



# 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 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.

## *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
  - (b) written notification of the person’s intention to make oral representations,the financial penalty shall become payable at the end of that period.

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- (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 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 liability to pay it shall not be affected by the person's licence ceasing for any reason to have effect)."

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- (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”.
- (4) In Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals under the supervision of the Council on Tribunals) in the second column, in paragraph 33A (National Lottery: functions of the Director General etc under specified provisions of the 1993 Act) for “section 10” there shall be substituted “sections 10 and 10A”.
- (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.

### **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 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—

#### *“Appeals*

- 11 (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 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.”

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## **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 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.

(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.

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(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.

### *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.

(2) After subsection (3)(e) (20 per cent. of balance of sums paid into National Lottery Distribution Fund to be allocated for expenditure on projects to mark the year 2000 and the beginning of the third millennium) there shall be inserted—

“and

(f) 13 $\frac{1}{3}$  per cent. shall be allocated for expenditure on or connected with health, education or the environment.”

(3) In subsection (3)(a) (20 per cent. to be allocated for expenditure on or connected with the arts) for “20 per cent.” there shall be substituted “16 $\frac{2}{3}$  per cent.”

(4) In subsection (3)(b) (20 per cent. to be allocated for expenditure on or connected with sport) for “20 per cent.” there shall be substituted “16 $\frac{2}{3}$  per cent.”

(5) In subsection (3)(c) (20 per cent. to be allocated for expenditure on or connected with the national heritage) for “20 per cent.” there shall be substituted “16 $\frac{2}{3}$  per cent.”

(6) In subsection (3)(d) (20 per cent. to be allocated for charitable expenditure) for “20 per cent.” there shall be substituted “16 $\frac{2}{3}$  per cent.”

(7) In section 30 of the 1993 Act (winding up of fund allocated under section 22(3)(e)) in subsection (1)(b) (substitution of higher percentages for the percentages which on 31st December 2000 are specified in section 22(3)(a) to (d)) after “(a) to (d)” there shall be inserted “and (f)”.

(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;”.

(9) This section shall apply in relation to sums paid into the National Lottery Distribution Fund under section 21(2) of the 1993 Act on or after 14th October 1997.

(10) The Secretary of State shall make such re-allocations of—

(a) the money held in the National Lottery Distribution Fund at the commencement of this section,

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- (b) the money invested by the National Debt Commissioners under section 32 of the 1993 Act as at the commencement of this section, and
  - (c) the proceeds (as defined in section 32(4) of the 1993 Act) of the money mentioned in paragraph (b) above,
- as are designed by the Secretary of State to give effect to the provisions of this section.

## 7 **The New Opportunities Fund**

- (1) In section 23 of the 1993 Act (the distributing bodies) after subsection (5) there shall be inserted—

“(6) So much of any sum paid into the Distribution Fund as is allocated for expenditure on or connected with health, education or the environment shall be held in the Distribution Fund for distribution by the New Opportunities Fund (established under section 43A).”

- (2) After section 43 of the 1993 Act there shall be inserted—

### *“The New Opportunities Fund*

#### **43A The New Opportunities Fund**

- (1) There shall be a body corporate known as the New Opportunities Fund.
- (2) Schedule 6A makes provision in relation to the New Opportunities Fund.

#### **43B Functions of the New Opportunities Fund**

- (1) The New Opportunities Fund—
  - (a) may make grants out of any money they receive to fund or assist in the funding of projects, or
  - (b) may make or enter into arrangements,
 which are designed to give effect to such initiatives concerned or connected with health, education or the environment as may from time to time be specified in an order made by the Secretary of State.
- (2) In making a grant under this section, the New Opportunities Fund may impose such conditions as they think fit, including conditions requiring the amount of a grant to be repaid forthwith on breach of any condition.
- (3) The New Opportunities Fund may do anything that they consider desirable for enabling them to determine—
  - (a) the projects in respect of which grants under this section are to be made; or
  - (b) the arrangements which are to be made or entered into under this section.
- (4) The New Opportunities Fund may for the purpose of enabling them to exercise their functions acquire and dispose of land.



