

## SCHEDULE 4

### Transitional provisions

## PART 8

### Conversion of lottery registrations under the Lotteries and Amusements Act 1976 into operating licences or registrations under the Gambling Act 2005

#### Conversion of society registrations into lottery operating licences

**67.**—(1) This paragraph applies where—

- (a) a society is registered under Schedule 1A to the 1976 Act<sup>(1)</sup>, and
- (b) the registration has effect immediately before 1st September 2007.

(2) This paragraph also applies where a society is registered under Schedule 1A to the 1976 Act on or after 1st September 2007.

(3) The Gambling Commission must issue a lottery operating licence to the society on the relevant date or as soon as practicable after that date.

(4) Such a licence—

- (a) is referred to in this paragraph and in paragraph 68 as a converted society lottery operating licence, and
- (b) is included in any reference to a converted lottery operating licence in paragraphs 71 and 72.

(5) A converted society lottery operating licence is to have effect as both a remote and non-remote lottery operating licence; and section 67(2) and (3) of the 2005 Act (which prohibits an operating licence from being both a remote and non-remote licence) is not to apply to the licence.

(6) In exercising its powers under section 75 of the 2005 Act (powers of Gambling Commission to impose general conditions on operating licences), the Commission must specify any conditions which are to apply to—

- (a) a converted society lottery operating licence, or
- (b) a converted society lottery operating licence falling within a specified class.

(7) Regulations under section 78 of the 2005 Act (which allows the Secretary of State to make regulations specifying conditions to be imposed on operating licences) may specify conditions which are to apply to a converted society lottery operating licence or to converted society lottery operating licences falling within a specified description.

(8) In this paragraph a reference to the relevant date is to—

- (a) 1st September 2007, or
- (b) in a case falling within sub-paragraph (2), the date on which the society is registered under Schedule 1A to the 1976 Act.

#### Conversion of society registrations: transitional provisions

**68.**—(1) A society falling within sub-paragraph (1) of paragraph 67 is to be treated as if it holds a converted society lottery operating licence during the period beginning on 1st September 2007

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(1) Schedule 1A was inserted by the National Lottery etc. Act 1993, section 48(5) and Part 2 of Schedule 7.

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and ending immediately before the converted society lottery operating licence issued to the society takes effect.

(2) Where the society or a person acting on its behalf carries out activities in reliance on sub-paragraph (1) they are to comply with any relevant operating licence conditions.

(3) Section 258 of the 2005 Act (which makes it an offence to promote a lottery other than in specified circumstances) is not to apply to activity by a society acting in reliance on sub-paragraph (1) if the activity is carried on in accordance with any relevant operating licence conditions.

(4) Section 258 of the 2005 Act is not to apply to activity by a person acting on behalf of a society to which sub-paragraph (1) applies if—

- (a) he acts otherwise than as an external lottery manager, and
- (b) the activity is carried on in accordance with any relevant operating licence conditions.

(5) In this paragraph, any reference to relevant operating licence conditions is to—

- (a) any conditions specified by the Gambling Commission under section 75 of the 2005 Act which would be attached in accordance with subsection (3) of that section to a converted society lottery operating licence; and
- (b) any conditions specified by the Secretary of State in regulations under section 78 of that Act which would be attached to such a licence.

### **Conversion of local lottery scheme registrations into lottery operating licences**

**69.**—(1) This paragraph applies where—

- (a) a scheme approved by a local authority in connection with the promotion of lotteries is registered under Schedule 2 to the 1976 Act<sup>(2)</sup>, and
- (b) the registration has effect immediately before 1st September 2007.

(2) This paragraph also applies where a scheme is registered under Schedule 2 to the 1976 Act on or after 1st September 2007.

(3) The Gambling Commission must issue a lottery operating licence to the local authority on the relevant date or as soon as practicable after that date.

(4) Such a licence—

- (a) is referred to in this paragraph and in paragraph 70 as a converted local authority lottery operating licence, and
- (b) is included in any reference to a converted lottery operating licence in paragraphs 71 and 72.

(5) A converted local authority lottery operating licence is to have effect as both a remote and non-remote lottery operating licence; and section 67(2) and (3) of the 2005 Act is not to apply to the licence.

(6) In exercising its powers under section 75 of the 2005 Act, the Commission must specify any conditions which are to be attached to—

- (a) a converted local authority lottery operating licence, or
- (b) a converted local authority lottery operating licence falling within a specified class.

