



National Assembly for Wales
Cynulliad Cenedlaethol Cymru

National Lottery Bill

Abstract

This paper provides background briefing on the *National Lottery Bill*, as introduced into the House of Commons on 24 May 2005.

The Bill formalises the merger of the Community Fund and New Opportunities Fund and the residual responsibilities of the Millennium Commission into the Big Lottery Fund. It also covers changes to the licensing system of the National Lottery.

July 2005



National Lottery Bill

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July 2005

Paper number: 05/1547/HW

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National Lottery Bill

1 Background

On 25 February 2003 the Secretary of State for Culture, Media and Sport, Rt Hon Tessa Jowell MP, outlined her intention to merge two National Lottery distribution bodies, the Community Fund and New Opportunities Fund, and create a new lottery distributor¹. The two bodies merged at an administrative level from June 2004, as the Big Lottery Fund.

The *National Lottery Bill* was originally introduced into the House of Commons on 25 November 2004, although it did not progress due to the dissolution of Parliament in April 2005. The new *National Lottery Bill*² was introduced into the House of Commons on 24 May 2005 and received its Second Reading on 14 June 2005. This Bill is very similar to the original Bill and formalises the merger of the Community Fund and New Opportunities Fund and the residual responsibilities of the Millennium Commission into the Big Lottery Fund. It also covers changes to the licensing system of the National Lottery. It does so by amending the *National Lottery etc. Act 1993*³ ("the 1993 Act").

2 Key provisions in the Bill

2.1 Distribution of funds

Clause 7 of the Bill requires that 50% of total lottery funding be allocated for 'prescribed expenditure' that is charitable, or connected with health, education or the environment. This clause effectively creates a new 'good cause' for the Big Lottery Fund replacing those that existed for its predecessors. The Secretary of State will set out by Order what constitutes 'prescribed expenditure' and, within that, 'devolved expenditure' - **the Big Lottery Fund's functions in relation to such expenditure in Wales will be exercised by the Welsh committee set up under a new Schedule 4A to the 1993 Act (see paragraph 2.6). Directions on the exercise of the Big Lottery Fund's functions in relation to devolved expenditure in Wales may only be exercised by the National Assembly for Wales.**

The Secretary of State plans to exercise this power, subject to consultation, to prescribe descriptions of devolved expenditure. Possible examples are expenditure on community learning and creating opportunity, promoting community safety and cohesion, and promoting well being.

The original Bill introduced a new power for the Secretary of State, by order to reallocate funds from one Lottery distributor to another. Clause 8 of the new Bill makes it clear that this reallocation can only take place between distributors and not between one good cause and another. This amendment has been made in response to concerns raised to the Government, most notably from the Heritage Lottery Fund.⁴ The Secretary of State would be required to consult with any body mentioned in the order and also with the devolved administrations. In practice however, this power is likely to only be used as a

¹DCMS press release 25 February 2003, Two National Lottery Good Causes to Merge
http://www.culture.gov.uk/global/press_notices/archive_2003/dcms23_2003.htm?properties=archive%5F2003%2C%2Fnational%5Flottery%2Fquicklinks%2Fpress%5Fnotices%2Fdefault%2C&month=H

²<http://www.publications.parliament.uk/pa/cm200506/cmbills/006/06006.i-iv.html>

³http://www.opsi.gov.uk/acts/acts1993/Ukpga_19930039_en_1.htm

⁴House of Commons Research Paper 05/41: *National Lottery Bill*, Summary of Main Points

last resort where there are demonstrable and serious concerns over the ability of a distributor to act economically and effectively.⁵

2.2 Investment income

The National Lottery Distribution Fund holds the proceeds of investment made by lottery distributors, as well as any funds that are not immediately required for funding allocations. Clause 9 of the Bill alters the way money from the Distribution Fund is allocated to distributors so that it is divided according to the proportion of overall Lottery funding that they receive. This replaces the existing arrangement where funds are allocated to distributors in proportion to their share of money already held in the Distribution Fund on their behalf⁶. So, for example, under the new arrangement, the Big Lottery Fund will receive 50% of investment income, as it will be responsible for 50% of all Lottery funding.⁷

2.3 Consultation

Clause 10 of the Bill allows Lottery distributors to take account of the opinions of the public for the first time in making decisions. The Bill allows distributors to consult any person and to take account of the opinions expressed or any information supplied as a result of that consultation.

2.4 Publicity

Clause 11 of the Bill allows distributors to participate in publishing general information promoting their work. The intention is to allow distributors to inform the public better about what the money they award is achieving overall for good causes.⁸

2.5 Functions and directions of the Big Lottery Fund

Clause 14 of the Bill allows the Big Lottery Fund to make loans as well as grants, or make or enter into other arrangements in distributing funds. The Fund will be the first distributing body able to do this.⁹ It will also be able to give advice about the distribution Lottery funds and application for Lottery grants. The Big Lottery Fund will also be able to distribute non-Lottery funds provided such funds are for expenditure on the new 'good cause'.

