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STATUTORY INSTRUMENTS

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**2004 No. 310 (N.I. 1)**

**NORTHERN IRELAND**

**The Betting and Gaming (Northern Ireland) Order 2004**

*Made - - - - 11th February 2004*

*Coming into operation in accordance with Article 1*

At the Court at Buckingham Palace, the 11th day of February 2004

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order in Council has been approved by resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1(1) of the Schedule to the Northern Ireland Act 2000 (c. 1) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

**Title and commencement**

1.—(1) This Order may be cited as the Betting and Gaming (Northern Ireland) Order 2004.

(2) This Article and Article 2 shall come into operation on the expiration of 7 days from the day on which this Order is made.

(3) The following provisions shall come into operation on the expiration of 14 days from the day on which this Order is made—

- (a) Article 3;
- (b) Article 4 (together with Schedule 1);
- (c) Article 11;
- (d) Article 12(1) and (2); and
- (e) in Schedule 4, the entries relating to Articles 3(1D)(a), 36(3), 48(1), 86(8) and 130 of the principal Order, and Article 12(3) so far as relating thereto.

(4) The following provisions shall come into operation on such day or days as the Department for Social Development may by order appoint—

- (a) Article 5(1) (together with Schedules 2 and 3);
- (b) Article 6;

- (c) Articles 8 to 10; and
  - (d) in Schedule 4, the entries relating to Articles 32, 107, 174(3)(a), 178(2) and 186(1) of the principal Order, and Article 12(3) so far as relating thereto.
- (5) The remaining provisions of this Order shall come into operation on the expiration of three months from the day on which this Order is made.

### **Interpretation**

2.—(1) The Interpretation Act (Northern Ireland) 1954 (c. 33) applies to this Order as it applies to an Act of the Assembly.

(2) In this Order “the principal Order” means the [Betting, Gaming, Lotteries and Amusements \(Northern Ireland\) Order 1985 \(NI 11\)](#).

### **Football pools**

3.—(1) In Article 3 of the principal Order (restriction on use of premises for betting transactions)

- (a) in paragraph (1A)(a) (restriction not to apply to premises where coupons or entry forms for qualifying competitions promoted by a registered pool promoter are delivered) after “post” there shall be inserted “and any of such other means as may be prescribed by regulations”;
- (b) in paragraph (1D)(a) (which defines “qualifying competition” so as to require that forecasts in the competition are made on football games played on a Saturday, Sunday or bank holiday), the words from “to be played” to “1971” shall be omitted.

(2) In Article 44(3) of the principal Order (restriction on pool betting not to apply to a registered pool promoter) after “post” there shall be inserted “and any of such other means as may be prescribed by regulations”.

### **Betting on tracks**

4.—(1) In Article 3 of the principal Order (restriction on use of premises for betting transactions)

- (a) in paragraph (3) at the beginning there shall be inserted “Subject to paragraph (3A),”;
- (b) after paragraph (3) there shall be inserted—
  - “(3A) In the case of a licensed track, paragraph (3) shall not apply in relation to the use of a permanent structure by a licensed bookmaker for the purposes of his business if—
  - (a) the use takes place on a day on which the public are admitted to the track for the purpose of attending horse or, as the case may be, dog racing and no other sporting events are taking place; and
  - (b) no betting transactions in connection with races run on the track are effected in the course of the use.”.

(2) In Article 36 of the principal Order (restriction of bookmaking and pool betting on tracks) paragraph (3) shall be omitted.

(3) After Article 46(3) of the principal Order (charges to bookmakers on licensed tracks) there shall be added—

“(4) In paragraph (2) the reference to facilities shall be construed as a reference to facilities other than in relation to a permanent structure.”.

(4) In Article 48(1) of the principal Order (restriction on betting on tracks on certain days) the words “any Sunday,” shall be omitted.

(5) After Article 49(3) of the principal Order (occupiers of licensed tracks not to have an interest in bookmaking on the track) there shall be added—

“(4) Paragraph (1) shall only apply in relation to bookmaking in connection with races run on that track.”.

(6) After Article 53 of the principal Order there shall be inserted—

**“Rights of betting workers as respects Sunday working**

**53A.** Schedule 8A shall have effect for the purpose of making provision about the rights of betting workers as respects Sunday working.

**Exclusion of Sunday Observance Act (Ireland) 1695**

**53B.** The Sunday Observance Act (Ireland) 1695 does not apply to any person by reason of his having effected a betting transaction on a non-sporting event at a track which is open on a Sunday and on which betting is taking place.”.

(7) After Schedule 8 to the principal Order there shall be inserted as Schedule 8A the provisions set out in Schedule 1 to this Order.

**Bookmaking office licences**

**5.—(1)** An application for the grant of a bookmaking office licence shall be made to a county court; and, accordingly, the amendments to the principal Order set out in Schedule 2 and the transitional provisions contained in Schedule 3 shall have effect.

(2) In Article 12 of the principal Order (grant of bookmaking office licences) paragraph (4)(i) shall be omitted.

**Conduct of licensed offices**

**6.** In Article 32 of the principal Order (conduct of licensed offices)—

(a) paragraphs (2) and (4A)(a) shall be omitted;

(b) in paragraph (5) at the beginning there shall be inserted “Subject to paragraph (6) and Article 95(1)(b),”;

(c) for paragraph (6) there shall be substituted—

“(6) A licensed office may be used as a place where persons may collect amounts payable by way of winnings in respect of competitions of the kind mentioned in Article 3(1A)(a).”;

(d) in paragraph (11) after “other than” there shall be inserted “an advertisement published in a material form or”;

(e) in paragraph (12)—

(i) after “if” there shall be inserted “it is published otherwise than in a material form and”;

(ii) sub-paragraph (b)(iii) shall be omitted;

(f) paragraph (14)(b) shall be omitted.

**Registration of clubs**

7.—(1) In Article 96(4)(c) of the principal Order (registration of clubs) for “2 years or, if it is a sporting club,” there shall be substituted “not less than”.

