission also suggests that licensing authorities consider producing their own local guidance, which is discussed later in this section.
- 4.3** The promoting society of a small society lottery must, throughout the period during which the lottery is promoted, be registered with a licensing authority (where 'licensing authority' takes the definition shown at paragraph 2.10 of this document). Parts four and five of Schedule 11 of the Act set out the requirements on both societies and licensing authorities with respect to the registration of small society lotteries.
- 4.4** The licensing authority with which a small society lottery is required to register must be in the area where their principal office is located. If a licensing authority believes that a society's principal office is situated in another area, it should inform the society and the other authority as soon as possible.
- 4.5** Applications for small society lottery registrations must be in the form prescribed by regulations and be accompanied by both the required registration fee and all necessary documents required by the licensing authority to assess the application accordingly.
- 4.6** Licensing authorities may wish to ask new applicants for a copy of their terms and conditions or their constitution to establish that they are a non-commercial society meeting the criteria specified at paragraph 3.5 of this document. They may also choose to require applicants to provide a declaration, stating that they represent a bona-fide non-commercial society.
- 4.7** Licensing authorities may delegate the registration of small societies to licensing officers, subject to each authority's own specific process of delegations.
- 4.8** Licensing authorities are required by paragraph 44 of schedule 11 of the Act to record details of the society on a register. While it does not have to be a public register, the Commission recommends that licensing authorities make the register available to the public on request.
- 4.9** Once the application for registration has been accepted and entered on the local register, the licensing authority must then notify both the applicant and the Commission of this registration as soon as practicable (again as required by paragraph 44 of schedule 11 of the Act). The Commission would prefer to receive this information via email, although licensing authorities may use any of the contact methods shown at section eight of this document.
- 4.10** Registrations run for an unlimited period, unless the registration is cancelled. If a licensing authority cancels the registration of a society they are required by paragraph 53 of schedule 11 of the Act to notify the Commission. Again, the Commission would prefer to receive this information via email, although any of the contact methods in section eight of this document may be used.

⁵copies are available from the Commission's website at www.gamblingcommission.gov.uk

Refusals

4.11 Paragraphs 47 and 48 of schedule 11 of the Act set out the grounds for licensing authorities to refuse small society lottery registration applications. In summary, licensing authorities shall refuse an application for the following reasons:

- **an operating licence held by the applicant for registration has been revoked or an application for an operating licence made by the applicant for registration has been refused, within the past 5 years.**

The Commission will be able to advise the details of people and organisations that have been refused an operating licence or have had an operating licence revoked within the last five years. Licensing authorities should consult the Commission as part of their consideration process.

Licensing authorities may also refuse an application for registration for any of the following reasons:

- **an operating licence held by the applicant for registration has been revoked or an application for an operating licence made by the applicant for registration has been refused, within the past 5 years.**

The Commission will be able to advise the details of people and organisations that have been refused an operating licence or have had an operating licence revoked within the last five years. Licensing authorities should consult the Commission as part of their consideration process.

- **the society in question cannot be deemed non-commercial.**

Under previous regimes licensing authorities often required applicants to provide a statement with their application form declaring that they represented a bona fide noncommercial society, and identifying how the purpose of the society could be established. The Commission believes that a similar approach remains appropriate. However, licensing authorities should also consider whether such a declaration is sufficient in the particular circumstances of each case or whether there are additional determining factors, such as an unusual or novel purpose of the society, which may suggest that further enquiry is needed.

- **a person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence⁶.**

Under previous regimes licensing authorities often required applicants to provide a statement alongside their application form declaring that they had no relevant convictions that would prevent them from running lotteries, the accuracy of which could then be verified with the police. The Commission believes that this scenario remains appropriate.

- **information provided in or with the application for registration is found to be false or misleading.**

4.12 A licensing authority may only refuse an application for registration after the society has had the opportunity to make representations. These can be taken at a formal hearing or taken via correspondence. Licensing authorities should inform the society of the reasons why it is minded to refuse registration and provide it with at least an outline of the evidence on which it has reached that preliminary conclusion – in order to enable it to make representations. Representations and objections that may result after such a decision should be handled in accordance with local procedures, and in the same way that the authority would handle representations relating to other licensing activity. The Commission considers that, as a matter of good practice, licensing authorities should set out, perhaps on their website, the principles they will apply in such circumstances.

