

**Central Service and Contingency Planning
Group**
Central Management Branch



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14 April 2021

Dear Stella

THE HORSE RACING (AMENDMENT) BILL

I wrote to you on the 16 March outlining proposals to amend to the Horse Racing (Northern Ireland) Order 1990 (the 1990 Order) and provided the comments received during consultation along with the Department's analysis and response to the comments. Minister Poots subsequently wrote to the Committee Chair on the 26 March sharing a copy of the Horse Racing (Amendment) Bill on an 'in confidence' basis, along with a draft of the Explanatory and Financial Memorandum.

The Bill was subsequently introduced in the Assembly on the 13 April and officials are due to give an oral presentation on the Bill at the Committee on the 22 April.

As discussed when we met on 23 March, please find attached at Annex A, a background to the 1990 Order and the operation of the Horse Racing Fund. To further assist the Committee's consideration of the Bill going forward, I have also attached a copy of the 1990 Order, as amended by the Bill (Annex B).

I trust that these will be of some assistance to Members.

Yours sincerely



Michael Oliver
Departmental Assembly Liaison Officer

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Annex A: Background to the Horse Racing (Northern Ireland) Order 1990.

Annex B: Marked up copy of the Horse Racing (Northern Ireland) Order 1990 as amended by the Horse Racing (Amendment) Bill.

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Background to the Horse Racing Fund and Horse Racing (NI) Order 1990

History

The concept of a charge on bookmakers to support racecourses dates back to 1961. It was 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 is 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.

The Horse Racing Fund (HRF) was established in Northern Ireland in 1976 and is currently administered by DAERA in line with the Horse Racing (Northern Ireland) Order 1990, which requires that bookmakers make an annual contribution to the Fund of an amount determined from time to time by the Department. The charges that are levied on bookmakers by the HRF are used to assist the operation and development of the two local racecourses (Downpatrick and Down Royal), through payments from the HRF made to the beneficiaries named in the Horse Racing (Northern Ireland) Order 1990.

How the Horse Racing Fund operates in Northern Ireland under the Horse Racing (NI) Order 1990

The Department sets the charge on bookmakers under the 1990 Order with the approval of the Department of Finance, and after consultation with stakeholders who represent the interests of the bookmakers and racecourses. Consultation with bookmakers is specifically required by the 1990 Order. This charge must be paid by persons who intend to apply for bookmaker and bookmaking office licences. They are then provided with a receipt by DAERA which is used to obtain a gambling licence under the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 which is the responsibility of Department for Communities.

Any expenses incurred by the Department in administering the HRF are also to be paid from the Fund. The racecourses are required to submit a statement of their proposed budget and expenditure plans before 31 October each year to cover the year commencing 1 January next (Article 3(4)). The Department considers this statement and make payments as are appropriate and in accordance with the three provisions in Article 3(5)-

- (a) to provide or supplement prize money;
- (b) to provide or improve technical or other services, being services with respect to the operation of racing;
- (c) for other purposes of the Corporation or the Company, being purposes to ensure the safety of spectators at race meetings or the proper conduct of racing.

Article 4 allows the Department, with the consent of Department of Finance, to

invest any part of the fund that is not required.

In accordance with Article 5 of the 1990 Order, the Department is also required to prepare accounts for payments into and out of the Fund and these are also subject to audit by the Comptroller and Auditor General.

Under Article 6, the Department also has the power to enter the land and survey, value and examine and works by the racecourses under Article 3(5)(b)(c).

The Department, with the approval of the Department of Finance, may wind up the Fund, subject to an affirmative resolution Order.

Article 11 and Schedule 1 makes amendments to the Corporation's rules and by-laws to amend the number of Committee member on their board and place requirements on the board composition to ensure adequate governance of the racecourse. Downpatrick are not subject to the same requirements as they are a private limited company limited by guarantee.

How the rates payable to the Horse Racing Fund are set

The current rates paid by bookmakers into the HRF, as prescribed by the Horse Racing (Charges on Bookmakers) Order (Northern Ireland) 2010, are £99 in the case of the on-course bookmakers and £1123 in the case of the off-course bookmakers.

Historically, the rates have increased by an inflationary amount, except for three occasions where increases were agreed between the bookmakers and the racecourses (most recently in 2010). Amending the rates requires a new Charges on Bookmakers Order made under affirmative resolution in the NI Assembly, which also revokes the previous Order.

The Department consulted about amendments to the levy in 2017 and both racecourses and bookmakers came to an agreement about the rates.

However, the Department was subsequently unable to make the Order to give effect to the agreed rates in the absence of a functioning Assembly, and the rates therefore currently remain at £1,123 for off-site bookmakers and £99 for on-site bookmakers.