(2) In paragraph 1(a) of Schedule 13 to the principal Order (applications for registration of clubs) for the words from “than” to “years” there shall be substituted “than 1 year”.

**Gaming machines**

8.—(1) In Article 107 of the principal Order (gaming machines restricted from certain premises)

(a) in paragraph (1)—

(i) after “1996” there shall be inserted “or a licensed office”;

(ii) “, as the case may be,” shall be omitted;

(iii) after “licensed premises” there shall be inserted “or, as the case may be, the licensed office”;

(b) in paragraph (4)—

(i) “, as the case may be,” shall be omitted;

(ii) for “in respect of the premises” there shall be substituted “or the licensed bookmaker, as the case may require”;

(c) after paragraph (5)(b) there shall be inserted—

“and

(c) in the case of a licensed office, on the application of the licensed bookmaker,”;

(d) in paragraph (8) at the end there shall be added—

“and

(c) in the case of a licensed office, on the bookmaking office licence.”.

(2) In Article 108 of the principal Order (use of gaming machines on other premises)—

(a) after paragraph (1)(b) there shall be inserted—

“(ba) on any licensed office.”;

(b) after paragraph (4) there shall be inserted—

“(4A) Not more than 2 gaming machines (or such other number as the Department may specify, by order subject to affirmative resolution) shall be made available for gaming on any licensed office.”;

(c) in paragraph (7)—

(i) after “paragraphs” there shall be inserted “(7A),”;

(ii) in sub-paragraph (a) for “£5” there shall be substituted “£8”;

(iii) for sub-paragraph (c) there shall be substituted—

“(c) a money prize together with a non-monetary prize of an aggregate value not exceeding £8 or a token or tokens exchangeable only for such a combination of a money prize and a non-monetary prize.”;

(d) after paragraph (7) there shall be inserted—

“(7A) In the case of bingo club premises, in addition to the condition specified in paragraph (7), paragraph (8) shall apply in respect of any 1 game played by means of a gaming machine installed on such premises.”;

(e) in paragraph (8)—

(i) after “(b)” there shall be inserted “or on any licensed office”;

(ii) after “money prize” there shall be inserted “delivered by the machine of an amount”;

(f) in paragraph (9)(a) for the words from “£5” onwards there shall be substituted “£8 or, in relation to a machine to which paragraph (8) applies, a money prize or money prizes of an amount or aggregate amount not exceeding £25 delivered by the machine.”;

(g) in paragraph (11)(a)—

(i) after “(b)” there shall be inserted “, (ba)”;

(ii) after “liquor or” there shall be inserted “the licensed bookmaker or”.

### **Supplementary provisions with respect to use of gaming machines in licensed offices**

9.—(1) In Article 8(6) of the principal Order (power to refuse grant of a bookmaker’s licence if applicant has been convicted of certain offences) after “this Part” there shall be inserted “or Chapter III of Part III”.

(2) In Article 12(6)(b) of the principal Order (power to refuse grant of a bookmaking office licence if applicant has been convicted of certain offences) after “this Part” there shall be inserted “or Chapter III of Part III”.

(3) In Article 17(4) of the principal Order (power to refuse renewal of a bookmaker’s licence if applicant has been convicted of certain offences) after “this Part” there shall be inserted “or Chapter III of Part III”.

(4) In Article 19(4)(c) of the principal Order (power to refuse renewal of a bookmaking office licence if a person has been convicted of certain offences in connection with the licensed office) after “it, or” there shall be inserted “of Chapter III of Part III, or any regulations made under it, or”.

(5) In Article 23(8)(b) of the principal Order (power to refuse transfer of a bookmaking office licence if applicant has been convicted of certain offences) after “this Part” there shall be inserted “or Chapter III of Part III”.

(6) In Article 27(1)(e) of the principal Order (power to revoke a bookmaker’s licence if the holder has been convicted of certain offences) after “this Part” there shall be inserted “or Chapter III of Part III”.

(7) In Article 28(1)(b) of the principal Order (power to revoke a bookmaking office licence if a person has been convicted of certain offences in connection with the licensed office) after “it, or” there shall be inserted “of Chapter III of Part III, or any regulations made under it, or”.

(8) In Article 53(1)(a) of the principal Order (disqualification of licensed bookmaker on conviction of certain offences) after “Part” there shall be inserted “or Chapter III of Part III”.

(9) After Article 174(2)(f) of the principal Order (register of licences, certificates and permits) there shall be inserted—

“(fa) particulars of any declaration made in respect of a licensed office under Article 107 and any cancellation of any such declaration.”;

(10) In Article 182(2) of the principal Order (forfeiture of gaming machines as statutory consequence of conviction)—

(a) in sub-paragraph (b)—

- (i) after “1996” in the first place where it occurs there shall be inserted “, a licensed office”;
- (ii) after “1996” in the second place where it occurs there shall be inserted “, the licensed bookmaker”;
- (b) after “1996” in the third place where it occurs there shall be inserted “, the bookmaking office licence”.

### **Amusement permits**

**10.—(1)** In Article 108 of the principal Order (use of gaming machines on other premises)—

- (a) in paragraph (1), for sub-paragraph (c) there shall be substituted—
  - “(c) on any premises in respect of which there is in force an amusement permit expressed to be granted for the purposes of this sub-paragraph;
  - (ca) on any premises in respect of which there is in force an amusement permit expressed to be granted for the purposes of this sub-paragraph;”;
- (b) in paragraph (6) for “£0.30” there shall be substituted—
  - “—
  - (a) £0.30 in respect of a gaming machine where the condition specified in paragraph (7) applies; or
  - (b) £0.30 in respect of a gaming machine where the condition specified in paragraph (8) applies.”;
- (c) in paragraph (7), after “(8),” there shall be inserted “(8A),”;
- (d) after paragraph (8) there shall be inserted—
  - “(8A) In the case of premises in respect of which there is in force an amusement permit expressed to be granted for the purposes of paragraph (1)(ca), in addition to the condition specified in paragraph (7), paragraph (8) shall apply in respect of any 1 game played by means of a gaming machine installed on such premises.”;
- (e) in paragraph (11)(a), for “or (c)” there shall be substituted “, (c) or (ca)”.

