



# National Lottery Act 1998

## 1998 CHAPTER 22

An Act to make further provision in relation to the National Lottery; to make provision for and in connection with the establishment of a body corporate to be endowed out of the National Lottery Distribution Fund and to be known as the National Endowment for Science, Technology and the Arts; and for connected purposes. [2nd July 1998]

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:—

### PART I

#### PROVISIONS RELATING TO THE NATIONAL LOTTERY

##### *The Director General and the National Lottery Commission*

#### **1 Replacement of Director General by National Lottery Commission.**

- (1) There shall cease to be an office of Director General of the National Lottery.
- (2) In consequence of subsection (1) above, in the <sup>M1</sup>National Lottery etc. Act 1993 (in this Act referred to as “the 1993 Act”) section 3 and Schedule 2 (which relate to the Director General of the National Lottery) shall cease to have effect.
- (3) After section 3 of the 1993 Act there shall be inserted—

##### **“3A The National Lottery Commission.**

- (1) There shall be a body corporate known as the National Lottery Commission.
- (2) Schedule 2A makes provision in relation to the Commission.”

*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the National Lottery Act 1998. (See end of Document for details)*

- (4) On the day on which this subsection comes into force under section 27(3) below, the functions conferred or imposed on the Director General of the National Lottery by or under the 1993 Act (including any functions so conferred or imposed by virtue of this Act) shall, by virtue of this subsection, be transferred to the National Lottery Commission.
- (5) Schedule 1 to this Act (which makes provision supplemental to, or consequential on, this section) shall have effect.

**Marginal Citations**

**M1** 1993 c. 39.

*Licensees*

**2 Financial penalties for breach of conditions in licences.**

- (1) After section 10 of the 1993 Act (revocation of licences) there shall be inserted—

**“10A Financial penalties for breach of conditions in licences.**

- (1) If the Director General is satisfied that a person has contravened a condition in a licence under section 5 or 6, he may impose a financial penalty on that person in respect of the contravention.
- (2) The matters to which the Director General may have regard in imposing a financial penalty include the desirability of both—
- (a) deterring persons from contravening conditions in licences under section 5 or 6, and
  - (b) recovering any diminution in the sums paid to the Secretary of State under section 5(6) which is attributable to the contravention.
- (3) If the Director General proposes to impose a financial penalty on a person, he shall serve on that person a notice—
- (a) stating that the person has contravened conditions in the licence,
  - (b) identifying the contraventions in question,
  - (c) stating that the Director General proposes to impose a financial penalty,
  - (d) specifying the amount of the financial penalty,
  - (e) stating the Director General’s reasons—
    - (i) for the imposition of a financial penalty, and
    - (ii) for the amount of the financial penalty,
  - (f) stating the person to whom the financial penalty is to be paid and the manner in which, and place at which, payment may be made, and
  - (g) stating the effect of subsections (5) and (12).
- (4) A notice under subsection (3) must state that the person may, within the period of 21 days beginning with the date of the notice, either—
- (a) make written representations about the matter to the Director General,
- or

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- (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,
  - (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.

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- (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>M2</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)."
- (2) In section 11 of the 1993 Act (directions to the Director General in respect of his functions under sections 5 to 10) for "sections 5 to 10" there shall be substituted "sections 5 to 10A".
- (3) In section 21 of the 1993 Act, in subsection (2) (Secretary of State to pay into the National Lottery Distribution Fund all the sums paid to him by virtue of section 5(6)) after "section 5(6)" there shall be inserted "or 10A".
- <sup>F1</sup>(4) .....
- (5) Subsection (1) above has effect in relation to any contravention, after the coming into force of that subsection, of a condition in a licence under section 5 or 6 of the 1993 Act, whenever granted.

#### Textual Amendments

**F1** S. 2(4) repealed (1.4.1999) by 1998 c. 22, s. 26, **Sch. 5 Pt. I**; S.I. 1999/650, **art. 2(c)**.

#### Marginal Citations

**M2** 1838 c. 110.

### 3 Appeals against financial penalties.

After section 10A of the 1993 Act (financial penalties for breach of conditions of licences) there shall be inserted—

#### “10B Appeals against financial penalties.

- (1) Where the Director General decides under subsection (9) of section 10A to impose a financial penalty on a person, the person may appeal against the decision on the grounds specified in subsection (2) or, as the case may be, subsection (3).
- (2) To the extent that an appeal under this section is against a finding by the Director General that a person contravened a condition of a licence, the grounds for the appeal are—
- (a) that the Director General made an error as to the facts,
  - (b) that there was a material procedural error, or
  - (c) that the Director General made some other error of law.
- (3) To the extent that an appeal under this section is against the amount of a financial penalty, the grounds for the appeal are—

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- (a) that the amount of the penalty is unreasonable,
  - (b) that there was a material procedural error, or
  - (c) that the decision was based on a manifest material misapprehension as to the facts.
- (4) Where on an appeal under this section a court reduces the amount of a financial penalty, the powers of the court shall include power to make such orders as to interest on the penalty as the court considers just and equitable in all the circumstances of the case.
- (5) The power conferred by subsection (4) includes power to make orders as to—
- (a) the rates of interest which are to apply, and
  - (b) the date from which interest is to run.
- (6) An appeal under this section lies to the High Court or, in Scotland, to the Court of Session.
- (7) Any appeal under this section to the Court of Session shall be heard in the Outer House.”