### **43C Provisions supplemental to section 43B**

- (1) In exercising their functions under section 43B the New Opportunities Fund shall comply with any directions given to them by the Secretary of State.
- (2) The Secretary of State shall consult the New Opportunities Fund before giving any directions to them under this section.
- (3) An initiative may be so framed that it applies—
  - (a) throughout the whole of the United Kingdom; or
  - (b) in one or more areas of the United Kingdom.
- (4) Before making an order under section 43B in respect of a particular initiative the Secretary of State shall consult such persons as appear to him to be appropriate.
- (5) Before revoking an order under section 43B the Secretary of State shall consult the New Opportunities Fund.
- (6) Any reference in this section to an initiative is a reference to an initiative specified in an order made under section 43B.
- (7) The report for any financial year of the New Opportunities Fund under section 34 shall set out any directions given to the Fund under this section that had effect during that year.

### **43D Accounts**

- (1) The New Opportunities Fund shall—
    - (a) keep proper accounts and proper records in relation to the accounts, and
    - (b) prepare a statement of accounts in respect of each financial year.
  - (2) The statement shall comply with any directions that may be given by the Secretary of State as to the information to be contained in such a statement, the manner in which such information is to be presented or the methods and principles according to which such a statement is to be prepared.
  - (3) Copies of the statement shall be sent to the Secretary of State and the Comptroller and Auditor General within such period after the end of the financial year to which the statement relates as the Secretary of State may direct.
  - (4) The Comptroller and Auditor General shall examine, certify and report on the statement and shall lay copies of the statement and of his report before Parliament.
  - (5) The Secretary of State shall not give a direction under this section without the Treasury's approval.”
- (3) After Schedule 6 to the 1993 Act there shall be inserted the Schedule 6A set out in Schedule 2 to this Act.

## **8 Provisions supplemental to section 7**

- (1) In section 35 of the 1993 Act (accounts of certain distributing bodies) in subsection (7) (section not to apply to the National Lottery Charities Board or to the Millennium Commission) for “or to the Millennium Commission” there shall be substituted “, the Millennium Commission or the New Opportunities Fund”.
- (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.”
- (3) In the House of Commons Disqualification Act 1975, in Part III of Schedule 1 (other disqualifying offices) the following entry shall be inserted at the appropriate place—
 

“Chairman of the New Opportunities Fund and, if in receipt of remuneration, any other member of that Fund;”.
- (4) The same entry as is set out in subsection (3) above shall be inserted at the appropriate place in Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975.
- (5) Any consultation undertaken before the commencement of section 7 above in connection with an initiative proposed to be specified in an order made under section 43B of the 1993 Act shall be as effective, in relation to that initiative, as if section 7 above had been in force at the time the consultation was undertaken.
- (6) Where any consultation has been undertaken before the commencement of section 7 above in connection with one or more initiatives proposed to be specified in an order made under section 43B of the 1993 Act, a statutory instrument containing an order under section 43B of that Act which specifies only that or those initiatives shall, notwithstanding the provisions of section 60(2) of the 1993 Act, be subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) The payments which may be made under section 31 of the 1993 Act (payments from Distribution Fund into Consolidated Fund in respect of expenses) shall include a payment of such amount as the Secretary of State with the approval of the Treasury determines to be appropriate for defraying expenses incurred by the Secretary of State before the commencement of section 7 above for the purpose of facilitating the establishment of the New Opportunities Fund.

### *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

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.”
- (5) In Schedule 5 to the 1993 Act (the National Lottery Charities Board) in paragraph 2 (committees) sub-paragraphs (4) to (6) (which are superseded by amendments made by this section) shall cease to have effect, and after sub-paragraph (6) there shall be inserted—
- “(7) Subsection (7) of section 25A shall apply in relation to any committee of the Charities Board as it applies in relation to a committee appointed under subsection (6) of that section.”
- (6) In paragraph 3 of that Schedule (tenure of office) in sub-paragraph (4)(a) (removal on grounds of absence from meetings) for “or (as the case may be) from meetings of the committee without the committee’s consent” there shall be substituted “or from meetings of a committee of the Board without the committee’s consent”.

## **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—

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- (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
  - (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—
- (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).”

