

# **HORSERACE BETTING AND OLYMPIC LOTTERY ACT 2004**

---

## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### **Part One: Sale of the Tote**

##### ***Section 9: Section 8: Supplemental***

40. Subsection (1) sets out the matters the Secretary of State must consider in making a request for the issue or revocation of an exclusive licence. These embody the government's key aims for the legislation relating to the exclusive licence and certificates of approval, namely protecting the interests of those who bet on horse races, and of the sport of horseracing, as well as the objectives of preventing crime and disorder, ensuring that betting is fair and open and protecting children and the vulnerable.
41. Under subsection (2) while the exclusive licence has effect, the restrictions on pool betting on and off track in the 1963 Act (currently in section 4 and 4A and subsequently as substituted by section 10) will not apply in relation to anything done by the successor company in pursuance of the exclusive licence and anything done by any person authorised by the company under that licence.
42. Subsection (3) provides that while the exclusive licence has effect the successor company and anyone authorised by it will be able to apply for a betting office licence, under section 9(2) of the 1963 Act, in respect of the activities covered by the exclusive licence. The subsection goes on to make clear that a betting office licence held by another operator will not override the protection given by the exclusive licence in section 8 to the successor company and authorised persons. The effect of paragraph (c) of section 9(3) is that in the case of the successor company and authorised persons the disapplication of section 1(1) of the 1963 Act (restriction on use of premises for betting) which results from holding a betting office licence will only extend to the activities covered by the exclusive licence.
43. Subsection (4) ensures that during the period of the exclusive licence the successor company and persons authorised by it are not, by virtue of the exclusive licence alone, to be treated as bookmakers. This reflects the present operation of the 1963 Act in relation to the Tote.
44. Subsection (5) provides that any person who, without the authority of the successor company, purports to do anything which that company would be able to do under the exclusive licence is to be treated as having committed an offence under new sections 4 to 4A.
45. Subsection (6) provides the successor company with a statutory right, subject to the procedural rules specified in subsection (7), to enforce in the civil courts an infringement of its licence. This right is similar to that provided in section 14(2) of the 1963 Act.