



# National Lottery etc. Act 1993

## 1993 CHAPTER 39

An Act to authorise lotteries to be promoted as part of a National Lottery; to make provision with respect to the running and regulation of that National Lottery and with respect to the distribution of its net proceeds; to increase the membership and extend the powers of the Trustees of the National Heritage Memorial Fund; to amend section 1 of the Revenue Act 1898 and the Lotteries and Amusements Act 1976; to amend the law relating to pool betting; and for connected purposes. [21st October 1993]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### Modifications etc. (not altering text)

C1 Certain functions transferred (1.4.1999) by 1998 c. 22, s. 1(4); S.I. 1999/650, art. 2.

## PART I

### AUTHORISATION AND REGULATION OF THE NATIONAL LOTTERY

#### *Preliminary*

#### **1 The National Lottery.**

- (1) In this Act “the National Lottery” means all the lotteries that form part of the National Lottery, taken as a whole.
- (2) A lottery forms part of the National Lottery if the following conditions are satisfied.
- (3) The lottery must be promoted or proposed to be promoted—
  - (a) by the body licensed to run the National Lottery under section 5, or

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- (b) in pursuance of an agreement that has been made between that body and the lottery’s promoter or proposed promoter.
- (4) The promotion of the lottery must be authorised by a licence that has been granted to its promoter or proposed promoter under section 6.

**2 Legality of lotteries forming part of the National Lottery.**

- (1) A lottery that forms part of the National Lottery shall not be unlawful.
- (2) Schedule 1 contains amendments consequential on subsection (1).

<sup>F1</sup>3 .....

.....

**Textual Amendments**

**F1** S. 3 repealed (1.4.1999) by 1998 c. 22, ss. 1(2), 26, Sch. 5 Pt. I; S.I. 1999/650, art. 2.

**[<sup>F2</sup>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.]

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**Textual Amendments**

**F2** S. 3A inserted (1.4.1999) by 1998 c. 22, s. 1(3); S.I. 1999/650, art. 2 .

**4 Overriding duties of the Secretary of State and Director General.**

- (1) The Secretary of State and (subject to any directions he may be given by the Secretary of State under section 11) the Director General shall each exercise his functions under this Part in the manner he considers the most likely to secure—
  - (a) that the National Lottery is run, and every lottery that forms part of it is promoted, with all due propriety, and
  - (b) that the interests of every participant in a lottery that forms part of the National Lottery are protected.
- (2) Subject to subsection (1), the Secretary of State and the Director General shall each in exercising those functions do his best to secure that the net proceeds of the National Lottery are as great as possible.
- (3) In subsection (2) “the net proceeds of the National Lottery” means the sums that are paid to the Secretary of State by virtue of section 5(6).

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### *The licensing system*

## **5 Licensing of a body to run the National Lottery.**

- (1) The Director General may by licence authorise a body corporate to run the National Lottery.
- (2) Only one body may be licensed under this section at any one time.
- (3) The Director General shall not grant a licence under this section unless an application in writing, containing such information as he has specified as necessary for enabling him to determine whether to grant it, has been made to him by such date as he has specified.
- (4) The Director General shall not grant such a licence unless he is satisfied that the applicant is a fit and proper body to run the National Lottery.
- (5) In determining whether to grant such a licence, the Director General may consider—
  - (a) whether any person who appears to him to be likely to manage the business or any part of the business of running the National Lottery under the licence is a fit and proper person to do so, and
  - (b) whether any person who appears to him to be likely to be a person for whose benefit that business would be carried on is a fit and proper person to benefit from it.
- (6) A licence under this section shall include a condition requiring the licensee to pay to the Secretary of State at such times as may be determined by or under the licence such sums out of the proceeds of lotteries forming part of the National Lottery as may be so determined.
- (7) A licence under this section may include a condition requiring the licensee to make such arrangements as may be determined by or under the licence for securing that, in circumstances specified in the licence, such sums as may be so determined are paid to the Director General for distribution to participants in lotteries forming part of the National Lottery.

## **6 Licensing of bodies to promote lotteries.**

- (1) The Director General may by licence authorise a body corporate to promote lotteries as part of the National Lottery.
- (2) A licence under this section shall specify the lotteries, or descriptions of lottery, the promotion of which it authorises.
- (3) The Director General shall not grant such a licence unless an application in writing, containing such information as he has specified as necessary for enabling him to determine whether to grant it, has been made to him.
- (4) The Director General shall not grant such a licence unless he is satisfied that the applicant is a fit and proper body to promote lotteries under the licence.
- (5) In determining whether to grant such a licence, the Director General may consider—
  - (a) whether any person who appears to him to be likely to manage the business or any part of the business of promoting lotteries under the licence is a fit and proper person to do so, and

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- (b) whether any person who appears to him to be likely to be a person for whose benefit that business would be carried on is a fit and proper person to benefit from it.

- (6) A licence under this section may include a condition requiring the licensee to obtain the Director General's approval of the rules of any lottery before the lottery is promoted under the licence.

## 7 Licences under sections 5 and 6: further provisions.

- (1) A licence granted under section 5 or 6 shall be in writing and shall specify the period for which (subject to being revoked or suspended) it is to have effect.
- (2) Such a licence may include such conditions (in addition to those required or authorised by section 5 or 6) as the Director General considers appropriate and in particular may include conditions requiring the licensee—
  - (a) to obtain the consent of the Director General before doing anything specified, or of a description specified, in the licence;
  - (b) to refer matters to the Director General for approval;
  - (c) to ensure that such requirements as the Director General may from time to time determine or approve are complied with;
  - (d) to provide the Director General at times specified by him with such information as he may require (including, if the information is of a description specified in the licence, information for publication by him);
  - (e) to allow the Director General to inspect and take copies of any documents of the licensee, including any information kept by the licensee otherwise than in writing, relating to the National Lottery or a lottery forming part of it;
  - (f) where such information is kept by means of a computer, to give the Director General such assistance as he may require to enable him to inspect and take copies of the information in a visible and legible form or to inspect and check the operation of any computer, and any associated apparatus or material, that is or has been in use in connection with the keeping of the information;
  - (g) to do such things (and, in particular, to effect such transfers of property or rights) as the Director General may require in connection with the licence ceasing to have effect and the grant of a licence to another body.
- (3) In subsection (2)(e) and (f) “the Director General” includes any representative of the Director General, as well as any member of his staff, who has been authorised by him (whether generally or specially) to make such an inspection.
- (4) Conditions in a licence granted under section 5 or 6 may impose requirements to be complied with by the licensee after the licence has ceased to have effect.
- (5) On the granting of a licence under section 5 or 6, the licensee shall pay to the Director General a fee of such amount as the Secretary of State may by order prescribe.
- (6) All fees received by the Director General by virtue of subsection (5) shall be paid into the Consolidated Fund.

## 8 Variation of conditions in licences.

- (1) The Director General may vary any condition in a licence granted under section 5 or 6 if the licensee consents.

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- (2) Subject to subsection (3), the Director General may vary any condition in such a licence without the licensee's consent if the licensee has been given a reasonable opportunity of making representations to the Director General about the variation.
- (3) Subsection (2) does not apply—
  - (a) where the variation would result in a condition requiring the licensee to transfer any property or rights, or
  - (b) in the case of a licence granted under section 5, in relation to a condition that the licence provides may only be varied with the consent of the licensee.
- (4) Where the Director General varies a condition in a licence under subsection (2)—
  - (a) he shall serve a notice on the licensee informing the licensee of the variation, and
  - (b) the variation shall take effect at the end of such period as may be specified in the notice.
- (5) The period specified in the notice shall be a period of at least twenty-one days beginning with the date of the notice.
- (6) The Director General's power to vary a condition in a licence under subsection (1) or (2) includes power to add a condition to the licence or omit a condition from it (and references in this section to the variation of a condition are to be read accordingly).

## 9 Enforcement of conditions in licences.

- (1) If, on an application made by the Director General, the court is satisfied—
  - (a) that there is a reasonable likelihood that a person will contravene a condition in a licence granted under section 5 or 6,
  - (b) that a person has contravened such a condition and there is a reasonable likelihood that the contravention will continue or be repeated, or
  - (c) that a person has contravened such a condition and there are steps that could be taken for remedying the contravention,the court may grant an injunction restraining the contravention or, in Scotland, an interdict prohibiting the contravention or (as the case may be) make an order requiring the licensee, and any other person who appears to the court to have been party to the contravention, to take such steps as the court may direct to remedy it.
- (2) In subsection (1) "the court" means the High Court or, in Scotland, the Court of Session.
- (3) Any sum payable to the Secretary of State in accordance with a condition included in a licence by virtue of section 5(6) shall be recoverable by him as a debt due to him from the licensee (and the licensee's liability to pay it shall not be affected by the licence ceasing for any reason to have effect).

## 10 Revocation of licences.

- (1) The Director General shall revoke a licence granted under section 5 if he is satisfied that the licensee no longer is, or never was, a fit and proper body to run the National Lottery.

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- (2) The Director General shall revoke a licence granted under section 6 if he is satisfied that the licensee no longer is, or never was, a fit and proper body to promote lotteries under the licence.
- (3) The Director General may revoke a licence granted under section 5 or 6—
  - (a) if it appears to him that any of the grounds for revocation set out in Part I of Schedule 3 applies, or
  - (b) if the licensee consents.
- (4) Part II of Schedule 3 shall have effect in relation to the revocation of a licence under this section, other than a revocation with the licensee's consent.

**[F3]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 <sup>M1</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 liability to pay it shall not be affected by the person's licence ceasing for any reason to have effect).]

#### Textual Amendments

**F3** S. 10A inserted (2.9.1998) by 1998 c. 22, ss. 2(1)(5), 27(5).

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#### Marginal Citations

**M1** 1838 c. 110.

### [<sup>F4</sup>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.]

#### Textual Amendments

**F4** S. 10B inserted (2.9.1998) by 1998 c. 22, ss. 3, 27(5).

*Control by the Secretary of State*

## 11 Directions to the Director General.

- (1) The Director General shall in exercising his functions under [<sup>F5</sup>sections 5 to 10A] comply with any directions that he may be given by the Secretary of State.
- (2) Such directions may deal in particular—
  - (a) with the matters that the Director General should take into account in deciding whether or not to grant licences;



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- (b) with the conditions that licences should contain.

#### Textual Amendments

**F5** Words in s. 11(1) substituted (2.9.1998) by 1998 c. 22, ss. 2(2), 27(5).

## 12 Regulations as to the promotion of lotteries.

- (1) The Secretary of State may by regulations make such provision in relation to the promotion of lotteries that form part of the National Lottery as he considers necessary or expedient.
- (2) Such regulations may in particular impose requirements or restrictions as to—
  - (a) the minimum age of persons to whom or by whom tickets or chances may be sold;
  - (b) the places, circumstances or manner in which tickets or chances may be sold or persons may be invited to buy them;
  - (c) the information that must appear in an advertisement for a lottery;
  - (d) the places, circumstances or manner in which signs relating to a lottery may be displayed.
- (3) In subsection (2) “tickets” includes any document providing evidence of a person’s claim to participate in the chances of a lottery.
- (4) Regulations under this section may make different provision for different areas.

## 13 Contravention of regulations an offence.

- (1) If any requirement or restriction imposed by regulations made under section 12 is contravened in relation to the promotion of a lottery that forms part of the National Lottery—
  - (a) the promoter of the lottery shall be guilty of an offence, except if the contravention occurred without the consent or connivance of the promoter and the promoter exercised all due diligence to prevent such a contravention,
  - (b) any director, manager, secretary or other similar officer of the promoter, or any person purporting to act in such a capacity, shall be guilty of an offence if he consented to or connived at the contravention or if the contravention was attributable to any neglect on his part, and
  - (c) any other person who was party to the contravention shall be guilty of an offence.
- (2) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction, to a fine not exceeding the statutory maximum;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both.
- (3) Summary proceedings in Scotland for an offence under this section may be commenced within a period of six months from the date on which evidence sufficient in the opinion of the procurator fiscal to warrant proceedings came to his knowledge; but no proceedings in Scotland shall be commenced by virtue of this section more than three years after the commission of the offence.

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- (4) For the purposes of this section, a certificate signed by or on behalf of the procurator fiscal and stating the date on which evidence sufficient in his opinion to warrant the proceedings came to his knowledge shall be conclusive evidence of that fact; and a certificate stating that matter and purporting to be so signed shall be taken to be so signed unless the contrary is proved.

*Provision of information by the Director General*

**14 Annual report.**

- (1) As soon as possible after the end of every financial year, the Director General shall make a report on the exercise of his functions during that year to the Secretary of State.
- (2) In subsection (1) “financial year” means—
- <sup>F6</sup>(a) .....
- [<sup>F7</sup>(aa) the period beginning with the date on which section 3A comes into force and ending with the next 31st March, and]
- (b) each successive period of twelve months ending with 31st March.
- (3) The Secretary of State shall lay a copy of every report received by him under this section before Parliament.

**Textual Amendments**

**F6** S. 14(2)(a) repealed (1.4.1999) by 1998 c. 22, ss. 1(5), 26, Sch. 1 Pt. I para. 6(5) Pt. III para. 13(a), Sch. 5 Pt. I; S.I. 1999/650, art. 2

**F7** S. 14(2)(aa) inserted (1.4.1999) by 1998 c. 22, s. 1(5), Sch. 1 Pt. I para. 6(5) Pt. III para. 13(b); S.I. 1999/650, art. 2

**Modifications etc. (not altering text)**

**C2** S. 14: functions transferred (1.4.1999) by 1998 c. 22, s. 1(5), Sch. 1 Pt. I para. 6(1)(b); S.I. 1999/650, art. 2.

**15 Power of the Secretary of State to require information.**

The Director General shall provide the Secretary of State with such information relating to the National Lottery or a lottery forming part of it as the Secretary of State may direct.

*Miscellaneous and supplementary*

**16 False representations as to the National Lottery.**

- (1) If a person advertising, or offering the opportunity to participate in, a lottery, competition or game of another description gives, by whatever means, a false indication that it is a lottery forming part of, or is otherwise connected with, the National Lottery, he shall be guilty of an offence.
- (2) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction, to a fine not exceeding the statutory maximum;

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- (b) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both.

## 17 Extension of powers of Horserace Totalisator Board.

- (1) The Horserace Totalisator Board may hold a licence under section 5 or 6.
- (2) The Horserace Totalisator Board may hold an interest in a body corporate the only or principal object of which is the holding of a licence under section 5 or 6.
- (3) In subsection (2) the reference to holding an interest in a body corporate is to holding, or being beneficially entitled to, shares in that body or to possessing voting power in that body.

## 18 Control of betting on the National Lottery.

- (1) Schedule 1 to the <sup>M2</sup>Betting, Gaming and Lotteries Act 1963 (bookmaker’s permits, betting agency permits and betting office licences) shall be amended in accordance with subsections (2) to (4).
- (2) In paragraph 15(e) (application for grant or renewal of bookmaker’s or betting agency permit must be refused if a similar application has been refused under paragraph 16(1)(a) or 17(b) within preceding twelve months) after “16(1)(a)” and after “17(b)” there shall be inserted “ or 18A ”.
- (3) After paragraph 18 there shall be inserted—

“18A

- (1) In the case of an application for the renewal of a bookmaker’s permit or a betting agency permit, the appropriate authority shall refuse the application if they are satisfied that the applicant or an employee of his has, since the permit was granted, received or negotiated a bet on the outcome of any lottery forming part of the National Lottery for the purposes of Part I of the National Lottery etc. Act 1993.
  - (2) For the purposes of sub-paragraph (1) above, the appropriate authority shall disregard any bet which ought properly to have been raised by way of objection on a previous occasion when the permit was renewed.”
  - (4) In paragraph 27(4) (grounds on which bookmaker’s permit may be cancelled) after paragraph (b) there shall be inserted—
- “; or
- (c) the authority are satisfied that the holder of the permit or an employee of his has, since the permit was granted, received or negotiated a bet on the outcome of any lottery forming part of the National Lottery for the purposes of Part I of the National Lottery etc. Act 1993.”
- (5) The <sup>M3</sup>Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 shall be amended in accordance with subsections (6) to (8).
  - (6) In Article 8(4) (grounds on which an application for a bookmaker’s licence must be refused) in sub-paragraph (d) after “(e)” there shall be inserted “ or in Article 17(2)(d) ”.

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(7) In Article 17 (renewal of bookmaker’s licence by a court)—

(a) after paragraph (2)(c) there shall be inserted—

“; and

(d) that neither the applicant nor any employee of his has, since the licence was granted, received or negotiated a bet on the outcome of any lottery forming part of the National Lottery for the purposes of Part I of the National Lottery etc. Act 1993.”, and

(b) after paragraph (2) there shall be inserted—

“(2A) For the purposes of paragraph (2)(d), the court shall disregard any bet which ought properly to have been raised by way of objection on a previous occasion when the licence was renewed.”

(8) In Article 27(1) (grounds on which bookmaker’s licence may be revoked) after paragraph (e) there shall be inserted—

“; or

(f) that the licensed bookmaker or an employee of his has, since the licence was granted, received or negotiated a bet on the outcome of any lottery forming part of the National Lottery for the purposes of Part I of the National Lottery etc. Act 1993.”

#### Marginal Citations

M2 1963 c. 2.

M3 S.I. 1985/1204 (N.I. 11).

## 19 Restriction of enactments relating to the rehabilitation of offenders.

(1) Neither section 4(1) of the <sup>M4</sup>Rehabilitation of Offenders Act 1974 nor Article 5(1) of the <sup>M5</sup>Rehabilitation of Offenders (Northern Ireland) Order 1978 (exclusion of evidence and questions relating to an individual’s previous convictions) shall apply in relation to any proceedings—

- (a) before the Director General in respect of the grant or revocation of a licence, or
- (b) by way of appeal to the Secretary of State against the revocation of a licence by the Director General.

(2) A conviction shall not be regarded as spent for the purposes of section 4(2) of that Act or Article 5(2) of that Order (restrictions in respect of such questions put otherwise than in proceedings) if the question is put by the Director General and the following conditions are satisfied.

(3) The question must be put for the purpose of determining whether to grant or revoke a licence.

(4) The question must relate to an individual—

- (a) who manages the business or any part of the business carried on under the licence (or who is likely to do so if the licence is granted), or

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(b) for whose benefit that business is carried on (or is likely to be carried on if the licence is granted).

(5) When the question is asked, the person questioned must be informed that by virtue of this section all the individual's previous convictions are to be disclosed.

#### Marginal Citations

**M4** 1974 c. 53.

**M5** S.I. 1978/1908 (N.I. 27).

## 20 Interpretation of Part I.

In this Part—

[<sup>F8</sup>“the Commission” means the National Lottery Commission;]

“contravention”, in relation to a condition or requirement, includes a failure to comply with that condition or requirement (and “contravened” is to be read accordingly);

<sup>F9</sup> . . .

“participant”, in relation to a lottery, means a person who has bought a ticket or chance in the lottery;

“promote” includes conduct (and “promotion” is to be read accordingly);

and any reference to a lottery forming part of the National Lottery is to be read in accordance with section 1.

#### Textual Amendments

**F8** Definition inserted (1.4.1999) by 1998 c. 22, s. 1(5), Sch. 1 Pt. III para. 14(a); S.I. 1999/650, art. 2.

**F9** Definition repealed (1.4.1999) by 1998 c. 22, ss. 1(5), 26, Sch. 1 Pt. III para. 14(b), Sch. 5 Pt. I; S.I. 1999/650, art. 2.

## PART II

### DISTRIBUTION OF THE NET PROCEEDS OF THE NATIONAL LOTTERY

#### *The distribution system*

## 21 The National Lottery Distribution Fund.

- (1) There shall be a fund maintained under the control and management of the Secretary of State and known as the National Lottery Distribution Fund.
- (2) The Secretary of State shall pay into the Distribution Fund all the sums that are paid to him by virtue of section 5(6) [<sup>F10</sup>or 10A].

#### Textual Amendments

**F10** Words in s. 21(2) inserted (2.9.1998) by 1998 c. 22, ss. 2(3), 27(5).

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## 22 Apportionment of money in Distribution Fund.

