Draft Order laid before Parliament under section 355(8)(b) of the Gambling Act 2005, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2007 No.

BETTING, GAMING AND LOTTERIES

The Gambling Act 2005 (Horserace Totalisator Board) Order 2007

Made - - - -

Coming into force in accordance with article 1(1)

The Secretary of State makes the following Order in exercise of the powers conferred by section 358(5) of the Gambling Act 2005(**a**).

A draft of this Order has been laid before Parliament in accordance with section 355(8)(b) of that Act, and has been approved by a resolution of each House of Parliament.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Gambling Act 2005 (Horserace Totalisator Board) Order 2007 and shall come into force on whichever is the later of 1st September 2007 or the day after the day on which the Order is made.

(2) In this Order—

"the 1963 Act" means the Betting, Gaming and Lotteries Act 1963(**b**);

"the 2005 Act" means the Gambling Act 2005;

"approved horse-race course" means any horse-race course(**c**) in respect of which a betting premises licence or an occasional use notice for the time being has effect;

"the dissolution date" means the day appointed for the purposes of section 1 of the Horserace Betting and Olympic Lottery Act 2004(**d**) as the day on which the Tote ceases to exist;

"pool betting business" has the meaning given in the table in the Schedule;

"sponsored pool betting" has the meaning given in the table in the Schedule;

"sponsored pool betting business" means business involving the receiving or negotiating of bets made by way of sponsored pool betting; and

"the Tote" means the Horserace Totalisator Board.

(3) Any reference in this Order to a person infringing the right conferred on the Tote by section 14 of the 1963 Act shall be construed in accordance with subsection (2) of that section.

(**a**) 2005 c. 19.
(**b**) 1963 c. 2.
(**c**) See section 353(1) of the Gambling Act 2005 for the meaning of the expression "horse-race course".
(**d**) 2004 c. 25.

Savings

2.—(1) Despite the repeal of the 1963 Act by the 2005 Act, sections 12, 14 and 15 of the 1963 Act shall continue in force until immediately before the dissolution date, subject to the following modification.

(2) Section 14 shall have effect as if the expressions listed in column 1 of the table in the Schedule had the meanings given in the associated entry in column 2 of that table.

Modification of section 33 of the Gambling Act 2005

3.—(1) Section 33 of the 2005 Act shall have effect until immediately before the dissolution date with the following modifications.

(2) Subsection (1) does not apply to any activity by—

(a) the Tote in pursuance of the right conferred by section 14 of the 1963 Act, or

(b) any other person acting in the course of a business carried on by the Tote in pursuance of that right.

(3) Subsection (1) does not apply to any activity which—

(a) takes place on an approved horse-race course on a day on which horse races but no other races take place, and

(b) is carried out by a person acting in the course of an authorised pool betting business.

(4) Subsection (1) does not apply to any activity by a person acting in the course of a sponsored pool betting business.

(5) Subsections (2) and (3) do not apply to any activity by a person which infringes the right conferred on the Tote by section 14 of the 1963 Act whether or not those subsections would otherwise apply to the activity.

(6) In paragraph (3) "authorised pool betting business" means a pool betting business carried on, with the authority of the Tote, by the persons having the management of the horse-race course referred to in sub-paragraph (a) of that paragraph.

Modification of section 163 of the Gambling Act 2005

4. Section 163 of the 2005 Act shall have effect in relation to an application by the Tote for a betting premises licence with the omission of subsection (2).

Modification of sections 336 to 338 of the Gambling Act 2005

5. Sections 336 to 338 of the Gambling Act 2005 shall apply to a bet accepted by or through—

(a) the Tote;

(b) a person carrying on a sponsored pool betting business; or

(c) the persons having the management of an approved horse-race course, where the act of accepting the bet is an activity to which article 3(3) applies,

as those sections apply to a bet accepted by or through the holder of a pool betting operating licence.

Minister of State
Department for Culture, Media and Sport

SCHEDULE

Articles 1 and 2

Definitions of expressions used in section 14 of the Betting, Gaming and Lotteries Act 1963

Column 1	*Column 2*
Expression	*Meaning*
Approved horse racecourse	Any horse-race course in respect of which a betting premises licence or an occasional use notice for the time being has effect.
Pool betting	Pool betting within the meaning of section 12 of the 2005 Act.
Pool betting business	Business involving the receiving or negotiating of bets made by way of pool betting.
Recognised horse race	A horse race run on an approved horse-race course.
Sponsored pool betting	Pool betting by means of facilities provided by the Tote, or provided on an approved horse-race course with the authority of the Tote by the persons having the management of the course.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision with respect to the Horserace Totalisator Board ("the Tote").

Article 2 of the Order saves sections 12, 14 and 15 of the Betting, Gaming and Lotteries Act 1963 ("the 1963 Act") until the date on which the Tote is dissolved under section 1 of the Horserace Betting and Olympic Lottery Act 2004. Section 12 provides for the establishment of the Tote; section 14 provides for the Tote to have exclusive rights in relation to horserace pool betting; and section 15 confers other functions on the Tote. The 1963 Act is repealed by the Gambling Act 2005. Article 2 also provides for section 14 to have effect subject to the modification that specified expressions set out in the table in the Schedule to the Order have the meanings given in that table.

Articles 3 to 5 of the Order modify provisions of the Gambling Act 2005 ("the 2005 Act") in their application to the Tote and pool betting provided in pursuance of section 14 of the 1963 Act.

Article 3 modifies section 33 of the 2005 Act (which makes it an offence to provide facilities for gambling subject to specified exceptions) so that the offence does not apply in the circumstances specified in paragraphs (2) to (4) of article 3. Paragraph (5) of article 3 modifies section 33 so that the exemptions from the offence provided by subsections (2) and (3) of that section do not apply where the activity concerned infringes the right conferred on the Tote by section 14 of the 1963 Act.

Article 4 modifies section 163 of the 2005 Act so that it has effect in relation to an application for a betting premises licence by the Tote with the omission of subsection (2) (which prevents an application from being granted where the applicant does not hold an operating licence authorising the activity in respect of which the premises licence is sought).

Article 5 modifies sections 336 to 338 of the 2005 Act (which enable the Gambling Commission to void bets in specified circumstances) so that those sections apply to bets accepted by or through the persons referred to in sub-paragraphs (a) to (c) of that article as they apply to bets accepted by or through the holder of a pool betting operating licence.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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