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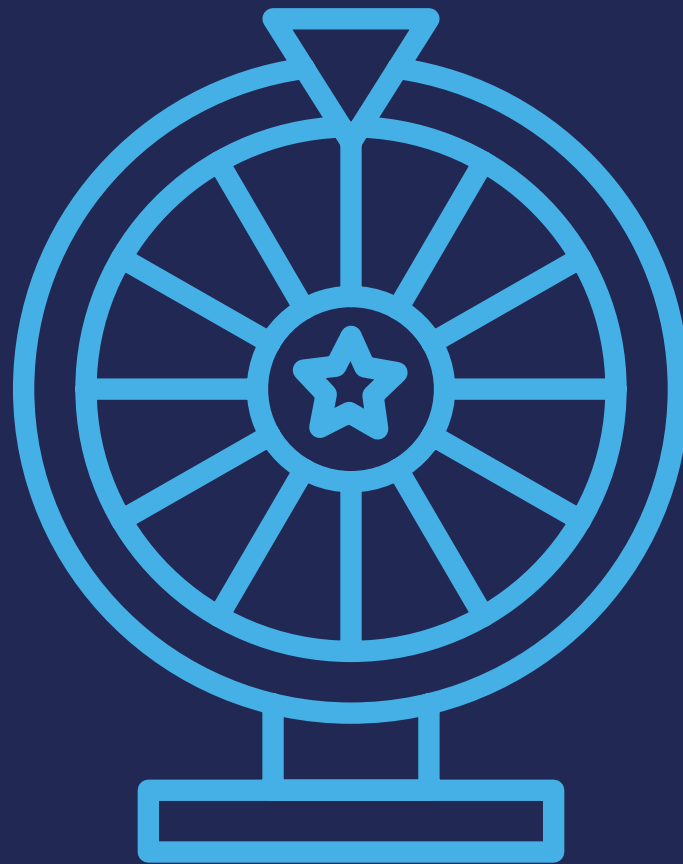
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The law on lotteries in Northern Ireland

February 2023

Alternative formats

Versions of this leaflet in other languages and formats may be made available from:

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Belfast BT2 7EG

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The Law on Lotteries in Northern Ireland

1. Purpose of leaflet

- 1.1 This leaflet provides information on some aspects of the law on lotteries in Northern Ireland. It is not an authoritative nor a complete statement of the law in this area and is only intended to provide a plain guide to the main requirements of the lottery law. Those planning to promote lotteries should refer to the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 as amended and related Regulations and Orders or seek professional advice to ensure that they comply with the law. The relevant legislation in force when this leaflet was prepared is listed at Annex A; readers should ensure they are aware of any subsequent legislative changes.
- 1.2 This leaflet does not cover the National Lottery.

2. What is a lottery?

- 2.1 There is no statutory definition of a lottery in Northern Ireland. The courts in Great Britain, through judgements in the House of Lords, have, however, established that:

“a lottery is the distribution of prizes by chance where the persons taking part in the operation, or a substantial number of them, make a payment or consideration in return for obtaining their chance of a prize. There are really 3 points one must look for in deciding whether a lottery has been established: first of all, the distribution of prizes; secondly, the fact that this was to be done by means of a chance; and thirdly, that there must be some actual contribution made by the participants in return for their obtaining a chance to take part in the lottery.” (Lord Widgery 1976)

- 2.2 Under Article 131(2) (Illegality of lotteries) of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 as amended an arrangement is not a lottery unless persons are required “to pay to participate”. For the purposes of Article 131(2) “pay” means paying money, transferring money’s worth and paying for goods or services at a price or rate which reflects the opportunity to participate in an arrangement. The ‘normal’ purchase cost of goods or services are excluded from the meaning of “pay to participate”. The type of

purchase costs that are not therefore regarded as 'paying' include:-

the 'normal' purchase cost of a product (eg a chocolate bar, newspaper, household appliance);

the 'normal' costs of receiving hospitality;

the 'normal' costs of receiving financial services (eg holding a specific type of bank or building society account or having a specified amount of savings therein); and

'normal' rate expenses of sending a letter by ordinary post, making a telephone call or using any other method of communication (eg sending a telephone text).