#### **14 The National Lottery Charities Board**

- (1) In section 38 of the 1993 Act (grants to charities etc by the National Lottery Charities Board) after subsection (2) there shall be inserted—
- “(3) The Charities Board may for the purpose of enabling them to exercise their functions acquire and dispose of land.”
- (2) Paragraph 4 of Schedule 5 to the 1993 Act (remuneration and allowances etc of members of the Board) shall be amended in accordance with subsections (3) to (6) below.
- (3) In sub-paragraph (1)(a) (which permits the payment of remuneration to the chairman of the Board and the chairman of any committee of the Board) for “the chairman of any committee of theirs” there shall be substituted “any other member of the Board”.
- (4) In sub-paragraph (2) (which permits provision to be made in respect of pensions for the chairman of the Board or the chairman of any committee of the Board) for “or chairman of a committee of the Charities Board,” there shall be substituted “, or in the case of any other member of the Charities Board,”.
- (5) In sub-paragraph (3) (which permits the payment of compensation for loss of office to the chairman of the Board or the chairman of any committee of the Board) for “or of a committee of the Charities Board” there shall be substituted “, or ceasing to be a member of the Charities Board,”.
- (6) Sub-paragraph (4) (approval of Treasury required) shall cease to have effect.
- (7) Paragraph 5 of that Schedule (staff of the Board) shall be amended in accordance with subsections (8) to (10) below.
- (8) For sub-paragraph (1) (Board may appoint such staff as they may determine with the Secretary of State’s approval as to numbers and terms and conditions of service) there shall be substituted—

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- “(1) Subject to any directions under section 26(3), the Charities Board may appoint such staff as they think fit, on such terms and conditions of service as they think fit.”
- (9) In sub-paragraph (2) (provision may be made in relation to pensions etc with the Secretary of State’s approval)—
- (a) at the beginning there shall be inserted “Subject to any directions under section 26(3),”; and
- (b) the words “with the Secretary of State’s approval” shall cease to have effect.
- (10) Sub-paragraph (4) (consent of Treasury required) shall cease to have effect.
- (11) In Schedule 1 to the Public Records Act 1958 (definition of public records) the following entry shall be inserted at the appropriate place in Part II of the Table at the end of paragraph 3—
- “National Lottery Charities Board.”
- (12) In the entry relating to the National Lottery Charities Board—
- (a) in Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (other disqualifying offices), and
- (b) in Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (other disqualifying offices),
- for “and any chairman of a committee of that Board” there shall be substituted “and, if in receipt of remuneration, any other member of that Board”.

*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.



- (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.”

## PART II

### THE NATIONAL ENDOWMENT FOR SCIENCE, TECHNOLOGY AND THE ARTS

#### 16 The National Endowment for Science, Technology and the Arts

- (1) There shall be a body corporate known as the National Endowment for Science, Technology and the Arts (in this Part of this Act referred to as “NESTA”).
- (2) Schedule 4 to this Act makes provision in relation to NESTA.

#### 17 Objects

- (1) The objects of NESTA are to support and promote talent, innovation and creativity in the fields of science, technology and the arts.
- (2) The objects of NESTA are to be achieved by the following means, namely—
- (a) helping talented individuals (or groups of such individuals) in the fields of science, technology and the arts to achieve their potential;
  - (b) helping persons to turn inventions or ideas in the fields of science, technology and the arts into products or services—
    - (i) which can be effectively exploited; and
    - (ii) the rights to which can be adequately protected; and
  - (c) contributing to public knowledge and appreciation of science, technology and the arts.
- (3) At the request of NESTA, the Secretary of State may by order amend subsection (2) above so as to add to, remove or vary any of the means by which NESTA are to achieve their objects.
- (4) An order under this section shall be made by statutory instrument; but no such instrument shall be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.

#### 18 General duty and powers

- (1) NESTA shall be under a general duty to achieve their objects by the means for the time being specified in section 17(2) above.
- (2) Subject to any directions under section 20 or 21 below, NESTA may do anything which appears to them to be necessary or expedient for the purpose of or in connection with achieving their objects, including in particular—
- (a) giving financial assistance to persons (whether by way of grant, loan or otherwise);

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- (b) attaching conditions to any financial assistance given, including conditions requiring repayment, payment of interest or payment of other amounts;
  - (c) acquiring and disposing of, or exploiting, land and other property;
  - (d) taking charges or other forms of security over land and other property;
  - (e) entering into contracts of whatever nature;
  - (f) forming, or acquiring and disposing of interests in, bodies corporate;
  - (g) acting with other persons, whether by way of partnership, joint venture or otherwise;
  - (h) accepting gifts of assistance, money, land and other property; and
  - (i) investing money not immediately required for the purpose of achieving their objects.
- (3) NESTA may not, without the approval of the Secretary of State—
- (a) borrow money; or
  - (b) make or enter into arrangements which give rise to, or may give rise to, contingent liabilities of an unusual nature.
- (4) Directions under section 21 below may include provision for the purpose of determining whether arrangements are such as give rise to, or may give rise to, contingent liabilities of an unusual nature.

