

THE HORSE RACING (AMENDMENT) BILL (NORTHERN IRELAND) 2021

EXPLANATORY AND FINANCIAL MEMORANDUM

INTRODUCTION

1. This Explanatory and Financial Memorandum has been prepared by The Department of Agriculture, Environment and Rural Affairs in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum needs to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause does not seem to require an explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. The Horse Racing (Northern Ireland) Order 1990 (the 1990 Order) is the legal basis for the Horse Racing Fund (HRF/the Fund) in Northern Ireland. The Fund is made up from a levy collected from licensed bookmakers in Northern Ireland and was set up in order to provide financial support to horseracing at Northern Ireland's two racecourses at Downpatrick and Down Royal.
4. A charge on bookmakers to support racecourses dates back to 1961. It was first introduced in Great Britain to offset the decline in race day revenue (gate receipts), following the introduction of legislation which meant that people wishing to place a bet on a horse race no longer needed to attend the racecourse. The charge was paid by bookmakers to support the racecourses as there is a direct link between the two, with some of the bookmakers' income deriving directly from betting on horseracing.
5. Prior to 1976, both racecourses in Northern Ireland received a small amount of government assistance. After 1976, horseracing at Down Royal was considered to have the most potential for development, and funding was provided via the Horse Racing and Betting (Northern Ireland) Order 1976. The Fund was administered by the then Department of Agriculture and was financed by annual contributions from Northern Ireland bookmakers. It provided financial assistance towards prize money for races and the costs of technical and personnel services required on race days, as

well as assistance towards the cost of improvements to the race track and facilities for participants and spectators.

6. The 1990 Order extended the scope of the HRF to include both of Northern Ireland's racecourses, and narrowed the range of assistance it could provide to prize money for races, the costs of technical and personnel services required on race days and purposes to ensure the safety of spectators at race meetings or the proper conduct of racing. Under this legislation, licensed bookmakers in Northern Ireland pay an annual levy, which the Department is required to disburse to the two beneficiaries named in the legislation – Downpatrick Race club (the Company) and the Governor and Freeman of the Corporation of Horse Breeders, (the Corporation) – as the operators of horse racecourses “in the vicinity of the Maze and at Downpatrick, in the County of Down”.
7. The Corporation no longer operates at the Maze (also referred to as Down Royal), and as a result payments from the HRF to the racecourse ceased in 2019. In addition, no payments from the Fund have been possible to Downpatrick Race Club since 2019, while the Department sought EU State Aid approval for the Fund.
8. Therefore the policy objective is to allow for the reinstatement of payments from the Fund, in support of the two racecourses at the Maze and Downpatrick, as soon as is practicable.

CONSULTATION

9. Consultation on a proposal to amend the 1990 Order launched on 12 May 2020 and closed on 25 June 2020. Notification of the consultation was sent to 215 individuals and organisations, including key interested parties, as well as Section 75 groups and other statutory consultees. Key interested parties included representatives of the two Northern Ireland racecourses and organisations with a more general interest in equine issues. The consultation was published on the Department's website and on Citizen Space and was publicised on a number of occasions via social media. Officials met with a number of key industry representatives to explain the background to the consultation and to set out the legislative process.
10. The consultation focused on the proposed specific amendment to the 1990 Order, which would amend the named beneficiaries of the Fund. While outside the scope of the consultation, an opportunity was also provided for stakeholders to submit comments on the wider operation of the Fund and support of horseracing in Northern Ireland.
11. Eleven written responses to the consultation were received.

12. A summary of the outcome of the consultation and the Department's response to the comments can be found at <https://www.daera-ni.gov.uk/publications/summary-consultation-responses-amendment-horse-racing-northern-ireland-order-1990>.

OPTIONS CONSIDERED

13. Three options were considered.

Option 1: Do Nothing.

14. This option would retain the Corporation as a named beneficiary of the HRF meaning payments cannot be made from the Fund for the benefit of Down Royal. This means the legislation continues to allow for only one of Northern Ireland's racecourses to be eligible for payments from the Fund under the 1990 Order.
15. However, as payments made to only one racecourse could have an impact on fair competition in the horseracing sector in Northern Ireland, no payments could be made from the Fund in this option to either racecourse. This does not therefore meet the policy objective.

Option 2: Amend the 1990 Order as soon as possible to change the named operator at Down Royal.

16. The new operator of Down Royal has been unable to draw funds from the HRF since it took over management of the racecourse on 1 January 2019, as it is not specifically named in the 1990 Order as a beneficiary of the Fund. This option will ensure the Fund is available to all current participants in horseracing in Northern Ireland and therefore ensure fair competition, making it possible to resume support to both Down Royal and Downpatrick from the Fund. This meets the policy objective of ensuring payments from the Fund to the racecourses can be reinstated as soon as possible.

Option 3: Carry out a fundamental review of the 1990 Order.

