

GAMBLING COMMISSION

Advice on non-commercial and private gaming and betting

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1 Introduction

- 1.1 This advice is designed to provide help to people planning to offer gambling at non-commercial or private events.
- 1.2 The rules governing non-commercial and private gaming and betting are complex and this advice is for guidance only. It is not a binding interpretation of the law and cannot cover every circumstance. Anyone intending to run events under these provisions should therefore refer to the Gambling Act 2005 (the Act) itself and, if necessary, seek independent legal advice to ensure that their plans conform to the law before proceeding.

2 Defining non-commercial and private gaming and betting

2.1 The Act permits gambling without any specific permission under limited circumstances. In summary these are:

- non-commercial gaming
- private gaming and betting
- incidental non-commercial lotteries
- private society lotteries
- work lotteries
- residents' lotteries
- customer lotteries.

2.2 The Act allows non-commercial gaming, that is to say gaming which takes place at a non-commercial event, either as an incidental or principal activity at the event. Events are non-commercial if no part of the proceeds is for private profit or gain. The proceeds of such events may benefit one or more individuals if the activity is organised:

- by, or on behalf of, a charity or for charitable purposes, or
- to enable participation in, or support of, sporting, athletic or cultural activities.

2.3 For example, it would be possible to raise funds for an individual as long as the proceeds were for a wheelchair or to support a sporting endeavour. Additionally, popular events such as race nights or casino nights may be permitted if they comply with the regulations and profits go to a 'good cause'. More details about these can be found later in this document.

2.4 Section 297(3) of the Act defines 'proceeds' as:

- the sums raised by the organisers (whether by way of fees for entrance or for participation, by way of sponsorship, by way of commission from traders, or otherwise) minus:
- amounts deducted by the organisers in respect of costs reasonably incurred in organising the event.

2.5 However, sums raised by other persons will not form part of the proceeds of the event and may be appropriated for private gain. An example would be refreshments provided at the event by an independent third party.

2.6 The Act identifies two types of permissible non-commercial gaming:

- prize gaming (which must comply with the conditions set out in section 299 of the Act)
- equal chance gaming (which must comply with the conditions set out in section 300 of the Act and the conditions prescribed in Regulations).

2.7 Gaming is private gaming provided it is equal chance gaming, there is no charge for participation and it takes place somewhere to which the public do not have access. That

would include a workplace, for example. Domestic and residential gaming are subsets of private gaming where non-equal chance gaming is also allowed:

- Domestic gaming is allowed without the need for permissions if:
 - it takes place in a private dwelling, and
 - it is on a domestic occasion
- Residential gaming is allowed when:
 - it takes place in a hall of residence or hostel not administered in the course of a trade or business, and
 - more than 50% of the participants are residents.

2.8 Betting is private if it is domestic betting or workers' betting. Domestic betting is a betting transaction made on premises in which each party to the transaction habitually resides. Workers' betting is where a betting transaction is made between persons who are employed by the same employer.

2.9 With regard to exempt lotteries, this advice addresses incidental non-commercial lotteries only. If you would like further information about exempt lotteries in general, you are directed to the Gambling Commission's publication *Organising small lotteries: Advice on lotteries that do not require a licence or registration (November 2009)*.

2.10 An incidental non-commercial lottery is a lottery which is incidental to a non-commercial event, that is, the lottery is not the main purpose of the event. Examples may include a lottery held at a school fete or at a social event such as a dinner dance.

3 Non-commercial prize gaming

3.1 Section 288 defines gaming as prize gaming if neither the nature nor size of a prize is determined by the number of people playing or the amount paid for or raised by the gaming. The prizes will be determined by the operator before play commences. This is distinct from normal commercial gaming where the stakes and participation fees paid by the players go to make up the available winnings.

3.2 There are no statutory limits on stakes, prizes, participation fees or other charges for non-commercial prize gaming. In addition, no licence, permit or other form of permission is required to operate this kind of gaming, provided that the statutory conditions are complied with.

