



Department  
for Culture  
Media & Sport

# **The Legislative Reform (Exempt Lotteries) Order 2016**

## **Explanatory Document**

Presented to Parliament pursuant to section 14(1) of the  
Legislative and Regulatory Reform Act 2006

November 2015



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# Chapter 1: Introduction

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1.1 This explanatory document is laid before Parliament in accordance with section 14 of the Legislative and Regulatory Reform Act 2006 (“the 2006 Act”) together with the draft of the Legislative Reform (Exempt Lotteries) Order 2016 (“the LRO”) which we propose to make under section 1 of that Act. The primary purpose of the LRO Order is to amend the Gambling Act 2005.

1.2 This LRO was proposed as part of the previous Government’s Red Tape Challenge (RTC). As part of the Sport and Recreation theme of the RTC, the Department for Culture, Media and Sport looked at the regulations governing gambling. As a result, it was recommended that incidental non-commercial, private society, work and residents’ lotteries should be deregulated so that they could be used to raise money for charities and good causes.

1.3 The LRO amends Schedule 11 of the Gambling Act 2005 to deregulate certain types of lotteries, in defined circumstances, as summarised below:

- **Incidental non-commercial lotteries**

To allow incidental lotteries to be held at both non-commercial and commercial events, and to allow the results of such lotteries to be announced after such an event.

- **Private lotteries**

To allow private society lotteries to be also promoted for any charitable or non-commercial purpose. To remove the requirement in all private lotteries for a lottery ticket to contain certain information.

1.4 It was originally hoped that the amendment of Schedule 11 as described above could be carried out through the Deregulation Bill. As such, because the measures were part of the Red Tape Challenge, the procedure was fast-tracked which involved the Consultation document being published without an Impact Assessment, which was subsequently published as part of the Government’s response. In the event, it was decided that an LRO rather than the Deregulation Bill was the appropriate vehicle.

# Chapter 2: Background

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## The Gambling Act 2005

2.1 The Gambling Act 2005 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. That 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 and sweepstakes, are all lotteries.

2.5 The Gambling Act 2005 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 (i.e. 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 The LRO makes amendments in relation to incidental non-commercial, private society, work and residents' 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 only be non-commercial if all the monies raised at event went to a charity or good causes but would not be non-commercial if the monies were retained by the organiser for private gain. In reality this means there is a disincentive for pubs, clubs, event and concert organisers and other

commercial businesses holding, for instance, a raffle for charity or good causes since, to remain compliant with the Gambling Act 2005, they would also need to pass on any other revenue collected during the course of the event to the good cause. 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 Together, the Gambling Act 2005 and a related Statutory Instrument (Gambling Act 2005 (Incidental Non-Commercial Lotteries) Regulations 2007 (S.I. 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 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.

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

## Private society lotteries

2.14 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

2.15 Work lotteries can only be promoted by someone who works on the premises (see paragraph 2.17) and tickets can only be sold to other people who work on the same single set of premises. Work lotteries must not be run for profit (see paragraph 2.20) 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

2.16 Residents' lotteries must not be run for profit (see paragraph 2.20) 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.

## Definitions

### **'Single set of premises'**

2.17 The phrase '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 multiple 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.

### **'Proceeds' and 'profits'**

2.18 Section 254 of the Gambling Act 2005 clarifies what is meant by 'proceeds' and 'profits' of a lottery.

2.19 'Proceeds' are the total amount paid for tickets before any deductions.

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

## **Premises licences and lotteries**

2.21 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.

# Chapter 3: Rationale for intervention

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## **Rationale for intervention**

3.1 Currently, under the Gambling Act 2005 organisers of incidental non-commercial lotteries, private society lotteries and work and residents' lotteries are restricted as to the places they can hold fundraising events and the causes to which they can apply the proceeds.

3.2 The current law restricts '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, there is a disincentive for pubs, clubs, event and concert organisers and other commercial businesses holding a raffle for charity or good causes since, to remain compliant with the Gambling Act 2005, they would also need to pass on any other revenue collected during the course of the event to the good cause.

