

NATIONAL LOTTERY ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Section 6 and Schedule 1: Licensing structure

13. [Schedule 1](#) sets out the reserve licensing structure to allow the National Lottery Commission to issue more than one licence to operate and promote the lotteries forming part of the National Lottery.
14. [Section 6](#) provides for [Schedule 1](#) to be commenced by an order under that section rather than under the normal commencement provision ([section 20](#)). In particular, it requires the order to be subject to negative resolution procedures. [Schedule 1](#) is to be commenced in this different way to reflect the intention that the Secretary of State will not commence [Schedule 1](#) immediately but only if she considers that the current licensing structure has failed in creating an effective competition for the licence under [section 5](#) of the 1993 Act to run the National Lottery and so risks failing to maximise returns to good causes.
15. [Paragraph 2](#) of [Schedule 1](#) will replace [section 1](#) of the 1993 Act. This section currently provides that a lottery only forms part of the National Lottery if it is promoted by the body licensed to run the National Lottery (currently Camelot Group plc-) under [section 5](#) of the 1993 Act or in pursuance of an agreement between that body and the lottery's promoter. The promotion of such a lottery must also have been licensed under [section 6](#) of the 1993 Act. New [section 1](#) will remove the concept of a licensed person to run the National Lottery as a whole and will provide that a lottery forms part of the National Lottery simply if it is promoted under a licence under new [section 5](#).
16. [Paragraph 4](#) of [Schedule 1](#) will insert new [sections 5, 6 and 6A](#) into the 1993 Act. New [section 5](#) will replace the licensing provisions under [sections 5 and 6](#) of the 1993 Act with the effect that there is only one type of licence – to promote a lottery – rather than the two types of existing licence – to run the National Lottery and to promote a lottery. The current system comprises the [section 5](#) licensee running the National Lottery with [section 6](#) licensees promoting individual lottery games. The [section 6](#) licensee can only promote the lotteries with agreement of the [section 5](#) licensee. In practice, Camelot, the [section 5](#) licensee, also holds all the current [section 6](#) licences. Under new [section 5](#) there will only be one type of licence to promote individual lotteries or types of lotteries.
17. The provisions in new [section 5](#) will largely re-enact the current provisions in [sections 5 and 6](#). Subsection (3)(c) provides that a licence may require or permit the licensee to make arrangements with other persons for the performance of specified functions. This will allow the National Lottery Commission to require a licence holder to work together with another licence holder for specified reasons e.g. a joint promotion.
18. New [section 6A](#) relates to the competition(s) to award licences to run the National Lottery. Subsection (1) will provide that the National Lottery Commission may not issue a licence under new [section 5](#) unless it has complied with the regulations set by the Secretary of State relating to the invitation of applications for licences. However, subsection (3) will allow for exceptions when the Commission does not need to comply

*These notes refer to the National Lottery Act 2006
(c.23) which received Royal Assent on 11 July 2006*

with the regulations. That is, if the Commission thinks that it is likely to be in the interests of its duty to do its best to maximise returns to good causes under section 4(2) of the 1993 Act; or it is necessary to prevent a lapse of the lottery (e.g. a lottery promoter might pull out at very short notice which would not allow the Commission sufficient time to run a competition without a strong risk of there being a period when the lottery in question ceased to operate). In the latter case this exception is not open-ended and under new subsection (4) the period of the licence must be no longer than the Commission considers necessary to complete a new competition.

19. [Paragraph 5](#) of Schedule 1 will make consequential changes to section 7 of the 1993 Act. New section 7(3A)(a) and (b) will allow section 5 licence holders to be required to provide information and make facilities available in connection to lotteries to other licence holders, potential bidders for licences and others. Such conditions would allow for all bidders as well as incumbent licence holders to have the same information before entering any competition for licences. New section 7(3A)(c), (d) and (e) will allow licence holders to be required to cooperate and participate in arrangements between themselves. For example, to ensure that all licence holders work together and not in competition for the benefit of the National Lottery as a whole and to maximise the returns to good causes.