Draft Order laid before Parliament under section 14(1) of the Legislative and Regulatory Reform Act 2006, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2018 No. 0000

REGULATORY REFORM

BETTING, GAMING AND LOTTERIES

The Legislative Reform (Horserace Betting Levy) Order 2018

Made - - - - ***

Coming into force in accordance with article 1

The Secretary of State for Digital, Culture, Media and Sport makes this Order in exercise of the powers conferred by section 1 of the Legislative and Regulatory Reform Act 2006(**a**).

For the purposes of section 3(1) and (3) of that Act, the Secretary of State considers that the conditions under section 3(2) (where relevant) and (4) of that Act are satisfied.

The Secretary of State has consulted in accordance with section 13(1) of that Act.

The Secretary of State has laid a draft Order and explanatory document before Parliament in accordance with section 14(1) of that Act.

Pursuant to section 15(1) of that Act, the affirmative resolution procedure (within the meaning given by section 17 of that Act) applies in relation to the making of this Order.

In accordance with section 17(2) of that Act, the draft Order has been approved by resolution of each House of Parliament after the expiry of the 40-day period referred to in that provision(**b**).

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Legislative Reform (Horserace Betting Levy) Order 2018.

(2) The following provisions of this Order come into force on 1st March 2019—

(a) this article,

(**a**) 2006 c. 51. Sections 1(6) and 13(1) were amended by S.I. 2007/1388. See section 32 for the definition of "Minister of the Crown".

(**b**) The expression "40-day period" is defined in section 16(7)(b) of the Legislative and Regulatory Reform Act 2006.

(b) article 4 and Schedule 1, for the purpose of enabling the Secretary of State to designate a body corporate to be the designated body with effect from a date specified in the designation, and

(c) article 6 and Schedule 3.

(3) The following provisions of this Order come into force on the effective date—

(a) articles 2 and 3,

(b) article 4 and Schedule 1, so far as not already in force by virtue of paragraph (2)(b),

(c) article 5 and Schedule 2, and

(d) article 7 and Schedule 4.

(4) In this Order—

"the designated body" means the body for the time being designated by the Secretary of State under paragraph 1(1) of Schedule 15A to the Gambling Act 2005(**a**) (inserted by article 4 and Schedule 1);

"the effective date" means the date specified by the Secretary of State under paragraph 1(1) of Schedule 15A to the Gambling Act 2005 (inserted by article 4 and Schedule 1).

Abolition of the Horserace Betting Levy Board

2. The Horserace Betting Levy Board, established under section 24 of the Betting, Gaming and Lotteries Act 1963(**b**), is abolished(**c**).

Abolition of the Levy Appeal Tribunals

3. The Horserace Betting Levy Appeal Tribunal for England and Wales and the Horserace Betting Levy Appeal Tribunal for Scotland, established under section 29 of the Betting, Gaming and Lotteries Act 1963(**d**), are abolished (subject to the savings in paragraph 7(2) of Schedule 4).

Restatement and amendment of the law regarding the horserace betting levy

4.—(1) The Gambling Act 2005 is amended as follows.

(2) After section 338, insert—

"PART 17A

HORSERACE BETTING LEVY

(**a**) 2005 c. 19.

(**b**) 1963 c. 2. Section 24 was amended by section 6(2), (3) and (4) of the Horserace Betting Levy Act 1969 (c. 14), section 25(2) of the Social Security Act 1985 (c. 53), paragraph 12 of Schedule 2 to the Horserace Betting and Olympic Lottery Act 2004 (c. 25) and paragraph 2 of the Schedule to S.I. 2017/589. Although the 1963 Act was repealed by section 356(3)(f) of, and Schedule 17 to, the Gambling Act 2005 (c. 19), section 24 of the 1963 Act is saved by article 2 of S.I. 2007/2159.

(**c**) The Horserace Betting Levy Board was originally established by section 1 of the Betting Levy Act 1961 (c. 17). Section 1 of the 1961 Act was (other than subsection (11)) repealed by Schedule 8 to the Betting, Gaming and Lotteries Act 1963.

(**d**) Section 29 was amended by paragraph 2 of the Schedule to the Horserace Betting Levy Act 1981 (c. 30), paragraph 16 of Schedule 10 to the Courts and Legal Services Act 1990 (c. 41), section 26(10) of, and paragraph 48 of Schedule 6 to, the Judicial Pensions and Retirement Act 1993 (c. 8), paragraph 48 of Schedule 10 to the Tribunals, Courts and Enforcement Act 2007 (c. 15), and paragraph 8 of the Schedule to S.I. 2017/589. Although the 1963 Act was repealed by section 356(3)(f) of, and Schedule 17 to, the Gambling Act 2005 (c. 19), section 29 of the 1963 Act is saved by article 2 of S.I. 2007/2159.

The levy

The horserace betting levy

338A.—(1) Bookmakers and betting exchange providers must pay a horserace betting levy to the Commission in respect of each levy period in accordance with this Part.

(2) The persons by whom the levy is payable include those bookmakers and betting exchange providers who are required to hold remote operating licences.

(3) The Commission must assess and collect the levy in accordance with this Part.

(4) References in this Part to "the levy" are to the horserace betting levy.

Amount of the levy

Amount of the levy

338B.—(1) The amount of the levy payable by a person under section 338A in respect of a levy period is determined as follows.

(2) The levy is charged at the rate of 10% of the amount by which the person's profits for the levy period exceed the exempt amount for that period (see section 338F).

(3) A person's profits for a levy period are the sum of—

(a) the person's profits as a bookmaker on leviable bets for the period (see section 338C), and

(b) the commission charged by the person as a betting exchange provider on leviable bets during the period (see section 338E).

(4) In this Part, "leviable bet" means a bet that—

(a) relates to horse racing in Great Britain, and

(b) is made (whether in person or remotely) by a person who, or by persons at least one of whom, is in Great Britain when the bet is made.

(5) The following are not "horse racing" for the purposes of subsection (4)(a)—

(a) point to point racing;

(b) harness racing;

(c) trotting events.

Profits as a bookmaker

338C. A bookmaker's profits on leviable bets for a levy period are—

$$SM + OA - W$$

where—

SM is the aggregate of the stake money falling due to the bookmaker in the levy period on leviable bets (see section 338D);

OA is the aggregate of any other amounts accruing to the bookmaker in the levy period in connection with leviable bets;

W is the aggregate of any winnings paid by the bookmaker in the levy period in respect of leviable bets (irrespective of when the bets were made or determined).

Stake money

338D.—(1) For the purposes of section 338C, the stake money on a leviable bet is the aggregate of the amounts which fall due in respect of the bet.

(2) If the stake money falls due to a person other than the bookmaker with whom the bet is made, it is to be treated as falling due to the bookmaker.

(3) Where the bet is not a spread bet and the sum which the person who makes the bet will lose if unsuccessful is known when the bet is made, that sum is to be treated as falling due when the bet is made (irrespective of when it is actually paid or required to be paid).

(4) Where the person who makes the bet does so in pursuance of an offer which waives all or part of the amount which the person would have been required to pay to make the bet, the person is to be treated as being due to pay that amount—

(a) to the bookmaker with whom the bet is made, and

(b) at the time when the bet is made.