Schedule 15A of the 1985 Order (Lotteries and competitions: requirement to pay in order to participate) makes provision as to the circumstances in which a prize competition arrangement is to be or is not to be treated as requiring persons to pay in order to participate.

3. Betting, Gaming, Lotteries and Amusements (Northern Ireland Order 1985 (the Order))

3.1 Under the Order all lotteries are unlawful unless they are:

- a) small lotteries incidental to an exempt entertainment;
- b) private lotteries;
- c) societies' lotteries; or
- d) part of the National Lottery

3.2 This leaflet is essentially concerned with societies' lotteries but it may be helpful to mention briefly the law covering small lotteries and private lotteries.

4. Small lotteries incidental to an exempt entertainment

4.1 An "exempt entertainment" is defined in Article 2(2) of the Order 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 2 or more days".

4.2 Article 133 of the Order gives full details of the conditions which must be observed in promoting a lottery as an incidental part of an exempt entertainment. Some examples of these conditions are:

- a) the whole proceeds, except for specified deductions, of the lottery and of the entertainment as a whole must be used for purposes other than private gain; the organisers may deduct from the proceeds of

the entertainment the expenses of the entertainment but not all the expenses incurred in connection with the lottery; the only expense in connection with the lottery which may be deducted is the cost of printing the tickets;

- b) the sale of tickets or chances and the declaration of winners can only take place on the premises, and during the course, of the entertainment;
- c) participating in the lottery must not be the only or the only substantial inducement to attend the function.

4.3 There is no statutory limit on the price of tickets or chances or on the value of prizes (which may be donated) in this type of lottery. The organiser must, however, keep records and accounts relating to the whole entertainment. He must also inform the local police at least 7 days beforehand that the entertainment is to take place.

5. Private lotteries

5.1 A private lottery is a lottery in Northern Ireland in which the sale of tickets or chances is confined to either:

- a) members of one society, eg a club, established and conducted for purposes not connected with gaming, betting or lotteries and any other people on the society's premises; or

b) people, all of whom either work or live on the same premises.

5.2 Society is defined in the 1985 Order as including any club, institution, organisation or association of persons, by whatever name called, and any separate branch or section of such a club, institution, organisation or association. It is important to note that, in so far as private lotteries are concerned, each local or affiliated branch or section is regarded as a separate and distinct society. Accordingly a local branch or section which runs a private lottery may only sell tickets to members of that branch or section (and, of course, to any other people on the society's premises.)

5.3 The lottery must be promoted by people who are themselves members of the society or of the group of people who work or live together.

5.4 Article 134 of the Order gives full details of the conditions which must be observed in promoting a private lottery. Some examples of these conditions are:

- a) the whole proceeds ie the money raised from the sale of tickets or chances, after deducting only the expenses allowed for printing and stationery, must be devoted to:
 - the provision of prizes; or

- where the lottery is run for the members of a society, to the provision of prizes, to purposes of the society or to both;
- b) the amount of the proceeds deducted for expenses (printing and stationery) must not exceed whichever is the less of:
 - the expenses actually incurred; or
 - 10% of the proceeds;
- c) the total value of tickets or chances sold must not exceed £1,000; there is no restriction on the price of an individual ticket or chance or on the value of prizes (which may be donated);
- d) the lottery may only be advertised on the lottery tickets, on the premises of the society or on the premises on which the people for whom it is promoted work or live;
- e) the price of every ticket or chance must be the same and must be stated on the ticket;
- f) each ticket must show:
 - the name and address of each of the promoters;
 - a statement of the persons to whom the sale of tickets or chances is restricted; and
 - a statement that no prize won will be paid or delivered to anyone other than the person to whom

the winning ticket or chance was sold;

- g) no ticket or chance may be issued except by way of sale and the full price must be paid for it when it is issued. Thus no tickets or chances may be sold at a discount eg 5 for the price of 4.