⁶ relevant offences are listed at schedule 7 of the Act.

Revocations of existing registrations

4.13 A licensing authority may determine to revoke the registration of a society if it thinks that they would have had to, or would be entitled to, refuse an application for registration if it were being made at that time. Revocations cannot take place unless the society has been given an opportunity to make representations at a hearing or via correspondence. Again, in preparation for this, licensing authorities should inform the society of the reasons why it is minded to revoke the registration and provide them with the terms of the evidence on which it has reached that preliminary conclusion. Representations that may result after such a decision should be handled in accordance with local procedures, and in the same way that the authority would handle representations relating to other licensing matters

Appeals

4.14 Following the conclusion of any hearings and receipt of representations, paragraph 51 of schedule 11 of the Act then requires the authority to notify the applicant or the society as soon as possible if their registration is still to be revoked, or if their application for registration has still been rejected.

4.15 The applicant or society may decide to make an appeal against the decision. They must lodge an appeal within 21 days of receipt of the notice of the decision, and this must be made directly to the local magistrates' court if in England or Wales, or the sheriff's court in Scotland.

4.16 The magistrates' court or sheriff may choose to affirm the decision of the licensing authority, reverse the decision, or make any other order.

Licensing authority guidance

4.17 The Commission recommends that licensing authorities will want to consider producing their own guidance for organisations and individuals seeking to operate small lotteries, to be made available via local authority websites and in hard copy. The Commission's 'Lotteries and the Law' document ⁷ provides a useful starting point for licensing authorities that wish to develop such local guidance. Suggested content includes the following:

- the forms and documentation needed for registration (as prescribed by regulations);
- the information that societies will need to keep concerning the management and operation of the lottery (to enable it to meet the Act's requirements stipulated by paragraph 39 of Schedule 11);
- the forms and documentation needed for returns following a lottery draw (see section five of this document for further information);
- details of fees due and when they should be paid; and
- the criteria and evidence that the authority will use when determining whether to register a society or revoke a registration.

Section 5: Administration and returns

Lottery requirements

5.1 As the purpose of permitted lotteries is to raise money for non-commercial causes, the Act requires that a minimum proportion of the money raised by the lottery is channelled to the goals of the society that promoted the lottery. If a small society lottery does not acquiesce with these limits it will be in breach of the Act's provisions, and consequently be liable for prosecution.

⁷ copies can be downloaded from the Commission's website at www.gamblingcommission.gov.uk

5.2 The limits placed on small society lotteries are as follows:

- at least 20% of the lottery proceeds must be applied to the purposes of the society (schedule 11, paragraph 33);
- no single prize may be worth more than £25,000 (schedule 11, paragraph 34);
- rollovers between lotteries are only permitted where every lottery affected is also a small society lottery promoted by the same society, and the maximum single prize is £25,000 (schedule 11, paragraph 35); and
- every ticket in the lottery must cost the same and the ticket fee must be paid to the society (i.e. the society must take payment) before entry into the draw is allowed. (schedule 11, paragraph 37).

Returns – what information has to be supplied?

5.3 Paragraph 39 of Schedule 11 in the Act sets out the information that the promoting society of a small society lottery must send as returns to the licensing authority with which it is registered, **following each lottery held**. This information will allow authorities to assess, in particular, whether financial limits are being adhered to and to ensure that any money raised is being applied for the proper purpose. The information that must be submitted is as follows:

- the arrangements for the lottery – specifically the date on which tickets were available for sale or supply, the dates of any draw and the value of prizes, including any donated prizes and any rollover;
- the proceeds of the lottery;
- the amounts deducted by the promoters of the lottery in providing prizes, including prizes in accordance with any rollovers;
- the amounts deducted by the promoters of the lottery in respect of costs incurred in organising the lottery;
- whether any expenses incurred in connection with the lottery were not paid for by deduction from the proceeds, and, if so, the amount of expenses and the sources from which they were paid; and
- the amount applied to the purpose for which the promoting society is conducted (this **must** be at least 20% of the proceeds).

5.4 Paragraph 39 of the Act also requires that returns must:

- be sent to the licensing authority no later than three months after the date of the lottery draw, or in the case of 'instant lotteries (scratch cards) within three months of the last date on which tickets were on sale; and
- be signed (electronic signatures are acceptable if the return is sent electronically) by two members of the society, who must be aged eighteen or older, are appointed for the purpose in writing by the society or, if it has one, its governing body, and accompanied by a copy of their letter or letters of appointment.

