



**From: The DALO**

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Dear Eleanor

**BETTING, GAMING, LOTTERIES AND AMUSEMENTS (AMENDMENT) BILL:  
FOLLOW-UP QUESTIONS**

Thank you for your enquiry of 14 December 2021 about the ability of people here to take part in prize competitions and draws which are company based rather than charitable or society lottery. You also want to know if the Betting, Gaming, Lotteries and Amusements (Amendment) Bill (hereafter 'the Bill') would impact in any way on local residents' eligibility to participate in them.

As the law stands at present, the conduct of any prize competition in which success does not depend to a substantial degree on the exercise of skill is prohibited. The relevant provision can be found at Article 168 of the Betting, Gaming, Lotteries and Amusements (NI) Order 1985 (hereafter 'the 1985 Order'.) Moreover, under Part IV of the 1985 Order, any competition arrangement is deemed to be a lottery if participants are required to pay to participate. At present, the purchase of a product (e.g. a chocolate bar or newspaper) or use of a service (such as taking out a bank or building society account) to qualify for entry into a prize draw or competition could technically be construed as a form of payment to participate. Hence, it would constitute an illegal lottery. This is because these draws etc. do not fall within any of the permitted lottery categories set out in Part IV.

Furthermore, a person contravening Article 168 of the 1985 Order will be guilty of an offence and may also be liable for proceedings in accordance with Articles 131 and 132. Therefore any individual or company wanting to run certain kinds of prize competitions or draws in this jurisdiction risks prosecution unless they are prepared to offer a wholly

free entry route. Understandably, many businesses in Britain are often reluctant to run their competitions and draws here for those reasons.

Having said that, the Minister's Bill, if en-acted, would certainly impact on these aspects of the 1985 Order. Clause 8 and 11 contain proposals for amending Article 131 and Article 168. These Clauses make express provision for circumstances in which arrangements should not be deemed as payment to participate. Schedule 15A of the Bill sets out those circumstances in more detail.

You go on to share an example of a competition – Omaze Million Pound Draw - and ask if it would be legal here. Ultimately it is for the courts to determine whether an individual prize competition is legal or not. I do note, though, from what you sent that Omaze seem to offer a “no purchase necessary” postal entry route. The most the Department can say is that, under the 1985 Order, the cost of postage could well be regarded as a form of payment to participate and therefore an illegal lottery. However, if the Clauses and Schedule in the Bill I refer to were to be en-acted, then that should not be the case as postage costs would be specifically excluded from the payment definition.

You also want to know if the People's Postcode and the Health Lottery in Britain are available to residents here, if not why not and if the Bill might open them to this jurisdiction. Our understanding is that these competitions are not presently accessible to people living in this jurisdiction. The organisers of both competitions chose to make this decision, and it would be for them to explain their reasons. We suspect, though, that this is at least in part related to our current rules. The Minister has already said publicly that she intends for her Bill to make it much easier for companies outside this jurisdiction to run promotional competitions etc. here. She believes the present Bill does this. Even so, it is important to remember that changing the law does not automatically mean that such businesses will immediately allow local residents to participate in their draws, although we hope they will. As always, that would be a commercial decision for each operator concerned and again for them to defend.

I hope you find this response helpful.

Yours sincerely

**Fionnbarr Dorrian**

Departmental Assembly Liaison Officer

Private Office