**(2)** In Article 111 of the principal Order (grant of amusement permits)—

- (a) in paragraph (1), for sub-paragraph (a) there shall be substituted—
  - “(a) attach to the application such fee as is specified in paragraph (1B); and”;
- (b) after paragraph (1) there shall be inserted—
  - “(1A) An application for the grant of an amusement permit shall be either—
    - (a) for the grant of a permit for the purposes of Article 108(1)(c); or
    - (b) for the grant of a permit for the purposes of Article 108(1)(ca).
  - (1B) The fee required under paragraph (1)(a) shall be—
    - (a) where the application is for the grant of an amusement permit for the purposes of Article 108(1)(c), a fee of £32; or
    - (b) where the application is for the grant of an amusement permit for the purposes of Article 108(1)(ca), such fee as may be fixed annually by the district council for the whole of its district, not exceeding—
      - (i) £250; or
      - (ii) the rate mentioned in paragraph (1C) whichever is the less.

- (1C) The rate referred to in paragraph (1B)(b)(ii) is such rate as the district council reasonably considers necessary to balance its income and expenditure in connection with such amusement permits.”;
- (c) in paragraph (2), for “paragraphs (3) and (4)” there shall be substituted “paragraphs (3) to (4B)”;
- (d) after paragraph (2) there shall be inserted—
- “(2A) Where a district council grants an amusement permit under paragraph (2), the council shall state in the permit whether it is granted for the purposes of Article 108(1)(c) or (ca).”;
- (e) in paragraph (3) after sub-paragraph (d) there shall be added—
- “; and
- (e) that, where the application is for the grant of an amusement permit for the purposes of Article 108(1)(ca), the premises for which the permit is sought are premises used wholly or mainly for the provision of amusements by means of gaming machines.”;
- (f) after paragraph (4) there shall be inserted—
- “(4A) Where an application for the grant of an amusement permit for the purposes of Article 108(1)(ca) is made in respect of premises about which the district council is satisfied as mentioned in paragraph (3)(e) and in respect of which the applicant holds an amusement permit expressed to be granted for the purposes of Article 108(1)(c), the district council may only refuse to grant the permit if it would have grounds for refusing an application to renew the existing permit.
- (4B) Where an application for the grant of an amusement permit for the purposes of Article 108(1)(c) is made in respect of premises in respect of which the applicant holds an amusement permit expressed to be granted for the purposes of Article 108(1)(ca), the district council may only refuse to grant the permit if it would have grounds for refusing an application to renew the existing permit were it expressed to be granted for the purposes of Article 108(1)(c).”;
- (g) after paragraph (6) there shall be inserted—
- “(6A) Without prejudice to any condition in paragraph (5)(a) or (6)(b), where a district council grants an amusement permit for the purposes of Article 108(1)(ca), it shall be subject to the conditions—
- (a) in the case of premises where admission is restricted to persons aged 18 or over,—
- (i) that no person under 18 is admitted to the premises; and
- (ii) that at any entrance to, and inside any such premises there are prominently displayed notices indicating that access to the premises is prohibited to persons aged under 18; and
- (b) in the case of premises where admission is not restricted to persons aged 18 or over—
- (i) that any machine in respect of which the condition mentioned in Article 108(8) is observed is located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access otherwise than by means of an entrance designed for the purpose;

- (ii) that only persons aged 18 or over are admitted to an area of the premises in which any such machine is located;
- (iii) that access to an area of the premises in which any such machine is located is supervised;
- (iv) that any area of the premises in which any such machine is located is so arranged as to permit all parts of it to be observed; and
- (v) that at any entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons aged under 18.”;
- (h) in paragraph (8), for “paragraph (1)(a)” there shall be substituted “paragraph (1B)(a) or (b)(i)”.
- (3) At the end of Article 114 of the principal Order (form and duration of amusement permits) there shall be added—

“(10) Where an application for the grant of an amusement permit for the purposes of Article 108(1)(ca) is made in respect of premises in respect of which there is in force an amusement permit expressed to be granted for the purposes of Article 108(1)(c), that permit shall remain in force, notwithstanding the expiration of the period of 12 months beginning with the first day of the month on which it was granted, until the district council grants or refuses to grant an amusement permit for the purposes of Article 108(1)(ca) in respect of those premises.

(11) Where an application for the grant of an amusement permit for the purposes of Article 108(1)(ca) is made in respect of premises in respect of which the applicant holds an amusement permit expressed to be granted for the purposes of Article 108(1)(c), that permit shall cease to have effect on the grant in respect of the premises to which the permit relates of an amusement permit expressed to be granted for the purposes of Article 108(1)(ca).

(12) Where an application for the grant of an amusement permit for the purposes of Article 108(1)(c) is made in respect of premises in respect of which the applicant holds an amusement permit expressed to be granted for the purposes of Article 108(1)(ca), that permit shall cease to have effect on the grant in respect of the premises to which the permit relates of an amusement permit expressed to be granted for the purposes of Article 108(1)(c).”.

- (4) In Article 115 of the principal Order (renewal of amusement permits)—

- (a) in paragraph (1), for sub-paragraph (a) there shall be substituted—

“(a) attach to the application such fee as is specified in paragraph (1A); and”;

- (b) after paragraph (1) there shall be inserted—

“(1A) The fee required under paragraph (1)(a) shall be—

- (a) where the application is for the renewal of an amusement permit expressed to be granted for the purposes of Article 108(1)(c), a fee of £32; or
- (b) where the application is for the renewal of an amusement permit expressed to be granted for the purposes of Article 108(1)(ca), such fee as may be fixed annually by the district council for the whole of its district not exceeding—
  - (i) £250; or
  - (ii) the rate mentioned in paragraph (1B) whichever is the less.

