

National Lottery Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Department for Culture, Media and Sport, are published separately as Bill 6 – EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Secretary Tessa Jowell has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the National Lottery Bill are compatible with the Convention rights.

National Lottery Bill

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B I L L

TO

Make provision about the National Lottery.

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:—

National Lottery Commission

1 Constitution

- (1) Schedule 2A to the National Lottery etc. Act 1993 (c. 39) (National Lottery Commission) shall be amended as follows.
- (2) For paragraph 2(1) substitute— 5
 “(1) The Commission shall consist of at least five members, appointed by the Secretary of State.”
- (3) For paragraph 4 substitute— 10
 “4 (1) The Secretary of State shall appoint a member of the Commission as chairman.
 (2) A member of the Commission who is also an employee of the Commission may not be appointed as chairman.
 (3) The chairman shall hold and vacate office in accordance with the terms of his appointment; but— 15
 (a) sub-paragraphs (2) to (5) of paragraph 3 shall apply to the office of chairman as they apply to the office of member, and
 (b) if the chairman ceases to be a member he shall cease to be chairman.”
- (4) After paragraph 6 insert— 20
 “(6A) (1) The Secretary of State may appoint the Chief Executive of the Commission as a member.

- (2) Where the Chief Executive is appointed as a member –
- (a) paragraph 5 shall not apply to him, and
 - (b) if he ceases to be Chief Executive he ceases to be a member.
- (3) Where the Chief Executive is appointed as a member the Secretary of State may, on the recommendation of the Commission, appoint another employee of the Commission as a member; and –
- (a) paragraph 5 shall not apply to a person appointed by virtue of this sub-paragraph,
 - (b) the Secretary of State may suspend or terminate an appointment made by virtue of this sub-paragraph if the Chief Executive ceases to be a member, and
 - (c) if a person appointed by virtue of this sub-paragraph ceases to be an employee of the Commission he shall cease to be a member.”
- 2 Disclosure of information**
- After section 4A of the National Lottery etc. Act 1993 (c. 39) (consultation with Gambling Commission: inserted by the Gambling Act 2005) insert –
- “4B Disclosure of information**
- (1) The Commissioners of Customs and Excise may disclose information to the National Lottery Commission.
 - (2) The National Lottery Commission may disclose information to the Commissioners of Customs and Excise.
 - (3) Information disclosed under this section shall not be further disclosed except in accordance with subsection (4).
 - (4) Information may be further disclosed –
 - (a) in accordance with another statutory power of disclosure,
 - (b) for the purpose of legal proceedings connected with the operation of an enactment relating to lotteries, or
 - (c) to the National Audit Office for the purposes of the exercise of functions under Part II of the National Audit Act 1983 (c. 44).
 - (5) This section has effect despite any prohibition or restriction that would otherwise prevent disclosure of information.”

Licensing System

- 3 Licensees**
- In the following provisions of the National Lottery etc. Act 1993 (c. 39) for “body corporate” or “body” substitute “person” (and for “bodies” substitute “persons”) –
- (a) section 1(3)(a) and (b) (promotion of lottery),
 - (b) section 5(1), (2) and (4) (and the heading) (licence to run National Lottery),
 - (c) section 6(1) and (4) (and the heading) (licence to promote lotteries),
 - (d) section 7(2)(g) (supplemental), and

- (e) section 10(1) and (2) (revocation).

4 Length of licence

- (1) In section 7 of the National Lottery etc. Act 1993 (c. 39) (licensing: supplemental) after subsection (1) insert—
- “(1A) The period specified under subsection (1) must— 5
- (a) begin with the date of grant of the licence, and
- (b) not exceed 15 years.
- (1B) A licence granted under section 5 or 6 may include—
- (a) provision enabling the period specified under subsection (1) to be extended by the Commission; 10
- (b) provision enabling the period specified under subsection (1) to be extended by agreement between the Commission and the licensee.”
- (2) In section 7(2) of that Act for “Such a licence” substitute “A licence granted under section 5 or 6”. 15

5 Fees

- (1) After section 7 of the National Lottery etc. Act 1993 (licences: supplemental) insert—
- “**7A Annual fee**
- (1) The holder of a licence under section 5 or 6— 20
- (a) shall pay a first annual fee to the Commission within such period after the issue of the licence as may be prescribed, and
- (b) shall pay an annual fee to the Commission before each anniversary of the issue of the licence.
- (2) In this section— 25
- “annual fee” means a fee of such amount as may be prescribed, and
- “prescribed” means prescribed by regulations made by the Secretary of State.
- (3) Subsection (1)(b) does not apply in relation to an anniversary of the issue of a licence on or immediately before which the licence ceases, by virtue of its terms, to have effect. 30
- (4) *The Commission shall pay fees received by virtue of this section into the Consolidated Fund.*”
- (2) Section 7(5) and (6) of that Act (fee on grant of licence) shall cease to have effect. 35
- (3) In section 10 of that Act (revocation of licence)—
- (a) after subsection (3) insert—
- “(3A) The Commission shall revoke a licence granted under section 5 or 6 if the licensee fails to pay the annual fee in accordance with section 7A; but the Commission may disapply this subsection if it thinks that a failure to pay is attributable to administrative error.”, and 40

(b) at the end of subsection (4) add “or under subsection (3A).”