Section six of this document explores the compliance and enforcement responsibilities expected of local authorities in ensuring that societies have provided the required information at the required time.

5.5 The Commission may require to inspect a societies returns, although it will not routinely do so. As such licensing authorities are required to retain returns for a minimum period of three years from the date of the lottery draw. They should also make them available for inspection by the general public for a minimum period of 18 months following the date of the lottery draw, and authorities should ensure that information regarding the location of statements (i.e. on websites, in council offices etc.), when they can be viewed, and the cost of obtaining copies, is made available to the public.

5.6 Licensing authorities should allow for returns to be sent to them both electronically and manually. It is recommended by the Commission that each authority should make available details concerning the form of returns required through appropriate media, such as authority websites and leaflets.

Monitoring returns

5.7 Where societies run more than one small lottery in a calendar year, licensing authorities must monitor the cumulative totals of returns to ensure that societies do not breach the annual monetary limit of £250,000 on ticket values.

5.8 The Commission must be notified by licensing authorities if returns reveal that a society's lotteries have exceeded the values permissible for small society lotteries, and such notifications should be copied to the society in question. The Commission will contact the society to determine if they are going to apply for a lottery operator's licence, thereby enabling them to run large society lotteries lawfully, and will inform the licensing authority of the outcome of its exchanges with the society.

5.9 Licensing authorities will also need to be aware of the status of external lottery managers, when monitoring returns. They are an individual, a firm or a company appointed by a society to manage a lottery or lotteries on behalf of the society, and are generally consultants that take their fees from the expenses of the lottery. A maximum of 80% of a lottery's proceeds may be attributed to expenses and prizes, and managers' fees must be included within this total.

Licence status of external lottery managers

5.10 External lottery managers are required to hold a lottery operator's licence issued by the Commission to manage any lottery, including small society lotteries registered with a licensing authority.

5.11 However, individuals or firms can and do provide services to a society or local authority lottery without assuming the role of an external lottery manager. When determining whether a third party is a "service provider" only, or has assumed the role of external lottery manager, the degree of management undertaken by both the promoter and the sub-contractor will be crucial factors. Key indicators will include:

- who decides how the lottery scheme will operate;
- who appoints and manages any sub contractors;
- the banking arrangements for handling the proceeds of the lottery;
- who controls the promotional aspects of the lottery; and –
- who sells the tickets and pays the prizes.

5.12 Societies employing an unlicensed external lottery manager commit an offence, and they will need to satisfy themselves that any external lottery manager they employ holds a lottery operator's licence issued by the Commission. This can be achieved by consulting the publicly-accessible register of operating licences held on the Commission's website, at www.gamblingcommission.gov.uk. Licensing authorities should advise societies planning to use or already using an external lottery manager that they should do this, and may also wish to verify that it has been done.

5.13 Licensing authorities can refer those seeking further information on external lottery managers to the Commission's website or its 'Lotteries and the Law' booklet⁸.

Lottery tickets

5.14 Lotteries may involve the issuing of physical or virtual tickets to participants (a virtual ticket being non-physical, for example in the form of an email or text message). Schedule 11(36) requires that a purchaser of a small society lottery ticket must receive a document which identifies:

- the name of the promoting society;
- the price of the ticket (must be the same for all tickets);
- the name and address of the member of the society who is designated as having responsibility at the society for promoting small lotteries, or (if there is one) the external lottery manager; and
- the date of the draw, or enables the date to be determined.

However, the requirement to provide this information can be satisfied by providing an opportunity for the participant to retain the message electronically or print it.

5.15 The Commission recommends that licensing authorities require all small society lottery operators that they register to maintain written records of any unsold and returned tickets for a period of one year from the date of the lottery draw. The licensing authority is permitted to inspect the records of the lottery for any purpose related to the lottery.

5.16 The Act requires that lottery tickets may only be sold by persons over the age of 16 to persons over the age of 16.

5.17 With regards to where small society lottery tickets may be sold, the Commission recommends that licensing authorities should apply the following criteria to all small society lottery operators that they register:

- tickets should not be sold in a street, where street includes any bridge, road, lane, footway, subway, square, court or passage (including passages through enclosed premises such as shopping malls); and
- tickets may be sold from a kiosk, in a shop or door-to-door.