#### **4 Appeals against revocation of licences.**

- (1) Part II of Schedule 3 to the 1993 Act (which relates to procedure and appeals in connection with the revocation, under section 10, of licences under section 5 or 6) shall be amended as follows.
- (2) In paragraph 6(1) (which specifies what a notice of proposed revocation must state) the word “and” at the end of paragraph (c) shall be omitted and after that paragraph there shall be inserted—
- “(cc) that the right of appeal conferred by paragraph 11 is dependent on the licensee having made such written or oral representations, and”.
- (3) In paragraph 7(2)(a) (duration of suspension of licence) for “or the Secretary of State allows an appeal against the revocation” there shall be substituted “ or an appeal against the revocation is allowed ”.
- (4) In paragraph 9(2) (time at which revocation takes effect) for paragraph (b) (determination of appeal to Secretary of State) there shall be substituted—
- “(b) if the licensee appeals within that period against the revocation and the court makes an order under paragraph 11(2), until such time as is specified in the order,
- whichever is the later. ”
- (5) Paragraph 10 (appeals to the Secretary of State) shall cease to have effect.
- (6) After paragraph 10 there shall be inserted—

#### **“11 Appeals**

- (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

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- (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.”

## **5 Access by Comptroller and Auditor General to documents etc.**

- (1) Section 33 of the 1993 Act (accounts of Secretary of State and National Debt Commissioners) shall be amended as follows.
- (2) After subsection (3) there shall be inserted—
  - “(4) For the purpose of exercising his examination function in relation to any accounts prepared under subsection (1), the Comptroller and Auditor General—
    - (a) shall have a right of access at all reasonable times to any documents which he reasonably requires which are in the custody or under the control of any section 5 licensee; and
    - (b) shall have a right to require from any officer or employee of any section 5 licensee, or from the auditors of any section 5 licensee, an explanation of, or information relating to, any such documents;
 but a section 5 licensee shall not, by virtue only of this subsection, be a body to which section 6 of the <sup>M3</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

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- (b) to do all that may be reasonably practicable to secure that any person who under subsection (4)(b) is required to provide an explanation of, or information relating to, any document complies with that requirement;  
and any breach of that duty shall be actionable at the suit of the Comptroller and Auditor General.
- (8) The right of access to documents conferred by subsection (4)(a) includes a right to take copies of or make extracts from documents.
- (9) In this section any reference to documents includes a reference to information held by means of a computer or in any other electronic form; and in the case of information so held the right of access conferred by subsection (4)(a) includes a right of access to, and to take copies of, that information in a visible and legible form.
- (10) In this section—
  - “examination function”, in relation to the Comptroller and Auditor General, means his function under subsection (3);
  - “section 5 licensee” means a body which holds or has held a licence under section 5.”
- (3) This section has effect in relation to accounts prepared under section 33(1) of the 1993 Act so far as they relate to periods beginning on or after 1st April 1999.

**Marginal Citations**

M3 1983 c. 44.

*The new good cause*

**6 The new good cause and the re-allocation of lottery money.**

- (1) Section 22 of the 1993 Act (apportionment of money in Distribution Fund) shall be amended in accordance with subsections (2) to (6) below.
  - F2(2) .....
  - F2(3) .....
  - F2(4) .....
  - F2(5) .....
  - F2(6) .....
  - F2(7) .....
- (8) In subsection (1) of section 44 of the 1993 Act (interpretation of Part II) after the definition of “the Distribution Fund” there shall be inserted—
  - ““education” includes training and the provision of activities for children;
  - “the environment” includes the living and social environment;”.
- F3(9) .....

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F3(10) .....

**Textual Amendments**

**F2** S. 6(2)-(7) repealed (1.12.2006) by [National Lottery Act 2006 \(c. 23\)](#), s. 22(1), **Sch. 3**; S.I. 2006/3201, art. 2(e)

**F3** S. 6(9)-(10) repealed (1.12.2006) by [National Lottery Act 2006 \(c. 23\)](#), s. 22(1), **Sch. 3**; S.I. 2006/3201, art. 2(e)

**F47 The New Opportunities Fund.**

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**Textual Amendments**

**F4** S. 7 repealed (1.12.2006) by [National Lottery Act 2006 \(c. 23\)](#), s. 22(1), **Sch. 3**; S.I. 2006/3201, art. 2(e)

**8 Provisions supplemental to section 7.**

F5(1) .....

(2) In section 44 of the 1993 Act (interpretation of Part II) after subsection (2) there shall be inserted—

“(3) A project or arrangement shall be regarded for the purposes of this Part as concerned or connected with health, education or the environment notwithstanding that it contains incidental provision—

- (a) which is not concerned or connected with any of those matters; but
- (b) which is necessary or expedient for the purposes of the project or arrangement.”

F6(3) .....

F6(4) .....

F6(5) .....

F6(6) .....

F6(7) .....

**Textual Amendments**

**F5** S. 8(1) repealed (1.12.2006) by [National Lottery Act 2006 \(c. 23\)](#), s. 22(1), **Sch. 3**; S.I. 2006/3201, art. 2(e)

**F6** S. 8(3)-(7) repealed (1.12.2006) by [National Lottery Act 2006 \(c. 23\)](#), s. 22(1), **Sch. 3**; S.I. 2006/3201, art. 2(e)



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### *Distributing bodies*

#### **9 Manner of distribution.**

- (1) In section 25 of the 1993 Act (application of money by distributing bodies) after subsection (1) there shall be inserted—

“(1A) The manner in which a body may distribute any money paid to it under section 24 includes making or entering into arrangements for or in connection with meeting expenditure (including arrangements with respect to vouchers); and this subsection shall apply notwithstanding anything to the contrary in any enactment or instrument relating to the functions of the body.”

- (2) In section 44 of the 1993 Act (interpretation of Part II) after subsection (3) (which is inserted by section 8 above) there shall be inserted—

“(4) Any reference in this Part to the distribution of money shall be construed as including the making or entering into of arrangements in accordance with section 25(1A) or 43B; and related expressions used in this Part shall be construed accordingly.”