6 Licensing structure

- (1) The Secretary of State may by order provide for Schedule 1 (which amends the licensing structure of the National Lottery) to have effect.
- (2) Before making an order under subsection (1) the Secretary of State must consult the National Lottery Commission. 5
- (3) An order under subsection (1) –
- (a) may make transitional or incidental provision,
 - (b) may bring all or part of Schedule 1 into force,
 - (c) may make different provision for different purposes, 10
 - (d) shall be made by statutory instrument, and
 - (e) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Distribution of Lottery Funds

7 National Lottery Distribution Fund: apportionment 15

- (1) Section 22 of the National Lottery etc. Act 1993 (c. 39) (apportionment of money in Distribution Fund) shall be amended as follows.
- (2) In subsection (3) –
- (a) at the end of paragraph (c) add “and”, and
 - (b) for paragraphs (d) and (f) substitute – 20
 - “(d) 50 per cent. shall be allocated for prescribed expenditure that is –
 - (i) charitable, or
 - (ii) connected with health, or
 - (iii) connected with education, or 25
 - (iv) connected with the environment.”
- (3) After subsection (3) insert –
- “(3A) In subsection (3)(d) “prescribed expenditure” means expenditure of a description prescribed by order of the Secretary of State.
- (3B) A description of expenditure under subsection (3A) may, in particular, refer to expenditure in relation to – 30
- (a) England,
 - (b) Wales,
 - (c) Scotland,
 - (d) Northern Ireland, or 35
 - (e) the Isle of Man;
- and expenditure described by virtue of this subsection is referred to in this Act as “devolved expenditure”.
- (3C) Before making an order under subsection (3A) the Secretary of State shall consult – 40
- (a) the Big Lottery Fund,

- (b) the National Assembly for Wales,
- (c) the Scottish Ministers,
- (d) the Northern Ireland Department of Culture, Arts and Leisure,
and
- (e) such other persons (if any) as he thinks appropriate.” 5

8 Reallocation of funds

- (1) After section 29 of the National Lottery etc. Act 1993 (c. 39) (variation of percentages for allocation of funds) insert—

“29A Reallocation of funds

- (1) This section applies where money is— 10
- (a) allocated for a purpose under section 22(3), and
 - (b) held for distribution by a body under section 23.
- (2) The Secretary of State may by order provide for the money to be held for distribution by a different body specified in section 23 (without altering the purpose for which the money is allocated). 15
- (3) Before making an order under this section the Secretary of State shall consult—
- (a) each body mentioned in the order,
 - (b) the National Assembly for Wales,
 - (c) the Scottish Ministers, and 20
 - (d) the Northern Ireland Department of Culture, Arts and Leisure.”
- (2) In section 60(2) of that Act (orders and regulations: affirmative resolution) after paragraph (a) (and before the word “or” immediately after that paragraph) insert— 25
- “(aa) section 29A.”.

9 Investment income

In section 32 of the National Lottery etc. Act 1993 (National Lottery Distribution Fund: investment) —

- (a) for subsection (3)(a) and (b) substitute “treated as if paid into the Fund by virtue of section 5(6).”, and 30
- (b) omit subsection (5).

10 Distributing bodies: consultation

After section 25(2B) of the National Lottery etc. Act 1993 (application of money by distributing bodies) insert—

- “(2C) In determining how to distribute money in accordance with subsection (1) a body may — 35
- (a) consult any person;
 - (b) take account of opinions expressed to it or information submitted to it.”

11 Distributing bodies: publicity

After section 25D of the National Lottery etc. Act 1993 (c. 39) (strategic plans) insert—

“25E Distribution of funds: publicity

A body which distributes money under section 25(1) may make or participate in arrangements for— 5

- (a) publishing information relating to the effect of a provision of this Act,
- (b) publishing information relating to the distribution of money under this Act or the expenditure of money distributed under this Act, or 10
- (c) encouraging participation in activities relating to the National Lottery in general.”

12 Isle of Man

- (1) After section 25(5) of the National Lottery etc. Act 1993 (application of money by distributing bodies) add— 15

“(6) A reference in this section to meeting expenditure includes a reference to meeting expenditure which relates to the Isle of Man.”

- (2) After section 25A(11) (delegation by distributing bodies) add—

“(12) A body established under the law of the Isle of Man may be the subject of an appointment under this section in connection with expenditure which relates to the Isle of Man.” 20

*The Big Lottery Fund***13 Establishment**

- (1) After section 36 of the National Lottery etc. Act 1993 insert— 25

*“The Big Lottery Fund***36A The Fund**

- (1) There shall be a body corporate known as the Big Lottery Fund.

(2) Schedule 4A (which makes provision in relation to the Fund) shall have effect.” 30

- (2) After Schedule 4 to that Act insert the Schedule 4A set in out in Schedule 2 to this Act.

14 Functions

- (1) In section 23 of the National Lottery etc. Act 1993 (the distributing bodies) for subsections (4), (5) and (6) substitute— 35

“(4) So much of any sum paid into the Distribution Fund as is allocated under section 22(3)(d) shall be held by the Distribution Fund for distribution by the Big Lottery Fund (established under section 36A).”