- (1) Every sum that is paid into the Distribution Fund under section 21(2) shall be apportioned as follows.
- (2) So much of the sum as the Secretary of State considers appropriate shall be allocated for making payments under section 31 and held in the Distribution Fund for that purpose.
- (3) Of the balance—
  - (a) [<sup>F11</sup>5 per cent.] shall be allocated for expenditure on or connected with the arts,
  - (b) [<sup>F11</sup>5 per cent.] shall be allocated for expenditure on or connected with sport,
  - (c) [<sup>F11</sup>5 per cent.] shall be allocated for expenditure on or connected with the national heritage,
  - (d) [<sup>F11</sup>5 per cent.] shall be allocated for charitable expenditure, <sup>F12</sup> . . .
  - (e) 20 per cent. shall be allocated for expenditure on projects to mark the year 2000 and the beginning of the third millennium [<sup>F13</sup>and
  - (f) [<sup>F14</sup>60 per cent.] shall be allocated for expenditure on or connected with health, education or the environment.]

[<sup>F15</sup>(4) This section has effect subject to section 19 of the National Lottery Act 1998.]

### Textual Amendments

- F11** Words in s. 22(3)(a)-(d) substituted (15.2.1999) by [S.I. 1999/344, art. 2\(1\)-\(5\)](#)
- F12** Word at the end of s. 22(3)(d) repealed (2.7.1998) by [1998 c. 22, ss. 26, 27\(4\), Sch. 5 Pt. II.](#)
- F13** S. 22(3)(f) and word preceding it inserted (2.7.1998) by [1998 c. 22, ss. 6\(2\)\(9\), 27\(4\)](#)
- F14** Words in s. 22(3)(f) substituted (15.2.1999) by [S.I. 1999/344, art. 2\(1\)\(6\)](#)
- F15** S. 22(4) inserted (2.7.1998) by [1998 c. 22, ss. 19\(7\), 27\(4\).](#)

## 23 The distributing bodies.

- (1) So much of any sum paid into the Distribution Fund as is allocated for expenditure on or connected with the arts shall be held in the Distribution Fund—
  - [<sup>F16</sup>(a) as to 83.3 per cent., for distribution by the Arts Council of England,
  - (b) as to 8.9 per cent., for distribution by the Scottish Arts Council,
  - (c) as to 5 per cent., for distribution by the Arts Council of Wales, and
  - (d) as to 2.8 per cent., for distribution by [<sup>F17</sup>the Arts Council of Northern Ireland].]
- (2) So much of any sum paid into the Distribution Fund as is allocated for expenditure on or connected with sport shall be held in the Distribution Fund—
  - (a) as to 83.3 per cent., for distribution by [<sup>F18</sup>the English Sports Council],
  - (b) as to 8.9 per cent., for distribution by the Scottish Sports Council,
  - (c) as to 5 per cent., for distribution by the Sports Council for Wales, and
  - (d) as to 2.8 per cent., for distribution by the Sports Council for Northern Ireland.
- (3) So much of any sum paid into the Distribution Fund as is allocated for expenditure on or connected with the national heritage shall be held in the Distribution Fund for distribution by the Trustees of the National Heritage Memorial Fund.

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- (4) So much of any sum paid into the Distribution Fund as is allocated for charitable expenditure shall be held in the Distribution Fund for distribution by the National Lottery Charities Board (established under section 37).
- (5) So much of any sum paid into the Distribution Fund as is allocated for expenditure on projects to mark the year 2000 and the beginning of the third millennium shall be held in the Distribution Fund for distribution by the Millennium Commission (established under section 40).
- [<sup>F19</sup>(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).]

#### Textual Amendments

**F16** S. 23(1)(a)-(d) substituted (13.6.1994) by S.I. 1994/1342, **art. 2**.

**F17** Words in s. 23(1) substituted (1.9.1995) by S.I. 1995/2088, **art. 2**.

**F18** Words in s. 23(2)(a) substituted (1.1.1997) by S.I. 1996/3095, **art. 2**.

**F19** S. 23(6) inserted (2.7.1998) by 1998 c. 22, **ss. 7(1), 27(4)**.

#### 24 Payments from Distribution Fund to distributing bodies.

At such times as the Secretary of State thinks appropriate, payments of such amounts as he thinks appropriate may be made to a body specified in section 23 out of so much of any money in the Distribution Fund as is held for distribution by that body.

#### 25 Application of money by distributing bodies.

- (1) Subject to the provisions of this Part, a body shall distribute any money paid to it under section 24 for meeting expenditure of the relevant description mentioned in section 22(3).
- <sup>F20</sup>[(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) A body shall not under subsection (1) distribute money for any purpose or in any manner if it does not have power to distribute money for that purpose or in that manner apart from subsection (1).
- <sup>F21</sup>[(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.]

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- (3) A body may defray out of any money paid to it under section 24 any expenses incurred by the body in consequence of this Act.
- (4) The Trustees of the National Heritage Memorial Fund may apply any money paid to them under section 24 for any purpose for which they have power to apply money under section 4 of the <sup>M6</sup>National Heritage Act 1980 [<sup>F22</sup>(other expenditure out of the fund)].
- [<sup>F23</sup>(5) References in this section (however expressed) to the distribution of money for meeting expenditure are to be construed as including distribution of money for the purpose of establishing, or contributing to, endowments in connection with expenditure of the description concerned.]

#### Textual Amendments

**F20** S. 25(1A) inserted (2.7.1998) by 1998 c. 22, ss. 9(1), 27(4).

**F21** S. 25(2A)-(2B) inserted (2.7.1998) by 1998 c. 22, ss. 10, 27(4).

**F22** Words in s. 25(4) substituted (4.3.1998) by 1997 c. 14, s. 3, Sch. para. 4; S.I. 1998/292, art. 2

**F23** S. 25(5) inserted (retrospectively) by National Lottery (Funding of Endowments) Act 2003 (c. 23), s. 1(3)(9)

#### Marginal Citations

**M6** 1980 c. 17.

### [<sup>F24</sup>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.
- (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



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- (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.]

#### Textual Amendments

**F24** S. 25A inserted (2.7.1998) by 1998 c. 22, ss. 11(1), 27(4)

#### [<sup>F25</sup>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.

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- (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
    - (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.
- [ References in this section (however expressed) to distribution under section 25(1) of <sup>F26</sup>(6) money for meeting expenditure are to be construed in accordance with section 25(5).]

#### Textual Amendments

**F25** S. 25B inserted (2.7.1998) by 1998 c. 22, ss. 12(1), 27(4).

**F26** S. 25B(6) inserted (retrospectively) by National Lottery (Funding of Endowments) Act 2003 (c. 23), s. 1(4)(9)

#### [<sup>F27</sup>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).

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- (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).]

#### Textual Amendments

**F27** S. 25C inserted (2.9.1998) by 1998 c. 22, ss. 13, 27(5).

#### Modifications etc. (not altering text)

**C3** S. 25C (except s. 25C(3)(b)): transfer of certain functions (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

**C4** S. 25C(1) (as read with s. 26A(1)(a)): transfer of certain functions (1.7.1999) by S.I. 1999/1750, arts. 1(1), 2, **Sch. 1** (with art. 7); S.I. 1998/3178, **art. 3**

**C5** S. 25C(3)(a) modified (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

**C6** S. 25C(5)(c)(d)(6): certain functions made exercisable by the Scottish Ministers concurrently with the Minister concerned (1.7.1999) by S.I. 1999/1750, arts. 1(1), 3, **Sch. 2** (with art. 7); S.I. 1998/3178, **art. 3**

**C7** S. 25(6)(b) modified (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

VALID FROM 30/06/1999

#### [<sup>F28</sup>25D Strategic plans for distributing bodies in or as regards Scotland

The functions of the Secretary of State—

- (a) under section 25C(1) shall, as regards instructions to—
  - (i) any body specified in section 23(1) <sup>F29</sup> whose functions exclusively or mainly relate to the arts in Scotland; or
  - (ii) any body specified in section 23(2) <sup>F30</sup> whose functions exclusively or mainly relate to sport in Scotland; and
- (b) under section 25C(5)(c) and (d) and (6) shall, as regards strategic plans prepared by any body other than—

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- (i) any body specified in section 23(1) whose functions relate exclusively or mainly to the arts in any one of England, Wales or Northern Ireland; or
- (ii) any body specified in section 23(2) whose functions relate exclusively or mainly to sport in any one of England, Wales or Northern Ireland,
- be treated as exercisable in or as regards Scotland and may be exercised separately.]

#### Textual Amendments

- F28** S. 25D inserted (30.6.1999) by S.I. 1999/1756, arts. 1(1), 2, **Sch. para. 15(2)** (with art. 8); S.I. 1998/3178, **art. 3**
- F29** Section 23(1) was amended by S.I. 1994/1342 and 1995/2088.
- F30** Section 23(2) was amended by S.I. 1996/3095.

#### *Control by the Secretary of State*

### 26 Directions to distributing bodies.

- (1) A body shall comply with any directions given to it by the Secretary of State as to the matters to be taken into account in determining the persons to whom, the purposes for which and the conditions subject to which the body distributes any money under section 25(1).
- (2) The Trustees of the National Heritage Memorial Fund shall comply with any directions given to them by the Secretary of State as to the matters to be taken into account in determining the purposes for which and the conditions subject to which the Trustees apply any money under section 25(4).
- (3) A body shall comply with any directions that the Secretary of State considers it appropriate to give the body for securing the proper management and control of money paid to the body under section 24.
- [<sup>F31</sup>(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.]
- (4) Directions under subsection (3) [<sup>F32</sup>or (3A)] may in particular require a body—
- (a) to obtain the consent of the Secretary of State before doing anything specified, or of a description specified, in the directions;
- (b) to provide the Secretary of State at times specified by him with such information as he may require.
- [<sup>F33</sup>(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.]

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- (5) The Secretary of State shall consult a body before giving any directions to it under this section.

#### Textual Amendments

**F31** S. 26(3A) inserted (2.7.1998) by 1998 c. 22, ss. 11(2), 27(4).

**F32** Words in s. 26(4) inserted (2.7.1998) by 1998 c. 22, s. 11(3).

**F33** S. 26(4A) inserted (2.7.1998) by 1998 c. 22, ss.11(4), 27(4).

#### Modifications etc. (not altering text)

**C8** S. 26(1) (as read with s. 26A(1)(a)(2)(b)): transfer of certain functions (1.7.1999) by S.I. 1999/1750, arts. 1(1), 2, **Sch. 1** (with art. 7); S.I. 1998/3178, **art. 3**

S. 26(1) (as read with s. 26A(2)(a)): functions amended (1.7.1999) by S.I. 1999/1750, arts. 1(1), 4, **Sch. 3** (with art. 7); S.I. 1998/3178, **art. 3**

S. 26(1): certain functions made exercisable by the National Assembly for Wales concurrently with the Secretary of State (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

**C9** S. 26(1)(5): transfer of certain functions (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

**C10** S. 26(2) (as read with s. 26A(2)(b)): transfer of certain functions (1.7.1999) by S.I. 1999/1750, arts. 1(1), 2, **Sch. 1** (with art. 7); S.I. 1998/3178, **art. 3**

S. 26(2) (as read with s. 26A(2)(a)): functions amended (1.7.1999) by S.I. 1999/1750, arts. 1(1), 4, **Sch. 3** (with art. 7); S.I. 1998/3178, **art. 3**

S. 26(2): certain functions made exercisable by the National Assembly for Wales concurrently with the Secretary of State (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

**C11** S. 26(3): functions amended (1.7.1999) by S.I. 1999/672, art. 5, **Sch. 2**

S. 26(3) (as read with s. 26A(1)(a)): transfer of certain functions (1.7.1999) by S.I. 1999/1750, arts. 1(1), 2, **Sch. 1** (with art. 7); S.I. 1998/3178, **art. 3**

**C12** S. 26(3A): functions amended (1.7.1999) by S.I. 1999/672, art. 5, **Sch. 2**

S. 26(3A) (as read with s. 26A(1)(a)): transfer of certain functions (1.7.1999) by S.I. 1999/1750, arts. 1(1), 2, **Sch. 1** (with art. 7); S.I. 1998/3178, **art. 3**

S. 26(3A) (as read with s. 26A(1)(b)): functions amended (1.7.1999) by S.I. 1999/1750, arts. 1(1), 4, **Sch. 3** (with art. 7); S.I. 1998/3178, **art. 3**

**C13** S. 26(4) (as read with s. 26A(1)(a)): transfer of certain functions (1.7.1999) by S.I. 1999/1750, arts. 1(1), 2, **Sch. 1** (with art. 7); S.I. 1998/3178, **art. 3**

**C14** S. 26(5): certain functions made exercisable by the National Assembly for Wales concurrently with the Secretary of State (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

S. 26(5): transfer of certain functions (1.7.1999) by S.I. 1999/1750, arts. 1(1), 2, **Sch. 1** (with art. 7); S.I. 1998/3178, **art. 3**

#### Commencement Information

**II** S. 26 wholly in force at 21.12.1993; s. 26 not in force at Royal Assent see s. 65; s. 26(1)(3)-(5) in force at 25.10.1993 and s. 26(2) in force at 21.12.1993 by S.I. 1993/2632, **arts. 2, 3**

VALID FROM 30/06/1999

#### [<sup>F34</sup>26A Directions to distributing bodies in or as regards Scotland

(1) The functions of the Secretary of State—

(a) under section 26(1), (3), (3A) <sup>F35</sup> (4) <sup>F36</sup> and (5) shall, as regards directions to—

(i) any body specified in section 23(1) <sup>F37</sup> whose functions exclusively or mainly relate to the am in Scotland; or

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- (ii) any body specified in section 23(2)<sup>F38</sup> whose functions exclusively or mainly relate to sport in Scotland; and
- (b) under section 26(3A) shall, as regards directions to any other body except—
- (i) any body specified in section 23(1) whose functions relate exclusively or mainly to the arts in any one of England, Wales or Northern Ireland; or
- (ii) any body specified in section 23(2) whose functions relate exclusively or mainly to sport in any one of England, Wales or Northern Ireland,
- be treated as exercisable in or as regards Scotland and may be exercised separately.
- (2) Directions given to the National Lottery Charities Board or the New Opportunities Fund under section 26(1) or to the Trustees of the National Heritage Memorial Fund under section 26(2) may be made—
- (a) to apply to the whole of the United Kingdom and provide for all matters other than those to be provided specifically for Scotland in accordance with subsection (3); or
- (b) to apply only to Scotland and provide for the matters specified in subsection (3).
- (3) Directions given in accordance with subsection (2)(b) may, in relation to any distribution made for a purpose which does not concern reserved matters, provide for priorities and other matters to be taken into account in determining the persons to whom and the purposes for which the money available for distribution in Scotland is distributed and in determining conditions of distribution for the purpose of specific cases but may not provide for—
- (a) the total allocation of resources to Scotland or between Scotland and other parts of the United Kingdom; or
- (b) except in relation to any initiative specified in an order made under section 43B<sup>F39</sup> which applies only in Scotland, the general conditions subject to which lottery money is distributed in accordance with directions applying to the whole of the United Kingdom.]

#### Textual Amendments

- F34** S. 26A inserted (30.6.1999) by S.I. 1999/1756, arts. 1(1), 2, **Sch. para. 15(3)** (with art. 8); S.I. 1998/3178, **art. 3**
- F35** Section 26(3A) was inserted by the 1998 Act section 11(2).
- F36** Section 26(4) was amended by the 1998 Act, section 11(3).
- F37** Section 23(1) was amended by S.I. 1994/1342 and 1995/2088.
- F38** Section 23(2) was amended by S.I. 1996/3095,
- F39** Section 43B was inserted by the 1998 Act section 7(2).

#### Modifications etc. (not altering text)

- C15** S. 26(1)(b): amended (1.7.1999) by S.I. 1999/1750, arts. 1(1), 4, **Sch. 3** (with art. 7); S.I. 1998/3178, **art. 3**
- C16** S. 26(2)(a): amended (1.7.1999) by S.I. 1999/1750, arts. 1(1), 4, **Sch. 3** (with art. 7); S.I. 1998/3178, **art. 3**

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## 27 Power to prohibit distribution in certain cases.

- (1) Where subsection (2) applies, the Secretary of State may by order prohibit a body from distributing money under section 25(1) to a person specified in the order.
- (2) This subsection applies if at the time the order is made—
  - (a) the person specified is a company of which the body, or a wholly-owned subsidiary of the body, is a member, or
  - (b) the Secretary of State considers that the body is able (whether directly or indirectly) to control or materially to influence the policy of the person specified in carrying on any undertaking or performing any functions.
- (3) In subsection (2)—
  - (a) “company” means a company formed and registered under the <sup>M7</sup>Companies Act 1985 or the <sup>M8</sup>Companies (Northern Ireland) Order 1986 or a company to which the provisions of that Act or Order apply as they apply to a company so formed and registered, and
  - (b) “wholly-owned subsidiary” has the meaning given by section 736 of that Act or Article 4 of that Order.
- (4) Where subsection (5) applies, the Secretary of State may give directions to a body—
  - (a) prohibiting it from distributing money under section 25(1) to a person in Northern Ireland specified in the directions, or
  - (b) requiring it to secure that any money distributed by it under section 25(1) to such a person is not applied for a purpose specified in the directions.
- (5) This subsection applies if at the time the directions are given the Secretary of State considers that—
  - (a) a proscribed organisation for the purposes of the <sup>M9</sup>Northern Ireland (Emergency Provisions) Act 1991, or
  - (b) any other organisation that appears to him to be concerned in terrorism in Northern Ireland or in promoting or encouraging it,might directly or indirectly derive benefit from the distribution of money to the person specified.
- (6) In subsection (5) “benefit” includes benefit of a non-financial nature and, in particular, an enhancement of reputation.
- (7) A body may not disclose to any other person either the identity of any person specified in directions given to it under subsection (4) or any information that might lead to the identification of such a person.
- (8) A body shall provide the Secretary of State with such information as he may require for the purpose of exercising his powers under this section in relation to the body.

### Marginal Citations

**M7** 1985 c. 6.

**M8** S.I. 1986/1032 (N.I. 6).

**M9** 1991 c. 24.

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## 28 Power to amend section 22.

- (1) The Secretary of State may by order amend section 22(3) so as to substitute different percentages for any of the percentages for the time being specified there.
- (2) Any amendment made under this section shall be such that—
  - (a) no percentage lower than 5 per cent. is specified in section 22(3), and
  - (b) the percentages specified in section 22(3) amount in total to 100 per cent.
- (3) Without prejudice to the generality of section 60(5), an order under this section may provide for sums that apart from the order would be held in the Distribution Fund for distribution by a particular body to be held in the Distribution Fund for distribution by another body specified in section 23.

### Modifications etc. (not altering text)

C17 S. 28 (as read with s. 43CC(2)(a)): functions amended (1.7.1999) by S.I. 1999/1750, arts. 1(1), 4, Sch. 3 (with art. 7); S.I. 1998/3178, art. 3

## 29 Power to amend section 23.

- (1) The Secretary of State may by order amend subsection (1), (2), (3) or (4) of section 23 so as—
  - (a) to substitute a different body for any body for the time being specified in that subsection;
  - (b) to add another body to the bodies or body for the time being specified in it;
  - (c) to omit any body for the time being specified in it;
  - (d) to substitute different percentages for any percentages for the time being specified in it.
- (2) Any amendment made under subsection (1) shall be such that the amended subsection—
  - (a) provides for the whole of the sum mentioned in that subsection to be held for distribution by the one body specified in that subsection, or
  - (b) provides for the whole of that sum to be held for distribution by the two or more bodies specified in that subsection and specifies, in relation to each of those bodies, what percentage of that sum is to be held for distribution by that body.
- (3) The Secretary of State may by order provide that subsection (1), (2), (3) or (4) of section 23 shall, pending the making of an order amending that subsection under subsection (1),—
  - (a) cease to have effect, or
  - (b) have effect as if any of the bodies for the time being specified in it were omitted.
- (4) Without prejudice to the generality of section 60(5)—
  - (a) an order made under subsection (1) may provide for sums that apart from the order would be held in the Distribution Fund for distribution by a particular body to be held in the Distribution Fund for distribution by another body (being a body that on the coming into force of the order is specified in the subsection amended by the order);



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- (b) an order made under subsection (3) may provide for sums that apart from the order would be held in the Distribution Fund for distribution by a particular body to be held in the Distribution Fund in the name of the Secretary of State, pending being held for distribution by another body in accordance with the order to be made under subsection (1).
- (5) Without prejudice to the generality of subsection (1), the Secretary of State may exercise his powers under that subsection so as to remove from section 23 any body that has contravened or failed to comply with a requirement or prohibition imposed on it by or under section 26 or 27.

