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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006 ([S.I. 2006/3272](#)) (“the Principal Commencement Order”).

Article 2 inserts a definition of the expression “the 2004 Act” which is defined to mean the Horserace Betting and Olympic Lottery Act 2004. It also inserts a definition of “the successor company” which is defined to mean the company nominated for the purposes of section 2 of the Horserace Betting and Olympic Lottery Act 2004 by the Secretary of State in accordance with subsection (2) (a) of that section. Both definitions are required for the purposes of articles 7 and 8 of the Principal Commencement Order which are inserted by article 5 of this Order.

Article 3 substitutes new provisions for article 2(4) of the Principal Commencement Order. Article 2 of the Principal Commencement Order provides for the commencement of provisions of the Gambling Act 2005 (“the 2005 Act”). Paragraph (4) of that article provides for the 2005 Act generally to come into force (save as provided by article 3 to 5 of that Order) for all remaining purposes on 1 September 2007. Three provisions are specified in paragraph (4) as not coming into force on 1 September 2007. These are sections 89(2) and (3), section 245 and paragraph 17 of Schedule 16. Article 2 of this Order, together with article 6 and the Schedule to the Order, have the effect of adding to the provisions which are excluded from coming into force on 1st September 2007. The relevant provisions are:

- sections 7(5) to (7),
- sections 159 to 165, in so far as they relate to the new categories of casino established by the 2005 Act,
- section 175 and Schedule 9,
- section 204, in so far as it relates to the new categories of casino established by the 2005 Act, and
- sections 214 to 234.

The provisions specified in the first four items of the list all relate to the new categories of casino established by the 2005 Act. Sections 214 to 234 make provision for the giving of temporary use notices under the 2005 Act.

Article 4 amends article 3 of the Principal Commencement Order which provides for the Betting, Gaming and Lotteries Act 1963 (“the 1963 Act”) to continue to have effect for certain limited purposes on and after 1st September 2007, despite that Act’s repeal by the 2005 Act. Article 3(2) of the Principal Commencement Order provides for specified sections of the 1963 Act relating to the Horserace Totalisator Board and the Horserace Betting Levy to continue in force on and after 1st September 2007. Article 3 of this Order amends article 3(2) to remove the references to sections 12, 14, 15 and 24 to 30 of the 1963 Act. This is consequential on provisions to be made by the Gambling Act 2005 (Horserace Totalisator Board) Order 2007 and the Gambling Act 2005 (Horserace Betting Levy) Order 2007. The effect of those statutory instruments will be, amongst other things, to save the relevant sections of the 1963 Act with modifications.

Article 5 inserts two new provisions, articles 7 and 8, into the Principal Commencement Order:

- Article 7 provides for section 8 of the Horserace Betting and Olympic Lottery Act 2004 (“2004 Act”) to have effect subject to the modifications specified in that article. Section 8 provides for the issuing of a licence to the successor company established under that Act conferring on

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

that company exclusive rights with respect to pool betting on horse racing. The modifications make provision about the relationship between the exclusive licence and any operating licence issued to the successor company. They also confer power on the Secretary of State to direct the Gambling Commission to revoke the exclusive licence where the successor company's operating licence ceases to have effect.

- Article 8 of the Principal Commencement Order modifies various provisions of the 2005 Act:
  - Paragraphs (1)(a) and (2) modify section 33 (which makes it an offence to provide facilities for gambling without the appropriate authorisation under the 2005 Act) so that a person who acts in contravention of section 8(5)(b) of the 2004 Act commits an offence under section 33 irrespective of whether or not he would otherwise have done so. This reflects section 9(5) of the 2004 Act which makes similar provision in relation to the 1963 Act which is repealed by the 2005 Act.
  - Paragraphs (1)(b) and (3) modify Part 8 of the 2005 Act to provide that premises licences issued under that Part do not authorise premises to be used for doing anything prohibited by section 8(5)(b) of the 2004 Act. This reflects section 9(3)(b) which makes similar provision in relation to betting office licences issued under the 1963 Act.
  - Paragraphs (4) to (9) modify Part 5 of the 2005 Act (which relates to operating licences under that Act) in so far as that Part applies to the successor company established under Part 1 of the 2004 Act. The relevant provisions require the Gambling Commission, if it issues the exclusive licence to the successor company under section 8 of the 2004 Act, to issue the successor company with both a remote and non-remote pool betting operating licence which authorises the activities which the exclusive licence grants the successor company the right to perform. Any such operating licence must provide for section 94 of the 2005 Act to apply to it. Where the successor company already holds an operating licence when the existing licence is issued, the Gambling Commission must, if necessary, vary that licence so that it authorises the activities which the exclusive licence grants the successor company the right to perform and it provides for section 94 of the 2005 Act to apply to it.