## **19 Initial and subsequent endowment**

- (1) For the purpose of providing NESTA with an endowment to enable them to achieve their objects, the Secretary of State may, before the end of the period of one year beginning with the day on which this Act is passed, make one or more payments to NESTA out of money held in the National Lottery Distribution Fund and allocated for expenditure on or connected with health, education or the environment.
- (2) For the purpose of increasing the amount of NESTA's endowment, the Secretary of State may, at any time after the end of the period of one year beginning with the day on which this Act is passed, make an order permitting him to pay to NESTA, out of money held in the National Lottery Distribution Fund and allocated for such one or more of the descriptions for the time being mentioned in section 22(3) of the 1993 Act as may be specified in the order, such sum or, as the case may be, such sums (whether or not of equal amounts) as may be so specified.
- (3) Before making an order under this section, the Secretary of State shall consult each of the bodies for the time being mentioned in section 23 of the 1993 Act.
- (4) Where an order is made under this section, the Secretary of State may make the payment or payments permitted by the order.
- (5) NESTA may not spend their endowment, or any part of their endowment, without the approval of the Secretary of State.
- (6) In subsections (2) and (5) above, "endowment" means the aggregate of any amounts paid to NESTA under subsection (1) or (4) above.
- (7) In section 22 of the 1993 Act (apportionment of money in Distribution Fund) after subsection (3) there shall be inserted—

“(4) This section has effect subject to section 19 of the National Lottery Act 1998.”

- (8) An order under this section shall be made by statutory instrument; but no such instrument shall be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.

## **20 Solicitation of gifts and investment of money**

- (1) NESTA shall be under a duty to seek gifts of assistance, money, land and other property, but in seeking or accepting any such gifts NESTA shall comply with any directions given to them by the Secretary of State.
- (2) Except to the extent that directions under section 21 below otherwise provide, NESTA shall pay—
- (a) their endowment, and
  - (b) any other money held by them which is not immediately required by them for the purpose of achieving their objects,
- to the National Debt Commissioners for investment by them in accordance with any instructions given to them by NESTA.
- (3) In giving instructions to the National Debt Commissioners under subsection (2) above, NESTA shall comply with any directions under section 21 below.
- (4) The expenses of the National Debt Commissioners in making any investment under subsection (2) above shall be met by NESTA.
- (5) In this section “endowment” has the meaning given by section 19(6) above.

## **21 Financial directions etc**

- (1) NESTA shall comply with any directions given to them by the Secretary of State—
- (a) in connection with the management, control or investment of their endowment or any other money held by them;
  - (b) in connection with the management, control, use or exploitation of any property in which they have an interest;
  - (c) in connection with the control of their administrative costs (including staff costs); or
  - (d) otherwise in connection with their financial affairs.
- (2) If NESTA fail to comply with any direction given to them under this section, the Secretary of State may, after taking into account any representations made by NESTA, require NESTA to pay to him such amount as the Secretary of State thinks appropriate having regard to the extent or degree of that failure.
- (3) The amount, or the aggregate of any amounts, which NESTA are required to pay under this section shall not exceed the amount of their endowment.
- (4) Any amount which NESTA are required to pay under this section shall be recoverable by the Secretary of State as a debt due to him from NESTA.
- (5) The Secretary of State shall pay into the National Lottery Distribution Fund any amount received by him under this section; and any amount so paid shall be treated for the purposes of the 1993 Act as so paid under section 21(2) of that Act.
- (6) The Secretary of State shall consult NESTA before giving any directions to them under this section.

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(7) In this section “endowment” has the meaning given by section 19(6) above.

## **22 Annual report and forward plans**

- (1) As soon as possible after the end of each financial year, NESTA shall make a report to the Secretary of State on the activities of NESTA during that year.
- (2) The report shall set out any directions given to NESTA under section 20 or 21 above that had effect during the financial year to which the report relates.
- (3) NESTA shall from time to time draw up a forward plan.
- (4) As soon as possible after drawing up a forward plan, NESTA—
  - (a) shall send a copy of the plan to the Secretary of State; and
  - (b) shall publish and publicise the plan.
- (5) The Secretary of State shall lay a copy of every report and forward plan received by him under this section before Parliament.
- (6) In this section “forward plan” means a plan for a future period which sets out the strategy which NESTA propose to follow during that period for the purpose of achieving their objects.