3.3 The current law also requires that a private society lottery benefits only the cause for which the society is conducted – for instance a working men's club can hold a lottery, but the proceeds can only be used for the benefit of that club.

3.4 Similarly, at present, 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.

3.5 The rationale for intervention is to allow business, organisations and individuals the ability to donate through incidental non-commercial, private society, work and residents' lotteries to the charity of their choice, allowing charities to maximise their fundraising efforts. This can only be done by altering the Gambling Act 2005.

# Chapter 4: The duties of the Minister

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## Removal of burdens

4.1 The LRO proposes a reduction in the overall burdens imposed by the exempt lottery provisions currently in Schedule 11 to the Gambling Act 2005 by:

- reducing the circumstances in which it is unlawful to promote a lottery contrary to section 258 of the Gambling Act 2005;
- removing an indirect obstacle to the profitability of charitable organisations insofar as these measures create increased fundraising opportunities for those organisations; and
- reducing the financial cost of organising an incidental lottery because event organisers can retain the sums raised at the connected event;
- removing administrative inconvenience for lottery organisers insofar as ticketing requirements are being streamlined.

## Consultation

4.2 With regard to the duties imposed on the Minister in relation to public consultations by section 13 of the 2006 Act, the Minister for Sport and Tourism considered and approved the consultation document before publication. The consultation was prepared in conjunction with the Gambling Commission as the gambling regulator. Following the consultation period, the Minister considered that, having regard to the responses, the proposals should proceed as proposed.

4.3 The Consultation was published on 27 February 2014 and ran for 6 weeks, closing on 10 April 2014. In view of the targeted nature of the small scale measures and lack of controversy it was deemed appropriate for the consultation period to be 6 weeks. In conjunction with the Gambling Commission, the Government identified organisations that may have had a particular interest in the proposals and emailed the consultation directly to them; in addition the consultation was published on the Government website. The consultation, which contains a list of all directly approached consultees, can be viewed at: <https://www.gov.uk/government/consultations/consultation-on-incidental-non-commercial-private-society-work-and-residents-lotteries>

## Consultation proposals

4.4 Details of the proposals in the Consultation included allowing 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 at their events. Where the lottery is incidental to a commercial event, the intention was stated as being that the business or event organiser should only be allowed retain revenue directly incurred in the running of the event, including entrance fees, sponsorship deals, food and

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drink sales or commissions from traders. All profits of the lottery would be required to be directed to charities or other good non-commercial causes.

4.5 The Government also put forward the proposal that the restriction of the result of a lottery being made public while the event takes place should be removed. The reasoning of that proposal was that it currently prevents lotteries such as balloon races to be permitted, as by their nature, they cannot produce a result during an event.

4.6 Proposals were also put forward to allow private society lotteries, work lotteries and residents' lotteries to be promoted for any charitable or non-commercial purpose. It was also proposed that the requirement for promoters of work and residents' lotteries to provide tickets bearing specific information, such as the name and address of the promoter be removed on the basis they create an unnecessary administrative burden.

4.7 The Consultation asked questions about the proposals:

**For all proposals:**

- Do you agree with the Government's proposal?
- Is there supporting evidence that you are aware of that justifies the need for this reform?
- Do you have any views regarding the expected benefits of the proposal?
- Do you consider there are any risks/unintended consequences to this proposal?
- Is the proposal proportionate to the policy objective?

**General questions:**

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

**Summary of responses to consultation**

4.8 The Government received 16 responses to the consultation. The responses came from a range of correspondents – charities, a member of the public, private companies and organisations. Not all respondents commented on all the 21 questions in the consultation, instead commenting on those where they had a particular interest. All of the respondents were in favour of the Government's recommendations, apart from one response from a member of the public rejecting all the proposals on the grounds that they promoted gambling. A list of the responses, given in full, is available at Appendix 2 and at <https://www.gov.uk/government/consultations/consultation-on-incidental-non-commercial-private-society-work-and-residents-lotteries>

4.9 The majority of responses were from charities mentioning that they have in the past had to refuse permission for fundraisers to raise money for them through these types of lotteries and that by removing the restrictions more money would be raised for charities. Several of the respondents mentioned that they disagreed with the limiting of work lotteries

to single site premises – they urged that all properties in their company should be able to participate.