(7) Regulations under section 78 of the 2005 Act may specify conditions which are to be attached to a converted local authority lottery operating licence or to converted local authority lottery operating licences falling within a specified description.

(8) In this paragraph a reference to the relevant date is to—

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(2) Schedule 2 to the 1976 Act was amended by the National Lottery etc. Act 1993 (c. 39), paragraphs 1 to 10 of Schedule 8.

- (a) 1st September 2007, or
- (b) in a case falling within sub-paragraph (2), the date on which the scheme is registered.

### **Conversion of local lottery scheme registrations: transitional provisions**

**70.**—(1) A local authority to which sub-paragraph (1) of paragraph 69 applies is to be treated as if it holds a converted local authority lottery operating licence during the period beginning on 1st September 2007 and ending when the licence issued to the authority in accordance with that paragraph takes effect.

(2) Where the local authority or a person acting on its behalf carries out activities in reliance on sub-paragraph (1) they are to comply with any relevant operating licence conditions.

(3) Section 258 of the 2005 Act is not to apply to activity by a local authority acting in reliance on sub-paragraph (1) if the activity is carried on in accordance with any relevant operating licence conditions.

(4) Section 258 of the 2005 Act is not to apply to activity by a person acting on behalf of a local authority to which sub-paragraph (1) applies if—

- (a) he acts otherwise than as an external lottery manager, and
- (b) the activity is carried on in accordance with any relevant operating licence conditions.

(5) In this paragraph, any reference to relevant operating licence conditions is to—

- (a) any conditions specified by the Gambling Commission under section 75 of the 2005 Act which would be attached in accordance with subsection (3) of that section to a converted local lottery operating licence, and
- (b) any conditions specified by the Secretary of State in regulations under section 78 of that Act which would be attached to such a licence.

### **Duration of converted lottery operating licences**

**71.**—(1) Subject to the following provisions of this paragraph, a converted lottery operating licence is to cease to have effect on the last day of the period of three years beginning with the date on which the last 1976 Act fee was payable.

(2) Subject to sub-paragraph (3), where—

- (a) the holder of a converted lottery operating licence applies for a lottery operating licence at least two months before the date on which the converted lottery operating licence is due to expire in accordance with sub-paragraph (1), and
- (b) that application complies with section 69(2)(g) and (3) of the 2005 Act,

the converted lottery operating licence is not to cease to have effect by virtue of sub-paragraph (1) until the application is finally determined or is withdrawn.

(3) A converted lottery operating licence may cease to have effect before the date determined in accordance with sub-paragraphs (1) and (2) by virtue of section 113, 114, 115, 118 or 119 of the Act (which provide respectively for the surrender, lapse, forfeiture, suspension and revocation of operating licences).

(4) The reference in sub-paragraph (1) to the date on which the last 1976 Act fee was payable is to the last date before 1st September 2007 on which a fee was payable in respect of the registration by virtue of (as the case may be) paragraph 6(1)(a) of Schedule 1A or paragraph 7(1)(b) of Schedule 2 to the 1976 Act (each of which provides for the payment of periodic fees in respect of registrations under respectively Schedule 1A or 2 to the 1976 Act).

(5) Where no fee is payable before 1st September 2007 under the provisions of the 1976 Act referred to in sub-paragraph (4), the reference in sub-paragraph (1) to the date on which the last

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1976 Act fee was payable is to be treated as a reference to the date on which the society or the local authority scheme was registered under that Act.

### **Application of Part 5 of the Gambling Act 2005 to converted lottery operating licences**

**72.**—(1) Part 5 of the 2005 Act is to be modified as follows in its application to a converted lottery operating licence.

(2) Section 99 (which specifies mandatory conditions of lottery operating licences) is to be modified so that, for the period beginning on the date on which the licence is issued and ending on 31st December 2007, the requirement specified in subsection (3)(b) is that the aggregate of the proceeds of lotteries promoted wholly or partly in reliance on the licence may not exceed—

$$£10,000,000 - (A + B)$$

where—

A is the total value of tickets or chances sold in the period beginning on 1st January 2007 and ending on 31st August 2007 in any lottery promoted wholly or partly in reliance on the 1976 Act registration, and

B is the aggregate amount of the proceeds of lotteries promoted wholly or partly under, as the case may be, paragraph 68 or 70.