#### **10 Power of distributing bodies to solicit applications.**

In section 25 of the 1993 Act (application of money by distributing bodies) after subsection (2) there shall be inserted—

“(2A) A body which distributes money under subsection (1) shall have power to solicit applications from other bodies or persons for any of the money which the body so distributes, notwithstanding anything to the contrary in any enactment or instrument relating to the functions of the body.

(2B) In determining whether a decision of a body concerning its distribution of money under subsection (1) was unlawful, it shall be immaterial whether or not the body, or any person acting on behalf of the body, solicited an application from a body or person for such money.”

#### **11 Delegation by distributing bodies of their powers of distribution.**

- (1) After section 25 of the 1993 Act there shall be inserted—

##### **“25A Delegation by distributing bodies of their powers of distribution.**

- (1) A body which distributes money under subsection (1) of section 25 may appoint any other body or person to exercise on its behalf any of its functions relating to, or connected with, the distribution of money under that subsection (including its function of making decisions as to the persons to whom such distributions are to be made)—

- (a) in any particular case, or  
(b) in cases of any particular description.

- (2) The persons who may be appointed by a body under subsection (1) include a member, employee or committee of the body itself.

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- (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
  - (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

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- (b) any reference to a member of a body shall, in the case of a body of trustees, be taken as a reference to any of the trustees, and references to a committee shall be construed accordingly.
- (11) Any reference in this section to a member of a body includes a reference to the chairman or deputy chairman of (or the holder of any corresponding office in relation to) the body.”
- (2) In section 26 of the 1993 Act (directions to distributing bodies) after subsection (3) there shall be inserted—
- “(3A) In exercising any power under section 25A, a body which distributes money under section 25(1) shall comply with any directions given to it by the Secretary of State.”
- (3) In subsection (4) of that section, after “Directions under subsection (3)” there shall be inserted “ or (3A) ”.
- (4) After subsection (4) of that section there shall be inserted—
- “(4A) Directions under subsection (3A) may in particular—
- (a) impose limits on the amount of money which may be distributed by a body under section 25(1) by virtue of decisions made on its behalf by bodies or persons not falling within section 25A(2), and
- (b) require a body, before appointing any body or person not falling within section 25A(2) to exercise on its behalf any function of making decisions concerning the distribution of money under section 25(1), to obtain the approval of the Secretary of State to its plans for making such appointments.”

<sup>F7</sup>(5) .....

<sup>F8</sup>(6) .....

#### Textual Amendments

**F7** S. 11(5) repealed (1.12.2006) by [National Lottery Act 2006 \(c. 23\)](#), s. 22(1), [Sch. 3](#); S.I. 2006/3201, art. 2(e)

**F8** S. 11(6) repealed (1.12.2006) by [National Lottery Act 2006 \(c. 23\)](#), s. 22(1), [Sch. 3](#); S.I. 2006/3201, art. 2(e)

## 12 Joint schemes for distribution of money by distributing bodies.

- (1) After section 25A of the 1993 Act there shall be inserted—

### “25B Joint schemes for distribution of money by distributing bodies.

- (1) A body which distributes money under subsection (1) of section 25 may, in accordance with the following provisions of this section, participate with one or more other such bodies in a joint scheme for the distribution of money under that subsection.
- (2) A body may participate in a joint scheme if the principal purposes of the joint scheme include purposes for which the body has power to distribute money

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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.”
- (2) In section 44 of the 1993 Act (interpretation of Part II) the following definition shall be inserted at the appropriate place in subsection (1)—
 

““joint scheme” means a joint scheme under section 25B;”
- (3) After Schedule 3 to the 1993 Act there shall be inserted the Schedule 3A set out in Schedule 3 to this Act.

### **13 Strategic plans for distributing bodies.**

After section 25B of the 1993 Act there shall be inserted—

#### **“25C Strategic plans for distributing bodies.**

- (1) If the Secretary of State instructs it do so, a body which distributes money under section 25(1) shall, in accordance with the following provisions of this section,
  - (a) prepare and adopt a strategic plan, or
  - (b) review and modify any strategic plan which it has adopted, or
  - (c) replace any strategic plan which it has adopted by preparing and adopting another.
- (2) In this section “strategic plan”, in the case of any body, means a statement containing the body’s policies for the distribution of the money likely to be available to it for distribution under section 25(1).
- (3) A strategic plan must also contain—
  - (a) a statement of any directions given to the body by the Secretary of State under section 26(1) or 43C(1),
  - (b) a statement of the estimate given to the body by the Secretary of State of the money likely to be available for distribution by the body under section 25(1),

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- (c) a statement of the body’s assessment of the needs which the body has power to deal with, in whole or in part, by distributing money under section 25(1), and
  - (d) a statement of the body’s priorities in dealing with those needs by the distribution of money under section 25(1).
- (4) A strategic plan must be such as to demonstrate how the body is taking into account or, as the case may be, complying with the directions mentioned in subsection (3)(a).
- (5) Before adopting a strategic plan, a body shall—
- (a) consult such other bodies as it thinks fit for the purpose of identifying the needs mentioned in subsection (3)(c) and formulating the policies to be adopted for dealing with those needs,
  - (b) prepare a draft of the proposed plan,
  - (c) send a copy of the draft to the Secretary of State, and
  - (d) after consultation with the Secretary of State, make such modifications to the draft as it considers necessary or expedient.
- (6) Where a body adopts a strategic plan—
- (a) the body shall send copies of the document containing the plan to the Secretary of State, and
  - (b) the Secretary of State shall lay a copy of the document before each House of Parliament.
- (7) Nothing in this section applies in relation to any body which distributes under section 25(1) money allocated under section 22(3)(e).”