(1B) The rate referred to in paragraph (1A)(b)(ii) is such rate as the district council reasonably considers necessary to balance its income and expenditure in connection with such amusement permits.”;

- (c) in paragraph (5)—



- (i) in sub-paragraph (d), after “that” there shall be inserted “, while the amusement permit has been in force,”;
- (ii) after sub-paragraph (d) there shall be inserted—
  - “(da) that, where the amusement permit is expressed to be granted for the purposes of Article 108(1)(ca), either of the conditions specified in Article 111(6A)(a) or, as the case may be, any of the conditions specified in Article 111(6A)(b) has not been complied with to the satisfaction of the council; or”;
- (d) after paragraph (7) there shall be inserted—
  - “(7A) Without prejudice to any condition in paragraph (6)(a) or (7)(b), a district council shall renew an amusement permit expressed to be granted for the purposes of Article 108(1)(ca) subject to the conditions—
    - (a) in the case of premises where admission is restricted to persons aged 18 or over—
      - (i) that no person under 18 is admitted to the premises; and
      - (ii) that at any entrance to, and inside any such premises there are prominently displayed notices indicating that access to the premises is prohibited to persons aged under 18; and
    - (b) in the case of premises where admission is not restricted to persons aged 18 or over—
      - (i) that any machine in respect of which the condition mentioned in Article 108(8) is observed is located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access otherwise than by means of an entrance designed for the purpose;
      - (ii) that only persons aged 18 or over are admitted to an area of the premises in which any such machine is located;
      - (iii) that access to an area of the premises in which any such machine is located is supervised;
      - (iv) that any area of the premises in which any such machine is located is so arranged as to permit all parts of it to be observed; and
      - (v) that at any entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons aged under 18.”;
- (e) in paragraph (9), for from “the fees specified” to the end there shall be substituted “the fee specified in paragraph (1A)(a) or (b)(i) such other fee as may be specified in the order”.
- (5) In Article 117(2) of the principal Order (duration of renewed amusement permits), for “Articles 114(7) and (8)” there shall be substituted “Articles 114(7), (8) and (10)”.
- (6) Any amusement permit which is in force on the coming into operation of this Article shall be treated for the purposes of the principal Order as one which is expressed to be granted for the purposes of Article 108(1)(c) of that Order; (and in this paragraph “amusement permit” has the same meaning as in Article 2 of the principal Order).

#### **Advertisement of bingo**

**11.** In Article 130 of the principal Order (restrictions on advertisements relating to gaming)—

- (a) in paragraph (2) at the end there shall be added—

“or

(e) gaming in the form of playing bingo.”;

(b) for paragraph (3) there shall be substituted—

“(3) Paragraph (1) does not apply to the publication or display of a notice, where the notice is required to be published or displayed by any provision of Schedules 9 to 14 and the publication or display is so made as to comply with the requirements of that provision.”;

(c) paragraphs (4) and (7) shall be omitted.

#### **Minor amendments and repeals**

**12.**—(1) In Article 86(8) of the principal Order (form and duration of new gaming machine certificates and permits), the words “or permit” in the first place where they occur shall be omitted.

(2) In Article 161(5) of the principal Order (renewal of pleasure permits) for “in paragraph (2)” there shall be substituted “in paragraph (1)”.

(3) The statutory provisions specified in Schedule 4 are repealed to the extent specified in the second column of that Schedule.

*A. K. Galloway*  
Clerk of the Privy Council

## SCHEDULES

### SCHEDULE 1

Article 4(7).

#### PROVISIONS INSERTED AS SCHEDULE 8A TO THE PRINCIPAL ORDER

#### “SCHEDULE 8A

#### RIGHTS OF BETTING WORKERS AS RESPECTS SUNDAY WORKING

##### *Interpretation*

1.—(1) In this Schedule “betting worker” means an employee who, under his contract of employment, is or may be required to do betting work.

(2) In this Schedule “betting work” means work at a track for a bookmaker on a day on which the bookmaker acts as such at the track, being work which consists of or includes dealing with betting transactions.

(3) In this Schedule “bookmaker” means any person who—

- (a) whether on his own account or as servant or agent of any other person carries on, whether occasionally or regularly, the business of receiving or negotiating bets or conducting pool betting operations; or
- (b) by way of business in any manner holds himself out, or permits himself to be held out as a person who receives or negotiates bets or conducts such operations.

(4) In this Schedule—

“commencement date” means the day on which Schedule 1 to the Betting and Gaming (Northern Ireland) Order 2004 comes into operation;

“notice period”, in relation to an opted-out betting worker, has the meaning given by paragraph 7(3);

“opted-out”, in relation to a betting worker, shall be construed in accordance with paragraph 7(1) and (2);

“opting-in notice”, in relation to a betting worker, has the meaning given by paragraph 2(6);

“opting-out notice”, in relation to a betting worker, has the meaning given by paragraph 6(2); and

“protected”, in relation to a betting worker, shall be construed in accordance with paragraph 2(1) to (5).

(5) This Schedule shall be construed as one with the [Employment Rights \(Northern Ireland\) Order 1996 \(NI 16\)](#), referred to in this Schedule as “the Employment Rights Order”.

(6) Chapter III of Part I of the Employment Rights Order (computation of period of continuous employment) shall have effect for the purposes of this Schedule as it has effect for the purposes of that Order.

*Status: This is the original version (as it was originally made).*

### *Protected betting workers*

2.—(1) Subject to sub-paragraph (5), a betting worker is to be regarded as “protected” for the purposes of any provision of this Schedule if (and only if) sub-paragraph (2) or (3) applies to him.

(2) This sub-paragraph applies to any betting worker if—

- (a) on the day before the commencement date, he was employed as a betting worker, but not to work only on Sunday;
- (b) he has been continuously employed during the period beginning with that day and ending with the day which, in relation to the provision concerned, is the appropriate date; and
- (c) throughout that period, or throughout every part of it during which his relations with his employer were governed by a contract of employment, he was a betting worker.