3.3 The conditions for non-commercial prize gaming, set out in section 299 of the Act, are as follows:

- All players must be told for what purpose the money raised from the gaming is going to be used (this must be something other than private gain), and the profits must be applied for that purpose
- The non-commercial event cannot take place on premises (other than a track) which hold a premises licence, nor on a track at a time when activities are being carried on in reliance on a premises licence, nor on premises at a time when activities are being carried on in reliance on a temporary use notice. There is nothing to stop such premises running charitable or other gambling events to raise money for good causes, but they should do so using the gambling permissions granted to them by their premises licence or temporary use notice. The one exception to this is that a non-commercial event can take place at a track or premises subject to a temporary use notice, provided no gambling activities are taking place in reliance on the licence or notice at the same time. This enables a track to be used for non-commercial gambling when races are not taking place
- The gaming must be non-remote gaming. In other words, the authorisation can only apply to gaming which takes place at events, on premises, and for gaming in person.

3.4 'Profits' in paragraph 3.3 above means:

- total amounts:
 - paid by way of stakes, or
 - accruing to the person organising the gaming directly in connection with itminus:
- amounts deducted by the person organising the gaming in respect of:
 - the provision of prizes, or
 - other reasonable costs incurred in organising the gaming or providing facilities for the gaming.

3.5 A person commits an offence under section 301 of the Act if he or she uses any part of the profits from the gaming for purposes other than the specified non-commercial purpose. This includes permitting the profits to be used for other than the specified non-commercial purpose.

4 Non-commercial equal chance gaming

4.1 Equal chance gaming is gaming where the chances are equally favourable to all participants and players are not competing against a bank (section 8 of the Act). This includes games such as poker or bingo. In non-commercial equal chance gaming, the charitable funds are usually raised through an entrance fee, participation fee, or through other payments related to the gaming.

4.2 The conditions for non-commercial equal chance gaming, set out in section 300 of the Act, are as follows:

- All players must be told for what purpose the money raised from the gaming is going to be used (this must be something other than private gain), and the profits must be applied for that purpose
- The gaming must also comply with regulations¹ made, limiting:
 - the maximum payment each player can be required to make to participate in all games at an event to £8
 - the aggregate amount or value of prizes in all games played at an event to £600, although where an event is the final one of a series in which all of the players have taken part in another event of the series held on a previous day, a higher prize fund of up to £900 is permitted
- The non-commercial event cannot take place on premises (other than a track) which hold a premises licence, nor on a track at a time when activities are being carried on in reliance on a premises licence, nor on premises at a time when activities are being carried on in reliance on a temporary use notice. There is nothing to stop such premises running charitable or other gambling events to raise money for good causes, but they should do so using the gambling permissions granted to them by their premises licence or temporary use notice. The one exception to this is that a non-commercial event can take place at a track or premises subject to a temporary use notice, provided no gambling activities are taking place in reliance on the licence or notice at the same time. This enables a track to be used for non-commercial gambling when races are not taking place
- The gaming must be non-remote gaming. In other words, the authorisation can only apply to gaming which takes place at events, on premises, and for gaming in person.

4.3 'Profits' in paragraph 4.2 above means:

- total amounts:
 - paid by way of stakes, or
 - accruing to the person organising the gaming directly in connection with itminus:
- amounts deducted by the person organising the gaming in respect of:

¹ SI 2007 No. 2041: The Gambling Act 2005 (Non-Commercial Equal Chance Gaming) Regulations 2007

- the provision of prizes, or
- other reasonable costs incurred in organising the gaming or providing facilities for the gaming.

4.4 A person commits an offence under section 301 of the Act if he or she uses any part of the profits from the gaming for purposes other than the specified non-commercial purpose. This includes permitting the profits to be used for other than the specified non-commercial purpose.

5 Private gaming

5.1 Gaming is only private gaming if it occurs in a place to which the public does not have access (normally a private dwelling, hostel, hall of residence or similar establishment). No charge may be made for participation in private gaming (and this includes an entrance fee or other charge for admission), nor may any amounts be deducted from stakes or prizes. No profits can be made from private gaming, irrespective of how the organiser intends to use those profits.

5.2 Private gaming is restricted to equal chance gaming (poker or bingo, for example), except where it is domestic or residential gaming.

5.3 Private gaming can potentially take place on commercial premises in circumstances where a members' club hires a room in, for example, a pub or hotel for a private function where equal chance gaming only is played. However, organisers would need to scrutinise very carefully the arrangements put in place to make sure that the particular area of the pub, hotel or other venue in which the gaming takes place is not, on the occasion of the private function, a place to which the public have access and that those participating are not selected by a process which means that, in fact, they are members of the public rather than members of the club. The law in this area is complex and organisers are strongly advised to seek their own legal advice before organising events of this nature.