- 5.5 The private lottery provisions are intended to allow for traditional sweepstakes in work places etc and small-scale, fund-raising ballots by societies. Tickets or chances must not be sold to the public at large.

6. Societies' lotteries

Introduction

- 6.1 A society's lottery is one in which tickets or chances may be sold to the general public. Article 2(2) of the Order defines society and society's lottery as follows:

“society” includes any club, institution, organisation or association of persons, by whatever name called, and any separate branch or section of such a club, institution, organisation or association;

“society's lottery” means a lottery promoted on behalf of a society established and conducted wholly or mainly for one or more of the following purposes:

- a) charitable purposes;

- b) participation in, or support of, athletic sports or games or cultural activities; or
 - c) other purposes which are not purposes of private gain or of any commercial undertaking.
- 6.2 Each branch or section of a society may be treated as a society in its own right so that each may register (see paragraph 6.6) for the purpose of running its own lotteries.
- 6.3 The whole proceeds, ie the money raised from the sale of tickets or chances, of a society's lottery, after deduction of allowable expenses and prizes, must be applied to the purposes of the society.
- 6.4 A society's lottery must be promoted in Northern Ireland, the society must be registered with the district council in whose area its office or head office is situated and the lottery must be promoted in accordance with the lottery scheme approved by the society. Tickets or chances may be sold throughout Northern Ireland subject to the restrictions in paragraphs 6.23 to 6.26.
- 6.5 It should be noted that Great Britain has its own legislation on lotteries contained in the Gambling Act 2005. Tickets in a Northern Ireland society's lottery may not be lawfully sold in Great Britain by a person in Great Britain.

Similarly, tickets in a Great Britain society's lottery may not be lawfully sold in Northern Ireland by a person in Northern Ireland. The law in Great Britain and Northern Ireland is not clear on whether the sale of a GB society's lottery tickets by post or telephone directly to a person in Northern Ireland is lawful. The law is also not clear on whether it is lawful to sell Northern Ireland society's lottery tickets by post or telephone directly to a person in Great Britain. However, the sale of tickets in foreign lotteries in Northern Ireland, although lawful in their country of origin, is prohibited. Whilst the Lotteries (Amendment) Regulations (Northern Ireland) 2021 permits the online sale of tickets, these regulations only apply to lotteries that are permitted under the 1985 Order.

Registration

- 6.6 To register with the district council, a society must:
- a) apply to the council for registration, specifying the purposes for which the society is established and conducted;
 - b) provide any other details which the council may require; (the council may already have an application form drawn up for this purpose;)
 - c) specify the address of its office or head office;

- d) attach a copy of its lottery scheme showing how it proposes to run its lotteries; (the council may have a model scheme available;)(e) copy the application to the local police district commander.
- 6.7 Before deciding whether or not to grant an application, the council will hear any representations which the police may make. The application must be refused if the conditions in the definition of a society's lottery (see paragraph 6.1) are not satisfied or if the lottery scheme does not conform to the law.
- 6.8 The application **may** be refused if:
- a) anyone connected with a lottery promoted or proposed to be promoted on behalf of the society has been convicted of an offence involving lotteries, fraud or dishonesty; or
 - b) the address of the office or head office of the society is the same as that of the office or head office of another registered society established for the same or a connected purpose; or
 - c) any lottery promoted by or on behalf of the society within the last 5 years has not been properly conducted.
- 6.9 If the district council refuses the application, the society may appeal to the county court.
- 6.10 If the district council registers the society, a fee of £35 is payable. On 1 January of each following year, a fee of £17.50 is payable to maintain the registration.
- 6.11 A registered society must notify the district council:
- a) of any change in the address of the society's office or head office within 21 days of the change taking effect; and
 - b) of any change in its lottery scheme before any tickets are sold under the amended scheme. (A lottery scheme being contrary to law is one of the grounds upon which a district council may revoke a society's registration.)
- Promoter**
- 6.12 The lottery must be promoted by a member of the society who has been authorised in writing by its governing body to act as the promoter.
- Tickets and date of lottery**
- 6.13 Each ticket must specify the name of the society, the name and address of the promoter and the date of the lottery.
- 6.14 The date of a lottery is defined in Article 2(2) of the Order as the date on which the winners in that lottery are ascertained. If the winners are selected

by a draw, the date of the lottery will be the date of the draw.