(3) Sub-paragraph (2) only applies where the converted lottery operating licence is held by a society or local authority to which sub-paragraph (1) of (as the case may be) paragraph 67 or 69 applies.

(4) In sub-paragraph (2), “the 1976 Act registration” means—

- (a) in relation to a converted lottery operating licence held by a society, the registration of the society under Schedule 1A to the 1976 Act which had effect immediately before 1st September 2007, and
- (b) in relation to a converted lottery operating licence held by a local authority, the registration under Schedule 2 to the 1976 Act which had effect immediately before 1st September 2007.

(5) Sections 110 to 112 (which relate to duration of operating licences) are not to apply.

### **Application of the Gambling Act 2005 to lotteries begun before 1st September 2007**

**73.**—(1) A lottery operating licence is to authorise the holder to continue to promote a lottery which the holder began promoting before 1st September 2007 in reliance on the 1976 Act registration.

(2) Where before 1st September 2007 a person is able to participate in such a lottery by purchasing a chance (whether participation in the lottery in this way is offered in addition to or instead of participation by purchasing a ticket), persons may continue on and after that date to purchase a chance and not a ticket in the lottery if the condition in sub-paragraph (3) is met.

(3) The condition is that the arrangements for the lottery provide for each and every draw in the lottery to take place before 1st March 2009.

(4) Section 99 of the 2005 Act (which makes provision about the conditions to be attached to lottery operating licences) is to have effect subject to the following modifications in relation a lottery which falls within the description in sub-paragraph (2) and complies with the condition in sub-paragraph (3).

(5) Subject to sub-paragraph (6), subsections (4), (6) and (8) of that section are to have effect as if any reference to a person purchasing a ticket in the lottery (irrespective of how it is described) included a reference to a person purchasing a chance in the lottery.

(6) Section 99 of the 2005 Act is to have effect as if the requirement in paragraph (b) of subsection (6) only applies where a person purchases a ticket in order to participate in the lottery.

(7) In sub-paragraph (1), “the 1976 Act registration” is to be construed in accordance with paragraph 72(4).

#### **Conversion of society lottery registrations into registrations under the Gambling Act 2005**

**74.**—(1) This paragraph applies where—

- (a) a society is registered under Schedule 1 to the 1976 Act, and
- (b) the registration has effect immediately before 1st September 2007.

(2) This paragraph also applies where a society becomes registered under Schedule 1 to the 1976 Act on or after 1st September 2007.

(3) In England and Wales, the local authority which registered the society must on the relevant date, or as soon as practicable after that date, register the society under Part 5 of Schedule 11 to the 2005 Act.

(4) In Scotland, the council which registered the society must on the relevant date, or as soon as practicable after that date, provide the relevant licensing board with the information specified in sub-paragraph (5).

(5) The information to be provided is—

- (a) the name and address of the society,
- (b) the purposes for which the society is established,
- (c) the date on which the society was registered under Schedule 1 to 1976 Act, and
- (d) copies of any returns submitted in respect of the society in accordance with paragraph 11 of Schedule 1 to the 1976 Act.

(6) As soon as practicable after receiving the information specified in sub-paragraph (5), the relevant licensing board must register the society under Part 5 of Schedule 11 to the 2005 Act.

(7) In this paragraph—

- (a) a reference to registering a society under Part 5 of Schedule 11 to the 2005 Act is to entering the society, together with such information as may be prescribed by regulations in accordance with paragraph 44(a) of that Schedule, in the register kept for the purposes of that Part;
- (b) a reference to the relevant date is to—
  - (i) 1st September 2007, or
  - (ii) in a case falling within sub-paragraph (2), the date on which the society is registered under the 1976 Act; and
- (c) a reference to the relevant licensing board is to the licensing board constituted under section 1 of the Licensing (Scotland) Act 1976(3) in whose area are situated the principal premises of the society.

#### **Conversion of society lottery registrations: modification of Part 5 of Schedule 11 to the 2005 Act**

**75.**—(1) Paragraphs 44 and 46 of Schedule 11 to the 2005 Act are not to apply where a society is registered under Part 5 of that Schedule in pursuance of paragraph 74 above.

(2) Sub-paragraph (1) is subject to sub-paragraph (7)(a) of paragraph 74 above.

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(3) 1976 c. 66.

