



# National Lottery Act 1998

## 1998 CHAPTER 22

### PART I

#### PROVISIONS RELATING TO THE NATIONAL LOTTERY

##### *The Director General and the National Lottery Commission*

#### **1 Replacement of Director General by National Lottery Commission.**

- (1) There shall cease to be an office of Director General of the National Lottery.
- (2) In consequence of subsection (1) above, in the <sup>M1</sup>National Lottery etc. Act 1993 (in this Act referred to as “the 1993 Act”) section 3 and Schedule 2 (which relate to the Director General of the National Lottery) shall cease to have effect.
- (3) After section 3 of the 1993 Act there shall be inserted—

##### **“3A The National Lottery Commission.**

- (1) There shall be a body corporate known as the National Lottery Commission.
- (2) Schedule 2A makes provision in relation to the Commission.”
- (4) On the day on which this subsection comes into force under section 27(3) below, the functions conferred or imposed on the Director General of the National Lottery by or under the 1993 Act (including any functions so conferred or imposed by virtue of this Act) shall, by virtue of this subsection, be transferred to the National Lottery Commission.
- (5) Schedule 1 to this Act (which makes provision supplemental to, or consequential on, this section) shall have effect.

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**Marginal Citations**

M1 1993 c. 39.

*Licensees*

**2 Financial penalties for breach of conditions in licences.**

(1) After section 10 of the 1993 Act (revocation of licences) there shall be inserted—

**“10A Financial penalties for breach of conditions in licences.**

- (1) If the Director General is satisfied that a person has contravened a condition in a licence under section 5 or 6, he may impose a financial penalty on that person in respect of the contravention.
- (2) The matters to which the Director General may have regard in imposing a financial penalty include the desirability of both—
  - (a) deterring persons from contravening conditions in licences under section 5 or 6, and
  - (b) recovering any diminution in the sums paid to the Secretary of State under section 5(6) which is attributable to the contravention.
- (3) If the Director General proposes to impose a financial penalty on a person, he shall serve on that person a notice—
  - (a) stating that the person has contravened conditions in the licence,
  - (b) identifying the contraventions in question,
  - (c) stating that the Director General proposes to impose a financial penalty,
  - (d) specifying the amount of the financial penalty,
  - (e) stating the Director General’s reasons—
    - (i) for the imposition of a financial penalty, and
    - (ii) for the amount of the financial penalty,
  - (f) stating the person to whom the financial penalty is to be paid and the manner in which, and place at which, payment may be made, and
  - (g) stating the effect of subsections (5) and (12).
- (4) A notice under subsection (3) must state that the person may, within the period of 21 days beginning with the date of the notice, either—
  - (a) make written representations about the matter to the Director General, or
  - (b) notify the Director General in writing of the person’s intention to make oral representations,

and that the right of appeal conferred by section 10B is dependent on the person having made such written or oral representations.
- (5) If, within the period mentioned in subsection (4), the Director General receives neither—
  - (a) written representations, nor

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- (b) written notification of the person's intention to make oral representations,  
the financial penalty shall become payable at the end of that period.
- (6) The Secretary of State may make regulations as to the procedure to be followed where a person's intention to make oral representations is notified to the Director General as mentioned in subsection (4).
- (7) The regulations may in particular make provision—
- (a) for the financial penalty to become payable if the person fails to comply with any requirements imposed by or under the regulations, and
  - (b) as to the hearing by the Director General of oral representations.
- (8) If—
- (a) any written representations against the imposition of the financial penalty are made as mentioned in subsection (4), or
  - (b) any oral representations against the imposition of the financial penalty are made in accordance with regulations under subsection (6),
- subsection (9) shall apply.
- (9) Where this subsection applies, the Director General shall after taking the representations into account—
- (a) decide whether or not to impose a financial penalty, and
  - (b) serve a further notice on the person informing the person of the decision.
- (10) Where the decision is to impose a financial penalty, the further notice must—
- (a) identify the contraventions in question,
  - (b) specify the amount of the financial penalty imposed,
  - (c) state the Director General's reasons—
    - (i) for the imposition of a financial penalty, and
    - (ii) for the amount of the financial penalty,
  - (d) state the person to whom the financial penalty is to be paid and the manner in which, and place at which, payment may be made, and
  - (e) state the effect of subsections (11) and (12).
- (11) A financial penalty imposed by virtue of a decision under subsection (9) becomes payable on the date of the further notice.
- (12) A person on whom a financial penalty is imposed is required to pay the penalty within the period of fourteen days beginning with the date on which the financial penalty becomes payable.
- (13) If the whole or any part of a financial penalty is not paid within the period mentioned in subsection (12), then as from the end of that period the unpaid balance from time to time shall carry interest at the rate for the time being specified in section 17 of the <sup>M2</sup>Judgments Act 1838.
- (14) A financial penalty imposed on any person, and any interest accrued under subsection (13) in respect of the penalty, shall be recoverable from that person as a debt due to the Secretary of State from that person (and the person's