**F9 14 The National Lottery Charities Board.**

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**Textual Amendments**

**F9** S. 14 repealed (1.12.2006) by [National Lottery Act 2006 \(c. 23\)](#), s. 22(1), [Sch. 3](#); S.I. 2006/3201, art. 2(e)

*Supplemental provision*

**15 Orders and regulations.**

- (1) Section 60 of the 1993 Act (orders and regulations) shall be amended as follows.
- (2) In subsection (2) (affirmative procedure for orders under specified provisions) for “section 28 or 30” there shall be substituted the following paragraphs—
  - “(a) section 28, 30 or 43B, or
  - (b) paragraph 2(5) of Schedule 3A,”.
- (3) After subsection (2) there shall be inserted—
  - “(2A) Subsection (2) does not apply to an order which contains only provision revoking an order under section 43B.”

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- (4) In subsection (3) (negative procedure for statutory instruments containing orders and regulations other than orders under specified provisions) for “an order under section 28, 30 or 65” there shall be substituted the following paragraphs—
- “(a) an order to which subsection (2) applies, or
  - “(b) an order under section 65,”.
- (5) After subsection (3) there shall be inserted—
- “(3A) Subsection (3) does not apply to a statutory instrument which contains only provision revoking an order under paragraph 2(1) of Schedule 3A.
- “(3B) A statutory instrument which contains only provision revoking an order under paragraph 2(1) of Schedule 3A shall be laid before each House of Parliament.”
- (6) After subsection (5) there shall be inserted—
- “(6) Any reference in this section to an order is a reference to an order of the Secretary of State.”

## PART II

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

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

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

#### 17 **Objects.**

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

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## **18 General duty and powers.**

- (1) NESTA shall be under a general duty to achieve their objects by the means for the time being specified in section 17(2) above.
- (2) Subject to any directions under section 20 or 21 below, NESTA may do anything which appears to them to be necessary or expedient for the purpose of or in connection with achieving their objects, including in particular—
  - (a) giving financial assistance to persons (whether by way of grant, loan or otherwise);
  - (b) attaching conditions to any financial assistance given, including conditions requiring repayment, payment of interest or payment of other amounts;
  - (c) acquiring and disposing of, or exploiting, land and other property;
  - (d) taking charges or other forms of security over land and other property;
  - (e) entering into contracts of whatever nature;
  - (f) forming, or acquiring and disposing of interests in, bodies corporate;
  - (g) acting with other persons, whether by way of partnership, joint venture or otherwise;
  - (h) accepting gifts of assistance, money, land and other property; and
  - (i) investing money not immediately required for the purpose of achieving their objects.
- (3) NESTA may not, without the approval of the Secretary of State—
  - (a) borrow money; or
  - (b) make or enter into arrangements which give rise to, or may give rise to, contingent liabilities of an unusual nature.
- (4) Directions under section 21 below may include provision for the purpose of determining whether arrangements are such as give rise to, or may give rise to, contingent liabilities of an unusual nature.

## **19 Initial and subsequent endowment.**

- (1) For the purpose of providing NESTA with an endowment to enable them to achieve their objects, the Secretary of State may, before the end of the period of one year beginning with the day on which this Act is passed, make one or more payments to NESTA out of money held in the National Lottery Distribution Fund and allocated for expenditure on or connected with health, education or the environment.
- (2) For the purpose of increasing the amount of NESTA's endowment, the Secretary of State may, at any time after the end of the period of one year beginning with the day on which this Act is passed, make an order permitting him to pay to NESTA, out of money held in the National Lottery Distribution Fund and allocated for such one or more of the descriptions for the time being mentioned in section 22(3) of the 1993 Act as may be specified in the order, such sum or, as the case may be, such sums (whether or not of equal amounts) as may be so specified.
- (3) Before making an order under this section, the Secretary of State shall consult each of the bodies for the time being mentioned in section 23 of the 1993 Act.
- (4) Where an order is made under this section, the Secretary of State may make the payment or payments permitted by the order.

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- (5) NESTA may not spend their endowment, or any part of their endowment, without the approval of the Secretary of State.
- (6) In subsections (2) and (5) above, “endowment” means the aggregate of any amounts paid to NESTA under subsection (1) or (4) above.
- (7) In section 22 of the 1993 Act (apportionment of money in Distribution Fund) after subsection (3) there shall be inserted—
  - “(4) This section has effect subject to section 19 of the National Lottery Act 1998.”
- (8) An order under this section shall be made by statutory instrument; but no such instrument shall be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.

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

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

## **21 Financial directions etc.**

- (1) NESTA shall comply with any directions given to them by the Secretary of State—
  - (a) in connection with the management, control or investment of their endowment or any other money held by them;
  - (b) in connection with the management, control, use or exploitation of any property in which they have an interest;
  - (c) in connection with the control of their administrative costs (including staff costs); or
  - (d) otherwise in connection with their financial affairs.
- (2) If NESTA fail to comply with any direction given to them under this section, the Secretary of State may, after taking into account any representations made by NESTA, require NESTA to pay to him such amount as the Secretary of State thinks appropriate having regard to the extent or degree of that failure.



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- (3) The amount, or the aggregate of any amounts, which NESTA are required to pay under this section shall not exceed the amount of their endowment.
- (4) Any amount which NESTA are required to pay under this section shall be recoverable by the Secretary of State as a debt due to him from NESTA.
- (5) The Secretary of State shall pay into the National Lottery Distribution Fund any amount received by him under this section; and any amount so paid shall be treated for the purposes of the 1993 Act as so paid under section 21(2) of that Act.
- (6) The Secretary of State shall consult NESTA before giving any directions to them under this section.
- (7) In this section “endowment” has the meaning given by section 19(6) above.

