STATUTORY INSTRUMENTS

2017 No. 589

BETTING, GAMING AND LOTTERIES

The Horserace Betting Levy Regulations 2017

Made - - - - 24th April 2017

Coming into force in accordance with regulation 1

The Secretary of State makes these Regulations in exercise of the powers conferred by section 2 of the Gambling (Licensing and Advertising) Act 2014(**1**) and section 2(2) of the European Communities Act 1972(**2**).

The Secretary of State is a Minister designated for the purpose of section 2(2) of the European Communities Act 1972 in relation to measures to give effect to the Economic Community's rules on competition applying to undertakings(**3**).

A draft of these Regulations has been laid before and approved by resolution of each House of Parliament in accordance with section 2(3) of the Gambling (Licensing and Advertising) Act 2014 and paragraph 2(2) of Schedule 2 to the European Communities Act 1972.

Citation and commencement

1.—(1) These Regulations may be cited as the Horserace Betting Levy Regulations 2017.

(2) These Regulations come into force on whichever is the later of—

(a) 1st April 2017,

(b) the day after they are made.

The 56th levy scheme

2.—(1) This regulation applies if these Regulations come into force after 1st April 2017.

(2) The levy period for the 56th levy scheme ends with the day on which these Regulations come into force.

(3) In calculating a bookmaker's liability to the levy under the 56th levy scheme for that period, the enactments amended by these Regulations continue to have effect for the purposes of that scheme as if those amendments had not been made.

(**1**) 2014 c. 17.
(**2**) 1972 c. 68. Section 2(2) was amended by section 27(1)(a) of the Legislative and Regulatory Reform Act 2006 (c. 51) and by Part 1 of the Schedule to the European Union (Amendment) Act 2008 (c. 7).
(**3**) S.I. 1973/1889.

(4) In this article "the 56th levy scheme" means the levy scheme determined by the Secretary of State under section 1(2) of the Horserace Betting Levy Act 1969(**4**) on 1st December 2016(**5**).

Amendments to enactments relating to the Horserace Betting Levy

3. The Schedule to these Regulations amends enactments relating to the Horserace Betting Levy.

Amendments to the Gambling Act 2005 (Horserace Betting Levy) Order 2007

4.—(1) The Gambling Act 2005 (Horserace Betting Levy) Order 2007(**6**) (savings of the Betting, Gaming and Lotteries Act 1963) is amended as follows.

(2) In article 2(2), for "Section 28(10) of the 1963 Act does" substitute "Sections 28(10) and 28A of the 1963 Act do".

(3) In article 3(2)(a), omit "bookmakers'".

(4) In article 5, omit "bookmakers'".

Review of the rate at which the Levy is charged

5.—(1) The Secretary of State must review whether the rate at which the levy is charged by section 27(1A) of the 1963 Act remains appropriate to achieve the purposes mentioned in section 24(1)(a) to (c) of that Act.

(2) The review must be conducted no later than the end of the period of seven years, beginning on the day on which these Regulations come into force.

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

(a) lay a report before each House of Parliament, or

(b) make a statement to the House of Parliament of which that Secretary of State is a member,

setting out the results and conclusions of the review.

Tracey Crouch
Parliamentary Under Secretary of State
Department for Culture, Media and Sport

24th April 2017

(**4**) 1969 c. 14.
(**5**) See Written Parliamentary Statement of the Secretary of State at https://www.gov.uk/government/speeches/written-ministerial-statement-56th-horserace-betting-levy-scheme
(**6**) S.I. 2007/2159.

SCHEDULE Regulation 3

Amendments to enactments relating to the Horserace Betting Levy

Betting, Gaming and Lotteries Act 1963

1. The Betting, Gaming and Lotteries Act 1963(**7**), as it has effect by virtue of the Gambling Act 2005 (Horserace Betting Levy) Order 2007, is amended as follows.

2.—(1) Section 24 (Horserace Betting Levy Board) is amended as follows.

(2) In subsection (1), for the words following "bookmakers" substitute "and betting exchange providers".

(3) For subsection (2)(d) substitute—

"(d) one member appointed by the Association of British Bookmakers and the Remote Gambling Association, acting jointly."

(4) After subsection (2) insert—

"(2A) If the Association of British Bookmakers and the Remote Gambling Association fail to appoint a member under subsection (2)(d) within a reasonable time, the appointment may be made by the chairman of the Levy Board."

(5) After subsection (3) insert—

"(3A) Any person appointed to be a member of the Board under subsection (2)(d) may be removed from the Board at any time by the Association of British Bookmakers and the Remote Gambling Association, acting jointly."

(6) In subsection (4)—

(a) omit "or the Bookmakers' Committee"; and

(b) omit "or (d), as the case may be,".

(7) After subsection (4) insert—

"(4A) The Association of British Bookmakers and the Remote Gambling Association, acting jointly, may from time to time appoint a person to act in the place of such a person appointed to be a member of the Levy Board as is mentioned in subsection (2)(d) at any meeting of the Levy Board at which that member is unable to be present, and while so acting any such person shall be deemed for the purposes of any act or proceeding of the Levy Board to be a member of that Board."

3. Omit section 26 (bookmakers' committee).

4.—(1) Section 27 (bookmakers' levy schemes) is amended as follows.

(2) In subsection (1)—

(a) after "bookmakers" insert "and betting exchange providers", and

(b) for the words following "in accordance with" substitute "this section".

(3) After that subsection insert—

"(1A) The levy is charged at the rate of 10% of the amount by which a person's profits for a levy period exceed the exempt amount (see section 27D).

(1B) The person's profits for a levy period are the sum of—

(**7**) 1963 c. 2.

(a) the person's profits as a bookmaker on leviable bets for the period (see section 27A), and

(b) the commission charged by the person as a betting exchange provider on leviable bets during the period (see section 27C).

(1C) The persons by whom the levy is payable include those bookmakers and betting exchange providers who are required to hold remote operating licences.

(1D) In subsection (1C) "remote operating licence" has the same meaning as in the Gambling Act 2005 (see section 67 of that Act)."

(4) Omit subsections (2) to (4).

(5) For the heading substitute "The levy".

5. After section 27 insert—

"**Profits as a bookmaker**

27A. 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;

OA is 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

27B.—(1) For the purposes of section 27A 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.

(6) In this section "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.

Betting exchange commission

27C.—(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) Any 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 27(1B)(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

27D.—(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 other 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 Levy Board in writing 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).

Power to obtain information

27E.—(1) The Levy Board may by notice in writing require any person who appears to them to be liable to pay the levy under section 27 to provide them with information reasonably required by them for the purpose of assessing the person's liability under that section.

(2) The information must be provided in such manner and form, and within such reasonable period, as may be specified in the notice.

(3) Failure to comply with a requirement under this section does not affect a person's liability under section 27."

6.—(1) Section 28 (assessment of or exemption from levy) is amended as follows.

(2) Before subsection (5) insert—