

1.1.0 INTRODUCTION

This manual outlines the policies and procedures municipal and provincial officials must follow to issue charitable gaming licences in Ontario.

The lottery licensing policies in this manual were developed by the Registrar of Alcohol and Gaming, based on authority and direction flowing from:

- the *Criminal Code* (Canada);
- Order-in-Council 1413/08 (as amended); and
- the *Gaming Control Act, 1992* and its Regulations.

The relevant portions of the *Criminal Code* (Canada), the Order-in-Council and the *Gaming Control Act, 1992* are included in the appendices to this manual.

Each type of licensed lottery is governed by a specific set of rules known as terms and conditions. From time-to-time, the terms and conditions may change and the legislation may be amended. The owner of this manual is responsible for obtaining copies of any amendments to the legislation and any new terms and conditions and information bulletins as they are issued, in order to keep the manual up-to-date with all of the policies set by the Registrar.

1.1.1 BACKGROUND

In Canada, all authority to licence gaming activity flows from provisions in the *Criminal Code* (Canada).

In 1969, the Government of Canada amended the *Criminal Code* (Canada) making it possible for eligible charitable and religious organizations to conduct and manage lottery schemes under a licence issued by the appropriate provincial authority.

Based on the authority conferred by the *Criminal Code*, the Government of Ontario has passed an Order-in-Council, delegating its authority to licence charitable gaming events to:

- the Registrar of Alcohol and Gaming, and
- municipal councils.

The Registrar has the authority to licence all types of approved lottery events. Municipal councils may licence certain types of approved lottery events.

1.1.2 THE CONTEXT OF GAMING IN ONTARIO

The responsibility for gaming in Ontario has been divided into three main areas.

(a) Regulation

The Alcohol and Gaming Commission of Ontario (AGCO) is responsible for the administration and the regulation of certain types of gaming in Ontario.

The AGCO is responsible for regulating:

- charity casinos;
- commercial casinos;
- slot machine facilities at racetracks; and
- charitable gaming.

(b) Licensing: Charitable Gaming

The Registrar of Alcohol and Gaming and municipal councils both have authority to issue charitable gaming licences, as outlined in this manual.

(c) Business Management (Management and Conduct)

The Ontario Lottery Gaming Corporation (OLG) is responsible for the management and conduct of:

- charity casinos;
- commercial casinos;
- slot machines at racetracks; and
- electronic bingo events (Big Link Bingo).

1.2.1 THE REGULATORY FRAMEWORK

The charitable gaming industry in Ontario is changing and evolving. The current framework is based on six key elements:

- (a) the *Criminal Code* (Canada);
- (b) the *Gaming Control Act, 1992* and its Regulations;
- (c) the Order-in-Council;
- (d) the Terms and Conditions;
- (e) Registrar's Standards and Directives; and
- (f) the Lottery Licensing Policy Manual, together with all updates and Information Bulletins.

1.2.1 (a) The *Criminal Code* (Canada)

In 1969, the Government of Canada amended the *Criminal Code* (Canada) making it possible for eligible charitable and religious organizations to conduct and manage lottery schemes under a licence issued by the appropriate provincial authority.

- Section 206 of the *Criminal Code* makes it an indictable offence to participate in a lottery scheme in any manner.
- Section 207 (1) (a) of the *Criminal Code* provides an exemption from the general prohibition against gambling, allowing provincial governments to conduct and manage lottery schemes.
- Section 207(1) (b) provides an exemption from the general prohibition against gambling, allowing eligible charitable and religious organizations to conduct and manage lottery schemes under the authority of a licence issued by the appropriate authority. This section stipulates that eligible organizations must use lottery proceeds for a charitable object.
- Section 207 (1) (b) allows the Lieutenant Governor-in-Council to delegate licensing authority.

- The Order-in-Council, promulgated by the Government of Ontario, designates the Registrar of Alcohol and Gaming and municipal councils as licensing authorities.

In this manual the term “charitable” includes both “charitable and religious” organizations as referred to in the *Criminal Code* (Canada).

1.2.1 (b) (i) The *Gaming Control Act, 1992*

The *Gaming Control Act, 1992* regulates the commercial sector of the charitable gaming industry. The *Act* requires the registration of individuals, corporations, organizations, associations and partnerships that supply gaming services or goods to licensed charitable organizations.

The *Act* also outlines the powers of the Registrar of Alcohol and Gaming.

Among other things, the *Act* details:

- the registration process;
- the types of goods and services that may be provided;
- the manner in which goods and services may be provided;
- reporting responsibilities;
- the Registrar’s power to investigate compliance under the *Act*; and
- the registration appeal process.