(2) After section 36A of that Act (inserted by section 13 above) insert—

“36B Power to distribute funds

- (1) The Big Lottery Fund may make grants or loans, or make or enter into other arrangements, for the purpose of complying with section 25(1).
- (2) A grant or loan may be subject to conditions (which may, in particular, include conditions as to repayment with interest). 5
- (3) The Secretary of State may by order make provision limiting the amounts distributed under subsection (1).
- (4) An order under subsection (3) may in particular—
 - (a) specify a maximum amount that may be distributed during a specified period for expenditure of a description prescribed under section 22(3A); 10
 - (b) specify a minimum amount that must be distributed during a specified period for expenditure of a description prescribed under section 22(3A); 15
 - (c) make provision by reference to the aggregate of amounts distributed, to a percentage of amounts available for distribution or otherwise;
 - (d) make provision (which may, in particular, confer a power on the Fund) for the treatment of expenditure which satisfies more than one prescribed description. 20
- (5) Before making an order under subsection (3) the Secretary of State shall consult—
 - (a) the Fund,
 - (b) the National Assembly for Wales, 25
 - (c) the Scottish Ministers,
 - (d) the Northern Ireland Department of Culture, Arts and Leisure, and
 - (e) such other persons (if any) as he thinks appropriate. 30

36C Non-lottery funds 30

- (1) The Fund may enter into an arrangement with a person under which—
 - (a) the person pays money to the Fund, and
 - (b) the Fund distributes the money to a third party.
- (2) An arrangement under subsection (1) may, in particular—
 - (a) identify the third party, or 35
 - (b) otherwise limit the Fund’s freedom of action in relation to the distribution of the money paid under the arrangement.
- (3) The Fund shall distribute money received under subsection (1) for meeting expenditure that is—
 - (a) charitable, 40
 - (b) connected with health,
 - (c) connected with education, or
 - (d) connected with the environment.

- (4) The reference in subsection (3) to the distribution of money received under subsection (1) is a reference to doing anything of a kind that the Fund can do under section 36B.
- (5) A reference in this Act to payment under section 25(1) shall include a reference to payment under subsection (3) above.” 5

36D Power to give advice

The Big Lottery Fund may give advice about—

- (a) the distribution of money under any provision of this Act;
- (b) inviting, making or considering applications for grants and loans under any provision of this Act; 10
- (c) the use of money paid under any provision of this Act.

36E Directions

- (1) In exercising any of its functions the Big Lottery Fund shall comply with any direction given to it by the Secretary of State (subject to subsection (4)). 15
- (2) A direction under this section may, in particular—
- (a) specify persons to whom the Fund may or may not make grants or loans;
- (b) specify purposes for which the Fund may or may not make grants or loans; 20
- (c) relate to the process used to determine what payments to make;
- (d) relate to the terms and conditions on which the Fund makes grants or loans.
- (3) A direction under this section may, in particular—
- (a) relate to the management and control of money received by the Fund; 25
- (b) relate to the employment of staff;
- (c) with the consent of the Treasury, relate to—
- (i) the form of accounts, or
- (ii) methods and principles for the preparation of accounts; 30
- (d) in so far as it relates to a matter specified in paragraphs (a) to (c)—
- (i) relate to the persons to whom or the terms on which the Fund delegates functions;
- (ii) require the Fund to obtain the Secretary of State’s consent before taking action of a specified kind; 35
- (iii) require the Fund to provide information to the Secretary of State.
- (4) A direction under this section, other than a direction given by virtue only of subsection (3), may not be given by the Secretary of State in relation to Welsh, Scottish or Northern Ireland devolved expenditure, but— 40
- (a) may be given by the National Assembly for Wales in relation to Welsh devolved expenditure,
- (b) may be given by the Scottish Ministers in relation to Scottish devolved expenditure, and 45

- (c) may be given by the Northern Ireland Department of Culture, Arts and Leisure in relation to Northern Ireland devolved expenditure.
- (5) Before giving a direction under this section, other than by virtue only of subsection (3), the Secretary of State shall consult— 5
- (a) the Fund,
 - (b) the National Assembly for Wales,
 - (c) the Scottish Ministers, and
 - (d) the Northern Ireland Department of Culture, Arts and Leisure.
- (6) But subsection (5)(b) to (d) shall not apply to a direction which relates only to English devolved expenditure. 10
- (7) Before giving a direction to the Fund by virtue only of subsection (3) the Secretary of State shall consult the Fund.
- (8) Before giving a direction to the Fund by virtue of subsection (4)(a) to (c) the person giving the direction shall— 15
- (a) consult the Fund, and
 - (b) obtain the consent of the Secretary of State.
- (9) A report of the Fund under section 34 shall set out any directions given to the Fund under subsection (1) that had effect during the financial year to which the report relates.” 20

Dissolution of old distributors

15 Dissolution

- (1) The following shall cease to exist on a day appointed by the Secretary of State by order—
- (a) the National Lottery Charities Board, 25
 - (b) the Millennium Commission, and
 - (c) the New Opportunities Fund.
- (2) An order under subsection (1) may include consequential, incidental or transitional provision (which may include provision amending an enactment, whether by removing a reference to a body, by substituting a reference to the Big Lottery Fund, or otherwise). 30
- (3) An order under subsection (1)—
- (a) shall be made by statutory instrument,
 - (b) if it contains provision amending an enactment, shall not be made unless a draft has been laid before and approved by each House of Parliament, and 35
 - (c) in any other case, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

16 Transfer of property, &c.

- (1) In this section— 40
- “old lottery distributor” means a body dissolved by section 15, and
- “the appointed day” means the day appointed under section 15(1).

