



# Horserace Betting and Olympic Lottery Act 2004

## 2004 CHAPTER 25

### PART 1

#### SALE OF THE TOTE

VALID FROM 25/02/2011

#### *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 [F<sup>1</sup>the Companies Act 2006] as a company limited by shares, and
    - (ii) wholly owned by the Crown.

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**Changes to legislation:** Horserace Betting and Olympic Lottery Act 2004 is up to date with all changes known to be in force on or before 16 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### Textual Amendments

**F1** Words in s. 2(2)(b)(i) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), [Sch. 1 para. 221\(2\)](#) (with art. 10)

### 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 [\[F<sup>2</sup>Transfer of Undertakings \(Protection of Employment\) Regulations 2006\]](#), 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.

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- (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.

#### Textual Amendments

- F2** Words in s. 3(6)(a) substituted (with application in accordance with reg. 21(1) of the amending S.I.) by [The Transfer of Undertakings \(Protection of Employment\) Regulations 2006 \(S.I. 2006/246\)](#), reg. 1(2), [Sch. 2 para. 1\(j\)](#)

## 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).

VALID FROM 25/02/2011

### *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;

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(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 <sup>F3</sup>the Companies Act 2006] 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.

#### Textual Amendments

**F3** Words in s. 5(3)(b) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), [Sch. 1 para. 221\(3\)](#) (with art. 10)

## 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 Horsrace 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.

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- (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, [<sup>F4</sup>sections 836 to 840 of the Companies Act 2006] (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 [<sup>F5</sup>the Companies Act 2006].

#### Textual Amendments

- F4** Words in s. 6(6) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), **Sch. 1 para. 231(2)(a)** (with arts. 6, 11, 12)
- F5** Words in s. 6(7) substituted (6.4.2008) by [The Companies Act 2006 \(Consequential Amendments etc\) Order 2008 \(S.I. 2008/948\)](#), art. 2(2), **Sch. 1 para. 231(2)(b)** (with arts. 6, 11, 12)

## 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 [<sup>F6</sup>the Companies Acts (as defined in section 2 of the Companies Act 2006)].

#### Textual Amendments

- F6** Words in s. 7 substituted (1.10.2007) by [Companies Act 2006 \(Commencement No.3, Consequential Amendments, Transitional Provisions and Savings\) Order 2007 \(S.I. 2007/2194\)](#), art. 1(3)(a), **Sch. 4 para. 103** (with art. 12)

VALID FROM 16/08/2007

### *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

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- 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).

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VALID FROM 25/02/2011

## 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.

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- (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).

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—
    - (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



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- (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.

### 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.

### Commencement Information

**II** S. 11 in force at 1.1.2005 by S.I. 2004/3283, art. 3

## 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.

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- (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.

#### Commencement Information

**I2** S. 12 in force at 1.1.2005 for specified purposes by S.I. 2004/3283, art. 4

VALID FROM 13/07/2011

#### **13** Consequential amendments

Schedule 2 (consequential amendments) shall have effect.

VALID FROM 08/04/2005

#### **14** Extent

This Part shall not extend to Northern Ireland.

VALID FROM 08/04/2005

## PART 2

### ABOLITION OF THE HORSERACE BETTING LEVY SYSTEM

PROSPECTIVE

#### **15** Abolition of levy

- (1) The Secretary of State may by order made by statutory instrument—
- repeal any of sections 24 to 30 of the Betting, Gaming and Lotteries Act 1963 (levy);
  - repeal a provision of the Horsrace Betting Levy Act 1969 (c. 14);
  - repeal a provision of the Horsrace Betting Levy Act 1981 (c. 30);
  - provide for the Horsrace Betting Levy Board to cease to exist.
- (2) An order under subsection (1) may—
- repeal different provisions at different times;
  - repeal a provision generally or only to a specified extent;

