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## SCHEDULES

### [<sup>F1</sup>]<sup>F2</sup>SCHEDULE 5ZA

Section 16A

#### LICENSING OF INTER-TRACK BETTING SCHEMES

##### Textual Amendments

- F1** Act repealed (1.1.2007 for the repeal of Sch. 2 para. 10, 1.9.2007 in so far as not already in force) by [Gambling Act 2005 \(c. 19\)](#), ss. 356(3), 358(1), [Sch. 17](#) (with ss. 352, 354); [S.I. 2006/3272](#), art. 2(1), [Sch. 1](#) (with arts. 7-12, [Sch. 4](#)); [S.I. 2006/3272](#), art. 3 (as amended by [S.I. 2007/2169](#), art. 4)
- F2** Sch. 5ZA inserted (7.1.1996) by [S.I. 1995/3231](#), art. 5(6), [Sch. 1](#)

##### Modifications etc. (not altering text)

- C1** Sch. 5ZA: functions of local authority not to be responsibility of an executive of the authority (E.) (16.11.2000) by virtue of [S.I. 2000/2853](#), reg. 2(1), [Sch. 1](#)

#### *Licensing authorities*

- 1 Each of the following councils shall be the licensing authority for their area for the purposes of this Schedule, that is to say—
- (a) in England and Wales, the council of any county so far as they are the council for an area for which there are no district councils, the council of any county borough, district or London borough and the Common Council of the City of London;
  - (b) in Scotland, a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 <sup>F3</sup>.

##### Textual Amendments

- F3** [1994 c.39](#).

#### *Applications*

- 2 (1) An application for a scheme licence shall be made—
- (a) by the person who proposes to operate the scheme; and
  - (b) to the licensing authority for the area in which the proposed centre of operation of the scheme is situated.
- (2) An application for a scheme licence shall—
- (a) be in such form, and contain such information, as the licensing authority to whom it is made may require; and
  - (b) be accompanied by a copy of the scheme and such fee as the applicant may be required to pay under paragraph 18(1) of this Schedule.

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- (3) Not later than seven days after the date when an application for a scheme licence is made, the applicant shall send a copy of the application, and of the scheme to which it relates—
- (a) to the appropriate chief officer of police; and
  - (b) in the case of a renewal application, to the person appointed to carry out in relation to the scheme to which the existing licence relates the functions under this Schedule of a scheme accountant.

*Proceedings before the licensing authority*

- 3 (1) A licensing authority may only consider an application for a scheme licence at a meeting of which at least seven days' notice has been given to the applicant and the appropriate chief officer of police.
- (2) At any meeting of a licensing authority to consider an application for a scheme licence, the applicant and the appropriate chief officer of police shall be entitled to be heard, either in person or by a representative.

*Grant or refusal*

- 4 (1) Subject to sub-paragraph (2) of this paragraph and paragraph 6(2) of this Schedule, a licensing authority shall grant an application for a scheme licence if they are satisfied—
- (a) that the applicant is a fit and proper person to operate an inter-track betting scheme;
  - (b) that the applicant is likely to be capable of, and diligent in, securing that the terms of the scheme to which the application relates are observed;
  - (c) that the scheme to which the application relates is a qualifying scheme (as defined by paragraph 5 of this Schedule);
  - (d) that the scheme to which the application relates affords to those making bets under it reasonable protection against—
    - (i) fraud or unfair practices on the part of any person involved in the scheme or any person making bets under it;
    - (ii) the failure of any equipment used to effect betting transactions under the scheme or the consequences of the failure of any such equipment; or
    - (iii) disruption caused by, or fraud perpetrated by means of, any unauthorised access to any such equipment; and
  - (e) that the scheme to which the application relates makes —
    - (i) with respect to a person who has, in relation to the scheme, the functions under this Schedule of a scheme accountant, and
    - (ii) with respect to a person who has, in relation to the scheme, the functions under this Schedule of a scheme technical adviser,
 provision which is adequate to enable him to carry out his functions.
- (2) A licensing authority may refuse an application for a scheme licence if it appears to them that any information given to them by the applicant in, or in connection with, the application is false in a material particular.
- (3) A licensing authority shall refuse to grant an application for a scheme licence if they are not satisfied as mentioned in sub-paragraph (1) of this paragraph.