This approach is consistent with the operating licence conditions imposed upon operators of large lotteries and local authority lotteries.

Prizes

5.18 Prizes awarded in small society lotteries can be either cash or non-monetary. Licensing authorities need to be aware that the amount of money deducted from the proceeds of the lottery to cover prizes must not exceed the limits set out by the Act - i.e. that combined with any expenses incurred with the running of the lottery, such as manager's fees, they must not comprise more than 80% of the total proceeds of the lottery. Donated prizes would not be counted as part of this 80% (as no money would be withdrawn from the proceeds to cover their purchase) but should still be declared on the return following the lottery draw.

5.19 The Commission recommends that licensing authorities should advise small society lottery operators to check with local police if they wish to award items containing alcohol as prizes. This is in order to ensure that licensing law is not breached.

⁸ available from the Commission's website: www.gamblingcommission.gov.uk

Section 6: Compliance and enforcement of small society lotteries

The principles of compliance and enforcement

- 6.1** Small society lotteries are intended to raise funds for 'good causes'. The Act gives licensing authorities a range of enforcement powers towards the lottery operators that they register. This section of the guidance looks at the compliance and enforcement activity expected of licensing authorities regarding small society lotteries.
- 6.2** The Commission recommends that licensing authorities should consult the Better Regulation Executives' 'Principles of Good Regulation'⁹, which have a read-across to licensing functions. In summary, the principles are that regulators should be:
- proportionate: regulators should only intervene when necessary, remedies should be proportionate to the risk posed, and costs identified and minimised;
 - accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
 - consistent: rules and standards must be joined up and implemented fairly;
 - transparent: regulators should be open and keep regulations simple and user-friendly; and
 - targeted: regulation should be focussed on the problem, and minimise side effects.
- 6.3** In developing their compliance and enforcement framework licensing authorities are also advised to refer to the Regulators' Compliance Code, which is currently being re-drafted for England and Wales by the Local Authority Better Regulation Group (LABREG), chaired by the Better Regulation Executive, and is also intended to be rewritten to cover Scotland. The Code will work alongside the Enforcement Concordat in ensuring regulatory best practice is adopted by regulators.
- 6.4** The Commission will be publishing the third and final part of its 'Guidance to Licensing Authorities' series in summer 2007, focussing on compliance and enforcement responsibilities. It has been formulated following discussions between the Commission, the police, licensing authorities and other law-enforcement agencies to map out respective roles, including the prosecution of lotteries found to be in breach of the Act. It is recommended that licensing authorities adopt a risk-based inspection programme, targeting higher-risk lotteries which may require greater attention and operating a lighter touch in respect of lower-risk lotteries, so that resources are effectively concentrated on 'problem' lotteries.

Licensing authority risk ratings

- 6.5** In formulating their risk-based inspection programme, licensing authorities are advised to consider a number of key factors in determining the risk status of small society lottery operators. The Commission considers that the following criteria would be likely to affect the risk status of an operator:
- submission of late returns (returns must be submitted no later than three months after the date on which the lottery draw was held);
 - submission of incomplete or incorrect returns; and
 - breaches of the limits for small society lotteries.
- 6.6** Licensing authorities might also consider compiling a list of the scenarios that would give reason to investigate the specific circumstances of a particular small society lottery, and consider feeding these in to their local inspection regime.

⁹ available through the 'Better Regulation Site Pack', available from www.betterregulation.gov.uk

The Commission suggests that these scenarios could include:

- making a late return of a statement following a lottery held;
- making no returns at all within a year of registration;
- failure to pay the annual fee as it becomes due;
- reports of sales of lottery tickets to persons under the age of sixteen;
- reports of sales of lottery tickets by persons under the age of sixteen;
- reports of societies running lotteries without holding registration;
- indications that the society has breached permissible limits;
- reports of misappropriation of funds.

Specific offences in relation to lotteries

6.7 The Act sets out a number of offences that apply to lotteries, as follows:

Section of the Act	Offence
s. 258	Promoting a non-exempt lottery without a licence
s. 259	Facilitating a non-exempt lottery without a licence
s. 260	Misusing the profits of a lottery
s. 261	Misusing the profits of an exempt lottery
s. 262	Purporting to operate a small society lottery when not registered, or failing to make the required, or making false or misleading, returns in respect of such lotteries.
s. 326	Without reasonable excuse, obstructing or failing to co-operate with an authorised person exercising his/her powers
s. 342	Without reasonable excuse, giving false or misleading information to the Commission or a licensing authority.