-
- (2) The property, rights and liabilities to which an old lottery distributor was entitled or subject immediately before the appointed day shall on that day vest in the Big Lottery Fund by virtue of this subsection.
- (3) Anything done by or in relation to an old lottery distributor which has effect immediately before the appointed day shall, so far as necessary for continuing its effect after that day, have effect as if done by or in relation to the Fund. 5
- (4) Anything (including any legal proceedings) which immediately before the appointed day is in the process of being done by or in relation to an old lottery distributor may be continued by or in relation to the Fund.
- (5) So far as necessary or appropriate in consequence of subsection (2), on and after the appointed day – 10
- (a) a reference to an old lottery distributor in an agreement (whether written or not), instrument or other document shall be treated as a reference to the Fund, and
- (b) a reference in an agreement (whether written or not), instrument or other document to a member or officer of an old lottery distributor shall be treated as a reference to a person appointed for the purpose in writing by the Fund. 15
- (6) The Fund must provide information on request about an appointment under subsection (5)(b). 20
- (7) Subsection (2) shall operate in relation to property, rights or liabilities –
- (a) whether or not they would otherwise be capable of being transferred,
- (b) without any instrument or other formality being required, and
- (c) irrespective of any requirement for consent that would otherwise apply. 25
- (8) In so far as subsection (2) transfers liabilities under contracts of employment –
- (a) nothing in this section shall affect the operation of the Transfer of Undertakings (Protection of Employment) Regulations 1981 (S.I. 1981/1794), and
- (b) the Secretary of State shall not appoint the appointed day unless satisfied that sufficient notice has been given to enable compliance with any applicable requirement of those regulations. 30
- (9) Without prejudice to the generality of subsections (3) and (4), the Big Lottery Fund may do anything it thinks necessary or expedient for the purpose of giving effect to a decision, agreement or undertaking of an old lottery distributor (whether in respect of a grant or loan or otherwise) irrespective of whether the Big Lottery Fund would have the power under the National Lottery etc. Act 1993 (c. 39), as amended by this Act, to make that decision or agreement or to give that undertaking. 35
- 17 Outstanding balances** 40
- (1) Money that immediately before the appointed day is held in the National Lottery Distribution Fund for distribution by an old lottery distributor shall on that day be treated as –
- (a) allocated under section 22(3)(d) of the National Lottery etc. Act 1993 (as substituted by section 7 above), and 45

- (b) held in the Distribution Fund for distribution by the Big Lottery Fund in accordance with section 23(4) of that Act (as substituted by section 14 above).
- (2) Money transferred under section 16(2) to the Big Lottery Fund having been paid to an old lottery distributor under section 24 of the National Lottery etc. Act 1993 (c. 39) shall be treated as having been paid to the Fund under that section. 5
- (3) In this section –
 “old lottery distributor” means a body dissolved by section 15, and
 “the appointed day” means the day appointed under section 15(1). 10

18 Consequential amendments

- (1) The National Lottery etc. Act 1993 shall be amended as follows.
- (2) In section 25C(3)(a) for “or 43C(1),” substitute “or 36E.”
- (3) At the end of section 26 (directions to distributing bodies) add –
 “(6) This section does not apply to the Big Lottery Fund.” 15
- (4) In section 34 (annual reports) –
 (a) omit subsection (4), and
 (b) in the heading omit “other than Millennium Commission”.
- (5) In section 35 (accounts) –
 (a) in subsection (7) for “the National Lottery Charities Board, the Millennium Commission or the New Opportunities Fund” substitute “the Big Lottery Fund”, and 20
 (b) in the heading for “Charities Board and Millennium Commission” substitute “the Big Lottery Fund”.
- (6) The following shall cease to have effect – 25
 (a) sections 37 to 39 (the National Lottery Charities Board),
 (b) sections 40 to 43 (the Millennium Commission), and
 (c) sections 43A to 43D (the New Opportunities Fund).
- (7) In section 44(1) (interpretation) omit the entry for “the Charities Board”.
- (8) In section 60 of that Act (orders and regulations) – 30
 (a) in subsection (2) for paragraph (a) substitute –
 “(a) section 22(3A), 28, 30 or 36B(3),” and
 (b) in subsection (2A) for “section 43B.” substitute “section 22(3A) or 36B(3).”
- (9) The following shall cease to have effect – 35
 (a) Schedule 5 (National Lotteries Charities Board),
 (b) Schedule 6 (the Millennium Commission), and
 (c) Schedule 6A (the New Opportunities Fund).
- (10) In Schedule 5 to the Government of Wales Act 1998 (c. 38) (persons who may be compelled to attend proceedings of or provide documents to the National Assembly for Wales) after paragraph 7 insert – 40
 “7A The Big Lottery Fund.”

National Lottery etc. Act 1993: interpretation

19 Meaning of “charitable expenditure”

In section 44(1) of the National Lottery etc. Act 1993 (c. 39) (interpretation) for the definition of “charitable expenditure” substitute—

““charitable”, in relation to expenditure, means expenditure for a charitable, benevolent or philanthropic purpose.” 5

General

20 Repeals

The enactments listed in Schedule 3 are hereby repealed to the extent specified.

21 Commencement

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(1) The preceding provisions of this Act, other than sections 6 and 15 and Schedule 1, shall come into force in accordance with provision made by order of the Secretary of State under this subsection.

(2) An order under subsection (1)—

(a) may make transitional or incidental provision,

(b) may make different provision for different purposes, and

(c) shall be made by statutory instrument.

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22 Extent

This Act extends to Northern Ireland.

23 Short title

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This Act may be cited as the National Lottery Act 2005.