## **Government response**

4.10 The Government published its response on 8 July 2014 and is available at <https://www.gov.uk/government/consultations/consultation-on-incidental-non-commercial-private-society-work-and-residents-lotteries>

4.11 It stated that after considering the responses, the Government has decided to proceed with the removal of the restrictions preventing incidental non-commercial, private society, work and residents' lotteries proceeds from being donated to charity and good causes.

4.12 The Government has also decided not to extend work lotteries to a multi-site basis, as this could lead large companies with sites located nationwide (e.g. supermarket chains) to possibly being able to run work lotteries on a scale that would lead to an undesirable overlap with the functions and purpose of Society Lotteries.

4.13 The Government has decided to proceed with the abolition of the requirement for the results of incidental non-commercial lotteries to be announced during the event. This will allow lotteries, such as balloon races, to raise funds for charity.

4.14 The Government has also decided to abolish the requirement for work and residents' lottery tickets to display the name and address of the promoter. However, the Government will ask the Gambling Commission to include in their guidance to promoters of exempt lotteries that they should take measures to ensure consumers are aware that tickets purchased for these types of lottery are non-transferrable.

## **Parliamentary procedure**

4.15 Accordingly, as required by section 14 of the 2006 Act, the Minister is laying the draft LRO before both Houses of Parliament, together with this explanatory document and the Impact Assessment. A Keeling Schedule showing the changes that would be made to primary legislation by the Legislative Reform (Exempt Lotteries) Order can be found in Appendix 1.

4.16 The Minister recommends that the affirmative procedure apply to this LRO. Its purpose is to implement a deregulatory policy for certain types of lotteries regulated by Schedule 11 of the Gambling Act 2005. The key policy changes are that private societies, work and residents' lotteries will be allowed to donate their profits to charities and incidental lotteries need not be held at a non-commercial event. The changes are small scale in nature and (as illustrated by the responses to the consultation) not controversial and welcomed by the intended beneficiaries, the charities and not-for-profit sectors.

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4.17 The amendments do not change the existing scheme of Schedule 11:

- a) The purposes for which exempt lotteries may make a profit are limited to purposes other than that of private gain. Incidental lotteries will continue to only be able to be held for purposes wholly other than commercial gain. Work and residents' lotteries similarly will only be able to make a profit where the profit will be applied to purposes wholly other than commercial gain. Section 261 of the Gambling Act 2005 makes it an offence to misuse the profits of an exempt lottery.
- b) The maximum sums that organisers of an incidental lottery may deduct from the proceeds of the lottery will remain the same as those that currently exist for incidental non-commercial lotteries under the Gambling Act 2005 (Incidental Non-Commercial Lotteries) Regulations 2007 (S.I. 2007/2040). The Gambling Act 2005 (Incidental Non-Commercial Lotteries) Regulations 2007 (S.I. 2007/2040) which prescribe the maximum sums that promoters of an incidental non-commercial lotteries may deducts from the proceeds of the lottery are not being amended by this LRO, but will be separately revoked and remade in respect of incidental lotteries. The maximum sum able to be deducted in respect of prizes awarded in the lottery will remain £500 and the maximum sum able to be deducted in respect of costs incurred in organising the lottery will remain £100.
- c) Exempt lotteries will remain small in size and scale, in line with the initial Parliamentary intention of Schedule 11. Ticket sales will remain limited to persons attending the relevant connected event (in the case of incidental lotteries), or a single workplace or residence (in the case of work and residents' lotteries).
- d) The changes being made to ticketing removes administrative red tape but do not alter the legal rights of ticket holders. To ensure that ticket holders are aware that tickets remain non-transferable, the Government indicated in its response that it will ask the Gambling Commission to include guidance to organisers that they must ensure that promotional material makes it clear tickets are non-transferable.
- e) Removal of the requirement to announce the outcome of the lottery removes an anomaly which has prevented some small, local lotteries (such as balloon races) being able to be held as exempt lotteries.