Prosecutions

6.8 If a society running small lotteries fails to comply with any of the conditions of running such lotteries specified in Part 4 of Schedule 11 of the Act, it will be operating in an illegal manner, irrespective of whether it is registered with a licensing authority or not. Under these circumstances small society lottery operators may face prosecution by the Commission, a licensing authority, or the police.

6.9 The lead organisation for initiating prosecutions will vary depending upon the specific circumstances of the case. For specific information regarding their compliance and enforcement responsibilities, licensing authorities are advised to consult part three of the 'Guidance to Licensing Authorities' series which focuses specifically on this subject.

6.10 Licensing authorities in Scotland should refer cases where there has been a breach of the Act to the police for investigation, in line with Crown Office and Procurator Fiscal Service¹⁰ guidance on reporting practices for non-police agencies.

¹⁰ refer to website: www.crownoffice.gov.uk

Social responsibility

6.11 Participation in a lottery is a form of gambling, and as such licensing authorities must be aware that the societies they register are required to conduct their lotteries in a socially responsible manner and in accordance with the Act.

6.12 As the minimum age for participation in a lottery is 16, societies are required to implement effective procedures to minimise the risk of lottery tickets being sold to children, including procedures for:

- Checking the age of potentially underage purchasers of lottery tickets; and
- Taking action where there are unlawful attempts to purchase tickets.

6.13 Licensing authorities may wish to refer to the Commission's 'Lotteries and the Law' document for further information regarding social responsibility requirements for lottery operators.

Section 7: Other exempt lotteries

7.1 Exempt lotteries are those permitted by the Act to be held without being licensed by the Commission. There are four types of exempt lottery, one of which is small society lotteries required to register with licensing authorities, as already discussed in this document. This section informs licensing authorities about the characteristics of the other three types, which do not require either a Commission operating licence or registration with a licensing authority, and is included to assist authorities in identifying when a particular class of lottery is eligible for registration as a small society lottery. It also identified the Act's definition of free draws and prize competitions, which are also free from regulatory control, and identifies the difference between these arrangements and lotteries.

Incidental non-commercial lotteries

7.2 An incidental non-commercial lottery is one that is not promoted for private gain and which is incidental to a non-commercial event. Examples may include a lottery held at a school fete, or at a social event such as a dinner dance. An event is deemed non-commercial if all the money raised at the event, including entrance fees, goes entirely to purposes that are not for private gain. Therefore a fundraising social event with an entrance fee would be noncommercial if the profits went to a society but would be commercial if the profits were retained by the organiser.

7.3 For this type of lottery, part one of schedule 11 of the Act, and regulations laid by the regulations¹¹, specify the following:

- The promoters of the lottery may not deduct more than £500 from the proceeds in respect of the cost of prizes.
- The promoters of the lottery may not deduct more than £100 from the proceeds in respect of the cost of other expenses, such as the cost of printing tickets or hire of equipment.
- The lottery cannot involve a rollover of prizes from one lottery to another.
- Tickets must only be sold at the premises during the event, and the result must be made public while the event takes place.

¹¹ at the time of print the regulations relating to incidental non-commercial lotteries were under consultation.

Private lotteries

7.4 There are three categories of private lottery that qualify as exempt lotteries:

- **Private society lottery** – these can only be promoted by authorised members of a society, and tickets can only be sold to other members of that same society, or to persons on the society premises. The lottery may only be promoted for a purpose for which the society is conducted, and the society can be any group or society, provided it is not established and conducted for purposes connected to gambling. Examples of this type of lottery would include those limited to members of a working men’s club or a sports club, where guests at the club would not be permitted to participate.
- **Work lottery** - the promoter of the lottery must work on the premises and tickets can only be sold to other people who work on the same premises. The lottery must not be run for profit and all the proceeds must be used for prizes or reasonable expenses incurred in organising the lottery.
- **Residents’ lottery** – the promoter of the lottery must reside on a single set of premises and tickets can only be sold to other residents of the same set of premises (the residency requirement can still be satisfied where the premises are not the sole premises in which a person resides). The lottery must not be run for profit and all the proceeds must be used for prizes or reasonable expenses incurred in organising the lottery.

