



department for
**culture, media
and sport**

Gambling Act 2005

Consultation

The Gambling (Small Society Lotteries) (Registration of Non-Commercial Societies) Regulations 2007

June 2007

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

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Section 1: Introduction

1.1 This consultation paper concerns regulations under the Gambling Act 2005 (the Act) which set out the fees and application form for the registration of non-commercial societies in relation to running small society lotteries.

1.2 Schedule 11 of the Gambling Act 2005 (the Act) concerns exempt lotteries. There are four categories of exempt lottery: incidental non-commercial lotteries; private lotteries; customer lotteries; small society lotteries. **This consultation is only relevant to small society lotteries**, and deals with the registration with a local authority, of non-commercial societies on whose behalf such lotteries are promoted.

1.3 Part 5 of Schedule 11 to the Act sets out the mechanisms for application, registration, refusal, revocation, cancellation and appeals in relation to the registration of non-commercial societies. It requires the Secretary of State to prescribe:

- the form on which an application for registration must be made;
- the fee to accompany the application for registration;
- the annual fee;
- the period within which the first annual fee is to be paid.

It also gives the Secretary of State the power to prescribe:

- the information and documents that must accompany the application;
- the information to be entered in the register kept by the local authority;
- the amount of the fee which must accompany the notification of the registration to the Gambling Commission.

1.4 The proposals in this document draw on existing arrangements for the registration of non-commercial societies in relation to small lotteries, as well as the proposals that we have already consulted on in relation to premises licences and other permits under the Act. As with earlier proposals our aim is to develop practical, user-friendly regulations which strike a balance between the need to be prescriptive - to provide consistency and clarity to local authorities, enforcement agencies, the gambling industry and the public - and the need of those same groups for flexibility and proportionate regulation.

1.5 These regulations will be subject to the “negative resolution” procedure in Parliament. Draft regulations and Regulatory Impact Assessment are attached to this document. These regulations will apply to England, Wales and Scotland, with the exception of the fees in relation to Scotland which will be set separately by the Scottish Executive.

Summary

1.6 The Department proposals include:

- A draft form on which a registration must be made;
- A requirement that authorities enter the registration date on the register; and

- A registration fee of £40, and an annual fee of £20 which should be paid before the anniversary of registration;

1.7 The Department does not propose to prescribe any information or documents that should accompany an application for registration, or any further information that a local authority should enter on the register, other than the date. Nor does the Department intend, at this stage, to require local authorities to pay an element of the registration fee to the Gambling Commission, but it considers that this option should be considered as part of the review of Gambling Commission fees.

Consultation

1.8 The Department welcomes comments on these proposals and the attached draft impact assessment. The paper will be of particular interest to:

- Local authorities;
- Small society lotteries and their representative groups and promoters.

1.9 As these regulations are procedural, and in line with proposals on which we have already consulted in relation to premises licensing and other permits to be issued under the Act, we think it appropriate to shorten the consultation period to seven weeks. The closing date for responses is **30 July 2007**. Please send your comments in writing or by email to:

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2-4 Cockspur Street,
London SW1 5DH;
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1.10 A summary of responses will be published within one month of the closing date for consultation. All information in responses, including personal information, may be subject to publication or disclosure under Freedom of Information legislation. If a correspondent requests confidentiality, this cannot be guaranteed and will only be possible if considered appropriate under the legislation. Any such request should explain why confidentiality is necessary. Any automatic confidentiality disclaimer generated by your IT system will not be considered as such a request unless you specifically include a request, with an explanation, in the main text of your response.

1.11 If you have any questions or complaints about the process of consultation on this paper, please contact Liz Sweet, Consultation Co-ordinator, Strategy Division, Department for Culture, Media and Sport, 2-4 Cockspur Street, London SW1Y 5DH, liz.sweet@culture.gsi.gov.uk

Section 2: The Gambling Act (Small Society Lotteries) (Registration of Non-Commercial Societies) Regulations 2007 – proposals for consultation

Background

2.1 Section 258 of the Act makes it an offence to promote a lottery unless there is a relevant operating licence for that lottery, or it is an exempt lottery. There are 4 categories of exempt lotteries, which are set out in Schedule 11 to the Act. These are:

