

BETTING AND GAMING (NORTHERN IRELAND) ORDER 2004

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

EXPLANATORY MEMORANDUM

INTRODUCTION

1. The Betting and Gaming (Northern Ireland) Order 2004 (“the Order”) was made on 11 February 2004.
2. This Explanatory Memorandum has been prepared by the Department for Social Development and the Department for Employment and Learning in order to assist the reader in understanding the Order. It does not form part of the Order.

BACKGROUND AND POLICY OBJECTIVES

3. The Order will amend the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (“the 1985 Order”) to relax some statutory controls on betting and gaming in the following areas:
 - the regulation of football pools competitions;
 - betting on tracks including a change to allow on-course Sunday betting and to provide employment protection rights for track betting workers;
 - bookmaking office licences and the conduct of licensed bookmaking offices;
 - the registration of clubs under the 1985 Order for gaming machine purposes;
 - gaming machines including the premises in which they may be used and the conditions applying; and
 - the advertising of bingo.
4. The changes will, for the most part, bring the Northern Ireland law in these areas more closely into line with the corresponding law in Great Britain.

CONSULTATION

5. The changes were included in a widely circulated consultation paper which sought views on possible changes to a very broad range of issues in relation to the control and regulation of gambling. Copies of the consultation paper are available from the address below:

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6. It is difficult to give a flavour of the overall reaction to the consultation exercise because of the large number of issues raised and because most responses concentrated on specific issues.
7. There was also full public consultation on the Proposal for a draft Order. No significant changes to the Order were required following the consultation.

MAIN ELEMENTS OF THE ORDER

8. The Order has 12 Articles and 4 Schedules.

COMMENTARY ON PROVISIONS

9. A commentary on the provisions follows below. Comments are not given where the wording is self-explanatory.

Article 1: Title and commencement

This Article sets out the title of the Order. It also specifies when and, where appropriate, by what means the various provisions will come into operation.

Article 2: Interpretation

This Article provides for the Interpretation Act (Northern Ireland) 1954 to apply to the Order.

Article 3: Football pools

This Article removes the restriction on the timing of association football matches (presently Saturday, Sunday or bank holidays) on which pools competitions may be retailed through premises (*paragraph (1)(b)*).

It also gives the Department for Social Development power to prescribe by regulations additional means by which registered pools promoters (based in Great Britain) may carry on their businesses in Northern Ireland, currently only by post (*paragraphs (1)(a) and (2)*).

Article 4: Betting on tracks

This Article relaxes some restrictions on betting on horse and dog tracks. It:

- allows the use of permanent structures for bookmaking purposes on licensed tracks - to be used only when the public is admitted to the track for the purpose of attending horse or dog racing and not to be used for betting on races on that track (*paragraph (1)*). The occupier of a licensed track may also enter into commercial agreements for the lease of betting outlets on that track (*paragraph (3)*);
 - enables bookmakers on tracks to take bets on any event, sporting or otherwise (*paragraph (2)*);
 - provides for on-course Sunday betting together with employment protection rights for track betting workers (*paragraphs (4), (6) and (7)*). It also provides protection from prosecution under the Sunday Observance Act (Ireland) 1695 for people involved in betting transactions on non-sporting events at a track on Sunday (*paragraph (6)*). People involved in betting transactions on sporting events are already protected by the existing general provisions in relation to sport in Article 6(1) of the Deregulation and Contracting Out (Northern Ireland) Order 1996;
 - allows the occupier of a licensed track, his servants or agents or anyone holding a lease etc granted by the occupier to engage in bookmaking on that track but with a safeguard that they would not be allowed to offer odds bets on the outcome of races on that track (*paragraph (5)*).

Article 5: Bookmaking office licences

This Article requires an application for the grant of a bookmaking office licence to be made to a county court, rather than a court of summary jurisdiction as at present (*paragraph (1)*).

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It also repeals an obsolete provision requiring a licensing court to refuse an application for a grant or provisional grant of a bookmaking office licence if the premises have a net annual value of less than £1905 in the City of Belfast and £1520 elsewhere (*paragraph (2)*).