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- (c) make consequential provision (which may include provision amending or repealing an enactment, in addition to the provision made by section 17 and Schedule 4).
- (3) An order under subsection (1) may make transitional provision or savings, which may include provision—
  - (a) modifying the effect of a provision pending its repeal;
  - (b) about the conduct of the Horserace Betting Levy Board pending the repeal of section 24 of the Betting, Gaming and Lotteries Act 1963;
  - (c) about the conduct of the Bookmakers' Committee pending the repeal of section 26 of that Act;
  - (d) about the conduct of an appeal tribunal pending the repeal of section 29 of that Act.
- (4) An order under subsection (1) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

PROSPECTIVE

## 16 Property of the Levy Board

- (1) In this Part “transfer scheme” means a scheme providing for the transfer of specified property, rights and liabilities of the Horserace Betting Levy Board—
  - (a) to a person specified in the scheme, and
  - (b) at a time specified in the scheme.
- (2) If the Secretary of State directs the Board to make and submit to the Secretary of State a transfer scheme—
  - (a) the Board shall comply with the direction,
  - (b) the Secretary of State may approve the scheme with or without modification, and
  - (c) if approved, the scheme shall have effect.
- (3) A direction of the Secretary of State under subsection (2)—
  - (a) shall specify a date by which the transfer scheme is to be made;
  - (b) may specify property, rights or liabilities to be transferred by the transfer scheme;
  - (c) may specify to whom property, rights or liabilities are to be transferred by the transfer scheme.
- (4) The Secretary of State may make a transfer scheme if—
  - (a) the Board fails to comply with a direction under subsection (2), or
  - (b) the Secretary of State decides not to approve a scheme submitted under that subsection.
- (5) A transfer scheme made under subsection (4) shall have effect.
- (6) The Secretary of State shall not make or approve a transfer scheme under this section unless satisfied that any property or rights transferred will be used or exercised for the purpose of—
  - (a) the improvement of breeds of horses,

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- (b) the advancement or encouragement of veterinary science or veterinary education, or
  - (c) the improvement of horse racing.
- (7) Schedule 3 (which makes supplementary provision in connection with directions and schemes under this section) shall have effect.

PROSPECTIVE

## 17 Consequential amendments

- (1) The Secretary of State—
- (a) may bring this section into force by provision included in an order made under section 15(1), and
  - (b) shall not make an order under section 15(1)(d) providing for the Horserace Betting Levy Board to cease to exist unless the order also makes provision, or an earlier order under section 15(1) has made provision, bringing this section into force at or before the time when that Board ceases to exist.
- (2) Schedule 4 (consequential amendments) shall have effect.
- (3) A certificate of approval issued under section 13 of the Betting, Gaming and Lotteries Act 1963 (c. 2) before the coming into force of this section (“commencement”)—
- (a) shall continue to have effect after commencement as if issued by the Gaming Board for Great Britain under that section as amended by Schedule 4,
  - (b) may be revoked by the Gaming Board for Great Britain, and
  - (c) shall expire at the end of the period of three years beginning with the date of commencement (but without prejudice to the power to issue a new certificate).

PROSPECTIVE

## 18 Tax

- (1) The Treasury may make regulations providing—
- (a) for a tax provision not to apply, or to apply with modifications, in respect of anything done under or in consequence of a transfer scheme;
  - (b) for anything done under or in consequence of a transfer scheme to have or not have a specified consequence, or to be treated in a specified way, for the purposes of a tax provision;
  - (c) for anything done in connection with, or done by a person with rights in connection with, anything that was at any time transferred under a transfer scheme, to have or not have a specified consequence, or to be treated in a specified way, for the purposes of a tax provision;
  - (d) for a tax provision not to apply, or to apply with modifications, in respect of anything transferred under a transfer scheme;
  - (e) for anything transferred under a transfer scheme to be treated in a specified way for the purposes of a tax provision;

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**Changes to legislation:** Horserace Betting and Olympic Lottery Act 2004 is up to date with all changes known to be in force on or before 16 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (f) for the withdrawal of relief (whether or not granted by virtue of the regulations), and the charging of tax, in connection with anything done under or in consequence of a transfer scheme where a specified event occurs, or specified conditions are satisfied, whether on or after the commencement of the scheme;
  - (g) for a power under this Part, or anything done in exercise of a power under this Part, to have or not have a specified consequence, or to be treated in a specified way, for the purposes of a tax provision.
- (2) In subsection (1) “tax provision” means a provision of an enactment about income tax, corporation tax, capital gains tax, stamp duty, stamp duty land tax or stamp duty reserve tax.
- (3) Regulations under this section—
- (a) shall be made by statutory instrument, and
  - (b) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

PROSPECTIVE

**19 Interpretation: “enactment”**

In this Part “enactment” includes an Act of the Scottish Parliament.