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

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

## **23 Accounts.**

- (1) NESTA shall—
  - (a) keep proper accounts and proper records in relation to the accounts, and
  - (b) prepare a statement of accounts in respect of each financial year.
- (2) The statement shall comply with any directions that may be given by the Secretary of State as to the information to be contained in such a statement, the manner in which such information is to be presented or the methods and principles according to which such a statement is to be prepared.
- (3) Copies of the statement shall be sent to the Secretary of State and the Comptroller and Auditor General within such period after the end of the financial year to which the statement relates as the Secretary of State may direct.
- (4) The Comptroller and Auditor General shall examine, certify and report on the statement and shall lay copies of the statement and of his report before Parliament.

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- (5) The Secretary of State shall not give a direction under this section without the Treasury’s approval.

## 24 Exemption from taxation.

<sup>F10</sup>(1) .....

- (2) In section 271(7) of the <sup>M4</sup>Taxation of Chargeable Gains Act 1992 (certain bodies exempt from tax in respect of chargeable gains) after “the Trustees of the National Heritage Memorial Fund,” there shall be inserted “ the National Endowment for Science, Technology and the Arts, ”.
- (3) In Schedule 3 to the <sup>M5</sup>Inheritance Tax Act 1984 (exemption for gifts for national purposes etc) after the entry relating to the Trustees of the National Heritage Memorial Fund there shall be inserted— “ The National Endowment for Science, Technology and the Arts. ”
- (4) In section 129(1) of the <sup>M6</sup>Finance Act 1982 (exemption from stamp duty on grants, transfers to charities etc) after “the Trustees of the National Heritage Memorial Fund” there shall be inserted “ or to the National Endowment for Science, Technology and the Arts ”.
- (5) In section 90(7) of the <sup>M7</sup>Finance Act 1986 (exceptions from stamp duty reserve tax as regards agreements to transfer securities to certain bodies etc) after paragraph (d) there shall be inserted “or
- (e) the National Endowment for Science, Technology and the Arts.”

### Textual Amendments

**F10** S. 24(1) repealed (with effect in accordance with s. 1184(1) of the amending Act) by [Corporation Tax Act 2010 \(c. 4\)](#), s. 1184(1), [Sch. 3 Pt. 1](#) (with [Sch. 2](#))

### Marginal Citations

**M4** 1992 c. 12  
**M5** 1984 c. 51.  
**M6** 1982 c. 39.  
**M7** 1986 c. 41.

## 25 Interpretation of Part II.

- (1) In this Part of this Act—
- “financial year”, in relation to NESTA, means—
- (a) the period beginning with the date on which NESTA is established and ending with the next 31st March following that date, and
- (b) each successive period of twelve months ending with 31st March;
- “the National Lottery Distribution Fund” has the same meaning as in the 1993 Act;
- “NESTA” means the National Endowment for Science, Technology and the Arts.
- (2) Any reference in this Part of this Act to the arts includes a reference to—

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- (a) architecture, design or crafts;
  - (b) the film, audio-visual or broadcasting industries; and
  - (c) the music industry.
- (3) Any reference in this Part of this Act to property includes a reference to intellectual property.
- (4) Any directions under this Part of this Act shall be given in writing and may be varied or revoked by subsequent directions.

## PART III

### SUPPLEMENTAL PROVISIONS

#### 26 Repeals.

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

#### Commencement Information

- II** S. 26 partly in force; s. 26 in force at 2.7.1998 in relation to specified repeals in Sch. 5 and at 2.9.1998 in relation to further specified specified repeals see s. 27(3)-(5); s. 26 in force at 1.4.1999 so far as relating to Sch. 5 Pt. I by S.I. 1999/650, art. 2.

#### 27 Short title, interpretation, commencement and extent.

- (1) This Act may be cited as the National Lottery Act 1998.
- (2) In this Act “the 1993 Act” means the <sup>M8</sup>National Lottery etc. Act 1993.
- (3) The following provisions of this Act, namely—
- (a) section 1,
  - (b) Schedule 1, and
  - (c) Part I of Schedule 5 and section 26 so far as relating to that Part of that Schedule,
- shall come into force on such day as the Secretary of State may appoint by order made by statutory instrument; and different days may be so appointed for different purposes.
- (4) The following provisions of this Act, namely—
- (a) this section,
  - (b) sections 6 to 12 and 15 to 25,
  - (c) Schedules 2 to 4, and
  - (d) section 26 and Part II of Schedule 5, so far as relating to the repeals in section 22 of, and paragraphs 2, 3 and 6 of Schedule 5 to, the 1993 Act,
- shall come into force on the day on which this Act is passed.
- (5) The remaining provisions of this Act shall come into force at the end of the period of two months beginning with the day on which this Act is passed.

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- (6) The power conferred by subsection (3) above to make an order includes power to make incidental, consequential, supplemental or transitional provision or savings (including power to amend enactments).
- (7) This Act extends to Northern Ireland.

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**Subordinate Legislation Made**

**P1** [S. 27\(3\)](#) power partly exercised (9.9.1999): 1.4.1999 appointed for specified provisions by [S.I. 1999/650, art. 2.](#)

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**Marginal Citations**

**M8** [1993 c. 39.](#)

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## SCHEDULES

### SCHEDULE 1

Section 1.

#### REPLACEMENT OF DIRECTOR GENERAL BY COMMISSION: SUPPLEMENTARY PROVISIONS

##### PART I

##### TRANSFERS ETC

###### *Interpretation*

- 1 In this Part of this Schedule—
- “the appointed day” means the day on which subsection (4) of the principal section comes into force under section 27(3) of this Act;
  - “the Commission” means the National Lottery Commission;
  - “the Director General” means the Director General of the National Lottery;
  - “instrument” includes orders, rules, regulations, schemes, licences, agreements and other documents;
  - “the principal section” means section 1 of this Act.