SCHEDULES

SCHEDULE 1

Section 6

NATIONAL LOTTERY LICENSING

The National Lottery etc. Act 1993 (c. 39)

- | | | |
|---|---|----|
| 1 | The National Lottery etc. Act 1993 shall be amended as follows. | 5 |
| 2 | For section 1 (the National Lottery) substitute – | |
| | “1 The National Lottery | |
| | (1) A lottery forms part of the National Lottery if it is promoted in accordance with a licence under section 5. | |
| | (2) A reference to the National Lottery is a reference to the lotteries forming part of the National Lottery in accordance with subsection (1).” | 10 |
| 3 | In section 4(3) (overriding duties) for “the sums that are paid to the Secretary of State by virtue of section 5(6).” substitute “the sums paid into the National Lottery Distribution Fund under section 5(2)(c).” | 15 |
| 4 | For sections 5 and 6 (licence to run the National Lottery and licence to promote lottery) substitute – | |
| | “5 Licence to promote lottery | |
| | (1) The Commission may by licence authorise a person to promote a lottery. | 20 |
| | (2) A licence – | |
| | (a) may make provision about any matter connected with the promotion of a lottery (including, in particular, arrangements for advertising, for the sale of tickets, for the distribution of prizes or for compliance with a provision of this Act), | 25 |
| | (b) may, in particular, require the licensee to – | |
| | (i) obtain in advance the Commission’s approval of the rules of a lottery, and | |
| | (ii) pay a fee of such amount as may be prescribed by regulations made by the Secretary of State in respect of an application for approval of the rules of a lottery, | 30 |
| | (c) shall include a condition requiring the licensee to pay into the National Lottery Distribution Fund sums out of the proceeds of any lottery promoted in reliance on the licence, | |
| | (d) shall include provision for determining – | 35 |
| | (i) the amount of payments under paragraph (c), and | |

-
- (ii) the timing of payments under paragraph (c), and
 - (e) may include provision requiring the licensee to make arrangements (which may include payments to the Commission) for securing the payment of prizes in certain circumstances. 5
 - (3) No more than one licence may be issued in relation to any one lottery; but—
 - (a) a licence may relate to one or more specified lotteries or to lotteries of a specified description,
 - (b) a person may hold more than one licence at a time, and 10
 - (c) a licence may require or permit the holder to make arrangements with another person for the performance of specified functions.
 - 6 Section 5 licence: procedure**
 - (1) The Commission may issue a licence under section 5 to a person only if— 15
 - (a) he has applied in writing for the licence,
 - (b) he has supplied such information or documents in or with the application as the Commission directs,
 - (c) having considered the application the Commission is satisfied that the applicant is a suitable person to promote the lottery or lotteries to which the licence relates, and 20
 - (d) the Commission has complied with any relevant regulations under section 6A (but this paragraph is subject to section 6A(3)). 25
 - (2) For the purposes of subsection (1)(c) the Commission may, in particular, have regard to—
 - (a) the integrity of the applicant or of a person relevant to the application;
 - (b) the competence of the applicant or of any person relevant to the application; 30
 - (c) the financial and other circumstances of the applicant or of a person relevant to the application.
 - (3) A person is relevant to an application under section 5 for the purposes of this section if, in particular— 35
 - (a) he is likely to exercise a function in connection with the promotion of a lottery in reliance on the licence applied for, or
 - (b) he is likely to have an interest in a lottery promoted in reliance on the licence applied for. 40
 - 6A Competition for licences**
 - (1) The Commission may not issue a licence under section 5 unless it has complied, in relation to the licence, with regulations of the Secretary of State about inviting competing applications for licences.
 - (2) The regulations shall, in particular, make provision— 45

- (a) about the publication of invitations (including provision as to the manner and timing of publication and the matters to be published), and
 - (b) about the timing of responses.
 - (3) Where an application for a licence under section 5 relates to a lottery already licensed the Commission may issue the licence without complying with the regulations (whether or not compliance has begun) if the Commission thinks it –
 - (a) is likely to be in the interests of compliance with the duty under section 4(2), or
 - (b) is necessary in order to prevent the lapse of the lottery.
 - (4) Where a licence is issued in reliance on subsection (3)(b), the period specified for the duration of the licence under section 7(1A) shall be no longer than the Commission thinks necessary to enable a further licence to be issued having complied with the regulations.
 - (5) This section applies to a variation of a licence which expands the class of authorised activities as it applies to the issue of a licence.
 - (6) Before making regulations under subsection (1) the Secretary of State shall consult the Commission.”
- 5 (1) Section 7 (licensing: supplemental) shall be amended as follows. 20
 - (2) For subsections (1) and (1A) substitute –
 - “(1) A licence under section 5 must be in writing.
 - (1A) A licence under section 5 must specify a period during which it has effect (unless revoked or suspended) –
 - (a) beginning with the date of issue, and
 - (b) not exceeding 15 years.”
 - (3) In subsection (1B) for “section 5 or 6” substitute “section 5”.
 - (4) In subsection (2) –
 - (a) for “A licence granted under section 5 or 6” substitute “A licence under section 5”, and
 - (b) for “by section 5 or 6” substitute “by section 5”.
 - (5) After subsection (3) insert –
 - “(3A) Conditions under subsection (2), or requirements under subsection (2)(c), may, in particular, require the holder of a licence under section 5 –
 - (a) to provide information in connection with the licensed activities to –
 - (i) the holder of another licence under section 5,
 - (ii) a person who is applying, or considering whether to apply, for a licence under section 5, or
 - (iii) such other person as the condition or requirement may specify or may enable the Commission to specify;
 - (b) to make facilities in connection with the licensed activities available to –