(5) But subsection (4) does not apply to the extent that—

(a) the amount in question was won on a leviable bet made in pursuance of a previous offer which waived all or part of the amount which the person would have been required to pay to make the bet, and

(b) the person was not entitled to use the amount otherwise than for the purpose of making a further leviable bet.

Betting exchange commission

338E.—(1) This section applies where one person makes a leviable bet with another person using facilities provided in the course of a business by a third person ("the betting exchange provider").

(2) An amount that any party to the bet is charged, whether by deduction from winnings or otherwise, for using those facilities is commission on the bet for the purposes of section 338B(3)(b).

(3) If the amount is charged by a person other than the betting exchange provider, it is to be treated for those purposes as charged by the betting exchange provider.

The exempt amount

338F.—(1) This section applies for the purpose of calculating the exempt amount for a levy period.

(2) Subsections (3) and (4) apply in relation to—

(a) a person who, at any time in the levy period, is a parent undertaking of one or more other undertakings, and

(b) those undertakings.

(3) The undertakings are entitled to a single exempt amount of £500,000 between them for the levy period.

(4) The undertakings—

(a) may allocate the exempt amount between them as they think fit, and

(b) must notify the Commission of any such allocation and of any alterations to the allocation.

(5) In any other case, a person's exempt amount for the levy period is £500,000.

(6) In this section, "undertaking" and "parent undertaking" have the meanings given by the Companies Act 2006 (see sections 1161 and 1162 of that Act)(**a**).

(**a**) 2006 c. 46.

Power to obtain information to assess liability

338G.—(1) The Commission may by notice require any person who appears to it to be liable to pay the levy under section 338A in respect of a levy period to provide it with information reasonably required by it for the purpose of assessing the person's liability under that section.

(2) The information must be provided by the person—

(a) in such manner and form as may be specified in the notice, and

(b) within such reasonable period as may be so specified.

(3) If a person fails without reasonable excuse to comply with a notice under subsection (1), the Commission may enforce the duty to comply with the notice in civil proceedings for an injunction.

(4) Failure to comply with a requirement under this section does not affect a person's liability under section 338A.

Assessment and collection of the levy

338H.—(1) As soon as is reasonably practicable after the end of a levy period, the Commission must give an assessment notice to each person whom it has assessed as liable to pay the levy under section 338A in respect of that period.

(2) The assessment notice must state—

(a) the amount that the Commission has assessed that the person is liable to pay,

(b) the basis on which that amount has been calculated, and

(c) when and how the amount must be paid.

(3) The amount becomes due after the end of the period of 28 days beginning with—

(a) the day after the day on which the assessment notice is given to the person, or

(b) if the person brings judicial review proceedings in respect of the assessment notice, the day after the day on which those proceedings are finally determined or abandoned.

(4) The amount is recoverable by the Commission as a debt due to it.

(5) Subsections (3) and (4) do not apply to the extent of any payments on account (under section 338I or otherwise).

(6) Where a person's liability to pay the levy in respect of a levy period is discharged in accordance with the assessment notice—

(a) the Commission must give the person a notice to the effect that the liability is discharged, and

(b) such a notice is conclusive evidence of the facts stated in it.

(7) The Commission may, at any time before a person's liability to pay the levy in accordance with an assessment notice is discharged, withdraw or amend the assessment notice.

Payments on account

338I.—(1) The Commission may require a person who appears to it to be liable to pay the levy under section 338A in respect of a levy period to make payments on account in advance of giving an assessment notice to the person under section 338H.

(2) The power under subsection (1) is to be exercised by giving the person a notice of determination stating—

(a) the amounts that the Commission requires the person to pay,

(b) the basis on which the total amount to be paid has been calculated, and

(c) when and how the payments must be made.

(3) Subject to subsection (4), payments on account become due on the date or dates specified in the notice of determination.

(4) If the person brings judicial review proceedings in respect of the notice of determination, any payments on account which would, under subsection (3), have become due before the final determination or abandonment of those proceedings instead become due on the final determination or abandonment of those proceedings.

(5) The amount of a payment on account is recoverable by the Commission as a debt due to it.

(6) The Commission may, at any time before a payment on account required by a notice of determination is paid, withdraw or amend the notice of determination in respect of that payment.

Relief from payments on account

338J.—(1) Subject to subsections (10) and (11), a person who has been given a notice of determination under section 338I may apply in writing to the Commission to be excused from making payments on account in accordance with the notice.

(2) An application under subsection (1) may be made only on the grounds that the person's circumstances make it unjust that the person should make payments on account in accordance with the notice.

(3) The Commission may consult such persons (if any) as it thinks appropriate for the purpose of disposing of such an application.

(4) If, on an application under subsection (1), the Commission is of the opinion that a reduction ought to be made in the payments on account, it must give in respect of each payment becoming due on or after a date specified in the direction ("the specified date") either of the following directions—

(a) a direction that the payment is to cease to be payable;

(b) a direction that the payment is reduced to such amount as the Commission specifies.

(5) If, on an application under subsection (1), the Commission is not of the opinion mentioned in subsection (4), it must dismiss the application.

(6) Where the Commission gives a direction under subsection (4)(a) in respect of a payment on account, it must give the applicant a notice cancelling the relevant notice of determination in so far as the relevant notice of determination relates to that payment on account.

(7) Where the Commission gives a direction under subsection (4)(b) in respect of a payment on account, it must give the applicant a revised notice of determination which has effect from the specified date instead of the relevant notice of determination in so far as the relevant notice of determination relates to that payment on account.

(8) A revised notice of determination given under subsection (7) has effect as if it were a notice of determination given under section 338I.

(9) In subsections (6) and (7), "the relevant notice of determination" means the notice of determination under section 338I in relation to which the application under subsection (1) is made.

(10) A person may make more than one application under subsection (1) in any levy period only if there has been a change in the person's circumstances since the person's last application.

(11) If a person brings judicial review proceedings in respect of a notice of determination under section 338I, the person may not make an application under subsection (1) in respect of that notice until those proceedings are finally determined or abandoned.

Return of excess payments

338K.—(1) This section applies where the amount paid on account of the levy by a person in any levy period (under section 338I or otherwise) exceeds the amount of levy assessed by the Commission as payable by the person under section 338A in respect of that period.

(2) The Commission must repay the excess to the person when it gives the assessment notice to the person under section 338H.

Payment of levy receipts to the designated body

The designated body

338L.—(1) In this Part, "the designated body" means the body for the time being designated for the purposes of this Part by the Secretary of State under Schedule 15A.

(2) Schedule 15A contains provision about designation, its review and its termination.

Payment of levy receipts to the designated body

338M.—(1) Subject to subsections (3) to (5), the Commission must pay its levy receipts received during a particular quarter to the designated body before the end of the period of 14 days beginning with the day after the last day of the quarter.

(2) The Commission's "levy receipts" are the money received by it by way of—

(a) the levy under section 338A,

(b) payments on account (under section 338I or otherwise),

(c) interest or other return on any investment made by the Commission under subsection (5), and

(d) repayments received under section 338O(7).

