

ORKNEY ISLANDS AREA LICENSING BOARD

GAMBLING ACT 2005

INFORMATION/GUIDANCE **RACE NIGHTS**

See also the Board's Information on Incidental Non-commercial Lotteries at www.orkney.gov.uk

The Gambling Act 2005 can be accessed on the Internet at www.opsi.gov.uk

Further information can also be accessed on the Internet at the following websites –

Department for Culture, Media and Sport – www.culture.gov.uk

Gambling Commission – www.gamblingcommission.gov.uk

Scottish Government – www.scotland.gov.uk

The following is taken from a Fact Sheet prepared by DCMS –

Definition of a race night

“Race nights” are events in which participants stake money on the outcome of recorded or virtual races, where the selection is totally dependent on chance, and where no “odds” or “form” are available to assist the selection. As a general principle, “race nights” may only take place at non-commercial events where none of the proceeds from the event itself are used for private gain. For these purposes, the proceeds of an event constitute the sums raised by its organisers (including sums raised by way of participation fees, sponsorship, commission from traders, or otherwise) minus the costs reasonably incurred in organising the event. However, sums raised by other persons will not form part of the proceeds of the event and so may be appropriated for private gain. An example would be refreshments provided at the event by an independent third party. All participants must be told what “good cause” is to benefit from the profits from the gaming, but no licence, permit or other form of permission is required to operate a race night provided that the statutory conditions are complied with.

Depending on how an event is structured, a “race night” may be operated under either the non-commercial gaming provisions in Part 14 of the Act, or as an incidental non-commercial lottery under Part 1 of Schedule 11. In all cases the prizes may be paid out in cash or in kind.

Prize gaming

To qualify as prize gaming under section 299 of the Act, the prizes should be put up in advance, and must not be dependent on the number of players taking part or the amount of money staked. There are, however, no statutory limits on stakes, prizes, participation fees or other charges for this type of non-commercial gaming, which may be an incidental activity or the only or principal purpose of the event.

Equal chance gaming

Where the prizes awarded are dependent on the number of players taking part, or on the amount of money staked on a race, the non-commercial equal chance gaming provisions in section 300 of the Act apply. Once again, gaming may be either an incidental activity or the only or principal purpose of the event, provided that none of the proceeds are used for private gain. However, for this type of gaming there are limits on the amounts that players may be charged to take part, and on the amount or value of the prizes. The maximum amount that a player may be charged is £8 per day (and this includes entrance or participation fees, stakes and any other payments in relation to the gaming). The total amount paid out in prizes may not exceed £600, although where an event is the final one of a series in which all of the players have previously taken part, a higher prize fund of up to £900 is permitted.

Incidental lottery

Where the “race night” is not the only or main purpose of a non-commercial event, it may be possible to operate it as an incidental lottery under Schedule 11 to the Act. 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.

Private gaming

A “race night” may also be run as equal chance gaming under the private gaming provisions in Schedule 15 to the Act. Private gaming may only occur in a place to which the public does not have access (e.g. a private dwelling, hostel or hall of residence). 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 the purpose to which such profits may be put.

NB. This fact sheet is intended to provide a general explanation of the circumstances in which “race nights” can be played under the Gambling Act 2005. It does not deal with every detail of the legislative provisions, or with the individual circumstances of a particular case. This fact sheet does not constitute legal advice and is not a substitute for the relevant legal provisions. If you are in any doubt about the legality of any gambling activities that you intend to promote or for which you intend to provide facilities, you are strongly advised to seek independent legal advice. DCMS – August 2007

Anyone requiring further information about this topic should contact the Legal Clerks' Office at the Council Offices, Kirkwall, Orkney KW15 1NY –

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