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liability to pay it shall not be affected by the person’s licence ceasing for any reason to have effect).”

(2) In section 11 of the 1993 Act (directions to the Director General in respect of his functions under sections 5 to 10) for “sections 5 to 10” there shall be substituted “sections 5 to 10A”.

(3) In section 21 of the 1993 Act, in subsection (2) (Secretary of State to pay into the National Lottery Distribution Fund all the sums paid to him by virtue of section 5(6)) after “section 5(6)” there shall be inserted “or 10A”.

<sup>F1</sup>(4) .....

(5) Subsection (1) above has effect in relation to any contravention, after the coming into force of that subsection, of a condition in a licence under section 5 or 6 of the 1993 Act, whenever granted.

**Textual Amendments**

**F1** S. 2(4) repealed (1.4.1999) by 1998 c. 22, s. 26, Sch. 5 Pt. I; S.I. 1999/650, art. 2(c).

**Marginal Citations**

**M2** 1838 c. 110.

### 3 Appeals against financial penalties.

After section 10A of the 1993 Act (financial penalties for breach of conditions of licences) there shall be inserted—

**“10B Appeals against financial penalties.**

- (1) Where the Director General decides under subsection (9) of section 10A to impose a financial penalty on a person, the person may appeal against the decision on the grounds specified in subsection (2) or, as the case may be, subsection (3).
- (2) To the extent that an appeal under this section is against a finding by the Director General that a person contravened a condition of a licence, the grounds for the appeal are—
  - (a) that the Director General made an error as to the facts,
  - (b) that there was a material procedural error, or
  - (c) that the Director General made some other error of law.
- (3) To the extent that an appeal under this section is against the amount of a financial penalty, the grounds for the appeal are—
  - (a) that the amount of the penalty is unreasonable,
  - (b) that there was a material procedural error, or
  - (c) that the decision was based on a manifest material misapprehension as to the facts.
- (4) Where on an appeal under this section a court reduces the amount of a financial penalty, the powers of the court shall include power to make such orders as

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to interest on the penalty as the court considers just and equitable in all the circumstances of the case.

- (5) The power conferred by subsection (4) includes power to make orders as to—
  - (a) the rates of interest which are to apply, and
  - (b) the date from which interest is to run.
- (6) An appeal under this section lies to the High Court or, in Scotland, to the Court of Session.
- (7) Any appeal under this section to the Court of Session shall be heard in the Outer House.”

#### **4 Appeals against revocation of licences.**

- (1) Part II of Schedule 3 to the 1993 Act (which relates to procedure and appeals in connection with the revocation, under section 10, of licences under section 5 or 6) shall be amended as follows.
- (2) In paragraph 6(1) (which specifies what a notice of proposed revocation must state) the word “and” at the end of paragraph (c) shall be omitted and after that paragraph there shall be inserted—
  - “(cc) that the right of appeal conferred by paragraph 11 is dependent on the licensee having made such written or oral representations, and”.
- (3) In paragraph 7(2)(a) (duration of suspension of licence) for “or the Secretary of State allows an appeal against the revocation” there shall be substituted “ or an appeal against the revocation is allowed ”.
- (4) In paragraph 9(2) (time at which revocation takes effect) for paragraph (b) (determination of appeal to Secretary of State) there shall be substituted—
  - “(b) if the licensee appeals within that period against the revocation and the court makes an order under paragraph 11(2), until such time as is specified in the order,

whichever is the later. ”