(3) The Commission may deduct from its levy receipts amounts in respect of costs reasonably incurred by it, or that it may reasonably incur, in exercising its functions under this Act in relation to the levy.

(4) The Commission may retain from its levy receipts such amounts as it determines that it may reasonably require for the purpose of repaying excess payments under section 338K.

(5) The Commission may invest—

(a) levy receipts for the time being held by the Commission,

(b) amounts deducted under subsection (3), and

(c) amounts retained under subsection (4).

(6) Subsection (1) is also subject to—

(a) section 338N (suspension of payments), and

(b) section 338T (application of levy funds other than by the designated body).

(7) In subsection (1), "quarter" means a period of 3 months beginning with 1 April, 1 July, 1 October or 1 January.

Suspension of payments under section 338M

338N.—(1) The Secretary of State may direct the Commission to suspend payments to the designated body under section 338M(1) if—

(a) the Secretary of State has decided to review the body's designation under paragraph 2 of Schedule 15A,

(b) the body's designation is being reviewed under that paragraph, or

(c) following such a review, the Secretary of State is satisfied that the body no longer meets the conditions for designation in paragraph 1(2) of that Schedule or the body has failed to discharge one or more of its duties under this Part.

(2) The direction must specify when the suspension takes effect and when it is to end.

(3) The end of the suspension may be expressed by reference to a specified event occurring (for example, by the giving of a notice by the Secretary of State).

Application of levy funds by the designated body

Application of levy funds by the designated body for particular purposes

338O.—(1) Subject to subsection (3), the designated body must apply levy funds for purposes conducive to one or more of the following purposes—

(a) the improvement of breeds of horses;

(b) the advancement or encouragement of veterinary science or veterinary education;

(c) the improvement of horse racing.

(2) In this Part, "levy funds" means—

(a) money received by the designated body under section 338M(1), and

(b) interest or other return on any investment made by the designated body under subsection (3)(c).

(3) The designated body may—

(a) deduct from levy funds amounts in respect of costs reasonably incurred by it, or that it may reasonably incur, in exercising its functions under this Act in relation to the levy,

(b) retain a reserve of levy funds for purposes conducive to one or more of the purposes specified in subsection (1), and

(c) invest—

(i) money received by the body under section 338M(1) and for the time being held by it,

(ii) amounts deducted under paragraph (a), and

(iii) amounts retained under paragraph (b).

(4) Where the designated body applies levy funds in accordance with subsection (1) by distributing them to another person, the body must make the payment of the funds to the person subject to terms and conditions which—

(a) require that the funds are applied for a particular purpose, and

(b) enable the designated body to require the repayment, in whole or in part, of the funds paid if any of the terms and conditions subject to which the funds were paid is not complied with.

(5) The designated body may make the payment of funds to the person subject to such other terms and conditions as the body considers appropriate.

(6) If payments to the designated body under section 338M(1) are suspended under section 338N, the Secretary of State may direct that while the direction is in force the designated body may not apply levy funds.

(7) If the designation of a body as the designated body is terminated under paragraph 3 of Schedule 15A, the body must repay to the Commission all levy funds held by the body on the date on which the designation is terminated.

(8) The body must do so before the end of the period of 28 days beginning with the date on which the designation is terminated.

(9) Levy funds that are to be repaid to the Commission under subsection (7) are recoverable by the Commission as a debt due to it.

Strategic plan

338P.—(1) The designated body must publish a strategic plan for each financial year.

(2) A "strategic plan" for a financial year means a statement containing the body's policies (including its criteria) for the application of levy funds which it considers are likely to be received by it in that financial year.

(3) In preparing a strategic plan, the body must consult—

(a) one or more persons who appear to the body to represent the interests of bookmakers, and betting exchange providers, whose business is concerned with leviable bets, and

(b) such other persons as the body thinks appropriate.

(4) The strategic plan for the first financial year in relation to the body must be published before the end of the period of 3 months beginning with the effective date (see section 338X).

(5) The strategic plan for subsequent financial years must be published before the start of the financial year in question.

Accounts and records

338Q.—(1) The designated body must keep accounting records in respect of levy funds in such form as the Secretary of State may direct.

(2) The body must prepare a statement of accounts for each financial year in which it received, distributed or otherwise applied levy funds.

(3) The statement of accounts must be in such form as the Secretary of State may direct.

(4) The designated body must arrange for the statement of accounts to be audited by a qualified accountant who must examine, certify and report on the statement.

(5) The statement of accounts and the auditor's report on them must be published by the designated body before the end of the first August after the end of the financial year to which the statement relates.

(6) In this section, "qualified accountant" means a person who is eligible for appointment as a statutory auditor under Part 42 of the Companies Act 2006(**a**).

Annual report

338R.—(1) The designated body must publish a report on its exercise of its functions under this Part during a financial year.

(2) The report must be published by the body before the end of the first August after the end of the financial year to which the report relates.

(3) Subject to subsection (4), the report must be in such form as the Secretary of State may direct.

(4) The report must, among other things, include—

(a) information about how the body followed the policies in its strategic plan under section 338P,

(b) information about how levy funds were applied by the body during the financial year, and

(c) where levy funds were applied by being distributed to other persons—

(**a**) 2006 c. 46.

(i) the identity of the persons to whom the funds were paid,

(ii) the purpose for which the funds were applied, and

(iii) the amount paid in each case.

Power to obtain information from the designated body

Power to obtain information from the designated body

338S.—(1) The Secretary of State may by notice require the designated body to provide the Secretary of State with such information about itself, and the exercise of its functions under this Part, as the Secretary of State may reasonably require for the purpose of the exercise of any of the Secretary of State's functions under this Part in relation to the body.

(2) The information must be provided by the designated body—

(a) in such manner and form as may be specified in the notice, and

(b) within such reasonable period as may be so specified.

Application of levy funds other than by the designated body

Application of levy funds other than by the designated body

338T.—(1) The Secretary of State may give a direction under this section if—

(a) there is no designated body, or

(b) payments to the designated body under section 338M(1) are suspended under section 338N.

(2) A direction under this section is a direction that, while the direction is in force, the money which the Commission would otherwise pay to the designated body under section 338M(1) is to be applied by the Commission in accordance with the direction.

(3) A direction under this section must include provision about—

(a) the sums to be applied,

(b) the persons to whom the sums are to be applied,

(c) the dates by which the sums are to be applied, and

(d) the terms and conditions subject to which the sums are to be applied.

(4) The Secretary of State may only direct that sums are to be applied for purposes conducive to one or more of the purposes in section 338O(1).

(5) While a direction under this section is in force, sections 338Q and 338R apply to the Commission as if—

(a) references to the designated body were references to the Commission,

(b) references to levy funds were references to money which would otherwise be paid to the designated body under section 338M(1),

(c) references to the functions of the designated body were to the functions of the Commission acting in accordance with a direction under this section, and

(d) section 338R(4)(a) was omitted.

(6) A direction under this section—

(a) must specify the date when it comes into force, and

(b) remains in force until it is revoked or (if earlier) the applicable condition in subsection (1) ceases to be met.