1.2.1(b) (ii) Regulations

The Lieutenant Governor-in-Council may make Regulations prescribing anything required under the *Act*. For example, the Regulations currently in force establish such things as exemption from registration, classes of registrants, and terms of registration.

1.2.1 (c) Order-in-Council

The Order-in-Council:

- defines the roles and responsibilities of municipal councils and the Registrar; and
- gives them the authority to license and regulate certain lottery events.

It also provides broad policies for the administration of lottery events and general terms and conditions for the conduct of lotteries.

For example, the Order-in-Council:

- stipulates that proceeds from licensed lottery schemes must be used only for a charitable or religious object providing a direct benefit to the residents of Ontario;
- outlines the authority of the Registrar;
- gives the Registrar the sole authority to issue certain types of licences;
- outlines certain standard licence requirements;
- gives Registrar the authority to attach terms and conditions to any licence;
- gives a municipal council authority to attach terms and conditions to any licence it issues, provided they do not conflict with those of the Registrar;
- gives the Registrar and municipal councils authority to refuse, suspend or cancel a licence, under certain specified circumstances; and
- gives the Registrar authority to set maximum licence fees.

1.2.1 (d) Terms and Conditions

The Registrar issues a specific set of rules, known as the terms and conditions, to regulate each type of licensed lottery event. The terms and conditions provide detailed instructions for the conduct and management of licensed lottery events. For example, the terms and conditions govern:

- the role of the licensee;
- the types and amounts of prizes to be awarded;
- rules of play;
- licence fees;
- banking guidelines; and
- reporting requirements.

The Registrar may impose additional terms and conditions to any lottery licence, as necessary. A municipal council may impose additional terms and conditions to any lottery licence it issues, provided they do not conflict with those of the Registrar. Licensees must observe all the terms and conditions of their lottery licence.

1.2.1 (e) The Registrar's Standards and Directives

The Registrar may issue Standards and Directives that must be followed by licensees. For example, licensees who conduct charitable gaming events in pooling bingo halls are subject to specific Registrar's Standards on Financial Management and Administration for Bingo Halls Where Proceeds are Pooled. **(Please see Chapter 10 "Charitable Gaming Event – in Pooling Bingo Halls" for further information.)**

1.2.1 (f) Lottery Licensing Policy Manual

This Lottery Licensing Policy Manual (LLPM) has been designed to help provincial and municipal officials issue and administer lottery licences on a consistent basis throughout the province.

The AGCO also uses the LLPM to communicate changes in the Registrar's policies and in the regulatory structures for lottery licensing.

1.3.1 THE ROLE OF THE REGISTRAR OF ALCOHOL AND GAMING

The Alcohol and Gaming Commission of Ontario (AGCO) was established under the *Alcohol and Gaming Regulation and Public Protection Act, 1996*. The Order-in-Council gives the Registrar the authority to administer the lottery licensing provisions of the *Criminal Code* (Canada) for the Province of Ontario.

The Registrar has authority in three main areas:

1. To administer and enforce the *Gaming Control Act, 1992*, including:
 - registering gaming suppliers and gaming assistants;
 - conducting investigations;
 - setting standards; and
 - developing standard forms and reporting requirements.

2. To administer the lottery licensing framework that governs all charitable lottery licensing in the province, including:
 - determining the eligibility criteria for organizations to conduct and manage lottery events;
 - setting policies and terms and conditions for all approved charitable gaming events;
 - setting licence fees;
 - prescribing the form of an application, a licence and a licence report;
 - developing financial reporting requirements;
 - prescribing reasonable and necessary expense limits; and
 - providing education and support to local licensing authorities.

3. To issue licences for lottery events, in accordance with the Order-in-Council including:
 - bingo events, where the total value of prizes to be awarded exceeds \$5,500;

- lottery events with accumulating prize values, where a prize not awarded at one event is added to the value of the prize at a subsequent event or events;
- lottery events with successive designated numbers, where the designated number is allowed to increase at a subsequent event or events;
- Super Jackpot bingo events;
- raffle events, where the total value of prizes to be awarded exceeds \$50,000;
- lotteries, including Break Open Ticket lotteries, where the event is conducted in conjunction with another licensed gaming event;
- Provincial Break Open Ticket lotteries;
- all social gaming events;
- events at designated fairs or exhibitions; and
- lottery schemes conducted in unorganized territories, on Crown lands (such as Canadian Forces Bases) and in First Nation communities (except those with delegated authority).

See also Chapter 10 “Charitable Gaming Event – in Pooling Bingo Halls” Section 10.1.0 “Authority to Licence” for further information.