*Winding up of fund allocated under section 22(3)(e)*

**30 Winding up of fund allocated under section 22(3)(e).**

- (1) In relation to any sum that is paid into the Distribution Fund under section 21(2) after 31st December 2000, section 22(3) shall have effect—
  - (a) with the omission of paragraph (e), and
  - (b) subject to any order under section 28 that takes effect after 31st December 2000, with the substitution of higher percentages for the percentages that on that date are specified in paragraphs (a) to (d) [<sup>F40</sup>and (f)].
- (2) The higher percentages shall bear the same proportion to one another as the percentages for which they are substituted and shall amount in total to 100 per cent.
- (3) The Secretary of State may by order substitute a later date for the date that is for the time being specified in subsection (1).

**Textual Amendments**

**F40** Words in s. 30(1)(b) inserted (2.7.1998) by 1998 c. 22, ss. 6(7)(9), 27(4).

*Distribution Fund: further provisions*

**31 Payments from Distribution Fund in respect of expenses.**

- (1) At such times as the Secretary of State with the approval of the Treasury determines to be appropriate, payments shall be made into the Consolidated Fund out of so much of any money in the Distribution Fund as is held under section 22(2).
- (2) The payments shall be of such amounts as the Secretary of State with the approval of the Treasury determines to be appropriate for—
  - <sup>F41</sup>(a) .....
  - [<sup>F42</sup>(aa) meeting payments made or to be made under paragraph 10 of Schedule 2A,]
  - (b) defraying expenses incurred or to be incurred by the Secretary of State in exercising his functions under this Act, and
  - (c) defraying expenses incurred or to be incurred by the National Debt Commissioners in making investments under section 32.

<sup>F43</sup>(3) .....

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[<sup>F44</sup>(4) In determining what amounts are appropriate for meeting the payments referred to in subsection (2)(aa), the Secretary of State shall take into account sums paid or to be paid into the Consolidated Fund under section 7(6).]

#### Textual Amendments

- F41** S. 31(2)(a) repealed (1.4.1999) by 1998 c. 22, ss. 1(5), 26, Sch. 1 Pt. III para. 15(2)(a), **Sch. 5 Pt. I**; S.I. 1999/650, **art. 2**.
- F42** S. 31(2)(aa) inserted (1.4.1999) by 1998 c. 22, s. 1(5), **Sch. 1 Pt. III para. 15(2)(b)**; S.I. 1999/650, **art. 2**.
- F43** S. 31(3) repealed (1.4.1999) by 1998 c. 22, ss. 1(5), 26, Sch. 1 Pt. III para. 15(3), **Sch. 5 Pt. I**; S.I. 1999/650, **art. 2**.
- F44** S. 31(4) added (1.4.1999) by 1998 c. 22, s. 1(5), **Sch. 1 Pt. III para. 15(4)**; S.I. 1999/650, **art. 2**.

#### Modifications etc. (not altering text)

- C18** S. 31 extended (2.7.1998) by 1998 c. 22, s. 8(7).  
 S. 31 extended (2.7.1998) by 1998 c. 22, s. 16(2), **Sch. 4 para. 11**.

### 32 Investment of Distribution Fund.

- (1) So much of any money in the Distribution Fund as is neither held under section 22(2) nor immediately required for making payments under section 24 may be paid over to the National Debt Commissioners and invested by them in accordance with such directions as may be given by the Treasury.
- (2) The proceeds of any investment made under subsection (1) or this subsection may be re-invested by the National Debt Commissioners in accordance with such directions as may be given by the Treasury.
- (3) The proceeds of any investment made under subsection (1) or (2) shall, if they are not re-invested under subsection (2), be paid into the Distribution Fund and—
  - (a) to the extent that the proceeds are attributable to the investment of sums paid under subsection (1) out of money held for distribution by a body specified in section 23, held in the Distribution Fund for distribution by that body (subject to any order under section 28 or 29);
  - (b) to the extent that the proceeds are attributable to the investment of sums paid under subsection (1) out of money held in the name of the Secretary of State by virtue of paragraph (b) of section 29(4), held in the Distribution Fund in his name as mentioned in that paragraph (or where the order under section 29(1) mentioned in that paragraph has been made, held in accordance with that order).
- (4) In this section “proceeds”, in relation to an investment, means any interest or dividends received in respect of the investment and any sums received on the realisation of the investment.
- (5) For the purposes of subsection (3), the extent to which any proceeds are attributable to the investment of sums paid under subsection (1) out of money held for distribution by a particular body or held in the name of the Secretary of State shall be determined by, or in accordance with principles determined by, the Secretary of State.

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### 33 Accounts of the Secretary of State and National Debt Commissioners.

- (1) The Secretary of State shall prepare accounts in respect of the Distribution Fund in such form, and in such manner and at such times, as the Treasury may direct.
- (2) The National Debt Commissioners shall prepare accounts in respect of any investments under section 32 in such form, and in such manner and at such times, as the Treasury may direct.
- (3) Each account prepared under subsection (1) or (2) shall be sent to the Comptroller and Auditor General who shall examine, certify and report on it and shall lay copies of it and of his report before Parliament.

[<sup>F45</sup>(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>M10</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.

(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

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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.]

#### Textual Amendments

**F45** S. 33(4)-(10) inserted (2.9.1998) by 1998 c. 22, ss. 5(2)(3), 27(5).

#### Marginal Citations

**M10** 1983 c. 44.

### *Reports and accounts of distributing bodies*

#### **34 Annual reports by distributing bodies other than Millennium Commission.**

- (1) As soon as possible after the end of every financial year, each body that in that year was paid any money under section 24 or distributed or applied any money under section 25 shall make a report to the Secretary of State on the exercise during that year of its functions under this Act.
- (2) The report shall set out any directions given to the body under section 26 that had effect during the financial year to which the report relates.
- (3) The Secretary of State shall lay a copy of every report received by him under this section before Parliament.
- (4) This section does not apply to the Millennium Commission.

#### **35 Accounts of distributing bodies other than Charities Board and Millennium Commission.**

- (1) A body shall keep proper accounts in respect of any money paid to it under section 24 and proper records in relation to the accounts.
- (2) A body shall prepare a statement of accounts in respect of each financial year in which it was paid any money under section 24 or distributed or applied any money under section 25.
- (3) 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.
- (4) 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.

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- (5) 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.
- (6) The Secretary of State shall not give a direction under this section without the Treasury's approval.
- (7) This section does not apply to the National Lottery Charities Board [<sup>F46</sup>, the Millennium Commission or the New Opportunities Fund].

#### Textual Amendments

**F46** Words in s. 35(7) substituted (2.7.1998) by 1998 c. 22, ss. 8(1), 27(4).

#### *The Trustees of the National Heritage Memorial Fund*

### 36 Amendment of the National Heritage Act 1980.

The <sup>M11</sup>National Heritage Act 1980 shall have effect with the amendments set out in Schedule 4.

#### Marginal Citations

**M11** 1980 c. 17.

#### *The National Lottery Charities Board*

### 37 The National Lottery Charities Board.

- (1) There shall be a body corporate known as the National Lottery Charities Board.
- (2) Schedule 5 makes provision in relation to the Charities Board.

### 38 Grants to charities etc.

- (1) The Charities Board may make out of any money they receive grants for meeting the expenditure of charities or of institutions such as are mentioned in paragraph (b) of the definition of “charitable expenditure” in section 44(1) [<sup>F47</sup>, including grants for establishing or contributing to endowments in connection with such expenditure].
- (2) In making a grant under this section, the Charities Board 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.

<sup>F48</sup>[(3) The Charities Board may for the purpose of enabling them to exercise their functions acquire and dispose of land.]

#### Textual Amendments

**F47** Words in s. 38(1) added (retrospectively) by National Lottery (Funding of Endowments) Act 2003 (c. 23), s. 1(5)(9)

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**F48** S. 38(3) inserted (2.9.1998) by 1998 c. 22, ss. 14(1), 27(5).

### 39 Accounts.

- (1) The Charities Board 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.

#### *The Millennium Commission*

### 40 The Millennium Commission.

- (1) There shall be a body corporate known as the Millennium Commission.
- (2) Schedule 6 makes provision in relation to the Millennium Commission.

### 41 Grants in respect of projects.

- (1) The Millennium Commission may make out of any money they receive grants to fund or assist in the funding of such projects as the Millennium Commission consider appropriate to mark the year 2000 and the beginning of the third millennium [<sup>F49</sup>(including grants for establishing or contributing to endowments in connection with such projects)].
- (2) In making a grant under this section, the Millennium Commission 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 Millennium Commission may do anything that they consider desirable for enabling them to determine the projects in respect of which grants under this section are to be made.

#### **Textual Amendments**

**F49** Words in s. 41(1) added (retrospectively) by National Lottery (Funding of Endowments) Act 2003 (c. 23), s. 1(6)(9)

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## 42 Annual report.

- (1) As soon as possible after the end of every financial year, the Millennium Commission shall lay before Parliament a report on the exercise of their functions during that year.
- (2) The report shall set out any directions given to the Millennium Commission under section 26 that had effect during the financial year to which the report relates.

## 43 Accounts.

- (1) The Millennium Commission 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 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.

*[<sup>F50</sup> The New Opportunities Fund]*

### Textual Amendments

**F50** Crossheading and ss. 43A-43D inserted (2.7.1998) by 1998 c. 22, ss. 7(2), 27(4)

## <sup>F51</sup><sup>F52</sup> 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.

### Textual Amendments

**F51** Crossheading and ss. 43A-43D inserted (2.7.1998) by 1998 c. 22, ss. 7(2), 27(4)

**F52** Ss. 43A-43D inserted (2.7.1998) by 1998 c. 22, ss. 7(2), 27(4)

## <sup>F53</sup> 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,

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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.

#### Textual Amendments

**F53** Ss. 43A-43D inserted (2.7.1998) by 1998 c. 22, ss. 7(2), 27(4)

#### <sup>F54</sup>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.

#### Textual Amendments

**F51** Crossheading and ss. 43A-43D inserted (2.7.1998) by 1998 c. 22, ss. 7(2), 27(4)

**F54** Ss. 43A-43D inserted (2.7.1998) by 1998 c. 22, ss. 7(2), 27(4)

#### Modifications etc. (not altering text)

**C19** S. 43C(1) (as read with s. 43CC(2)(b)): transfer of certain functions (1.7.1999) by S.I. 1999/1750, arts. 1(1), 2, **Sch. 1** (with art. 7); S.I. 1998/3178, **art. 3**



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- S. 43C(1) (as read with s. 43CC(2)(a)): functions amended (1.7.1999) by S.I. 1999/1750, arts. 1(1), 4, **Sch. 3** (with art. 7); S.I. 1998/3178, **art. 3**
- S. 43C(1): certain functions made exercisable by the National Assembly for Wales concurrently with the Secretary of State (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**
- C20** S. 43C(2): transfer of certain functions (1.7.1999) by S.I. 1999/1750, arts. 1(1), 2, **Sch. 1** (with art. 7); S.I. 1998/3178, **art. 3**
- S. 43C(2): certain functions made exercisable by the National Assembly for Wales concurrently with the Secretary of State (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**
- C21** S. 43C(4): transfer of certain functions (1.7.1999) by S.I. 1999/1750, arts. 1(1), 2, **Sch. 1** (with art. 7); S.I. 1998/3178, **art. 3**
- S. 43C(4): transfer of certain functions (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**
- C22** S. 43(5): transfer of certain functions (1.7.1999) by S.I. 1999/1750, arts. 1(1), 2, **Sch. 1** (with art. 7); S.I. 1998/3178, **art. 3**
- S. 43C(5): transfer of certain functions (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

VALID FROM 30/06/1999

### **Directions to New Opportunities Fund in or as regards Scotland**

**F55** **43CC**

- (1) The function of the Secretary of State to give directions under section 43C(1) may be exercised separately.
- (2) Directions given to the New Opportunities Fund under section 43C(1) may be made—
- (a) to apply to the whole of the United Kingdom and provide for all matters other than those to be provided specifically for Scotland in accordance with subsection (3); or
  - (b) to apply only to Scotland and provide for the matters specified in subsection (3).
- (3) Directions given in accordance with subsection (2)(b) may, as regards any initiative relating to a purpose which does not concern reserved matters, provide for priorities and other matters to be taken into account in determining the projects which may be funded or the arrangements which may be made or entered into to give effect to any initiative applying in Scotland and in determining, conditions of grant for the purpose of specific cases, but may not provide for—
- (a) the total allocation of resources to Scotland or between Scotland and other parts of the United Kingdom; or
  - (b) except in relation to any initiative specified in an order made under section 43B which applies only in Scotland, the general conditions subject to which grant is made money is distributed in accordance with directions applying to the whole of the United Kingdom.]]

#### **Textual Amendments**

- F51** Crossheading and ss. 43A-43D inserted (2.7.1998) by 1998 c. 22, **ss. 7(2), 27(4)**
- F55** S. 43CC inserted (30.6.1999) by S.I. 1999/1756, arts. 1(1), 2, **Sch. para. 15(10)** (with art. 8); S.I. 1998/3178, **art. 3**

**Status:** Point in time view as at 01/04/1999. This version of this Act contains provisions that are not valid for this point in time.

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#### <sup>F56</sup>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.

#### Textual Amendments

**F56** Ss. 43A-43D inserted (2.7.1998) by 1998 c. 22, ss. 7(2), 27(4)

### *Supplementary*

#### 44 Interpretation of Part II.

- (1) In this Part—
  - “charitable expenditure” means expenditure—
    - (a) by charities, or
    - (b) by institutions, other than charities, that are established for charitable purposes (whether or not those purposes are charitable within the meaning of any rule of law), benevolent purposes or philanthropic purposes;
  - “the Charities Board” means the National Lottery Charities Board;
  - “the Distribution Fund” means the National Lottery Distribution Fund;
  - [<sup>F57</sup>“education” includes training and the provision of activities for children;
  - [<sup>F58</sup>“endowment” includes permanent endowment;]
  - “the environment” includes the living and social environment;]
  - “expenditure on or connected with the national heritage” [<sup>F59</sup>means expenditure for any purpose for which expenditure may be incurred under section 3, 3A or 4 of the National Heritage Act 1980]
  - “financial year”, in relation to a body, means—
    - (a) the period beginning with the date on which the body is established and ending with the next 31st March, and
    - (b) each successive period of twelve months ending with 31st March.
  - [<sup>F60</sup>“joint scheme” means a joint scheme under section 25B;]

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- (2) For the purposes of the definition of “expenditure on or connected with the national heritage” in subsection (1), any reference in section 3 [<sup>F61</sup>3A or 4] of the National Heritage Act 1980 to the opinion of the Trustees shall be read, in relation to any body other than the Trustees of the National Heritage Memorial Fund that is for the time being specified in section 23(3), as a reference to the opinion of that body.
- [<sup>F62</sup>(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.]
- [<sup>F63</sup>(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.]

#### Textual Amendments

- F57** Definitions in s. 44(1) inserted (2.7.1998 with application in relation to sums paid into the National Lottery Distribution Fund under s. 21(2) on or after 14.10.1997) by 1998 c. 22, s. 6(8)(9).
- F58** Words in s. 44(1) inserted (retrospectively) by National Lottery (Funding of Endowments) Act 2003 (c. 23), s. 1(8)(9)
- F59** Words in s. 44(1) substituted (4.3.1998) by 1997 c. 14, s. 3, Sch. Pt. I para. 5(a); S.I. 1998/292, art. 2
- F60** Definition in s. 44(1) inserted (2.7.1998) by 1998 c. 22, s. 12(2).
- F61** Words in s. 44(2) inserted (4.3.1998) by 1997 c. 14, s. 3, Sch. Pt. I para. 5(b); S.I. 1998/292, art. 2
- F62** S. 44(3) inserted (2.7.1998) by 1998 c. 22, s. 8(2).
- F63** S. 44(4) inserted (2.7.1998) by 1998 c. 22, s. 9(2).

## PART III

### MISCELLANEOUS AMENDMENTS RELATING TO LOTTERIES

#### *Preliminary*

#### 45 Interpretation of Part III.

In this Part “the 1976 Act” means the <sup>M12</sup>Lotteries and Amusements Act 1976.

#### Marginal Citations

- M12** 1976 c. 32.

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### *Importation and exportation restrictions*

#### **46 Importation and exportation restrictions.**

- (1) In section 1 of the <sup>M13</sup>Revenue Act 1898 (prohibition on the importation of advertisements and notices relating to lotteries) as it applies in the United Kingdom, after “importation” there shall be inserted “ from a place outside the British Islands and the member States ”.
- (2) That section so far as it applies in the British Islands outside the United Kingdom shall cease to have effect.
- (3) In section 2(1) of the 1976 Act (general lottery offences)—
  - (a) in paragraph (d) (bringing or sending lottery tickets or advertisements into Great Britain) after “Great Britain” there shall be inserted “ from a place outside the British Islands and the member States ”, and
  - (b) in paragraph (e) (sending lottery proceeds etc. out of Great Britain) after “Great Britain” there shall be inserted “ to a place outside the British Islands and the member States ”.
- (4) In Article 132(1) of the <sup>M14</sup>Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (general lottery offences)—
  - (a) in paragraph (d) (bringing or sending lottery tickets or advertisements into Northern Ireland) after “Northern Ireland” there shall be inserted “ from a place outside the British Islands and the member States ”, and
  - (b) in paragraph (f) (sending lottery proceeds etc. out of Northern Ireland) after “Northern Ireland” there shall be inserted “ to a place outside the British Islands and the member States ”.

#### **Marginal Citations**

**M13** 1898 c. 46.

**M14** S.I. 1985/1204 (N.I. 11).

### *Private lotteries*

#### **47 Private lotteries.**

For section 4(1) of the 1976 Act (private lotteries) there shall be substituted—

- “(1) In this Act “private lottery” means a lottery in Great Britain which is promoted—
- (a) for members of one society established and conducted for purposes not connected with gaming, betting or lotteries;
  - (b) for persons all of whom work on the same premises; or
  - (c) for persons all of whom reside on the same premises,
- and which satisfies the conditions in subsections (1A) and (1B) below.
- (1A) The lottery must be promoted by persons each of whom—
- (a) is one of the persons for whom the lottery is promoted; and

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- (b) in the case of a lottery promoted for the members of a society, is authorised in writing by the governing body of the society to promote the lottery.

(1B) The sale of tickets or chances in the lottery must be confined—

- (a) to the persons for whom the lottery is promoted; and
- (b) in the case of a lottery promoted for the members of a society, to any other persons on the society’s premises.”

#### *Societies’ lotteries and local lotteries*

### **48 Registration of societies.**

(1) Section 5 of the 1976 Act (societies’ lotteries) shall be amended as follows.

(2) In subsection (3) (conditions that must be satisfied for a lottery not to be unlawful) in paragraph (b) (society to be registered under Schedule 1 to that Act) for “Schedule 1 to this Act” there shall be substituted “ the appropriate Schedule ”.

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

“(3A) The appropriate Schedule for the purposes of subsection (3)(b) above—

- (a) is Schedule 1 to this Act if none of subsections (3B) to (3D) below applies to the lottery;
- (b) is Schedule 1A to this Act if any of those subsections applies to the lottery.

(3B) This subsection applies to a lottery if the total value of the tickets or chances sold or to be sold in the lottery is more than £20,000.

(3C) This subsection applies to a lottery if the total value of—

- (a) the tickets or chances sold or to be sold in the lottery, and
- (b) the tickets or chances sold or to be sold in all earlier lotteries held by the same society in the same year,

is more than £250,000.

(3D) This subsection applies to a lottery if subsection (3B) or (3C) above applied to any earlier lottery held by the same society in the same year or any of the three preceding years.

(3E) For the purposes of this section—

- (a) a lottery is earlier than another lottery if any tickets or chances in it are sold, distributed or offered for sale before any tickets or chances in the other lottery are sold, distributed or offered for sale, and
- (b) a lottery is held in the year in which the date of the lottery falls.

(3F) In this section “year” means a period of twelve months beginning with 1st January.”

(4) In subsection (5) (which introduces Schedule 1 to the 1976 Act) for “Schedule 1” there shall be substituted “ Schedules 1 and 1A ”.

(5) Schedule 1 to the 1976 Act (registration of societies) shall have effect with the amendments set out in Part I of Schedule 7 to this Act.

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- (6) After Schedule 1 to the 1976 Act there shall be inserted the Schedule set out in Part II of Schedule 7 to this Act.