Review of the rate of the levy

338U.—(1) The Secretary of State must review whether the rate at which the levy is charged by section 338B(2) remains appropriate to achieve the purposes mentioned in section 338O(1)(a) to (c).

(2) The review must be conducted no later than the end of the period of seven years beginning on 25 April 2017.

(3) As soon as is reasonably practicable after the review, the Secretary of State must—

(a) lay a report before Parliament setting out the results and conclusions of the review, or

(b) make a statement to the House of Parliament of which the Secretary of State is a member setting out those results and conclusions.

Notices

338V.—(1) In this Part, "notice" means a notice in electronic form or otherwise in writing, and references to "notify" are to the giving of a notice.

(2) A notice required or authorised by this Part to be given to a person who is an individual may be given—

(a) by email to the individual's email address,

(b) by delivering it to the individual,

(c) by sending it by post to the individual at the individual's usual or last-known place of residence or business in the United Kingdom,

(d) by leaving it for the individual at that place, or

(e) by other means with the individual's consent.

(3) A notice required or authorised by this Part to be given to a person who is a body corporate or unincorporate may be given—

(a) by email to the person's email address,

(b) by sending it by post to a proper officer of the body at its registered or principal office,

(c) by addressing it to a proper officer of the body and leaving it at that office, or

(d) by other means with the person's consent.

(4) A notice required or authorised by this Part to be given to a person who is a partnership in Scotland may be given—

(a) by email to the person's email address,

(b) by sending it by post to the principal office of the partnership,

(c) by addressing to that partnership and leaving it at that office, or

(d) by other means with the person's consent.

(5) For the purposes of subsections (2)(a), (3)(a) and (4)(a), a person's email address is—

(a) any email address given by the person as an address for giving that person a notice,

(b) any email address published for the time being by the person as an address for contacting the person,

(c) if there is no email address falling under paragraph (a) or (b), any email address by means of which the sender of the notice believes, on reasonable grounds, that the notice will come to the attention of the person or (where that person is a body corporate) a proper officer of that body corporate.

(6) In the application of subsection (3) to a body registered or established outside the United Kingdom, the references to its principal office include references to its principal office within the United Kingdom (if any).

(7) In this section, "proper officer", in relation to any body, means the secretary or other executive officer charged with the conduct of its general affairs.

Directions

338W. A power of the Secretary of State under this Part to give a direction—

(a) is exercisable by giving the direction in question in writing, and

(b) includes a power to vary or revoke the direction by a subsequent direction.

Interpretation

338X.—(1) In this Part—

"bet" includes a spread bet and does not include any bet made or stake hazarded in the course of, or incidentally to, any gaming;

"betting exchange provider" has the meaning given by section 338E(1);

"bookmaker" means a person who carries on the business of—

(a) receiving or negotiating bets, or

(b) conducting pool betting operations (see section 12);

"the designated body" has the meaning given by section 338L(1);

"the effective date", in relation to the designated body, has the meaning given by paragraph 1(1) of Schedule 15A;

"financial year", in relation to the designated body, means—

(a) the period—

(i) beginning with the effective date, and

(ii) ending with the following 31 March or, if the period ending with that date is 3 months or less, ending with the 31 March following that date, and

(b) each successive period of 12 months beginning with 1 April;

"leviable bet" has the meaning given by section 338B(4);

"the levy" has the meaning given by section 338A(4);

"levy funds" has the meaning given by section 338O(2);

"levy period" means the period of 12 months beginning with 1 April;

"notice" and "notify" have the meaning given in section 338V(1);

"spread bet" means a bet that constitutes a contract the making or accepting of which is a regulated activity within the meaning of section 22 of the Financial Services and Markets Act 2000(**a**);

"winnings" means winnings of any kind; and references to the payment of and deduction from winnings are to be read accordingly."

(3) After Schedule 15 insert Schedule 15A which is set out in Schedule 1 to this Order.

Consequential amendments

5. Schedule 2 (consequential amendments) has effect.

(**a**) 2000 c. 8. Section 22 was amended by section 7 of the Financial Services Act 2012 (c. 21) and S.I. 2018/135, regulation 38.

Transfer schemes

6. Schedule 3 (transfer schemes) has effect.

Transitional and saving provision

7. Schedule 4 (transitional and saving provision) has effect.

[Name]
[Title]
Date Department for Digital, Culture, Media and Sport

SCHEDULE 1

Article 4(3)

New Schedule 15A to the Gambling Act 2005

"SCHEDULE 15A

Section 338L

Horserace betting levy: the designated body

Designation of a body

1.—(1) The Secretary of State must designate a body corporate to be the designated body for the purposes of Part 17A of this Act with effect from a date specified in the designation ("the effective date").

(2) The Secretary of State may designate a body under sub-paragraph (1) only if the Secretary of State is satisfied that the body meets each of the following conditions—

(a) it is a suitable body to be the designated body;

(b) it is capable of applying the levy funds in an effective manner, on and after the effective date, in accordance with its duty under section 338O;

(c) it is capable of exercising its other functions under Part 17A on and after that date;

(d) it consents to the designation.

(3) In considering whether a body is a suitable body to be the designated body for the purposes of sub-paragraph (2)(a), the Secretary of State must have regard (among other things) to whether—

(a) it appears to represent the interests of one or more of the following groups—

(i) persons involved in horse racing;

(ii) persons involved in veterinary science;

(iii) persons involved in veterinary education;

(iv) persons involved in the breeding of horses; and

(b) it commands the confidence of the persons mentioned in sub-paragraphs (i) to (iv) of paragraph (a).

(4) The Secretary of State may consult any of the persons mentioned in sub-paragraph (3)(a)(i) to (iv) about who to designate as the designated body.

(5) If a body is designated under sub-paragraph (1), the Secretary of State must, before the effective date—

(a) give the body notice of the designation, and

(b) publish notice of the designation in such manner as the Secretary of State thinks is likely to bring it to the attention of—

(i) persons mentioned in sub-paragraph (3)(a), and

(ii) persons mentioned in section 338P(3)(a).

(6) The designation of a body under sub-paragraph (1) continues until it is terminated in accordance with this Schedule.

Review of designation

2.—(1) The Secretary of State may review the designation of a body under paragraph 1(1) if the Secretary of State has reason to suspect that—

(a) the body no longer meets the conditions for designation in paragraph 1(2), or

(b) the body has failed to discharge one or more of its duties under Part 17A.

(2) Before commencing a review, the Secretary of State must notify the designated body and inform it of the procedure to be followed in the conduct of the review.

(3) In conducting a review, the Secretary of State—

(a) must give the designated body an opportunity to make representations, and

(b) may give other persons the opportunity to make representations.

Termination of designation

3.—(1) The designation of a body under paragraph 1(1) is terminated on the date specified in the third column of the following table if the condition in the second column is met, subject to sub-paragraphs (3) to (4).

