



Horserace Betting and Olympic Lottery Act 2004

2004 CHAPTER 25

PART 1

SALE OF THE TOTE

Dissolution, and transfer of assets

1 Dissolution of the Tote

- (1) On the appointed day the Horserace Totalisator Board shall by virtue of this section cease to exist.
- (2) In this Part “the appointed day” means a day appointed for the purposes of this section by the Secretary of State by order made by statutory instrument.

2 Successor company: transfer

- (1) All property, rights and liabilities to which the Horserace Totalisator Board was entitled or subject immediately before the appointed day shall on that day vest in the successor company by virtue of this section.
- (2) In this Part “the successor company” means a company which—
 - (a) is nominated for the purposes of this section by the Secretary of State in writing before the appointed day, and
 - (b) on the appointed day is—
 - (i) a company formed and registered under the Companies Act 1985 (c. 6) as a company limited by shares, and
 - (ii) wholly owned by the Crown.

3 Sections 1 and 2: supplemental

- (1) Anything done by or in relation to the Horserace Totalisator Board which has effect immediately before the appointed day shall continue to have effect as if done by or in relation to the successor company.
- (2) Anything (including any legal proceedings) which immediately before the appointed day is in the process of being done by or in relation to the Board may be continued by or in relation to the successor company.
- (3) So far as necessary or appropriate in consequence of section 2, on and after the appointed day—
 - (a) a reference to the Board in an agreement (whether written or not), instrument or other document shall be treated as a reference to the successor company, and
 - (b) a reference in an agreement (whether written or not), instrument or other document to a member or officer of the Board shall be treated as a reference either—
 - (i) to a person appointed for the purpose in writing by the successor company, or
 - (ii) where no person is appointed under sub-paragraph (i), to the person who most nearly corresponds in relation to the successor company to that member or officer of the Board.
- (4) The successor company shall provide information on request about an appointment under subsection (3)(b)(i).
- (5) Section 2(1) shall operate in relation to property, rights or liabilities—
 - (a) whether or not they would otherwise be capable of being transferred by the Board,
 - (b) without any instrument or other formality being required, and
 - (c) irrespective of any requirement for consent that would otherwise apply.
- (6) In so far as section 2 transfers to the successor company liabilities under contracts of employment—
 - (a) nothing in that section or this section shall affect the operation of the Transfer of Undertakings (Protection of Employment) Regulations 1981 ([S.I. 1981/1794](#)), and
 - (b) the Secretary of State shall not appoint the appointed day unless satisfied that sufficient notice has been given to enable compliance with any applicable requirement of those regulations.
- (7) An order under section 1 may include consequential, incidental or transitional provision.
- (8) The Secretary of State shall consult the Board before nominating the successor company.
- (9) The Secretary of State shall consult the Board and the successor company before appointing the appointed day.
- (10) A nomination under section 2(2)(a) may be revoked (and replaced) before the appointed day.

4 Tax

- (1) For the purposes of any enactment about income tax, corporation tax or capital gains tax—
 - (a) the successor company and the Horserace Totalisator Board shall be treated as the same person, and
 - (b) in particular, the transfer effected by section 2 shall be disregarded.
- (2) The transfer effected by section 2—
 - (a) shall be disregarded for the purpose of section 12 of the Finance Act 1895 (c. 16) (duty on property vested by Act, &c.), and
 - (b) shall not give rise to liability under an enactment about stamp duty or stamp duty land tax in respect of anything done (by any person) before the transfer.
- (3) Nothing in this Part constitutes arrangements for the purposes of—
 - (a) section 42(2) of the Finance Act 1930 (c. 28) (relief from stamp duty),
 - (b) section 27(3) of the Finance Act 1967 (c. 54) (stamp duty), or
 - (c) paragraph 2 of Schedule 7 to the Finance Act 2003 (c. 14) (relief from stamp duty land tax).