#### **49 Registration of lottery schemes.**

- (1) In section 5(3) of the 1976 Act (conditions that must be satisfied for a society's lottery not to be unlawful) paragraph (d) (lottery scheme to be registered with the Gaming Board if the total value of tickets or chances to be sold in the lottery is more than £10,000) and the word "and" immediately preceding it shall be omitted.
- (2) At the end of section 6 of the 1976 Act (local lotteries) there shall be added—
- “(4) Schedule 2 to this Act shall have effect.”
- (3) Section 9 of the 1976 Act (schemes for societies' lotteries and local lotteries) shall cease to have effect.
- (4) Schedule 2 to the 1976 Act (registration of schemes) shall have effect with the amendments set out in Schedule 8 to this Act.

#### **50 Lottery managers.**

- (1) Immediately before section 10 of the 1976 Act there shall be inserted—

##### **“9A Lottery managers.**

- (1) No person shall manage a society's lottery or a local lottery unless that person is—
- (a) a member of the society on whose behalf or of the local authority by whom the lottery is promoted, acting in his capacity as such,
  - (b) an employee of that society or authority acting in the course of his employment,
  - (c) in the case of a society's lottery, a company that is wholly owned by the society,
  - (d) a person certified as a lottery manager under Schedule 2A to this Act, or
  - (e) an employee of a person so certified acting in the course of his employment.
- (2) In subsection (1) above “employee”, in relation to an unincorporated body, includes an employee of a member of the body employed by him in his capacity as a member.
- (3) For the purposes of subsection (1)(c) above—
- (a) “company” means a company formed and registered under the <sup>M15</sup>Companies Act 1985 or a company to which the provisions of that Act apply as they apply to a company so formed and registered, and
  - (b) a company is wholly owned by a society if the society is entitled (whether directly or through one or more nominees) to exercise, or control the exercise of, the whole of the voting power at any general meeting of the company.

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- (4) In subsection (1) above and Schedule 2A to this Act references to managing a lottery are to managing the promotion, or any part of the promotion, of a lottery.
- (5) Schedule 2A to this Act shall have effect.”
- (2) After Schedule 2 to the 1976 Act there shall be inserted the Schedule set out in Schedule 9 to this Act.

#### Marginal Citations

M15 1985 C. 6.

## 51 Frequency of lotteries.

For section 10 of the 1976 Act there shall be substituted—

### “10 Frequency of lotteries.

- (1) The Secretary of State may by order prescribe—
  - (a) the maximum number of lotteries that may be promoted under section 5 or 6 above in any period of twelve months on behalf of the same society or by the same local authority; and
  - (b) the minimum number of days that must elapse between the dates of any two lotteries promoted under section 5 or 6 above on behalf of the same society or by the same local authority.
- (2) An order under subsection (1) above may make different provision for different cases or circumstances.”

## 52 Rules for lotteries.

- (1) Section 11 of the 1976 Act (rules for authorised lotteries) shall be amended as follows.
- (2) In subsection (1)(b) (information to be given in the case of a society’s lottery on every ticket and every notice or advertisement of the lottery) for the words from “and every notice” to “published” there shall be substituted “ distributed or sold ”.
- (3) In subsection (3) (the price of every ticket or chance in a lottery to be the same and to be stated on any ticket) after “any ticket” there shall be inserted “ distributed or sold ”.
- (4) After subsection (4) there shall be inserted—

“(4A) No payment other than the price of a ticket or chance shall be required of a person as a condition of his admission to participate in a society’s lottery or a local lottery.”
- (5) For subsections (5) to (10) there shall be substituted—

“(5) No prize in a society’s lottery or a local lottery shall exceed in amount or value £25,000 or 10 per cent. of the total value of the tickets or chances sold in the lottery (whichever is greater).

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- (6) The total value of the tickets or chances sold in any one such lottery shall not exceed £1,000,000.
- (7) The total value of the tickets or chances sold in all such lotteries held in any one year and promoted on behalf of the same society or by the same local authority shall not exceed £5,000,000.
- (8) For the purposes of subsection (7) above, a lottery is held in the year in which the date of the lottery falls.
- (9) In this section “year” means a period of twelve months beginning with 1st January; but if subsection (7) above (as substituted by section 52 of the National Lottery etc. Act 1993) comes into force on a date other than 1st January—
  - (a) the period beginning with that date and ending with the next 31st December shall be taken to be the first year for the purposes of that subsection, and
  - (b) in relation to that period, the reference to £5,000,000 in that subsection shall be read as a reference to a proportionately smaller amount.”
- (6) In subsection (11) (not more than half of a lottery’s proceeds may be appropriated for the provision of prizes) for “one half” there shall be substituted “ 50 per cent. ”.
- (7) In subsection (13) (which specifies, in relation to the amount of a lottery’s proceeds that may be appropriated on account of expenses, limits that differ according to whether or not the proceeds exceed £10,000)—
  - (a) for “£10,000”, in both places, there shall be substituted “ £20,000 ”, and
  - (b) for “25 per cent.”, in both places, there shall be substituted “ 30 per cent. ”
- (8) After subsection (13) there shall be added—
  - “(14) For the purposes of subsection (12) above, the amount of any expenses that are met—
    - (a) by the society on whose behalf, or the local authority by whom, the lottery is promoted, or
    - (b) by any beneficiary of the lottery,
 shall be treated as having been appropriated on account of expenses from the proceeds of the lottery.
- (15) In subsection (14) above “beneficiary of the lottery” means a person (other than the society on whose behalf, or the local authority by whom, the lottery is promoted) to whom or for whose benefit any of the proceeds of the lottery, other than amounts appropriated in respect of expenses or prizes, are lawfully paid or applied.
- (16) The amount of the proceeds of a society’s lottery or a local lottery appropriated for the provision of prizes and the amount of those proceeds appropriated on account of expenses (exclusive of prizes) shall not exceed in aggregate a prescribed percentage of the whole proceeds of the lottery.”



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### 53 Offences.

- (1) Section 13 of the 1976 Act (offences relating to societies' lotteries and local lotteries) shall be amended as follows.
- (2) In subsection (1) (contravention of requirement of Act or of regulations made under it) for "or of any regulations made under it" there shall be substituted " , of any regulations made under it or of any order made under section 10 above ”.
- (3) After subsection (2) there shall be inserted—
  - “(2A) It shall be a defence for a person charged with an offence in respect of a contravention of section 11(5) above to prove—
    - (a) that the total value of the tickets or chances sold in the lottery fell short of the sum reasonably estimated; and
    - (b) that the amount or value of the prize in question would not have contravened section 11(5) above if the total value of the tickets or chances sold had amounted to the sum reasonably estimated; and
    - (c) that, if the amount or value of the prize had been any less, an unconditional undertaking as to prizes given in connection with the sale of tickets or chances would have been broken.”
- (4) In subsection (4) (defence in respect of contravention of section 10 etc.) after “contravention of” there shall be inserted “ an order made under ”.

### 54 Powers of the Secretary of State to vary monetary limits and to prescribe or vary fees.

- (1) Section 18 of the 1976 Act (powers of the Secretary of State as to monetary limits, fees etc.) shall be amended as follows.
- (2) For subsection (1)(a) there shall be substituted—
  - “(a) vary the sum specified in section 5(3B) or (3C) above;”.
- (3) For subsection (1)(b) there shall be substituted—
  - “(b) vary any sum or percentage specified in section 11 above or prescribe the percentage referred to in subsection (16) of that section;”.
- (4) In subsection (1)(e) for “under paragraph 7 of Schedule 2 below” there shall be substituted “ , or provide that no fees are to be payable, under paragraph 2, 6 or 10 of Schedule 1A below or paragraph 6A or 7 of Schedule 2 below ”.
- (5) In subsection (1) the word “and” at the end of paragraph (e) shall be omitted and after that paragraph there shall be inserted—
  - “(ee) vary the sum specified in paragraph 13(1) of Schedule 1A below or paragraph 6D(1) of Schedule 2 below;
  - (eee) vary the fee payable under paragraph 1 of Schedule 2A below; and”.
- (6) In subsection (2) for “subsection (1)(e) above” there shall be substituted “ subsection (1) above may make different provision for different cases or circumstances and an order made by virtue of paragraph (e) of that subsection ”.

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## 55 Interpretation of the 1976 Act.

In section 23(1) of the 1976 Act (interpretation) the following definitions shall be inserted in the appropriate places in alphabetical order—

““employee” and “employment” have the meanings given by section 153(1) of the <sup>M16</sup>Employment Protection (Consolidation) Act 1978”;

““registration authority” has the meaning given by paragraph 1 of Schedule 1 below”.

### Marginal Citations

**M16** 1978 C. 44.

## PART IV

### POOL BETTING

## 56 Removal of prohibition on the use of premises for the delivery of football pools coupons and stakes.

(1) Section 1 of the <sup>M17</sup>Betting, Gaming and Lotteries Act 1963 (restriction on use of premises for betting transactions) shall be amended as follows.

(2) In subsection (1) for “subsection (5)” there shall be substituted “ subsections (4A) and (5) ”.

(3) After subsection (4) there shall be inserted—

“(4A) Subject to subsections (4B) and (4C) of this section, subsection (1)(a) of this section shall not apply to the use of premises as a place where persons may deliver—

(a) completed coupons or other entry forms for qualifying competitions promoted by a registered pool promoter in the course of his pool betting business; and

(b) the stake money in respect of such coupons or other entry forms; for forwarding to the registered pool promoter.

(4B) Subsection (4A) of this section shall not affect the operation of subsection (1) (a) of this section in relation to any premises of a class or description for the time being prescribed for the purposes of this subsection.

(4C) In subsection (4A) of this section, the reference to coupons or other entry forms for qualifying competitions does not include any coupon or other entry form that can effect entry to a competition that is not a qualifying competition.

(4D) In subsections (4A) and (4C) of this section, “qualifying competition” means a competition—

(a) that is a competition for prizes for making forecasts as to association football games to be played on a Saturday, a Sunday or a day that is a bank holiday in England and Wales or in Scotland under the <sup>M18</sup>Banking and Financial Dealings Act 1971, and

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- (b) that requires each entry in the competition to consist of a forecast as to at least four such games.”

**Marginal Citations**

M17 1963 c. 2.

M18 1971 c. 80.

**57 Reduction of age limit in relation to football pool betting.**

- (1) In section 21 of the <sup>M19</sup>Betting, Gaming and Lotteries Act 1963 (betting with young persons) after subsection (2) (definition of “young person”) there shall be added—

“(3) In any case concerning—

(a) a bet which is an entry in a qualifying competition (as defined in section 1(4D) of this Act), or

(b) a betting transaction relating to such a bet,

this section shall have effect with the substitution in subsection (2) of “sixteen” for “eighteen”.

- (4) Subsection (3) of this section does not apply in relation to the employment of a young person in a licensed betting office.”

- (2) In section 22 of that Act (betting circulars not to be sent to young persons)—

(a) in subsection (3), for “to be of full age” there shall be substituted “to have attained that age”, and

(b) after subsection (3) there shall be added—

“(4) In any case concerning—

(a) a bet which is an entry in a qualifying competition (as defined in section 1(4D) of this Act),

(b) a betting transaction relating to such a bet, or

(c) information as to any game of association football upon which such betting is carried on,

this section shall have effect with the substitution in subsections (1) and (3) of “sixteen” for “eighteen”.”

**Marginal Citations**

M19 1963 c. 2.

**58 Roll-over of prize money.**

- (1) Schedule 2 to the Betting, Gaming and Lotteries Act 1963 (registered pool promoters) shall be amended as follows.

- (2) In paragraph 13 (requirements with which the pool betting business of a registered pool promoter must comply) for sub-paragraph (e) there shall be substituted—

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“(e) the total amount payable by way of winnings shall, in the case of each competition, be calculated in accordance with paragraph 13A of this Schedule;”.

(3) After paragraph 13 there shall be inserted—

“13A

(1) In any competition the total amount payable by way of winnings shall be the aggregate of—

- (a) the total amount of the stakes in respect of entries in the competition, less the relevant percentage of that total amount; and
- (b) any amount that has been duly carried over to the competition from a previous competition in accordance with any provision made under paragraph 14A of this Schedule;

less any amount that falls to be carried over from the competition in accordance with any such provision.

(2) In sub-paragraph (1) of this paragraph “relevant percentage” means such percentage as may be determined by the promoter, being—

- (a) the same percentage in respect of all his competitions which depend on the same events or on events taking place on the same day; and
- (b) a percentage which is determined and notified to the accountant before that day.”

(4) In paragraph 14—

- (a) after “paragraph 13(d) or (e)” there shall be inserted “ or 13A ”, and
- (b) for “paragraph 13(e)” there shall be substituted “ paragraph 13A ”.

(5) After paragraph 14 there shall be inserted—

“14A

(1) Subject to any directions under paragraph 14B of this Schedule, the rules applicable to any competition may provide that if none of the bets in the competition qualifies for, or for a share in, the first prize—

- (a) the amount of that prize shall be carried over to the next relevant competition, or
- (b) part of that amount shall be carried over to the next relevant competition and the balance shall be applied as mentioned in paragraph 14(1)(b) of this Schedule.

(2) In sub-paragraph (1) of this paragraph—

- (a) “the first prize” means the highest prize that can be won, having regard to the outcome of the events on which the competition depends (and not any higher prize that could have been won had the outcome of those events been different),
- (b) “the next relevant competition” means the next competition to be held by the same registered pool promoter under the same rules within the fourteen days following the day on which the result of the competition is determined, and
- (c) the reference in paragraph (b) to part of the amount referred to in paragraph (a) is to such proportion of that amount as may be specified

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in the rules or as may be determined by the promoter in accordance with the rules.

- 14B
- (1) The Secretary of State may direct that any provision made under paragraph 14A of this Schedule—
    - (a) is not to have effect, or
    - (b) is to have effect subject to such limitations as are specified in the direction.
  - (2) The limitations that may be specified under sub-paragraph (1)(b) of this paragraph include—
    - (a) limitations as to the number of competitions from which amounts may be carried over, and
    - (b) limitations as to the period within which any such competitions may be held.
  - (3) Any directions under this paragraph shall be given in writing and may be varied or revoked by subsequent directions.”
  - (6) In paragraph 15—
    - (a) after “paragraph 13(d) or (e)” there shall be inserted “ or 13A ”, and
    - (b) for “paragraph 13(e)” there shall be substituted “ paragraph 13A ”.
  - (7) In paragraph 20(1) (information relating to a competition which the promoter is required to include in a statement to the accountant) after paragraph (b) there shall be inserted—
    - “(bb) the amount (if any) carried over to the competition from a previous competition in accordance with any provision made under paragraph 14A of this Schedule;
    - (bbb) the amount (if any) carried over from the competition in accordance with any such provision;”.
  - (8) In paragraph 21 (statement as to commission and expenses which the promoter is required to send to every competitor in a competition)—
    - (a) in sub-paragraph (1)(a) for the words from “after deducting” to the end there shall be substituted “ after making in respect of each of those competitions the deductions mentioned in sub-paragraph (1A) of this paragraph; ”, and
    - (b) after sub-paragraph (1) there shall be inserted—

“(1A) In relation to any competition, the deductions referred to are—

      - (a) a deduction of the aggregate of the total amount payable by way of winnings in the competition and any amount carried over from the competition in accordance with any provision made under paragraph 14A of this Schedule, less any amount carried over to the competition in accordance with any such provision, and
      - (b) a deduction of the amount of pool betting duty payable in respect of the competition.”
  - (9) In paragraph 23(1) (content of annual statement to be sent by registered pool promoter to accountant and registering authority) in paragraph (b) for the words from “after

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deducting” to the end there shall be substituted “ after making in respect of each of those competitions the deductions mentioned in paragraph 21(1A) of this Schedule; ”.

## 59 Pool promoters’ dividends.

- (1) Paragraph 14 of Schedule 2 to the <sup>M20</sup>Betting, Gaming and Lotteries Act 1963 (provision which may be made in rules applicable to competitions promoted by registered pool promoters) shall be amended as follows.
- (2) In sub-paragraph (c) (provision for rounding winnings up or down by a specified sum) for “sixpence”, in both places, there shall be substituted “ 20 pence ”.
- (3) For “sub-paragraph (c) of this paragraph” there shall be substituted “ paragraph (c) of this sub-paragraph ”.
- (4) The provisions of paragraph 14 as amended by section 58(4) and subsections (2) and (3) shall become sub-paragraph (1) of that paragraph and the following sub-paragraph shall be added at the end—

“(2) The Secretary of State may by order made by statutory instrument vary the sum for the time being specified in sub-paragraph (1)(c) of this paragraph; and an instrument containing such an order shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

### Marginal Citations

M20 1963 c. 2.

## PART V

### SUPPLEMENTARY

## 60 Orders and regulations.

- (1) Any power to make an order or regulations under this Act shall be exercisable by statutory instrument.
- (2) An order shall not be made under
  - [<sup>F64</sup>(a) section 28, 30 or 43B, or
  - (b) paragraph 2(5) of Schedule 3A,]
 unless a draft of the statutory instrument containing it has been laid before, and approved by a resolution of, each House of Parliament.
- [<sup>F65</sup>(2A) Subsection (2) does not apply to an order which contains only provision revoking an order under section 43B.]
- (3) A statutory instrument containing any order or regulations under this Act, other than
  - [<sup>F66</sup>(a) an order to which subsection (2) applies, or
  - (b) an order under section 65,]
 shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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[<sup>F67</sup>(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.]

(4) Any order or regulations under this Act may make different provision for different cases or circumstances.

(5) Any order or regulations under this Act may make such incidental, supplemental and transitional provision as the person making the order or regulations thinks appropriate.

[<sup>F68</sup>(6) Any reference in this section to an order is a reference to an order of the Secretary of State.]

#### Subordinate Legislation Made

**P1** S. 60(5) power partly exercised (10.4.1994): 3.5.1994 and 3.10.1994 appointed for specified provisions by [S.I. 1994/1055](#).

#### Textual Amendments

**F64** S. 60(2)(a)(b) substituted (2.7.1998) for words in s. 60(2) by 1998 c. 22, **ss. 15(2), 27(4)**.

**F65** S. 60(2A) inserted (2.7.1998) by 1998 c. 22, **ss. 15(3), 27(4)**.

**F66** S. 60(3)(a)(b) substituted for words in s. 60(3) (2.7.1998) by 1998 c. 22, **ss. 15(4), 27(4)**.

**F67** S. 60(3A)(3B) inserted (2.7.1998) by 1998 c. 22, **ss. 15(5), 27(4)**.

**F68** S. 60(6) inserted (2.7.1998) by 1998 c. 22, **ss. 15(6), 27(4)**.

#### Modifications etc. (not altering text)

**C23** S. 60(2) excluded (2.7.1998) by 1998 c. 22, **ss. 8(6), 27(4)**.

**C24** S. 60(6) modified (1.7.1999) by [S.I. 1999/672](#), art. 2, **Sch. 1**

## 61 Directions.

Any directions under this Act shall be given in writing and may be varied or revoked by subsequent directions.

## 62 Expenses.

There shall be paid out of money provided by Parliament—

- (a) any expenses of the Secretary of State or the National Debt Commissioners attributable to this Act, and
- (b) any increase attributable to this Act in the sums payable out of money so provided under any other enactment.

## 63 Northern Ireland.

- (1) This Act extends to Northern Ireland (except so far as it amends enactments that do not extend there).
- (2) Subject to any Order made after the passing of this Act by virtue of section 3(1)(a) of the <sup>M21</sup>Northern Ireland Constitution Act 1973, matters relating to the National Lottery that are not excepted matters for the purposes of that Act shall not be transferred

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matters for those purposes but shall for the purposes of section 3(2) of that Act be treated as specified in Schedule 3 to that Act.

#### Marginal Citations

M21 1973 c. 36.

## 64 Repeals.

The enactments mentioned in Schedule 10 are repealed to the extent specified in the third column of that Schedule.

#### Commencement Information

I2 S. 64 wholly in force at 3.5.1994; s. 64 not in force at Royal Assent see s. 65; s. 64 in force at 21.12.1993 to the extent that it relates to specified provisions of Schedule 10 by S.I. 1993/2632, art. 3; s. 64 in force in so far as not already in force by S.I. 1994/1055, art. 2.

## 65 Commencement.

This Act shall come into force on such date as the Secretary of State may by order appoint; and different dates may be so appointed for different provisions or for different purposes.