Condition reference	*Condition*	*Date of termination*
A	The designated body and the Secretary of State make an agreement specifying a date when the designation is to terminate.	The date specified in the agreement.
B	The designated body gives the Secretary of State a notice specifying a date when the designation is to terminate and that date is after the end of the period of 12 months beginning with the date on which the notice is given.	The date specified in the notice.
C	The Secretary of State gives the designated body a notice specifying a date when the designation is to terminate. The Secretary of State may give such a notice only if the Secretary of State has conducted a review under paragraph 2 and is satisfied that— (a) the body no longer meets the conditions for designation in paragraph 1(2), or (b) the body has failed to discharge one or more of its duties under Part 17A.	The date specified in the notice.
D	The designated body ceases to exist.	The date when the body ceases to exist.

(2) An agreement mentioned in Condition A, or a notice mentioned in Condition B or C, may be varied, cancelled or revoked.

(3) Where an agreement or notice is varied, references in the table in sub-paragraph (1) to the date specified in the agreement or notice are to the date specified in the agreement or notice as varied.

(4) Sub-paragraph (1) does not apply where an agreement or notice is cancelled or revoked before the date specified in the agreement or notice.

(5) If the designation of a body is terminated, the Secretary of State must publish notice of the termination in such manner as the Secretary of State thinks is likely to bring it to the attention of—

(a) persons mentioned in paragraph 1(3)(a), and

(b) persons mentioned in section 338P(3)(a).

(6) The Secretary of State may by regulations make saving or transitional provision applicable where the designation of a body is terminated.

(7) Regulations under sub-paragraph (6) may, amongst other things—

(a) provide for the body to continue to be treated as the designated body for the purposes of some or all of its functions under Part 17A, and

(b) make provision that has retrospective effect.

Property transfer schemes

4.—(1) The Secretary of State may make provision for one or more property transfer schemes in connection with the termination of the designation of a body ("the former designated body").

(2) A "property transfer scheme" is a scheme for the transfer from the former designated body, to one or more permitted transferees, of—

(a) any property falling within sub-paragraph (3), or

(b) any rights or liabilities falling within sub-paragraph (4).

(3) Property falls within this sub-paragraph if it has been acquired by the former designated body as a result of the application of levy funds.

(4) Rights and liabilities fall within this sub-paragraph if—

(a) they arise as a result of the application of levy funds by the former designated body, and

(b) they are not rights or liabilities under or in connection with a contract of employment.

(5) "Permitted transferee" means—

(a) the designated body, or

(b) the Commission.

(6) The Secretary of State may not make a property transfer scheme under this paragraph unless satisfied that any property or rights transferred—

(a) will be used or exercised for one or more of the purposes specified in section 338O(1), or

(b) will be used or exercised in connection with the exercise of functions under Part 17A.

(7) The things that may be transferred under a property transfer scheme include—

(a) property, rights and liabilities that could not otherwise be transferred;

(b) property acquired, and rights and liabilities arising, after the making of the scheme;

(c) criminal liabilities.

(8) A property transfer scheme may transfer property, rights and liabilities which—

(a) do not exist when the scheme is made but do exist when the transfer takes effect, or

(b) become property, rights or liabilities of the former designated body after the scheme is made and before the transfer takes effect.

(9) A property transfer scheme may make supplementary, incidental, transitional or consequential provision and may, in particular—

(a) create rights, or impose liabilities, in relation to property or rights transferred;

(b) make provision about the continuing effect of things done by the former designated body in respect of anything transferred;

(c) make provision about the continuation of things (including legal proceedings) in the process of being done by, or on behalf of, or in relation to, the former designated body in respect of anything transferred;

(d) make provision for references to the former designated body in an instrument or other document in respect of anything transferred to be treated as references to the permitted transferee;

(e) dispense with a formality in relation to a transfer (whether or not it would otherwise be required by virtue of an enactment or instrument);

(f) dispense with a requirement for consent (whether arising under an enactment, an instrument or an agreement).

(10) A property transfer scheme may make provision for the shared ownership or use of property.

(11) A property transfer scheme may provide—

(a) for the scheme to be modified by agreement after it comes into effect, and

(b) for such modifications to have effect from a date when the original scheme comes into effect."

SCHEDULE 2

Article 5

Consequential amendments

PART 1

Primary legislation

Parliamentary Commissioner Act 1967

1.—(1) The Parliamentary Commissioner Act 1967(**a**) is amended as follows.

(2) In Schedule 2 (departments etc subject to investigation), omit—

"Horserace Betting Levy Board.".

(3) In Schedule 4 (relevant tribunals for the purposes of section 5(7)), omit—

(a) "The appeal tribunal established for Scotland under section 29 of the Betting, Gaming and Lotteries Act 1963 which is known as the Horserace Betting Levy Appeal Tribunal for Scotland."; and

(b) "Horserace Betting Levy Appeal Tribunal for England and Wales constituted under section 29 of the Betting, Gaming and Lotteries Act 1963.".

(**a**) 1967 c. 13.

Horserace Betting Levy Act 1969

2. The Horserace Betting Levy Act 1969(**a**) is repealed.

Finance Act 1969

3. In the Finance Act 1969(**b**), omit section 59 (disclosure of information by Customs and Excise to the Horserace Betting Levy Board).

House of Commons Disqualification Act 1975

4.—(1) Schedule 1 to the House of Commons Disqualification Act 1975(**c**) (offices disqualifying for membership) is amended as follows.

(2) In Part 2 (bodies of which all members are disqualified), omit—

"The Horserace Betting Levy Appeal Tribunal for England and Wales.".

(3) In Part 3 (other disqualifying offices), omit—

"Member appointed by the Secretary of State of the Horserace Betting Levy Board.".

Horserace Betting Levy Act 1981

5. The Horserace Betting Levy Act 1981(**d**) is repealed.

Tribunals and Inquiries Act 1992

6. In Schedule 1 to the Tribunals and Inquiries Act 1992(**e**) (tribunals to which Act applies)—

(a) in Part 1 (tribunals – general), omit the entry for "Betting levy";

(b) in Part 2 (Scottish tribunals), omit the entry for "Betting levy".

Judicial Pensions and Retirement Act 1993

7.—(1) The Judicial Pensions and Retirement Act 1993(**f**) is amended as follows.

(2) In Schedule 5 (retirement provisions: the relevant offices), omit—

"Chairman of a tribunal established by section 29 of the Betting, Gaming and Lotteries Act 1963.".

(3) In Schedule 7 (retirement dates: transitional provisions), omit paragraph 5(5)(xxiv).

Freedom of Information Act 2000

8. In Part 6 of Schedule 1 to the Freedom of Information Act 2000(**g**) (public authorities), omit—

"The Horserace Betting Levy Board.".

Horserace Betting and Olympic Lottery Act 2004

9. The Horserace Betting and Olympic Lottery Act 2004(**h**) is amended as follows.

10.—(1) Section 15 (abolition of levy) is amended as follows.

(**a**) 1969 c. 14.
(**b**) 1969 c. 32.
(**c**) 1975 c. 24.
(**d**) 1981 c. 30.
(**e**) 1992 c. 53.
(**f**) 1993 c. 8.
(**g**) 2000 c. 36.
(**h**) 2004 c. 25.

(2) In subsection (1), for paragraphs (a) to (d) substitute "repeal Part 17A of the Gambling Act 2005 (horserace betting levy) or any provision of that Part."