New section 36C of the 1993 Act allows the Big Lottery Fund to distribute non-Lottery funds provided such funds are for expenditure that is charitable or connected with health, education or the environment. Examples might be third party funds from Government Departments or charitable foundations that wished to make use of the Big Lottery Fund's distribution infrastructure.¹⁰

The Bill requires the Big Lottery Fund to comply with any directions given to it by the Secretary of State and by the devolved administrations in relation to devolved expenditure. The Secretary of State alone will have powers relating to operational matters such as financial management, staffing and accounts and to give directions relating to non-devolved expenditure and English devolved expenditure. Before giving directions the Secretary of State must consult the Big Lottery Fund and, except for expenditure relating to England, the devolved administrations.

⁵ *National Lottery Bill Explanatory Notes*, paragraph 21

⁶ National Council for Voluntary Organisations, *Briefing on the National Lottery Bill*, section 3

⁷ *Ibid*

⁸ *National Lottery Bill Explanatory Notes*, paragraph 24

⁹ *Ibid*, paragraph 28

¹⁰ *Ibid*, paragraph 29

The Bill provides that the devolved administrations have the sole power to give directions in relation to Welsh, Scottish and Northern Ireland devolved expenditure (following consultation with the Big Lottery Fund and consent from the Secretary of State).

2.6 Membership of the Big Lottery Fund

New Schedule 4A to the 1993 Act (inserted by Schedule 2 to the Bill) sets out detailed provisions on the Big Lottery Fund's constitution. It provides that there will be 12 members of the Big Lottery Fund appointed by the Secretary of State. One member will be appointed as Chair and the agreement of the devolved administrations will be required to the appointment of one member to represent their interests.

The Bill requires the Big Lottery Fund to establish separate committees for England, Scotland, Wales and Northern Ireland, to be chaired by the relevant member of the Fund. The committees will be responsible for exercising the Fund's functions in relation to devolved expenditure in each country. The members of the committees will be appointed by the Fund with the agreement of the Secretary of State or relevant devolved administration. Members may be removed by the Secretary of State or relevant devolved administration if they are declared bankrupt or unfit for office.

2.7 Definition of 'charitable expenditure'

Clause 19 of the Bill defines 'charitable expenditure', in relation to the new good cause. It changes the definition from expenditure by charities, or by institutions established for charitable, benevolent or philanthropic purposes to expenditure for a benevolent or philanthropic purpose. This is intended to shift the focus from institutions to activities to ensure that 'charitable' expenditure will not be restricted to voluntary and community organisations.¹¹

3 Changes to the licensing system

Clauses 3 to 6 and Schedule 1 deal with the licensing structure of the Lottery. Currently, there are two kinds of Lottery licence: a single licence to operate the National Lottery; and one or more licences granted to bodies corporate to promote other lotteries as part of the National Lottery.¹²

The current operating licensee is Camelot and present law allows for only one of these licences to be issued. It is the responsibility of this licensee to provide the technical, retailing and marketing infrastructure within which promotional licensees can operate, and to ensure that payments to prize winners, the National Lottery Distribution Fund, and the Exchequer are made. There are currently six promotional licences – Camelot holds all of these.¹³

Previously, the Director General of the National Lottery authorised licences. Under the Bill, licences will be authorised by the National Lottery Commission. Licences will be limited to a period of 15 years, but may be extended following agreement between the National Lottery Commission and the licence holder.

¹¹ Ibid, paragraph 36

¹² Department for Culture, Media and Sport, *National Lottery Licensing and Regulation: Review Decision Document*, paragraph 2.3

¹³ Ibid



The Bill replaces existing licensing provision with the effect that there will be only one type of licence – to promote a lottery – rather than the two types of existing licence. The Bill also includes a schedule of changes to the licensing system that will not come into effect unless the Secretary of State considers that the current structure has failed to create effective competition for the licence. These provisions include the removal of a single licence for the Lottery as a whole, and the creation of a single type of licence to both run and promote a lottery. In addition, the National Lottery Commission is given reserve powers to continue with an existing licence for an interim period, without opening it up to competition, if this is considered to be in the best interests of the Lottery. The Bill also includes a reserve power that enables the National Lottery Commission to offer for competition a small number of licences to run different parts of the Lottery in the circumstances of an unsuccessful competition.

Sources *National Lottery Bill* and Explanatory Notes
National Council for Voluntary Organisations
National Lottery Commission
Department for Culture, Media and Sport