## **23 Accounts**

- (1) NESTA shall—
  - (a) keep proper accounts and proper records in relation to the accounts, and
  - (b) prepare a statement of accounts in respect of each financial year.
- (2) The statement shall comply with any directions that may be given by the Secretary of State as to the information to be contained in such a statement, the manner in which such information is to be presented or the methods and principles according to which such a statement is to be prepared.
- (3) Copies of the statement shall be sent to the Secretary of State and the Comptroller and Auditor General within such period after the end of the financial year to which the statement relates as the Secretary of State may direct.
- (4) The Comptroller and Auditor General shall examine, certify and report on the statement and shall lay copies of the statement and of his report before Parliament.
- (5) The Secretary of State shall not give a direction under this section without the Treasury’s approval.

## **24 Exemption from taxation**

- (1) In section 507(1) of the Income and Corporation Taxes Act 1988 (certain bodies entitled to such exemption from tax as falls to be allowed under section 505 of that Act in case of charity the whole income of which is applied to charitable purposes) after paragraph (e) there shall be inserted—
  - “(f) the National Endowment for Science, Technology and the Arts.”
- (2) In section 271(7) of the Taxation of Chargeable Gains Act 1992 (certain bodies exempt from tax in respect of chargeable gains) after “the Trustees of the National Heritage

Memorial Fund,” there shall be inserted “the National Endowment for Science, Technology and the Arts.”

- (3) In Schedule 3 to the Inheritance Tax Act 1984 (exemption for gifts for national purposes etc) after the entry relating to the Trustees of the National Heritage Memorial Fund there shall be inserted—

“The National Endowment for Science, Technology and the Arts.”

- (4) In section 129(1) of the Finance Act 1982 (exemption from stamp duty on grants, transfers to charities etc) after “the Trustees of the National Heritage Memorial Fund” there shall be inserted “or to the National Endowment for Science, Technology and the Arts”.

- (5) In section 90(7) of the Finance Act 1986 (exceptions from stamp duty reserve tax as regards agreements to transfer securities to certain bodies etc) after paragraph (d) there shall be inserted “or

(e) the National Endowment for Science, Technology and the Arts.”

## **25 Interpretation of Part II**

- (1) In this Part of this Act—

“financial year”, in relation to NESTA, means—

- (a) the period beginning with the date on which NESTA is established and ending with the next 31st March following that date, and  
(b) each successive period of twelve months ending with 31st March;

“the National Lottery Distribution Fund” has the same meaning as in the 1993 Act;

“NESTA” means the National Endowment for Science, Technology and the Arts.

- (2) Any reference in this Part of this Act to the arts includes a reference to—

- (a) architecture, design or crafts;  
(b) the film, audio-visual or broadcasting industries; and  
(c) the music industry.

- (3) Any reference in this Part of this Act to property includes a reference to intellectual property.

- (4) Any directions under this Part of this Act shall be given in writing and may be varied or revoked by subsequent directions.

## **PART III**

### **SUPPLEMENTAL PROVISIONS**

## **26 Repeals**

The enactments mentioned in Schedule 5 to this Act are hereby repealed to the extent specified in the third column of that Schedule.

**27 Short title, interpretation, commencement and extent**

- (1) This Act may be cited as the National Lottery Act 1998.
- (2) In this Act “the 1993 Act” means the National Lottery etc. Act 1993.
- (3) The following provisions of this Act, namely—
  - (a) section 1,
  - (b) Schedule 1, and
  - (c) Part I of Schedule 5 and section 26 so far as relating to that Part of that Schedule,shall come into force on such day as the Secretary of State may appoint by order made by statutory instrument; and different days may be so appointed for different purposes.
- (4) The following provisions of this Act, namely—
  - (a) this section,
  - (b) sections 6 to 12 and 15 to 25,
  - (c) Schedules 2 to 4, and
  - (d) section 26 and Part II of Schedule 5, so far as relating to the repeals in section 22 of, and paragraphs 2, 3 and 6 of Schedule 5 to, the 1993 Act,shall come into force on the day on which this Act is passed.
- (5) The remaining provisions of this Act shall come into force at the end of the period of two months beginning with the day on which this Act is passed.
- (6) The power conferred by subsection (3) above to make an order includes power to make incidental, consequential, supplemental or transitional provision or savings (including power to amend enactments).
- (7) This Act extends to Northern Ireland.