



Department
for Culture
Media & Sport

CONSULTATION ON INCIDENTAL NON-COMMERCIAL, PRIVATE SOCIETY, WORK AND RESIDENTS' LOTTERIES

Proposals for Lifting Restrictions

27 February 2014

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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Chapter 1: Introduction

1.1 This consultation has come about through the Red Tape Challenge. The Red Tape Challenge is a cross-Government programme to tackle the stock of unnecessary and over-complicated regulation – reducing the burdens for business and society, saving taxpayers money and supporting economic growth.

1.2 As part of the Sport and Recreation theme of the Red Tape Challenge the Department for Culture, Media and Sport looked at the regulations governing gambling and including lotteries. The Department identified three Statutory Instruments dealing with exempt lotteries for possible repeal; after deliberation it was decided that it was necessary to keep the Statutory Instruments as they were necessary to ensure that exempt lotteries remain primarily small scale and for the benefit of good causes or for entertainment..

1.3 However, it was identified within the Gambling Act 2005 that there are rules that apply to certain exempt lotteries, such as incidental non-commercial lotteries run by school PTAs and which prevent, for instance, pubs from organising lotteries to raise money for charity without being able to keep the profits on food and drink. These rules are in place to protect participants and organisers from accusations of unfairness or impropriety and also to keep them low level in terms of proceeds; simplifying them would make it easier for voluntary groups and commercial organisations to raise money for charity.

1.4 The Department, therefore, proposes to amend the rules that apply to the incidental non-commercial and private exempt lotteries and is holding this consultation to gain the public's view on the proposals.

1.5 As this consultation results from the Red Tape Challenge it has been 'fast-tracked' and therefore there is no Impact Assessment accompanying the consultation. However, an Impact Assessment will be prepared as part of the Government's response to the consultation.

1.6 We particularly seek views from charities and other organisations with an interest in fundraising through exempt lotteries, as well as faith and community groups. We would also welcome views from any other interested parties or individuals, and all responses will be carefully considered.

1.7 The consultation period will run for **6 weeks** from **27 February to 10 April 2014**.

1.8 Please respond before the closing date. There is a summary of the questions in Chapter 4. Responses should be sent to gambling.consultations@culture.gsi.gov.uk If you do not have access to email, please respond to:

Caity Marsh

Gambling (Exempt Lotteries Consultation)

Department for Culture, Media and Sport

100 Parliament Street, London, SW1A 2BQ

1.9 This consultation is intended to be an entirely written exercise. Please contact Caity Marsh on 020 7211 6000 if you require any other format e.g. Braille, Large Font or Audio.

1.10 For enquiries about the handling of this consultation please contact the DCMS Correspondence Team at the above address or e-mail at enquiries@culture.gov.uk heading your communication “Gambling Act 2005: Exempt Lotteries Consultation”.

1.11 Copies of responses will be published after the consultation closing date on the Department’s website: www.gov.uk/government/organisations/department-for-culture-media-sport

1.12 Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (“FOIA”), the Data Protection Act 1998 (“DPA”) and the Environmental Information Regulations 2004).

1.13 If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this, it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

1.14 The Department will process your personal data in accordance with the DPA, and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

Chapter 2: Background

The Gambling Act 2005

2.1 The Gambling Act 2005 (the Act) came into effect in 2007 and is the Act that regulates all forms of gambling in England, Scotland and Wales, apart from the National Lottery. The Act's objectives are (a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime, (b) ensuring that gambling is conducted in a fair and open way, and (c) protecting children and other vulnerable persons from being harmed or exploited by gambling.

Definition of A Lottery

2.2 Lotteries are illegal unless they fall into one of the categories specifically permitted by law. Apart from the National Lottery (which has its own dedicated legislation), the relevant law is contained in the Gambling Act 2005.