(3) In subsection (2)(c), omit ", in addition to the provision made by section 17 and Schedule 4".

(4) In subsection (3)—

(a) for paragraph (b), substitute—

"(b) about the conduct of a levy body in the exercise of its functions in relation to the horserace betting levy, pending the repeal of Part 17A of the Gambling Act 2005, or a provision of that Part;";

(b) omit paragraphs (c) and (d).

(5) After subsection (4) insert—

"(5) In this Part, "levy body" means—

(a) the Gambling Commission, or

(b) the designated body within the meaning of Part 17A of the Gambling Act 2005.".

11.—(1) Section 16 (property of the Levy Board) is amended as follows.

(2) In the heading to the section, for "the Levy Board" substitute "the levy bodies".

(3) In subsection (1), for "the Horserace Betting Levy Board" substitute "a levy body in so far as the property, rights or liabilities relate to the body's functions in relation to the horserace betting levy".

(4) In subsection (2)—

(a) in the opening words, for "the Board" substitute "a levy body";

(b) in the opening words, after "transfer scheme" insert "in relation to the body";

(c) in paragraph (a), for "the Board" substitute "the levy body".

(5) In subsection (4)—

(a) in the opening words, after "scheme" insert "in relation to a levy body";

(b) in paragraph (a), for "the Board" substitute "the levy body";

(c) in paragraph (b), after "submitted" insert "by the levy body".

12. Omit section 17 (consequential amendments).

13.—(1) Schedule 3 (transfer schemes) is amended as follows.

(2) For the heading of the Schedule substitute "Levy bodies: transfer of property etc".

(3) In paragraph 1, for the definition of "the Board" substitute—

""the transferor", in relation to a transfer scheme, means the levy body whose property, rights or liabilities are transferred under the scheme,".

(4) In paragraph 2—

(a) in the heading, for "Board" substitute "Levy body";

(b) in the opening words, for "The Board" substitute "A levy body";

(c) in paragraph (a), after "give" insert "to the levy body";

(d) in paragraph (b), after "make" insert "in relation to the levy body".

(5) In paragraph 3—

(a) in the heading, for "Board" substitute "levy body";

(b) in sub-paragraph (1)—

(i) for "The Board" substitute "A levy body";

(ii) after "direction" insert "given to the levy body";

(iii) after "scheme" insert "in relation to the levy body";

(c) in sub-paragraph (2)—

(i) for "the Board", in both places, substitute "the levy body";

(ii) after "scheme" insert "in relation to the levy body";

(d) in sub-paragraph (3), for "the Board" substitute "a levy body".

(6) In paragraph 7(b), for "the Board" substitute "the transferor".

(7) Omit paragraph 10(3)(e).

(8) In paragraph 11(1), for "the Board", in each place, substitute "the transferor".

(9) In paragraph 16—

(a) for "the Board" substitute "a levy body";

(b) in paragraph (a), after "direction" insert "to the levy body";

(c) in paragraphs (b), (c) and (d), after "scheme" insert "in relation to the levy body".

(10) In paragraph 18—

(a) in the opening words—

(i) for "the Board" substitute "a levy body";

(ii) after "transfer scheme" insert "in relation to the levy body";

(b) in paragraphs (a), (b) and (c), for "the Board" substitute "the levy body".

14. Omit Schedule 4 (abolition of the horserace betting levy system: consequential amendments).

Constitutional Reform Act 2005

15.—(1) The Constitutional Reform Act 2005(**a**) is amended as follows.

(2) In Schedule 7 (protected functions of the Lord Chancellor), in Part A of the list in paragraph 4, omit the entry relating to section 29 of the Betting, Gaming and Lotteries Act 1963.

(3) In Schedule 14 (the Judicial Appointments Commission: relevant offices and enactments), in Table 1 in Part 3, omit the entry relating to the Chairman of a Levy Appeal Tribunal.

Gambling Act 2005

16. The Gambling Act 2005(**b**) is amended as follows.

17. In section 22 (duty to promote the licensing objectives)—

(a) the existing text becomes subsection (1);

(b) after that subsection, insert—

"(2) Subsection (1) does not apply to the Commission's functions under Part 17A (horserace betting levy).".

18. In section 23 (statement of principles for licensing and regulation), after subsection (5) insert—

"(6) The reference in subsection (1) to the Commission's functions under this Act does not include its functions under Part 17A (horserace betting levy).".

19. In section 69(2)(b) (application), after "Act" insert ", apart from a document issued under Part 17A (see section 338V),".

20. In section 116 (review), after subsection (3) insert—

"(3A) A licensee's failure to pay the horserace betting levy under section 338A is a reason for the purposes of subsection (2)(c)(i) but only if the licensee—

(**a**) 2005 c. 4.
(**b**) 2005 c. 19.

(a) is in default and has been so for a period of at least three months beginning with the date when that payment became due under section 338H, and

(b) has failed to pay the levy on a previous occasion within the last 5 years and was in default then for a period of at least three months beginning with the date when that payment became due under section 338H.".

21. In section 120 (conditions for suspension or revocation), after subsection (3) insert—

"(4) A licensee's failure to pay the horserace betting levy under section 338A is a basis for the condition in subsection (1)(d) applying but only if the licensee—

(a) is in default and has been so for a period of at least three months beginning with the date when that payment became due under section 338H, and

(b) has failed to pay the levy on a previous occasion within the last 5 years and was in default then for a period of at least three months beginning with the date when that payment became due under section 338H.".

22. In Part 15 (inspection), at the beginning insert—

"Application of this Part

Application of this Part

302A. Nothing in this Part applies for the purposes of Part 17A (horserace betting levy).".

23. In section 342 (false information)—

(a) in subsection (1), after "provision of this Act" insert—

"other than a provision contained in Part 17A";

(b) in subsection (4), after "this Act" insert—

", other than a provision contained in Part 17A,".

24. In section 353 (interpretation), after subsection (4) insert—

"(4A) Subsection (4) does not apply to a requirement to give a notice (or to notify) under Part 17A (horserace betting levy) (as to which, see section 338V).".

25. Omit section 358(6) (transitional provision relating to repeal of Betting, Gaming and Lotteries Act 1963(**a**).

26.—(1) Schedule 6 (exchange of information: persons and bodies) is amended as follows.

(2) In Part 2 (enforcement and regulatory bodies), omit—

"The Horserace Betting Levy Board".

(3) In Part 3 (sport governing bodies)—

(a) in the heading, at the end, insert "and horserace betting levy designated body";

(b) at the appropriate place insert "The designated body within the meaning of Part 17A (horserace betting levy)".

(4) In Part 4 (notes), after note 3, insert—

"**4.** References in section 30 to the functions of the designated body within the meaning of Part 17A by virtue of its listing in Part 3 of this Schedule are references to the functions of that body under Part 17A only.".

27. In Schedule 7 (relevant offences), omit paragraph 1(b).

(**a**) 1963 c. 2.

Gambling (Licensing and Advertising) Act 2014

28. Omit section 2 of the Gambling (Licensing and Advertising) Act 2014(**a**) (payment of Horserace Betting Levy by holders of remote operating licences).

