



AN BILLE UM CHRANNACHUR NÁISIÚNTA, 1986 NATIONAL LOTTERY BILL, 1986

EXPLANATORY MEMORANDUM

Title: An Act to provide for the holding by or on behalf of the Minister for Finance of a national lottery, to amend the Gaming and Lotteries Acts 1956 to 1979, and to provide for related matters.

Section 1 defines "the National Lottery" as any lottery game or combination of lottery games held by the Minister for Finance or held under licence in accordance with rules contained in a scheme under section 29 (1) of the Act; "lottery game" is defined as any game, competition or other procedure in which or whereby prizes are distributed by lot or chance among persons participating in the game, competition or other procedure. "National Lottery ticket" and "winning ticket" are also defined.

Section 2 enables the Minister to hold or procure the holding of the National Lottery in accordance with the provisions of the Act.

Section 3 enables the Minister to grant a licence to a person authorising the holding of the National Lottery on the Minister's behalf. The Minister may attach such terms and conditions to a licence as he considers necessary or expedient and may amend such terms and conditions at any time during the currency of the licence. When a licence is granted to any person for the first time, the duration of the licence cannot exceed ten years. The Minister may revoke a licence at any time. The licence must be expressed to authorise a company within the meaning of the Companies Acts to hold the National Lottery on the Minister's behalf. The company so authorised may be the licensee or a subsidiary of the licensee. (In circumstances where the licensee is not a company, the relationship between the authorised company and the licensee will be that of a subsidiary company to its holding company).

Section 4 provides that the total value of the prizes to be distributed in the National Lottery by the company authorised to hold the Lottery must be not less than 40% of the total amount received in respect of National Lottery ticket sales in any financial year of the company. Otherwise the number, form and value of prizes in the National Lottery are to be determined by the company.

Section 5 provides that moneys paid into the Central Fund on foot of section 8 of the Act (i.e. the surplus accruing to the Exchequer from the operation of the National Lottery) shall be applied for such general purposes as the Government may determine from time to time. Whenever such a purpose is determined by the Government, notice of the purpose must be published in *Iris Oifigiúil*. Amounts required for a purpose so determined are to be paid out of moneys provided by the Oireachtas.

Section 6 provides for the appointment by the Minister of an

independent scrutineer to examine on the Minister's behalf the operation of the National Lottery in order to ensure its integrity and to guard against fraud. He may report to the Minister as necessary and must do so at least annually in relation to certain specified matters; he may also make recommendations to the Minister in relation to the Lottery. Any director or employee of the company authorised to hold the National Lottery who fails or refuses to comply with a request for information from the scrutineer, or any person who obstructs or hinders him in the performance of his duties, shall be guilty of an offence.

Section 7 provides for the appointment by the company authorised to hold the National Lottery of ticket sales agents on such terms and conditions as the company may determine with the consent of the Minister. Only the company and its sales agents so appointed may sell, offer or expose for sale (or invite an offer to buy or have for sale) a National Lottery ticket, which may not be sold or offered for sale to a person under the age of eighteen years. It shall be an offence for certain categories of persons e.g. the directors or employees of the authorised company to own a National Lottery ticket.

Section 8 provides for the establishment of a National Lottery Fund in the Central Bank under the Minister's management and control. The proceeds of the sale of National Lottery tickets will be paid into this Fund, and prize moneys and operating expenses will be paid out of it. Surplus moneys in the Fund are to be remitted at least annually to the Central Fund. The accounts of the National Lottery Fund are to be submitted to the Comptroller and Auditor General for audit and thereafter laid before each House of the Oireachtas together with a copy of the report of the Comptroller and Auditor General thereon.

Section 9 provides for the payment to the licensee by the Minister from the National Lottery Fund of remuneration due in respect of the operation of the National Lottery.

Section 10 provides that the licence to operate the National Lottery issued under section 3 of the Act shall authorise a company, and only a company, to hold the National Lottery, and that the sole objects of such a company must be the holding of the National Lottery pursuant to a licence under this Act and the doing of all such other things as are incidental or conducive to the holding of the Lottery.

Section 11 provides that the memorandum of association of the company authorised to hold the Lottery must be consistent with the Act and subject to the approval of the Minister.

Section 12 provides that the articles of association of the authorised company must be consistent with the Act and subject to the approval of the Minister, or, insofar as they relate to the remuneration of the directors, officers and other staff of the company, the approval of the Minister for the Public Service. The articles must also provide that the qualification for being a director of the company shall be the holding of at least one share of the company.