- (5) Paragraph 10 (appeals to the Secretary of State) shall cease to have effect.
- (6) After paragraph 10 there shall be inserted—

##### **“11 Appeals**

- (1) Where the Director General decides under paragraph 9 to revoke a licence, the licensee may appeal against the decision on the grounds—
  - (a) that the Director General made an error as to the facts,
  - (b) that there was a material procedural error, or
  - (c) that the Director General made some other error of law.
- (2) Where a licensee appeals under this paragraph, the powers of the court pending the withdrawal or final disposal of the appeal shall include power, on the application of the licensee or the Director General, to make an order, if the court considers it just and equitable to do so in all the circumstances

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of the case, preventing the revocation taking effect until such time as may be specified in the order.

- (3) An appeal under this paragraph lies to the High Court or, in Scotland, to the Court of Session.
- (4) Any appeal under this paragraph to the Court of Session shall be heard in the Outer House.”

## **5 Access by Comptroller and Auditor General to documents etc.**

(1) Section 33 of the 1993 Act (accounts of Secretary of State and National Debt Commissioners) shall be amended as follows.

(2) After subsection (3) there shall be inserted—

“(4) For the purpose of exercising his examination function in relation to any accounts prepared under subsection (1), the Comptroller and Auditor General—

- (a) shall have a right of access at all reasonable times to any documents which he reasonably requires which are in the custody or under the control of any section 5 licensee; and
- (b) shall have a right to require from any officer or employee of any section 5 licensee, or from the auditors of any section 5 licensee, an explanation of, or information relating to, any such documents;

but a section 5 licensee shall not, by virtue only of this subsection, be a body to which section 6 of the <sup>M3</sup>National Audit Act 1983 applies.

(5) For the purpose of—

- (a) exercising his examination function in relation to any accounts prepared under subsection (1), or
- (b) deciding whether, or to what extent, to exercise any right conferred by subsection (4),

the Comptroller and Auditor General shall have regard to any information which the Director General has obtained from any section 5 licensee and which is relevant to the exercise of that function.

(6) Where, in exercising his examination function in relation to any accounts prepared under subsection (1), the Comptroller and Auditor General obtains any information which gives him grounds to believe that a section 5 licensee has, or may have, contravened any of the conditions of its licence under section 5, the Comptroller and Auditor General shall as soon as practicable disclose that information to the Director General.

(7) A section 5 licensee shall be under a duty—

- (a) to permit the Comptroller and Auditor General to exercise the right conferred by subsection (4)(a); and
- (b) to do all that may be reasonably practicable to secure that any person who under subsection (4)(b) is required to provide an explanation of, or information relating to, any document complies with that requirement;

and any breach of that duty shall be actionable at the suit of the Comptroller and Auditor General.

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- (8) The right of access to documents conferred by subsection (4)(a) includes a right to take copies of or make extracts from documents.
- (9) In this section any reference to documents includes a reference to information held by means of a computer or in any other electronic form; and in the case of information so held the right of access conferred by subsection (4)(a) includes a right of access to, and to take copies of, that information in a visible and legible form.
- (10) In this section—  
“examination function”, in relation to the Comptroller and Auditor General, means his function under subsection (3);  
“section 5 licensee” means a body which holds or has held a licence under section 5.”
- (3) This section has effect in relation to accounts prepared under section 33(1) of the 1993 Act so far as they relate to periods beginning on or after 1st April 1999.

**Marginal Citations**

**M3** 1983 c. 44.

*The new good cause*

**6 The new good cause and the re-allocation of lottery money.**

- (1) Section 22 of the 1993 Act (apportionment of money in Distribution Fund) shall be amended in accordance with subsections (2) to (6) below.

<sup>F2</sup>(2) .....

<sup>F2</sup>(3) .....

<sup>F2</sup>(4) .....

<sup>F2</sup>(5) .....

<sup>F2</sup>(6) .....

<sup>F2</sup>(7) .....

- (8) In subsection (1) of section 44 of the 1993 Act (interpretation of Part II) after the definition of “the Distribution Fund” there shall be inserted—

““education” includes training and the provision of activities for children;  
“the environment” includes the living and social environment;”.

<sup>F3</sup>(9) .....

