

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⁽¹⁾.

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⁽²⁾.

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,

(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

(1) [2006 c. 51](#)
. Sections 1(6) and 13(1) were amended by
[S.I. 2007/1388](#)

(2) See section 32 for the definition of “Minister of the Crown”.
(2) The expression “40-day period” is defined in section 16(7)(b) of the Legislative and Regulatory Reform Act 2006.

- (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(3) (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(4), is abolished(5).

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(6), are abolished (subject to the savings in paragraph 7(2) of Schedule 4).

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- (3) [2005 c. 19](#)
- (4) [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](#)
- (5) 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.
- (6) 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](#)

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

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)(7).

Assessment and collection of the levy

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).

(7) 2006 c. 46