



# Horserace Betting and Olympic Lottery Act 2004

## 2004 CHAPTER 25

### PART 1

#### SALE OF THE TOTE

##### *Post-transfer control of horserace pool betting*

#### **8 Exclusive licence**

- (1) The Gaming Board shall, if the Secretary of State so requires, issue to the successor company a licence (referred to in this Part as “the exclusive licence”) granting the successor company the right—
  - (a) to carry on pool betting business (in any form) in connection with horse races on approved horse racecourses,
  - (b) by way of business to receive or negotiate bets in connection with horse races on approved horse racecourses on terms that all or part of the winnings shall be calculated or regulated directly or indirectly by reference to the amounts or rates of payments or distributions in respect of winning bets made by way of pool betting, and
  - (c) to provide facilities in relation to a matter mentioned in paragraph (a) or (b).
- (2) The exclusive licence shall, unless revoked under subsection (7), have effect for the period of seven years beginning with the date of issue.
- (3) In requiring the issue of the exclusive licence the Secretary of State may specify terms or conditions of the licence.
- (4) The Secretary of State—
  - (a) may require the issue of the exclusive licence before, on or after the appointed day,

*Status: This version of this cross heading contains provisions that are prospective.*

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- (b) may require the issue of the exclusive licence after the successor company has ceased to be wholly owned by the Crown, and
  - (c) may not require the issue of the exclusive licence more than once.
- (5) While the exclusive licence has effect—
- (a) the successor company may authorise one or more other persons to do anything that the successor company is authorised to do by the exclusive licence, and
  - (b) a person other than the successor company may not do anything that the successor company is authorised to do by the exclusive licence, except in accordance with an authorisation under paragraph (a).
- (6) An authorisation under subsection (5)(a) may be given on terms and conditions; which may, in particular, include provision—
- (a) for payment to or by the successor company;
  - (b) for agency or commission;
  - (c) about facilities to be provided by the successor company under subsection (1) (c).
- (7) The Gaming Board—
- (a) may make an order revoking the exclusive licence if they think that a term or condition of the licence has been breached, and
  - (b) shall make an order revoking the exclusive licence if the Secretary of State so directs.
- (8) A direction of the Secretary of State under subsection (7)(b) shall specify the reasons for the direction.
- (9) An order revoking the exclusive licence—
- (a) must specify the reasons for the revocation (or, in the case of revocation pursuant to a direction under subsection (7)(b), the reasons for the direction specified under subsection (8)), and
  - (b) shall take effect at such time as the order may specify.
- (10) The Secretary of State may require revocation under subsection (7)(b) only while the successor company is wholly owned by the Crown.
- (11) The exclusive licence may not be—
- (a) renewed, or
  - (b) issued or revoked otherwise than in accordance with subsection (1) or (7).

**Modifications etc. (not altering text)**

- C1** S. 8 modified by SI 2006/3272 art. 7(1) (as inserted (16.8.2007) by [The Gambling Act 2005 \(Commencement No. 6 and Transitional Provisions\) \(Amendment\) \(No. 2\) Order 2007 \(S.I. 2007/2169\)](#), arts. 1(1), 5)

**Commencement Information**

- I1** S. 8 in force at 25.2.2011 by [S.I. 2011/462](#), art. 2

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## 9 Section 8: supplemental

- (1) In considering whether to require the Gaming Board to issue or revoke the exclusive licence the Secretary of State shall consider whether the issue or revocation—
  - (a) would be in the best interests of members of the public who are in the habit of placing bets on horse races;
  - (b) would be in the best interests of the sport of horse racing;
  - (c) would promote the objectives of—
    - (i) preventing betting from being a source of crime or disorder, being associated with crime or disorder or being used to support crime,
    - (ii) ensuring that betting is conducted in a fair and open way, and
    - (iii) protecting children and other vulnerable persons from being harmed or exploited by betting.
- (2) While the exclusive licence has effect—
  - (a) sections 4(1) and 4A(1) of the Betting, Gaming and Lotteries Act 1963 (c. 2) (restriction on pool betting) (as substituted by section 10 of this Act) shall not apply in relation to anything done—
    - (i) by the successor company in pursuance of the exclusive licence, or
    - (ii) in accordance with an authorisation under section 8(5)(a) above, and
  - (b) nothing in section 4 or 4A of that Act shall prejudice the generality of section 8(5)(b) above.
- (3) While the exclusive licence has effect—
  - (a) the successor company or a person authorised under section 8(5)(a) above may apply under section 9(2) of that Act for the grant or renewal of a betting office licence authorising the use of premises for carrying on activity in accordance with the exclusive licence,
  - (b) a betting office licence under section 9(2) of that Act shall not authorise the use of premises for doing anything prohibited by section 8(5)(b), and
  - (c) section 9(1) of that Act disappplies section 1(1) of that Act only in relation to activity authorised by a betting office licence.
- (4) While the exclusive licence has effect—
  - (a) the successor company shall not be treated as a bookmaker for the purposes of that Act by virtue of anything done in accordance with the exclusive licence, and
  - (b) a person authorised under section 8(5)(a) above shall not be treated as a bookmaker for the purposes of that Act by virtue of anything done in accordance with the authorisation.
- (5) A person who acts in contravention of section 8(5)(b) above shall be treated as having committed an offence under—
  - (a) section 4(1) of that Act, in the case of anything done on a track, or
  - (b) section 4A(1) of that Act, in the case of anything done otherwise than on a track,whether or not he otherwise would have committed the offence.
- (6) If a person commits or threatens a breach of section 8(5)(b), the successor company may (whether or not criminal proceedings are instituted against him by virtue of subsection (5) above) proceed against him in the High Court or [F<sup>1</sup>the county court] for damages or such other relief as the court thinks appropriate.