	(i) the holder of another licence under section 5,	
	(ii) a person who is applying, or considering whether to apply, for a licence under section 5, or	
	(iii) such other person as the condition or requirement may specify or may enable the Commission to specify;	5
	(c) to co-operate with the holder of another licence under section 5 in a specified matter;	
	(d) to participate in or co-operate with arrangements designed for the purposes of –	10
	(i) holders of section 5 licences generally, or	
	(ii) a class of holders of section 5 licences generally;	
	(e) not to enter into an arrangement of a specified kind that would or might be harmful to the interests of the holder of another licence under section 5.”	15
(6)	In subsection (4) for “section 5 or 6” substitute “section 5”.	
(7)	In the heading of the section for “sections 5 and 6” substitute “section 5”.	
6	In section 7A(1) (annual fee) (inserted by section 5 above) for “section 5 or 6” substitute “section 5”.	
7	In section 8 (variation of licence conditions) –	20
	(a) in subsection (1) for “section 5 or 6” substitute “section 5”, and	
	(b) in subsection (3)(b) omit “in the case of a licence granted under section 5”.	
8	In section 9 (enforcement of licence conditions) –	
	(a) in subsection (1) for “section 5 or 6” substitute “section 5”, and	25
	(b) in subsection (3) for “section 5(6)” substitute “section 5(2)(c)”.	
9	In section 10 (revocation of licence) –	
	(a) in subsection (1) for “a fit and proper body to run the National Lottery.” substitute “a suitable person to promote the lottery or lotteries to which the licence relates”,	30
	(b) omit subsection (2),	
	(c) in subsection (3) for “section 5 or 6” substitute “section 5”, and	
	(d) in subsection (3A) for “section 5 or 6” substitute “section 5”.	
10	In section 10A (financial penalties for breach of licence condition) –	
	(a) in subsections (1) and (2)(a) for “section 5 or 6” substitute “section 5”, and	35
	(b) in subsection (2)(b) for “paid to the Secretary of State under section 5(6)” substitute “payable under section 5(2)(c)”.	
11	In section 10C (annual levy) in subsections (1), (3)(a) and (b) and (4) for “section 5 or 6” substitute “section 5”.	40
12	In section 22 (apportionment of National Lottery Distribution Fund: saving) for “section 5(6)” substitute “section 5(2)(c)”.	
13	In section 32 (distribution fund: investment) for “section 5(6)” substitute “section 5(2)(c)”.	

- 14 In Schedule 3 (revocation of licences) for paragraphs 4 and 5 substitute –
- “4 (1) The licensee is not providing or proposing to provide facilities that are necessary or desirable in connection with the operation of a lottery.
- (2) The licensee is not taking or proposing to take steps that are necessary or desirable for preventing the commission of fraud by participants in a lottery. 5
- (3) A person who is exercising a function in connection with the promotion of a lottery is unsuitable.
- (4) A person who has an interest in a lottery is unsuitable.” 10

Other Acts

- 15 For section 115(5)(d) of the Police Act 1997 (c. 50) (enhanced criminal record certificates) substitute –
- “(d) a licence under section 5 of the National Lottery etc. Act 1993 (c. 39) (licence to promote lottery);” 15
- 16 (1) The Horserace Betting and Olympic Lottery Act 2004 (c. 25) shall be amended as follows.
- (2) In section 21 (designation of Olympic Lotteries) –
- (a) in subsection (1) for “section 6” substitute “section 5”, and
- (b) subsections (2) and (3) shall cease to have effect. 20
- (3) In section 22(1) (timing) for “section 6” substitute “section 5”.
- (4) For section 24(1) (payments into Olympic Lottery Distribution Fund) substitute –
- “(1) Where a sum is required by virtue of section 5(2)(c) of the National Lottery etc. Act 1993 (c. 39) to be paid into the National Lottery Distribution Fund out of proceeds of lotteries promoted in reliance on a licence, such proportion of that sum as is attributable to Olympic Lotteries shall be paid instead into the Olympic Lottery Distribution Fund.” 25
- (5) In section 26(4)(a) (payments out of Olympic Lottery Distribution Fund) for “section 5(6)” substitute “section 5(2)(c)”. 30
- (6) In section 28(3)(a) (winding up of Olympic Lottery Distribution Fund) for “section 5(6)” substitute “section 5(2)(c)”.
- (7) In section 32(3)(a) (distribution of Olympic Lottery Distributor) for “section 5(6)” substitute “section 5(2)(c)”. 35