## Preconditions

4.18 The Minister is satisfied that the Order serves the purpose set out in section 1(2) of the 2006 Act and that the conditions in section 3(2) are satisfied in relation to that provision.

### **(a) The policy objective intended to be secured by the provision could not be satisfactorily secured by non-legislative means.**

4.19 The Minister considers that a non-legislative solution could not achieve the policy objectives described in Chapter 3. The Gambling Act 2005 does not provide power to amend existing exemptions by means of an order. Consequently, the changes that were consulted on would require primary legislation if they could not be implemented by a LRO.

**(b) The effect of the provision is proportionate to the policy objective.**

4.20 The Minister considers that this LRO balances freedoms and risk in a precise and targeted manner that would create increased opportunities to raise money for good causes. It would remove unnecessary burdens arising from the Gambling Act 2005, but retain existing controls to limit the scope and range of these small exempt lotteries (such as the limit on prize size) so that they would not challenge the preserve of the Society Lotteries. The measures would do no more than is necessary to achieve the objective of increasing opportunities for charities to access a further fund-raising stream.

4.21 This specific question was raised in the Consultation document and the respondents either agreed or did not raise concerns.

**(c) The provision, taken as a whole, strikes a fair balance between the public interest and the interests of any person adversely affected by it.**

4.22 The Minister considers that this LRO strikes a fair balance between the wider public interest and any potential negative impacts on individual citizens.

4.23 Due to the nature of the lotteries involved (very small amounts for low value prizes, with a clear purpose of donations to charity) and the nature of the organisations running them (very small community organisations with limited fundraising activities, or bigger organisations with proper governance processes in place), the Minister does not consider there to be any risk of public harm associated with this package of proposals as the criminal offence in section 261 of the Gambling Act 2005 (misusing profits of exempt lottery) will be extended to include work lotteries and residents' lotteries that are organised to make a profit. This was tested at Consultation and no issues were raised.

**(d) The provision does not remove any necessary protection.****Incidental lotteries**

4.24 The Minister considers that the LRO does not remove any necessary protection and is consistent with the objectives of the Gambling Act 2005.

4.25 Key safeguards will remain in place to limit the scope and range of these small exempt lotteries, to prevent them from challenging the preserve of the Society Lotteries. The Minister considers that keeping the current restriction on the maximum prize limit of £500 of proceeds and on expenses of £100 of proceeds will help limit the scale of these lotteries to retain the distinction between them and other lotteries.

4.26 The Government also intends to keep the distinction that small incidental lottery tickets can only be sold during an event and on the premises where the event is being held, therefore deliberately avoiding any confusion with Society Lotteries.

4.27 One risk that has been identified is that the proposed changes to incidental lotteries will allow gambling establishments such as casinos to run this type of lottery at a separate

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event. The Minister considers that any risk to the gambling objectives that this might cause is managed by keeping the value of prizes and expenses at the current restriction.

4.28 Any person or organisation that organises or is otherwise responsible for running an incidental lottery will continue to be subject to a range of legal duties, such as those under the Health and Safety at Work etc. Act 1974 and its subsidiary regulations, which will ensure that significant and necessary protections remain in place.

**Work and private society lotteries**

4.29 Under current legislation (see paragraph 2.21), gambling operators are not permitted 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. This is not being changed as it is not thought appropriate to allow gambling establishments to run work or private society lotteries.

4.30 Further protection is provided by the criminal offence in section 261 of the Gambling Act 2005 (see above), which will be extended to work and residents' lotteries to the extent they are run for profit.

**(e) The provision does not prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise.**

4.31 The Minister considers that the LRO would not prevent any person from continuing to exercise any rights or freedoms which that person might reasonably expect to continue to exercise. The purpose of this instrument is to enable opportunities for the public and businesses to exercise expanded freedom of choice.

4.32 The LRO engages Article 6 of the ECHR, which protects the right to a fair trial, because it extends the criminal offence in section 261(1) of the Gambling Act 2005 to the misuse of profits in a work lottery or residents' lottery (see article 4(1)(b)). However, this amendment would not infringe Article 6 because the investigation and prosecution of any offence would be through the UK criminal justice system; the LRO does not change any of the safeguards (including right of access) applicable in relation to criminal proceedings in the UK.