(3) This sub-paragraph applies to any betting worker whose contract of employment is such that under it he—

- (a) is not, and may not be, required to work on Sunday; and
- (b) could not be so required even if the provisions of this Schedule were disregarded.

(4) Where on the day before the commencement date an employee’s relations with his employer have ceased to be governed by a contract of employment, he shall be regarded as satisfying sub-paragraph (2)(a) if—

- (a) that day fell in a week which counts as a period of employment with that employer under Article 8(3) of the Employment Rights Order or under regulations under Article 15 of that Order; and
- (b) on the last day before the commencement date on which his relations with his employer were governed by a contract of employment, the employee was employed as a betting worker, but not to work only on Sunday.

(5) A betting worker is not a protected betting worker if—

- (a) he has given his employer an opting-in notice on or after the commencement date; and
- (b) after giving the notice, he has expressly agreed with his employer to do betting work on Sunday or on a particular Sunday.

(6) In this Schedule “opting-in notice”, in relation to a betting worker, means written notice, signed and dated by the betting worker, in which the betting worker expressly states that he wishes to work on Sunday or that he does not object to Sunday working.

### *Contractual requirements relating to Sunday work*

3.—(1) Any contract of employment under which a betting worker who satisfies paragraph 2(2)(a) was employed on the day before the commencement date is unenforceable to the extent that it—

- (a) requires the betting worker to do betting work on Sunday on or after that date; or
- (b) requires the employer to provide the betting worker with betting work on Sunday on or after that date.

(2) Subject to paragraph (3), any agreement entered into after the commencement date between a protected betting worker and his employer is unenforceable to the extent that it—

- (a) requires the betting worker to do betting work on Sunday; or

(b) requires the employer to provide the betting worker with betting work on Sunday.

(3) Where, after giving an opting-in notice, a protected betting worker expressly agrees with his employer to do betting work on Sunday or on a particular Sunday (and so ceases to be protected), his contract of employment shall be taken to be varied to the extent necessary to give effect to the terms of the agreement.

(4) For the purposes of paragraph 2(2)(b), the appropriate date in relation to this paragraph is the day on which the agreement is entered into.

#### *Contracts with guaranteed hours*

4.—(1) This paragraph applies where—

- (a) under the contract of employment under which a betting worker who satisfies paragraph 2(2)(a) was employed on the day before the commencement date, the employer is, or may be, required to provide him with betting work for a specified number of hours each week;
- (b) under the contract the betting worker was, or might have been, required to work on Sunday before the commencement date; and
- (c) the betting worker has done betting work on Sunday in that employment (whether or not before the commencement date) but has, on or after that date ceased to do so.

(2) So long as the betting worker remains a protected betting worker, the contract shall not be regarded as requiring the employer to provide him with betting work on weekdays in excess of the hours normally worked by the betting worker on weekdays before he ceased to do betting work on Sunday.

(3) For the purposes of paragraph 2(2)(b), the appropriate date in relation to this paragraph is any time in relation to which the contract is to be enforced.

#### *Reduction of pay, etc.*

5.—(1) This paragraph applies where—

- (a) under the contract of employment under which a betting worker who satisfies paragraph 2(2)(a) was employed on the day before the commencement date, the betting worker was, or might have been, required to work on Sunday before the commencement date;
- (b) the betting worker has done betting work on Sunday in that employment (whether or not before the commencement date) but has, on or after that date, ceased to do so; and
- (c) it is not apparent from the contract what part of the remuneration payable, or of any other benefit accruing, to the betting worker was intended to be attributable to betting work on Sunday.

(2) So long as the betting worker remains a protected betting worker, the contract shall be regarded as enabling the employer to reduce the amount of remuneration paid, or the extent of the other benefit provided, to the betting worker in respect of any period by the relevant proportion.

(3) In sub-paragraph (2) “the relevant proportion” means the proportion which the hours of betting work which (apart from this Schedule) the betting worker could have been required to do on Sunday in the period (“the contractual Sunday hours”) bears to the aggregate of those hours and the hours of work actually done by the betting worker in the period.

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(4) Where, under the contract of employment, the hours of work actually done on weekdays in any period would be taken into account in determining the contractual Sunday hours, they shall be taken into account in determining the contractual Sunday hours for the purposes of sub-paragraph (3).

(5) For the purposes of paragraph 2(2)(b), the appropriate date in relation to this paragraph is the end of the period in respect of which the remuneration is paid or the benefit accrues.

#### *Notice of objection to Sunday working*

6.—(1) A betting worker to whom this paragraph applies may at any time give his employer written notice, signed and dated by the betting worker, to the effect that he objects to Sunday working.

(2) In this Schedule “opting-out notice” means a notice given under sub-paragraph (1) by a betting worker to whom this paragraph applies.

(3) This paragraph applies to any betting worker who under his contract of employment—

- (a) is or may be required to work on Sunday (whether or not as a result of previously giving an opting-in notice); but
- (b) is not employed to work only on Sunday.

#### *Meaning of “opted-out betting worker”*

7.—(1) Subject to sub-paragraph (2), a betting worker is to be regarded as “opted-out” for the purposes of this Schedule if (and only if)—

- (a) he has given his employer an opting-out notice;
- (b) he has been continuously employed during the period beginning with the day on which the notice was given and ending with the day which, in relation to the provision concerned, is the appropriate date; and
- (c) throughout that period, or throughout every part of it during which his relations with his employer were governed by a contract of employment, he was a betting worker.

(2) A betting worker is not an opted-out betting worker if—

- (a) after giving the opting-out notice concerned, he has given his employer an opting-in notice; and
- (b) after giving the opting-in notice, he has expressly agreed with his employer to do betting work on Sunday or on a particular Sunday.

(3) In this Schedule “notice period”, in relation to an opted-out betting worker, means, subject to paragraph 8(2), the period of three months beginning with the day on which the opting-out notice concerned was given.

#### *Explanatory statement*

8.—(1) Where a person becomes a betting worker to whom paragraph 6 applies, his employer shall, before the end of the period of two months beginning with the day on which that person becomes such a worker, give him a written statement in the prescribed form.

