

## SCHEDULES

### SCHEDULE 1

Section 6

#### NATIONAL LOTTERY LICENSING

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

- 1 The National Lottery etc. Act 1993 shall be amended as follows.
- 2 For section 1 (the National Lottery) substitute—

#### **“1 The National Lottery**

- (1) A lottery forms part of the National Lottery if it is promoted in accordance with a licence under section 5.
  - (2) A reference to the National Lottery is a reference to the lotteries forming part of the National Lottery in accordance with subsection (1).”
- 3 In section 4(3) (overriding duties) for “the sums that are paid to the Secretary of State by virtue of section 5(6).” substitute “the sums paid into the National Lottery Distribution Fund under section 5(2)(c).”
  - 4 For sections 5 and 6 (licence to run the National Lottery and licence to promote lottery) substitute—

#### **“5 Licence to promote lottery**

- (1) The Commission may by licence authorise a person to promote a lottery.
- (2) A licence—
  - (a) may make provision about any matter connected with the promotion of a lottery (including, in particular, arrangements for advertising, for the sale of tickets, for the distribution of prizes or for compliance with a provision of this Act),
  - (b) may, in particular, require the licensee to—
    - (i) obtain in advance the Commission’s approval of the rules of a lottery, and
    - (ii) pay a fee of such amount as may be prescribed by regulations made by the Secretary of State in respect of an application for approval of the rules of a lottery,
  - (c) shall include a condition requiring the licensee to pay into the National Lottery Distribution Fund sums out of the proceeds of any lottery promoted in reliance on the licence,
  - (d) shall include provision for determining—
    - (i) the amount of payments under paragraph (c), and
    - (ii) the timing of payments under paragraph (c), and

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- (e) may include provision requiring the licensee to make arrangements (which may include payments to the Commission) for securing the payment of prizes in certain circumstances.
- (3) No more than one licence may be issued in relation to any one lottery; but—
- (a) a licence may relate to one or more specified lotteries or to lotteries of a specified description,
  - (b) a person may hold more than one licence at a time, and
  - (c) a licence may require or permit the holder to make arrangements with another person for the performance of specified functions.

### **6 Section 5 licence: procedure**

- (1) The Commission may issue a licence under section 5 to a person only if—
- (a) he has applied in writing for the licence,
  - (b) he has supplied such information or documents in or with the application as the Commission directs,
  - (c) having considered the application the Commission is satisfied that the applicant is a suitable person to promote the lottery or lotteries to which the licence relates, and
  - (d) the Commission has complied with any relevant regulations under section 6A (but this paragraph is subject to section 6A(3)).
- (2) For the purposes of subsection (1)(c) the Commission may, in particular, have regard to—
- (a) the integrity of the applicant or of a person relevant to the application;
  - (b) the competence of the applicant or of any person relevant to the application;
  - (c) the financial and other circumstances of the applicant or of a person relevant to the application.
- (3) A person is relevant to an application under section 5 for the purposes of this section if, in particular—
- (a) he is likely to exercise a function in connection with the promotion of a lottery in reliance on the licence applied for, or
  - (b) he is likely to have an interest in a lottery promoted in reliance on the licence applied for.

### **6A Competition for licences**

- (1) The Commission may not issue a licence under section 5 unless it has complied, in relation to the licence, with regulations of the Secretary of State about inviting competing applications for licences.
- (2) The regulations shall, in particular, make provision—
- (a) about the publication of invitations (including provision as to the manner and timing of publication and the matters to be published), and
  - (b) about the timing of responses.

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

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

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- (2) The licensee is not taking or proposing to take steps that are necessary or desirable for preventing the commission of fraud by participants in a lottery.
- (3) A person who is exercising a function in connection with the promotion of a lottery is unsuitable.
- (4) A person who has an interest in a lottery is unsuitable.”

#### *Other Acts*

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