5.4 Organisers should particularly note that it is a condition of private gaming that no charge (by whatever name called) is made for participation and the Act makes it clear that a deduction from or levy on sums staked or won by participants in gaming is a charge for participation in the gaming. It is irrelevant whether the charge is said to be voluntary or compulsory, particularly if customers are prevented from playing if they do not make the "voluntary" donation, or there is strong peer pressure to make the donation.

5.5 Organisers should also note that people joining a club to attend and take part in a "private" event are likely to still be regarded as members of the public, particularly if "club membership" is acquired only a short time before the event, and in order to attend the event. The courts will not readily allow "membership" status to be abused in order to circumvent the law in this way.

6 Non-commercial and private betting

6.1 The Act also says that betting is private if it is domestic betting or workers' betting. Domestic betting is a betting transaction made on premises in which each party to the transaction habitually resides. Workers' betting is where a betting transaction is made between persons who are employed by the same employer. A person does not commit an offence under section 33 or 37 of the Act if he or she provides facilities for private betting.

Occasional use notices

6.2 Section 39 of the Act provides that where there is betting on a track on eight days or fewer in a calendar year, betting may be permitted by an occasional use notice (OUN), without the need for a full premises licence.

- 6.3** While tracks are normally thought of as permanent racecourses, the meaning of ‘track’ in the Act covers not just horse racecourses or dog tracks, but also any other premises on any part of which a race or other sporting event takes place, or is intended to take place (see section 353(1) of the Act). This could include football grounds, cricket grounds, golf courses and the like.
- 6.4** This also means that land which has a number of uses, one of which fulfils the definition of a track, can qualify for the OUN provisions (for example, agricultural land on which a point-to-point meeting takes place). Land used temporarily as a track can qualify, provided races or sporting events take place or will take place there. The track need not be a permanent fixture.
- 6.5** The intention of OUNs is to permit licensed betting operators to use tracks for short periods for conducting betting, where the event upon which the betting is to take place is of a temporary, infrequent nature. OUNs dispense with the need for a betting premises licence for the track in these circumstances. OUNs can also potentially be used to facilitate betting at non-commercial or charity events.
- 6.6** It should be noted that betting operators cannot provide gaming machines at tracks by virtue of an OUN.
- 6.7** Non-commercial, fund raising race nights can be run as betting events at sporting venues under the authority of an OUN, whether or not the sporting event on which the bets are taken is held at that venue. The sporting event on which the bets are or will be taken also need not be taking place at the same time as the betting under the OUN.
- 6.8** An OUN must be sent in writing to the relevant local authority in advance of the event and be copied to the chief officer of police for the area in which the venue is located (or, in Scotland, the chief constable of the police force for the area) and specify a day on which it is to have effect. OUNs must be given for each day on which they are to have effect and must be given by the person responsible for the administration of events on the track or the occupier of the track.
- 6.9** No more than eight OUNs may be issued in a calendar year (that is, for a total of eight days per calendar year), in respect of any one venue. OUNs may be given for consecutive days, so long as the overall limit of eight days is not exceeded in the calendar year.

7 Incidental non-commercial lottery

- 7.1** In simple terms, a lottery is a form of gambling that has three essential elements:
- payment is required to participate
 - one or more prizes are awarded
 - those prizes are awarded by chance.

This is set out more formally in the Act (section 14), which defines two types of lottery – a simple lottery and a complex lottery.

- 7.2** The conditions for an incidental non-commercial lottery are as follows:
- the promoters must not deduct from the proceeds of the lottery more than the prescribed² amount in respect of the cost of the prizes (currently £500), irrespective of their actual cost
 - the promoters must not deduct from the proceeds of the lottery more than the prescribed² amount in respect of the costs incurred in organising the lottery (currently £100), irrespective of the amount of the costs incurred
 - the lottery must be promoted for a purpose other than that of private gain
 - the arrangements for the lottery must not include a rollover

²SI 2007 No 2040: The Gambling Act 2005 (Incidental Non-Commercial Lotteries) Regulations 2007

- tickets in the lottery can only be sold during the event and on the premises where the event takes place.

7.3 If the gaming at a non-commercial event is not the only or main purpose of the event and meets the definition of a lottery, it is possible to operate it as an incidental non-commercial lottery.