PART 2

Secondary legislation

Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006

29. Omit article 3(2) of the Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006(**b**) (repeal of the Betting, Gaming and Lotteries Act 1963).

Gambling Act 2005 (Horserace Betting Levy) Order 2007

30. The Gambling Act 2005 (Horserace Betting Levy) Order 2007(**c**) is revoked (and accordingly sections 24 to 30 of the Betting, Gaming and Lotteries Act 1963 cease to have effect, to the extent that they continue to do so).

Government Resources and Accounts Act 2000 (Audit of Public Bodies) Order 2012

31. In the Government Resources and Accounts Act 2000 (Audit of Public Bodies) Order 2012(**d**), omit articles 2 and 3 (audit of accounts of the Horserace Betting Levy Board).

Horserace Betting Levy Regulations 2017

32. The Horserace Betting Levy Regulations 2017(**e**) are revoked.

SCHEDULE 3

Article 6

Transfer schemes

Transfer schemes

1.—(1) The Secretary of State may make one or more property transfer schemes or staff transfer schemes in connection with the abolition of—

(a) the Horserace Betting Levy Board(**f**);

(b) the Horserace Betting Levy Appeal Tribunal for England and Wales;

(**a**) 2014 c. 17.
(**b**) S.I. 2006/3272.
(**c**) S.I. 2007/2159.
(**d**) S.I. 2012/854.
(**e**) S.I. 2017/589.
(**f**) The Horserace Betting Levy Board was established under section 24 of the Betting, Gaming and Lotteries Act 1963 (c. 2).

(c) the Horserace Betting Levy Appeal Tribunal for Scotland(**a**).

(2) In this Schedule—

(a) a "permitted transferor" means a body listed in sub-paragraph (1)(a) to (c);

(b) a "permitted transferee", where the permitted transferor is the Horserace Betting Levy Board, means—

(i) the Gambling Commission, or

(ii) the designated body within the meaning of Part 17A of the Gambling Act 2005;

(c) a "permitted transferee", where the permitted transferor is a tribunal listed in sub-paragraph (1)(b) or (c), means—

(i) the Secretary of State,

(ii) the Gambling Commission, or

(iii) the designated body within the meaning of Part 17A of the Gambling Act 2005.

(3) A "property transfer scheme" is a scheme for the transfer from a permitted transferor of any property, rights or liabilities, other than rights or liabilities under or in connection with a contract of employment, to one or more permitted transferees.

(4) A "staff transfer scheme" is a scheme for the transfer from a permitted transferor of any rights or liabilities under or in connection with a contract of employment to one or more permitted transferees.

(5) The Secretary of State may not make a property transfer scheme under this Schedule unless satisfied that any property or rights transferred—

(a) will be used or exercised for one or more of the purposes specified in section 338O(1) of the Gambling Act 2005, or

(b) will be used or exercised in connection with the exercise of functions under Part 17A of that Act.

Supplementary

2.—(1) The things that may be transferred under a property transfer scheme or a staff transfer scheme include—

(a) property, rights and liabilities that could not otherwise be transferred;

(b) property acquired, and rights and liabilities arising, after the making of the scheme;

(c) criminal liabilities.

(2) A property transfer scheme may transfer property, rights and liabilities which—

(a) do not exist when the scheme is made but do exist when the transfer takes effect, or

(b) become property, rights or liabilities of the permitted transferor after the scheme is made and before the transfer takes effect.

(3) A property transfer scheme or a staff transfer scheme may make supplementary, incidental, transitional or consequential provision and may, in particular—

(a) create rights, or impose liabilities, in relation to property or rights transferred;

(b) make provision about the continuing effect of things done by the permitted transferor in respect of anything transferred;

(c) make provision about the continuation of things (including legal proceedings) in the process of being done by, or on behalf of, or in relation to, the permitted transferor in respect of anything transferred;

(**a**) The Horserace Betting Levy Appeal Tribunal for England and Wales, and the Horserace Betting Levy Appeal Tribunal for Scotland, were established under section 29 of the Betting, Gaming and Lotteries Act 1963.

(d) make provision for references to the permitted transferor in an instrument or other document in respect of anything transferred to be treated as references to the permitted transferee;

(e) dispense with a formality in relation to a transfer (whether or not it would otherwise be required by virtue of an enactment or instrument);

(f) dispense with a requirement for consent (whether arising under an enactment, an instrument or an agreement).

(4) A property transfer scheme may make provision for the shared ownership or use of property.

(5) A property transfer scheme or a staff transfer scheme may provide—

(a) for the scheme to be modified by agreement after it comes into effect, and

(b) for such modifications to have effect from a date when the original scheme comes into effect.

SCHEDULE 4

Article 7

Transitional and saving provision

Interpretation

1. In this Schedule—

(a) "levy appeal tribunal" means the Horserace Betting Levy Appeal Tribunal for England and Wales or the Horserace Betting Levy Appeal Tribunal for Scotland;

(b) "the Levy Board" means the Horserace Betting Levy Board.

Horserace Betting Levy Board: general

2.—(1) Nothing in this Order affects the validity of anything done by or in relation to the Levy Board before the effective date.

(2) Anything (including any legal proceedings) which immediately before the effective date is in the process of being done by or in relation to the Levy Board in connection with its assessment or collection functions may be continued on or after that date by or in relation to the Gambling Commission.

(3) Anything (including any legal proceedings) which immediately before the effective date is in the process of being done by or in relation to the Levy Board in connection with its application functions may be continued on or after that date by or in relation to the designated body.

(4) Anything done by or in relation to the Levy Board in connection with its assessment or collection functions which has effect immediately before the effective date has effect, so far as is necessary for continuing its effect on or after that date, as if done by or in relation to the Gambling Commission.

(5) Anything done by or in relation to the Levy Board in connection with its application functions which has effect immediately before the effective date has effect, so far as is necessary for continuing its effect on or after that date, as if done by or in relation to the designated body.

(6) So far as necessary or appropriate for the purposes of or in consequence of the provision made by article 4, on or after the effective date a reference to (and a reference which is to be read as a reference to) the Levy Board in an enactment, instrument or other document—

(a) is to be treated as, or as including, a reference to the Gambling Commission in so far as the reference is in connection with the Levy Board's assessment or collection functions;

(b) is to be treated as, or as including, a reference to the designated body in so far as the reference is in connection with the Levy Board's application functions.

(7) References in this paragraph to the Levy Board's assessment or collection functions are to its functions under sections 24 to 28 of the Betting, Gaming and Lotteries Act 1963, and the Horserace Betting Levy Act 1981(**a**), other than its application functions.

(8) References in this paragraph to the Levy Board's application functions are to its functions under sections 24 to 28 of the Betting, Gaming and Lotteries Act 1963 to apply the monetary contributions mentioned in section 24(1) of that Act.

Horserace Betting Levy Board: power to recover amounts due

3.—(1) Sub-paragraph (2) applies where, immediately before the effective date, an amount is recoverable by the Levy Board under section 28(7) of the Betting, Gaming and Lotteries Act 1963(**b**) as a debt due to it.