#### Subordinate Legislation Made

P2 S. 65 power partly exercised (22.10.1993): 25.10.1993 and 21.12.1993 appointed for specified provisions by S.I. 1993/2632, arts. 2, 3  
S. 65 power partly exercised (10.4.1994): 3.5.1994 and 3.10.1994 appointed for specified provisions by S.I. 1994/1055, arts. 2, 3  
S. 65 power partly exercised (10.10.1994): 14.11.1994 appointed for specified provisions by S.I. 1994/2659, art. 2.

## 66 Short title.

This Act may be cited as the National Lottery etc. Act 1993.



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## SCHEDULES

### SCHEDULE 1

Section 2.

#### LEGALITY ETC. OF LOTTERIES FORMING PART OF THE NATIONAL LOTTERY

##### *The Gaming Act 1968 (c. 65)*

- 1 In section 52(3) of the Gaming Act 1968 (circumstances in which a lottery does not constitute gaming) after “the Lotteries and Amusements Act 1976” there shall be inserted “ or a lottery forming part of the National Lottery for the purposes of Part I of the National Lottery etc. Act 1993, ”.

##### *The Lotteries and Amusements Act 1976 (c. 32)*

- 2 (1) In section 1 of the Lotteries and Amusements Act 1976 (illegality of lotteries) after “except as provided by this Act” there shall be added “ and section 2(1) of the National Lottery etc. Act 1993 ”.
- (2) In section 2 of that Act (general lottery offences) at the end of subsection (2) (defences) there shall be added—
- “; or
- (d) that the lottery to which the proceedings relate was a lottery forming part of the National Lottery for the purposes of Part I of the National Lottery etc. Act 1993 or that at the date of the alleged offence the person charged believed, and had reasonable ground for believing, it to be such a lottery.”

##### *The Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (S.I. 1985/1204 (N.I. 11))*

- 3 (1) In Article 2(3) of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (circumstances in which a lottery does not constitute gaming) after “Article 133, 134 or 135” there shall be inserted “ or a lottery forming part of the National Lottery for the purposes of Part I of the National Lottery etc. Act 1993 ”.
- (2) In Article 131 of that Order (illegality of lotteries) after “Schedule 20” there shall be inserted “ and to section 2(1) of the National Lottery etc. Act 1993 ”.
- (3) In Article 132 of that Order (general lottery offences) at the end of paragraph (2) (defences) there shall be added—
- “; or
- (d) that the lottery to which the proceedings relate was a lottery forming part of the National Lottery for the purposes of Part I of the National Lottery etc. Act 1993 or that at the date of the alleged offence the

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person charged believed, and had reasonable ground for believing, it to be such a lottery.”

F69 SCHEDULE 2

**Textual Amendments**

F69 Sch. 2 repealed (1.4.1999) by 1998 c. 22, ss. 1(2), 26, Sch. 5 Pt. I; S.I. 1999/650, art. 2(c)

[F70 SCHEDULE 2A

Section 3A.

THE NATIONAL LOTTERY COMMISSION

**Textual Amendments**

F70 Sch 2A inserted (1.4.1999) by 1998 c. 22, ss. 1(5), Sch. 1 Pt. II para. 7; S.I. 1999/650, art. 2(b)

*Status and capacity*

- 1 (1) The Commission shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.
- (2) The members and employees of the Commission shall not be regarded as civil servants and the Commission’s property shall not be regarded as property of, or held on behalf of, the Crown.
- (3) The Commission may for the purpose of enabling them to exercise their functions acquire and dispose of land.
- (4) It shall be within the capacity of the Commission as a body corporate created by statute to do such things and enter into such transactions as are incidental or conducive to the discharge of their functions under this Act.

*Membership*

- 2 (1) The Commission shall consist of five members, all of whom shall be appointed by the Secretary of State.
- (2) Before appointing a person to be a member, the Secretary of State shall satisfy himself that that person will have no such financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member.
- (3) The Secretary of State shall also satisfy himself from time to time with respect to every member that he has no such interest as is mentioned in sub-paragraph (2).
- (4) Any person who is, or whom the Secretary of State proposes to appoint to be, a member shall, whenever requested by the Secretary of State to do so, furnish him with

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such information as the Secretary of State considers necessary for the performance by him of his duties under sub-paragraphs (2) and (3).

#### *Tenure of office*

- 3
- (1) Members shall hold and vacate office in accordance with their terms of appointment, subject to the following provisions.
  - (2) Any appointment of a member shall be for a term no longer than five years.
  - (3) A member may resign his membership by giving written notice to the Secretary of State.
  - (4) A person who ceases to be a member shall be eligible for re-appointment.
  - (5) The Secretary of State may by notice in writing to the member concerned remove from office a member who—
    - (a) has been absent from three or more consecutive meetings of the Commission without their prior approval,
    - (b) has become bankrupt, has made an arrangement with his creditors, has had his estate sequestrated, has granted a trust deed for his creditors or has made a composition contract with his creditors, or
    - (c) is, in the opinion of the Secretary of State, unable or unfit to perform his duties as a member.

#### *Chairman*

- 4
- (1) The members of the Commission shall select one of their number to be the chairman of the Commission.
  - (2) A person's term of office as chairman shall be no longer than twelve months.
  - (3) A person may resign as chairman by giving written notice to the other members.
  - (4) If the chairman ceases to be a member he shall also cease to be chairman.
  - (5) A member who ceases to be the chairman shall again become eligible for selection as chairman after the expiration of a period equal to that for which he was last chairman.

#### *Remuneration and allowances*

- 5
- (1) The Commission may pay such remuneration, and such travelling and other allowances, to a member of the Commission as the Secretary of State may determine in the case of the member.
  - (2) Where the Secretary of State so determines in the case of a member of the Commission, the Commission shall—
    - (a) pay to or in respect of him such pension, allowances or gratuities, or
    - (b) make such payments towards the provision of a pension, allowances or gratuities to or in respect of him,as the Secretary of State may determine.
  - (3) If the Secretary of State determines that there are special circumstances that make it right for a person ceasing to be a member of the Commission to receive

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compensation, the Commission may pay to him such compensation as the Secretary of State may determine.

#### *Staff*

- 6 (1) There shall be a Chief Executive of the Commission, who shall be appointed by the Commission as an employee of theirs.
- (2) The Chief Executive shall be responsible to the Commission for the general exercise of the Commission's functions.
- (3) Subject to any directions given to them by the Secretary of State with respect to the number of persons who may be employed by the Commission, the Commission may appoint such other employees as they think fit.
- (4) Subject to any directions given to the Commission by the Secretary of State, the Chief Executive and any other employees shall be employed on such terms and conditions (including terms and conditions as to remuneration) as the Commission think fit.
- (5) Service as an employee of the Commission shall be included in the kinds of employment to which a scheme under section 1 of the <sup>M26</sup>Superannuation Act 1972 can apply.
- (6) Accordingly, in the Superannuation Act 1972, in Schedule 1 (kinds of employment etc referred to in section 1) the following entry shall be inserted at the appropriate place among the entries under the heading "*Royal Commissions and other Commissions*"—  
"National Lottery Commission".
- (7) The Commission shall pay to the Minister for the Civil Service, at such times as that Minister may direct, such sums as that Minister may determine in respect of the increase attributable to sub-paragraphs (5) and (6) in the sums payable out of money provided by Parliament under the Superannuation Act 1972.

#### **Marginal Citations**

**M26** 1972 c. 11.

#### *Proceedings*

- 7 (1) The Commission may regulate their own procedure and that of any of their committees (and in particular may specify a quorum for meetings).
- (2) The validity of any proceedings of the Commission shall not be affected—
- (a) by any vacancy among the members or in the office of chairman, or
  - (b) by any defect in the appointment or selection of any person as a member or as chairman of the Commission.

#### *Delegation*

- 8 (1) Anything authorised or required by or under any enactment to be done by the Commission may be done—
- (a) by any member or employee of the Commission who has been authorised for the purpose, whether generally or specially, by the Commission; or

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- (b) by any committee of the Commission which has been so authorised and whose membership consists of—
  - (i) members of the Commission; or
  - (ii) one or more members of the Commission and one or more employees of the Commission.
- (2) In exercising their functions under sub-paragraph (1), the Commission shall comply with any directions given to them by the Secretary of State.

#### *Duty to give reasons for decisions*

- 9
- (1) It shall be the duty of the Commission to give to any person affected a written statement of their reasons for any decisions which they may make in the exercise of their functions under sections 5 to 10 or Schedule 3.
  - (2) It shall be the duty of the Commission to arrange for the publication, in such manner as they think fit, of a written statement of their reasons—
    - (a) for any decision which they may make to grant, or not to grant, to any particular applicant a licence under section 5;
    - (b) for any decision which they may make to revoke a licence granted under section 5; and
    - (c) for any other decision which they may make in the exercise of their functions under sections 5 to 10A or Schedule 3 and which they consider likely to be of interest to the public.
  - (3) Sub-paragraphs (1) and (2) do not apply if or to the extent that the giving, or (as the case may be) the publication, of reasons would involve disclosure of information in breach of—
    - (a) a restriction imposed by or under any other enactment; or
    - (b) an obligation of confidence.

#### *Finance*

- 10
- There shall be paid out of money provided by Parliament such sums as are necessary to defray any expenditure of the Commission.

#### *Accounts*

- 11
- (1) The Commission 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.

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- (5) The Secretary of State shall not give a direction under this paragraph without the Treasury’s approval.
- (6) In this paragraph “financial year” means—
- (a) the period beginning with the coming into force of section 3A and ending with the next 31st March, and
  - (b) each successive period of twelve months ending with 31st March.

#### *Application of seal and evidence*

- 12 The application of the seal of the Commission shall be authenticated by the signature—
- (a) of any member of the Commission, or
  - (b) of any other person who has been authorised by the Commission (whether generally or specially) for that purpose.
- 13 A document purporting to be duly executed under the seal of the Commission, or to be signed on behalf of the Commission, shall be received in evidence and, unless the contrary is proved, taken to be so executed or signed.
- 14 Paragraphs 12 and 13 do not extend to Scotland.]

### SCHEDULE 3

Section 10.

### REVOCATION OF LICENCES

#### PART I

#### DISCRETIONARY GROUNDS FOR REVOCATION

- 1 A condition in the licence has been contravened.
- 2 Any information given by the licensee to the Director General—
- (a) in or in connection with the application for the licence,
  - (b) in pursuance of a condition in the licence, or
  - (c) in making representations under section 8(2) or Part II of this Schedule, was false in a material particular.
- 3 (1) A proposal for a voluntary arrangement under Part I of the <sup>M27</sup>Insolvency Act 1986 or Part II of the <sup>M28</sup>Insolvency (Northern Ireland) Order 1989 has been made in relation to the licensee.
- (2) A petition for an administration order to be made in respect of the licensee or for the winding up of the licensee has been presented to the court.
- (3) A resolution for the voluntary winding up of the licensee has been passed.
- (4) A receiver or manager of the whole or any part of the licensee’s property has been appointed.

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### Marginal Citations

**M27** 1986 c. 45.

**M28** S.I. 1989/2405 (N.I. 19).

- 4 In the case of a licence granted under section 5—
- (a) the licensee is not providing or proposing to provide facilities that are necessary or desirable for running the National Lottery;
  - (b) any person who is managing the business or any part of the business of running the National Lottery under the licence is not a fit and proper person to do so;
  - (c) any person for whose benefit that business is carried on is not a fit and proper person to benefit from it.
- 5 In the case of a licence granted under section 6—
- (a) the licensee is not taking or proposing to take steps that are necessary or desirable for preventing the commission of fraud by participants in any lottery promoted under the licence;
  - (b) a person who is managing the business or any part of the business of promoting lotteries under the licence is not a fit and proper person to do so;
  - (c) a person for whose benefit that business is carried on is not a fit and proper person to benefit from it.

## PART II

### PROCEDURE AND APPEALS

#### *Notice of proposed revocation*

- 6 (1) Where the Director General proposes to revoke a licence, he shall serve a notice on the licensee stating—
- (a) that he proposes to revoke the licence,
  - (b) the ground or grounds for revocation,
  - (c) that the licensee may within the period of twenty-one days beginning with the date of the notice either make written representations about the matter to him or notify him in writing of the licensee's intention to make oral representations,<sup>F71</sup> . . .
- [<sup>F72</sup>(cc) that the right of appeal conferred by paragraph 11 is dependent on the licensee having made such written or oral representations, and]
- (d) the effect of sub-paragraph (2).
- (2) If, within the period mentioned in sub-paragraph (1)(c), the Director General receives neither written representations nor written notification of the licensee's intention to make oral representations, the revocation shall take effect at the end of that period.

### Textual Amendments

**F71** Word in Sch. 3 Pt. II para. 6(1)(c) repealed (2.9.1998) by 1998 c. 22, ss. 4(2), 26, 27(5), Sch. 5 Pt. II.

**F72** Sch. 3 Pt. II para. 6(1)(cc) inserted (2.9.1998) by 1998 c. 22, ss. 4(2), 27(5).

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### *Suspension of licence*

- 7 (1) The Director General may suspend a licence as from the date of any notice served in respect of it under paragraph 6 if—
- (a) he reasonably believes that the ground or any of the grounds specified in the notice involves fraud by the licensee, or
  - (b) the ground or one of the grounds specified in the notice is the ground set out in paragraph 5(a).
- (2) Where a licence is suspended under this paragraph—
- (a) the suspension shall last until the revocation takes effect or the Director General decides not to revoke the licence [<sup>F73</sup>or an appeal against the revocation is allowed], and
  - (b) the notice shall inform the licensee accordingly.

#### **Textual Amendments**

**F73** Words in *Sch. 3 Pt. II para. 7(2)(a)* substituted (2.9.1998) by *1998 c. 22, ss. 4(3), 27(5)*.

### *Decision by the Director General*

- 8 (1) The Secretary of State may make regulations as to the procedure to be followed where a licensee's intention to make oral representations is notified to the Director General as mentioned in paragraph 6(1)(c).
- (2) The regulations may in particular make provision—
- (a) for the revocation of the licence to take effect if the licensee 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.
- 9 (1) If any written representations against the revocation of a licence are made as mentioned in paragraph 6(1)(c) or any oral representations against the revocation of a licence are made in accordance with regulations under paragraph 8, the Director General shall after taking the representations into account—
- (a) decide whether or not to revoke the licence, and
  - (b) serve a further notice on the licensee informing the licensee of his decision and (if the case so requires) of the effect of sub-paragraph (2).
- (2) Where the decision is to revoke the licence, the revocation shall not take effect—
- (a) until the end of such period as may be specified in the further notice, or
  - [<sup>F74</sup>(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.]
- (3) The period specified in the further notice shall be a period of at least twenty-eight days beginning with the date of that notice.

#### **Textual Amendments**

**F74** *Sch. 3 Pt. II para. 9(2)(b)* substituted (2.9.1998) by *1998 c. 22, ss. 4(4), 27(5)*.



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### Appeals to the Secretary of State

<sup>F75</sup>10 .....

#### Textual Amendments

**F75** Sch. 3 Pt. II para. 10 repealed (2.9.1998) by 1998 c. 22, ss. 4(5), 26, 27(5), Sch. 5 Pt. II.

### [<sup>F76</sup> Appeals]

#### Textual Amendments

**F76** Crossheading and para. 11 in Sch. 3 inserted (2.9.1998) by 1998 c. 22, ss. 4(6), 27(5)

- [<sup>F77</sup>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.]

#### Textual Amendments

**F77** Sch. 3Pt. II para. 11 inserted (2.9.1998) by 1998 c. 22, ss. 4(6), 27(5)

## [<sup>F78</sup>SCHEDULE 3A

Section 25B.

### JOINT SCHEMES: SUPPLEMENTARY PROVISIONS

#### Textual Amendments

**F78** Sch. 3A inserted (2.7.1998) by 1998 c. 22, s. 12(3), Sch. 3.

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### *F79 Interpretation*

#### **Textual Amendments**

**F79** Crossheading inserted (2.7.1998) by 1998 c. 22, s. 12(3), **Sch. 3**.

**F80**<sub>1</sub> In this Schedule “year” means any period of twelve months.

#### **Textual Amendments**

**F80** **Sch. 3A para. 1** inserted (2.7.1998) by 1998 c. 22, s. 12(3), **Sch. 3**.

### *F81 Authorisation or approval by Secretary of State*

#### **Textual Amendments**

**F81** Crossheading inserted (2.7.1998) by 1998 c. 22, s. 12(3), **Sch. 3**.

- F82**<sub>2</sub> (1) Where the maximum amount of money which could be distributed under section 25(1) under a particular joint scheme in any year exceeds £15 million, the joint scheme shall not have effect unless the Secretary of State makes an order authorising the scheme.
- (2) Where the maximum amount of money which could be distributed under section 25(1) under a particular joint scheme in any year does not exceed the amount for the time being specified in sub-paragraph (1), the joint scheme shall not have effect unless the Secretary of State gives his written approval.
- (3) In determining for the purposes of this Schedule the maximum amount of money which may be distributed under section 25(1) in any year under a joint scheme, any administrative expenses incurred in distributing such money under the scheme shall be brought into account.
- (4) The Secretary of State shall only—
- (a) make an order under sub-paragraph (1) authorising a joint scheme, or
  - (b) give his approval under sub-paragraph (2) to a joint scheme,
- on an application made for the purpose by the bodies proposing to participate in the joint scheme.
- (5) The Secretary of State may by order amend sub-paragraph (1) so as to increase the amount for the time being specified in that sub-paragraph.

#### **Textual Amendments**

**F82** **Sch. 3A para. 2** inserted (2.7.1998) by 1998 c. 22, s. 12(3), **Sch. 3**.

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### <sup>F83</sup>Contents of authorisations and approvals

#### Textual Amendments

**F83** Crossheading inserted (2.7.1998) by 1998 c. 22, s. 12(3), **Sch. 3**.

- <sup>F84</sup>3 An order under paragraph 2(1) or an approval under paragraph 2(2) shall—
- (a) contain a brief description of the nature and purposes of the joint scheme,
  - (b) identify the area within the United Kingdom to which the scheme applies,
  - (c) specify the maximum amount of money which may be distributed under section 25(1) in any year under the scheme,
  - (d) identify the bodies participating in the scheme,
  - (e) state the proportions in which the money to be distributed under section 25(1) under the scheme is attributable to each of those bodies, and
  - (f) state the duration of the scheme, if its duration is limited.

#### Textual Amendments

**F84** **Sch. 3A para. 3** inserted (2.7.1998) by 1998 c. 22, s. 12(3), **Sch. 3**.

### <sup>F85</sup>Effect of increasing annual limit on schemes authorised by order

#### Textual Amendments

**F85** Crossheading inserted (2.7.1998) by 1998 c. 22, s. 12(3), **Sch. 3**.

- <sup>F86</sup>4 Where—
- (a) a joint scheme is authorised by an order under sub-paragraph (1) of paragraph 2, and
  - (b) that sub-paragraph is amended by an order under sub-paragraph (5) of that paragraph, and
  - (c) the maximum amount of money which may be distributed under section 25(1) in any year under the scheme does not exceed the amount specified in paragraph 2(1) as so amended,
- the scheme shall be treated for the purposes of this Schedule as if the maximum amount of money which may be distributed under section 25(1) in any year under the scheme continued to exceed the amount for the time being specified in paragraph 2(1).

#### Textual Amendments

**F86** **Sch. 3A para. 4** inserted (2.7.1998) by 1998 c. 22, s. 12(3), **Sch. 3**.

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### *F87 Powers*

#### **Textual Amendments**

**F87** Crossheading inserted (2.7.1998) by 1998 c. 22, s. 12(3), **Sch. 3**.

- F88**<sup>5</sup> (1) The powers conferred by section 25A may, in particular, be exercised by a body for the purpose of running or otherwise participating in a joint scheme.
- (2) The powers conferred on a body by section 25B and this Schedule are in addition to, and shall not derogate from, any powers which the body has apart from that section and this Schedule.

#### **Textual Amendments**

**F88** **Sch. 3A para. 5** inserted (2.7.1998) by 1998 c. 22, s. 12(3), **Sch. 3**.

### *F89 Modification*

#### **Textual Amendments**

**F89** Crossheading inserted (2.7.1998) by 1998 c. 22, s. 12(3), **Sch. 3**.

- F90**<sup>6</sup> (1) A joint scheme may be modified by the bodies participating in the scheme, but if any such modifications—
- (a) in the opinion of the Secretary of State, substantially alter the nature or purposes of the scheme,
  - (b) alter the area within the United Kingdom to which the scheme applies,
  - (c) increase the maximum amount of money which may be distributed under section 25(1) in any year under the scheme,
  - (d) vary the proportions in which the money to be distributed under section 25(1) under the scheme is attributable to each of the bodies participating in the scheme, or
  - (e) extend the duration of the scheme,
- the scheme shall not have effect with those modifications unless the Secretary of State makes an order under paragraph 2(1) or, as the case may require, gives his approval under paragraph 2(2) in relation to the scheme as so modified.
- (2) In determining for the purposes of sub-paragraph (1) whether the case requires an order under paragraph 2(1) or approval under paragraph 2(2), paragraph 4 shall be disregarded.