SCHEDULE 2

Section 13

NEW SCHEDULE 4A TO THE NATIONAL LOTTERY ETC. ACT 1993

SCHEDULE 4A

THE BIG LOTTERY FUND

PART 1

5

CONSTITUTION

Membership

- 1 (1) The Big Lottery Fund shall consist of 12 members appointed by the Secretary of State.
- (2) The Secretary of State shall appoint one of the members as Chairman. 10
- (3) The Secretary of State shall ensure that at any time –
- (a) one of the members is appointed to represent the interests of England,
 - (b) one of the members is appointed to represent the interests of Wales,
 - (c) one of the members is appointed to represent the interests of Scotland, and 15
 - (d) one of the members is appointed to represent the interests of Northern Ireland.
- (4) In complying with paragraphs (a) to (d) of sub-paragraph (3) the Secretary of State – 20
- (a) may not appoint a member for the purpose of satisfying more than one of those paragraphs,
 - (b) may appoint the Chairman for the purpose of satisfying one of those paragraphs,
 - (c) shall obtain the agreement of the National Assembly for Wales before appointing a person to satisfy paragraph (b), 25
 - (d) shall obtain the agreement of the Scottish Ministers before appointing a person to satisfy paragraph (c), and
 - (e) shall obtain the agreement of the Northern Ireland Department of Culture, Arts and Leisure before appointing a person to satisfy paragraph (d). 30
- (5) The Secretary of State may by order vary the number specified in sub-paragraph (1).
- (6) Before making an order under sub-paragraph (5) the Secretary of State shall consult – 35
- (a) the National Assembly for Wales,
 - (b) the Scottish Ministers, and
 - (c) the Northern Ireland Department of Culture, Arts and Leisure.

Tenure

- 2 A person shall hold and vacate office as Chairman or other member of the Fund in accordance with the terms of his appointment (subject to this Schedule).
- 3 The Chairman or another member may resign his office by notice in writing to the Secretary of State. 5
- 4 (1) The Chairman or another member may be removed from office by the Secretary of State on the grounds that –
- (a) a bankruptcy order has been made against him, his estate has been sequestrated or he has made a composition or arrangement with, or granted a trust deed for, his creditors, or 10
 - (b) he is, in the opinion of the Secretary of State, unable, unfit or unwilling to discharge the functions of his office.
- (2) Before exercising the power under sub-paragraph (1) in respect of a person appointed for the purpose of satisfying paragraph 1(3)(b), (c) or (d) the Secretary of State shall consult – 15
- (a) the National Assembly for Wales, in the case of a person appointed for the purpose of satisfying paragraph 1(3)(b),
 - (b) the Scottish Ministers, in the case of a person appointed for the purpose of satisfying paragraph 1(3)(c), and 20
 - (c) the Northern Ireland Department of Culture, Arts and Leisure, in the case of a person appointed for the purpose of satisfying paragraph 1(3)(d).
- 5 A person who ceases, otherwise than by virtue of paragraph 4, to be Chairman or another member may be re-appointed. 25

Staff

- 6 The Fund may appoint staff (subject to any directions under section 36E(3)(b)).

Committees

- 7 (1) The Fund shall establish – 30
- (a) a committee, chaired by the member appointed under paragraph 1(3)(a), for the purpose of exercising the Fund’s functions in relation to English devolved expenditure,
 - (b) a committee, chaired by the member appointed under paragraph 1(3)(b), for the purpose of exercising the Fund’s functions in relation to Welsh devolved expenditure, 35
 - (c) a committee, chaired by the member appointed under paragraph 1(3)(c), for the purpose of exercising the Fund’s functions in relation to Scottish devolved expenditure, and
 - (d) a committee, chaired by the member appointed under paragraph 1(3)(d), for the purpose of exercising the Fund’s functions in relation to Northern Ireland devolved expenditure. 40
- (2) Before appointing the members of a committee established under sub-paragraph (1) the Fund shall obtain the consent of –

	(a) in the case of the committee concerned with England, the Secretary of State;	
	(b) in the case of the committee concerned with Wales, the National Assembly for Wales;	
	(c) in the case of the committee concerned with Scotland, the Scottish Ministers;	5
	(d) in the case of the committee concerned with Northern Ireland, the Northern Ireland Department of Culture, Arts and Leisure.	
(3)	A committee established under sub-paragraph (1) shall carry on its activities under such name as the committee may determine with the consent of the Secretary of State and –	10
	(a) in the case of the committee concerned with Wales, with the consent of the National Assembly for Wales;	
	(b) in the case of the committee concerned with Scotland, with the consent of the Scottish Ministers;	15
	(c) in the case of the committee concerned with Northern Ireland, with the consent of the Northern Ireland Department of Culture, Arts and Leisure.	
8	Nothing in paragraph 7 or section 25A(6) shall prevent the Fund from –	
	(a) establishing a committee otherwise than in accordance with that paragraph or section, or	20
	(b) authorising a committee (whether or not established in accordance with that paragraph or section) to exercise a function of the Fund.	
9	Section 25A(7) shall apply in relation to any committee of the Fund as it applies in relation to a committee established under section 25A(6).	25
<i>Status</i>		
10	The Fund shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown.	
<i>Supervision</i>		
11	In Schedule 2 to the Parliamentary Commissioner Act 1967 (c. 13) (departments, &c. subject to investigation) insert at the appropriate place – “The Big Lottery Fund.”	30
<i>Disqualification</i>		
12	In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (other disqualifying offices) insert at the appropriate place – “Chairman, or member in receipt of remuneration, of the Big Lottery Fund.”	35
13	In Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) (other disqualifying offices) insert at the appropriate place – “Chairman, or member in receipt of remuneration, of the Big Lottery Fund.”	40

PART 2

PROCEEDINGS

Self-regulation

- 14 The Fund may, subject to this Schedule, regulate its procedure and the procedure of its committees (and may, in particular, make provision for a quorum). 5

Records

- 15 In Schedule 1 to the Public Records Act 1958 (definition of public records) the following entry shall be inserted at the appropriate place in Part II of the Table at the end of paragraph 3— 10
“The Big Lottery Fund.”