- (i) **Incidental non-commercial lotteries.** These are lotteries that are incidental to a non-commercial event, and in which none of the money raised from the event is for private gain. None of the proceeds of these lotteries may be used to pay for the prizes or costs incurred in organising the lotteries;
- (ii) **Private lotteries.** There are three types of private lotteries:
 - A 'private society lottery', which must be promoted for and by members of the society,
 - A 'work lottery', where the promoters and those who buy tickets all work on a single set of premises - this must not make any profits,
 - A 'residents' lottery', where the promoters and those who buy tickets all live on a single set of premises (such as a hall of residence);
- (iii) **Customer lotteries.** These are lotteries run by occupiers of business premises who sell tickets only to customers present on the premises. They must not make any profits and the maximum prize is £50;
- (iv) **Small Society lotteries.** These are lotteries promoted wholly on behalf of non-commercial societies (also referred to in Schedule 11 as 'promoting societies'), which are defined in section 19 of the Act. These are essentially societies established for any of the following purposes:
 - charitable purposes,
 - to enable participation in, or to support, sport, athletics or a cultural activity, or
 - for any other non-commercial purpose other than that of private gain.

2.2 Small society lotteries are also subject to the limits set out in paragraph 31 of Schedule 11, including the following:

- the proceeds of the individual lottery must not exceed £20,000, and
- the aggregate proceeds of all the society lotteries promoted by that society in a year must not exceed £250,000.

If these limits are exceeded, the lottery becomes a large society lottery and the promoting society will require an operating licence. If the promoting society promotes any other lotteries within three calendar years of promoting a large lottery, all those other lotteries will be treated as large lotteries.

At least 20% of the proceeds in a small society lottery must go to a purpose for which the society is conducted, and no single prize may be worth more than £25,000 (see paragraphs 33 and 34 of Schedule 11).

2.3 The promoting society of a small society lottery must be a non-commercial society and must be registered with a local authority throughout the period during which the lottery is promoted. Part 5 of Schedule 11 to the Act sets out the mechanisms for applying for such registration (including granting or refusing the application), for that registration to be revoked or cancelled, and for decisions in relation to the registration to be appealed. This requires the Secretary of State to prescribe:

- the form on which an application for registration must be made;
- the fee to accompany the application for registration;
- the annual fee;
- the period within which the first annual fee is to be paid;

It also gives the Secretary of State the power to prescribe:

- the information and documents that must accompany the application;
- the information to be entered in the register kept by the local authority;
- the amount of the fee which must accompany the notification of the registration to the Gambling Commission;

The Department proposes, however, to adopt a light touch approach to prescribing the procedures for registration of non-commercial societies, as we have with other aspects of the gambling licensing regime introduced by the Act, and to allow licensing authorities as much discretion as possible in administering and monitoring the process on the ground.

2.4 We propose, therefore, to make regulations prescribing:

- the form on which an application for registration must be made;
- the fee to accompany the application for registration;
- the annual fee;
- the period within which the first annual fee is to be paid;
- and requiring local authorities to enter the date of registration on the register.

Form of application

2.5 The Department is required by the Act to prescribe the application forms for registration. As some issues are similar to those we have already considered in relation to application forms for club gaming and club gaming machine permits, we propose to model this application form on the one we have already developed for those permits. The application form must include sufficient information for a local authority to satisfy itself that the promoting society meets the criteria for registration. To achieve this the Department considers that the form should request details of the society applying for registration, including the purposes for which it is established and conducted (which is required by paragraph 42(2)(b)). This should then help local authorities decide whether the applicant meets the definition of a non-commercial society in section 19 of the Act.

2.6 Although a promoting society of a small society lottery does not require a Gambling Commission operating licence to promote such a lottery, under paragraph 47 of Schedule 11, a local authority **must** refuse an application if:

- In the 5 years prior to the application, an application for a gambling operating licence made by the applicant was refused; or
- In the 5 years prior to the application, a gambling operating licence held by the applicant was revoked (under section 119(1) of the Act) because the Gambling Commission thought

that:

- a. the licensed activity was being carried out in a manner inconsistent with the licensing objectives;
- b. a condition of the licence was breached;
- c. the licensee failed to cooperate with a review; or
- d. the licensee was unsuitable to carry on the licensed activity.

2.7 A gambling operating licence may be revoked for other reasons (see, for example, section 119(2)), but these do not constitute a basis on which registration may be refused.

2.8 Under paragraph 48 of Schedule 11, a local authority **may** refuse an application if:

- the applicant is not a non-commercial society;
- a person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence (see section 126 and schedule 7 for a definition of 'relevant offence'); or
- information provided in or with the application for registration is false or misleading.

