EXPLANATORY MEMORANDUM TO

THE LOTTERY DUTY (EXEMPTION) ORDER

2010 No. 2959

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

2. Purpose of the instrument

2.1 Lottery duty legislation relies to a large extent on categories of lottery described in social legislation to identify those lotteries that will not be subject to duty.

2.2 The Gambling Act 2005 replaced much of that social legislation, and, in order to maintain the existing lottery duty reliefs, appropriate consequential changes were made to the duty legislation. It has, however, become apparent that the relief previously available to certain categories of lottery has not been fully transposed through the amendments already made.

2.3 This instrument addresses the deficiency and reinstates the relief from duty available to large society, non-commercial society and local authority lotteries.

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

3.1 None.

4. Legislative Context

4.1 This Order is made in exercise of the powers conferred by sections 24(5) and 38 of the Finance Act 1993.

4.2 The Order adds to the descriptions of lotteries contained within section 24 in respect of which lottery duty is not chargeable.

4.3 Section 24(4) of the Finance Act 1993 was amended by section 105 and schedule 25 to the Finance Act 2007 in order to bring it into line with the changes made in the Gambling Act 2005. The new provisions exempted "exempt lotteries" within the meaning of section 258 of the Gambling Act 2005.

4.4 Those provisions have, however, been found not to fully reflect the policy in that they do not exempt large society lotteries (see schedule 11 to the Gambling Act 2005) and licensed lotteries (see section 98 of the Gambling Act 2005).

4.5 This statutory instrument brings the legislation back into line with the policy intention.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 The Exchequer Secretary has made the following statement regarding Human Rights:

In my view the provisions of the Lottery Duty (Exemption Order) 2010 are compatible with the Convention rights.

7. Policy background

- ***What is being done and why***

7.1 Section 24(4) of the Finance Act 1993 as originally enacted, provided that lottery duty was not chargeable in respect, in Great Britain, of a lottery promoted as an incident of an exempt entertainment within the meaning of the Lotteries and Amusements Act 1976.

7.2 Section 24(4) was amended by section 105 and schedule 25 to the Finance Act 2007 in order to bring it into line with the changes relating to lotteries made to the social legislation by the Gambling Act 2005.

7.3 The new provisions exempt "exempt lotteries" within the meaning of section 258 of the Gambling Act 2005. However, these provisions do not include large society lotteries (see schedule 11 to that Act) or licensed lotteries (see section 98 of that Act).

7.4 This statutory instrument brings the legislation back into line with the policy intention.

- ***Consolidation***

7.5 This statutory instrument amends section 24(4) of the Finance Act 1993. It is not proposed to consolidate this legislation.

8. Consultation outcome

8.1 A consultation exercise has not been undertaken in connection with this statutory instrument as it is considered it will have no impact on lottery promoters as it simply brings the legislation into conformity with established policy.

9. Guidance

9.1 No guidance will be issued as the statutory instrument simply underpins the established liability of certain categories of lottery.

10. Impact

10.1 The impact on business, charities or voluntary bodies is minimal.

10.2 The impact on the public sector is minimal.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 The intended outcome of this instrument is to bring the legislation back into line with established policy. It will establish the legal basis for exemptions which reflect that policy intention. The outcome will be subject to internal review after 12 months and the legislation reviewed to ensure it has had the desired effect.

13. Contact

Brian O'Kane at Her Majesty's Revenue and Customs Tel: 0161 827 0325 or email: brian.okane@hmrc.gsi.gov.uk can answer any queries regarding the instrument.