<sup>F3</sup>(10) .....

**Textual Amendments**

**F2** S. 6(2)-(7) repealed (1.12.2006) by National Lottery Act 2006 (c. 23), s. 22(1), Sch. 3; S.I. 2006/3201, art. 2(e)

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**F3** S. 6(9)-(10) repealed (1.12.2006) by National Lottery Act 2006 (c. 23), s. 22(1), **Sch. 3**; S.I. 2006/3201, art. 2(e)

**F47 The New Opportunities Fund.**

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**Textual Amendments**

**F4** S. 7 repealed (1.12.2006) by National Lottery Act 2006 (c. 23), s. 22(1), **Sch. 3**; S.I. 2006/3201, art. 2(e)

**8 Provisions supplemental to section 7.**

**F5**(1) .....

(2) In section 44 of the 1993 Act (interpretation of Part II) after subsection (2) there shall be inserted—

“(3) A project or arrangement shall be regarded for the purposes of this Part as concerned or connected with health, education or the environment notwithstanding that it contains incidental provision—

- (a) which is not concerned or connected with any of those matters; but
- (b) which is necessary or expedient for the purposes of the project or arrangement.”

**F6**(3) .....

**F6**(4) .....

**F6**(5) .....

**F6**(6) .....

**F6**(7) .....

**Textual Amendments**

**F5** S. 8(1) repealed (1.12.2006) by National Lottery Act 2006 (c. 23), s. 22(1), **Sch. 3**; S.I. 2006/3201, art. 2(e)

**F6** S. 8(3)-(7) repealed (1.12.2006) by National Lottery Act 2006 (c. 23), s. 22(1), **Sch. 3**; S.I. 2006/3201, art. 2(e)

*Distributing bodies*

**9 Manner of distribution.**

(1) In section 25 of the 1993 Act (application of money by distributing bodies) after subsection (1) there shall be inserted—

“(1A) The manner in which a body may distribute any money paid to it under section 24 includes making or entering into arrangements for or in connection



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with meeting expenditure (including arrangements with respect to vouchers); and this subsection shall apply notwithstanding anything to the contrary in any enactment or instrument relating to the functions of the body.”

(2) In section 44 of the 1993 Act (interpretation of Part II) after subsection (3) (which is inserted by section 8 above) there shall be inserted—

“(4) Any reference in this Part to the distribution of money shall be construed as including the making or entering into of arrangements in accordance with section 25(1A) or 43B; and related expressions used in this Part shall be construed accordingly.”

## **10 Power of distributing bodies to solicit applications.**

In section 25 of the 1993 Act (application of money by distributing bodies) after subsection (2) there shall be inserted—

“(2A) A body which distributes money under subsection (1) shall have power to solicit applications from other bodies or persons for any of the money which the body so distributes, notwithstanding anything to the contrary in any enactment or instrument relating to the functions of the body.

(2B) In determining whether a decision of a body concerning its distribution of money under subsection (1) was unlawful, it shall be immaterial whether or not the body, or any person acting on behalf of the body, solicited an application from a body or person for such money.”

## **11 Delegation by distributing bodies of their powers of distribution.**

(1) After section 25 of the 1993 Act there shall be inserted—

### **“25A Delegation by distributing bodies of their powers of distribution.**

(1) A body which distributes money under subsection (1) of section 25 may appoint any other body or person to exercise on its behalf any of its functions relating to, or connected with, the distribution of money under that subsection (including its function of making decisions as to the persons to whom such distributions are to be made)—

- (a) in any particular case, or
- (b) in cases of any particular description.

(2) The persons who may be appointed by a body under subsection (1) include a member, employee or committee of the body itself.

(3) A body which makes an appointment under subsection (1) may defray out of any money paid to it under section 24 any expenses incurred by the appointee in consequence of the appointment.

(4) Power to accept any such appointment as is mentioned in subsection (1) is conferred by this subsection on the following bodies—

- (a) any body which distributes money under section 25(1),
- (b) any charity or any charitable, benevolent or philanthropic institution,
- (c) any body established by or under an enactment, and
- (d) any body established by Royal Charter.