Section 13 provides that the Minister's prior approval to any change in the authorised company's memorandum or articles of association must be obtained by the company.

Section 14 provides that the number of directors of the authorised company shall be seven including the chairman and sets out their mode of appointment.

Section 15 provides that the remuneration and other terms and

conditions of service of the staff of the authorised company shall be subject to the approval of the Minister with the consent of the Minister for the Public Service. The company, in determining the remuneration or allowances to be paid to its staff or the other terms or conditions subject to which its staff hold or are to hold their employment, must have regard to Government or nationally agreed guidelines for the time being extant, or to existing Government policy concerning remuneration and conditions of employment. In addition, the company must comply with any directives in relation to such remuneration, allowances, terms or conditions as the Minister may give with the consent of the Minister for the Public Service.

Section 16 provides that, where a director of the authorised company is nominated as a member of Seanad Éireann or is elected to either House of the Oireachtas or to the Assembly of the European Communities, he shall thereupon cease to be a director of the company. Where a member of the staff of the company is so nominated or elected he shall stand seconded from employment by the company. A person entitled to sit in either House of the Oireachtas or who is a member of the Assembly of the European Communities is disqualified from becoming a member of the staff of the company.

Section 17 enables the authorised company to borrow money with the consent of the Minister.

Section 18 provides that, where the authorised company acquires an interest in any property funded in whole or in part from the proceeds of the National Lottery, it shall hold such property in trust for the State and must surrender that interest to the Minister or to another specified State agency, if the Minister so requests or if the licence under which the company holds the National Lottery expires or is revoked.

Section 19 provides for the keeping of accounts by the authorised company, and for the laying of the company's accounts and the directors' report to the shareholders before each House of the Oireachtas.

Section 20 provides for the submission to the Minister by the authorised company of a report on its activities during the year. This report will be complementary to the accounts and other documentation provided for in section 19.

Section 21 enables the Minister to take up or purchase shares in the authorised company, subject to a maximum of 20% of the total nominal value of the issued shares of the company.

Section 22 authorises the Minister to sell or otherwise dispose of any shares in the company vested in him.

Section 23 enables the Minister to exercise all rights and powers exercisable in relation to any shares held by him.

Section 24 provides that any shares in the authorised company held by or in trust for any other person shall not be disposed of without the consent of the Minister.

Section 25 provides that an issue of shares of the authorised company shall not be made without the Minister's approval.

Section 26 provides that all dividends and other moneys received by the Minister in respect of shares of the authorised company shall be paid into or disposed of for the benefit of the Exchequer.

Section 27 provides that every director of the authorised company (other than such directors as may be agreed on between the Minister and the licensee) shall hold his shares in trust for the Minister. Provision is also made for the transfer of one or more shares to a person appointed (or about to be appointed) a director of the company.

Section 29 provides that a scheme of rules in respect of each lottery game in the National Lottery must be prepared by the authorised company for approval by the Minister. Only those games in respect of which such a scheme has been prepared by the company and approved by the Minister can be operated by the company.

Section 30 enables the Minister to issue such directions as he considers necessary or expedient in the public interest to the authorised company.

Section 31 enables the Minister to require any shareholder in the authorised company to assign his shares to the Minister or to another specified person where the Minister revokes the licence under which the company was authorised to hold the National Lottery. It also provides for the appointment by the Minister if he so thinks fit at any time of a manager who would, in the terms of the section, take over the management of the authorised company as a going concern.

Section 32 confines the use of the names "National Lottery" or "Irish National Lottery" to the Minister, the licensee, the authorised company or a person so authorised by any of these. A person who uses these terms unlawfully shall be guilty of an offence.

Section 33 exempts the National Lottery from the provisions of the Gaming and Lotteries Acts 1956 to 1979.

Section 34 authorises the Minister for Justice to amend by regulations sections 27 and 28 of the Gaming and Lotteries Act 1956 by altering the prize limits specified in subsections (2) (b) and (4) of section 27 and subsection (2) (c) of section 28 of that Act. Lotteries held pursuant to sections 27 and 28 are also exempted from the provisions of section 22 of the Gaming and Lotteries Act 1956 in relation to advertising.

Section 35 enables the Minister to make regulations to give full effect to the Act or, for a period of two years after its enactment, regulations to do anything which appears to him to be expedient for bringing the Act into operation, including the modification of provisions of the Act.

*An Roinn Airgeadais,
Meitheamh, 1986.*