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The law on prize competitions in Northern Ireland

September 2022

Alternative formats

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

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The law on prize competitions in Northern Ireland

1 Purpose of leaflet

- 1.1 This leaflet provides information on some aspects of the law that applies to prize competitions operating in Northern Ireland. It is not an authoritative nor a complete statement of the law in this area and is only intended to provide a plain guide as to what is permissible and not permissible under the law. Those planning to promote prize competitions in Northern Ireland should refer to the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 as amended by the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Amendment Act 2022 or seek professional advice.
- 1.2 This leaflet should also be read in conjunction with ‘The Law on Lotteries’ September 2022 published by the Department for Communities and available at <https://www.communities-ni.gov.uk/publications/leaflet-lottery-law>
- 1.3 The relevant legislation in force when this leaflet was prepared is listed in the Annex below. Readers should always ensure they are aware of any subsequent legislative changes.

2 The law on prize competitions in Northern Ireland

- 2.1 The law on prize competitions in Northern Ireland is set out in the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 as amended (the 1985 Order).
- 2.2 Article 168(1) of the 1985 Order specifies types of prize competitions which are unlawful to conduct through any newspaper, or in connection with any trade or business or the sale of any article to the public. These are:-
 - “(a) any competition in which prizes are offered for forecasts of the result either—
 - (i) of a future event; or
 - (ii) of a past event the result of which is not yet ascertained, or not yet generally known;
 - (b) any other competition in which success does not depend to a substantial degree on the exercise of skill.”

2.3 A competition which is unlawful under Article 168(1) may simply be a lottery. Lotteries are regulated under Part IV of the 1985 Order (paragraph 1.3 refers)

2.4 Where any requirement of Article 168(1) is contravened, the promoter, and any other person who was a party to the contravention, is guilty of an offence in accordance with Article 168(3). Such individuals may also be deemed to be conducting an illegal lottery as specified in Article 131 and prosecuted under Article 132 ('General lottery offences') of the 1985 Order. The punishment on conviction for offences under any of these requirements can range from a fine to a fine and imprisonment for up to two years.

2.5 Nothing in Article 168(1) applies to the conduct of competitions in connection with a trade or business involving totalisator or pool betting operations carried on by a person whose only trade or business is the carrying on of such operations.

3 Lawful competitions and free to enter requirements

Competitions where success depends to a substantial degree on the exercise of a skill

3.4 In accordance with Article 168(2) of the 1985 Order newspapers, trades or businesses and those selling any article to the public may lawfully conduct

competitions in which success depends to a substantial degree on the exercise of a skill.

3.5 There is no statutory definition of a "substantial degree of skill" in Northern Ireland. In Great Britain, however, the Gambling Commission advises that organisers of a prize competition must be able to show that the skill, knowledge or judgement required will:-

- discourage people wishing to enter from doing so because it is too difficult; and
- prevent a proportion of those who enter from winning a prize.

3.6 It should be noted that multiple choice questions, or questions that allow a second chance where a participant's first answer is incorrect, rarely seem to meet the Gambling Commission's criteria.

Competitions and the requirement to pay to participate

3.7 Article 168(2A) provides that any arrangement which depends on the participant exercising a substantial degree of skill to be successful, but which requires no payment of any kind to participate, is not regarded as a prize competition for the purpose of the legislation and is not unlawful.

3.8 A competition in which success depends to a substantial degree on the exercise of skill and which requires persons to pay to participate is a prize competition for the purposes of the legislation. To remain lawful the requirement to pay to participate must meet the terms for such payment set out in Schedule 15A of the 1985 Order.

3.9 Schedule 15A of the 1985 Order clarifies the meaning of “payment” and what is permissible for the purposes of Article 168(2A). The Schedule specifies that references to “paying” exclude arrangements that involve nothing greater than:-

- “normal rate” expenses of sending a letter by ordinary post;
- “normal rate” expenses of making a telephone call or using any other method of communication to participate in the arrangement (such as a text);
- normal purchase costs of paying for goods (e.g. newspaper, chocolate bar, equipment, property etc.); or
- “normal” use or costs of services (e.g. hospitality or financial services such as holding a specific type of bank or building society account).

