

EXPLANATORY MEMORANDUM TO
THE BIG LOTTERY FUND
(PRESCRIBED EXPENDITURE) ORDER 2006

2006 No. 3202

1. This explanatory memorandum has been prepared by the Department for Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This Order prescribes the descriptions of expenditure for the purposes of section 22(3)(d) of the National Lottery etc. Act 1993 (“the 1993 Act”) and thereby defines the extent of the power of the Big Lottery Fund (“the Fund”) to distribute Lottery money under section 36B(1) of that Act.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 The Fund is the largest distributor of National Lottery money to good causes and was established by section 14 of the National Lottery Act 2006 (“the 2006 Act”). The Fund will be the successor body to the National Lottery Charities Board (also known as the Community Fund), the New Opportunities Fund and the Millennium Commission. The Fund will become fully functional on 1st December 2006, the date that the remaining provisions of the 2006 Act relating to the Fund’s functions will be commenced and the date that the bodies mentioned above will be dissolved by an Order made under section 16 of the 2006 Act.

4.2 At that time the Fund will only be able to distribute Lottery money under section 36B(1) for meeting prescribed expenditure that is charitable, connected with health, education or the environment. Such descriptions of expenditure must be prescribed in an order made by the Secretary of State under section 22(3A) of the 1993 Act. The Order may prescribe descriptions of expenditure which are referred to as devolved expenditure. The distribution of English, Welsh, Scottish and Northern Ireland devolved expenditure will be the responsibility of the Fund’s country committees established under paragraph 7 of Schedule 4A to the 1993 Act and be subject to the policy directions given by the Secretary of State for English devolved expenditure or the relevant devolved administration for Welsh, Scottish and Northern Ireland devolved expenditure.

4.3 The Order may also prescribe descriptions of expenditure which are not devolved expenditure. The distribution of such expenditure will be the responsibility of the main board of the Fund and be subject to policy directions given by the Secretary of State. The Fund will be able to distribute such funds throughout the UK and, by virtue of section 25(6)(a) of the 1993 Act, the Isle of Man. In relation to Isle of Man devolved expenditure the Fund intends to delegate the function of distributing such expenditure to a body established in the Isle of Man.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Minister for Sport, Richard Caborn, has made the following statement regarding Human Rights:

In my view the provisions of the Big Lottery Fund (Prescribed Expenditure) Order 2006 are compatible with the Convention rights.

7. Policy background

7.1 In July 2003 the Department published the National Lottery Funding decision document in which it announced its proposal to merge the Community Fund and the New Opportunities Fund into a single new distributor. This required primary legislation, the National Lottery Act 2006, which will only come fully into force on 1st December 2006.

7.2 In June 2004 the Community Fund and New Opportunities Fund agreed to administratively merge i.e. to work together jointly under the name of the Big Lottery Fund in preparation for the legal merger under the 2006 Act. Accordingly, these Funds consulted between October 2004 and January 2005 on the three high level funding themes that the Secretary of State for Culture, Media and Sport announced in August 2004. They held key stakeholder events and meetings, and published a formal consultation document and questionnaire, to which there were around 630 responses. The majority of respondents agreed that the funding themes provided a sensible and flexible strategic framework for the Fund's future funding. The Funds published an analysis of the responses in July 2005, which is available at www.biglotteryfund.org.uk.

7.3 As a result, as an interim measure prior to the commencement of the 2006 Act, the Secretary of State made the New Opportunities Fund (Specification of Initiatives) (No.2) Order 2005. This Order largely re-enacts that Order within the statutory framework of the Big Lottery Fund. It also re-enacts the New Opportunities Fund (Specification of Initiative) Order 2005 which made provision for transformational grants. Copies of the explanatory memoranda for these Orders are attached.

7.4 Pursuant to sections 22(3C) and 36B(5) of the 1993 Act this Order has been subject to consultation with the Fund, Scottish Ministers, the National Assembly for Wales, the Northern Ireland Department of Culture, Arts and Leisure who have all agreed to the draft Order. However, the Department has not consulted any other persons. Whilst we would normally expect to consult more widely with Lottery stakeholders on such an Order we do not, on this specific occasion, think that this is necessary as there was a full consultation exercise involving all Lottery stakeholders between 29 July 2005 and 30 September 2005 on the New Opportunities Fund (Specification of Initiatives) (No. 2) Order 2005 which this Order largely re-enacts.

7.5 In addition to this Order the Secretary of State and the devolved administrations will give directions to the Fund in relation to its distribution of Lottery money. The responsibility for giving directions relating to Welsh, Scottish and Northern Ireland devolved expenditure rests with the relevant devolved administrations. The responsibility for giving directions relating to English and Isle of

Man devolved expenditure rests with the Secretary of State. These directions will come into effect at the same time as this Order. The draft directions have also been subject to consultation with the Fund and the devolved administrations. Again these directions are almost identical to the interim directions issued to the Community Fund and New Opportunities Fund in 2005. Those directions also formed part of the wider consultation exercise involving Lottery stakeholders referred to in paragraph 7.4. 14 responses were received to this consultation exercise, most of which focused on the directions – there were no substantive comments on the Order. The Department has published these on its website (www.culture.gov.uk).

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

9. Contact

Moira Costello at the Department for Culture, Media and Sport. Tel: 020 7211 6454 or e-mail: moira.costello@culture.gsi.gov.uk can answer any queries regarding the instrument.