EXPLANATORY MEMORANDUM TO

THE NATIONAL LOTTERY ETC. ACT 1993 (AMENDMENT OF SECTION 23) ORDER 2011

2011 No. 685

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. Purpose of the instrument

2.1 This Order transfers the function of distributing lottery funds for film from the UK Film Council (UKFC) to The British Film Institute (BFI). The UKFC is a company limited by guarantee and is in the process of being wound up. The BFI is a charitable body incorporated by Royal Charter and the BFI will take on a large number of functions previously carried out by the UKFC including the distribution of the lottery funding stream.

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

3.1 None

4. Legislative Context

4.1 Proceeds of lotteries forming part of the National Lottery are paid into the National Lottery Distribution Fund ("the NLDF") and allocated, by section 22 of the National Lottery etc. Act 1993 ("the Act"), for expenditure relating to the National Lottery good causes including the arts, which currently receives 16⅔ per cent. By virtue of the Apportionment of Money in the National Lottery Distribution Fund Order 2010 (S.I. 2010/2863) the proportion of proceeds in the NLDF for expenditure in relation to the arts will increase to 18 per cent from 1 April 2011, and to 20 per cent from 1 April 2012.

4.2 Section 23(1) of the Act further provides for the percentage allocation of the arts fund to be held in the NLDF for distribution by each of the various arts distribution bodies. UKFC's current allocated share of the arts fund is 13.52 per cent. Under section 29(1) of the Act the Secretary of State may substitute a different body for any body specified in section 23(1) of the Act.

5. Territorial Extent and Application

5.1 This instrument extends to the United Kingdom.

6. European Convention on Human Rights

The Minister for Tourism and Heritage, John Penrose, has made the following statement regarding Human Rights:

In my view the provisions of the National Lottery etc. Act 1993 (Amendment of Section 23) Order 2011 are compatible with the Convention rights.

7. Policy background

- What is being done and why

7.1 On 26 July 2010, the Secretary of State, the Rt Hon Jeremy Hunt MP, announced that the Government would be abolishing the UKFC and establish a direct relationship with the BFI . He confirmed that a number of functions carried out by the UKFC, including the responsibilities for the distribution of Lottery funding for films would continue. On 29 November 2010, the Minister for Culture, Communications and Creative Industries, Ed Vaizey, announced that the BFI will become the lead strategic body on film and the distributor of Lottery funds to UK film makers from April 2011. In order to allow the BFI to distribute Lottery funding from 1 April 2011, this Statutory Instrument is required.

- Consolidation

7.2 Not applicable.

8. Consultation outcome

8.1 There was no formal consultation regarding the transfer of functions from the UKFC to the BFI. However, following the decision to abolish the UKFC, Government had intensive discussions and engagement with the industry to discuss which existing body would be best placed to distribute Lottery funds for film. Devolved administrations have been formally consulted.

9. Guidance

9.1 The transfer of the lottery funding from the UKFC to the BFI will be communicated through the Department's website and communicated to stakeholders as part of the handover process.

10. Impact

10.1 The impact on business, charities or voluntary bodies is none.

10.2 The impact on the public sector is none.

10.3 An Impact Assessment has not been prepared for this instrument because no

impact on the private or voluntary sector is foreseen and the public sector impact is none. The same amount of Lottery funding will be available to the BFI to distribute as would have been the case for the UKFC, and the funding priorities will remain the same.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 Not applicable

13. Contact

Steve Edwards at the Department for Culture, Media and Sport Tel: 0207 211 6143 or email: steven.edwards@culture.gsi.gov.uk can answer any queries regarding the instrument.