**20 Extent**

This Part shall not extend to Northern Ireland.

VALID FROM 08/04/2005

**PART 3**

NATIONAL LOTTERY: OLYMPIC LOTTERIES

*Olympic Lotteries*

**21 Licensing of Olympic Lotteries**

- (1) A licence under section 6 of the National Lottery etc. Act 1993 (c. 39) (licence authorising a body to promote lotteries as part of the National Lottery) may designate a lottery to which the licence relates as an Olympic Lottery.
- (2) A licence under section 5 of that Act (licence to run the National Lottery) must include provision—
- (a) for determining in respect of any period the proportion of proceeds of lotteries forming part of the National Lottery that is attributable to Olympic Lotteries, or

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- (b) enabling the National Lottery Commission to determine that proportion in respect of any period.
- (3) A designation under subsection (1) may be made only while provision under subsection (2) has effect.
- (4) In respect of a licence under section 5 of that Act that has effect when this section comes into force—
  - (a) the Commission shall, after consulting the licensee, vary the licence so as to introduce provision of a kind specified in subsection (2)(a) or (b) above, and
  - (b) the variation shall take effect at such time as the Commission shall specify (whether or not the licensee consents).

## 22 Timing

- (1) This section applies to a licence under section 6 of the National Lottery etc. Act 1993 (c. 39) which designates a lottery to which the licence relates as an Olympic Lottery.
- (2) A licence to which this section applies must include a condition prohibiting the promotion of an Olympic Lottery unless the Secretary of State has by order declared that the International Olympic Committee has elected London as the host city for the 2012 Olympic Games.
- (3) Subsection (4) applies if the Secretary of State by order declares—
  - (a) that the International Olympic Committee has elected a city other than London as the host city for the 2012 Olympic Games, or
  - (b) that the election of London by the International Olympic Committee as the host city for the 2012 Olympic Games has been revoked.
- (4) Where this subsection applies—
  - (a) a licence to which this section applies shall cease to have effect in so far as it relates to an Olympic Lottery on such date as may be specified in the order under subsection (3), and
  - (b) the National Lottery Commission may not grant a licence to which this section applies.
- (5) If the Secretary of State by order specifies a date as the termination date for the purposes of this section—
  - (a) any licence to which this section applies that has effect immediately before the termination date shall cease to have effect on that date in so far as it relates to an Olympic Lottery, and
  - (b) the National Lottery Commission may not grant a licence to which this section applies in respect of a period of time falling wholly or partly on or after the termination date.

### *Olympic Lottery Distribution Fund*

## 23 The Fund

There shall be a fund maintained under the control and management of the Secretary of State and known as the Olympic Lottery Distribution Fund.

*Status: Point in time view as at 01/01/2005. This version of this Act contains provisions that are not valid for this point in time.*

*Changes to legislation: Horserace Betting and Olympic Lottery Act 2004 is up to date with all changes known to be in force on or before 16 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## **24 Payments into Fund from lottery proceeds**

- (1) Where a sum is required by virtue of section 5(6) of the National Lottery etc. Act 1993 (c. 39) (as substituted by section 34 of this Act) to be paid into the National Lottery Distribution Fund out of proceeds of lotteries in respect of a period, such proportion of that sum as is determined in accordance with section 21(2) or (4) of this Act to be attributable to Olympic Lotteries shall be paid instead into the Olympic Lottery Distribution Fund.
- (2) Section 9(3) of that Act (as substituted by section 34 of this Act) shall have effect in relation to the Olympic Lottery Distribution Fund and sums due to be paid into it as it has effect in relation to the National Lottery Distribution Fund and sums due to be paid into it.