2.3 In simple terms a lottery is a kind of gambling that has three essential elements:

- Payment is required to participate
- One or more prizes are awarded
- These prizes are awarded by chance

2.4 Raffles, tombolas, sweepstakes, etc are all classed as lotteries.

2.5 The Act creates eight categories of permitted lottery. Two of these categories (large society lotteries and local authority lotteries) require a licence from the Gambling Commission. The remaining categories of lottery are exempt lotteries (ie exempt from requiring a licence). Small society lotteries must be registered with a Local Authority, but the remaining exempt lotteries - customer lotteries, incidental non-commercial lotteries and the three categories of private lottery (private society lotteries, work lotteries and residents' lotteries) do not require either a licence or registration.

2.6 This consultation deals with incidental non-commercial and private lotteries.

Incidental Non-Commercial Lotteries

2.7 An incidental non-commercial lottery is one that 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 non-commercial if all the money raised (proceeds) at the event including entrance fees, sales of food and drink, etc goes entirely to purposes that are not for private gain: therefore, a fundraising social event with an entrance fee would be non-commercial if the monies raised went to a charity or good causes but would not be non-commercial if the monies were retained by the organiser for private gain. However, money raised by third parties will not form part of the proceeds of the event and so may be appropriated for private gain. An example of this would be refreshments or entertainment provided at the event by an independent third party.

2.8 The Gambling Act 2005 and a related Statutory Instrument (Gambling Act 2005 (Incidental Non-Commercial Lotteries) Regulations 2007 (SI 2007/2040) specify that:

- The promoters of the lottery may not deduct more than £100 from the proceeds in respect of the expenses incurred in organising the lottery, such as the cost of printing tickets, hire of equipment and so on
- Not more than £500 can be spent on prizes (but other prizes may be donated to the lottery)
- The lottery cannot involve a rollover of prizes from one lottery to another
- All tickets must be sold at the location during the event, and the result made public while the event takes place

Private Lotteries

2.9 There are three types of private lotteries permitted by the Gambling Act 2005:

- Private society lottery
- Work lottery
- Residents' lottery

2.10 Private lotteries must comply with conditions relating to advertising which state 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 may it be sent to any other premises.

2.11 Private lotteries must comply with conditions set out in Schedule 11 of the Gambling Act 2005 relating to tickets. In summary these are:

- A ticket in a private lottery may be sold or supplied only by or on behalf of the promoters
- Tickets (and the rights they represent) are non-transferable
- Each ticket must state the name and address of the promoter of the lottery, the people to whom the promoter can sell or supply tickets and the fact that they are not transferable

2.12 Private lotteries cannot be conducted on vessels. The Gambling 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
- Anything, or any part of any place, situated on or in water

2.13 The price for each ticket in a private lottery must be the same, must be shown on the ticket and must be paid to the promoters of the lottery before anyone is given a ticket.

2.14 The arrangements for private lotteries must not include a rollover of prizes from one lottery to another.

Private society lotteries

2.15 Private society lotteries can only be promoted by an authorised member of a society. The society can be any group or society, provided it is not established and conducted for purposes connected to gambling; for example private members clubs can organise such lotteries. Tickets can only be sold to other members of that society and to people on the premises used for the administration of the society. The lottery may only be promoted and raise proceeds for the purposes for which the society is conducted.

Work lotteries

2.16 Work lotteries can only be promoted by someone who works on the premises (see paragraph 2.18) and tickets can only be sold to other people who work on the same single set of premises. The lottery must not be run for profit (see paragraph 2.22) and all the proceeds (gross ticket sales) must be used for prizes or reasonable expenses incurred in organising the lottery. An arrangement such as the Grand National sweepstake held in an office is an example of a work lottery.

Residents' lotteries

2.17 Residents' lotteries must not be run for profit (see paragraph 2.22) and all the proceeds must be used for prizes or reasonable expenses. The promoter of the lottery must reside in the premises and tickets can only be sold to other residents of the same single set of premises. The residency requirement can still be satisfied where the premises are not the sole premises in which a person resides, for example student halls of residence.

Definition of 'single set of premises'

2.18 The wording 'single set of premises' was designed to include the situation where there might be multiple buildings on a single site, such as a hospital site or the many buildings which may exist within larger corporations. The term does not include multiply sites; for example a company with premises in more than one area would not be able to sell tickets for a single private lottery covering all of the sites. This is intended to help keep these lotteries small-scale.