**(f) The provision is not of constitutional significance.**

4.33 The Minister considers that these proposals are not of constitutional significance. The proposals extend to Wales and Scotland. The Welsh and Scottish Governments have been consulted. Gambling is a devolved responsibility in Northern Ireland and the Northern Ireland Government has been kept informed of these proposals.

## **Compatibility with the European Convention on Human Rights**

4.34 The Minister has made the following statement regarding Human Rights: “In my opinion, the provisions of the Legislative Reform (Exempt Lotteries) Order 2016 are compatible with the Convention rights”.

## **Compatibility with the obligations arising from membership of the European Union**

4.35 The Minister believes that the measures in the LRO are compatible with all the requirements of membership of the European Union.

## **Territorial extent**

4.36 The LRO extends to England, Wales and Scotland, except articles 4(1)(c) and 4(2) which only extend to England and Wales. The LRO does not extend to Northern Ireland.

## **Other matters of interest to the House of Commons**

4.37 In the view of the Department, the LRO is not an instrument to which House of Commons Standing Order 83P applies because, disregarding the minor and consequential changes in articles 4(1)(c) and 4(2), the territorial application of the instrument includes Scotland.

# Chapter 5: Impact Assessment

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5.1 A full Impact Assessment, agreed by the Secretary of State and with a green clearance by the Regulatory Policy Committee, is presented as a separate document.

5.2 The Impact Assessment considered two options – to do nothing or to lift restrictions on incidental non-commercial, private society, work and residents' lotteries as outlined in the Consultation. The latter is the Government's preferred option.

5.3 The Impact Assessment considered these proposals to be zero net cost and within the scope of the One-In, Two-Out principle.

5.4 There are unlikely to be substantial costs from the proposals, and there is insufficient data to monetise any possible costs. The lotteries in scope for deregulation are not governed by a licence. This means that there is scant data on use of lotteries, the average amount donated, the total market size over time and (most importantly) the extent to which the deregulation is likely to cause growth in donations. This assessment has been made in consultation with sector experts.

5.5 There are some potential direct costs associated with any growth in number of lotteries. These are likely to be minimal: prizes are commonly donated, lotteries are ordinarily run by volunteers, and supporting equipment such as raffle books are very low cost. Additional lotteries will not be staged unless benefits outweigh costs. Increased lottery donations might cause some indirect substitution away from other forms of giving or substitute commercial products.

5.6 However, allowing lotteries to be held in pubs, residences, and workplaces increases the power of these lotteries to support good causes. This will be a direct benefit to civil society organisations. Lotteries are approximated to generate £150.0m of funding annually; for illustration, 1% growth would generate an additional £1.5m each year. The benefits of deregulation are likely to be disproportionately felt by small organisations that are more likely to rely on lotteries as a source of income.

5.7 Due to the nature of the lotteries in scope (very small amounts for low value prizes, with a clear purpose of donations to good causes) and the nature of organisations running them (very small community organisations with limited fundraising activities, or bigger organisations with proper governance processes in place), the Department does not consider there to be any risk of public harm associated with this package of proposals. This was tested at consultation, where no issues were raised.

# Appendix 1: Keeling Schedule

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## KEELING SCHEDULE

### Schedule 11 to the Gambling Act 2005, showing the proposed amendments to Parts 1 and 2 of Schedule 11

#### SCHEDULE 11

#### Section 258

#### EXEMPT LOTTERIES

#### PART 1

#### ~~INCIDENTAL NON-COMMERCIAL LOTTERIES~~

##### *The exemption*

**1** (1) A lottery is exempt if—

- (a) it is incidental to ~~a non-commercial event within the meaning of paragraph 2~~ an event (“the connected event”), and
- (b) the conditions specified in this Part are satisfied.

(2) A lottery to which sub-paragraph (1) applies is referred to in this Part as an incidental ~~non-commercial~~ lottery.

