EXPLANATORY MEMORANDUM TO

THE GAMBLING ACT 2005 (AMENDMENT OF SCHEDULE 6) ORDER 2012

2012 No. [XXXX]

1. This explanatory memorandum has been prepared by the Department for Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order amends Parts 2 and 3 of Schedule 6 to the Gambling Act 2005.

2.2 Part 2 of Schedule 6 lists enforcement and regulatory bodies who are able to exchange information with the Gambling Commission under powers conferred by section 30 of the Gambling Act 2005. We need to update it to reflect the transfer of functions from the Occupational Pensions Regulatory Authority to The Pensions Regulator, which has already taken place, so they can continue exchanging information on activities like possible money laundering.

2.3 Part 3 of Schedule 6 lists sports governing bodies to which the Gambling Commission may provide information in exercise of its functions under the powers conferred under section 30 of the Gambling Act 2005. The Order amends Part 3 by adding new bodies and updating the names of existing bodies

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Context

4.1 Schedule 6 of the Gambling Act 2005 (the Act) lists persons and bodies for the purpose of exchanging information with the Gambling Commission. This is an essential part of improving sports betting integrity as it allows information about suspicious betting patterns to be identified and dealt with to avoid or to prevent match-fixing. Under section 351 of the Act, the Secretary of State for Culture, Media and Sport has the power to amend the Schedule, should the need arise.

5. Territorial Extent and Application

This instrument applies to Great Britain

6. European Convention on Human Rights

6.1 The Minister for Tourism and Heritage, John Penrose, has made the following statement regarding Human Rights:

"In my view the provisions of the Gambling Act 2005 (Amendment of Schedule 6) Order 2012 are compatible with the Convention Rights."

6.2 The Human Rights Act 1998 is aligned with the Data Protection Act 1998, and makes it unlawful for any public authority to breach the European Convention on Human Rights (ECHR). Article 8 of ECHR specifically states that bodies may not breach the right of privacy unless it is for the purpose of national security, public safety, prevention of crime, protection of health or the protection of rights and freedom of others – this includes protecting private information from misuse. The Gambling Commission can only legally share information in accordance with these legislative requirements.

6.3 As a result, and regardless of any new proposal, the Gambling Commission will continue to restrict the exchange of information with organisations that do not have appropriate information handling procedures, security controls or the ability to be able to act on the information in the furtherance of the licensing objectives.

7. Policy background

7.1 Exchange of information between the Gambling Commission and Sports Governing Bodies is essential to the fight against sports betting corruption, which is harmful to both sport itself and to the associated sports and betting markets.

7.2 Schedule 6 of the the Act lists persons and bodies for the purpose of exchanging information with the Gambling Commission. This is an essential part of improving sports betting integrity as it allows information about suspicious betting patterns to be identified and dealt with to avoid or to prevent match-fixing.

7.3 Information can be exchanged with organisations not included on Schedule 6, but such cases require individual legal opinions which take time and are expensive. Under section 351 of the Act, the Secretary of State for Culture, Media and Sport has the power to amend the Schedule, should the need arise.

7.4 The International Olympic Committee (IOC) has requested that it be added to Schedule 6 in advance of the London 2012 Games, in case threats to betting integrity arise during the course of the Games.

7.5 As the list of Sports Governing Bodies on Schedule 6 has not been updated since the Act was drafted, other relevant national and international bodies are to be added to ensure better coverage of the main sports in the UK, and to better reflect the Sports Governing Bodies that the Gambling Commission deals with on a regular basis. Unless the Sports Governing Bodies are included on Schedule 6, there is a limit to the information the Gambling Commission can pass on in relation to sports betting integrity cases.

7.6 These amendments will reduce the burden placed on the Gambling Commission by a case-by-case handling of betting integrity issues, and ensure that information about betting integrity issues flow between sporting and enforcement bodies in a timely fashion.

7.7 It has also come to light that some of the bodies that were listed on Schedule 6 when the Act came into effect have since changed their organizational structure (for example being merged with another body) or have changed their name. In order to preserve the original intention of the Act, amendments to Schedule 6 need to be made to reflect these changes.

7.8 The update to Part 2 of schedule 6 of the Act reflects the transfer of functions from the Occupational Pensions Regulatory Authority to The Pensions Regulator. This is one of a number of enforcement and regulatory bodies that are included in schedule 6 of the Act in order to allow the sharing of information which relates to criminal activity such as money laundering.

8. Consultation outcome

8.1 A public consultation was held between 17 August and 9 November. The consultation addressed the inclusion of the IOC, the proposed UK and international governing bodies and also asked for any other bodies which should be added to the Schedule. Responders were also asked for any burdens and/or costs which would result from these proposals.

8.2 22 responses were received. Of those that referred to the inclusion of the IOC, all were in favour, and no responder disagreed with the proposed SGBs to be added.

8.3 Some responses did, however, indicate that they felt there could be benefit from adding additional Sports Governing Bodies, and they are reflected in the Order.

9. Guidance

9.1 No guidance has been issued.

10. Impact

10.1 The impact on business – the Order will impose no new costs on business, while actually providing a benefit by reducing existing compliance costs that business faces. The policy proposal amounts therefore to a reduction in regulation, or an "Out". The total size of the reduction in regulatory burden is measured by the equivalent annual net cost to business (EANCB). Derived by annutising the business benefits calculation in paragraph 49, this amounts to -£6,200 in the central estimate.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment is attached to this memorandum and will be published alongside the Explanatory Memorandum on the OPSI website.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 It is possible that some Sports Governing Bodies are "Micro" organisations, although this is considered to be extremely unlikely. These organisations have in any case not been exempted from the legislative amendment because the preferred option is deregulatory in nature, and it is desirable that "Micro" organisations should benefit from this reform.

12. Monitoring & review

12.1 The policy will not be reviewed. There is no regulatory burden.

13. Contact

Timothy Jones at the Department for Culture, Media and Sport, Tel: 020 7211 2209 or email: Timothy.Jones@culture.gsi.gov.uk can answer any queries regarding the instrument.