

EXPLANATORY MEMORANDUM TO
THE TRANSFER OF FUNCTIONS (BIG LOTTERY FUND) ORDER 2011

2011 No. 739

1. This explanatory memorandum has been prepared by the Department for Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order amends the National Lottery etc Act 1993 (the “1993 Act”) to transfer certain functions of the Secretary of State, concerning the Big Lottery Fund, (the “Fund”) to the Minister for the Cabinet Office. The functions to be transferred will give the Minister for the Cabinet Office responsibility for:

- Issuing policy directions to the Fund
- Prescribing descriptions of expenditure for which the Fund may distribute money
- Receiving annual reports of the Fund
- Placing limits on the amounts of money to be distributed by the Fund
- Controlling the Fund’s constitutional arrangements and other matters such as the Fund’s proceedings and money.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 Section 1 of the Ministers of the Crown Act 1975 provides for the transfer of functions between Ministers. Sections 1 and 2 allow for supplementary and consequential provision (including the amendment of legislation).

4.2 The 1993 Act sets out certain functions that must be exercised by the Secretary of State in relation to the Big Lottery Fund. For reasons elaborated below it is now agreed that the majority of these functions ought to be exercised by the Minister for the Cabinet Office. It is therefore necessary to amend the 1993 Act and provide for this transfer of functions to the Minister for the Cabinet Office.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 No statements have been made in this respect, as the Order has no impact.

7. Policy background

- What is being done and why

7.1 The Government announced on 14th October 2010 as part of its plans for Public Bodies Reform – Proposals for Change that policy responsibility for the Big Lottery Fund (“the Fund”) would transfer to the Cabinet Office from the Department for Culture, Media and Sport. The decision to transfer sponsorship and policy responsibility for the Big Lottery Fund to the Cabinet Office necessitates that the Minister for the Cabinet Office be able to exercise various statutory functions relating to the Fund.

7.2 The voluntary and community sector is at the heart of the Government’s mission to build a Big Society in which people have a greater role in the issues that directly affect them, and gives everyone the opportunity to give something back for the benefit of all. The Cabinet office is leading on this strand of policy.

7.3 The Big Lottery Fund was established under section 36A of the National Lottery etc Act 1993 (inserted into the “1993 Act” by the National Lottery Act 2006). It is the largest distributor of lottery funds – with a current allocation of 50% of the money held in the National Lottery Distribution Fund for distributing bodies (see section 22(3)(d) of the 1993 Act). This percentage apportionment is allocated for prescribed expenditure that is charitable or connected with health, education or the environment. The percentage allocation will change to 46% on 1st April 2011 and then to 40% on 1st April 2012. Following a public consultation in July 2010, the Secretary of State issued a policy direction to the Fund to take into account the need to focus its funding on projects that benefit people and local communities served by the voluntary and community sector. Although lottery money is additional to core government expenditure, it is nonetheless considered desirable and more appropriate for policy responsibility for the Fund to shift to the Cabinet Office.

7.4 There are a number of statutory functions relating to the Fund which are exercised by the Secretary of State. It is desired that the majority of these functions will now be exercised by the Minister for the Cabinet Office.

- Consolidation

7.5 The Department does not intend to consolidate the legislation which is amended by this Order.

8. Consultation outcome

8.1 No public consultations were carried out in relation to this Order.

9. Guidance

9.1 The Department does not intend to issue any guidance alongside this Instrument as it is not considered necessary.

10. Impact

10.1 In light of the fact that this instrument simply transfers existing statutory functions to the Cabinet Office, the impact on business, charities or voluntary bodies is foreseen to be nil.

10.2 There is no financial impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 There are no plans to perform monitoring or review.

13. Contact

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