#### **Textual Amendments**

**F90** **Sch. 3A para. 6** inserted (2.7.1998) by 1998 c. 22, s. 12(3), **Sch. 3**.

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## <sup>F91</sup>Termination

### Textual Amendments

**F91** Crossshading inserted (2.7.1998) by 1998 c. 22, s. 12(3), Sch. 3.

- <sup>F927</sup> (1) If, in the case of a joint scheme authorised by an order under paragraph 2(1), the Secretary of State revokes the order, the scheme shall terminate on the date on which the revocation takes effect.
- (2) If, in the case of a joint scheme approved under paragraph 2(2), the Secretary of State gives notice of withdrawal of his approval to each body participating in the scheme, the scheme shall terminate on the date on which the withdrawal of approval takes effect.
- (3) The Secretary of State may terminate a joint scheme in accordance with sub-paragraph (1) or (2)—
- of his own motion, or
  - on the application of one or more of the bodies participating in the scheme.

### Textual Amendments

**F92** Sch. 3A para. 7 inserted (2.7.1998) by 1998 c. 22, s. 12(3), Sch. 3.

### Modifications etc. (not altering text)

- C26** Sch. 3A para. 7(1): transfer of certain functions (1.7.1999) by S.I. 1999/672, art. 2, Sch. 1  
Sch. 3A para. 7(1): functions amended (1.7.1999) by S.I. 1999/672, art. 5, Sch. 2
- C27** Sch. 3A para. 7(2): transfer of certain functions (1.7.1999) by S.I. 1999/672, art. 2, Sch. 1  
Sch. 3A para. 7(2): functions amended (1.7.1999) by S.I. 1999/672, art. 5, Sch. 2

## <sup>F93</sup>Orders under s.29(1): participant ceasing to be distributing body

### Textual Amendments

**F93** Crossshading inserted (2.7.1998) by 1998 c. 22, s. 12(3), Sch. 3.

- <sup>F948</sup> (1) This paragraph applies in any case where an order under section 29(1) affects a body which, immediately before the order comes into force, is participating in a joint scheme.
- (2) In any such case, the Secretary of State may by order under section 29(1)—
- make provision amending the joint scheme, or
  - revoke the joint scheme.
- (3) The provision that may be made by virtue of sub-paragraph (2)(a) includes—
- provision varying the bodies participating in the joint scheme;
  - provision varying the proportions in which the money to be distributed under section 25(1) under the scheme is attributable to each of the bodies participating in the joint scheme; and

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- (c) provision for all or any of the actual or contingent rights or liabilities of a body which are attributable to the joint scheme to become rights or liabilities of another body participating in the scheme as amended.
- (4) No provision shall be made by virtue of sub-paragraph (2)(a) without the written agreement of the bodies which, if the provision were made, would be the participants in the joint scheme as amended.
- (5) This paragraph is without prejudice to section 60(5) or paragraph 9.

**Textual Amendments**

**F94** Sch. 3A para. 8 inserted (2.7.1998) by 1998 c. 22, s. 12(3), Sch. 3.

*<sup>F95</sup> Authorisation to continue payments despite occurrence of certain events*

**Textual Amendments**

**F95** Crossheading inserted (2.7.1998) by 1998 c. 22, s. 12(3), Sch. 3.

- <sup>F96</sup> (1) This paragraph applies in any case where—
- (a) on an application for a distribution of money under section 25(1), a decision under a joint scheme to make such a distribution has been notified to the applicant, but
  - (b) an event falling within sub-paragraph (2) (“the relevant event”) occurs before the whole of the distribution has been made.
- (2) The events which fall within this sub-paragraph are—
- (a) that, by virtue of an order under section 29(1), any of the bodies participating in the scheme ceases to be specified in subsection (1), (2), (3) or (4) (as the case may be) of section 23,
  - (b) that the joint scheme terminates under paragraph 7, or
  - (c) that the joint scheme is revoked under paragraph 8(2)(b).
- (3) Where this paragraph applies, the Secretary of State may authorise any of the bodies which were participating in the joint scheme immediately before the relevant event occurred to continue making distributions of money under section 25(1) in pursuance of the decision mentioned in sub-paragraph (1)(a) as if the relevant event had not occurred.
- (4) Where the Secretary of State gives an authorisation under sub-paragraph (3) in relation to any distributions of money under section 25(1), the other provisions of this Act shall have effect in relation to those distributions as if the relevant event had not occurred.
- (5) An authorisation under this paragraph accordingly extends to the defrayal of any administrative expenses incurred in making the distributions concerned.
- (6) This paragraph is without prejudice to section 60(5) or paragraph 8.
- (7) Any authorisation under this paragraph must be in writing.]

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**Textual Amendments**

**F96** Sch. 3A para. 9 inserted (2.7.1998) by 1998 c. 22, s. 12(3), Sch. 3.

SCHEDULE 4

Section 36.

AMENDMENT OF THE NATIONAL HERITAGE ACT 1980 (C.17)

- 1 In section 1(2) (constitution of the Trustees of the National Heritage Memorial Fund) for “ten” there shall be substituted “ fourteen ”.
- 2 In section 2 (payments into the National Heritage Memorial Fund) after subsection (1) there shall be inserted—  
 “(1A) The Trustees shall pay into the Fund any sums paid to them under section 24 of the National Lottery etc. Act 1993.”

**F97**3 .....

**Textual Amendments**

**F97** Sch. 4 para. 3 repealed (4.3.1998) by 1997 c. 14, s. 3, Sch. Pt. I para. 6; S.I. 1998/292, art. 2.

**F98**4 .....

**Textual Amendments**

**F98** Sch. 4 para. 4 repealed (4.3.1998) by 1997 c. 14, s. 3, Sch. Pt. I para. 6; S.I. 1998/292, art. 2.

- 5 In section 6(2) (investment of sums paid into the National Heritage Memorial Fund under section 2(1)) after “section 2(1)” there shall be inserted “ or (1A) ”.
- 6 In section 17 (expenses and receipts) after “and” there shall be inserted “ subject to section 3(6A) above ”.
- 7 In paragraph 5(1) of Schedule 1 (expenses of Trustees to be defrayed out of the National Heritage Memorial Fund) for “under this Act shall” there shall be substituted “ may ”.

SCHEDULE 5

Section 37.

THE NATIONAL LOTTERY CHARITIES BOARD

*Membership*

- 1 (1) The Charities Board shall consist of [<sup>F99</sup>a chairman and twenty-one other members], all of whom shall be appointed by the Secretary of State.
- (2) The Secretary of State may by order increase the number of members for the time being specified in sub-paragraph (1).

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**Textual Amendments**

**F99** Words in [Sch. 5 para. 1\(1\)](#) substituted (26.7.1995) by [S.I. 1995/1645, art. 2](#).

**Modifications etc. (not altering text)**

**C28** [Sch. 5 para. 1\(1\)](#): functions amended (1.7.1999) by [S.I. 1999/672, art. 5, Sch. 2](#)

*Committees*

2 (1) The Charities Board shall establish four committees for the purpose of exercising the Board’s functions in relation to applications by charities for grants in respect of appropriate activities in England, Scotland, Wales and Northern Ireland respectively.

(2) In sub-paragraph (1)—

“appropriate activities” means activities in relation to which the Charities Board consider it appropriate to delegate their functions to a committee established under that sub-paragraph, and

“charities” includes institutions such as are mentioned in paragraph (b) of the definition of “charitable expenditure” in section 44(1).

(3) Subject to sub-paragraph (1), any function of the Charities Board may be exercised by any committee of theirs authorised by them (whether generally or specially) for that purpose.

<sup>F100</sup>(4) .....

<sup>F100</sup>(5) .....

<sup>F100</sup>(6) .....

[<sup>F101</sup>(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.]

**Textual Amendments**

**F100** [Sch. 5 para. 2\(4\)-\(6\)](#) repealed (2.7.1998) by [1998 c. 22, ss. 11\(5\), 26, Sch. 5 Pt. II](#).

**F101** [Sch. 5 para. 2\(7\)](#) inserted (2.7.1998) by [1998 c. 22, ss. 11\(5\), 27\(4\)](#).

*Tenure of office*

3 (1) Subject to the following provisions of this paragraph, a person shall hold and vacate office as chairman or other member of the Charities Board <sup>F102</sup> . . . in accordance with the terms of his appointment.

(2) The Secretary of State shall not appoint a person to hold office as a member of the Charities Board <sup>F102</sup> . . . for a term of more than five years.

(3) A chairman or member of the Charities Board <sup>F102</sup> . . . may at any time resign his office by notice in writing addressed to the Secretary of State.



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- (4) A member of the Charities Board <sup>F102</sup> . . . may be removed from office by the Secretary of State on the ground that—
- (a) he has been absent for a period longer than three consecutive months from meetings of the Board without the Board’s consent [<sup>F103</sup> or from meetings of a committee of the Board without the committee’s consent],
  - (b) a bankruptcy order has been made against him or his estate has been sequestrated or he has made a composition or arrangement with, or granted a trust deed for, his creditors, or
  - (c) he is unable or unfit to discharge the functions of his office.
- (5) If a chairman of the Charities Board <sup>F102</sup> . . . ceases to be a member of the Board he shall also cease to be chairman.
- (6) A person who ceases, otherwise than by virtue of sub-paragraph (4), to be a member or chairman of the Charities Board <sup>F102</sup> . . . shall be eligible for re-appointment.

**Textual Amendments**

**F102** Words in Sch. 5 para. 3(1)-(6) repealed (2.7.1998) by 1998 c. 22, s. 26, Sch. 5 Pt. II.

**F103** Words in Sch. 5 para. 3(4)(a) substituted (2.7.1998) by 1998 c. 22, s. 11(6).

*Remuneration and allowances*

- 4 (1) The Charities Board may pay—
- (a) such remuneration to their chairman and [<sup>F104</sup> any other member of the Board], and
  - (b) such travelling and other allowances to their chairman and any other member of the Board or any committee of theirs,
- as the Secretary of State may determine.
- (2) Where the Secretary of State so determines in the case of a holder of the office of chairman of the Charities Board [<sup>F105</sup>, or in the case of any other member of the Charities Board,] the Charities Board shall—
- (a) pay to or in respect of him such pension, allowances or gratuities, or
  - (b) make such payments towards the provision of a pension, allowances or gratuities to or in respect of him,
- as the Secretary of State may determine.
- (3) If the Secretary of State determines that there are special circumstances that make it right for a person ceasing to hold office as chairman of the Charities Board [<sup>F106</sup>, or ceasing to be a member of the Charities Board,] to receive compensation, the Charities Board may pay to him such compensation as the Secretary of State may determine.

<sup>F107</sup>(4) . . . . .

**Textual Amendments**

**F104** Words in Sch. 5 para. 4(1)(a) substituted (2.9.1998) by 1998 c. 22, ss. 14(3), 27(5).

**F105** Words in Sch. 5 para. 4(2) substituted (2.9.1998) by 1998 c. 22, ss. 14(4), 27(5).

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- F106** Words in Sch. 5 para. 4(3) substituted (2.9.1998) by 1998 c. 22, ss. 14(5), 27(5).  
**F107** Sch. 5 para. 4(4) repealed (2.9.1998) by 1998 c. 22, ss. 14(6), 26, 27(5), Sch. 5 Pt. II.

### Staff

- 5 <sup>F108</sup>(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.]
- (2) [<sup>F109</sup>Subject to any directions under section 26(3),] the Charities Board may <sup>F110</sup> . . . —
- (a) pay such pensions, allowances or gratuities to or in respect of any persons who have been or are members of their staff as they may determine;
  - (b) make such payments as they may determine towards the provision of pensions, allowances or gratuities to or in respect of any such persons;
  - (c) provide and maintain such schemes as they may determine (whether contributory or not) for the payment of pensions, allowances or gratuities to or in respect of any such persons.
- (3) Any reference in sub-paragraph (2) to pensions, allowances or gratuities to or in respect of any such persons as are mentioned in that sub-paragraph includes pensions, allowances or gratuities by way of compensation to or in respect of any members of the Charities Board's staff who suffer loss of office or employment.
- <sup>F111</sup>(4) . . . . .

#### Textual Amendments

- F108** Sch. 5 para. 5(1) substituted (2.9.1998) by 1998 c. 22, ss. 14(8), 27(5).  
**F109** Words in Sch. 5 para. 5(2) inserted (2.9.1998) by 1998 c. 22, ss. 14(9)(a), 27(5).  
**F110** Words in Sch. 5 para. 5(2) repealed (2.9.1998) by 1998 c. 22, ss. 14(9)(b), 26, 27(5), Sch. 5 Pt. II.  
**F111** Sch. 5 para. 5(4) repealed (2.9.1998) by 1998 c. 22, ss. 14(10), 26, 27(5), Sch. 5 Pt. II.

### Proceedings

- 6 (1) Subject to the provisions of this Schedule, the Charities Board may regulate their own procedure and that of any of their committees (and in particular may specify a quorum for meetings).
- (2) The quorum for meetings of any committee of the Charities Board shall not be less than three.
- <sup>F112</sup>(3) . . . . .
- (4) The validity of any proceedings of the Charities Board shall not be affected by any vacancy among their members, or by any defect in the appointment of any person as chairman or a member.

#### Textual Amendments

- F112** Sch. 5 para. 6(3) repealed (2.7.1998) by 1998 c. 22, s. 26, Sch. 5 Pt. II.

**Status:** Point in time view as at 01/04/1999. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** National Lottery etc. Act 1993 is up to date with all changes known to be in force on or before 28 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### *Application of seal and evidence*

- 7 The application of the seal of the Charities Board shall be authenticated by the signature—
- (a) of any member of the Charities Board, or
  - (b) of any other person who has been authorised by the Charities Board (whether generally or specially) for that purpose.
- 8 A document purporting to be duly executed under the seal of the Charities Board or to be signed on their behalf shall be received in evidence and, unless the contrary is proved, taken to be so executed or signed.

### *Finance*

- 9 Until such time as the Secretary of State considers that the sums paid to the Charities Board under section 24 are sufficient to enable them to meet under section 25(3) the expenses incurred by them in exercising their functions under this Act, he shall pay to the Charities Board such sums as are necessary to defray those expenses.

### *Status of the Board*

- 10 The Charities Board shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.

### *Parliamentary disqualification*

- 11 (1) In the <sup>M29</sup>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 National Lottery Charities Board and any chairman of a committee of that Board.”
- (2) The same entry shall be inserted at the appropriate place in Part III of Schedule 1 to the <sup>M30</sup>Northern Ireland Assembly Disqualification Act 1975.

#### **Marginal Citations**

**M29** 1975 c. 24.

**M30** 1975 c. 25.

### *Exemption from register of charities*

- 12 In Schedule 2 to the <sup>M31</sup>Charities Act 1993 (which lists the institutions that so far as they are charities are exempt charities within the meaning of that Act) there shall be added at the end—  
“(zb) the National Lottery Charities Board.”

#### **Marginal Citations**

**M31** 1993 c. 10.

*Status: Point in time view as at 01/04/1999. This version of this Act contains provisions that are not valid for this point in time.*

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## SCHEDULE 6

Section 40.

### THE MILLENNIUM COMMISSION

#### *Membership*

- 1 (1) The Millennium Commission shall consist of nine members appointed by Her Majesty on the recommendation of the Prime Minister, of whom—
- (a) two shall be Ministers of the Crown, and
  - (b) one shall be a person nominated by the Leader of the Opposition.
- (2) Her Majesty shall, on the recommendation of the Prime Minister, appoint one of the members who are Ministers of the Crown to be chairman.
- (3) In this paragraph “the Leader of the Opposition” means the member of the House of Commons who is the leader in that House of the party in opposition to Her Majesty’s Government that has the greatest numerical strength in that House.
- (4) If any doubt arises (whether in relation to this paragraph or in relation to paragraph 5) as to—
- (a) who is or was the Leader of the Opposition at any time, or
  - (b) which is or was the party in opposition to Her Majesty’s Government that has or had the greatest numerical strength in the House of Commons at any time,
- the question shall be decided by the Speaker of the House of Commons, whose decision shall be final.
- 2 (1) Subject to sub-paragraph (2), after 31st December 2000 the Secretary of State may by order—
- (a) reduce the total number of members of the Millennium Commission for the time being specified in paragraph 1(1);
  - (b) substitute the following for paragraph 1(1)(a)—  
 “(a) one shall be a Minister of the Crown, and”.
- (2) An order under sub-paragraph (1) shall not—
- (a) reduce the total number of members of the Millennium Commission to less than three, or
  - (b) result in more than one third of the members being Ministers of the Crown.

#### *Tenure of office*

- 3 Subject to paragraphs 4 and 5, a person shall hold and vacate office as chairman or a member of the Millennium Commission in accordance with the terms of his appointment.
- 4 (1) A chairman or member may at any time resign his office by notice in writing addressed to Her Majesty.
- (2) Her Majesty may remove a person from office as a member on the ground that—
- (a) he has been absent from meetings of the Millennium Commission for a period longer than three consecutive months without the Commission’s consent,

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- (b) a bankruptcy order has been made against him or his estate has been sequestrated or he has made a composition or arrangement with, or granted a trust deed for, his creditors, or
    - (c) he is unable or unfit to discharge the functions of a member.
  - (3) If a chairman ceases to be a member he shall also cease to be chairman.
  - (4) A person who ceases to be a member, otherwise than by virtue of sub-paragraph (2), or ceases to be chairman shall be eligible for re-appointment.
- 5 The member referred to in paragraph 1(1)(b) shall cease to hold office if the party by the leader of which he was nominated ceases to be the party in opposition to Her Majesty's Government that has the greatest numerical strength in the House of Commons.

#### *Allowances*

- 6 The Millennium Commission may pay such travelling and other allowances to their members as the Secretary of State may, with the Treasury's approval, determine.

#### *Staff*

- 7 (1) The Millennium Commission may appoint such staff as they may determine with the Secretary of State's approval as to numbers and terms and conditions of service.
- (2) The Millennium Commission may with the Secretary of State's approval—
- (a) pay such pensions, allowances or gratuities to or in respect of any persons who have been or are members of their staff as they may determine;
  - (b) make such payments as they may determine towards the provision of pensions, allowances or gratuities to or in respect of any such persons;
  - (c) provide and maintain such schemes as they may determine (whether contributory or not) for the payment of pensions, allowances or gratuities, to or in respect of any such persons.
- (3) Any reference in sub-paragraph (2) to pensions, allowances or gratuities to or in respect of any such persons as are mentioned in that sub-paragraph includes pensions, allowances or gratuities by way of compensation to or in respect of any members of the Millennium Commission's staff who suffer loss of office or employment.
- (4) The Secretary of State shall not give an approval under this paragraph without the Treasury's consent.

#### *Proceedings*

- 8 (1) Subject to the provisions of this Schedule, the Millennium Commission may regulate their own procedure (and in particular may specify a quorum for meetings).
- (2) The validity of any proceedings of the Millennium Commission shall not be affected by any vacancy among their members, or by any defect in the appointment of any person as a member.

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### *Application of seal and evidence*

- 9 The application of the seal of the Millennium Commission shall be authenticated by the signature—
- (a) of any member of the Millennium Commission, or
  - (b) of any other person who has been authorised by the Millennium Commission (whether generally or specially) for that purpose.
- 10 A document purporting to be duly executed under the seal of the Millennium Commission or to be signed on their behalf shall be received in evidence and, unless the contrary is proved, taken to be so executed or signed.

### *Finance*

- 11 Until such time as the Secretary of State considers that the sums paid to the Millennium Commission under section 24 are sufficient to enable them to meet under section 25(3) the expenses incurred by them in exercising their functions under this Act, he shall pay to the Millennium Commission such sums as are necessary to defray those expenses.

### *Status of the Millennium Commission*

- 12 The Millennium Commission shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.
- 13 In Schedule 1 to the <sup>M32</sup>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—  
“ Millennium Commission. ”

#### **Marginal Citations**

M32 1958 c. 51.