###### *Transfer of property, rights and liabilities*

- 2 On the appointed day, there shall by virtue of this paragraph be transferred to the Commission any property, rights or liabilities to which, immediately before that day, the Director General was entitled or subject in connection with any functions transferred to the Commission by the principal section.

###### *Transfer of staff*

- 3 (1) This paragraph applies to any person who, immediately before the appointed day, is employed by virtue of paragraph 3 of Schedule 2 to the 1993 Act.
- (2) Any contract of employment under which a person to whom this paragraph applies is so employed shall have effect as from the appointed day as if it had originally been made between him and the Commission.
- (3) Without prejudice to sub-paragraph (2) above—
- (a) all the rights, powers, duties and liabilities of the employer under or in connection with a contract to which that sub-paragraph applies shall by virtue of that sub-paragraph be transferred to the Commission on the appointed day, and
  - (b) anything done before that day by or in relation to the employer in respect of that contract or the employee shall be deemed from that day to have been done by or in relation to the Commission.

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- (4) Sub-paragraphs (2) and (3) above are without prejudice to any right of an employee to terminate his contract of employment if his working conditions are changed substantially to his detriment; but such a change shall not be taken to have occurred by reason only of the change in employer effected by sub-paragraph (2) above.
- (5) In sub-paragraph (4) above, the reference to an employee's working conditions includes a reference to any rights (whether accrued or contingent) under any pension or superannuation scheme of which he was a member by virtue of his employment immediately before the appointed day.

*Construction of references to the Director General*

- 4 Any enactment or instrument passed or made before the appointed day shall have effect, so far as necessary for the purposes of, or in consequence of, the transfers effected by the principal section and paragraphs 2 and 3 above, as if any reference to the Director General were a reference to the Commission.

*Continuing validity of past acts*

- 5 (1) Nothing in any other provision of the principal section or this Schedule shall affect the validity of anything done by or in relation to the Director General before the coming into force of that provision.
- (2) Anything (including legal proceedings) which immediately before the appointed day is in the process of being done by or in relation to the Director General may, if it relates to any of the functions, property, rights or liabilities transferred by the principal section or paragraph 2 or 3 above, be continued by or in relation to the Commission.
- (3) Any approval, authorisation, consent, delegation, direction, licence or appointment given, granted or made or other thing whatever done by the Director General for the purposes of any of the functions transferred by the principal section shall, if in force immediately before the appointed day, continue in force and have effect as if similarly given, granted, made or done by the Commission.

*Final report and accounts of the Director General*

- 6 (1) As respects any time on or after the appointed day, the duties imposed on the Director General in relation to—
- (a) accounts, and
  - (b) the making of a report under section 14 of the 1993 Act,
- in respect of his last financial year, or any preceding financial year for which those duties have not been discharged, shall be discharged by the Commission.
- (2) Any reference in this paragraph to the Director General's last financial year is a reference to the financial year beginning with the 1st April last preceding the appointed day.
- (3) The duties imposed on the Commission by sub-paragraph (1) above shall be discharged by them as if the Director General's last financial year ended with the day preceding the appointed day (if it would not in fact do so).
- (4) The property transferred to the Commission by virtue of paragraph 2 above shall include the records of the Director General.

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- (5) For the purposes of this paragraph, the amendments of section 14 of the 1993 Act made by paragraph 13 below shall be disregarded.
- (6) In this paragraph “financial year” means the twelve months beginning with 1st April in any year and ending with the 31st March next following.

## PART II

### CONSTITUTION OF THE COMMISSION

7 After Schedule 2 to the 1993 Act there shall be inserted—

“SCHEDULE 2A

Section 3A.

#### THE NATIONAL LOTTERY COMMISSION

##### *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 subparagraph (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 such information as the Secretary of State considers necessary for the performance by him of his duties under subparagraphs (2) and (3).

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#### *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



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receive 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>M9</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.

#### *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.

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- (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 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.”

**Marginal Citations**

M9 1972 c. 11.

**PART III**

MINOR AND CONSEQUENTIAL AMENDMENTS

*The Public Records Act 1958*

- 8 In Schedule 1 to the <sup>M10</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—

“National Lottery Commission.”

**Marginal Citations**

M10 1958 c. 51.

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*The Parliamentary Commissioner Act 1967*

- 9 In the <sup>M11</sup>Parliamentary Commissioner Act 1967, in Schedule 2 (departments and authorities subject to investigation)—
- (a) the following entry shall be inserted at the appropriate place—
 

“National Lottery Commission.”; and
  - (b) the entry relating to the Office of the Director General of the National Lottery shall be omitted.

**Marginal Citations**

**M11** 1967 c. 13.

*The House of Commons Disqualification Act 1975*

- 10 In the <sup>M12</sup>House of Commons Disqualification Act 1975—
- (a) in Part II of Schedule 1 (bodies of which all members are disqualified) the following entry shall be inserted at the appropriate place—
 

“The National Lottery Commission;”; and
  - (b) in Part III of that Schedule (other disqualifying offices) the entry relating to the Director General of the National Lottery shall be omitted.

**Marginal Citations**

**M12** 1975 c. 24.

*The Northern Ireland Assembly Disqualification Act 1975*

- 11 In the <sup>M13</sup>Northern Ireland Assembly Disqualification Act 1975—
- (a) the same entry as is set out in paragraph 10(a) above shall be inserted at the appropriate place in Part II of Schedule 1; and
  - (b) in Part III of that Schedule, the entry relating to the Director General of the National Lottery shall be omitted.