Premises Licences and Lotteries

2.19 Under section 167 of the Gambling Act 2005, the Secretary of State and Scottish Ministers have made regulations setting mandatory and default conditions that are attached to gambling premises licences. These include a mandatory condition that specifies premises licensed for gambling may not be used for the sale of tickets in a private society lottery or work lottery. For example, a casino operator holding a premises licence will not be permitted to hold a work lottery for its staff on those premises. It also specifies that National Lottery products may not be sold on such premises.

Proceeds and Profits

2.20 Section 254 of the Gambling Act 2005 clarifies what is meant by ‘proceeds’ and ‘profits’ of a lottery.

2.21 ‘Proceeds’ are the total amount paid for tickets before any deductions.

2.22 ‘Profits’ are the amount of proceeds less any deductions for prizes and reasonable expenses incurred in connection with running the lottery.

Chapter 3: The Proposals

3.1 The proposals are specific to each individual lottery under discussion, where the proposal applies to more than one type of lottery this is highlighted.

Proposal 1: Incidental Non-Commercial Lotteries

3.2 The current regulations restrict 'incidental lotteries' to non-commercial events and all monies raised at the event by the organisers including entrance fees, food and drink sales, sponsorship etc, must go to the purpose for which the lottery is being held; i.e. the organisers of the lottery cannot retain non-lottery profits. In reality this means that pubs, clubs, event and concert organisers and other commercial businesses are not able to hold, for instance, a raffle for charity or good causes since, to remain compliant with the Act, they would also need to pass on any other revenue collected during the course of the event to the good cause.

3.3 The Government considers that this unnecessarily limits charities being able to fund-raise at events.

3.4 The Government therefore proposes to allow incidental lotteries to take place at both non-commercial and commercial events, which would enable pubs, clubs, shops, concerts, festivals, trade fairs etc, to offer lotteries as a fund-raising activity where they hold an event.

3.5 Where the lottery is held incidental to a commercial event, the intention is that the business or event organiser should only be allowed to retain revenue directly incurred in the running of the event, including entrance fees, sponsorship deals, food and drink sales, or commissions from traders. All profits of the lottery will be required to be directed to charities or other good non-commercial causes.

3.6 There are possible risks to the licensing objectives of the Gambling Act that potentially large and unregulated lotteries involving significant numbers of people could be promoted at commercial events with the possibility that the promoters could use those lotteries indirectly for commercial benefit and that there would be limited safeguards for participants and the charity or good cause involved. The Government intends to mitigate this risk by keeping the limits on prizes (currently at £500 of proceeds) and expenses (currently at £100 of proceeds) and would ensure that they are primarily run for the benefit of charities and good causes.

3.7 Another risk that has been identified is that this proposal may allow gambling establishments such as casinos and betting shops to hold an incidental non-commercial lottery on their premises. Under current legislation (see paragraph 2.19) gambling operators are not allowed to operate a private society or a work lottery on their premises

because it was not felt to be appropriate that commercial gambling operators should be involved in operating what were at the time intended to be 'for fun' exempt lotteries.

3.8 The Government considers that keeping the current restrictions on incidental non-commercial lotteries of the maximum prize limit of £500 of proceeds and of expenses of £100 of proceeds will keep the lottery primarily run for the benefit of charities and good causes and help to limit the scale of this type of lottery to retain the distinction between them and other lotteries.

3.9 The Government also considered the current restriction on incidental non-commercial lotteries of tickets only being allowed to be sold during an event and on the premises where an event is being held. The Government considered whether this restriction limits the ability to raise money for charities and good causes. It was therefore initially proposed that the sale of tickets for incidental non-commercial lotteries be opened up for sale before and away from the event.

3.10 However, the Government identified a risk with this proposal. It was considered that this proposal would take the lottery outside of the realm of what can sensibly be called an 'incidental' lottery (ie incidental to an event) and would be vulnerable to challenge on the basis that there is little to distinguish such a lottery from a small society lottery. Large scale fundraising from lotteries is the preserve of society lotteries and the National Lottery, which are required to be licenced and regulated more strictly because they are much larger in terms of proceeds and prizes. It could also be viewed as gratuitous advertising for a commercial business itself and may come close to the line therefore of requiring an operator's licence.

