



# National Lottery etc. Act 1993

## 1993 CHAPTER 39

### PART II

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

##### *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>F1</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>F2</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>F3</sup>(4A) Directions under subsection (3A) may in particular—

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- (a) impose limits on the amount of money which may be distributed by a body under section 25(1) by virtue of decisions made on its behalf by bodies or persons not falling within section 25A(2), and
  - (b) require a body, before appointing any body or person not falling within section 25A(2) to exercise on its behalf any function of making decisions concerning the distribution of money under section 25(1), to obtain the approval of the Secretary of State to its plans for making such appointments.]
- (5) The Secretary of State shall consult a body before giving any directions to it under this section.

#### Textual Amendments

- F1** S. 26(3A) inserted (2.7.1998) by 1998 c. 22, **ss. 11(2)**, 27(4).
- F2** Words in s. 26(4) inserted (2.7.1998) by 1998 c. 22, **s. 11(3)**.
- F3** S. 26(4A) inserted (2.7.1998) by 1998 c. 22, **ss.11(4)**, 27(4).

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

- C1** 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**
- C2** S. 26(1)(5): transfer of certain functions (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**
- C3** 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**
- C4** 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**
- C5** 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**
- C6** 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**
- C7** 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**

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## [<sup>F4</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>F5</sup> (4) <sup>F6</sup> and (5) shall, as regards directions to—
    - (i) any body specified in section 23(1) <sup>F7</sup> whose functions exclusively or mainly relate to the arts in Scotland; or
    - (ii) any body specified in section 23(2) <sup>F8</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>F9</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

- F4** 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**
- F5** Section 26(3A) was inserted by the 1998 Act section 11(2).
- F6** Section 26(4) was amended by the 1998 Act, section 11(3).
- F7** Section 23(1) was amended by S.I. 1994/1342 and 1995/2088.
- F8** Section 23(2) was amended by S.I. 1996/3095,
- F9** Section 43B was inserted by the 1998 Act section 7(2).

### Modifications etc. (not altering text)

- C8** 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**

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**C9** 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**

## 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>M1</sup>Companies Act 1985 or the <sup>M2</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>M3</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.
- [<sup>F10</sup>(9) The function of the Secretary of State—
  - (a) under subsection (1) to prohibit a body from distributing money; or
  - (b) under subsection (8) to require information,
 may, in relation to—

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- (i) any body specified in section 23(1) whose functions exclusively or mainly relate to the arts in Scotland; or
  - (ii) any body specified in section 23(2) whose functions exclusively or mainly relate to sport in Scotland,
- be exercised separately.]

#### Textual Amendments

**F10** S. 27(9) added (30.6.1999) by S.I. 1999/1756, arts. 1(1), 2, **Sch. para. 15(4)** (with art. 8); S.I. 1998/3178, **art. 3**

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

**C10** S. 27: transfer of certain functions (1.7.1999) by S.I. 1999/672, art. 2, **Sch. 1**

**C11** S. 27(1): 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. 27(8): 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**

#### Marginal Citations

**M1** 1985 c. 6.

**M2** S.I. 1986/1032 (N.I. 6).

**M3** 1991 c. 24.

## 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)

**C13** 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;

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- (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);
  - (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.
- [<sup>F11</sup>(6) The functions of the Secretary of State under this section shall, in so far as they relate to—
  - (a) substitution of a different body for, or addition of another body to, the body specified in section 23(3) or (4) or omission of a body specified in either of those subsections; or
  - (b) substitution of a different percentage for the total aggregate percentage specified as held in the Distribution Fund for—
    - (i) any body or bodies specified in section 23(1) whose functions exclusively or mainly relate to the arts in Scotland, or
    - (ii) any body or bodies specified in section 23(2) whose functions exclusively or mainly relate to sport in Scotland;
  - (c) substitution of a different body for, or addition of another body to, any such body specified in section 23(1) or (2) as is mentioned in paragraph (b) above or omission of any such body specified in section 23(1) or (2); or

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- (d) where more than one such body is specified in section 23(1) or (2), specification of the particular percentage held in the Distribution Fund for distribution by any one of those bodies,  
be treated as exercisable in or as regards Scotland and may be exercised separately.]

#### Textual Amendments

- F11** S. 29(6) added (30.6.1999) by S.I. 1999/1756, arts. 1(1), 2, **Sch. para. 15(5)** (with art. 8); S.I. 1998/3178, **art. 3**

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

- C14** S. 29(1) (as read with s. 29(6)(c)(d)): 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. 29(1) (as read with s. 29(6)(a)(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**  
S. 29(1): functions amended (1.7.1999) by S.I. 1999/672, **art. 5, Sch. 2**
- C15** S. 29(3) (as read with s. 29(6)(c)(d)): 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. 29(3) (as read with s. 29(6)(a)(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**
- C16** S. 29(3)(b): functions amended (1.7.1999) by S.I. 1999/672, **art. 5, Sch. 2**
- C17** S. 29(4) (as read with s. 29(6)(c)(d)): 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. 29(4) (as read with s. 29(6)(a)(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**
- C18** S. 29(5) (as read with s. 29(6)(c)(d)): 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. 29(5) (as read with s. 29(6)(a)(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**

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