**Marginal Citations**

**M13** 1975 c. 25.

*The Tribunals and Inquiries Act 1992*

- 12 (1) The <sup>M14</sup>Tribunals and Inquiries Act 1992 shall be amended as follows.
- (2) In section 7 (which restricts Ministers’ powers to remove members of tribunals listed in Schedule 1 to that Act) in subsection (2) (tribunals to which that section does not apply)—
- (a) after “33(a),” there shall be inserted “ 33AA, ”; and
  - (b) the words “33A,” shall be omitted.

*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the National Lottery Act 1998. (See end of Document for details)*

- (3) In Schedule 1 (tribunals under the supervision of the Council on Tribunals) paragraph 33A (which relates to the Director General) shall be omitted and after paragraph 33 there shall be inserted—

“National Lottery	33AA. The National Lottery Commission in respect of their functions under sections 10 and 10A of, and Schedule 3 to, the National Lottery etc. Act 1993 (c. 39), and any member, employee or committee of that Commission authorised under paragraph 8 of Schedule 2A to that Act to exercise any of those functions.”
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**Marginal Citations**

M14 1992 c. 53.

*The 1993 Act*

- 13 In section 14 of the 1993 Act (annual report) in subsection (2)—
- (a) paragraph (a) (which relates to the first report of the Director General) shall be omitted; and
  - (b) after that paragraph there shall be inserted—
    - “(aa) the period beginning with the date on which section 3A comes into force and ending with the next 31st March, and”.
- 14 In section 20 of the 1993 Act (interpretation of Part I)—
- (a) before the definition of “contravention” there shall be inserted—
    - ““the Commission” means the National Lottery Commission;”;
    - and
  - (b) the definition of “the Director General” shall be omitted.
- 15 (1) Section 31 of the 1993 Act (payments from Distribution Fund in respect of expenses) shall be amended as follows.
- (2) In subsection (2)—
- (a) paragraph (a) (meeting payments made or to be made under paragraph 5 of Schedule 2) shall cease to have effect; and
  - (b) after that paragraph there shall be inserted—
    - “(aa) meeting payments made or to be made under paragraph 10 of Schedule 2A,”.
- (3) Subsection (3) (which relates to subsection (2)(a)) shall be omitted.
- (4) At the end of the section there shall be added—
- “(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).”

*Status: Point in time view as at 01/04/2010.*

*Changes to legislation: There are currently no known outstanding effects  
for the National Lottery Act 1998. (See end of Document for details)*

## F11 SCHEDULE 2

Section 7.

### THE NEW OPPORTUNITIES FUND: SCHEDULE 6A TO THE 1993 ACT

#### Textual Amendments

**F11** Sch. 2 repealed (1.12.2006) by National Lottery Act 2006 (c. 23), s. 22(1), Sch. 3; S.I. 2006/3201, art. 2(e)

## “SCHEDULE 6A

Section 43A.

## SCHEDULE 3

Section 12.

### JOINT SCHEMES: SCHEDULE 3A TO THE 1993 ACT

## “SCHEDULE 3A

Section 25B.

### JOINT SCHEMES: SUPPLEMENTARY PROVISIONS

#### *Interpretation*

- 1 In this Schedule “year” means any period of twelve months.

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

- 2 (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.

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### *Contents of authorisations and approvals*

- 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.

### *Effect of increasing annual limit on schemes authorised by order*

- 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).

### *Powers*

- 5 (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.

### *Modification*

- 6 (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.

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- (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.

#### *Termination*

- 7 (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)—
- (a) of his own motion, or
  - (b) on the application of one or more of the bodies participating in the scheme.

#### *Orders under s.29(1): participant ceasing to be distributing body*

- 8 (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)—
- (a) make provision amending the joint scheme, or
  - (b) revoke the joint scheme.
- (3) The provision that may be made by virtue of sub-paragraph (2)(a) includes—
- (a) provision varying the bodies participating in the joint scheme;
  - (b) 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
  - (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.

#### *Authorisation to continue payments despite occurrence of certain events*

- 9 (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—



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- (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.”

## SCHEDULE 4

Section 16.

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

#### *Membership*

- 1 (1) NESTA shall consist of not more than 15 members (in this Schedule referred to as “trustees”)—
  - (a) all of whom shall be appointed by the Secretary of State; and
  - (b) one of whom shall be so appointed as chairman.
- (2) Before making any appointment under this paragraph, the Secretary of State shall consult such persons as appear to him to be representative of those engaged in the fields of science, technology and the arts.
- (3) The Secretary of State may by order amend sub-paragraph (1) above so as to increase the number for the time being specified in that sub-paragraph.
- (4) An order under this paragraph shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### *Delegation of functions*

- 2 (1) NESTA may appoint any other body or person to exercise on their behalf any of their functions under this Part of this Act—
  - (a) in any particular case, or
  - (b) in cases of any particular description.
- (2) The persons who may be appointed by NESTA under sub-paragraph (1) above include a trustee, member of staff or committee of NESTA.

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*Changes to legislation: There are currently no known outstanding effects  
for the National Lottery Act 1998. (See end of Document for details)*

- (3) NESTA may establish a committee for the purpose of exercising on behalf of NESTA any such function as is mentioned in sub-paragraph (1) above.
- (4) A committee established under sub-paragraph (3) above—
  - (a) may consist of or include persons who are trustees of NESTA;
  - (b) may consist of or include persons who are members of staff of NESTA; and
  - (c) may consist of or include persons who are neither trustees nor members of staff of NESTA.
- (5) Any reference in this paragraph to a trustee of NESTA includes a reference to the chairman of NESTA.

