

HORSERACE BETTING AND OLYMPIC LOTTERY ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Abolition of the Horserace Betting Levy System

Section 15: Abolition of levy

55. **Section 15** enables the Secretary of State, by order made by statutory instrument, to abolish the Levy Board and the levy system. Subsection (2) makes it clear that orders may be made in stages. Orders under section 15(1) will be subject to annulment in pursuance of a resolution of either House of Parliament.

Section 16: Property of the Levy Board

56. Subsection (1) allows for the making of transfer schemes so that any property, rights and liabilities of the Levy Board can be transferred to specified persons at specified times. Subsection (7) introduces Schedule 3 which contains supplementary provisions.
57. Subsection (2) gives the Secretary of State the power to direct the Levy Board to make and submit a transfer scheme and once approved the scheme will have effect.
58. Subsection (3) sets out the matters which the Secretary of State can include in the direction, including when it is to be made, what it is to cover and to whom things are to be transferred.
59. Subsection (4) gives the Secretary of State the power to make a transfer scheme herself if the Board fails to comply with a direction to make a scheme or she decides not to approve a scheme submitted by the Levy Board.
60. Subsection (6) provides that the Secretary of State must not make or approve a transfer scheme unless she is satisfied that any property or rights to be transferred will be used for certain specified purposes. These relate to horse breeding, veterinary science and education and horseracing and mirror the Levy Board's existing purposes under section 24(1) of the 1963 Act.

Section 17 and Schedule 4: Consequential amendments

61. **Section 17** introduces Schedule 4 which makes a number of consequential amendments to the 1963 Act. Under subsection (1)(b) of section 17 the Levy Board cannot be abolished until these amendments have been brought into force. The most significant amendment substitutes the Gaming Board for the Levy Board in respect of certification of race courses under section 13 of the 1963 Act. Subsection (3) of section 17 contains transitional provisions for existing certificates of approval, which if not revoked by the Gaming Board will expire three years after the new arrangements come into effect.

62. The key features of new section 13, as amended by paragraph 2 of Schedule 4 are as follows:
- a new subsection (3) to section 13 is to be inserted to place the Gaming Board under a duty to be satisfied in respect of a number of matters, which relate to the protection of the betting public attending racecourses, before granting certificates of approval to race courses;
 - under new subsection (4) the Gaming Board must in particular consider whether the area designated in subsection (2) will be clearly delineated, whether betting rules will be clearly displayed and whether satisfactory conduct controls and complaint procedures will be in place;
 - new subsection (5) provides that the Gaming Board should grant the certificate of approval with conditions;
 - new subsection (6) provides that a certificate will not be granted unless a fee, prescribed by the Secretary of State under subsections (10) and (11) has been paid for it;
 - under subsection (7) the Gaming Board may revoke the certificate if not satisfied that the objectives set out in subsections (3) and (4) are being met;
 - new subsection (8) provides that a certificate of approval will expire at the end of a period of three years beginning with the date of issue; and
 - subsection (9) requires the Gaming Board to give reasons in writing for the revocation of a certificate.

Section 18: Tax

63. **Section 18** enables the Treasury to make regulations providing for the disapplication or modification of various tax legislation in connection with a transfer scheme and related matters. This is so that a transfer is tax neutral and the recipient inherits the relevant tax history of what they receive. The taxes affected are income tax, corporation tax, capital gains tax, stamp duty, stamp duty land tax and stamp duty reserve tax.