6.15 The law is not specific about the date of what is usually referred to as an “instant” lottery ie where there is no draw and the winners are ascertained solely by reference to what is printed on the tickets eg scratch cards where numbers or symbols are concealed with a substance which has to be removed to show if the ticket is a winner. In the absence of a definitive interpretation by the courts, it is considered that the date of an “instant” lottery should be taken as the last day on which the tickets are to be on sale.

6.16 If a society promotes 2 or more lotteries with the same date, the tickets sold in each lottery must bear a serial number to show to which lottery they relate.

6.17 Where the information appearing on a ticket includes any reference to an external lottery consultant or manager (see paragraph 6.39) employed in the promotion of the lottery, the size of the lettering used in that reference must be no bigger than the smallest lettering used for the name of the society promoting the lottery and the reference must be no more prominent than the society’s name.

6.18 Each ticket must also specify the name of the district council which registered the society (see also paragraphs 6.21 and 6.28 for content of tickets).

Frequency of lotteries

6.19 There are currently no restrictions on the number and frequency of lotteries which may be promoted by a society.

Price of tickets

6.20 A person cannot participate in a lottery unless the whole price of the ticket or chance has been paid to the society. In addition, once money has been received for, or on account of, a ticket or chance, it cannot be refunded.

6.21 The price of every ticket or chance must be the same and must be shown on the ticket. It is, therefore, not permitted to offer say, 5 tickets or chances for the price of 4.

6.22 The maximum price of a ticket or chance is £100.

6.23 No ticket or chance may be bought or sold by anyone under the age of 16.

6.24 Tickets or chances must not be sold in any street. Street is defined as including any bridge, road, lane, footway, subway, square, court, alley or passage, whether a thoroughfare or not, which is open to the public without payment.

This restriction does not apply to the sale of tickets or chances by a person in a kiosk or shop premises with no space for the accommodation of customers. The shop premises envisaged would be the type with a side window or a counter opening directly on to the street through which, or over which, goods such as ice-cream, newspapers etc are sold to people in the street.

- 6.25 Except for the sale of tickets or chances in a lottery by means of the internet, no tickets or chances in a lottery shall be sold by means of a machine.
- 6.26 Tickets or chances may not be sold by anyone when visiting another person at his home in the discharge of any official, professional or commercial function not connected with lotteries. Door to door selling is otherwise permitted.
- 6.27 The total value of tickets or chances sold in any one lottery must not exceed £80,000. The total value of tickets or chances sold in all the lotteries promoted by one society in any year must not exceed £1,000,000.

Identification of winning tickets

- 6.28 A company supplying “instant” tickets (see paragraph 6.15) must not be asked to supply them in such a way that winning tickets can be identified as such before they are sold.

Prizes

- 6.29 No more than 50% of the proceeds (the amount raised from the sale of tickets or chances) of a lottery may be used to provide prizes. Prizes may, however, be donated at a reduced cost or free of charge. Prizes donated free of charge would not be regarded as having been appropriated from the lottery proceeds.
- 6.30 No prize may exceed, in amount or value, £25,000 or 10% of the lottery proceeds, whichever is the greater and regardless of whether or not the prize is donated. In effect, the current ceiling is £25,000 (subject to the 50% limit on the use of proceeds for prizes - see paragraph 6.29) as the maximum possible proceeds of a lottery are £80,000 - see paragraph 6.27.
- 6.31 Value is not defined in the Order. It is suggested, however, that the value of a prize should be based on the recommended retail price plus any relevant taxes or other associated charges, but less any discount generally available to any member of the public at the time the tickets or chances are offered for sale.
- 6.32 No prize can be offered on such terms that the winning of the prize depends on the purchase of more than one ticket or chance in the lottery. This prohibition does not apply where winning depends on the purchase of

more than one chance if the total price of those chances is no more than £100. (£100 being the current maximum price of a ticket or chance in a lottery - see paragraph 6.22).

