

*Status: Point in time view as at 01/04/1999.*

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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>M1</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**

M1 1972 c. 11.

**PART III**

MINOR AND CONSEQUENTIAL AMENDMENTS

*The Public Records Act 1958*

- 8 In Schedule 1 to the <sup>M2</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**

M2 1958 c. 51.

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*The Parliamentary Commissioner Act 1967*

- 9 In the <sup>M3</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**

**M3** 1967 c. 13.

*The House of Commons Disqualification Act 1975*

- 10 In the <sup>M4</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**

**M4** 1975 c. 24.

*The Northern Ireland Assembly Disqualification Act 1975*

- 11 In the <sup>M5</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**

**M5** 1975 c. 25.

*The Tribunals and Inquiries Act 1992*

- 12 (1) The <sup>M6</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.



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- (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**

**M6** 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).”

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