

2011 No. 739

MINISTERS OF THE CROWN

The Transfer of Functions (Big Lottery Fund) Order 2011

Made - - - - *16th March 2011*
Laid before Parliament *23rd March 2011*
Coming into force - - *13th April 2011*

At the Court at Buckingham Palace, the 16th day of March 2011

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred by section 1 of the Ministers of the Crown Act 1975(a), is pleased, by and with the advice of Her Privy Council, to order as follows:

Citation and commencement

- 1.—(1) This Order may be cited as the Transfer of Functions (Big Lottery Fund) Order 2011.
(2) This Order comes into force on 13th April 2011.

Transfer of certain functions relating to the Big Lottery Fund

2.—(1) The functions of the Secretary of State under the following provisions of the National Lottery etc Act 1993(b) (“the 1993 Act”) are transferred to the Minister for the Cabinet Office—

- (a) section 22(3A) and (3C) (power to prescribe descriptions of expenditure for which money allocated to the Big Lottery Fund may be distributed)(c);
- (b) section 34(1) and (3) (annual reports by distributing bodies)(d), so far as the functions relate to the Big Lottery Fund;
- (c) section 36B(3) and (5) (limits on amount distributed by the Big Lottery Fund)(e);

(a) 1975 c. 26. Section 1 was amended by section 20 of the Constitutional Reform Act 2005 (c. 4).

(b) 1993 c. 39.

(c) Section 22(3A) to (3C) was inserted by the National Lottery Act 2006 (c. 23), section 7(3).

(d) By virtue of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. 1999/1750), article 3 and Schedule 2, the functions conferred on the Secretary of State by section 34 are, so far as they are exercisable in or as regards Scotland, exercisable by the Scottish Ministers concurrently with the Secretary of State. By virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2 and Schedule 1, and the Government of Wales Act 2006 (c. 32), Schedule 11, paragraph 30, section 34(3) has effect so as to require reports relating to certain bodies to additionally be laid before the Welsh Ministers.

(e) Section 36B was inserted by the National Lottery Act 2006, section 15(2).

- (d) section 36E (directions to the Big Lottery Fund)(a), except so far as the functions relate to financial directions;
 - (e) Schedule 4A (the Big Lottery Fund: constitution, proceedings and money)(b).
- (2) For the purposes of paragraph (1)(d), a “financial direction” is a direction given by virtue of—
- (a) section 36E(3)(a) or (c) of the 1993 Act, or
 - (b) section 36E(3)(d) of that Act in relation to a matter specified in section 36E(3)(a) or (c) of that Act.

Supplementary

3.—(1) This Order does not affect the validity of anything done (or having effect as if done) by or in relation to the Secretary of State before the coming into force of this Order.

(2) Anything (including legal proceedings) which, at the coming into force of this Order, is in the process of being done by or in relation to the Secretary of State may, so far as it relates to a function transferred to the Minister for the Cabinet Office under article 2, be continued by or in relation to the Minister for the Cabinet Office.

(3) Anything done (or having effect as if done) by or in relation to the Secretary of State in connection with a function transferred to the Minister for the Cabinet Office under article 2 has effect, so far as is necessary for continuing its effect after the coming into force of this Order, as if done by or in relation to the Minister for the Cabinet Office.

(4) Documents or forms printed for use in connection with a function transferred to the Minister for the Cabinet Office under article 2 may be used in connection with that function even though they contain, or are to be read as containing, references to the Secretary of State; and for the purposes of the use of any such documents or forms after the coming into force of this Order, those references are to be read as references to the Minister for the Cabinet Office.

(5) Any enactment or instrument passed or made before the coming into force of this Order has effect, so far as is necessary for the purposes of or in consequence of article 2, as if references to (and references which are to be read as references to) the Secretary of State were or included references to the Minister for the Cabinet Office.

(6) In paragraphs (1) to (5)—

- (a) the references to the Secretary of State include references to the department for Culture, Media and Sport or an officer of the Secretary of State, and
- (b) the references to the Minister for the Cabinet Office includes references to the Cabinet Office or an officer in the Cabinet Office accordingly.

(7) In paragraph (5) “instrument” includes Royal Charters, Royal Warrants, Orders in Council, Letters Patent, judgments, decrees, orders, rules, regulations, schemes, bye-laws, awards, licences, authorisations, consents, approvals, contracts and other agreements, memoranda and articles of association, certificates, deeds and other documents.

Consequential amendments

4. The Schedule has effect.

Judith Simpson
Clerk of the Privy Council

(a) Section 36E was inserted by the National Lottery Act 2006, section 15(2).
(b) Schedule 4A was inserted by the National Lottery Act 2006, section 14(2).