VALID FROM 08/07/2005

## **25 Payments into Fund from National Lottery Distribution Fund**

- (1) The Secretary of State may make an order permitting the Secretary of State to make payments from the National Lottery Distribution Fund into the Olympic Lottery Distribution Fund.
- (2) A payment by virtue of an order under subsection (1) shall be treated as if paid out of money allocated for such of the purposes listed in section 22(3) of the National Lottery etc. Act 1993 (apportionment of money in Distribution Fund) as the order shall specify.
- (3) Before making an order under subsection (1) the Secretary of State shall consult each of the bodies for the time being mentioned in section 23 of that Act.

VALID FROM 08/07/2005

## **26 Payments out of Fund**

- (1) The Secretary of State may pay sums from the Olympic Lottery Distribution Fund to the Olympic Lottery Distributor.
- (2) The Secretary of State may make regulations permitting payments from the Olympic Lottery Distribution Fund—
  - (a) in respect of expenses of the Secretary of State in connection with functions under this Part;
  - (b) in respect of expenses incurred or to be incurred by the National Debt Commissioners in making investments under section 27;
  - (c) into the National Lottery Distribution Fund;
  - (d) to the Greater London Authority;
  - (e) to the National Olympic Committee;
  - (f) into the Consolidated Fund for the purpose of meeting payments made or to be made under paragraph 10 of Schedule 2A to the National Lottery etc. Act 1993 (expenses of National Lottery Commission).



**Status:** Point in time view as at 01/01/2005. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Horse Race Betting and Olympic Lottery Act 2004 is up to date with all changes known to be in force on or before 16 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) Regulations by virtue of subsection (2)(a) and (b) shall permit payment only with the consent of the Treasury.
- (4) Regulations by virtue of subsection (2)(c) shall in respect of each payment specify, or enable the Secretary of State to specify, whether it is to be—
  - (a) treated as having been paid into the National Lottery Distribution Fund by virtue of section 5(6) of the National Lottery etc. Act 1993 (c. 39) (general payments into fund), or
  - (b) allocated entirely for expenditure on or connected with sport and held in accordance with section 23(2) of that Act (distributing bodies for sports).
- (5) Regulations by virtue of subsection (2)(c) may, in respect of a payment allocated in accordance with subsection (4)(b) provide, or enable the Secretary of State to provide, for section 23(2) of that Act to apply with specified modifications (which may, in particular, include modifications reducing a distributor's share to nil).
- (6) Money paid to the Greater London Authority by virtue of subsection (2)(d) may be used by the Authority for any purpose for which it is authorised to incur expenditure.

VALID FROM 08/07/2005

## 27 Investment

- (1) Money in the Olympic Lottery Distribution Fund may be paid to the National Debt Commissioners and invested by them.
- (2) Proceeds of an investment under this section—
  - (a) may be re-invested by the National Debt Commissioners, and
  - (b) unless re-invested, shall be paid into the Olympic Lottery Distribution Fund.
- (3) In exercising a function under this section the National Debt Commissioners shall comply with any direction of the Treasury.

## 28 Winding up

- (1) The Secretary of State may by order make provision for the winding up of the Olympic Lottery Distribution Fund.
- (2) An order under this section shall provide, in particular, for any money in or due to the Olympic Lottery Distribution Fund to be paid into the National Lottery Distribution Fund.
- (3) An order under this section shall in respect of any payment specify, or enable the Secretary of State to specify, whether it is to be—
  - (a) treated as having been paid into the National Lottery Distribution Fund by virtue of section 5(6) of the National Lottery etc. Act 1993 (general payments into fund), or
  - (b) allocated entirely for expenditure on or connected with sport and held in accordance with section 23(2) of that Act (distributing bodies for sports).

**Status:** Point in time view as at 01/01/2005. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** *Horseshoe Betting and Olympic Lottery Act 2004* is up to date with all changes known to be in force on or before 16 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) Provision by virtue of subsection (3)(b) may provide for section 23(2) of that Act to apply with specified modifications (which may, in particular, include modifications reducing a distributor's share to nil).