Horseracing funding in Great Britain

The Horserace Betting Levy is operated in GB under the provisions of the Horserace Betting Levy Regulations 2017. The levy is used to support 60 racecourses in GB. It is managed by a Non Departmental Public Body, the Horserace Betting Levy Board (HBLB) which is sponsored by the Department for Digital, Culture, Media and Sport. All betting operators in GB – whether they operate on or off-course, on or offline or on or offshore – pay 10 per cent of their profits from British customers to British horseracing. This new fixed rate has been set at 10% of profits on leviable bets which exceed £500,000 in any Levy period as a bookmaker or betting exchange provider. A leviable bet is defined as a bet

which relates to horseracing in GB made by a person (whether in person or remotely) who is in GB when the bet is made.

Horseracing funding in the Republic of Ireland

The Horse and Greyhound Racing Fund is operated in ROI under the provisions of the Horse and Greyhound Racing (Betting Charges and Levies) Act 1999. It supports 24 racecourses in the Republic of Ireland. This is managed by Horse Racing Ireland, using funds from the revenue received by the Finance Ministry from excise duty on off-course betting.

**The Horse Racing (Northern Ireland) Order 1990
(Marked up with amendments made by the Horse Racing (Amendment) Bill)**

1990 No. 1508 (NI. 12)

NORTHERN IRELAND

The Horse Racing (Northern Ireland) Order 1990

Made

24th July 1990

Coming into Operation

25th September 1990

At the Court at Buckingham Palace, the 24th day of July 1990

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Introductory

Title and commencement

1. This Order may be cited as the Horse Racing (Northern Ireland) Order 1990 and shall come into operation on the expiration of 2 months from the day on which it is made.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(2) shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

“horse racecourse operator” means any of the following —

(i) Downpatrick Race Club,

(ii) Down Royal Park Racecourse Limited;

~~“the Company” means Downpatrick Race Club;~~

~~“the Corporation” means the Governor and Freemen of the Corporation of Horse Breeders, in the County of Down;~~

“the Department” means the Department of Agriculture;

“the Fund” means the Horse Racing Fund continued under Article 3;

“modify” means making additions, omissions, amendments, adaptations, applications, extensions, restrictions and substitutions.

(3) The Department may by regulations make such amendment to the definition of “horse racecourse operator” as it thinks appropriate.

(4) Regulations under paragraph (3) may not be made unless a draft of the regulations has been laid before, and approved by a resolution of the Assembly.

Horse Racing Fund

Horse Racing Fund

3.—(1) There shall continue to be and to be maintained a fund to be called the Horse Racing Fund which shall be under the control and management of the Department and shall be used for the financing of horse racecourse operators ~~the Corporation and the Company~~ with the object of assisting the operation and development of horse racecourses in the vicinity of the Maze and at Downpatrick, in the County of Down.

(2) Any expenses incurred by the Department in administering the Fund shall be paid out of the Fund.

(3) There shall be credited to and paid into the Fund all money received by the Department under Article 9(1).

(4) ~~Each horse racecourse operator The Corporation and the Company~~ shall on or before 31st October in each year submit to the Department a statement of the proposed budget and expenditure plans of ~~the horse racecourse operator the Corporation and the Company~~ for the year commencing on 1st January next following.

(4A) A horse racecourse operator may submit a statement under paragraph (4) either on its own or together with any other horse racecourse operator.

(5) Where, after consideration of ~~a statement the statement~~ submitted to it under paragraph (4) and after consultations with such persons as the Department may think fit, the Department is satisfied that ~~the horse racecourse operator the Corporation or, as the case may be, the Company~~ has complied with the provisions of this Order, the Department may make such payments out of the Fund on such basis and in such proportion as the Department considers proper, being payments—

(a) to provide or supplement prize money;

- (b) to provide or improve technical or other services, being services with respect to the operation of racing;
- (c) for other purposes of ~~the horse racecourse operator the Corporation or the Company~~, being purposes to ensure the safety of spectators at race meetings or the proper conduct of racing.

(5A) Where a horse racecourse operator submits a statement under paragraph (4) together with any other racecourse operator, any reference in paragraphs (4) or (5), or in Article 6 to either "the horse racecourse operator" or "a horse racecourse operator" is a reference to the horse racecourse operators in question.

~~(6) The Department may make the payments referred to in paragraph (5)(a) to the Irish Turf Club in respect of claims for prize money submitted to the Department by the Corporation and the Company.~~

Investment of surplus funds

4.—(1) The Department may invest any part of the Fund which is not for the time being required for any other purpose in any manner which the Department, with the consent of the Department of Finance and Personnel, thinks proper and may sell and convert into money all or any investments made under this Article.

(2) All dividends and interest received on investments made under this Article shall be paid into the Fund.

Accounts of Fund

5.—(1) The Department shall prepare for the period up to 31st December 1991 and thereafter in respect of each year an account of receipts into and payments out of the Fund.