1.4.1 THE ROLE OF MUNICIPALITIES

1.4.1(a) Issuing Lottery Licences

Municipal councils have the authority to issue licences for most lottery events conducted in their communities, including:

- bingo events with prize boards of up to \$5,500;
- raffles with prizes of up to \$50,000;
- Break Open Ticket events that are not conducted in conjunction with another licensed gaming event, and where the tickets are sold within the municipality;
- Bazaar gaming events; and
- Media Bingo.

See also Chapter 10 “Charitable Gaming Event – in Pooling Bingo Halls” Section 10.1.0 “Authority to Licence” for further information.

See section 1.3.1(3) for those lottery events that may not be licensed by Municipalities.

1.4.1(b) Municipal Administrative Responsibilities

As long as it does not contravene criteria established by the Registrar, a municipal council may develop additional criteria, through by-laws and policies, for making licensing decisions and administering lottery licensing in their municipality.

Municipalities must also:

- report any information required by the Registrar, including the number and type of licences issued and fees collected;
- enforce licensing policies;
- ensure that licensees comply with the terms and conditions of their licences; and
- investigate any breaches of the terms and conditions.

A municipal council may refuse, suspend or cancel licences, in accordance with the Order-in-Council and the Registrar’s policies. The AGCO is available to assist the municipality in any compliance and investigation matters.

1.5.1 THE ROLE OF LOTTERY LICENSING OFFICERS

Municipal and provincial licensing officials must:

- determine whether an organization is eligible for lottery licensing in Ontario, according to the guidelines set out in Chapter 2 of the Lottery Licensing Policy Manual (LLPM);
- issue and administer licences in a fair and equitable manner, consistent with the policies set out in the LLPM; and
- ensure that licensees meet the requirements of the *Criminal Code* (Canada), the Order-in-Council and the terms and conditions of their licences.

1.6.1 LIMITS TO AN ORGANIZATION'S RELIANCE ON LOTTERY PROCEEDS

Since raising funds through gaming contains a certain element of risk on the part of the charitable organization, lotteries should be viewed as a supplement or alternative to the organization's other fundraising ventures, which may include:

- user/membership fees;
- other types of fund raising projects; and
- grants and donations (not from lottery proceeds).

As well as being an ancillary source of income to the organization, access to gaming opportunities may be allotted by the licensing authority based on the budgetary requirements of the organization and an assessment of community need.

1.7.1 REFUSING, CANCELLING OR SUSPENDING A LICENCE

The following three sections of Order-in-Council 1413/08, which are quoted directly, provide for the suspension or cancellation of lottery licences:

5. A municipal council may at any time suspend, cancel, or refuse to issue a licence or authorization that it may issue where,
 - (a) there has been a breach of any term, condition, directive or standard;
 - (b) there are reasonable grounds to believe that the applicant or licensee will not conduct and manage the lottery scheme in accordance with law or with honesty and integrity,
 - (c) in its opinion it is in the public interest to do so, or
 - (d) an applicant or licensee fails to submit financial reports or other information in accordance with the Registrar's requirements.

11. The Registrar may at any time suspend or cancel a licence issued by himself or herself, or refuse to issue a licence for the grounds set out in section 5.

12. The Registrar may at any time suspend or cancel a licence issued by a municipal council that was not issued in accordance with the Registrar's requirements

If an organization continues to conduct lottery events after its licence has been suspended or cancelled, the lottery events will be illegal pursuant to the *Criminal Code* (Canada).

See also section 3.4.1 “Suspending or Cancelling Lottery Licences” and section 5.5.2 “Requests to Cancel Raffle Licences”.

1.8.1 ENFORCEMENT/COMPLIANCE

Each municipality has the responsibility to investigate any contraventions of the terms and conditions of a licence it issues. A municipality may request the assistance of the local police force or the AGCO.

Municipalities have the authority to:

- investigate suspected contraventions of the terms and conditions of the licensed lottery scheme;
- investigate suspected financial and management improprieties of licensed organizations and persons; and
- conduct audits of licensed organizations.

In addition to the above, the Registrar has the authority to:

- conduct investigations under the *Gaming Control Act, 1992*; and
- assist municipalities/local enforcement agencies in any investigation or audit of a licence.

1.9.1 GUIDING PRINCIPLES

In order to ensure that lottery licensing is administered fairly and consistently, lottery licensing decisions must be guided by the following fundamental principles:

1. Consider the needs of the community as a whole. All eligible organizations must have fair access to gaming opportunities.
2. Consider both the viability of a proposed lottery scheme and the applicant's ability to execute the scheme.
3. Lottery proceeds must only be used for the direct delivery of eligible charitable programs and services, as stated on the licence application and approved by the licensing authority.