(2) The amount is, on and after the effective date, recoverable by the Gambling Commission as a debt due to it.

Horserace Betting Levy Board: notice to review operating licence

4.—(1) Sub-paragraph (2) applies where—

(a) before the effective date, the Levy Board has given notice to the Gambling Commission under article 3(2) of the Gambling Act 2005 (Horserace Betting Levy) Order 2007(**c**) requiring it to conduct a review under section 116(2)(c) of the Gambling Act 2005, and

(b) immediately before the effective date, the Gambling Commission has not completed the review.

(2) The Gambling Commission continues, on and after the effective date, to be under an obligation to conduct the review.

Horserace Betting Levy Board: accounts and report

5.—(1) The Gambling Commission must prepare proper statements of the Levy Board's accounts for the relevant period.

(2) The accounts must be audited by the Comptroller and Auditor General.

(3) The Comptroller and Auditor General must—

(a) examine, certify and report on the statements of accounts for the relevant period, and

(b) send a copy of the statements with the report to the Gambling Commission.

(4) The Gambling Commission must prepare a report of the Levy Board's activities during the relevant period, before the end of the period of four months beginning with the effective date.

(5) The report must include the statements of account and the auditor's report on those statements.

(6) The Gambling Commission must give a copy of the report to the Secretary of State.

(7) The Secretary of State must arrange for the report to be laid before Parliament.

(8) In this paragraph "the relevant period" means the period—

(a) beginning immediately after the end of the final period for which the Levy Board prepares a statement of account under section 31 of the Betting, Gaming and Lotteries Act 1963(**d**), and

(b) ending immediately before the effective date.

(**a**) 1981 c. 30.
(**b**) Section 28(7) was amended by paragraph 1(a) of the Schedule to the Horserace Betting Levy Act 1981, and paragraph 6(5) of S.I. 2017/589.
(**c**) S.I. 2007/2159, amended by S.I. 2017/589.
(**d**) Although the 1963 Act was repealed by section 356(3)(f) of, and Schedule 17 to, the Gambling Act 2005 (c. 19), section 31 of the 1963 Act is saved by article 3(2) of S.I. 2006/3272 as amended by article 4 of S.I. 2007/2169.

The levy appeal tribunals: general

6. Nothing in this Order affects the validity of anything done by or in relation to a levy appeal tribunal before the effective date.

Appeals referred to levy appeal tribunals before the effective date

7.—(1) Sub-paragraph (2) applies where, before the effective date, the Levy Board has referred an appeal to a levy appeal tribunal under—

(a) section 28(6) of the Betting, Gaming and Lotteries Act 1963(**a**), or

(b) section 2(2) of the Horserace Betting Levy Act 1981,

and the appeal has not been determined or abandoned before that date.

(2) The levy appeal tribunal to which the appeal was referred continues to exist for the purposes of determining the appeal.

(3) The tribunal's powers in respect of the appeal are those specified in—

(a) section 28(6) of the Betting, Gaming and Lotteries Act 1963, in the case of an appeal referred under that Act;

(b) section 2(3) of the Horserace Betting Levy Act 1981(**b**), in the case of an appeal referred under that Act.

(4) A decision of the tribunal on the appeal is final.

Chairman of levy appeal tribunals

8. The repeals in the Judicial Pensions and Retirement Act 1993(**c**) made by Schedule 2 to this Order do not affect the operation of any provision of or made under that Act, or anything done under such provision, in relation to a Chairman of a levy appeal tribunal.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is made under section 1 of the Legislative and Regulatory Reform Act 2006 (c. 51). It repeals the existing legislation relating to the Horserace Betting Levy ("the Levy") and its operation, substantially re-enacting it in the Gambling Act 2005 (c. 19) ("the 2005 Act") with amendments to reflect the following.

This Order abolishes both the Horserace Betting Levy Board ("the Levy Board") established under section 24 of the Betting, Gaming and Lotteries Act 1963 (c. 2) ("the 1963 Act"), and the Levy appeal tribunals established under section 29 of the 1963 Act.

The primary functions of the Levy Board are first, to assess and collect the proceeds of the Levy to be paid by bookmakers and betting exchange providers, and secondly, to apply the proceeds of the Levy for the benefit of the horseracing and equine sector and the advancement or encouragement of veterinary science or education.

This Order also transfers the Levy Board's assessment and collection functions to the Gambling Commission, and transfers its application functions to a body to be designated by the Secretary of State for these purposes.

Articles 2 and 3 abolish the Levy Board and the Levy appeal tribunals respectively.

(**a**) Section 28(6) was amended by paragraph 6(4) of the Schedule to S.I. 2017/589.
(**b**) Section 2(3) was amended by paragraph 18(3) of the Schedule to S.I. 2017/589.
(**c**) 1993 c. 8.

Article 4 of and Schedule 1 to this Order restate and amend the law regarding the Levy by inserting a new Part 17A into the 2005 Act. The offence in section 28A of the 1963 Act regarding disclosure of information by a member of the Levy Board or appeal tribunal is not replicated in Part 17A of the 2005 Act.

Article 4 and Schedule 1 also insert new provisions into the 2005 Act relating to the application of the Levy, including a duty for the Secretary of State to designate a body to apply Levy funds which meets the specified conditions, the functions and duties of such a designated body and provisions dealing with the termination of any designation.

Article 5 of and Schedule 2 to this Order make consequential amendments to primary and secondary legislation. As well as removing references to the Levy Board, these provisions repeal and revoke existing legislation relating to the operation of the Levy: the Horserace Betting Levy Act 1981 (c. 30), the remaining provisions of the Horserace Betting Levy Act 1969 (c. 14) and the Gambling Act 2005 (Horserace Betting Levy) Order 2007 (S.I. 2007/2159) ("the 2007 Order") and the saving for sections 24 to 30 of the 1963 Act. Consequential amendments are made to legislation which refer to this legislation, and also to the Horserace Betting and Olympic Lottery Act 2004 (c. 25) which contains a power for the Secretary of State to abolish the Levy system.

This Order also makes amendments to the 2005 Act in consequence of the new Part 17A. Among other things, these amendments provide that Part 15 (inspection) and the offence in section 342 (false information) do not apply to Part 17A. In addition, sections 116 (review) and 120 (conditions for suspension or revocation of operating licences), as modified by the 2007 Order, are substantially restated so that a licensee's failure to pay the Levy becomes a reason for review or suspension of an operating licence granted under the 2005 Act, but only if that licensee has been in default for a period of at least three months and has failed to pay the Levy on a previous occasion within the last five years.

Article 6 and Schedule 3 provide that the Secretary of State may make property and staff transfer schemes in connection with the abolition of the Levy Board and Levy appeal tribunals.

Article 7 of and Schedule 4 to this Order make transitional and saving provisions as a result of abolishing the Levy Board and the Levy appeal tribunals.

An impact assessment of the effect that this Order will have on the costs of business, the voluntary sector and the public sector is available from the Department for Digital, Culture, Media and Sport, 100 Parliament Street, London SW1A 2BQ. It is also published with the Explanatory Document alongside the Order on www.legislation.gov.uk.

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