Article 6: Conduct of licensed offices

This Article relaxes some of the existing restrictions on the operation of licensed bookmaking offices to:

- remove the statutory limit on the maximum width of television screens (*paragraph (a)*);
- remove the prohibition on a licensed bookmaker, his servant or agent encouraging people to bet while they are in his premises (*paragraph(a)*);
- allow the operation of gaming machines (together with amendments made by Article 8) (*paragraph (b)*);
- allow licensed bookmaking offices to be used for the paying out of football pools winnings (*paragraphs (b) and (c)*).
- allow the advertising of licensed bookmaking offices published in a material form eg in newspapers, journals, circulars, letters or posters printed on paper (*paragraphs (d) and (e)*).

Article 7: Registration of clubs

This Article reduces the notice and waiting periods for non-sporting clubs seeking registration under the 1985 Order for gaming machine purposes to one year.

The current notice and waiting periods are one year for sporting clubs and two years for other clubs. Registration under the 1985 Order enables a club to operate up to three gaming machines on its premises.

Article 8: Gaming machines

This Article amends the 1985 Order to:

Licensed bookmaking offices

- add licensed bookmaking offices to the list of premises in which gaming machines may be operated (*paragraph (2)(a)*);
- restrict the number of gaming machines in use in a licensed bookmaking office to a maximum of two and give the Department for Social Development power to vary this limit by an order subject to affirmative resolution (*paragraph (2)(b)*);
- require the use of these machines to be subject to the same conditions as currently apply to gaming machines in prescribed liquor licensed premises (the bar areas of public houses and licensed hotels) including a maximum prize of up to £25 (*paragraph (2)(e)*);

All-cash prizes

- allow gaming machines in the following premises to be operated with **all-cash** prizes of up to £8 – licensed bingo clubs, amusement arcades and similar premises holding an amusement permit granted by a district council and travelling showmen’s pleasure fairs (*paragraph (2)(c)*);

Licensed bingo clubs

- allow gaming machines with all-cash prizes of up to £25 to be operated in licensed bingo clubs (*paragraph (2)(d)*);

Prize delivered directly from machine

- require that gaming machines in prescribed liquor licensed premises (the bar areas of public houses and licensed hotels) and licensed bookmaking offices deliver prizes directly from the machines (*paragraph (2)(e)(ii)*). This requirement also applies to the £25 prize machines operated in licensed bingo clubs.

Article 9: Supplementary provisions with respect to use of gaming machines in licensed offices

This Article makes a number of consequential amendments to the 1985 Order arising from the change in the law allowing the use of gaming machines in licensed bookmaking offices.

Article 10: Amusement permits

This Article amends the 1985 Order to introduce an additional type of amusement permit for premises used wholly or mainly for the provision of amusements by means of gaming machines. The new permit (expressed to be granted for the purposes of Article 108(1)(ca) of the 1985 Order) will authorise the operation of gaming machines with a maximum all-cash prize of £25 (delivered directly from the machine) and gaming machines with a maximum prize value of £8 (*paragraph (1)*). (The existing amusement permit (expressed to be granted for the purposes of Article 108(1)(c) of the 1985 Order), which will continue to be available, authorises the operation of lower prize gaming machines, those with a maximum prize value of £8.)

As with the existing amusement permit, the new permit will be renewable after one year.

The new permit will be subject to the following conditions (*paragraph (2)(g) re grant and paragraph (4)(d) re renewal*):

- where admission to the premises is restricted to those aged 18 or over:
 - no-one under 18 is admitted to the premises; and
 - at any entrance to, and inside the premises, there are prominently displayed notices indicating that access by those under 18 is prohibited;
- where those under 18 are admitted to the premises:
 - any £25 prize gaming machines are located in an area of the premises separated from the rest of the premises by an effective physical barrier;
 - only those 18 or over are admitted to an area of the premises in which any such machines are located;
 - access to an area in which such machines are located is supervised;
 - all parts of any area of the premises in which such machines are located can be observed; and
 - at any entrance to, and inside any area of the premises in which such machines are located, there are prominently displayed notices indicating that access by those under 18 is prohibited.

The district council may refuse to renew the permit if the relevant conditions are not complied with to its satisfaction (*paragraph (4)(c)(ii)*).

