

HORSERACE BETTING AND OLYMPIC LOTTERY ACT 2004

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 3: National Lottery: Olympic Lotteries

Section 34: Consequential amendments

99. This section makes provision for a number of amendments to the National Lottery etc Act 1993. In particular:
- Subsection (2)(a) provides that the overriding duties of the Secretary of State and the National Lottery Commission as set out in Section 4 of the 1993 Act - to exercise their functions under Part 1 of that Act in such a way as to ensure that the National Lottery is run and promoted with propriety, that the interests of participants are protected, and that the proceeds of the National Lottery are as great as possible - will also apply to the exercise of their functions under Part 3 (this part) of this Act;
 - Under subsection (2)(b), the “net proceeds of the National Lottery,” which under the 1993 Act referred to monies paid into the National Lottery Distribution Fund, will also include monies paid into the Olympic Lottery Distribution Fund;
 - The changes proposed under subsections (3) and (4) of this section are designed to advance administrative efficiency in the way that proceeds are allocated to the NLDF and accord with operational practice. At present, under section 5(6) of the 1993 Act, payments made by the licensee from Lottery proceeds are made to the Secretary of State who in turn is under a duty contained in section 21(2) of the 1993 Act to pay those sums to the NLDF. The provision in subsection (3), amends section 5(6) of the 1993 Act to require payments in respect of Lottery proceeds instead to be made by the section 5 licence holder directly into the NLDF. The provision in subsection (4) is consequential on this, and is intended to ensure that the current section 5 licence is construed in a way that is consistent with section 5(6) as amended. As this section provides for the payment to be made by the section 5 licence holder to the NLDF, subsection (5) provides in consequence for any sum due to be paid to the NLDF to be recoverable as a debt by the Secretary of State. Subsection (5)(b) provides for the licence holder’s liability to subsist beyond the lifetime of their licence;
 - Subsection (6) provides for any penalty levied on the operator for breach of a licence condition to be recoverable as a debt and for the penalty to be payable partly to the NLDF and the OLDF. The apportionment of the financial penalty payable to the Funds will be determined by the National Lottery Commission by reference to the nature of the breach of licence condition in accordance with section 10A of the 1993 Act;
 - Under section 11 of the 1993 Act, the Secretary of State is able to give directions to the National Lottery Commission about the exercise of its functions under Part

These notes refer to the Horserace Betting and Olympic Lottery Act 2004 (c.25) which received Royal Assent on 28 October 2004

1 of that Act (authorisation and regulation of the National Lottery). Subsection (7) of this section provides the Secretary of State with the ability to also exercise her powers under section 11 of the 1993 Act in relation to Part 3 of this Act (National Lottery: Olympic lotteries);

- Under subsection (8), section 21(2) of the 1993 Act, which provides for the Secretary of State to pay into the National Lottery Distribution Fund all the sums paid to her from the National Lottery proceeds under Section 5(6) of that Act, shall cease to have effect. This amendment is consequential on the changes made to section 5(6) of the 1993 Act provided for in section 34(3) of this Act;
- Subsection (9)(c) extends section 22(4) of the 1993 Act to allow for payments to be made from the National Lottery Distribution Fund to the Olympic Lottery Distribution Fund, as provided for under section 25 of this Act. Subsection (9)(a) provides for some further amendments to section 22(1) of the 1993 Act to reflect the fact that section 21(2) of that Act ceases to have effect (see explanatory notes above in relation to subsection 8). Subsection (9)(b) removes the power in section 22(3) (e) of the 1993 Act to make lottery payments in respect of millennium projects as this power is now redundant;
- Section 30 of the 1993 Act provides for the procedure to be followed in winding up the 'millennium fund.' As new funds are no longer being channelled to the 'millennium fund' section 30 of the 1993 is now redundant so subsection (10) provides that that section shall now cease to have effect; and
- Under subsection (11), the Secretary of State and the National Debt Commission must prepare accounts for the Olympic Lottery Distribution Fund as required for the National Lottery Distribution Fund under Section 33 of the 1993 Act.