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- (5) A body appointed by virtue of subsection (1) to exercise a function on behalf of another may itself appoint any of its members or employees, or a committee, to exercise the function in its stead, but only if—
- (a) the terms of the body’s appointment by virtue of subsection (1) so permit, and
  - (b) the body has power apart from this section to appoint a member or, as the case may be, an employee or committee of the body to exercise some or all of its functions.
- (6) Subject to the following provisions of this section—
- (a) a body which distributes money under section 25(1) may establish a committee for the purpose of exercising on behalf of the body any such function as is mentioned in subsection (1), and
  - (b) a body falling within any paragraph of subsection (4) may establish a committee for the purpose of exercising on behalf of any body which distributes money under section 25(1) any such function as is mentioned in subsection (1).
- (7) A committee established under subsection (6)—
- (a) must consist of or include one or more members, or one or more employees, of the body establishing the committee, but
  - (b) may include persons who are neither members nor employees of that body.
- (8) Any power conferred on a body by subsections (1) to (7) is so conferred—
- (a) to the extent that the body would not have the power apart from this section, and
  - (b) notwithstanding anything to the contrary in any enactment or instrument relating to the functions of the body.
- (9) In this section—
- “charity” means a body, or the trustees of a trust, established for charitable purposes only;
- “charitable, benevolent or philanthropic institution” means a body, or the trustees of a trust, which is established for charitable purposes (whether or not those purposes are charitable within the meaning of any rule of law), benevolent purposes or philanthropic purposes, and which is not a charity.
- (10) For the purposes of this section—
- (a) the trustees of a trust shall be regarded as a body, and
  - (b) any reference to a member of a body shall, in the case of a body of trustees, be taken as a reference to any of the trustees,
- and references to a committee shall be construed accordingly.
- (11) Any reference in this section to a member of a body includes a reference to the chairman or deputy chairman of (or the holder of any corresponding office in relation to) the body.”
- (2) In section 26 of the 1993 Act (directions to distributing bodies) after subsection (3) there shall be inserted—

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“(3A) In exercising any power under section 25A, a body which distributes money under section 25(1) shall comply with any directions given to it by the Secretary of State.”

(3) In subsection (4) of that section, after “Directions under subsection (3)” there shall be inserted “ or (3A) ”.

(4) After subsection (4) of that section there shall be inserted—

“(4A) Directions under subsection (3A) may in particular—

- (a) impose limits on the amount of money which may be distributed by a body under section 25(1) by virtue of decisions made on its behalf by bodies or persons not falling within section 25A(2), and
- (b) require a body, before appointing any body or person not falling within section 25A(2) to exercise on its behalf any function of making decisions concerning the distribution of money under section 25(1), to obtain the approval of the Secretary of State to its plans for making such appointments.”

<sup>F7</sup>(5) .....

<sup>F8</sup>(6) .....

#### Textual Amendments

**F7** S. 11(5) repealed (1.12.2006) by National Lottery Act 2006 (c. 23), s. 22(1), **Sch. 3**; S.I. 2006/3201, art. 2(e)

**F8** S. 11(6) repealed (1.12.2006) by National Lottery Act 2006 (c. 23), s. 22(1), **Sch. 3**; S.I. 2006/3201, art. 2(e)

## 12 Joint schemes for distribution of money by distributing bodies.

(1) After section 25A of the 1993 Act there shall be inserted—

### “25B Joint schemes for distribution of money by distributing bodies.

- (1) A body which distributes money under subsection (1) of section 25 may, in accordance with the following provisions of this section, participate with one or more other such bodies in a joint scheme for the distribution of money under that subsection.
- (2) A body may participate in a joint scheme if the principal purposes of the joint scheme include purposes for which the body has power to distribute money under subsection (1) of section 25, notwithstanding that the body would not, apart from this section, have power to distribute money under that subsection for meeting expenditure on some of the particular projects for which money may be distributed under the scheme.
- (3) Money shall not, under a joint scheme, be distributed for meeting expenditure on any particular project unless the expenditure is such that—
  - (a) at least one of the bodies participating in the joint scheme has power, acting alone, to distribute money under section 25(1) for meeting the expenditure, or

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- (b) two or more of the bodies participating in the joint scheme, taken together, have power between them to distribute money under section 25(1) for meeting the expenditure.
- (4) Nothing in subsection (3) affects the liability of each body participating in a scheme in relation to the distribution of any money under section 25(1) under the scheme.
- (5) Schedule 3A contains supplementary provision in relation to joint schemes.”
- (2) In section 44 of the 1993 Act (interpretation of Part II) the following definition shall be inserted at the appropriate place in subsection (1)—  
““joint scheme” means a joint scheme under section 25B;”.
- (3) After Schedule 3 to the 1993 Act there shall be inserted the Schedule 3A set out in Schedule 3 to this Act.