2.9 A draft application form is attached at Annex A. It includes questions to elicit information relevant to paragraphs 47 and 48, although it does not, at this stage, include a question specific to the second bullet point above. It is an offence to provide false or misleading information on the application form and, in light of this, the application does not ask questions relating to relevant offences. This is in order to minimise the scope for uncertainty for the person signing the application form. The Department considers that it may be difficult for persons signing the form to:

- make assertions about a future event; that is, to establish which persons *will* be connected with promotion of the lottery; and
- make a judgment as to whether a person is 'connected with the promotion of the lottery', which is relatively wide in scope.

This ground for refusal already exists in current law (see paragraph 4(1)(a) of Schedule 1 to the Lotteries and Amusements Act 1976 ('the 1976 Act')), and the Department is interested in learning from local authorities how they make this assessment under their current arrangements.

The Department would be particularly interested in local authorities' views on these questions.

Q1 Do you have any comments on the draft application form?

Q2 Are you satisfied that the application form will provide sufficient information to determine whether an application should be refused under paragraphs 47 and 48;

Q3 What process, if any, do local authorities currently have in place to establish whether paragraph 4(1)(a) of Schedule 1 to the 1976 Act applies?

Q4 Are there any specific documents that non-commercial societies should be required to send together with the application form?

Fees

3.1 The current registration fee is £35. It was proposed in the consultation on Premises Licence and Permit Fees ('the Fees consultation') to increase this to £40. There were no comments on this in response to that consultation. The Department therefore intends to set the registration fee at £40.

3.2 The current annual fee is £17.50. It was proposed in the fees consultation to increase this to £20. There were no comments on this in response to that consultation. The Department therefore intends to set the annual fee at £20.

3.3 Paragraph 54 of Schedule 11 requires an annual fee to be paid to the local authority within such a period before each anniversary of the registration as may be prescribed by the Secretary of State. The equivalent provision in paragraph 9 of Schedule 1 to the 1976 Act requires payment ‘on 1st January in each year while it is registered’, and this provision has been replicated in the transitional arrangements for existing promoting societies where their current registrations are converted into registrations under the Act, but the Act does not require payment of the fee to be made on a specified date.

3.4 We are proposing to provide in the regulations that the annual fee must be paid during the period of 30 days immediately before the anniversary of the registration. This will in our view give societies sufficient flexibility in paying the annual fee, whilst ensuring that the payment is made reasonably close to the anniversary date.

Q5 Do you agree that the regulations should prescribe that the annual fee should be paid during the period of 30 days immediately before each anniversary of registration? If not, what period would you suggest?

Register

3.5 If the application is granted, paragraph 44(a) requires the applicant’s name to be entered on the register as soon as is reasonably practicable after receipt of the application. The Secretary of State has powers to specify other information to be entered on the register. Schedule 1 to the 1976 Act does not currently specify the information to be included in the register. Generally, the Department’s approach has been not to specify what information licensing authorities should keep on a register. When considering registration of promoting societies for small lotteries, however, the Department is mindful that the first annual fee must be paid before the anniversary of the registration. The Department therefore proposes to require local authorities to enter the date on which the entry is made on the register as this would provide a useful record to rely on in calculating the time for paying the annual fee.

Q 6 Do you agree that the Regulations should require local authorities to date the entry of registrations in their register?

Fee to Commission

3.6 Local authorities are required to notify the Commission of a registration, and send the Commission such part of the application fee as may be prescribed by the Secretary of State. The intention would be for local authorities to make a contribution to cover the Commission’s administrative costs. However, following consultation with the Gambling Commission, the Department does not intend to use this power at this stage. Rather, we propose to keep this under review, in the context of wider review of the Gambling Commission fees.

Section 3: Consultation questions

- Q1** Do you have any comments on the draft application form?
- Q2** Are you satisfied that the application form will provide sufficient information to determine whether an application should be refused under paragraphs 47 and 48;
- Q3** What process, if any, do local authorities currently have in place to establish whether paragraph 4(1)(a) of Schedule 1 to the Lotteries and Amusements Act 1976 applies?
- Q4** Are there any specific documents that non-commercial societies should be required to send together with the application form?
- Q5** Do you agree that the regulations should prescribe that the annual fee should be paid during the period of 30 days immediately before each anniversary of registration? If not, what period would you suggest?
- Q6** Do you agree that the Regulations should require local authorities to date the entry of registrations in their register?