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(7) Subsection (6) is subject to—

- (a) Civil Procedure Rules, and
- (b) section 1 of the Courts and Legal Services Act 1990 (c. 41) (allocation of business between High Court and county courts).

#### Textual Amendments

- F1** Words in s. 9(6) substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 9 para. 52](#); [S.I. 2014/954](#), [art. 2\(c\)](#) (with [art. 3](#)) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

#### Commencement Information

- I2** S. 9(1)(4)(6)(7) in force at 25.2.2011 by [S.I. 2011/462](#), [art. 2](#)

PROSPECTIVE

## 10 Control when no exclusive licence

(1) For section 4 of the Betting, Gaming and Lotteries Act 1963 (c. 2) (restriction on pool betting) substitute—

### “4 Restriction on pool betting on track

- (1) A person commits an offence if he carries on pool betting business on a track unless subsection (2), (3) or (5) applies.
- (2) This subsection applies to pool betting business which is in connection with horse racing and which is carried on—
  - (a) by the holder of a bookmaker’s permit,
  - (b) on an approved horse racecourse,
  - (c) on a day on which one or more horse races take place on the racecourse, and
  - (d) in accordance with Part 2 of Schedule 1A.
- (3) This subsection applies to pool betting business in connection with horse racing carried on—
  - (a) on an approved horse racecourse, and
  - (b) in accordance with a notice (to be known as a “point-to-point exemption notice”) issued by the Gaming Board under this subsection.
- (4) A point-to-point exemption notice—
  - (a) may be issued by the Gaming Board in response to an application in writing,
  - (b) must relate to horse racing to be carried on along a single course specified in the notice,
  - (c) must specify a maximum number of days, not exceeding 7, on which horse racing may be carried on in reliance on the notice,
  - (d) may specify other conditions which relate to—

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- (i) the operation of a totalisator,
  - (ii) the publication of terms on which pool bets may be made (and a condition may, in particular, relate to minimum stakes, or deductions), or
  - (iii) compliance with terms published under sub-paragraph (ii),
  - (e) must specify a calendar year during which the notice has effect, and
  - (f) must be issued before the beginning of that year.
- (5) This subsection applies to pool betting business which is in connection with dog racing and which is carried on—
- (a) on a dog racecourse which is a licensed track, and
  - (b) by means of a totalisator operated—
    - (i) in accordance with section 16, and
    - (ii) by the occupier of the track or by a person authorised by him in writing.

#### **4A Restriction on pool betting off track**

- (1) A person commits an offence if he carries on pool betting business otherwise than on a track, unless subsection (2), (3) or (4) applies.
- (2) This subsection applies to pool betting business which is in connection with horse racing and which is carried on—
  - (a) by the holder of a bookmaker’s permit, and
  - (b) in accordance with Part 2 of Schedule 1A.
- (3) This subsection applies to pool betting business which is carried on by a person registered for the purpose of this subsection (in this Act referred to as a “registered pool promoter”); and Schedule 2 to this Act (registration and conduct of business) shall have effect.
- (4) This subsection applies to pool betting business carried on in accordance with a licensed inter-track betting scheme.

#### **4B Regulation of horserace pool betting**

- (1) Schedule 1A (which provides for the regulation of pool betting business in connection with horse racing) shall have effect.
- (2) Subsection (3) applies where—
  - (a) a condition imposed by Part 2 of that Schedule requires or may require a person to act after the conclusion of a race or set of races in relation to which he conducts pool betting business, and
  - (b) the person fails, in respect of a matter wholly or partly relating to that race or set of races, to comply with the condition after that conclusion.
- (3) The pool betting business carried on by the person in relation to the race or set of races shall be treated as not having been carried on in accordance with Part 2 of that Schedule.
- (4) Subsection (5) applies where a person who has received or negotiated bets made by way of pool betting in connection with horse racing fails to comply with a requirement of Part 3 of that Schedule.

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- (5) Any pool betting business which was carried on by the person and to which the requirement was or might have been relevant shall be treated as not having been carried on in accordance with Part 2 of that Schedule.”
- (2) After Schedule 1 to that Act (bookmakers' permits, &c.) insert the Schedule 1A set out in Schedule 1 to this Act (regulation of horserace pool betting).
- (3) Sections 281 and 282 of the Criminal Justice Act 2003 (c. 44) (increases in maximum terms of imprisonment) shall apply to the Betting, Gaming and Lotteries Act 1963 (c. 2) as amended by this section.

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