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(3) Paragraph 54(2) of that Schedule is to have effect in relation to such a society as if for the reference to each anniversary of the registration of the society there were substituted a reference to 1st January in each year after 2007 on which the society is registered.

(4) In England and Wales, where a local authority registers a society under Part 5 of Schedule 11 to the 2005 Act in pursuance of paragraph 74 above, it must notify the society in writing of the registration before the beginning of the period referred to in sub-paragraph (2) of paragraph 54 of that Schedule (as that sub-paragraph has effect by virtue of sub-paragraph (3) above) when that period occurs for the first time during the registration.

(5) In Scotland, the council referred to in sub-paragraph (4) of paragraph 74 must at the same time as it provides the information referred to in that sub-paragraph give written notice to the society—

- (a) informing it that it is to be registered by the relevant licensing board under Part 5 of Schedule 11 to the 2005 Act, and
- (b) explaining the effect of sub-paragraphs (2) to (4) of paragraph 76.

(6) In sub-paragraph (5)(a), “the relevant licensing board” is to have the meaning given in paragraph 74(7)(c).

#### **Conversion of society lottery registrations: transitional provisions**

76.—(1) Where—

- (a) a local authority in England or Wales or a licensing board in Scotland are required under paragraph 74 to register a society under Part 5 of Schedule 11 to the 2005 Act, but
- (b) the society is not so registered until after the relevant date (within the meaning of that paragraph),

during the period beginning on that date and ending immediately before the society is so registered (“the transitional period”) Part 4 of that Schedule is to have effect in relation to the society as if modified in accordance with sub-paragraphs (2) to (4) below.

(2) Paragraph 38 of Schedule 11 to the 2005 Act is not to apply to the society during the transitional period.

(3) Paragraph 39 of that Schedule is to have effect during the transitional period as if the reference to the local authority with which the society is registered was a reference to the authority which is required to register the society under paragraph 74 above.

(4) Paragraph 55 of that Schedule is to have effect as if the reference to a statement sent to a local authority under paragraph 39 of that Schedule included a reference to a statement sent under that paragraph in pursuance of sub-paragraph (3) above.

(5) Sub-paragraph (6) applies where—

- (a) a lottery is promoted by a society which was registered under Schedule 1 to the 1976 Act immediately before 1st September 2007 (referred to in that sub-paragraph as “the 1976 Act registration”), and
- (b) it is promoted wholly or partly in the period beginning on that date and ending on 31st December 2007,

(6) Paragraph 31(3) of Schedule 11 to the 2005 Act is to have effect in relation to such a lottery as if it provided for the lottery to be a large lottery if it is promoted wholly or partly at a time at which the aggregate of the society’s proceeds from society lotteries promoted wholly or partly during the period referred to in sub-paragraph (5) exceeds—

£250,000 – A,

where A is the total value of tickets or chances sold in the period beginning on 1st January 2007 and ending on 31st August 2007 in any lottery promoted in reliance on the 1976 Act registration.

### **Application of Schedule 11 to the Gambling Act 2005 to lotteries begun before 1st September 2007**

77.—(1) Subject to the following provisions of this paragraph, Schedule 11 to the 2005 Act is to apply to a lottery whose promotion was begun (but not completed) before 1st September 2007 in the same way as it applies to a lottery which is wholly promoted on or after that date.

(2) Where before 1st September 2007 a person is able to participate in such a lottery by purchasing a chance (whether participation in the lottery in this way is offered in addition to or instead of participation by purchasing a ticket), persons may continue on and after that date to purchase a chance and not a ticket in the lottery if the condition in sub-paragraph (3) is met.

(3) The condition is that the arrangements for the lottery provide for each and every draw in the lottery to take place before 1st March 2009.

(4) Schedule 11 to the 2005 Act is to have effect subject to the following modifications in relation to a lottery which falls within the description in sub-paragraph (2) and complies with the condition in sub-paragraph (3).

(5) Subject to the following provisions of this paragraph any reference in that Schedule to a ticket is to include a reference to a chance.

(6) Where the lottery is a private lottery, paragraphs 15 and 18(b) of that Schedule are not to apply if a person purchases a chance (as opposed to a ticket) to participate in the lottery.

(7) Where the lottery is a small society lottery, paragraph 36 of that Schedule is only to apply where a person purchases a ticket to participate in the lottery.