Such arrangements are effectively deemed as “free entry” under Schedule 15A and consequently do

not constitute a “payment to participate”.

3.10 Schedule 15A also requires that there be a “choice of free entry”, ie:-

- each individual who is eligible to participate in the arrangement has a “choice” whether to participate by paying or by sending a communication;
- the communication may be either a letter sent by ordinary post, or another method of communication which is neither more expensive nor less convenient than paying to participate;
- “the choice” is publicised in such a way as to be likely to come to the attention of each individual who proposes to participate; and
- the system for allocating prizes does not differentiate between those who participate by paying and those who participate by sending a communication.

3.11 On the other hand, Schedule 15A sets out a range of circumstances that constitute “pay to participate” and are therefore unlawful for the purposes of both Articles 131 and 168(2A). These include arrangements which:-

- require those taking part to pay for goods or services at a price rate

which directly reflects the opportunity to participate in the arrangement (i.e. an inflated price);

- exceed the “normal rate” of expenses of sending a letter by ordinary post (e.g. a requirement to send by recorded delivery);
- require those taking part to make a telephone call at a cost which exceeds “normal rates”;
- require those taking part to use any other method of communication at a cost which exceeds “normal rates”;
- require those taking part to pay in order to discover whether a prize has been won; or
- require those taking part to pay to take possession of a prize which has or may have been allocated.

It is also immaterial, under new Schedule 15A, whether a person or persons are aware when making such payments that they are thereby participating in the arrangement.

4 Offences and defences

- 4.4 As per paragraph 2.3 above, under the 1985 Order, where any requirement of Articles 131 and 168 is contravened, the promoter, and any other person who was a party to the contravention, is guilty of an offence in accordance with Article 132 (‘General lottery offences’).

Defences are available if, for instance, the promoter can prove that:-

- the contravention occurred without his/her consent or connivance;
- the arrangement to which the proceedings relate was a lottery declared not to be unlawful by Article 133 or 134 or paragraph 6(1) of Schedule 20 of the 1985 Order; or
- at the date of the alleged offence there were reasonable grounds for believing that none of the required conditions had been breached.

5 Re-cap/summary

- 5.4 The law on prize competitions in Northern Ireland is set out in the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (the 1985 Order) as amended.
- 5.5 Certain specified types of prize competitions are unlawful in Northern Ireland. It is an offence to conduct any prize competition or arrangement that is unlawful or does not otherwise comply with lawful prize competition criteria etc set out in the 1985 Order.
- 5.6 Subject to the relevant restrictions and criteria set out in the 1985 Order, registered pool promoters, licensed offices and licensed bookmakers are permitted to conduct pool betting competitions for the purposes of their

respective businesses by means of a totalisator operated either at a licensed track or on the same basis as if the bets were placed by means of the totalisator at the track.

- 5.7 Competitions conducted through a newspaper, trade or businesses which involve a substantial degree of skill are permitted under the 1985 Order.
- 5.8 Also permitted are arrangements where those taking part are not required to “pay to participate”, ie are required to pay nothing more than the “normal rate” expenses of goods or services, postage, text or telephone calls etc to be eligible to take part in the arrangement.

6 Further information

- 6.1 Further information on prize competitions and lottery law may be obtained from Social Policy Unit (address below) or the local district council. Legal advice on the law should be obtained from a professional legal adviser.

- 6.2 Additional copies of this leaflet are available from:

Social Policy Unit
Department for Communities

8th Floor

Causeway Exchange

1-7 Bedford Street

Belfast BT2 7EG

Tel: **028 9082 3140**

Email: **social.policy@communities-ni.gov.uk**

ANNEX

The Legislation

Primary legislation

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

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

The National Lottery etc Act 1993 c. 39

The above legislation may be accessed at:

<https://www.legislation.gov.uk>

Further recommended reading

Department for Communities, 'The Law on Lotteries' September 2022, **<https://www.communities-ni.gov.uk/publications/leaflet-lottery-law>**

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