Saving

- 16 The validity of proceedings of the Fund or a committee shall not be affected by— 15
(a) a vacancy among its members, or
(b) a defect in the appointment of a person as Chairman or member.

PART 3

MONEY

Remuneration, &c.

- 17 (1) The Fund may pay to the Chairman, another member or a member of a committee— 20
(a) such remuneration as the Secretary of State may determine, and
(b) such travelling and other allowances as the Secretary of State may determine.
- (2) The Fund may pay to or in respect of the Chairman or another member such sums as the Secretary of State may determine by way of, or in respect of, pensions, allowances or gratuities. 25
- (3) If the Secretary of State thinks that there are special circumstances that make it right for a person ceasing to hold office as Chairman or member to receive compensation, the Fund may pay him such compensation as the Secretary of State may determine. 30
- 18 (1) The Fund may (subject to any directions under section 36E(3)(b)) pay sums to or in respect of a member or former member of staff by way of or in respect of— 35
(a) remuneration,
(b) allowances,
(c) pensions,
(d) gratuities, or
(e) compensation for loss of employment.
- (2) *In Schedule 1 to the Superannuation Act 1972 (c. 11) (employment to which 40*

superannuation schemes may extend) in the list of other bodies insert at the appropriate place –

“The Big Lottery Fund.”

Payments

- 19 The Fund may make payments in respect of expenditure (which may include expenditure of a capital nature) of – 5
- (a) the Fund, or
- (b) a person to whom it delegates a function under section 25A(1).

Investment

- 20 (1) The Fund may deposit money in an interest-bearing account (but may not otherwise invest). 10
- (2) The proceeds of money received by the Fund and invested under sub-paragraph (1) shall be treated for the purposes of Part II of this Act as part of that money.

Accounts

- 21 (1) The Fund shall – 15
- (a) keep proper accounting records, and
- (b) prepare a statement of accounts in respect of each financial year.
- (2) The Fund shall send a copy of a statement under sub-paragraph (1)(b) – 20
- (a) to the Secretary of State,
- (b) to the National Assembly for Wales,
- (c) to the Scottish Ministers,
- (d) to the Northern Ireland Department of Culture, Arts and Leisure, and
- (e) to the Comptroller and Auditor General. 25
- (3) A copy of a statement must be sent under sub-paragraph (2) within such period, beginning with the end of the financial year to which the statement relates, as the Secretary of State may, with the consent of the Treasury, direct.
- (4) The Comptroller and Auditor General shall – 30
- (a) examine, certify and report on a statement received under this paragraph, and
- (b) lay a copy of the statement and his report before Parliament.

SCHEDULE 3

Section 20

REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
Public Records Act 1958 (c. 51)	In Schedule 1, in Part II of the Table at the end of paragraph 3, the entries for the National Lottery Charities Board, the Millennium Commission and the New Opportunities Fund.	5
Parliamentary Commissioner Act 1967 (c. 13)	In Schedule 2, the entries for the National Lottery Charities Board, the Millennium Commission and the New Opportunities Fund.	10
Superannuation Act 1972 (c. 11)	In Schedule 1, the references to employment by— (a) the National Lottery Charities Board, and (b) the New Opportunities Fund.	15
House of Commons Disqualification Act 1975 (c. 24)	In Schedule 1, in Part III, the entries for the Chairman and members of— (a) the National Lottery Charities Board, and (b) the New Opportunities Fund.	20
Northern Ireland Assembly Disqualification Act 1975 (c. 25)	In Schedule 1, in Part III, the entries for the Chairman and members of— (a) the National Lottery Charities Board, and (b) the New Opportunities Fund.	25
Race Relations Act 1976 (c. 74)	In Schedule 1A, in Part II, the entries for the National Lottery Charities Board, the Millennium Commission and the New Opportunities Fund.	30
Charities Act 1993 (c. 10)	In Schedule 2, paragraph (zb).	
National Lottery etc. Act 1993 (c. 39)	Section 7(5) and (6). Section 32(5). Section 34(4). Sections 37 to 43D. In section 44(4), “or 43B”. Schedules 5 to 6A.	35
National Lottery Act 1998 (c. 22)	In section 6, subsections (2) to (7) and (9) to (10). Section 7. In section 8, subsections (1) and (3) to (7). Section 11(5) and (6). Section 14. Schedule 2.	40
Government of Wales Act 1998 (c. 38)	In Schedule 5, paragraph 34.	45

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Freedom of Information Act 2000 (c. 36)	In Schedule 1, in Part VI, the entries for the National Lottery Charities Board, the Millennium Commission and the New Opportunities Fund.
National Lottery (Funding of Endowments) Act 2003 (c. 23)	In section 1, subsections (5) to (7).

National Lottery Bill

A

B I L L

To make provision about the National Lottery.

*Presented by Secretary Tessa Jowell
supported by
The Prime Minister, Mr Secretary Prescott,
Mr Chancellor of the Exchequer,
Secretary Margaret Beckett,
Mr Secretary Darling, Ms Secretary Hewitt,
Mr Secretary Clarke, Mr Secretary Hain,
Secretary Ruth Kelly and Mr Richard Caborn.*

*Ordered, by the House of Commons,
to be Printed, 24th May 2005.*

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PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS
LONDON – THE STATIONERY OFFICE LIMITED
Printed in the United Kingdom by
The Stationery Office Limited
£x.xx