#### *Tenure of office*

- 3 (1) Subject to the following provisions of this paragraph, a person shall hold and vacate office as chairman or trustee of NESTA in accordance with the terms of his appointment.
- (2) The Secretary of State shall not appoint a person to hold office as a trustee of NESTA for a term of more than five years.
- (3) A chairman or trustee of NESTA may at any time resign his office by notice in writing addressed to the Secretary of State.
- (4) A trustee of NESTA 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 NESTA, or of any committee of NESTA, without NESTA'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 NESTA ceases to be a trustee of NESTA he shall also cease to be chairman.
- (6) A person who ceases, otherwise than by virtue of sub-paragraph (4) above, to be a trustee or chairman of NESTA shall be eligible for re-appointment.

#### *Remuneration and allowances*

- 4 (1) If the Secretary of State so determines, NESTA may pay such remuneration to their chairman or any other trustee of NESTA as the Secretary of State may determine.
- (2) NESTA may, in accordance with any scheme for the time being approved by the Secretary of State, pay travelling and other allowances to their chairman, to any other trustee of NESTA, to any member of a committee of theirs or to any person who, by virtue of paragraph 2 above, exercises on behalf of NESTA any of their functions under this Part of this Act.
- (3) Where the Secretary of State so determines in the case of a holder of the office of chairman of NESTA, or in the case of any other trustee of NESTA, NESTA shall—
  - (a) pay to or in respect of him such pension, allowances or gratuities, or

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*Changes to legislation: There are currently no known outstanding effects for the National Lottery Act 1998. (See end of Document for details)*

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(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.

(4) 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 NESTA, or ceasing to be a trustee of NESTA, to receive compensation, NESTA may pay to him such compensation as the Secretary of State may determine.

#### *Staff*

5 Subject to any directions under section 21 of this Act, NESTA may appoint such staff as they think fit, on such terms (including terms as to remuneration and pensions) as they think fit.

#### *Proceedings*

6 (1) NESTA 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 NESTA shall not be affected by any vacancy among their trustees, or by any defect in the appointment of any person as chairman or a trustee.

#### *Application of seal and evidence*

7 The application of the seal of NESTA shall be authenticated by the signature—

- (a) of any trustee of NESTA, or
- (b) of any other person who has been authorised by NESTA (whether generally or specially) for that purpose.

8 A document purporting to be duly executed under the seal of NESTA 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.

#### *Status of NESTA*

9 NESTA 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*

10 (1) In the <sup>M15</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 Endowment for Science, Technology and the Arts (“NESTA”) and, if in receipt of remuneration, any other member of NESTA;”.

(2) The same entry shall be inserted at the appropriate place in Part III of Schedule 1 to the <sup>M16</sup>Northern Ireland Assembly Disqualification Act 1975.

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**Marginal Citations**

**M15** 1975 c. 24.

**M16** 1975 c. 25.

*Reimbursement*

- 11 The payments which may be made under section 31 of the 1993 Act (payments from Distribution Fund into Consolidated Fund in respect of expenses) shall include a payment of such amount as the Secretary of State with the approval of the Treasury determines to be appropriate for defraying expenses incurred by the Secretary of State before the commencement of this Part of this Act for the purpose of facilitating the establishment of NESTA.

*Prior consultation*

- 12 Any consultation undertaken before the commencement of this Schedule in connection with any appointments under paragraph 1 above shall be as effective, in relation to those appointments, as if this Schedule had been in force at the time the consultation was undertaken.

*Application to Scotland*

- 13 Paragraphs 7 and 8 above do not extend to Scotland.

## SCHEDULE 5

Section 26.

## ENACTMENTS REPEALED

**PART I**

## ENACTMENTS RELATING TO REPLACEMENT OF DIRECTOR GENERAL BY COMMISSION

<b>Chapter</b>	<b>Short title</b>	<b>Extent of repeal</b>
1967 c. 13.	The Parliamentary Commissioner Act 1967.	In Schedule 2, the entry relating to the Office of the Director General of the National Lottery.
1975 c. 24.	The House of Commons Disqualification Act 1975.	In Schedule 1, in Part III, the entry relating to the Director General of the National Lottery.
1975 c. 25.	The Northern Ireland Assembly Disqualification Act 1975.	In Schedule 1, in Part III, the entry relating to the Director General of the National Lottery.

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*Changes to legislation: There are currently no known outstanding effects for the National Lottery Act 1998. (See end of Document for details)*

1992 c. 53.	The Tribunals and Inquiries Act 1992.	In section 7(2), the words “33A,”.  In Schedule 1, paragraph 33A.
1993 c. 39.	The National Lottery etc. Act 1993.	Section 3.  Section 14(2)(a).  In section 20, the definition of “the Director General”.  Section 31(2)(a) and (3).  Schedule 2.
1998 c. 22.	The National Lottery Act 1998.	Section 2(4).

## PART II

### OTHER ENACTMENTS

#### Commencement Information

**I2** Sch. 5 Pt. II partly in force; Pt. II in force in relation to specified repeals at Royal Assent and in relation to further specified repeals at 2.9.1998 see s. 27(3)-(5).

Chapter	Short title	Extent of repeal
1993 c. 39.	The National Lottery etc. Act 1993.	In section 22(3), the word “and” at the end of paragraph (d).  In Schedule 3, in paragraph 6(1), the word “and” at the end of paragraph (c), and paragraph 10.  In Schedule 5, paragraph 2(4) to (6); in paragraph 3, in sub-paragraph (1) the words “or a committee of theirs”, in sub-paragraph (2) the words “or a committee of theirs”, in sub-paragraph (3) the words “or a person appointed to a committee of theirs by the Secretary of State”, in sub-paragraph (4) the words “or a person appointed to a committee of theirs by the Secretary of State”, in sub-

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paragraph (5) the words “or a committee of theirs” and in sub-paragraph (6) the words “or a committee of theirs”; paragraph 4(4); in paragraph 5, in sub-paragraph (2), the words “with the Secretary of State’s approval”, and sub-paragraph (4); and paragraph 6(3).

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**Changes to legislation:**

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