Expenses

6.33 The amount of the lottery proceeds which may be deducted to meet expenses (exclusive of prizes) is the expenses actually incurred or 20% of the whole proceeds (whichever is the lesser amount).

6.34 For the purposes of determining expenses limits, the law requires that the amount of any expenses met by:

- a) the society on whose behalf the lottery is promoted, or
- b) any beneficiary of the lottery, must be treated as having been taken for expenses from the proceeds of the lottery.

Records

6.35 Promoters should ensure before proceeding with a lottery that adequate record keeping and accounting procedures are in place. It is recommended that, at the very least, the following basic records should be maintained for each lottery:

- a) details of tickets ordered and received from the printer;
- b) details of all tickets issued to each point of sale; details of tickets sold, returned unsold and not returned

(together with brief reason for the failure to return unsold tickets);

- c) details of all income received from the sale of tickets or chances, together with banking records in support;
 - d) details of all expenses, together with relevant invoices; it is advisable to differentiate between expenses appropriated directly from the lottery proceeds, those met by the society promoting the lottery or the beneficiary and thus treated as appropriated from the proceeds, and expenses donated by a third party;
 - e) details of all prizes together with relevant invoices;
 - f) details of winners and winning tickets (it is accepted that for "instant" lotteries it will be inappropriate to maintain lists of small winners but major winners should be duly listed together with winning tickets);
 - g) details of the distribution of the proceeds to each beneficiary where the beneficiary is other than the society conducting the lottery (including receipts from beneficiaries);
 - h) where agents are employed, records should be maintained showing their remuneration and the number of tickets sold and returned.
-

6.36 Not later than the end of the third month after the date of a lottery, the promoter must send a completed return, certified by a qualified accountant (see footnote 1 on page 15) to the district council which registered the society. A copy of this return form is attached at Annex B. A copy of a ticket sold in the lottery must be attached to this return.

6.37 The society must keep copies of these returns, together with copies of supporting bills, receipts and accounts for at least 18 months. If asked to do so during this period, the society must supply copies to the district council or the police.

Inspection

6.38 An officer of the district council or the police may enter the office of a registered society and inspect its records and the promotion of any lottery.

Lottery consultant or manager

6.39 A society may wish to employ an outsider to organise or run its lottery. Such a person is called an external lottery consultant or manager and must hold a lottery certificate granted by the court before he can act in this capacity. Before a society employs such a person, it must ensure that he holds a lottery certificate.

Offences and defences

6.40 If any requirement of the law on societies' lotteries is contravened, the promoter, and any other person who was a party to the contravention, is guilty of an offence. The punishment on conviction can range from a fine to a fine and imprisonment for up to two years. Defences are, however, available if, for instance, the promoter can prove that the contravention occurred without his consent or connivance, the proceeds of the lottery fell short of those reasonably estimated or the date of the lottery was unexpectedly or unforeseeably delayed.

7. General advice

7.1 Further information on the lotteries law may be obtained from Social Policy Unit (address below) or the local district council. Legal advice on the law should be obtained from a professional legal adviser.