3.11 The Government therefore believes that the risk attached to this proposal to be warranted and does not put it forward for consideration.

3.12 However, the Government also considered a proposal to remove the restriction of the result of a lottery being made public while the event takes place. The restriction, at present, disadvantages lotteries such as balloon races, which by their nature cannot produce a result during an event.

3.13 The Government considers that there is little risk attached to this proposal, as in practice results will continue to be announced at events, but it will bring the benefit of allowing lotteries such as balloon races to operate, whilst still being kept small by the restrictions on maximum prizes and expenses.

Question 1: Do you agree with the Government's proposal to permit lotteries that are incidental to commercial events to be run?

Question 2: Is there any supporting evidence that you are aware of that justifies the need for this reform?

Question 3: Do you have any views regarding the expected benefits of the proposal?

Question 4: Do you feel the identified risks warrant the dropping or modification of this proposal? If modification, please state in which way. Please comment on any risks not already identified.

Question 5: Is the proposal proportionate to the policy objective of allowing commercial businesses to hold lotteries to raise money for charities and good causes?

Proposal 2: Private Society Lotteries

3.14 Under the current regulations the holding of a private society lottery must be restricted to benefiting the cause to which the society is concerned – for instance a working men’s club can hold a lottery but the proceeds can only be used for the benefit of that club.

3.15 The Government believes that this is an unnecessary burden on private societies and limits their capacity to fund-raise for other causes they may wish to support.

3.16 It is proposed to allow private society lotteries to be promoted for any charity or non-commercial or non-private good cause.

3.17 The Government considers that there is little or no risk for this proposal, because, replicating the current regulations would mean that these lotteries would remain small scale by restricting promotion to single premises and club members and guests on those premises.

3.18 The Government believes that this proposal will lead to increased potential for fundraising in the charity sector.

Question 6: Do you agree with the Government’s proposal to allow private society lotteries to be promoted for any charity or good cause?

Question 7: Is there supporting evidence that you are aware of that justifies the need for this reform?

Question 8: Do you have any views regarding the expected benefits of the proposal? Do you consider that there could be risks/unintended consequences of the proposal?

Question 9: Is the proposal proportionate to the policy objective of allowing greater freedom to private societies to raise money for charities and good causes?

Proposal 3: Work and Residents' Lotteries

3.19 Under the current regulations, work and residents' lotteries may not be promoted to raise funds for good causes. All the proceeds of a lottery must be used for prizes and/or the expenses of the lottery, leaving no profits. For instance, a work place sweepstake on the Grand National could not raise money for a charity or good cause.

3.20 The Government believes this imposes an unnecessary barrier to raising money for charities and good causes.

3.21 It is proposed to allow these lotteries to be promoted for charity or other good causes by removing the "no profits" prohibition. However, instead we will mandate that all profits that are made from such a lottery must go to charities or good causes.

3.22 However, it is not the Government's intention to make all work and residents' lotteries profit-making. These lotteries are often played for fun and this element will be kept.

3.23 Again the Government considers there is little or no risk attached to this proposal. Replicating the remaining current regulations would keep these lotteries small scale by restricting their promotion to participants in a single site work and residential premises.

3.24 The Government believes that this proposal will lead to increased opportunities of fund-raising for the charity sector.

Question 10: Do you agree with the Government's proposal to allow work and residents' lotteries to be promoted for charity or good causes?

Question 11: Is there supporting evidence that you are aware of that suggests the need for this reform?

Question 12: Do you have any views regarding the expected benefits of the proposal? Do you consider there are any risks/unintended consequences to this proposal?

Question 13: Is the proposal proportionate to the policy objective?

3.25 Under the current regulations the promoters of work and residents' lotteries are required to provide a document to each participant (the lottery ticket) that displays the name and address of the promoter and other information about the arrangements for the lottery.