(2) Any account prepared under this Article shall, on or before 30th April next following the expiration of the relevant year, be transmitted to the Comptroller and Auditor General who shall examine and certify the accounts.

(3) A copy of the account certified by the Comptroller and Auditor General shall be supplied, either free of charge or on payment of such sum as may be fixed by the Department, to any person who applies to the Department for it.

Power to enter land

6.—(1) A person authorised in writing by the Department (in this Article referred to as an "authorised person") may, on production if required of his credentials, at any reasonable time enter any land for the purpose of—

(a) survey, valuation or examination with respect to works under Article 3(5)(b) or (c) proposed in any statements submitted to the Department by ~~a horse racecourse operator the Corporation or the Company~~ under Article 3(4); or

(b) inspection of any such works.

(2) A power of entry under paragraph (1) shall not be exercisable in relation to any land except—

(a) with consent given by the occupier or owner of the land; or

(b) after at least 24 hours' notice of the intended entry has been served on the occupier or owner of the land.

(3) If any person, other than the owner or occupier of the land, knowingly prevents an authorised person from carrying out anything which the authorised person is duly authorised to do or obstructs the authorised person in carrying out any such thing, he shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(4) If any person, being the owner or occupier of land, knowingly prevents an authorised person from duly carrying into effect any survey, valuation, examination or inspection of such land or obstructs the authorised person in doing any such survey, valuation, examination or inspection, a court of summary jurisdiction on proof thereof may order him to permit to be done on the land all things requisite for carrying into effect such survey, valuation, examination or inspection; and, if he fails to comply with the order, he shall be guilty of an offence and shall for every day during which the failure continues be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(5) Where under this Article an authorised person enters any land, he shall ensure that the land is not left less secure by reason of the entry, and the Department shall make good or pay compensation for any damage to property caused by, or in consequence of, the authorised person exercising any right or failing to perform any duty under this Article.

(6) Any question of disputed compensation under this Article shall be referred to and determined by the Lands Tribunal.

(7) Any reference in this Article to an occupier or to an owner shall be construed as including a reference to a person appointed in writing by the occupier or owner as his representative for purposes including all or any of the purposes of this Article.

Returns or information to Department

7. ~~Each horse racecourse operator~~~~The Corporation and the Company~~ shall provide the Department with such returns or information relating to the state of their financial or other affairs as the Department may require and for that purpose shall permit any person authorised by the Department in that behalf to inspect and make copies of its accounts, books, documents and papers, and shall afford such explanation thereof as that person or the Department may reasonably require.

Winding up of Fund

8. The Department, having regard to the sums standing to the credit of the Fund, may, with the approval of the Department of Finance and Personnel, by order subject to affirmative resolution provide for the winding up of the Fund and there shall be made such payments as may be specified for that purpose by any such order.

Charges on bookmakers

9.—(1) There shall be paid to the Department for the benefit of the Fund—

(a) by every person, other than a person to whom sub-paragraph (b) applies, who intends to apply under Article 8 or Article 16 of the Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (3) for the grant or renewal of a bookmaker's licence; and

(b) by every person who intends to apply under Article 12 or Article 18 of that Order of 1985 for the grant or renewal of a bookmaking office licence or under Article 14 of that Order of 1985 to have the provisional grant of a bookmaking office licence declared final in respect of each office licence, a charge of such amount as the Department, with the approval of the Department of Finance and Personnel and after consultation with such organisations as appear to the Department to substantially represent the interests of bookmakers, may specify by order made subject to affirmative resolution.

(2) The Department shall issue a receipt to every person who pays a charge under paragraph (1).

Miscellaneous

Accounts, etc.

~~10.—(1) Each horse racecourse operator, the Corporation and the Company shall—~~

(a) keep such accounts and other records as the Department may require; and

(b) prepare for a period of 12 months ending on 31st December in each year, an annual statement of accounts in such form and containing such particulars as the Department may direct.

(2) The accounts prepared under paragraph (1) shall be audited by an auditor appointed by ~~the horse racecourse operator, the Corporation or, as the case may be, the Company~~, and no person shall be qualified to be so appointed unless he is eligible for appointment as a statutory auditor under Part 42 of the Companies Act 2006.

(3) Any account prepared under paragraph (1) shall on or before 30th April next following the expiration of the relevant year be submitted to the Department together with a copy of the report made by the auditor on the accounts, and a copy of the account certified by the auditor appointed under paragraph (2) shall be supplied, either free of charge or on payment of such sum as may be fixed by the Department, to any person who makes application therefor to the Department.

