Draft Order laid before Parliament under section 11 of the Public Bodies Act 2011, for approval by resolution of each House of Parliament after the expiry of the 40-day period referred to in section 11(4) of that Act.

DRAFT STATUTORY INSTRUMENTS

2013 No.

PUBLIC BODIES

The Public Bodies (Merger of the Gambling Commission and the National Lottery Commission) Order 2013

Made - - - - 2013

Coming into force in accordance with article 1

The Secretary of State makes the following Order in exercise of the powers conferred by sections 2(1), 6(1), (2) and (5), 23(1)(a), 24(1) and 35(2) of the Public Bodies Act 2011(**1**) ("the Act").

In accordance with section 8 of the Act, the Secretary of State—

(a) having had regard to the factors set out in section 8(1) of the Act, considers that this Order serves the purpose of improving the exercise of public functions; and

(b) considers that this Order does not remove any necessary protection or prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise.

The Secretary of State has consulted in accordance with section 10 of the Act.

The Treasury has consented to the making of this Order, to the extent that its consent is required by section 6(4) of the Act.

The Secretary of State has consulted the Welsh Ministers in accordance with section 63(1) of the Government of Wales Act 2006(**2**).

A draft of this Order and an explanatory document containing the information required by section 11(2) of the Act have been laid before Parliament in accordance with section 11(1) after the end of the period of twelve weeks mentioned in section 11(3). In accordance with section 11(4) of the Act, the draft of this Order has been approved by a resolution of each House of Parliament after the expiry of the 40-day period referred to in that provision.

(**1**) 2011 c. 24.
(**2**) 2006 c. 32.

Citation and commencement

1.—(1) This Order may be cited as the Public Bodies (Merger of the Gambling Commission and the National Lottery Commission) Order 2013.

(2) Subject to paragraph (3), this Order comes into force on the day after the day on which it is made.

(3) Article 9 (repeal in relation to the Public Bodies Act 2011) comes into force on the day after that on which the other provisions of this Order come into force.

Interpretation

2.—(1) In this Order—

(a) "the 1993 Act" means the National Lottery etc. Act 1993(**3**);

(b) "the 2011 Act" means the Public Bodies Act 2011(**4**); and

(c) "the merger date" means the day on which this Order (other than article 9) comes into force.

(2) Articles 5 and 8 (in so far as it applies to property, rights and liabilities transferred under article 5) constitute a transfer scheme under section 23(1) of the 2011 Act.

Abolition of the National Lottery Commission

3. The National Lottery Commission(**5**) is abolished.

Transfer of statutory functions

4.—(1) The functions of the National Lottery Commission are transferred to the Gambling Commission(**6**).

(2) The Schedule, which makes consequential, supplementary and incidental provision in relation to the transfers described in paragraph (1), has effect.

Transfer of property

5.—(1) All the property, rights and liabilities to which the National Lottery Commission is entitled or subject immediately before the merger date become on that date the property, rights and liabilities of the Gambling Commission.

(2) Paragraph (1) has effect in relation to property, rights and liabilities—

(a) whether or not they would otherwise be capable of being transferred;

(b) without any instrument or other formality being required; and

(c) despite any provision (of whatever nature) which would otherwise prevent, penalise or restrict the transfer of the property, rights or liabilities.

Annual report

6.—(1) If, on the merger date, the National Lottery Commission has not made a report on the exercise of its functions during the financial year ending on 31st March 2013 under section 14(1)

(**3**) 1993 c. 39.
(**4**) 2011 c. 24.
(**5**) The National Lottery Commission was established by section 3A(1) of the 1993 Act; section 3A was added by section 1(3) of the National Lottery Act 1998 (c.22).
(**6**) The Gambling Commission was established by section 20(1) of the Gambling Act 2005 (c. 19).

of the 1993 Act (annual report)(**7**), as soon as possible on or after the merger date, the Gambling Commission must make such a report to the Secretary of State and the Scottish Ministers.

(2) The Gambling Commission must make a report to the Secretary of State and the Scottish Ministers on the exercise by the National Lottery Commission of its functions during the financial year beginning on 1st April 2013 and ending immediately before the merger date.

(3) The Gambling Commission must make the report described in paragraph (2) on the same day that it makes a report under section 14(1) of the 1993 Act on its exercise of the relevant functions during the financial year ending on 31st March 2014.

(4) The Secretary of State must lay a copy of any report made under paragraph (1) or (2) before Parliament.

(5) The Scottish Ministers must lay a copy of any report made under paragraph (1) or (2) before the Scottish Parliament.

Annual accounts

7.—(1) The Gambling Commission must prepare a statement of accounts of the National Lottery Commission in respect of any financial year (or part of any financial year) for which no statement of accounts was prepared and sent under paragraph 11(3) of Schedule 2A to the 1993 Act(**8**) to the Secretary of State and the Comptroller and Auditor General prior to the merger date.

