EXPLANATORY MEMORANDUM TO

THE NATIONAL LOTTERY ETC. ACT 1993 (BIG LOTTERY FUND) (AMENDMENT OF SCHEDULE 4A) ORDER 2011

2011 No. 2385

1. This explanatory memorandum has been prepared by the Cabinet Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Order makes an amendment to Schedule 4A of the National Lottery etc. Act 1993 ("the 1993 Act") which inter alia sets out the number of UK Board members of the Big Lottery Fund. The Order amends the legislation to provide that the Board must consist of between 9 and 12 members. The 1993 Act currently provides for a fixed number of 12 members.

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

3.1 None

4. Legislative Context

4.1 The Big Lottery Fund is a non-departmental public body established by section 36A of the 1993 Act. Section 36A, and related sections setting out the Big Lottery Fund's main functions (sections 36B, 36C and 36D), were inserted by the National Lottery Act 2006 (section 14(1) and section 15(2)).

4.2 Under paragraph 1(1) of Schedule 4A to the 1993 Act (as amended), the Big Lottery Fund Board must consist of 12 members.

4.3 Following the Transfer of Functions (Big Lottery Fund) Order 2011 (SI 2011/739), the Minister for the Cabinet Office has power under paragraph 1(5) of Schedule 4A to the 1993 Act to vary the number of members. Any such Order is subject to the negative procedure in accordance with section 60(3) of the Act.

4.4 Before making an Order to vary the number of Big Lottery Fund Board members the Minister for the Cabinet Office is required to consult the National Assembly for Wales, Scottish Ministers and the Northern Ireland Department of Culture, Arts and Leisure.

5. Territorial Extent and Application

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Minister for the Cabinet Office has made the following statement regarding Human Rights:

In my view the provisions of the National Lottery etc Act 1993 (Big Lottery Fund) (Amendment) Order 2011 No. 2385 are compatible with the Convention rights.

7. Policy background

What is being done and why

7.1 The Big Lottery Fund (BIG) is the largest distributor of Lottery money to good causes. BIG is responsible for delivering 46 per cent of all funds raised for good causes (about 13 pence of every pound spent on a lottery ticket) by the national Lottery.

7.2 Since June 2004, BIG has awarded over £3.6bn to projects supporting health, education, environment and charitable purposes. Most of the funding is awarded to voluntary and community sector organisations. BIG deliver funding throughout the UK, mostly through programmes tailored specifically to the needs of communities in England, Scotland, Wales or Northern Ireland as well as some programmes that cover the whole UK.

7.3 Following the Public Bodies Review Programme in October 2010 it was agreed that policy and sponsor responsibility for BIG would transfer from the Department for Culture, Media and Sport to the Cabinet Office. The Transfer of Functions (Big Lottery Fund) Order 2011 (SI 2011/739) gave effect to the transfer of responsibility to the Minister for the Cabinet Office from 13th April 2011.

7.4 The transfer of policy and sponsorship responsibilities to the Cabinet Office, and the appointment of a new Chair, provided an opportunity for a holistic independent review of existing governance arrangements. Following the review the Minister for the Cabinet Office agreed that current legislation around the number of Board members set out at Schedule 4A of the 1993 Act should be more flexible to allow BIG to have a minimum of 9 and a maximum of 12 Board members.

7.5 The intended outcome is to establish a Board structure more in keeping with that of a mature delivery organisation, rather than one in its early years of establishment; to streamline bureaucracy and speed up decision making; to reduce overheads; and simplify the relationship and expectations of non-executives and executives.

7.6 The tenure of two Board members expires on 30th November 2011. The flexibility provided by the Order will enable BIG to exercise its functions with a reduced Board comprising of 10 members.

Consolidation

7.7 This is the first Order made under this power. Accordingly, consolidation is not appropriate at this time.

8. Consultation outcome

8.1 The Minister for the Cabinet Office wrote to Ministers in the Devolved Administrations on the 19th July 2011 inviting comments and questions on varying the number of Big Lottery Fund Board members. The Minister confirmed that this amendment will not affect the 4 country chairs who are members of the board.

8.2 Huw Lewis, Minister for Housing, Regeneration and Heritage, Welsh Government wrote to Francis Maude, Minister for the Cabinet Office on the 5th August 2011 on behalf of the Welsh First Minister confirming he was content with the proposals. No written/other responses were received.

8.3 The deadline for comments and feedback was 15 August 2011.

8.4 Cabinet Office officials engaged with officials in the devolved administrations on all aspects of the Order; including on the proposals and drafting. The draft Order was forwarded to the Devolved Administrations on the 23rd August for their consideration. The Devolved Administrations have indicated that they are content with the Order.

9. Guidance

9.1 N/a

10. Impact

10.1 No impact is foreseen to on business, charities or voluntary bodies.

10.2 No impact is foreseen to the public sector.

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 number of Board members will be reduced from 12 to 10 from November 2011. The impact of operating with a reduced number of Board members upon BIG's ability to exercise its functions and activities will be monitored. After a period there will be an internal review led by the Chair and informed by the Chief Executive. Following the review the Board number can if necessary be revised and where appropriate the numbers may be increased up to the maximum of 12.

13. Contact

Deborah Boswell, Cabinet Office, Office for Civil Society,
Tel: 020 7271 6272 or E-mail: deborah.boswell@cabinet-office.gsi.gov.uk can answer any queries regarding the instrument.