~~**2** An event is non-commercial if no sum raised by the organisers of the event (whether by way of fees for entrance or for participation, by way of sponsorship, by way of commission from traders or otherwise) is appropriated for the purpose of private gain.~~

##### *Deductions from proceeds*

**3** The promoters of an incidental ~~non-commercial~~ lottery may not deduct from the proceeds of the lottery more than the prescribed sum in respect of the cost of the prizes (irrespective of their actual cost).

**4** The promoters of an incidental ~~non-commercial~~ lottery may not deduct from the proceeds of the lottery more than the prescribed sum in respect of costs incurred in organising the lottery (irrespective of the amount of the costs incurred).

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- 5** An incidental ~~non-commercial~~ lottery must be promoted wholly for a purpose other than that of private gain.

*No rollover*

- 6** The arrangements for an incidental ~~non-commercial~~ lottery must not include a rollover.

*Connection between lottery and event*

- 7** (1) No lottery ticket for an incidental ~~non-commercial~~ lottery may be sold or supplied otherwise than—
- (a) on the premises on which the connected event takes place, and
  - (b) while the connected event is taking place.
- ~~(2) The results of the lottery must be made public while the connected event is taking place.~~

*Interpretation: “prescribed”*

- 8** In this Part “prescribed” means prescribed by the Secretary of State by regulations.

**PART 2****PRIVATE LOTTERIES***The exemption*

- 9** (1) A lottery is exempt if—
- (a) it is a private society lottery, a work lottery or a residents’ lottery within the meaning of paragraphs 10 to 12, and
  - (b) the other conditions specified in this Part are satisfied.
- (2) In this Part a reference to a private lottery is a reference to a private society lottery, a work lottery or a residents’ lottery.

*Private society lottery*

- 10** (1) A lottery is a private society lottery if—
- (a) it is promoted only by authorised members of a society, and
  - (b) each person to whom a ticket is sold is either a member of the society or on premises wholly or mainly used for the administration of the society or the conduct of its affairs (“society premises”).
- (2) In this Part “society” means any group or society established and conducted for purposes not connected with gambling.
- (3) In sub-paragraph (1)(a) “authorised” means authorised in writing by the society or, if it has one, its governing body.

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- (4) In relation to a society which has branches or sections, the reference to a society in subparagraph (1)(a) is a reference to a single branch or section.

*Work lottery*

- 11** (1) A lottery is a work lottery if—
- (a) the promoters work on a single set of premises (“the work premises”), and
  - (b) each person to whom a ticket is sold or supplied also works on the work premises.
- (2) For the purposes of this paragraph a person works on premises if he—
- (a) is employed under a contract of employment to work at or from the premises,
  - (b) undertakes to work at or from the premises (whether or not for remuneration), or
  - (c) conducts a business at or from the premises.

*Residents’ lottery*

- 12** (1) A lottery is a residents’ lottery if—
- (a) the promoters live in a single set of premises (“the residential premises”), and
  - (b) each person to whom a ticket is sold or supplied also lives in the residential premises.
- (2) For the purposes of this paragraph a person lives in premises if he habitually resides in any part of the premises (whether or not there are other premises in which he also habitually resides).

*Purpose of lottery*

- 13** (1) A private society lottery may be promoted for any of the purposes for which the society is conducted or for any other purpose other than that of private gain.
- (2) A work lottery or residents’ lottery must be:
- (a) organised in such a way as to ensure that no profits are made; or (b) promoted wholly for a purpose other than that of private gain.

*Advertising*

- 14** (1) No advertisement for a private society lottery may be—
- (a) displayed or distributed except on the society premises, or
  - (b) sent to any other premises.
- (2) No advertisement for a work lottery may be—
- (a) displayed or distributed except on the work premises, or
  - (b) sent to any other premises.
- (3) No advertisement for a residents’ lottery may be—
- (a) displayed or distributed except on the residential premises, or
  - (b) sent to any other premises.

**The Legislative Reform (Exempt Lotteries) Order 2016 – Explanatory Document***Lottery tickets*

**15** Each ticket in a private lottery must be a document (without prejudice to section 253).

**16** (1) A ticket in a private lottery may be sold or supplied only by or on behalf of the promoters.

(2) The rights conferred by the sale or supply of a ticket in a private lottery shall not be transferable (and any purported transfer shall be treated by the promoters of the lottery as being ineffective).