17. With this option, a fundamental review would be carried out to explore future options for the HRF. Consultation respondents provided comments in relation to a wider review of the Fund that could be used as the basis of any review. There are number of cross-cutting issues that would need to be addressed and as such this would take time to complete.
18. Under this option, no payments from the HRF would be made until the review is complete, and it does not therefore meet the policy objective.

This Memorandum refers to the Horse Racing (Amendment) Bill as introduced in the Northern Ireland Assembly on [Bill Office will insert date], (Bill [Bill Office will insert No.] 2000)

19. Only Option 2 ensures that payments from the Fund can be re-instated quickly in support of the two racecourses, and is therefore the preferred option.

OVERVIEW

20. The Bill has 6 clauses which amend the Horse Racing (Northern Ireland) Order 1990 to change the defined beneficiaries of the Fund.

COMMENTARY ON CLAUSES

Amendment of the Horse Racing (Northern Ireland) Order 1990

Clause 1 – Horse racecourse operators

This clause amends Article 2 of the 1990 Order, by omitting definitions of “the Company” and “the Corporation”. The clause inserts a definition “horse racecourse operator” as Downpatrick Race Club and Down Royal Park Racecourse Limited. These are the current operators of the racecourses at Down Royal and Downpatrick. Clause 1 also provides that the definition of “horse racecourse operator” can be amended by regulations, but only with the approval by resolution of the Assembly.

Clause 2 – Horse Racing Fund

This clause amends Article 3 of the 1990 Order to take account of the amendment made by Clause 1, which inserted the definition of a horse racecourse operator to ensure that Fund will be used for assisting the operation and development of horse racecourses in the vicinity of the Maze and Downpatrick, in the County of Down. This clause also requires the horse racecourse operators to submit a statement of their proposed budget and expenditure plans for the following year to the Department on or before 31st October of each year. A new paragraph (4A) is inserted which allows each racecourse operator to submit their statement either on its own or together with any other horse racecourse operator. Finally, this clause omits paragraph (6) to remove a reference to an organisation that no longer exists.

Clause 3 – Minor and consequential amendments

This clause makes amendments to the 1990 Order to replace references to “the Corporation” and “the Company” with appropriate references to a “horse racecourse operator”. This clause also omits Article 11 and paragraphs 5 and 6 of Schedule 1 to the Order, which concerned rules and bye-laws of the Corporation and are no longer required.

FINANCIAL EFFECTS OF THE BILL

21. Licensed bookmakers in Northern Ireland are required to make a payment into the Fund on an annual basis. The amount of this levy is amended by time to time via subordinate legislation after consultation with stakeholders, and with agreement of Department of Finance. This is not affected by this Bill.
22. Under the 1990 Order, the financial assistance from the Fund comprises of payments—
 - i. to provide or supplement prize money;
 - ii. to provide or improve technical or other services, being services with respect to the operation of racing;
 - iii. for other purposes to ensure the safety of spectators at race meetings or the proper conduct of racing.

This is not affected by this Bill.

23. The 1990 Order also provides for expenses incurred by the Department in administering the Fund to be paid from the Fund. This is not impacted by the Bill and it will remain the same as it was before payments from the Fund ceased in 2019.
24. There are likely monetary benefits to related businesses as a result of horseracing being supported by the Fund. Many of those businesses are small businesses including local businesses that may benefit from trade generated by visitors and competitors attending race meetings.

HUMAN RIGHTS ISSUES

25. The provisions of the Bill are compatible with the Convention on Human Rights.

EQUALITY IMPACT ASSESSMENT

26. In accordance with its duty under Section 75 of the Northern Ireland Act 1998, the Department considered the policy proposal for the Bill for its impact on equality. It concluded that the Bill would have no differential impact on any of the specified groups.
27. The draft Equality Screen assessment can be viewed at <https://www.daera-ni.gov.uk/publications/summary-consultation-responses-amendment-horse-racing-northern-ireland-order-1990>.

SUMMARY OF THE REGULATORY IMPACT ASSESSMENT

28. The Bill has been assessed to determine any regulatory impact. The main beneficiaries are the two racecourses through drawdowns from the Fund, which allows the operators to continue to attract top competitors to meetings and make a positive impact on tourism in their respective areas.
29. There would be potential negative impact on businesses if these legislation changes were not made. Not making a change to the legislation may impact on the racecourses' ability to attract top competitors resulting in a downgrading of racing at the racecourses. This would have a negative impact on tourism in the areas.
30. The direct costs come from the bookmakers as they have a requirement to make levy payments and these are not affected by the Bill. The assessment is therefore that the Bill will have no significant regulatory impact.

DATA PROTECTION IMPACT ASSESSMENT/DATA PROTECTION BY DESIGN

31. None required.

RURAL NEEDS IMPACT ASSESSMENT

32. A Rural Needs Impact Assessment concluded that the Bill would have no negative rural impacts.

LEGISLATIVE COMPETENCE

33. The Minister of the Department of Agriculture, Environment and Rural Affairs has made the following statement under section 9 of the Northern Ireland Act 1998:

"In my view the Horse Racing (Amendment) Bill would be within the legislative competence of the Northern Ireland Assembly."