(2) If—

- (a) an employer fails to comply with sub-paragraph (1) in relation to any betting worker; and

- (b) the betting worker, on giving the employer an opting-out notice, becomes an opted-out betting worker,

paragraph 7(3) has effect in relation to the betting worker with the substitution for “three months” of “one month”.

(3) An employer shall not be regarded as failing to comply with sub-paragraph (1) in any case where, before the end of the period referred to in that sub-paragraph, the betting worker has given him an opting-out notice.

- (4) Subject to sub-paragraph (5), the prescribed form is as follows—

**“STATUTORY RIGHTS IN RELATION TO SUNDAY BETTING WORK**

You have become employed under your contract of employment to do Sunday betting work, that is to say, work at a track on a Sunday on which your employer is taking bets at the track.

However, if you wish, you can give a notice, as described in the next paragraph, to your employer and you will then have the right not to do Sunday betting work once three months have passed from the date on which you gave the notice.

Your notice must—

- be in writing;
- be signed and dated by you;
- say that you object to doing Sunday betting work.

For three months after you give the notice, your employer can still require you to do all the Sunday betting work your contract provides for. After the three month period has ended, you have the right to complain to an industrial tribunal if, because of your refusal to do Sunday betting work, your employer—

- dismisses you, or
- does something else detrimental to you, for example, failing to promote you.

Once you have the rights described, you can surrender them only by giving your employer a further notice, signed and dated by you, saying that you wish to do Sunday betting work or that you do not object to doing Sunday betting work and then agreeing with your employer to do such work on Sundays or on a particular Sunday.”.

(5) The Department for Employment and Learning may by order subject to negative resolution amend the prescribed form set out in sub-paragraph (4).

*Contractual requirements relating to Sunday work*

**9.—(1)** Where a betting worker gives his employer an opting-out notice, the contract of employment under which he was employed immediately before he gave that notice becomes unenforceable to the extent that it—

- (a) requires the betting worker to do betting work on Sunday after the end of the notice period; or
- (b) requires the employer to provide the betting worker with betting work on Sunday after the end of that period.

(2) Subject to sub-paragraph (3), any agreement entered into between an opted-out betting worker and his employer is unenforceable to the extent that it—

- (a) requires the betting worker to do betting work on Sunday after the end of the notice period; or

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(b) requires the employer to provide the betting worker with betting work on Sunday after the end of that period.

(3) Where, after giving an opting-in notice, an opted-out betting worker expressly agrees with his employer to do betting work on Sunday or on a particular Sunday (and so ceases to be opted-out), his contract of employment shall be taken to be varied to the extent necessary to give effect to the terms of the agreement.

(4) For the purposes of paragraph 7(1)(b), the appropriate date in relation to this paragraph is the day on which the agreement is entered into.

*Right not to suffer detriment for refusing Sunday work*

**10.—**(1) An employee who is a protected betting worker or an opted-out betting worker has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by his employer done on the ground that the employee refused (or proposed to refuse) to do betting work on Sunday or on a particular Sunday.

(2) Sub-paragraph (1) does not apply to anything done in relation to an opted-out betting worker on the ground that he refused (or proposed to refuse) to do betting work on any Sunday or Sundays falling before the end of the notice period.

(3) An employee who is a betting worker has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by his employer done on the ground that the employee gave (or proposed to give) an opting-out notice to his employer.

(4) Sub-paragraphs (1) and (3) do not apply where the detriment in question amounts to dismissal (within the meaning of Part XI of the Employment Rights Order).

(5) For the purposes of this paragraph a betting worker who does not work on Sunday or on a particular Sunday is not to be regarded as having been subjected to any detriment by—

- (a) a failure to pay remuneration in respect of betting work on a Sunday which he has not done;
- (b) a failure to provide him with any other benefit, where that failure results from the application (in relation to a Sunday on which the employee has not done betting work) of a contractual term under which the extent of that benefit varies according to the number of hours worked by the employee or the remuneration of the employee; or
- (c) a failure to provide him with any work, remuneration or other benefit which by virtue of paragraph 4 or 5 the employer is not obliged to provide.

(6) Where an employer offers to pay a sum specified in the offer to any one or more employees—

- (a) who are protected betting workers or opted-out betting workers; or
- (b) who under their contracts of employment are not obliged to do betting work on Sunday,

if they agree to do betting work on Sunday or on a particular Sunday sub-paragraphs (7) and (8) apply.

(7) An employee to whom the offer is not made is not to be regarded for the purposes of this paragraph as having been subjected to any detriment by any failure to make the offer to him or to pay him the sum specified in the offer.

(8) An employee who does not accept the offer is not to be regarded for the purposes of this paragraph as having been subjected to any detriment by any failure to pay him the sum specified in the offer.



(9) For the purposes of paragraph 2(2)(b) or 7(1)(b), the appropriate date in relation to this paragraph is the date of the act or failure to act.

(10) For the purposes of sub-paragraph (9)—

(a) where an act extends over a period, the “date of the act” means the first day of that period; and

(b) a deliberate failure to act shall be treated as done when it was decided on;

and, in the absence of evidence establishing the contrary, an employer shall be taken to decide on a failure to act when he does an act inconsistent with doing the failed act or, if he has done no such inconsistent act, when the period expires within which he might reasonably have been expected to do the failed act if it was to be done.

(11) Articles 71 and 72 of the Employment Rights Order (which relate to proceedings brought by an employee or, as the case may be, worker on the ground that he has been subjected to a detriment in contravention of Article 68, 69, 70, 70A, 70B, 70C or 70D of that Order) shall have effect as if the reference in Article 71 to those Articles included a reference to this paragraph.

(12) Article 20 of the [Industrial Tribunals \(Northern Ireland\) Order 1996 \(NI 18\)](#) (conciliation) has effect in relation to industrial tribunal proceedings, or claims which could be the subject of tribunal proceedings, arising out of a contravention or alleged contravention of this paragraph.