~~**17** Each ticket in a private lottery—~~

~~(a) must state the name and an address of each of the promoters of the lottery,~~

~~(b) must specify the class of persons to whom the promoters are willing to sell or supply tickets, and~~

~~(c) must explain the condition in paragraph 16(2).~~

*Price*

**18** The price payable for each ticket in a private lottery—

(a) must be the same,

~~(b) must be shown on the ticket, and~~

(c) must be paid to the promoters of the lottery before any person is given the ticket or any right in respect of membership of the class among whom prizes are to be allocated.

*No rollover*

**19** The arrangements for a private lottery must not include a rollover.

**Section 56 of the Gambling Act 2005, showing the proposed amendment****Invitation to participate in lottery**

**56** (1) A person commits an offence if he invites, causes or permits a child to participate in a lottery other than—

(a) an incidental ~~non-commercial~~ lottery that is exempt for the purposes of section 258 by virtue of Part 1 of Schedule 11,

(b) a private lottery (whether a private society lottery, a work lottery or a residents' lottery) that is exempt for the purposes of section 258 by virtue of Part 2 of Schedule 11, or

(c) a lottery which forms part of the National Lottery.

(2) Subsections (3) to (6) of section 46 shall have effect in relation to subsection (1) of this section as they have effect in relation to subsection (1) of that section; and for that purpose—

(a) references to a child or young person shall be treated as references only to a child, and

(b) references to gambling shall be treated as references to participation in a lottery.

## The Legislative Reform (Exempt Lotteries) Order 2015 – Explanatory Document

**Sections 261 and 263 of the Gambling Act 2005, showing the proposed amendments****Misusing profits of exempt lottery**

**261** (1) This section applies to the following kinds of lottery—

- (a) an incidental ~~non-commercial~~ lottery (within the meaning of Part 1 of Schedule 11),
  - (b) a private society lottery (within the meaning of Part 2 of that Schedule), ~~and~~
  - (ba) a work lottery and a residents' lottery (within the meaning of Part 2 of that Schedule) except where the lottery has been organised in such a way as to ensure no profits are made, and
  - (c) a small society lottery (within the meaning of Part 4 of that Schedule).
- (2) A person commits an offence if he uses any part of the profits of a lottery to which this section applies for a purpose other than one for which the lottery is permitted to be promoted in accordance with Schedule 11.
- (3) Subsection (3) of section 260 shall have effect for the purpose of this section as it has effect for the purpose of that section.

**Penalty**

**263** (1) A person guilty of an offence under this Part shall be liable on summary conviction to—

- (a) imprisonment for a term not exceeding 51 weeks,
  - (b) a fine not exceeding level 5 on the standard scale, or
  - (c) both.
- (2) In the application of subsection (1) to Scotland the reference to 51 weeks shall have effect as a reference to six months.
- (3) In the application of subsection (1) to England and Wales in relation to an offence committed under section 261(2) committed by virtue of section 261(1)(ba) before section 281(5) of the Criminal Justice Act 2003 comes into force, the reference in subsection (1)(a) to 51 weeks is to be read as a reference to 6 months.

**Section 175 of the Licensing Act 2003, showing proposed amendments****Exemption for incidental ~~non-commercial~~ lottery**

**175** (1) The promotion of a lottery to which this section applies shall not constitute a licensable activity by reason only of one or more of the prizes in the lottery consisting of or including alcohol, provided that the alcohol is in a sealed container.

- (2) This section applies to an incidental ~~non-commercial~~ lottery (within the meaning of Part 1 of Schedule 11 to the Gambling Act 2005).

# Appendix 2: List of Respondees to Consultation

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Alzheimer's Society  
Anonymous Member of the Public  
British Red Cross  
Cancer Research UK  
Comic Relief  
Cornwall County Council  
Jardine Motors Group  
Marie Curie Cancer Care  
North Somerset Council  
RNLI  
Sue Ryder  
Talbot Validus Group  
The Institute of Licensing  
The Lotteries Council  
Wiltshire Federation of Women Institutes  
Working Men's Club and Institute Union