An application for the grant (*paragraph (2)(a) and (b)*) or renewal (*paragraph (4)(a) and (b)*) of the new permit will be subject to a fee set annually by the district council for the whole of its district. The fees set will cover the council's costs in relation to amusement permits, subject to a maximum of £250. (There is no change in the fee for the grant or renewal of the existing permit, currently £32.)

Where the holder of an existing amusement permit (an Article 108(1)(c) permit) applies for the grant of the new permit (an Article 108(1)(ca) permit) for the same premises, the district council may only refuse the application if it would have grounds to refuse to renew the existing permit (the Article 108(1)(c) permit) (*paragraph (2)(f)*).

Where the holder of a new permit (an Article 108(1)(ca) permit) applies for the grant of the existing type of permit (an Article 108(1)(c) permit) for the same premises, the district council may only refuse the application if it would have grounds to refuse to renew it were it an existing type of permit (an Article 108(1)(c) permit) (*paragraph (2)(f)*).

Grant of the new amusement permit (an Article 108(1)(ca) permit) to the holder of an existing type of permit (an Article 108(1)(c) permit) for the same premises will automatically cancel the existing permit for those premises (*paragraph (3)*). Similarly, grant of an existing type of permit (an Article 108(1)(c) permit) to the holder of a new type of permit (an Article 108(1)(ca) permit) for the same premises will automatically cancel the new type of permit for those premises (*paragraph (3)*).

Article 11: Advertisement of bingo

This Article removes all restrictions on the advertising of bingo.

Article 12: Minor amendments and repeals

This Article provides for some minor amendments of the 1985 Order and for the repeals included in Schedule 4.

Schedule 1: Provisions inserted as Schedule 8A to the principal Order

Schedule 8A to the 1985 Order, inserted by this Schedule, gives on-course betting workers (ie those who are employed to work at a horse or dog track in Northern Ireland and whose work involves dealing with betting transactions) the following new employment rights:

- the right not to be dismissed for refusing to work on a Sunday;
- the right not to be selected for redundancy for refusing to work on a Sunday;
- the right not to suffer any other detriment for refusing to work on a Sunday; “detriment” is not defined but could include, for example, denial of overtime, promotion or training opportunities.

These rights apply irrespective of age, length of service or hours of work.

All on-course betting workers employed when the Order comes into operation are automatically eligible for these rights. Those who enter into a contract of employment requiring Sunday working after the commencement date will be able to “opt-out” of Sunday working subject to giving the employer three months written notice, during which time they may still be required to undertake Sunday working.

Enforcement of these employment rights is by way of complaint to an industrial tribunal.

Schedule 2: 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

This Schedule contains detailed amendments to the 1985 Order arising as a consequence of the transfer of responsibility for the grant and provisional grant of bookmaking office licences from courts of summary jurisdiction to county courts effected by Article 5(1).

Schedule 3: Transitional provisions

This Schedule contains transitional provisions to enable a court of summary jurisdiction to continue to deal with applications for the grant and provisional grant of bookmaking office licences for which notice of application has been published and served before the commencement date of Article 5(1) of the Order. From that date, responsibility for the grant and provisional grant of bookmaking office licences will transfer to county courts.

Schedule 4: Repeals

This Schedule lists those statutory provisions of the 1985 Order which are repealed by Article 12(3) to the extent specified in the Schedule.

COMMENCEMENT

10. **Articles 1** (title and commencement) and **2** (interpretation) will come into effect on 19 February 2004.
11. The following provisions will come into operation on 26 February 2004:
 - Article 3 (football pools);
 - Article 4 and Schedule 1 (betting on tracks);
 - Article 11 (advertisement of bingo);
 - Article 12(1) and (2) (minor amendments); and
 - the repeals relating to the above contained in Article 12(3) and Schedule 4.
12. The following provisions will come into operation by commencement order:
 - Article 5(1) together with Schedules 2 and 3 (the transfer of responsibility for the grant of bookmaking office licences from courts of summary jurisdiction to county courts);

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- Article 6 (conduct of bookmaking offices);
 - Articles 8 to 10 (gaming machines, supplementary provisions with respect to the use of gaming machines in bookmaking offices and amusement permits; and
 - the repeals relating to the above contained in Article 12(3) and Schedule 4.
13. The remaining provisions of the Order will come into operation on 12 May 2004.