7.4 If you would like further information about other exempt lotteries, you are directed to the Gambling Commission's publication *Organising small lotteries: Advice on lotteries that do not require a licence or registration (November 2009)*.

8 Non-commercial 'casino night'

8.1 A non-commercial casino night is an event where participants stake money on casino-style games, such as poker or roulette, at a non-commercial event, where none of the money the organisers raise from the event is used for private gain.

8.2 Apart from reasonable costs, proceeds (including any entrance fees, sponsorship, the difference between stakes placed and payout made):

- must not be used for private gain
- must all be given to a good cause.

Reasonable costs would include costs incurred by providing the prizes. If third parties are selling goods or services at the event, for example if someone is selling refreshments, this does not count as money raised for the charity or good cause and can be retained by that third party.

8.3 A non-commercial casino night can be run without a licence, or any other form of permission, providing the operation of the gaming falls into one of the three categories discussed below.

8.4 Organisers should note that, under the Act, it is illegal to organise a *commercial* casino night outside of a licensed casino. As the law stands, only the holder of a valid non-remote casino operating licence can apply to a licensing authority for a temporary use notice (TUN) in respect of other premises to offer gaming on a commercial basis, and then only in respect of equal chance gaming organised on a tournament basis with a single overall winner³.

Non-commercial prize gaming

8.5 Casino nights can be held as non-commercial prize gaming. The players must be told what good cause will benefit from the profits of the gaming before placing a bet. The prizes must be advertised in advance and must not depend on the number of people playing or the stakes raised. In non-commercial prize gaming, the casino gaming determines the individual winner or winners, for example by counting who has the most casino chips at a set time. The winners are then awarded the prizes that have been advertised in advance.

Non-commercial equal chance gaming

8.6 Casino nights can also be run as non-commercial equal chance gaming. Equal chance gaming is gaming where the chances are equally favourable to all participants and players are not competing against a bank. In non-commercial equal chance gaming, the charitable funds are usually raised through an entrance fee, participation fee, or through other payments related to the gaming. The maximum amount that a player may be charged is £8 per day (this includes entrance or participation fees, stakes and any other payments in relation to the gaming). Organisers must ensure that the total amount paid out in prizes remains below £600 in total across all players. However, where an event is the final one of

³SI 2007 No 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007

a series in which all of the players have taken part in another event of the series held on a previous day, a higher prize fund of up to £900 is allowed.

Private gaming

- 8.7** A casino night may also be run under the private gaming provisions in the Act. Private gaming may only occur in a place to which the public does not have access (normally a private dwelling, hostel, hall of residence or similar establishment). No charge may be made for participation in private gaming (and that includes an entrance fee or other charge for admission), nor may any amounts be deducted from stakes or prizes. No profits can be made from private gaming, irrespective of how the organiser intended to use those profits and, thus, even if intended for charitable purposes.
- 8.8** Private gaming is restricted to equal chance gaming (poker, for example), except where it is domestic or residential gaming.
- 8.9** Private gaming can potentially take place on commercial premises in circumstances where a members' club hires a room in, for example, a pub or hotel for a private function where equal chance gaming only is played. However, organisers would need to scrutinise very carefully the arrangements put in place to make sure that the particular area of the pub, hotel or other venue in which the gaming takes place is not, on the occasion of the private function, a place to which the public have access and that those participating are not selected by a process which means that, in fact, they are members of the public rather than members of the club. The law in this area is complex and organisers are advised to seek their own legal advice before organising events of this nature.
- 8.10** Organisers should particularly note that it is a condition of private gaming that no charge (by whatever name called) is made for participation and the Act makes it clear that a deduction from or levy on sums staked or won by participants in gaming is a charge for participation in the gaming. It is irrelevant whether the charge is said to be voluntary or compulsory, particularly if customers are prevented from playing if they do not make the "voluntary" donation, or there is strong peer pressure to make the donation.
- 8.11** Organisers should also note that people joining a club to attend and take part in a "private" event are likely to still be regarded as members of the public, particularly if "club membership" is acquired only a short time before the event, and in order to attend the event. The courts will not readily allow "membership" status to be abused in order to circumvent the law in this way.

9 Non-commercial 'race night'

- 9.1** 'Race nights' are permitted for charitable purposes. However, in some circumstances, they can only be undertaken by a licensed betting operator and after the premises owner has notified the local authority.
- 9.2** A non-commercial race night is an event where participants stake money on the outcome of live, recorded or virtual races. The money the organisers raise from the event is called the proceeds.
- 9.3** Apart from reasonable costs, proceeds (including any entrance fees, sponsorship, the difference between stakes placed and payout made):
- must not be used for private gain
 - must all be given to a good cause.