VALID FROM 08/07/2005

### *Olympic Lottery Distributor*

#### **29 The Olympic Lottery Distributor**

- (1) There shall be a body corporate known as the Olympic Lottery Distributor.
- (2) Schedule 5 (which makes provision in relation to the Distributor) shall have effect.

#### **30 Distribution**

- (1) The Olympic Lottery Distributor shall distribute money received, whether under section 26 or otherwise, by way of grant or loan (subject to Part 3 of Schedule 5).
- (2) The Distributor may make a grant or loan only if it considers it necessary or expedient for the purpose of or in connection with—
- (a) the provision of facilities which are necessary or expedient if London is to be the host city of the 2012 Olympic games, or
  - (b) any other service or function which it is necessary or expedient to provide or undertake if London is to be the host city of the 2012 Olympic Games.
- (3) In exercising its functions under this section the Distributor shall have regard to—
- (a) the Olympic Charter, and
  - (b) any agreement entered into by or on behalf of the International Olympic Committee in the course of or in connection with the election of London as the host city for the 2012 Olympic Games.
- (4) A grant or loan may, in particular, fund expenditure related to the provision of—
- (a) facilities outside London;
  - (b) cultural and other events held in accordance with a provision of the Olympic Charter or in accordance with an agreement entered into by or on behalf of the International Olympic Committee.
- (5) A grant or loan may be subject to conditions which may, in particular, include conditions—
- (a) as to repayment (with or without interest);
  - (b) providing for payments to be made only with the consent of a specified person.
- (6) The Secretary of State may by regulations provide that a specified class of expenditure is to be treated as—
- (a) satisfying the requirements of subsection (2), or
  - (b) not satisfying those requirements.

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### **31 Distribution policy**

- (1) The Olympic Lottery Distributor shall comply with any requirement of the Secretary of State to—
  - (a) prepare a policy for the distribution of money under section 30, or
  - (b) review and revise the policy.
- (2) A policy must, in particular—
  - (a) estimate the Distributor's annual income,
  - (b) specify the sources of the income estimated,
  - (c) specify matters in respect of which the Distributor thinks that it will or may make grants or loans, and
  - (d) estimate, where possible, the amount of grants or loans that the Distributor will or may make.
- (3) A requirement under subsection (1) may include provision (which may supplement or amplify subsection (2)) about—
  - (a) the form of the policy;
  - (b) the content of the policy.
- (4) Before preparing or revising a policy the Distributor—
  - (a) shall submit a draft of the policy or revision to the Secretary of State, and
  - (b) shall consult—
    - (i) the National Lottery Commission,
    - (ii) the Mayor of London,
    - (iii) the National Olympic Committee, and
    - (iv) the British Paralympic Association.
- (5) The Distributor shall as soon as is reasonably practicable send a copy of a policy or revision under this section to—
  - (a) the Secretary of State,
  - (b) the Mayor of London,
  - (c) the National Olympic Committee, and
  - (d) the British Paralympic Association.
- (6) Where the Secretary of State receives a copy of a policy or revision under subsection (5) he shall lay it before Parliament.

### **32 Dissolution**

- (1) The Secretary of State may by order make provision for the dissolution of the Olympic Lottery Distributor.
- (2) An order under this section may, in particular—
  - (a) provide for the transfer of property, rights or liabilities of the Distributor to—
    - (i) the Secretary of State, or
    - (ii) any other person;
  - (b) make provision enabling a person to receive anything transferred under paragraph (a) (and that provision shall have effect despite any other enactment or instrument);