(2) A statement of accounts prepared by the Gambling Commission under paragraph (1) must 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 a statement of accounts must be sent to the Secretary of State and the Comptroller and Auditor General within such period after the merger date as the Secretary of State may direct.

(4) The Comptroller and Auditor General must examine, certify and report on a statement of accounts, and must lay copies of each such statement and report before Parliament.

(5) The Secretary of State must not give a direction under paragraph (2) or (3) without the approval of the Treasury.

Supplementary provisions

8.—(1) Nothing in this Order affects the validity of anything done by or in relation to the National Lottery Commission before the merger date.

(2) Anything (including any legal proceedings) which immediately before the merger date is in the process of being done by or in relation to the National Lottery Commission may be continued on and after the merger date by or in relation to the Gambling Commission.

(3) Anything done by or in relation to the National Lottery Commission which has effect immediately before the merger date has effect, so far as is necessary for continuing its effect on or after the merger date, as if done by or in relation to the Gambling Commission.

(4) So far as necessary or appropriate for the purposes of or in consequence of article 4 or 5, on and after the merger date a reference to (and a reference which is to be read as a reference to) the

(**7**) As well as establishing the National Lottery Commission, the National Lottery Act 1998 abolished the office of the Director General of the National Lottery. Paragraph 4 of Schedule 1 to that Act provided that, so far as necessary to effect the transfer from the Director General to the Commission of the functions described in section 1 of that Act and of the property, rights, liabilities and staff described in paragraphs 2 and 3 of Schedule 1 to that Act, prior legislation would have effect as if references to the Director General were references to the Commission. The references to the Director General in section 14(1) of the 1993 Act have effect as if they referred to the Commission.

(**8**) Schedule 2A to the 1993 Act was inserted by paragraph 7 of Schedule 1 to the National Lottery Act 1998.

National Lottery Commission in an enactment, instrument or other document is to be treated as, or as including, a reference to the Gambling Commission.

Repeal in relation to the Public Bodies Act 2011

9. In Schedule 2 to the 2011 Act, the entry for Group 2, including the associated references to the Gambling Commission and the National Lottery Commission, is omitted.

Hugh Robertson
Minister of State
Date Department for Culture, Media and Sport

We consent.

Name and Name
Two of the Lords Commissioners of Her
Date Majesty's Treasury

SCHEDULE Article 4

Transfer of functions

Amendments to the National Lottery etc. Act 1993

1. The 1993 Act is amended as follows.

2. In section 3A (the National Lottery Commission)(**9**)—

(a) in the heading, for "National Lottery" substitute "Gambling";

(b) omit subsection (1); and

(c) in subsection (2), before "Commission" insert "Gambling".

3. Section 4A (consultation with Gambling Commission)(**10**) is repealed.

4. In section 4B (disclosure of information)(**11**)—

(a) in subsections (1) and (2), for "National Lottery" substitute "Gambling";

(b) in subsection (1), after "Commission" insert "for use in the exercise of its national lottery functions";

(c) in subsection (2), after "information", insert "received by it in the exercise of its national lottery functions"; and

(d) after subsection (5), insert—

"(6) In this section "national lottery functions" means functions conferred or imposed under or by virtue of—

(a) a provision of this Act other than section 10C, and

(b) Part 3 of the Horserace Betting and Olympic Lottery Act 2004.".

5. In subsection (1)(a) and (b) of section 4C (wrongful disclosure)(**12**), for "National Lottery" substitute "Gambling".

6. In section 10C (annual levy)(**13**)—

(a) in subsections (1) and (5), for "Gambling Commission" substitute "Commission";

(b) in subsection (7)—

(i) in paragraph (a), for "Gambling Commission" substitute "Commission"; and

(ii) in paragraph (b), omit "National Lottery"; and

(c) omit subsection (8).

7. In section 14 (annual report)(**14**)—

(a) in subsection (1), before "functions" insert "relevant";

(b) after subsection (2), insert—

"(2A) In subsection (1) "relevant functions" means functions conferred or imposed under or by virtue of—

(**9**) Section 3A was inserted by section 1(3) of the National Lottery Act 1998 (c.22).
(**10**) Section 4A was inserted by paragraph 2 of Schedule 3 to the Gambling Act 2005 (c.19).
(**11**) Section 4B was inserted by section 2 of the National Lottery Act 2006 (c.23).
(**12**) Section 4C was inserted by section 2 of the National Lottery Act 2006.
(**13**) Section 10C was inserted by paragraph 1 of Schedule 3 to the Gambling Act 2005.
(**14**) By virtue of paragraph 4 of Schedule 1 to the National Lottery Act 1998, references to the Director General of the National Lottery in section 14(1) have effect as if they referred to the National Lottery Commission. Section 14(4) was added by paragraph 12(2) of Schedule 5 to the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. 1999/1750).