3.26 The Government believes that this places an administrative burden on the promoter which is not warranted. As long as the lotteries continue to be restricted to work colleagues and residents' of a single set of premises there is no reason for the specific ticket information.

3.27 It is proposed to remove the requirement for work and residents' lotteries to provide tickets containing specific information. This will allow organisers to ticket their event appropriately as already happens in incidental non-commercial lotteries.

3.28 The Government believes that this will benefit the promoter of the lottery by lifting an administrative burden.

Question 14: Do you agree with the Government's proposal to remove the requirement for promoters of work and residents' lotteries to provide specific tickets?

Question 15: Is there supporting evidence that you are aware of that justifies the need for this reform?

Question 16: Do you have any views regarding the expected benefits of the proposal? Do you consider there are any risks/unintended consequences to this proposal?

Question 17: Can you identify any risks with the Government's proposal? Is there any need for the current information on tickets to be retained?

Question 18: Is the proposal proportionate to the policy objective of lifting an administrative burden?

General Questions

Question 19: Do the proposals put forward in this consultation, taken as a whole, strike a fair balance between the public interest and any person adversely affected by them?

Question 20: Do the proposals remove any necessary protection?

Question 21: Do any of the proposals put forward contribute to or open-up any risk of criminal activity?

Chapter 4: Summary of Questions

- Q1 Do you agree with the Government's proposal to permit lotteries that are incidental to commercial events to be run?
- Q2 Is there any supporting evidence that you are aware of that justifies the need for this reform?
- Q3 Do you have any views regarding the expected benefits of the proposal?
- Q4 Do you feel the identified risks warrant the dropping or modification of this proposal? If modification, please state in which way. Please comment on any risks not already identified.
- Q5 Is the proposal proportionate to the policy objective of allowing commercial businesses to hold lotteries to raise money for charities and good causes?
- Q6 Do you agree with the Government's proposal to allow private society lotteries to be promoted for any charity or good cause?
- Q7 Is there supporting evidence that you are aware of that justifies the need for this reform?
- Q8 Do you have views regarding the expected benefits of the proposal? Do you consider that there could be risks/unintended consequences of the proposal?
- Q9 Is the proposal proportionate to the policy objective of allowing greater freedom to private societies to raise money for charities and good causes?
- Q10 Do you agree with the Government's proposal to allow work and residents' lotteries to be promoted for charity or good causes?
- Q11 Is there supporting evidence that you are aware of that justifies the need for this reform?
- Q12 Do you have any views regarding the expected benefits of the proposal? Do you consider there are any risks/unintended consequences to this proposal?
- Q13 Is the proposal proportionate to the policy objective?
- Q14 Do you agree with the Government's proposal to remove the requirement for promoters of work and residents' lotteries to provide specific tickets?

Q15 Is there supporting evidence that you are aware of that justifies the need for this reform?

Q16 Do you have any views regarding the expected benefits of the proposal? Do you consider there are any risks/unintended consequences to this proposal?

Q17 Can you identify any risks with the Government's proposal? Is there any need for the current information on tickets to be retained?

Q18 Is the proposal proportionate to the policy objective of lifting an administrative burden?

Q19 Do the proposals put forward in this consultation, taken as a whole, strike a fair balance between the public interest and any person adversely affected by them?

Q20 Do the proposals remove any necessary protection?

Q21 Do any of the proposals put forward contribute to or open-up any risk of criminal activity?

Appendix A: List of Consultees

Association of Chief Police Officers – National Policing Lead, Gambling Crime
British Beer and Pub Association
Charity Commission for England and Wales
Institute of Fundraising
Institute of Fundraising Scotland
Institute of Fundraising Cymru
National Association of Hospice Fundraisers
National Ex-Services Association
National Federation of Women’s Institutes
Office of the Scottish Charity Regulator
Parent Teacher Association UK (PTA-UK)
Scottish Beer & Pub Association
The Hospice Lotteries Association
The Lotteries Council
Working Men’s Clubs and Institute Union

Appendix B: Consultation Principles

This consultation document is produced in line with the Government's Consultation Principles which can be found at: <https://www.gov.uk/government/publications/consultation-principles-guidance>



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