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- (4) If a licensing authority refuse to grant an application for a scheme licence, they shall notify the applicant and the appropriate chief officer of police in writing of the refusal and of the reason for it.
- 5 For the purposes of paragraph 4(1)(c) of this Schedule, an inter-track betting scheme is a qualifying scheme if it—
- (a) specifies the name and address of the person who is to operate the scheme;
  - (b) sets out the responsibilities of operators of totalisators on participating tracks in connection with the operation of the scheme;
  - (c) sets out, in relation to races to which the scheme applies, the arrangements governing the pooling of bets, transfer of money between participating tracks, the payment of winnings and the carrying over of bets where there are no winning bets;
  - (d) sets out the arrangements governing the provision of information about the operation of the scheme to persons attending participating tracks;
  - (e) sets out the arrangements for ensuring that equipment used for the purposes of the scheme functions properly when betting under the scheme takes place;
  - (f) contains arrangements governing the admission of tracks to the scheme as participating tracks, the supervision of participating tracks and the circumstances in which a track is to cease to be a participating track;
  - (g) makes provision for a person who has, in relation to the scheme, the functions under this Schedule of a scheme accountant or scheme technical adviser to be supplied with information which he needs to carry out his functions; and
  - (h) makes provision for such a person as is mentioned in paragraph (g) of this sub-paragraph to have for the purpose of carrying out his functions (whether in person or by an employee authorised in that behalf in writing)
    - (i) a right of access to the books and papers of the person operating the scheme and of persons operating totalisators on participating tracks; and
    - (ii) a right to examine, and test and watch the operation of, totalisators on participating tracks and any equipment used for or in connection with the operation of the scheme.
- 6 (1) In relation to a renewal application, paragraph 4 of this Schedule shall have effect as if paragraph (c) of sub-paragraph (1) were omitted.
- (2) A licensing authority may also refuse a renewal application if it appears to them that the power of revocation under paragraph 11(2) of this Schedule is exercisable in relation to the existing licence.

#### *Duration*

- 7 (1) A scheme licence shall continue in force for a period of 5 years beginning with the date on which it was granted, unless the licensing authority by whom it was granted revoke or cancel it.
- (2) Where a person makes a renewal application and the application is not disposed of or withdrawn before the date on which the existing licence is due to expire, sub-paragraph (1) of this paragraph shall have effect in relation to it as if the reference

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to the end of the 5 year period were a reference to the date on which the application is disposed of or withdrawn.

**Modifications etc. (not altering text)**

**C2** Sch. 5ZA para. 7 modified (1.1.2007) by [The Gambling Act 2005 \(Commencement No. 6 and Transitional Provisions\) Order 2006 \(S.I. 2006/3272\)](#), art. 1(1), Sch. 4 paras. 2(1), **3(5)**

*Scheme accountant and scheme technical adviser*

- 8 (1) A licensing authority, in the case of each inter-track betting scheme in respect of which they grant a licence under this Schedule—
- (a) shall appoint an appropriate qualified accountant to carry out in relation to the scheme the functions under this Schedule of a scheme accountant; and
  - (b) may appoint an appropriate person to carry out in relation to the scheme the functions under this Schedule of a scheme technical adviser.
- (2) A licensing authority shall, before appointing a person to carry out in relation to an inter-track betting scheme the functions under this Schedule of a scheme technical adviser, consult with the person appointed by them to carry out in relation to the scheme the functions under this Schedule of a scheme accountant.
- (3) A person appointed under sub-paragraph (1) of this paragraph shall hold office on such terms (including terms as to remuneration) as may be determined by the appointing authority after consultation with the relevant licensee.
- (4) The remuneration of a person appointed under sub-paragraph (1) of this paragraph shall be payable by the appointing authority, but they may recover any sum which they pay by way of such remuneration as a debt due to them from the relevant licensee.
- (5) In sub-paragraph (1) of this paragraph, “appropriate” means—
- (a) independent of the relevant licensee; and
  - (b) appearing to the appointing authority to have suitable knowledge and experience.
- (6) In this paragraph—
- (a) “remuneration” includes expenses; and
  - (b) references to the relevant licensee, in relation to an appointment under sub-paragraph (1) of this paragraph, are to the person who holds the licence under this Schedule in respect of the scheme for which the appointment is made.
- 9 (1) A scheme accountant for an inter-track betting scheme shall be responsible for scrutinising the operation of the scheme and, in particular, shall—
- (a) examine all information supplied to him under the scheme or this Schedule; and
  - (b) carry out or cause to be carried out such inspections as he considers necessary, for the purpose of ascertaining whether the terms of the scheme are being complied with.
- (2) Where a scheme accountant for an inter-track betting scheme —
- (a) has reason to believe that the terms of the scheme are not being complied with; or