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- (c) establish a body corporate;
- (d) make consequential, incidental or transitional provision which may, in particular—
  - (i) provide for anything done by or in relation to the Distributor to have effect as if done by or in relation to another person;
  - (ii) permit anything (which may include legal proceedings) which is in the process of being done by or in relation to the Distributor when a transfer takes effect, to be continued by or in relation to another person;
  - (iii) provide for a reference to the Distributor in an instrument or other document to be treated as a reference to another person.
- (3) An order transferring a sum of money to the Secretary of State under subsection (2) (a)(i) may require the Secretary of State to pay the sum into the National Lottery Distribution Fund; and an order containing such provision shall specify whether the payment is to be—
  - (a) treated as having been paid into the National Lottery Distribution Fund by virtue of section 5(6) of the National Lottery etc. Act 1993 (c. 39) (general payments into fund), or
  - (b) allocated entirely for expenditure on or connected with sport and held in accordance with section 23(2) of that Act (distributing bodies for sports).
- (4) Provision by virtue of subsection (3)(b) may provide for section 23(2) of that Act to apply with specified modifications (which may, in particular, include modifications reducing a distributor’s share to nil).
- (5) The Secretary of State may not make an order under this section providing for the transfer of property, rights or liabilities to a person unless the person has consented to the transfer.
- (6) An order under this section—
  - (a) may transfer rights and liabilities relating to employees, but
  - (b) shall not affect the operation of the Transfer of Undertakings (Protection of Employment) Regulations 1981 (S.I. 1981/1794).
- (7) The Secretary of State may not make an order by virtue of subsection (6)(a) unless satisfied that sufficient notice has been given to enable compliance with any applicable requirement of those regulations.

### *Miscellaneous*

## **33 Interpretation**

- (1) In this Part—
  - (a) a reference to the 2012 Olympic Games is a reference to—
    - (i) the Games of the Olympiad that are to take place in the year 2012, and
    - (ii) except where the context otherwise requires, the Paralympic Games that are to take place in that year,
  - (b) “the National Olympic Committee” means the National Olympic Committee of the United Kingdom,

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- (c) “the Organising Committee” means the Organising Committee established by the National Olympic Committee,
  - (d) “the Paralympic Games” means the events known by that name and in connection with which the Organising Committee has functions by virtue of an agreement between that committee and the International Olympic Committee,
  - (e) “the Olympic Charter” means the Olympic Charter of the International Olympic Committee, and
  - (f) any expression used in connection with the Olympic Games (including an expression mentioned in this section) shall have the meaning which it has in or in accordance with the Olympic Charter of the International Olympic Committee (as it has effect from time to time).
- (2) A reference in this Part to the making of a loan includes a reference to the provision of any other kind of financial assistance.

### **34 Consequential amendments, &c.**

- (1) The National Lottery etc. Act 1993 (c. 39) shall have effect subject to this section.
- (2) In section 4 (overriding duties)—
- (a) a reference to functions under Part I of that Act shall be treated as including a reference to functions under this Part of this Act, and
  - (b) the definition in subsection (3) of “the net proceeds of the National Lottery” shall be treated as including a reference to sums paid into the Olympic Lottery Distribution Fund by virtue of section 24 of this Act.
- (3) For section 5(6) (payments by licensee) substitute—
- “(6) A licence under this section shall include a condition requiring the licensee to pay into the National Lottery Distribution Fund sums out of the proceeds of lotteries forming part of the National Lottery.
- (6A) A licence under this section shall include provision for determining—
- (a) the amount of payments under subsection (6), and
  - (b) the timing of payments under subsection (6).”
- (4) In the case of a licence granted under section 5 before the coming into force of subsection (3) above, the condition included in accordance with section 5(6) shall, after that time, be construed as if any sum required to be paid by that condition were required to be paid into the National Lottery Distribution Fund (subject to section 24 of this Act).
- (5) For section 9(3) (enforcement of conditions) substitute—
- “(3) Where a sum is due to be paid to the National Lottery Distribution Fund by virtue of section 5(6)—
- (a) the sum shall be recoverable by the Secretary of State as a debt due to the Fund, and
  - (b) the licensee’s liability to pay shall not be affected by his licence ceasing to have effect.”
- (6) For section 10A(14) (breach of licence condition: financial penalty: recovery) substitute—

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“(14) Where under this section one person (“the debtor”) becomes liable to pay a penalty to another person (“the creditor”)—

- (a) the penalty and any interest accrued under subsection (13) shall be recoverable by the Secretary of State from the debtor as a debt due to the creditor, and
- (b) the debtor’s liability to pay shall not be affected by his licence ceasing to have effect.