Article 7 amends paragraph 7 of Schedule 4 to the Principal Commencement Order which makes provision about the issuing of certificates under section 19 of the Gaming Act 1968 ("section 19 certificate"). Section 19 prohibits persons from carrying out specified functions in or in relation to casinos or bingo halls without the appropriate section 19 certificate. Paragraph 7 of Schedule 4 prevents an application for a section 19 certificate from being granted where the application is made on or after 1st June 2007. Article 7 of this Order amends paragraph 7 to disapply this prohibition where the application for the section 19 certificate is made by a person who already holds such a certificate, and the new certificate would authorise the performance of functions to which section 19(1) of the Gaming Act 1968 ("the 1968 Act") applies, and would apply to different premises from those to which the existing certificate applies.

The amendment made by article 10 is linked to that made by article 7. Article 10 amends paragraph 45 of Schedule 4 to the Principal Commencement Order which makes provision for section 19 certificates to continue in force on and after 1st September 2007. Article 10 amends paragraph 45 to extend the scope of a section 19 certificate where the holder is applying for a new certificate which would authorise the performance of functions to which section 19(1) applies, and which would apply to different premises from those to which the existing certificate applies. Further amendments are made by article 10 to paragraph 45 which include minor corrections to sub-paragraph (6)(b).

Article 8 amends paragraph 17 of Schedule 4 to the Principal Commencement Order which makes provision for certificates and permits under section 27 of the 1968 Act to continue in force on and after 1st September 2007. Section 27 makes it unlawful to sell, supply or maintain machines to which Part 3 of the 1968 Act applies without a certificate or permit under that section. By virtue of paragraph 17 of Schedule 4 to the Principal Commencement Order, a certificate under section 27,

which has effect on and after 1st September 2007, does so subject to any relevant operating licence conditions as defined in paragraph 17(6). Article 8 of this Order amends paragraph 17(6) to extend the definition of relevant operating licence conditions to that it includes:

- any conditions for the time being imposed on gaming machine technical operating licences by regulations made by the Secretary of State under section 78 of the 2005 Act; and
- the condition specified in section 82(1) of the 2005 Act (which relates to compliance with relevant social responsibility codes).

Article 9 amends paragraphs 37(2) and 38(2) of Schedule 4 to the Principal Commencement Order. Paragraphs 37 and 38 are concerned respectively with club gaming and machine permits and licensed premises gaming machine permits. They make provision, amongst other things, as to the period within which the first annual fee is to be paid in the case of a permit which is issued before 1st September 2007. In each case, the relevant provision requires the fee to be paid within the “relevant period” after 1st September 2007. “Relevant period” is defined to mean a period equal in length to the period prescribed, as the case may be, for the purposes of paragraph 14(1)(a) of Schedule 12 or paragraph 9(1)(a) of Schedule 13, as that provision has effect in relation to permits issued on or after 1st September 2007. Article 9 amends this definition so that the reference to permits issued on or after 1st September 2007 refers instead to permits which are both issued on or after 1st September 2007 and which have effect on the date of issue. This amendment reflects the fact that the relevant regulations made under paragraph 14(1)(a) of Schedule 12 and paragraph 9(1)(a) of Schedule 13 provide for different periods in those cases where the licence has effect on issue and those where it has effect on a date after issue.

Article 11 amends provisions of Part 7 of Schedule 4 to the Principal Commencement Order which makes transitional provision relating to the conversion of licences etc. issued under enactments to be repealed by the 2005 Act into premises licences under that Act. Paragraph (2) of article 11 amends paragraph 54 of Schedule 4 to the Principal Commencement Order. Paragraph 54(4) requires the licensing authority to which a conversion application is made to grant the application. Article 11 inserts a new sub-paragraph (5A) which disapplies this requirement in a case where the person applying for the premises licence is also applying for a relevant operating licence and the application for a relevant operating licence is rejected. The amendment made by paragraph (5) of article 11 to paragraph 62(8) is linked to the amendment to paragraph 54. Paragraph 62 of Schedule 4 to the Principal Commencement Order provides for a licence or other permission under the 1963 or 1968 Act held by a person making a conversion application to continue to have effect on and after 1 September 2007 where the conversion application has not been determined by that date. The amendment made by paragraph (5) of article 11 ensures that such a licence or permit ceases to have effect where the application for a relevant operating licence made by the person holding that permission is rejected. The words omitted from paragraph 62(8) have been rendered redundant by an amendment made to the Principal Commencement Order by the Gambling Act 2005 (Commencement and Transitional Provisions) (Amendment) Order 2007 ([S.I. 2007/1157](#)).

Paragraph (3) of article 11 amends paragraph 55(4) of the Principal Commencement Order to correct a reference to a date. The date is intended to be the same as that referred to in paragraph 62(1)(a), namely 31st July 2007. Paragraph (4) of article 11 makes transitional provision in connection with the amendment made by paragraph (3).