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- (b) becomes aware of any information which is relevant to the functions of the licensing authority,  
he shall report the matter to the licensing authority forthwith.
- (3) A scheme accountant for an inter-track betting scheme shall make a report to the relevant licensing authority—
- (a) as soon as reasonably practicable after each anniversary of the grant of a licence under this Schedule in respect of the scheme; and
- (b) as soon as reasonably practicable after receiving notice under paragraph 2(3)(b) of this Schedule.
- (4) A report under sub-paragraph (3)(a) of this paragraph shall cover the period since the grant of the licence or, as the case may be, since the end of the period covered by the previous report under that provision relating to the scheme.
- (5) A report under sub-paragraph (3)(b) of this paragraph shall cover the period since the end of the period covered by last report under sub-paragraph (3)(a) of this paragraph relating to the scheme.
- (6) A report under sub-paragraph (3) of this paragraph shall —
- (a) state whether the person making the report—
- (i) has reason to believe that the terms of the scheme have not been complied with during the period covered by the report; or
- (ii) has become aware during that period of any information which is relevant to the functions of the licensing authority;
- and
- (b) if, in either case, he has, give particulars.
- (7) A scheme accountant for an inter-track betting scheme shall, at any time when there is a scheme technical adviser for the scheme, carry out his functions under sub-paragraphs (1)(b) and (3) of this paragraph in consultation with that person.
- (8) A scheme accountant for an inter-track betting scheme and a scheme technical adviser for such a scheme shall give to the relevant licensing authority such information and advice in connection with the authority's functions under this Schedule as the authority may reasonably require.
- (9) In this paragraph, “relevant licensing authority”, in relation to a scheme accountant or scheme technical adviser, means the licensing authority by whom he is appointed.

*Notification of change in licensee's directors*

- 10 If, where the holder of a scheme licence is a body corporate, any change occurs in—
- (a) the persons who are its directors; or
- (b) the persons in accordance with whose directions or instructions its directors are accustomed to act,
- it shall, as soon as reasonably practicable after the occurrence of the change, give particulars in writing of the change to the licensing authority by whom the licence was granted, the appropriate chief officer of police and the person appointed to carry out in relation to the scheme the functions under this Schedule of a scheme accountant.

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### *Revocation*

- 11 (1) The licensing authority by whom a scheme licence was granted shall revoke it if they are satisfied—
- (a) that the licensee is not a fit and proper person to operate an inter-track betting scheme; or
  - (b) that the licensee is not likely to be capable of, and diligent in, securing that the terms of the scheme to which the licence relates are observed,
- or if the scheme to which the licence relates does not have its centre of operation in the authority's area.
- (2) The licensing authority by whom a scheme licence was granted may revoke it if it appears to them—
- (a) that any information given to them by the licensee in, or in connection with—
    - (i) the application for the licence; or
    - (ii) where the application was a renewal application, any previous relevant application,
 was false in a material particular;
  - (b) having regard to the operation of the scheme to which the licence relates, that it does not afford to persons making bets under it such protection as is mentioned in paragraph 4(1)(d) of this Schedule;
  - (c) that any provision of the scheme to which the licence relates with respect to the rights of a person who has, in relation to the scheme, the functions under this Schedule of a scheme accountant or scheme technical adviser has not been complied with; or
  - (d) that there has been any failure on the part of the licensee to comply with the obligation imposed by paragraph 10 of this Schedule;
- or if any fee which is payable to them under paragraph 18(2) of this Schedule in respect of the licence has not been duly paid.
- (3) A licensing authority shall, before revoking a scheme licence under this paragraph, given the licensee an opportunity to be heard.
- (4) At any hearing for the purposes of sub-paragraph (3) of this paragraph, the licensee shall be entitled to be heard either in person or by a representative.
- (5) In sub-paragraph (2)(a)(ii) of this paragraph, the reference to any relevant previous application is to any previous application for the grant of a scheme licence made—
- (a) by the same person;
  - (b) to the same licensing authority; and
  - (c) in respect of the same scheme,
- as the renewal application.
- 12 If a licensing authority revoke a scheme licence, they shall notify the revocation and the reason for it in writing to—
- (a) the licensee; and
  - (b) the appropriate chief officer of police.

