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# National Lottery etc. Act 1993

## 1993 CHAPTER 39

### PART I

#### AUTHORISATION AND REGULATION OF THE NATIONAL LOTTERY

##### *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.

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- (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
  - (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;

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- (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.
- (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—

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- (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.
- (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.

VALID FROM 02/09/1998

### **[<sup>F1</sup>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.

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- (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.
- (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,

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- (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

**F1** S. 10A inserted (2.9.1998) by 1998 c. 22, ss. 2(1)(5), 27(5).

#### Marginal Citations

**M1** 1838 c. 110.

VALID FROM 02/09/1998

#### **[<sup>F2</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,

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- (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.]

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#### Textual Amendments

**F2** S. 10B inserted (2.9.1998) by 1998 c. 22, ss. 3, 27(5).

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