7.2 Additional copies of this leaflet are available from:

Social Policy Unit
Department for Communities
8th Floor, Causeway Exchange
1-7 Bedford Street
Belfast BT2 7EG
Tel: 028 9082 3140
Email: social.policy@communities-ni.gov.uk

7.3 The Northern Ireland Council for Voluntary Action (NICVA) provides advice and information to voluntary and community groups on lottery law in Northern Ireland. NICVA's pamphlet "Lotteries - A Guide for Voluntary Groups" is available, free of charge, by contacting the Charity Advice Officer at:

Governance and Charity Advice Team

Northern Ireland Council for
Voluntary Action

61 Duncairn Gardens

Belfast

BT15 2GB

Tel: 028 9087 7777

Email: denise.copeland@nicva.org

The Legislation

Primary legislation

The Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 as amended (S.I.1985 No. 1204 (N.I. 11))

The Betting and Lotteries (Northern Ireland) Order 1994 (S.I. 1994 No. 1893 (N.I. 8))

The National Lottery etc Act 1993 c. 39

Subordinate legislation

The Lotteries Regulations (Northern Ireland) 1994 (S.R.1994 No. 467)

These regulations relate to the conduct of societies' lotteries and prescribe the form of the return (see Annex B) to be made to the district council for each lottery.

The Lottery (Form of Certificate) Regulations (Northern Ireland) 1987 (S.R.1987 No.194)

These regulations prescribe the form of the lottery certificate, granted by a court, which an external lottery consultant or manager must hold.

The Betting, Gaming, Lotteries and Amusements with Prizes (Variation of Fees and Monetary Limits) Order (Northern Ireland) 1995 (S.R. 1995 No. 343)

This Order prescribes the current fees for the registration of a society - £35 for the initial registration and £17.50 for the annual fee to be paid by a registered society.

The above legislation may be accessed at:
www.legislation.gov.uk

ANNEX B

Society's Lottery - Return by Promoter

**(Betting, Gaming, Lotteries and Amusements
(Northern Ireland) Order 1985)**

(To be sent by the promoter of the lottery to the district council named below not later than the end of the third month after the date of the lottery)

Part 1

To.....Council
(name of district council by whom the society is registered)

I,
(full forenames and surname of promoter of lottery)

of.....
.....
.....
(full residential address)

being the promoter of a lottery promoted on behalf of.....
.....
(name of registered society)

registered by the above-named district council under Article 136 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 hereby make the following return in respect of that lottery:

1. The date of the lottery was
.....
2. The total proceeds from the sale of tickets or chances were £.....
3. The amount of the total proceeds appropriated on account of expenses (exclusive of prizes) was £....., including an amount of £.....* met by the registered society on whose behalf the lottery was promoted and an amount of £.....* met by the following (beneficiary) (beneficiaries) of the lottery;
.....
.....
.....
(full forenames and surname of beneficiary, or, where beneficiary is a society, the name of the society)
of.....
.....
(full residential address, or, where beneficiary is a society, that of its office or head office) (give separate details if more than one beneficiary) (insert nil if appropriate)*

4. The amount of the total proceeds appropriated for the provision of prizes was £.....

5. The purpose(s) to which the proceeds of the lottery were applied (was)(were)
.....
.....
(give separate details if more than one purpose)

6. The amount of the proceeds which was applied for the purpose(s) named above was.....
.....
.....
(give separate details if more than one purpose)

7.
(full forenames and surname of holder of lottery certificate, or, where holder of certificate is a body corporate, title of body) of.....
.....
(full address, or, where holder of certificate is a body corporate, that of its registered or principal office)

acted as an external lottery consultant or manager in the promotion of the lottery

8. A copy of a ticket sold in the said lottery is attached.

I hereby certify that I am a member of the said society and have been duly authorised in writing by the governing body of that society to act as the promoter of this lottery.

Dated theday of 20....

Signed

Occupation.....

Part II

Certification of Lottery Return

I, the undersigned, being a qualified accountant within the meaning of Article 2(2) of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985¹ hereby certify that

I have examined the accounts relating to the above lottery and to the best of my information and belief the information contained in this return is correct.

Dated the day of 20....

.....
(signature of qualified accountant)

.....
.....
(address)

¹ "qualified accountant" means a person who is eligible for appointment as a company auditor under Article 28 of the Companies (NI) Order 1990 - Article 2(2) of the Betting etc Order as amended by S.R. 1993 No. 67



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