Operation of successor company

5 Pre-sale issue of shares, &c. to government

- (1) The successor company shall comply with any request of the Secretary of State to issue securities to—
 - (a) the Secretary of State, or
 - (b) a person nominated by the Secretary of State.
- (2) A request under subsection (1) may include provision about—
 - (a) the nature and nominal value of securities to be issued;
 - (b) timing;
 - (c) terms of issue.
- (3) A request under subsection (1) requiring the issue of shares shall specify the nominal value of the shares to be issued; and the shares—
 - (a) shall be issued as fully paid,
 - (b) shall be treated for the purposes of the Companies Act 1985 (c. 6) as having been paid up by virtue of payment of their nominal value in cash, and
 - (c) shall be treated for the purposes of the Corporation Tax Acts as if they had been issued wholly in consideration of a subscription of an amount equal to their nominal value.
- (4) A debenture issued in accordance with a request under subsection (1) shall be treated for the purposes of the Corporation Tax Acts as if it had been issued wholly in consideration of a loan of an amount equal to the principal sum payable under the debenture.
- (5) A request under subsection (1)—
 - (a) may be made before, on or after the appointed day, but
 - (b) may not be made after the successor company has ceased to be wholly owned by the Crown.

- (6) The Secretary of State shall not make a request under subsection (1) without the consent of the Treasury.
- (7) Where a security is issued in accordance with a request under subsection (1) to the Secretary of State or his nominee, neither the Secretary of State nor his nominee may dispose of the security without the consent of the Treasury.

6 Accounts

- (1) This section applies for the purposes of statutory accounts prepared by the successor company.
- (2) The transfer effected by section 2(1) shall be treated as having—
 - (a) occurred immediately after the end of the last complete accounting year of the Horserace Totalisator Board, and
 - (b) transferred all property, rights and liabilities to which the Board was entitled or subject immediately before the end of that year.
- (3) For the purpose of subsection (2)(b) in its application to accounts of the successor company the value of an asset, or the amount of a liability, on transfer shall be taken as the value or amount assigned for the purposes of the corresponding accounts of the Board for its last complete accounting year.
- (4) The amount to be included in the accounts in respect of an asset or liability shall be determined as if anything done by the Board had been done by the successor company.
- (5) An amount included in the accounts for the Board's last complete accounting year as accumulated realised profits retained by the Board shall be treated as if realised and retained by the successor company.
- (6) Before the preparation of the successor company's first set of statutory accounts for a complete accounting year, sections 270 to 276 of the Companies Act 1985 (c. 6) (distribution: justification by reference to accounts) shall apply as if the successor company had prepared accounts for the relevant period in accordance with the preceding provisions of this section.
- (7) In this section "statutory accounts" means accounts prepared for the purpose of a provision of the Companies Act 1985.

7 Shadow directors

While the successor company is wholly owned by the Crown, neither the Secretary of State nor the Treasury shall be treated as a shadow director of the successor company for the purpose of any provision of the Companies Act 1985.

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,
 - (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).

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 disapplies 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 a county court for damages or such other relief as the court thinks appropriate.
- (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).

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—
 - (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.
- (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.

General

11 Preparatory work by the Tote

- (1) The Horserace Totalisator Board may do anything that it or the Secretary of State thinks necessary or expedient in connection with—
 - (a) a provision of this Part,
 - (b) the operation of the successor company on or after the appointed day, or
 - (c) the listing, issue, sale or other disposal of securities of the successor company or a company associated with it.
- (2) The Board shall so far as is reasonably practicable comply with—
 - (a) any request of the Secretary of State to provide information or assistance in connection with a matter specified in subsection (1)(a) to (c), and
 - (b) any direction of the Secretary of State made in connection with a matter specified in subsection (1)(a) to (c).
- (3) Before making a request or giving a direction under subsection (2) the Secretary of State shall consult the Board.

12 Interpretation

- (1) In this Part “the Gaming Board” means the Gaming Board for Great Britain (established under section 10 of the Gaming Act 1968 (c. 65)).
- (2) For the purposes of this Part a company is wholly owned by the Crown if all its shares are held by the Crown.
- (3) For the purposes of subsection (2) shares are held by the Crown if they are held—
 - (a) by a Minister of the Crown,
 - (b) by the nominee of a Minister of the Crown, or
 - (c) by a company of which all the shares are held by the Crown.
- (4) In this Part “securities” means shares (including stock), debentures, bonds and other securities, whether constituting a charge on the assets of a company or not.
- (5) An expression used in this Part which is given a meaning by the Companies Act 1985 (c. 6) for general purposes of that Act shall have the same meaning for the purposes of this Part.
- (6) An expression used in this Part and in the Betting, Gaming and Lotteries Act 1963 (c. 2) shall have the same meaning in this Part as in that Act.

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

13 Consequential amendments

Schedule 2 (consequential amendments) shall have effect.

14 Extent

This Part shall not extend to Northern Ireland.