(13) The remedy of an employee for infringement of the right conferred by this paragraph is by way of proceedings as mentioned in sub-paragraph (11) and not otherwise.

(14) Articles 248 and 249 of the Employment Rights Order (death of employee or employer) apply in relation to this paragraph as they apply in relation to provisions of the Employment Rights Order listed in Article 248(2) of that Order.

#### *Right not to be dismissed for refusing Sunday work*

**11.—**(1) Where an employee who is a protected betting worker or an opted-out betting worker is dismissed, he shall be regarded for the purposes of Part XI of the Employment Rights Order as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that he refused, or proposed to refuse, to do betting work on Sunday or on a particular Sunday.

(2) Sub-paragraph (1) does not apply in relation to an opted-out betting worker where the reason (or principal reason) for the dismissal is that he refused, or proposed to refuse, to do betting work on any Sunday or Sundays falling before the end of the notice period.

(3) A betting worker who is dismissed shall be regarded for the purposes of Part XI of the Employment Rights Order as unfairly dismissed if the reason (or, if more than one, the principal reason) for the dismissal is that the betting worker gave, or proposed to give, an opting-out notice to the employer.

(4) For the purposes of paragraph 2(2)(b) or 7(1)(b), the appropriate date in relation to this paragraph is the effective date of termination.

**12.—**(1) An employee who is dismissed shall be regarded for the purposes of Part XI of the Employment Rights Order as unfairly dismissed if—

(a) the reason (or, if more than one, the principal reason) for the dismissal is that the employee was redundant;

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- (b) it is shown that the circumstances constituting the redundancy applied equally to one or more other employees in the same undertaking who held positions similar to that held by the employee and who have not been dismissed by the employer; and
  - (c) it is shown that sub-paragraph (2) applies.
- (2) This sub-paragraph applies if either—
- (a) the employee was a protected betting worker or an opted-out betting worker and the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was that specified in sub-paragraph (1) of paragraph 11 (read with sub-paragraph (2) of that paragraph); or
  - (b) the employee was a betting worker and the reason (or, if more than one, the principal reason) for which the employee was selected for dismissal was that specified in sub-paragraph (3) of that paragraph.
- (3) For the purposes of paragraph 2(2)(b) or 7(1)(b), the appropriate date in relation to this paragraph is the effective date of termination.
- 13.** Articles 140 and 141 of the Employment Rights Order (qualifying period of employment and upper age limit) and Article 142(1) of that Order (dismissal procedures agreements) do not apply if—
- (a) sub-paragraph (1) of paragraph 11 (read with sub-paragraph (2) of that paragraph) or sub-paragraph (3) of that paragraph applies; or
  - (b) paragraph 12 applies.

#### *Restrictions on contracting out of Schedule*

- 14.—**(1) Any provision in an agreement (whether a contract of employment or not) shall be void in so far as it purports—
- (a) to exclude or limit the operation of any provision of this Schedule; or
  - (b) to preclude any person from presenting a complaint to an industrial tribunal by virtue of any provision of this Schedule.
- (2) Sub-paragraph (1) does not apply to an agreement to refrain from presenting or continuing with a complaint where—
- (a) the Agency has taken action under Article 20 of the Industrial Tribunals (Northern Ireland) Order 1996 (conciliation); or
  - (b) the conditions regulating compromise agreements (as set out in Article 245(3) of the Employment Rights Order) are satisfied in relation to the agreement.

#### *Dismissal on grounds of assertion of statutory right*

**15.** In Article 135 of the Employment Rights Order (dismissal on grounds of assertion of statutory right) in paragraph (4)(a) after “Order 1997” insert “or Schedule 8A to the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985”.

#### *Power to confer rights on individuals*

**16.** In Article 24 of the [Employment Relations \(Northern Ireland\) Order 1999 \(NI 9\)](#) (power to confer rights on individuals) in paragraph (1), at the beginning of sub-paragraph (d) insert “the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 or”.

## SCHEDULE 2

Article 5(1)

### AMENDMENTS TO THE PRINCIPAL ORDER CONSEQUENTIAL ON THE TRANSFER OF JURISDICTION FOR THE GRANT OF BOOKMAKING OFFICE LICENCES FROM A COURT OF SUMMARY JURISDICTION TO A COUNTY COURT

1. In Article 12(1) (grant of bookmaking office licences) for “court of summary jurisdiction” substitute “county court”.
2. In Article 13 (grant of bookmaking office licence conditional on alterations being made in licensed office)—
  - (a) in paragraph (1)(b) for “clerk of petty sessions” substitute “chief clerk”;
  - (b) in paragraph (2) for “clerk of petty sessions” substitute “chief clerk”;
  - (c) in paragraph (4) for “clerk” there shall be substituted “chief clerk or, as the case may be, the clerk”;
  - (d) in paragraph (5)—
    - (i) for “court of summary jurisdiction” substitute “county court”;
    - (ii) for “clerk of petty sessions” where it twice occurs substitute “chief clerk”.
3. In Article 14 (provisional grant of bookmaking office licences)—
  - (a) in paragraph (1) for “court of summary jurisdiction” substitute “county court”;
  - (b) in paragraph (6)—
    - (i) for “court of summary jurisdiction” substitute “county court”;
    - (ii) for “clerk of petty sessions” substitute “chief clerk”;
  - (c) in paragraph (7) for “court of summary jurisdiction” substitute “county court”;
  - (d) in paragraph (9) for “court of summary jurisdiction” substitute “county court”;
  - (e) in paragraph (10) for “clerk of petty sessions” substitute “chief clerk”.
4. In Article 15(4)(b) (form and duration of new bookmaking office licences) for “clerk” substitute “chief clerk or, as the case may be, the clerk”.
5. In Article 173 (notification of change of directors, etc., of a body corporate) at the end add “or, in the case of a bookmaking office licence, in which the licensed office is situated”.
6. In Article 174 (register of licences, certificates and permits)—
  - (a) in paragraph (1) for “court of summary jurisdiction” substitute “county court for premises in, or a court of summary jurisdiction,”;
  - (b) in paragraph (3)(a)—
    - (i) for “Article 13(1)(b)” substitute “paragraph (4)”;
    - (ii) omit “, Part I of Schedule 2 as modified by Part II of that Schedule”;
    - (iii) for “Articles 14(6) and” substitute “Article”;
  - (c) in paragraph (4)—
    - (i) after “court” where it first occurs insert—
      - “(za) on the application of any person grants, conditionally grants or provisionally grants a bookmaking office licence or declares the conditional grant to be unconditional or the provisional grant to be final; or”;