Rules and bye-laws of the Corporation

~~11.—(1) Rules 13 and 14 of the rules and bye-laws of the Corporation shall have effect subject to the amendments set out in Schedule 1.~~

~~(2) The Committee of Freeman of the Corporation may not modify the rules and bye-laws of the Corporation without the approval of the Department.~~

~~(3) That Committee shall prepare, and cause to be printed, the rules and bye-laws of the Corporation, as amended by this Order, and a copy thereof, certified by the Governor of the Corporation to be true, shall be deposited in the offices of the Department within one month of the coming into operation of this Order.~~

Amendments and repeals

12.—(1) The statutory provisions specified in Schedule 1 shall have effect subject to the amendments specified in that Schedule, being amendments consequential on the provisions of this Order.

(2) The statutory provisions specified in Schedule 2 are hereby repealed to the extent specified in column 3 of that Schedule.

Schedule 1 — Amendments

The Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985 (NI 11)

1. In paragraph 4(b) of Schedule 1 (applications for the grant of bookmakers' licences)—
 - (a) for “Article 11(3) of the Horse Racing and Betting (Northern Ireland) Order 1976” substitute “Article 9(2) of the Horse Racing (Northern Ireland) Order 1990”;
 - (b) for “specified in Article 11(1)(a)” substitute “under Article 9(1)”.

2. In Schedule 2 (applications for the grant of bookmaking office licences)—
 - (a) in paragraph 3(b)—
 - (i) for “Article 11(3) of the Horse Racing and Betting (Northern Ireland) Order 1976” substitute “Article 9(2) of the Horse Racing (Northern Ireland) Order 1990”;
 - (ii) for “specified in Article 11(1)(b)” substitute “under Article 9(1)”;
 - (b) in paragraph 8(b)—
 - (i) for “Article 11(3) of the Horse Racing and Betting (Northern Ireland) Order 1976” substitute “Article 9(2) of the Horse Racing (Northern Ireland) Order 1990”;
 - (ii) for “specified in Article 11(1)(b)” substitute “under Article 9(1)”.

3. In paragraph 4(b) of Schedule 3 (applications for the renewal of bookmakers' licences)—
 - (a) for “Article 11(3) of the Horse Racing and Betting (Northern Ireland) Order 1976” substitute “Article 9(2) of the Horse Racing (Northern Ireland) Order 1990”;
 - (b) for “specified in Article 11(1)(a)” substitute “under Article 9(1)”.

4. In paragraph 4(b) of Schedule 4 (applications for the renewal of bookmaking office licences)—
 - (a) for “Article 11(3) of the Horse Racing and Betting (Northern Ireland) Order 1976” substitute “Article 9(2) of the Horse Racing (Northern Ireland) Order 1990”;
 - (b) for “specified in Article 11(1)(b)” substitute “under Article 9(1)”.

~~*Rules and bye-laws of the Corporation*~~

~~5. In rule 13 of the rules and bye-laws of the Corporation—~~

~~(a) for the words from “sixteen members” to “form a quorum” substitute~~

~~“fourteen members of whom—~~

~~(a) twelve shall be elected by the members of the Corporation;~~

~~(b) one shall be nominated by such organisation or organisations as represent the interests of off-course bookmakers;~~

~~(c) one shall be nominated by such organisation or organisations as represent the interests of on-course bookmakers.~~

~~Five members of the Committee shall form a quorum.”;~~

~~(b) after “re-election” insert “The nominated members shall serve for three years”.~~

~~6. In rule 14 of the rules and bye-laws of the Corporation—~~

~~(a) for the words from the beginning of paragraph (b) to “or appointed” substitute—~~

~~“(b) if the member was nominated under paragraph (b) or (c) of that rule, by nomination by such organisation or organisations referred to in that paragraph;~~

~~and any person so co-opted or nominated”;~~

~~(b) for “Article 10 of the Horse Racing and Betting (Northern Ireland) Order 1976” substitute “Article 11(2) of the Horse Racing (Northern Ireland) Order 1990”;~~

~~(c) omit the words “(other than this rule and rule 13)”.~~

Schedule 2 — Repeals

<i>Number</i>	<i>Short title</i>	<i>Extent of repeal</i>
<u>1976 NI 17.</u>	The Horse Racing and Betting (Northern Ireland) Order 1976.	The whole Order.
<u>1985 NI 11.</u>	The Betting, Gaming, Lotteries and Amusements (Northern Ireland) Order 1985.	In Schedule 19, paragraphs 18, 19 and 20.
<u>1986 NI 9.</u>	The Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986.	In Schedule 1, in Part I the entry relating to the Horse Racing and Betting (Northern Ireland) Order 1976.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order continues the Horse Racing Fund which assists and encourages horse racing in Northern Ireland, makes provision with respect to the accounts of the Governor and Freemen of the Corporation of Horse Breeders, in the County of Down and Downpatrick Race Club and amends the rules and bye-laws of that Corporation with respect to the Committee of Freemen.