(15) A penalty under this section may be payable partly to the National Lottery Distribution Fund and partly to the Olympic Lottery Distribution Fund.”

(7) In section 11 (directions by Secretary of State to National Lottery Commission) the reference to the functions of the Commission under sections 5 to 10A of that Act shall be treated as including a reference to the functions of the Commission under or in accordance with this Part.

(8) In section 21 (National Lottery Distribution Fund) subsection (2) (payments in by Secretary of State) shall cease to have effect.

(9) In section 22 (apportionment of National Lottery Distribution Fund: saving)—

- (a) in subsection (1) for “under section 21(2)” substitute “ by virtue of section 5(6) or 10A ”,
- (b) omit subsection (3)(e), and
- (c) at the end of subsection (4) add “ and to section 25 of the Horserace Betting and Olympic Lottery Act 2004. ”

(10) Section 30 (winding up of millennium fund) shall cease to have effect.

(11) Section 33 (accounts) shall apply in relation to the Olympic Lottery Distribution Fund as it applies in relation to the National Lottery Distribution Fund—

- (a) taking the reference to section 32 of that Act as a reference to section 27 of this Act, and
- (b) with any other necessary modifications.

#### **Commencement Information**

**I3** S. 34(1)-(5)(7)(8)(9)(a)(b)(10)(11) in force at 8.4.2005 by [S.I. 2005/1134](#), [art. 2](#)

### **35 Changes in Olympic procedure**

(1) The Secretary of State may by order make such provision as he thinks necessary or expedient in consequence of a change effected after the passing of this Act in the arrangements made by the International Olympic Committee in relation to the Games of the Olympiad.

(2) An order under subsection (1) may, in particular, amend a provision of—

- (a) this Part, or
- (b) any other enactment.

### **36 Regulations and orders**

(1) Regulations or an order under this Part shall be made by statutory instrument.

**Status:** Point in time view as at 01/01/2005. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Horserace Betting and Olympic Lottery Act 2004 is up to date with all changes known to be in force on or before 16 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) Regulations or an order under this Part—
- (a) may make provision generally or only in relation to specified cases or circumstances,
  - (b) may make different provision for different circumstances, and
  - (c) may include incidental, consequential or transitional provision.
- (3) An order under section 22(2) or (3) shall be laid before Parliament.
- (4) An order under section 25, 28 or 35 shall not be made unless a draft has been laid before, and approved by resolution of, each House of Parliament.
- (5) Any other order under this Part, and regulations under this Part, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### 37 Extent

This Part extends to—

- (a) England and Wales,
- (b) Scotland, and
- (c) Northern Ireland.

## PART 4

### GENERAL

VALID FROM 08/04/2005

### 38 Repeals

The enactments listed in Schedule 6 are hereby repealed to the extent specified.

VALID FROM 08/04/2005

### 39 Money

There shall be paid out of money provided by Parliament—

- (a) any expenditure of the Secretary of State in connection with this Act,
- (b) any expenditure of the National Debt Commissioners in connection with this Act, and
- (c) any increase attributable to this Act in the sums payable out of money provided by Parliament under another enactment.

### 40 Commencement

- (1) The preceding provisions of this Act shall come into force in accordance with provision made by order of the Secretary of State.

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- (2) An order under subsection (1)—
  - (a) may make provision that has effect generally or only for specified purposes,
  - (b) may make different provision for different purposes,
  - (c) may include incidental, consequential or transitional provision, and
  - (d) shall be made by statutory instrument.
- (3) Section 29 shall not be brought into force unless the Secretary of State has made an order under section 22(2).

#### **41 Extent**

- (1) An amendment effected by this Act shall have the same extent as the enactment amended (or as the relevant part of the enactment amended).
- (2) Sections 14, 20 and 37 are subject to subsection (1) above.

#### **42 Short title**

This Act may be cited as the Horserace Betting and Olympic Lottery Act 2004.



**Status:**

Point in time view as at 01/01/2005. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:**

Horserace Betting and Olympic Lottery Act 2004 is up to date with all changes known to be in force on or before 16 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.