- (ii) after “sessions district” insert “in which the premises specified in the bookmaking office licence are situated or, as the case may be,”;
  - (iii) after “order” insert “, and any plan which was attached to, or received in connection with, the application, and, where the order relates to the grant, conditional grant or provisional grant of a bookmaking office licence, particulars of any matters to be entered on the register under paragraph (2)(a), (b) or (d),”.
7. In Article 177(a) (returns to Department) after “granted” insert “in the case of a bookmaking office licence, by a county court for premises situated in that district or, in any other case,”.
8. In Article 178(2) (registers to be evidence) omit “of summary jurisdiction”.
9. In Article 179(1) (proof of licences, etc.) for “petty sessions for the court of summary jurisdiction” substitute “the court”.
10. For Article 184 there shall be substituted—

### “Appeals

- 184.**—(1) Without prejudice to Articles 61 and 65 of the County Courts (Northern Ireland) Order 1980, any party to the proceedings who is dissatisfied with a decision of a county court on an application made to it under this Order may appeal from that decision as if the decision had been made in exercise of the jurisdiction conferred by Part III of that Order of 1980 and the appeal were brought under Article 60 of that Order of 1980.
- (2) For the purposes of—
- (a) paragraph (1),
  - (b) Articles 61 and 62 of the County Courts (Northern Ireland) Order 1980,
  - (c) Articles 143 and 146 of the Magistrates' Courts (Northern Ireland) Order 1981,
- a person who appears as an objector in any proceedings under this Order shall be deemed to be a party to the proceedings.”.
11. In Article 186(1) (orders and regulations) omit “of summary jurisdiction”.
12. In Article 187(1) (modifications of schedules) for “Schedules 1” substitute “Schedule 2 may be modified by county court rules and the provisions of Schedules 1, 3”.
13. In Schedule 2 (applications for grant of bookmaking office licences)—
- (a) in paragraph 1—
    - (i) in sub-paragraph (a) after “time of the” insert “opening of the”;
    - (ii) in sub-paragraph (b) for “clerk of petty sessions” substitute “chief clerk”;
  - (b) in paragraph 2(1) for “magistrates' courts” substitute “county court”;
  - (c) in paragraph 5 for “clerk of petty sessions” substitute “chief clerk”;
  - (d) in paragraph 7—
    - (i) after “time of the” insert “opening of the”;
    - (ii) for “clerk of petty sessions” substitute “chief clerk”;
  - (e) in paragraph 9 for “clerk of petty sessions” substitute “chief clerk”.

## SCHEDULE 3

Article 5(1)

## TRANSITIONAL PROVISIONS

1. Where, before the coming into operation of Article 5(1), notice of an application to a court of summary jurisdiction for the grant or provisional grant of a bookmaking office licence has been published and served under the principal Order, the court may proceed to hear the application and exercise any power which is exercisable by a county court under that Order in relation to the grant, conditional grant or provisional grant of such licences, as the case may require, and the court may treat the application as duly made notwithstanding that some provision of Schedule 2 to the principal Order has not been complied with.

2. Where a court of summary jurisdiction exercises the jurisdiction conferred by paragraph 1, the provisions of the principal Order and of any county court rules relating to the grant, conditional grant or provisional grant of bookmaking office licences (except any provision requiring the chief clerk to send documents to the clerk of petty sessions) shall have effect with any necessary modifications; and if the licence is granted it shall be signed by the clerk of petty sessions and Article 179(1) of the principal Order shall have effect accordingly.

## SCHEDULE 4

Article 12

## REPEALS

| Short Title  | Extent of repeal  |
|--|---|
| <a href="#">The Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (NI 11).</a> | <p>In Article 3(1D)(a) the words from “to be played” to “1971”.</p> <p>Article 12(4)(i).</p> <p>Article 32(2), (4A)(a) and the “or” following it, (12)(b)(iii) and the “or” preceding it and (14)(b).</p> <p>Article 36(3).</p> <p>In Article 48(1) the words “any Sunday”.</p> <p>In Article 86(8) the words “or permit” in the first place where they occur.</p> <p>In Article 107, in paragraph (1) the words “, as the case may be,” and in paragraph (4) the words “, as the case may be,”.</p> <p>Article 130(4) and (7).</p> <p>In Article 174(3)(a) the words “, Part I of Schedule 2 as modified by Part II of that Schedule”.</p> |

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| Short Title | Extent of repeal                                       |
|-------------|--|
|             | In Article 178(2) the words “of summary jurisdiction”. |
|             | In Article 186(1) the words “of summary jurisdiction”. |

### EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985—

- (a) to enable on-course betting to take place on Sunday and to provide for the rights of betting workers in relation to Sunday working;
- (b) to transfer the grant of bookmaking office licences from courts of summary jurisdiction to county courts;
- (c) to relax the restrictions on licensed bookmaking offices;
- (d) to allow on-course bookmakers to take bets on any event and have permanent structures for bookmaking on licensed tracks and to allow track occupiers certain bookmaking interests on their own tracks;
- (e) to reduce the waiting period for non-sporting clubs seeking registration to one year;
- (f) to allow gaming machines in licensed bookmaking offices and to relax the restrictions on gaming machines in other premises;
- (g) to provide for the grant of a new amusement permit which permits a cash-only machine which gives maximum prizes of £25 in premises to which children have restricted access;
- (h) to allow advertising of bingo; and
- (i) to make other minor amendments to that Order.