EXPLANATORY MEMORANDUM TO

THE LOTTERY DUTY (AMENDMENT) REGULATIONS 2007

2007 No. 870

1. This explanatory memorandum has been prepared by HM Revenue & Customs and is laid before the House of Commons by Command of Her Majesty.

2. Description

2.1 The instrument requires lottery duty in respect of the National Lottery to be paid by the *person* licensed to run that lottery instead of by the promoter.

2.2 This is because a *person* may now be so licensed, whereas only a *body corporate* could be so licensed before.

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

None

4. Legislative Background

4.1 Lottery duty must generally be paid by the promoter of the lottery, but regulations may require it to be paid instead by another person who occupies (or has occupied) a position of responsibility in relation to the lottery.

(Finance Act 1993 (c. 34) sections 27(1) and 27(2).)

4.2 So lottery duty in respect of the National Lottery has had to be paid by the body corporate licensed to run that lottery instead of by the promoter.

(Section 5 of the National Lottery etc. Act 1993 (c. 39) and regulation 8 of the Lottery Duty Regulations 1993 (S.I. 1993/3212).)

4.3 A licence can now authorise a person to run the National Lottery, not just a body corporate.

(Section 5 of the National Lottery etc. Act 1993 was so amended as of 1 October 2006 by section 3(b) of the National Lottery Act 2006 (c. 23) and article 2(a) of S.I. 2006/2630 (C. 89).)

4.4 So the instrument duly provides that lottery duty in respect of the National Lottery must be paid by that person instead of by the promoter.

(It amends regulation 8 of the Lottery Duty Regulations 1993 to this effect.)

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Part 1 Chapter 2 of the Finance Act 1993 (c. 34) provides that a duty of excise ("lottery duty") is chargeable, with certain exceptions, on the taking in the United Kingdom of a ticket or chance in a lottery. In general, the duty must be paid by the promoter. Regulations may though provide that, for example, in the case of the National Lottery it must be paid by anyone authorised by licence to run that lottery under section 5 of the National Lottery etc. Act 1993.

7.2 Until it was amended as of 1 October 2006, the social legislation provided for such authorisation of a body corporate only. From that date, the provision was amended to provide for authorisation of a person.

7.3 The payment provision for the National Lottery in regulation 8 of the Lottery Duty Regulations 1993 refers to body corporate as formerly in section 5 of the National Lottery etc. Act 1993.

7.4 By amending the reference in regulation 8 to person, the instrument ensures that alignment between the social and revenue legislation, and the integrity of the duty payment provision, is maintained.

8. Impact

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

9. Contact

Ian Ayre at HM Revenue & Customs Tel: 0161 827 0306 or e-mail: ian.ayre@hmrc.gsi.gov.uk can answer any queries regarding the instrument.