

Digital Government and Service NL
Amendments to Lottery Licensing Regulations
What We Heard
March 2022

Introduction

In Canada, charitable gaming is permitted within specific limitations under the Criminal Code, where it is licensed by a provincial government. In Newfoundland and Labrador, the Lottery Licensing Regulations govern the licensing of charitable lotteries and, except for minor updates, have not been substantially updated since 2002.

The Regulations identify the classification of charitable organizations and charitable purposes, as well as rules for various gaming activities. Much of the classification for charitable purposes have been determined through common law practice, which is the development of laws through decisions of Judges, which may not be specifically written down. Since 2002, common law definitions of 'charitable' have evolved, and new types of gaming, as well as technologies have emerged. Other than minor housekeeping amendments, the Regulations have not been substantially reviewed and do not reflect the evolution of charitable gaming.

Government has heard from many organizations regarding the need to update the Regulations. To inform decisions about changes, the Department of Digital Government and Service NL (DGSNL) sought feedback from key stakeholders and the public. Starting on November 1, 2021, through the engageNL portal, interested parties were invited to complete an online questionnaire. Written submissions were also accepted. The deadline for feedback was December 10, 2021.

The consultations focused on five issues: clarification of licensing requirements, electronic and online gaming, delegation of lottery operation and management, contract restrictions and approved types of lotteries. In addition, respondents had the opportunity to provide general comments on other aspects of the Regulations. Feedback was received from 153 individuals and organizations from all regions of the province, including charitable organizations, religious organizations, non-for-profit organizations, gaming suppliers and private citizens. This document summarizes their feedback and comments.

Issue 1: Clarification of Licensing Requirements

In recent years, DGSNL has received comments suggesting that the eligibility requirements for obtaining charitable lottery licence are unclear. The questionnaire asked whether the definition outlined in the Regulations clearly identifies the requirement to be a charitable or religious organization or a non-profit organization, to be eligible for a charitable lottery licence. Almost 90 per cent (89.66 %) of respondents agreed that the Regulations clearly identify this requirement.

Respondents were also asked if they agree that the definition currently outlined in the Regulations clearly identifies the requirements for being considered charitable or religious. Over 88 per cent (88.20%) of respondents agreed with this statement.

Issue 2: Electronic and Online Gaming

Other provinces have been experiencing an increase in electronic and online gaming, and have established processes, criteria and standards for assessing applications and guiding such activity, as to ensure consumer protection. DGSNL has received comments from organizations to allow for increased use of electronic and online gaming for charitable purposes. The questionnaire asked for feedback as to whether there was support for expanded use of electronic and online gaming activities by charitable and religious organizations. Over 69 per cent (69.23%) of respondents supported this statement. In addition, over 87 per cent (87.41%) of respondents agreed that the expanded use of electronic and online gaming activities for charitable lotteries should be guided by criteria and standards.

Further, respondents were asked whether an organization conducting online gaming activity for charitable or religious purposes should be subject to licensing requirements in addition to that of the standard licensing for a charitable or non-profit organization. Over 59 per cent (59.44%) of respondents agreed with the requirement for additional licensing.

Issue 3: Delegation of Lottery Operation and Management

The Regulations do not allow for the conduct and management of lotteries to be delegated to another organization or person who is not a member of the licensed organization. Despite this, DGSNL has received requests from charitable organizations to allow them to delegate the management of their licensed charitable lottery. The questionnaire asked for feedback as to whether they agree that charitable organizations, which have received a licence to conduct a charitable lottery should be allowed to delegate the conduct and management of that lottery to another organization or individual. In excess of 63 per cent (63.2%) of respondents agreed with this statement.

In addition, respondents were asked whether the regulations should identify criteria to support the delegation of the conduct and management of a licensed charitable lottery to ensure consumer protection. Over 89 per cent (89.43%) agreed with the establishment of such criteria.

Issue 4: Contract Restrictions

The Regulations do not allow a licensee to enter into a contract or agreement, written or verbal, implied or stated, for the supply or purchase of goods or services, unless the method of payment is fixed and pre-determined. Payment terms based on a percentage or commission are permitted. The questionnaire asked whether the Regulations should permit charitable organizations, which have a licence to conduct a charitable lottery, to enter into a contractual arrangement with a gaming supplier for the provision of

applicable services in exchange for a percentage of sales or a sales commission. Over 55 per cent (55.24%) agreed with an amendment to facilitate this.

Respondents were also asked if a maximum sales commission or percentage of sales under a contractual agreement should be established in regulations consistent with other provinces, and almost 80 per cent (79.97%) of respondents supported this.

Issue 5: Approved Types of Lotteries

The Regulations include seven schedules that were developed to guide the operations of specific types of lotteries, including bingo lotteries, break open lotteries, ticket lotteries, games of chance lotteries, Monte Carlo lotteries and sports lotteries.

Respondents asked to identify specific issues with these schedules. While no issues or suggestions were identified, the responses received highlighted the following:

- Easier application process is needed.
- Rules are hard to interpret.
- Licensing turnaround times should be faster.
- Rules for lotteries are outdated.
- Groups need ability to electronically complete and submit applications.

Issue 6: General Comments

Respondents were given an opportunity to provide general comments regarding the regulation of charitable lotteries or related processes. Comments included:

- If changes to regulations are coming, it is important charities receive appropriate advance notice to prepare.
- Email applications/fillable PDFs should replace fax; online applications are needed.
- If fundraising goes online, education for consumers and organizations is critical.
- Licence holders should be able to accept Electronic Money Transfers (EMTs).
- Not-for-profits should have the ability to apply for general licence once a year, not each time they hold a fundraiser.
- Charities that apply for a lottery licence every year should be permitted to apply once every five to 10 years to reduce paper work.
- Frustration with lack of response, delays receiving applications from the department.

Conclusion

Based on the feedback received from the consultations, there is consensus that the current definitions and criteria for licensing, and for determining a charitable purpose are clear. Feedback also indicates that general support for updating the Regulations to allow increased electronic or online gaming. In addition, there was support for the delegation of the management of a licensed lottery and authorization for contractual arrangements with a gaming supplier based on a percentage of sales or a sales commission. The adoption of Regulations to facilitate these amendments must ensure continued compliance with the authorities provided to the province under the Criminal Code of Canada, the overriding authority for lottery licensing.

DGSNL appreciates all of the feedback received in response to the consultation process and will continue to explore opportunities to enhance the regulation of lottery licensing for charitable purposes.