## [<sup>F113</sup>SCHEDULE 6A

Section 43A.

### THE NEW OPPORTUNITIES FUND

#### **Textual Amendments**

F113 Sch. 6A inserted (2.7.1998) by 1998 c. 22, s. 7(3), Sch. 2.

### <sup>F114</sup> Membership

#### **Textual Amendments**

F114 Crossheading inserted (2.7.1998) by 1998 c. 22, s. 7(3), Sch. 2.

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- <sup>F115</sup>1 (1) The New Opportunities Fund shall consist of a chairman and not less than 8 nor more than 12 other members, all of whom shall be appointed by the Secretary of State.
- (2) Four of the members of the New Opportunities Fund (other than the chairman) shall be persons who appear to the Secretary of State to be suited to make the interests of England, Scotland, Wales and Northern Ireland, respectively, their special care.
- (3) The Secretary of State may by order amend sub-paragraph (1) so as to vary any number for the time being specified in that sub-paragraph.

#### Textual Amendments

**F115** Sch. 6A para. 1 inserted (2.7.1998) by 1998 c. 22, s. 7(3), **Sch. 2**.

#### Modifications etc. (not altering text)

**C29** Sch. 6A para. 1: functions amended (1.7.1999) by S.I. 1999/672, art. 5, **Sch. 2**

**C30** Sch. 6A para. 1(1): functions amended (1.7.1999) by S.I. 1999/1750, arts. 1(1), 4, **Sch. 3**; S.I. 1998/3178, **art. 3**

**C31** Sch. 6A para. 1(2): functions amended (1.7.1999) by S.I. 1999/1750, arts. 1(1), 4, **Sch. 3**; S.I. 1998/3178, **art. 3**

### <sup>F116</sup>Committees

#### Textual Amendments

**F116** Crossheading inserted (2.7.1998) by 1998 c. 22, s. 7(3), **Sch. 2**.

- <sup>F117</sup>2 Subsection (7) of section 25A shall apply in relation to any committee of the New Opportunities Fund as it applies in relation to a committee appointed under subsection (6) of that section.

#### Textual Amendments

**F117** Sch. 6A para. 2 inserted (2.7.1998) by 1998 c. 22, s. 7(3), **Sch. 2**.

### <sup>F118</sup>Tenure of office

#### Textual Amendments

**F118** Crossheading inserted (2.7.1998) by 1988 c. 22, s. 7(3), **Sch. 2**.

- <sup>F119</sup>3 (1) Subject to the following provisions of this paragraph, a person shall hold and vacate office as chairman or other member of the New Opportunities Fund in accordance with the terms of his appointment.
- (2) The Secretary of State shall not appoint a person to hold office as a member of the New Opportunities Fund for a term of more than five years.
- (3) A chairman or member of the New Opportunities Fund may at any time resign his office by notice in writing addressed to the Secretary of State.

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- (4) A member of the New Opportunities Fund may be removed from office by the Secretary of State on the ground that—
- (a) he has been absent for a period longer than three consecutive months from meetings of the Fund without the Fund's consent,
  - (b) a bankruptcy order has been made against him, or his estate has been sequestrated, or he has made a composition or arrangement with, or granted a trust deed for, his creditors, or
  - (c) he is unable or unfit to discharge the functions of his office.
- (5) If a chairman of the New Opportunities Fund ceases to be a member of the Fund he shall also cease to be chairman.
- (6) A person who ceases, otherwise than by virtue of sub-paragraph (4), to be a member or chairman of the New Opportunities Fund shall be eligible for re-appointment.

#### Textual Amendments

**F119** Sch. 6A para. 3 inserted (2.7.1998) by 1998 c. 22, s. 7(3), Sch. 2.

#### *F120 Remuneration and allowances*

#### Textual Amendments

**F120** Crossheading inserted (2.7.1998) by 1998 c. 22, s. 7(3), Sch. 2.

- <sup>F121</sup>4 (1) The New Opportunities Fund may pay—
- (a) such remuneration to their chairman and any other member of the Fund, and
  - (b) such travelling and other allowances to their chairman, any other member of the Fund and any member of a committee of theirs,
- as the Secretary of State may determine.
- (2) Where the Secretary of State so determines in the case of a holder of the office of chairman of the New Opportunities Fund, or in the case of any other member of the Fund, the Fund shall—
- (a) pay to or in respect of him such pension, allowances or gratuities, or
  - (b) make such payments towards the provision of a pension, allowances or gratuities to or in respect of him,
- as the Secretary of State may determine.
- (3) If the Secretary of State determines that there are special circumstances that make it right for a person ceasing to hold office as chairman of the New Opportunities Fund, or ceasing to be a member of the Fund, to receive compensation, the Fund may pay to him such compensation as the Secretary of State may determine.

#### Textual Amendments

**F121** Sch. 6A para. 4 inserted (2.7.1998) by 1998 c. 22, s. 7(3), Sch. 2.



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### *F122* Staff

#### Textual Amendments

**F122** Crossheading inserted (2.7.1998) by 1998 c. 22, s. 7(3), **Sch. 2**.

- F123**<sup>5</sup> (1) Subject to any directions under section 26(3), the New Opportunities Fund may appoint such staff as they think fit, on such terms and conditions of service as they think fit.
- (2) Subject to any directions under section 26(3), the New Opportunities Fund may—
- (a) pay such pensions, allowances or gratuities to or in respect of any persons who have been or are members of their staff as they may determine;
  - (b) make such payments as they may determine towards the provision of pensions, allowances or gratuities to or in respect of any such persons;
  - (c) provide and maintain such schemes as they may determine (whether contributory or not) for the payment of pensions, allowances or gratuities to or in respect of any such persons.
- (3) Any reference in sub-paragraph (2) to pensions, allowances or gratuities to or in respect of any such persons as are mentioned in that sub-paragraph includes pensions, allowances or gratuities by way of compensation to or in respect of any members of the New Opportunities Fund's staff who suffer loss of office or employment.

#### Textual Amendments

**F123** **Sch. 6A para. 5** inserted (2.7.1998) by 1998 c. 22, s. 7(3), **Sch. 2**.

### *F124* Proceedings

#### Textual Amendments

**F124** Crossheading inserted (2.7.1998) by 1998 c. 22, s. 7(3), **Sch. 2**.

- F125**<sup>6</sup> (1) Subject to the provisions of this Schedule, the New Opportunities Fund may regulate their own procedure and that of any of their committees (and in particular may specify a quorum for meetings).
- (2) The validity of any proceedings of the New Opportunities Fund shall not be affected by any vacancy among their members, or by any defect in the appointment of any person as chairman or a member.

#### Textual Amendments

**F125** **Sch. 6A para. 6** inserted (2.7.1998) by 1998 c. 22, s. 7(3), **Sch. 2**.

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### *F126 Application of seal and evidence*

#### **Textual Amendments**

**F126** Crossheading inserted (2.7.1998) by 1998 c. 22, s. 7(3), **Sch. 2**.

- F127** The application of the seal of the New Opportunities Fund shall be authenticated by the signature—
- (a) of any member of the Fund, or
  - (b) of any other person who has been authorised by the Fund (whether generally or specially) for that purpose.

#### **Textual Amendments**

**F127** [Sch. 6A para. 7](#) inserted (2.7.1998) by 1998 c. 22, s. 7(3), **Sch. 2**.

- F128** A document purporting to be duly executed under the seal of the New Opportunities Fund or to be signed on their behalf shall be received in evidence and, unless the contrary is proved, taken to be so executed or signed.

#### **Textual Amendments**

**F128** [Sch. 6A para. 8](#) inserted (2.7.1998) by 1998 c. 22, s. 7(3), **Sch. 2**.

### *F129 Status of New Opportunities Fund*

#### **Textual Amendments**

**F129** Crossheading inserted (2.7.1998) by 1998 c. 22, s. 7(3), **Sch. 2**.

- F130** The New Opportunities Fund shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.

#### **Textual Amendments**

**F130** [Sch. 6A para. 9](#) inserted (2.7.1998) by 1998 c. 22, s. 7(3), **Sch. 2**.

- F131** In Schedule 1 to the <sup>M33</sup>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—  
“New Opportunities Fund.”

#### **Textual Amendments**

**F131** [Sch. 6A para. 10](#) inserted (2.7.1998) by 1998 c. 22, s. 7(3), **Sch. 2**.

#### **Marginal Citations**

**M33** 1958 c. 51.

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### *F132* Application to Scotland

#### Textual Amendments

**F132** Crossheading inserted (2.7.1998) by 1998 c. 22, s. 7(3), Sch. 2.

[ Paragraphs 7 and 8 do not extend to Scotland. ]  
F133 11

#### Textual Amendments

**F133** Sch. 6A para. 11 inserted (2.7.1998) by 1998 c. 22, s. 7(3), Sch. 2.

## SCHEDULE 7

Section 48.

### REGISTRATION OF SOCIETIES

#### PART I

##### AMENDMENT OF SCHEDULE 1 TO THE 1976 ACT

- 1 For the heading “Registration of Societies” there shall be substituted “ Registration of Societies by Local Authorities ”.
- 2 In paragraph 1—
  - (a) sub-paragraph (1) (which requires every application for the registration of a society to be made to the registration authority) shall be omitted, and
  - (b) in sub-paragraph (2) (definition of “registration authority”) for “In this Schedule” there shall be substituted “ In this Act ”.
- 3 In paragraph 2 (purposes for which the society is established and conducted to be specified in such an application) for “Any such application” there shall be substituted “ An application to the registration authority for the registration of a society ”.
- 4 After paragraph 3 there shall be inserted—

“3A (1) The registration authority shall refuse or revoke the registration of the society under this Part of this Schedule if the Board have refused or revoked the registration of the society under Schedule 1A below within the last five years.

  - (2) Sub-paragraph (1) above does not apply where the ground for the Board’s refusal or revocation was that specified in paragraph 3(2)(e) of Schedule 1A below.
  - (3) Where the registration authority refuse or revoke the registration of a society under sub-paragraph (1) above, they shall notify the society in writing that they have done so.”
- 5 (1) In paragraph 4 (grounds on which the registration authority have a discretion to refuse or revoke the society’s registration)—
  - (a) for sub-paragraph (1)(a) there shall be substituted—

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- “(a) that any person who is or will be a person connected with a lottery promoted or proposed to be promoted on behalf of the society has been convicted of an offence to which this paragraph applies; or”
- (b) after sub-paragraph (1)(b) there shall be inserted—
- “; or
- (c) that any information given by the society to the authority in or in connection with the society’s application for registration was false in a material particular.”
- (c) in sub-paragraph (2) (offences to which paragraph 4 applies) after “an offence under paragraph 14 below” there shall be inserted “, paragraph 14 of Schedule 1A below, paragraph 8 or 9 of Schedule 2 below, paragraph 12 of Schedule 2A below”, and
- (d) after sub-paragraph (2) there shall be added—
- “(3) For the purposes of sub-paragraph (1)(a) above, a person connected with a lottery is a person who is or has been—
- (a) involved in the promotion of the lottery; or
- (b) employed for reward in connection with the promotion of any other lottery on behalf of the same society.”
- (2) After paragraph 4 there shall be inserted—
- “4A The registration authority may, after giving the society an opportunity of being heard, revoke the registration of the society under this Part of this Schedule if it appears to the authority that the society has failed to comply with a requirement imposed on it under paragraph 16 below.”
- 6 In paragraphs 5, 6 and 7 (appeals against refusal or revocation of registration under paragraph 4) for “paragraph 4” there shall be substituted “ paragraph 4 or 4A ”.
- 7 In paragraph 11 (returns to be made in respect of a society’s lottery) after sub-paragraph (c) there shall be inserted—
- “(cc) whether any expenses were met otherwise than out of proceeds of the lottery and, if so, the amount and source of any sums used to meet them;”.
- 8 In paragraph 12 (return not required in respect of a lottery promoted in accordance with a scheme registered with the Gaming Board) for “promoted in accordance with a scheme registered with the Board” there shall be substituted “ if on the date of the lottery the society was registered with the Board under Schedule 1A below ”.
- 9 After paragraph 14 there shall be added—
- “15 (1) Where it appears to the registration authority that section 5(3C) above applies to a lottery in respect of which a return has been sent to them under paragraph 11 above, they shall notify the Board in writing of that fact.
- (2) The notification shall have attached to it a copy of the return and of all other returns sent to the registration authority in respect of the earlier lotteries mentioned in section 5(3C)(b) above.
- 16 The registration authority may require a society that is registered under this Part of this Schedule—

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- (a) to allow the authority to inspect and take copies of any documents of the society, including any information kept by the society otherwise than in writing, relating to any lottery promoted on behalf of the society; and
- (b) where such information is kept by means of a computer, to give the authority such assistance as they may require to enable them to inspect and take copies of the information in a visible and legible form and to inspect and check the operation of any computer, and any associated apparatus or material, that is or has been in use in connection with the keeping of the information.”

## PART II

### SCHEDULE TO BE INSERTED IN THE 1976 ACT AFTER SCHEDULE 1

#### “SCHEDULE 1A

#### REGISTRATION OF SOCIETIES BY THE GAMING BOARD

### PART I

#### REGISTRATION

- 1 An application to the Board for the registration of a society shall—
  - (a) specify the address of the office or head office of the society,
  - (b) specify the purposes for which the society is established and conducted, and
  - (c) have attached to it a copy of any scheme approved by the society under section 5(3)(c) above.
- 2 (1) Subject to the provisions of this Schedule, upon application being duly made on behalf of a society and upon payment of a prescribed fee, the Board shall register the society in a register to be kept for the purposes of section 5 above and notify the society in writing that they have done so.
  - (2) Any fees received by the Board by virtue of this paragraph shall be paid into the Consolidated Fund.
- 3 (1) The Board shall refuse or revoke the registration of a society under this Schedule if any scheme attached to its application for registration, or any other scheme subsequently approved by the society under section 5(3)(c) above, is contrary to law.
  - (2) The Board may refuse or revoke the registration of a society under this Schedule if it appears to the Board—
    - (a) that the ground specified in paragraph 4(1)(a) or (b) of Schedule 1 above applies;
    - (b) that any information given by the society to the Board in or in connection with the society’s application for registration was false in a material particular;
    - (c) that the address of the office or head office of the society is the same as that of the office or head office of another society that is established for the same or a connected purpose and is registered under this Schedule;

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- (d) that any lottery promoted on behalf of the society within the last five years has not been properly conducted;
  - (e) that any fees payable by the society under this Act have not been paid;
  - (f) that the society has failed to comply with a requirement imposed on it under paragraph 12 below; or
  - (g) that an act or omission of a person who is or will be a person connected with a lottery promoted or proposed to be promoted on behalf of the society was a cause—
    - (i) of the registration of another society being refused or revoked on the ground specified in paragraph (b) or (f) above or under sub-paragraph (5) below;
    - (ii) of the registration of a scheme being refused or revoked on a ground specified in paragraph 3(1)(e) or 4(2)(c) of Schedule 2 below; or
    - (iii) of a relevant lottery, in the promotion of which the person was involved, not being properly conducted.
- (3) In considering whether sub-paragraph (2)(g) above applies, the Board shall disregard any act or omission that occurred more than five years previously.
- (4) For the purposes of sub-paragraph (2)(g) above—
- (a) a person connected with a lottery is a person who is or has been—
    - (i) involved in the promotion of the lottery; or
    - (ii) employed for reward in connection with the promotion of any other lottery on behalf of the same society; and
  - (b) “relevant lottery”, in relation to a society and a person, means a lottery promoted—
    - (i) on behalf of another society that at the time of the person’s involvement with the promotion of the lottery was registered with the Board; or
    - (ii) under a scheme that at the time of the person’s involvement with the promotion of the lottery was registered with the Board.
- (5) The Board may revoke the registration of a society under this Schedule if it appears to the Board that the society has failed to comply with a requirement imposed on it by or under paragraph 7, 8, 9, 11 or 13 below.
- (6) The Board shall not refuse or revoke the registration of a society without giving the society an opportunity of being heard.
- (7) Where the Board refuse or revoke the registration of a society, they shall notify the society and, except in the case of a refusal or revocation on the ground specified in sub-paragraph (2)(e) above, the registration authority in writing of the refusal or revocation and the ground for it.
- (8) The revocation of the registration of a society under this Schedule shall not have effect in relation to any lottery in respect of which any tickets or chances have already been sold at the date of revocation.
- 4 (1) The Secretary of State may direct the Board—
- (a) to register under this Schedule any society that they have refused to register on any ground mentioned in paragraph 3(2) above; or
  - (b) to restore any registration that the Board have revoked on any ground mentioned in paragraph 3(2) or (5) above;
- and the Board shall give effect to any such direction.

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- (2) The Board shall notify the society and the registration authority in writing of any direction that has been given to the Board under sub-paragraph (1) above.
- (3) The restoration of any registration under sub-paragraph (1) above shall have effect from the date of revocation or such later date as may be specified in the direction.
- 5 The Board shall cancel the registration of a society under this Schedule if the society requests them to do so.
- 6 (1) A society that is registered under this Schedule shall pay to the Board—
  - (a) a prescribed fee at such intervals whilst the society is so registered as the Secretary of State may by order direct; and
  - (b) a prescribed fee for each society’s lottery promoted on behalf of the society whilst it is so registered.
- (2) Any fees received by the Board by virtue of this paragraph shall be paid into the Consolidated Fund.

## PART II

### INFORMATION

- 7 A society registered under this Schedule shall notify the Board in writing of any change in the address of the society’s office or head office within the period of twenty-one days beginning with the day on which the change takes effect.
- 8 (1) A society registered under this Schedule shall notify the Board in writing of any modification of a scheme approved by the society under section 5(3)(c) above.
  - (2) A copy of the scheme as modified shall be attached to the notification.
  - (3) The notification shall be given to the Board at least four weeks before any tickets or chances in a lottery promoted in accordance with the scheme as modified are sold, distributed or offered for sale.
  - (4) In this paragraph references to the modification of a scheme include the substitution for that scheme of another scheme (and references to the scheme as modified are to be read accordingly).
- 9 (1) Where a society is registered under this Schedule on the date of a society’s lottery promoted on its behalf, it shall, before the end of the period of three months beginning with that date, send a return in respect of the lottery to the Board.
  - (2) The return shall be in such form and contain such information as the Board may direct.
  - (3) A direction under sub-paragraph (2) above shall be given in writing and may be varied or revoked by a subsequent direction.
- 10 (1) The Board shall preserve any return sent to them under paragraph 9 above for a period of at least eighteen months, and during that period shall keep it deposited at their office and permit any member of the public to inspect it during office hours on payment of a prescribed fee.
  - (2) Any fees received by the Board by virtue of this paragraph shall be paid into the Consolidated Fund.

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- 11 (1) A society registered under this Schedule shall preserve all documents of the society, including all information kept by the society otherwise than in writing, relating to a lottery promoted on the society's behalf until the end of the period of two years beginning with the date of the lottery.
- (2) The Board may direct that, subject to such conditions as may be specified in the direction, sub-paragraph (1) above shall not apply to documents or information specified, or of a description specified, in the direction.
- (3) A direction under sub-paragraph (2) above shall be given in writing and may be varied or revoked by a subsequent direction.
- 12 The Board may require a society that is registered or has applied to be registered under this Schedule—
- (a) to provide the Board with such information relating to any lottery promoted or to be promoted on behalf of the society as they may require;
- (b) to allow the Board to inspect and take copies of any documents of the society, including any information kept by the society otherwise than in writing, relating to such a lottery;
- (c) where such information is kept by means of a computer, to give the Board such assistance as they may require to enable them to inspect and take copies of the information in a visible and legible form and to inspect and check the operation of any computer, and any associated apparatus or material, that is or has been in use in connection with the keeping of the information;
- (d) to allow the Board to inspect any aspect of the management of such a lottery.
- 13 (1) Subject to sub-paragraph (10) below, where the total value of the tickets or chances sold in all lotteries held in any one year and promoted on behalf of the same society is more than £100,000 and any of those lotteries is a lottery to which section 5(3B), (3C) or (3D) above applies, the society shall send to the Board accounts in respect of those lotteries together with a report on the accounts prepared by a qualifying auditor.
- (2) The accounts shall be sent to the Board within ten months of the end of the year in which the lotteries to which they relate were held.
- (3) Accounts under this paragraph shall comply with any directions given by the Board as to the information to be contained in such accounts, the manner in which such information is to be presented or the methods and principles according to which such accounts are to be prepared.
- (4) Any directions under sub-paragraph (3) above shall be given in writing and may be varied or revoked by subsequent directions.
- (5) In sub-paragraph (1) above “qualifying auditor” means a person who—
- (a) is eligible for appointment as a company auditor under section 25 of the <sup>M34</sup>Companies Act 1989; and
- (b) is not disqualified by sub-paragraph (6) below.
- (6) The following persons are disqualified—
- (a) a member of the society;
- (b) a partner, officer or employee of such a member;
- (c) a partnership of which a person disqualified by paragraph (a) or (b) above is a member.