Reasonable costs would include costs reasonably incurred, for example by providing any prizes and for betting slips. If third parties are selling goods or services at your event, for example if someone is selling refreshments, this does not count as money raised for the charity or good cause and can be retained by that third party.

- 9.4 Broadly there are three types of race nights which can be organised for charitable purposes.

Non-commercial gaming

- 9.5 The first type of race night occurs where the selection of a 'horse' by a participant is totally dependent on chance, and where no 'odds' or 'form' are available to assist the gambler's selection. An example would be the use of archive films of horseracing without revealing the details of each race.
- 9.6 Such nights can be run without a licence, or any other form of permission, providing the operation of the gaming falls into one of the three categories discussed below.

Incidental non-commercial lottery

- 9.7 Where the race night is not the only or main purpose of a non-commercial event, it is possible to operate it as an incidental lottery. In this case there are no limits on the amount that players may be charged to participate, but no more than £500 may be deducted from the proceeds of the lottery for the cost of prizes (which may be in cash or in kind), and no more than £100 for other expenses. The organisers can only sell tickets at the event and they have to announce the results at the event. As an example, a 'horse' might be picked at random for each paying customer who is awarded a prize if the horse 'wins'.

Non-commercial prize gaming

- 9.8 Race nights can be held as non-commercial prize gaming. The players must be told what good cause will benefit from the profits of the gaming. The prizes must be advertised in advance and must not depend on the number of people playing or the stakes raised. In non-commercial prize gaming, the 'race' determines the individual winner or winners, for example, those who have paid are allocated or select a named horse in the race. The winners are then awarded the prizes that had been advertised in advance.

Non-commercial equal chance gaming

- 9.9 Race nights can also be run as non-commercial equal chance gaming. Equal chance gaming, which also includes games such as poker or bingo, is gaming where the chances are equally favourable to all participants and players are not competing against a bank.
- 9.10 The maximum amount that a player may be charged is £8 per day (this includes entrance or participation fees, betting stakes and any other payments in relation to the gaming). Organisers must ensure that the total amount paid out in prizes remains below £600 in total across all players. However, where an event is the final one of a series in which all of the players have taken part in another event of the series held on a previous day, a higher prize fund of up to £900 is allowed. This could take place, for example, where each participant pays a fee for a randomly selected 'horse' in each 'race' and the participant with the winning horse or chooser of the winning horse receives a prize commensurate with the stakes placed.

Occasional use notices

- 9.11 The second type of race night relies on bets being taken by a licensed betting operator on events, including cases where odds and form are available to gamblers.
- 9.12 This type of race night can only be organised at sporting venues under the authority of an Occasional Use Notice (OUN). It does not matter, however, whether or not the sporting event on which the bets are taken is held at that venue. The sporting event on which the bets are or will be taken also need not be taking place at the same time as the betting under the OUN.

- 9.13** An OUN must be sent in writing to the relevant local authority in advance of the event and be copied to the chief officer of police for the area in which the venue is located (or, in Scotland, the chief constable of the police force for the area) and specify a day on which it is to have effect. OUNs must be given for each day on which they are to have effect and must be issued by the person responsible for the administration of events on the track or the occupier of the track.
- 9.14** No more than eight OUNs may be issued in a calendar year (that is, for a total of eight days per calendar year), in respect of any one venue. OUNs may be given for consecutive days, so long as the overall limit of eight days is not exceeded in the calendar year.
- 9.15** The person administering the betting under an OUN must have a Gambling Commission general betting operating licence (that is, he or she must be a licensed bookmaker).

Private gaming

- 9.16** A non-commercial race night may also be run under the private gaming provisions in the Act. Private gaming may only occur in a place to which the public does not have access (a private dwelling, hostel, hall of residence or similar establishment). No charge may be made for participation in private gaming (and that includes an entrance fee or other charge for admission), nor may any amounts be deducted from stakes or prizes. Thus, no profits can be made from private gaming, irrespective of how the organiser intended to use those profits, and not even for charitable purposes.

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Keeping gambling fair and safe for all

For further information or to register your interest in the Commission please visit our website at:
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