CONSEQUENTIAL AMENDMENTS

National Lottery etc Act 1993

1. The National Lottery etc Act 1993 is amended as follows.

2. In section 22(3A) and (3C) (power to prescribe descriptions of expenditure for which money allocated to the Big Lottery Fund may be distributed), for “Secretary of State” substitute “Minister for the Cabinet Office”.

3. In section 25C(3)(a) (strategic plans for distributing bodies)(a), after “Secretary of State” insert “or the Minister for the Cabinet Office”.

4. In section 31(2)(b) (payments from Distribution Fund in respect of expenses), after “Secretary of State” insert “or the Minister for the Cabinet Office”.

5. In section 34 (annual reports by distributing bodies), after subsection (6)(b) insert—

“(7) See the Transfer of Functions (Big Lottery Fund) Order 2011 for provision under which the functions of the Secretary of State under this section, so far as they relate to the Big Lottery Fund, are transferred to the Minister for the Cabinet Office.”

6. In section 36B(3) and (5) (limits on amount distributed by the Big Lottery Fund), for “Secretary of State” substitute “Minister for the Cabinet Office”.

7.—(1) Section 36E (directions to the Big Lottery Fund) is amended as follows.

(2) In subsection (1), for “by the Secretary of State (subject to subsection (4)).” substitute—

“by—

- (a) the Secretary of State in relation to a direction given by virtue of subsection (3), or
- (b) (subject to subsection (4)) the Minister for the Cabinet Office in relation to any other direction.”

(3) For subsection (2) substitute—

“(2) A direction under subsection (1)(b) may, in particular—

- (a) specify matters to be taken into account in determining the persons to whom, the purposes for which and the conditions subject to which the Fund distributes money;
- (b) relate to the employment of staff;
- (c) in so far as it relates to the employment of staff—
 - (i) relate to the persons to whom or the terms on which the Fund delegates functions;
 - (ii) require the Fund to obtain the Minister for the Cabinet Office’s consent before taking action of a specified kind;
 - (iii) require the Fund to provide information to that Minister.”

(4) In subsection (3)—

- (a) for “this section may, in particular” substitute “subsection (1)(a) may”,
- (b) omit paragraph (b), and
- (c) in paragraph (d) for “paragraphs (a) to (c)” substitute “paragraph (a) or (c)”.

(a) Section 25C was inserted by the National Lottery Act 1998 (c. 22), section 13. Subsection (3)(a) of section 25C was amended by the National Lottery Act 2006, section 19(2).

(b) Subsection (6) was inserted by S.I. 1999/1750, Schedule 5, paragraph 12(3).

(5) In subsection (4), for “this section, other than a direction given by virtue only of subsection (3), may not be given by the Secretary of State” substitute “subsection (1)(b), other than a direction given by virtue only of subsection (2)(b) or (c), may not be given by the Minister for the Cabinet Office”.

(6) In subsection (5), for “this section, other than by virtue only of subsection (3), the Secretary of State” substitute “subsection (1)(b), other than by virtue only of subsection (2)(b) or (c), the Minister for the Cabinet Office”.

(7) In subsection (7), for “by virtue only of subsection (3) the Secretary of State” substitute “under subsection (1)(a), or under subsection (1)(b) by virtue only of subsection (2)(b) or (c), the Secretary of State or, as the case may be, the Minister for the Cabinet Office”.

(8) In subsection (8)(b), for “Secretary of State” substitute “Minister for the Cabinet Office”.

8. In section 60(6) (orders and regulations)(a), after “Secretary of State” insert “or the Minister for the Cabinet Office”.

9.—(1) Schedule 4A (the Big Lottery Fund: constitution; proceedings and money) is amended as follows.

(2) For “Secretary of State” (in each place) substitute “Minister for the Cabinet Office”.

(3) In paragraph 6 and 18(1), for “36E(3)(b)” substitute “36E(2)(b)”.

(a) Section 60(6) was inserted by the National Lottery Act 1998, section 15(6). By virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672), article 2 and Schedule 1, and the Government of Wales Act 2006 (c. 32), Schedule 11, paragraph 32, section 60(6) has effect as if the reference to the Secretary of State included a reference to the Welsh Ministers.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order in Council is made under section 1 of the Ministers of the Crown Act 1975. It transfers certain statutory functions relating to the Big Lottery Fund from the Secretary of State to the Minister for the Cabinet Office. The Big Lottery Fund, established under section 36A of the National Lottery etc Act 1993 (as inserted by section 14 of the National Lottery Act 2006), is the distributor of the largest percentage share of National Lottery money.

Article 2 of this Order effects the transfers. Article 3 makes supplemental provision in connection with article 2. Article 4 and the Schedule make consequential amendments.

Nothing in this Order alters the functions of the Welsh Ministers, the Scottish Ministers or the devolved authorities in Northern Ireland.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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STATUTORY INSTRUMENTS

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The Transfer of Functions (Big Lottery Fund) Order 2011

£4.00