7.5 It is a requirement of the Act that no advertisement for a private society, work or residents’ lottery may be displayed or distributed except at the society or work premises, or the relevant residence, nor can such advertisements be sent to any other premises.

7.6 Rollovers are prohibited in private lotteries.

7.7 Private lotteries must comply with conditions set out in part two of schedule 11 of the Act, relating to the price and format of tickets. In summary these are:

- A ticket in a private society lottery may only be sold or supplied by the promoter or another person who is a member of the same society, in a works lottery by the promoter or another person employed on the same premises, or in the case of a residents’ lottery by the promoter or another person who resides on the same premises.
- Rights conferred by tickets are not transferable and this should be made clear on the lottery tickets.
- Each ticket must state the name and address of the promoter or promoters of the lottery and the class of persons to whom the promoter(s) can sell or supply tickets.
- The price paid for each ticket in a private lottery must be the same, must be shown on tickets, and must be paid to the lottery promoter before any person is given a ticket.

7.8 Private lotteries cannot be conducted on vessels. The Act’s definition of a vessel (section 353 (1))is:

- anything (other than a seaplane or amphibious vehicle), designed or adapted for navigation or other use in, on or over water;
- a hovercraft; or
- anything, or any part of any place, situated on or in water.

Customer lotteries

7.9 Customer lotteries are run by the occupiers of business premises, who sell tickets only to customers present on their premises.

7.10 The Act requires the following as regards customer lotteries:

- A ticket in a customer lottery may only be sold or supplied by the promoter or by someone on their behalf.
- No advertisement may be displayed or distributed except on the business premises, or sent to any other premises.
- No ticket may result in the winner receiving a prize worth more than £50.
- No rollovers of prizes between lotteries are permitted.
- Each ticket must state:
 - the name and address of the promoter of the lottery;
 - the class of persons to whom the promoters can sell or supply tickets;
 - that the rights conferred by the sale or supply of a ticket in a customer lottery are not transferable.
- Customer lotteries may not take place within seven days of another customer lottery promoted on the same business premises.

7.11 Customer lotteries may not be conducted on vessels, as per the definition referred to at paragraph 7.8 above.

Free draws and prize competitions

7.12 Free draws are exempt from statutory control under the Act, and licensing authorities should be aware of the distinction between these arrangements and lotteries. The issue of people being required to pay to participate is a key-defining characteristic of a lottery, and licensing authorities can consult the Act's definition of payment to enter (see schedule 2).

7.13 Prize 'skill' competitions are distinguished from lotteries in that they depend, in part, on the exercise of skill, judgement or knowledge by participants. Licensing authorities need also to have an understanding of the characteristics that set apart genuine prize competitions from lotteries, as per section 14 of the Act, which provides that genuine prize competitions must be reasonably likely 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.

If these barriers to entry and success can be proven, the process will not be deemed to rely wholly upon chance and will, therefore, not be defined as a lottery. Licensing authorities that are concerned that a competition may in fact be a lottery should in the first instance contact the Commission, which may ask the organisers to provide evidence of the number of people eliminated from participation.

Section 8: Contact information

For all email communication:

info@gamblingcommission.gov.uk

For all postal communication:

Gambling Commission
Victoria Square House
Victoria Square
Birmingham B2 4BP

For all telephone enquiries: 0121 230 6666

For fax communication:

0121 233 1096

Website: www.gamblingcommission.gov.uk

Where a licensing authority believes a small society has exceeded the permitted proceeds limit for a small society lottery:

Contact the Commission's licensing team by email or post stating the name of the society, the name and address of the lottery promoter and the amount by which the limits have been exceeded.

Where a licensing authority needs to check whether an applicant holds a valid operating licence or has made an application for such a licence:

Consult the public register on www.gamblingcommission.gov.uk to see all holders of valid operating and personal licences. To verify the status of a pending application, contact the Commission's licensing team.

Where a licensing authority has registered or canceled the registration of a society and needs to inform the Commission:

The licensing authority can email the Commission with the details or forward the information in the post using the contact details shown above.

Gambling Commission May 2007

The Gambling Commission regulates gambling in the public interest. It does so by keeping crime out of gambling, by ensuring that gambling is conducted fairly and openly, and by protecting children and vulnerable people from being harmed or exploited by gambling. The Commission also provides independent advice to government on gambling in Britain.