### *Cancellation*

- 13 (1) The licensing authority by whom a scheme licence was granted shall cancel it if requested to do so by the licensee.

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- (2) If the licensing authority by whom a scheme licence was granted cancel the licence, they shall notify the cancellation in writing to the appropriate chief officer of police.

### *Appeals*

- 14 (1) Where a licensing authority in England and Wales—
  - (a) refuse an application for a scheme licence; or
  - (b) revoke a scheme licence,the applicant or, as the case may be, the licensee may appeal against the decision to the Crown Court.
  - (2) An appeal under this paragraph shall be commenced by giving notice to—
    - (a) the appropriate officer of the Crown Court; and
    - (b) the licensing authority whose decision it is desired to appeal against,within twenty-one days of the applicant or, as the case may be, the licensee being notified by that authority of their decision.
- 15 (1) Where a licensing authority in Scotland—
  - (a) refuse an application for a scheme licence; or
  - (b) revoke a scheme licence,the applicant or, as the case may be, the licensee may appeal against the decision to the sheriff having jurisdiction in the relevant area.
  - (2) An appeal under this paragraph shall be made within such time, and in accordance with such rules, as may be prescribed by the Court of Session by act of sederunt.
  - (3) On an appeal under this paragraph, the decision of the sheriff shall be final and may include such order as to the expenses of the appeal as he thinks proper.
  - (4) In sub-paragraph (1) of this paragraph, the reference to the relevant area is to the area in which the scheme's centre of operation is proposed to be or, as the case may be, is situated.
- 16 (1) Where a licensing authority revoke a scheme licence, the revocation shall not have effect until the end of the time within which notice of appeal may be given and, if such notice is given, until the determination or abandonment of the appeal.
  - (2) If, on an appeal against the decision of a licensing authority to revoke a scheme licence, the Crown Court or, as the case may be, the sheriff confirms the decision of the licensing authority, the court or the sheriff may, if it or he thinks fit, order that the revocation shall be postponed until the end of a further period not exceeding two months from the date of the order.
- 17 (1) Where a licensing authority refuse a renewal application, the existing licence shall not expire until the end of the time within which notice of appeal may be given and, if such notice is given, until the determination or abandonment of the appeal.
  - (2) If, on an appeal against the decision of a licensing authority to refuse a renewal application, the Crown Court or, as the case may be, the sheriff confirms the decision of the licensing authority, the court or the sheriff may, if it or he thinks fit, order that the expiry of the existing licence shall be postponed for a period not exceeding two months from the date of the order.

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### *Fees*

- 18 (1) A person who applies for a scheme licence shall pay to the licensing authority to whom the application is made such reasonable fee as the authority may determine.
- (2) The holder of a scheme licence shall—
- (a) on each anniversary of the grant of the licence; and
  - (b) where the licence terminates otherwise than on the anniversary of its grant, on its termination,
- pay to the licensing authority by whom it was granted such reasonable fee as the authority may determine.

### *Interpretation*

- 19 In this Schedule—
- “appropriate chief officer of police” means—
- (i) in relation to an application for a scheme licence, the chief officer of police for the police area in which the scheme’s proposed centre of operation is situated; and
  - (ii) in relation to a scheme licence, the chief officer of police for the police area in which the scheme’s centre of operation was, at the time of the application for the licence, proposed to be situated;
- “renewal application” means an application which is made —
- (a) by a person who holds a licence under this Schedule in respect of an inter-track betting scheme which is the same as that to which the application relates; and
  - (b) to the licensing authority by whom the licence was granted;



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