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- (7) The auditor’s report on any accounts under this paragraph shall state whether in the auditor’s opinion the accounts have been properly prepared in accordance with any directions given under sub-paragraph (3) above.
- (8) The auditor shall, in preparing his report, carry out such investigations as will enable him to form an opinion as to—
- (a) whether proper accounting records have been kept by the society; and
  - (b) whether the society’s accounts are in agreement with the accounting records.
- (9) If the auditor fails to obtain all the information and explanations that, to the best of his knowledge and belief, are necessary for the purposes of his audit, his report shall state that fact.
- (10) Sub-paragraph (1) above does not apply to a society in relation to any year if the promotion of every lottery promoted on behalf of the society held in that year is managed by a person certified under Schedule 2A below as a lottery manager.
- (11) For the purposes of this paragraph a lottery is held in the year in which the date of the lottery falls.
- (12) In this paragraph “year” means a period of twelve months beginning with 1st January.
- 14 (1) Any person who, in pursuance of a requirement imposed by or under paragraph 7, 9, 12 or 13 above, knowingly or recklessly gives to the Board any information which is false in a material particular shall be guilty of an offence.
- (2) Any person who knowingly or recklessly includes in a report under paragraph 13 above any information which is false in a material particular shall be guilty of an offence.”

**Marginal Citations**

M34 1989 c. 40.

**Marginal Citations**

M34 1989 c. 40.

SCHEDULE 8

Section 49.

REGISTRATION OF SCHEMES: AMENDMENT OF SCHEDULE 2 TO THE 1976 ACT

- 1 Paragraph 2 (submission of schemes by societies) shall be omitted.
- 2 (1) In paragraph 3(1) (duty of Gaming Board to register a scheme submitted to them)—
- (a) after “this Schedule” there shall be inserted “, and notify the local authority in writing that they have done so,”,
  - (b) paragraph (a) (scheme submitted by a society) shall be omitted,
  - (c) in paragraph (c)(i) for “applicant” there shall be substituted “ local authority ”,
  - (d) in paragraph (c)(ii) after “payable” there shall be inserted “ by the local authority ”,

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- (e) paragraph (c)(iii) (duty does not apply where requirements relating to provision of information have not been complied with) shall be omitted,
- (f) in paragraph (d) (duty does not apply where an unsuitable person will be employed for reward in connection with the promotion of a lottery under the scheme) for “employed for reward in connection with the promotion of” there shall be substituted “ a person connected with ”, and
- (g) after paragraph (d) there shall be inserted—

“; or

- (e) except where the Secretary of State otherwise directs, it appears to the Board that the local authority—
  - (i) have given to the Board in or in connection with the authority’s application for registration of the scheme any information which was false in a material particular; or
  - (ii) have failed to comply with a requirement imposed on them under paragraph 6C below; or
- (f) except where the Secretary of State otherwise directs, it appears to the Board that an act or omission of a person who will be a person connected with a lottery under the scheme was a cause—
  - (i) of the registration of another scheme being refused or revoked on a ground specified in paragraph (e) above or paragraph 4(2)(c) below;
  - (ii) of the registration of a society being refused or revoked on the ground specified in paragraph 3(2) (b) or (f) of Schedule 1A above or under paragraph 3(5) of that Schedule; or
  - (iii) of a relevant lottery, in the promotion of which that person was involved, not being properly conducted.”

(2) After paragraph 3(1) there shall be inserted—

“(1A) In considering whether sub-paragraph (1)(f) above applies, the Board shall disregard any act or omission that occurred more than five years previously.

(1B) Where a scheme submitted to the Board under this Schedule is not registered by them, the Board shall notify the local authority concerned in writing of that fact and the reason for it.”

(3) In paragraph 3(2) (“unsuitable person” means a person convicted of one of a specified number of offences) after “an offence under paragraph 14 of Schedule 1 above” there shall be inserted “ , paragraph 14 of Schedule 1A above, paragraph 8 or 9 below, paragraph 12 of Schedule 2A below ”.

(4) After paragraph 3(2) there shall be inserted—

“(3) For the purposes of this paragraph and paragraph 4 below—

- (a) a person connected with a lottery is a person who is or has been—
  - (i) involved in the promotion of the lottery; or
  - (ii) employed for reward in connection with the promotion of any other lottery under the same scheme; and

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- (b) “relevant lottery”, in relation to a scheme and a person, means a lottery promoted—
- (i) under another scheme that at the time of the person’s involvement with the promotion of the lottery was registered with the Board; or
  - (ii) on behalf of a society that at the time of the person’s involvement with the promotion of the lottery was registered with the Board.”
- 3 For paragraph 4(1) and (2) there shall be substituted—
- “(1) The Board shall revoke the registration of a scheme if it comes to their attention that the scheme has become, or has always been, contrary to law.
- (2) The Board may revoke the registration of a scheme—
- (a) on any of the grounds (c), (d) or (e) specified in paragraph 3(1) above;
  - (b) if it appears to them that an unsuitable person is a person connected with any lottery under the scheme;
  - (c) if it appears to them that the local authority have failed to comply with a requirement imposed on them by or under paragraph 5A, 6, 6B, 6C or 6D below; or
  - (d) if it appears to them that an act or omission of a person who is or will be a person connected with a lottery under the scheme was a cause—
    - (i) of the registration of another scheme being refused or revoked on a ground specified in paragraph 3(1)(e) or paragraph (c) above;
    - (ii) of the registration of a society being refused or revoked on the ground specified in paragraph 3(2)(b) or (f) of Schedule 1A above or under paragraph 3(5) of that Schedule; or
    - (iii) of a relevant lottery, in the promotion of which that person was involved, not being properly conducted.
- (2A) In considering whether sub-paragraph (2)(d) above applies, the Board shall disregard any act or omission that occurred more than five years previously.”
- 4 After paragraph 4 there shall be inserted—
- “4A Where the Board revoke the registration of a scheme, they shall notify the local authority in writing of the revocation and of the ground for it.
- 4B The Board shall cancel the registration of a scheme if the local authority request them to do so.”
- 5 For paragraph 5(1) there shall be substituted—
- “(1) The Secretary of State may direct the Board to restore any registration that has been revoked under paragraph 4(2) above, and the Board shall give effect to any such direction.
- (1A) The Board shall notify a local authority in writing of any direction that has been given to the Board under sub-paragraph (1) above in relation to a scheme approved by the authority under section 6(2)(b) above.”
- 6 After paragraph 5 there shall be inserted—

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“5A (1) A local authority shall notify the Board in writing of any modification of a scheme approved by the authority under section 6(2)(b) above and registered under this Schedule.

(2) A copy of the scheme as modified shall be attached to the notification.

(3) The notification shall be given to the Board at least four weeks before any tickets or chances in a lottery promoted in accordance with the scheme as modified are sold, distributed or offered for sale.”

7 For paragraph 6 there shall be substituted—

“6 (1) A local authority shall, before the end of the period of three months beginning with the date of any local lottery promoted by them, send a return in respect of the lottery to the Board.

(2) The return shall be in such form and contain such information as the Board may direct.

(3) A direction under sub-paragraph (2) above shall be given in writing and may be varied or revoked by a subsequent direction.

6A (1) The Board shall preserve any return sent to them under paragraph 6 above for a period of at least eighteen months, and during that period shall keep it deposited at their office and permit any member of the public to inspect it during office hours on payment of a prescribed fee.

(2) Any fees received by the Board by virtue of this paragraph shall be paid into the Consolidated Fund.

6B (1) A local authority shall preserve all documents of theirs, including all information kept by them otherwise than in writing, relating to a local lottery promoted by them until the end of the period of two years beginning with the date of the lottery.

(2) The Board may direct that, subject to such conditions as may be specified in the direction, sub-paragraph (1) above shall not apply to documents or information specified, or of a description specified, in the direction.

(3) A direction under sub-paragraph (2) above shall be given in writing and may be varied or revoked by a subsequent direction.

6C The Board may require a local authority—

(a) to provide the Board with such information as they may require relating to a local lottery promoted or to be promoted by the authority;

(b) to allow the Board to inspect and take copies of any documents of the authority, including any information kept by the authority otherwise than in writing, relating to such a lottery;

(c) where such information is kept by means of a computer, to give the Board such assistance as they may require to enable them to inspect and take copies of the information in a visible and legible form and to inspect and check the operation of any computer, and any associated apparatus or material, that is or has been in use in connection with the keeping of the information;

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- (d) to allow the Board to inspect any aspect of the management of such a lottery.
- 6D (1) Subject to sub-paragraph (10) below, where the total value of the tickets or chances sold in all local lotteries held in any one financial year and promoted by the same local authority is more than £100,000, the authority shall send to the Board accounts for those lotteries together with a report on the accounts prepared by a qualifying auditor.
- (2) The accounts shall be sent to the Board within ten months of the end of the financial year in which the lotteries to which they relate were held.
- (3) Accounts under this paragraph shall comply with any directions given by the Board as to the information to be contained in such accounts, the manner in which such information is to be presented or the methods and principles according to which such accounts are to be prepared.
- (4) Any directions under sub-paragraph (3) above shall be given in writing and may be varied or revoked by subsequent directions.
- (5) In sub-paragraph (1) above “qualifying auditor” means a person who is—
- (a) eligible for appointment as a company auditor under section 25 of the <sup>M35</sup>Companies Act 1989;
  - (b) a member of the Chartered Institute of Public Finance and Accountancy; or
  - (c) a firm each of the members of which is a member of that institute; and who is not disqualified by sub-paragraph (6) below.
- (6) The following persons are disqualified—
- (a) a member, officer or employee of the local authority;
  - (b) a partner or employee of such a person;
  - (c) a partnership of which a person disqualified by paragraph (a) or (b) above is a member.
- (7) The auditor’s report on any accounts under this paragraph shall state whether in the auditor’s opinion the accounts have been properly prepared in accordance with any directions given under sub-paragraph (3) above.
- (8) The auditor shall, in preparing his report, carry out such investigations as will enable him to form an opinion as to—
- (a) whether proper accounting records have been kept by the local authority; and
  - (b) whether the authority’s accounts are in agreement with the accounting records.
- (9) If the auditor fails to obtain all the information and explanations that, to the best of his knowledge and belief, are necessary for the purposes of his audit, his report shall state that fact.
- (10) Sub-paragraph (1) above does not apply to a local authority in relation to any financial year if the promotion of every local lottery promoted by them held in that year is managed by a person certified under Schedule 2A below as a lottery manager.

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(11) For the purposes of this paragraph a lottery is held in the financial year in which the date of the lottery falls.

(12) In this paragraph “financial year” means a period of twelve months beginning with 1st April.”

**Marginal Citations**

**M35** 1989 c. 40.

8 For paragraph 7(1) there shall be substituted—

“(1) The following fees shall be payable by a local authority to the Board—

- (a) a prescribed fee on an application for a scheme approved by the authority to be registered under this Schedule;
- (b) a prescribed fee at such intervals whilst such a scheme is so registered as the Secretary of State may by order direct; and
- (c) a prescribed fee for each lottery promoted under such a scheme.”

9 In paragraph 8 (offence to give false information to the Board) for “paragraph 6” there shall be substituted “ paragraph 6, 6C or 6D ”.

10 After paragraph 8 there shall be added—

“9 A person who knowingly or recklessly includes in a report under paragraph 6D above any information which is false in a material particular shall be guilty of an offence.”

SCHEDULE 9

Section 50.

SCHEDULE TO BE INSERTED IN THE 1976 ACT AFTER SCHEDULE 2

“SCHEDULE 2A

LOTTERY MANAGERS

**PART I**

CERTIFICATION

*Application and fee*

1 (1) An application for a person to be certified as a lottery manager shall be made to the Board.

(2) The application shall be in such form and contain such information as the Board may require.

(3) A fee of £2,000 shall be payable to the Board when the application is made.

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- (4) Any fees received by the Board by virtue of this paragraph shall be paid into the Consolidated Fund.

#### *Grant or refusal of certificate*

- 2 (1) Subject to sub-paragraphs (2) and (3) below, on the making of an application and the payment of a fee in accordance with paragraph 1 above, the Board shall grant a certificate to the applicant certifying him as a lottery manager.
- (2) The Board shall refuse to grant the certificate if, after giving the applicant an opportunity of being heard, they are not satisfied that he is a fit and proper person to manage a lottery.
- (3) The Board may refuse to grant the certificate if, after giving the applicant an opportunity of being heard, it appears to them that—
- (a) any person who would be likely to manage the business or any part of the business of managing lotteries under the certificate is not a fit and proper person to do so,
  - (b) any person for whose benefit that business would be likely to be carried on is not a fit and proper person to benefit from it, or
  - (c) any information given by the applicant to the Board in or in connection with the application is false in a material particular.
- (4) Where the Board refuse to grant a certificate, they shall notify the applicant in writing of the refusal and the ground for it.

#### *Conditions*

- 3 A certificate may include such conditions as the Board consider appropriate for protecting the interests—
- (a) of any societies or local authorities whose lotteries the certificate holder may manage, or
  - (b) of the persons who participate in any lottery that the certificate holder may manage.
- 4 (1) The Board may, after giving the certificate holder an opportunity of being heard, vary any condition in a certificate.
- (2) The Board's power to vary a condition in a certificate under this paragraph includes power to add a condition to the certificate or omit a condition from it (and references in this paragraph to the variation of a condition are to be read accordingly).
- (3) Where the Board vary a condition under this paragraph they shall serve a notice on the certificate holder, by post, informing him—
- (a) of the variation, and
  - (b) of the effect of sub-paragraph (4) below.
- (4) The variation shall take effect at the end of the period of twenty-one days beginning with the date of service of the notice.

#### *Duration of certificate*

- 5 A certificate shall have effect until it is revoked by the Board.

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### *Revocation of certificate*

- 6 The Board may revoke a certificate if the certificate holder consents.
- 7 (1) The Board shall revoke a certificate if, after giving the certificate holder an opportunity of being heard, they are satisfied that he is no longer, or never was, a fit and proper person to manage a lottery.
- (2) The Board may revoke a certificate if, after giving the certificate holder an opportunity of being heard, it appears to them that—
- (a) any person who is managing the business or any part of the business of managing lotteries under the certificate is not a fit and proper person to do so,
  - (b) any person for whose benefit the business of managing lotteries under the certificate is carried on is not a fit and proper person to benefit from it,
  - (c) any information given by the certificate holder to the Board in or in connection with the application for the certificate was false in a material particular, or
  - (d) the certificate holder has failed to comply with a condition in the certificate or with a requirement imposed on him by or under this Act.
- (3) Where the Board revoke a certificate under this paragraph they shall serve a notice on the certificate holder, by post, informing him—
- (a) of the revocation,
  - (b) of the ground for the revocation, and
  - (c) of the effect of sub-paragraph (4) below.
- (4) The revocation shall take effect at the end of the period of twenty-one days beginning with the date of service of the notice.

## PART II

### INFORMATION

- 8 (1) A certificate holder shall preserve all documents of his, including all information kept by him otherwise than in writing, relating to the management of a society's lottery or a local lottery until the end of the period of two years beginning with the date of the lottery.
- (2) The Board may direct that, subject to such conditions as may be specified in the direction, sub-paragraph (1) above shall not apply to documents or information specified, or of a description specified, in the direction.
- (3) A direction under sub-paragraph (2) above shall be given in writing and may be varied or revoked by a subsequent direction.
- 9 The Board may require a certificate holder—
- (a) to provide the Board with such information relating to the management of a society's lottery or a local lottery as they may require;
  - (b) to allow the Board to inspect and take copies of any documents of the certificate holder, including any information kept by him otherwise than in writing, relating to the management of such a lottery;
  - (c) where such information is kept by means of a computer, to give the Board such assistance as they may require to enable them to inspect and take copies of the information in a visible and legible form and to inspect and check the operation



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- of any computer, and any associated apparatus or material, that is or has been in use in connection with the keeping of the information;
- (d) to allow the Board to inspect any aspect of the management of such a lottery.
- 10 Where a certificate holder is a company to which section 241 of the <sup>M36</sup>Companies Act 1985 (directors' duty to lay and deliver accounts) applies, the company shall, immediately after copies of its accounts for a financial year have been laid before it under that section, send a copy of its profit and loss account for that year and the related auditors' report to the Board.
- 11 (1) A certificate holder to whom paragraph 10 above does not apply shall, in respect of each year in which he holds a certificate, send to the Board a profit and loss account of his business of managing lotteries under the certificate together with a report on the account prepared by a qualifying auditor.
- (2) The account shall be sent to the Board within ten months of the end of the year to which it relates.
- (3) An account under this paragraph shall comply with any directions given by the Board as to the information to be contained in such an account, the manner in which such information is to be presented or the methods and principles according to which such an account is to be prepared.
- (4) Any directions under sub-paragraph (3) above shall be given in writing and may be varied or revoked by subsequent directions.
- (5) In sub-paragraph (1) above "qualifying auditor" means a person who—
- (a) is eligible for appointment as a company auditor under section 25 of the <sup>M37</sup>Companies Act 1989, and
- (b) is not disqualified by sub-paragraph (6) below.
- (6) The following persons are disqualified—
- (a) the certificate holder;
- (b) where the certificate holder is an unincorporated body of persons, any of those persons;
- (c) a partner, officer or employee of the certificate holder or a person disqualified by paragraph (b) above;
- (d) a partner or employee of a person disqualified by paragraph (c) above;
- (e) a partnership of which any person disqualified by paragraph (a), (b) or (c) above is a member.
- (7) The auditor's report on an account under this paragraph shall state whether in the auditor's opinion the account has been properly prepared in accordance with any directions given under sub-paragraph (3) above.
- (8) The auditor shall, in preparing his report, carry out such investigations as will enable him to form an opinion as to—
- (a) whether proper accounting records have been kept by the certificate holder, and
- (b) whether the certificate holder's account is in agreement with the accounting records.
- (9) If the auditor fails to obtain all the information and explanations that, to the best of his knowledge and belief, are necessary for the purposes of his audit, his report shall state that fact.

**Status:** Point in time view as at 01/04/1999. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** National Lottery etc. Act 1993 is up to date with all changes known to be in force on or before 28 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (10) In this paragraph “year” means a period of twelve months beginning with 1st January.
- 12 (1) A person who, in pursuance of a requirement imposed on him by or under paragraph 9, 10 or 11 above, knowingly or recklessly gives to the Board any information which is false in a material particular shall be guilty of an offence.
- (2) A person who knowingly or recklessly includes in a report under paragraph 11 above any information which is false in a material particular shall be guilty of an offence.”

#### Marginal Citations

**M36** 1985 C. 6.

**M37** 1989 C. 40.

## SCHEDULE 10

Section 64.

### REPEALS

#### Commencement Information

**I3** [Sch. 10](#) wholly in force at 3.5.1994; [Sch. 10](#) not in force at Royal Assent see [s. 65](#); provisions in [Sch. 10](#) relating to the Revenue Act 1898 and the National Heritage Act 1980 in force at 21.12.1993 by [S.I. 1993/2632](#), [art. 3](#); [Sch. 10](#) in force at 3.5.1994 in so far as not already in force by [S.I. 1994/1055](#), [art. 2](#).

Chapter	Short title	Extent of repeal
61 & 62 Vict. c. 46.	The Revenue Act 1898.	Section 1 so far as it applies in the British Islands outside the United Kingdom and section 6(2).
1976 c. 32.	The Lotteries and Amusements Act 1976.	In section 5(3), paragraph (d) and the word “and” immediately preceding it. Section 9. In section 13(4), the words “or of section 11(6) or (8) above”. In section 18(1), at the end of paragraph (e) the word “and”. In Schedule 1, paragraph 1(1). In Schedule 2, paragraphs 2 and 3(1)(a) and (c)(iii).
1980 c. 17.	The National Heritage Act 1980.	In section 3(6)(d), the words from “acting” to “1979”.

**Status:**

Point in time view as at 01/04/1999. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:**

National Lottery etc. Act 1993 is up to date with all changes known to be in force on or before 28 May 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.