### **13 Strategic plans for distributing bodies.**

After section 25B of the 1993 Act there shall be inserted—

#### **“25C Strategic plans for distributing bodies.**

- (1) If the Secretary of State instructs it do so, a body which distributes money under section 25(1) shall, in accordance with the following provisions of this section,  
—
  - (a) prepare and adopt a strategic plan, or
  - (b) review and modify any strategic plan which it has adopted, or
  - (c) replace any strategic plan which it has adopted by preparing and adopting another.
- (2) In this section “strategic plan”, in the case of any body, means a statement containing the body’s policies for the distribution of the money likely to be available to it for distribution under section 25(1).
- (3) A strategic plan must also contain—
  - (a) a statement of any directions given to the body by the Secretary of State under section 26(1) or 43C(1),
  - (b) a statement of the estimate given to the body by the Secretary of State of the money likely to be available for distribution by the body under section 25(1),
  - (c) a statement of the body’s assessment of the needs which the body has power to deal with, in whole or in part, by distributing money under section 25(1), and
  - (d) a statement of the body’s priorities in dealing with those needs by the distribution of money under section 25(1).
- (4) A strategic plan must be such as to demonstrate how the body is taking into account or, as the case may be, complying with the directions mentioned in subsection (3)(a).
- (5) Before adopting a strategic plan, a body shall—

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- (a) consult such other bodies as it thinks fit for the purpose of identifying the needs mentioned in subsection (3)(c) and formulating the policies to be adopted for dealing with those needs,
  - (b) prepare a draft of the proposed plan,
  - (c) send a copy of the draft to the Secretary of State, and
  - (d) after consultation with the Secretary of State, make such modifications to the draft as it considers necessary or expedient.
- (6) Where a body adopts a strategic plan—
- (a) the body shall send copies of the document containing the plan to the Secretary of State, and
  - (b) the Secretary of State shall lay a copy of the document before each House of Parliament.
- (7) Nothing in this section applies in relation to any body which distributes under section 25(1) money allocated under section 22(3)(e).”

**F9 14 The National Lottery Charities Board.**

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**Textual Amendments**

**F9** S. 14 repealed (1.12.2006) by [National Lottery Act 2006 \(c. 23\)](#), s. 22(1), [Sch. 3](#); S.I. 2006/3201, art. 2(e)

*Supplemental provision*

**15 Orders and regulations.**

- (1) Section 60 of the 1993 Act (orders and regulations) shall be amended as follows.
- (2) In subsection (2) (affirmative procedure for orders under specified provisions) for “section 28 or 30” there shall be substituted the following paragraphs—
  - “(a) section 28, 30 or 43B, or
  - (b) paragraph 2(5) of Schedule 3A,”.
- (3) After subsection (2) there shall be inserted—
  - “(2A) Subsection (2) does not apply to an order which contains only provision revoking an order under section 43B.”
- (4) In subsection (3) (negative procedure for statutory instruments containing orders and regulations other than orders under specified provisions) for “an order under section 28, 30 or 65” there shall be substituted the following paragraphs—
  - “(a) an order to which subsection (2) applies, or
  - (b) an order under section 65,”.
- (5) After subsection (3) there shall be inserted—
  - “(3A) Subsection (3) does not apply to a statutory instrument which contains only provision revoking an order under paragraph 2(1) of Schedule 3A.

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- (3B) A statutory instrument which contains only provision revoking an order under paragraph 2(1) of Schedule 3A shall be laid before each House of Parliament.”
- (6) After subsection (5) there shall be inserted—
- “(6) Any reference in this section to an order is a reference to an order of the Secretary of State.”

**Changes to legislation:**

There are currently no known outstanding effects for the National Lottery Act 1998, Part I.