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STATUTORY INSTRUMENTS

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**2007 No. 2169**

**The Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) (Amendment) (No. 2) Order 2007**

**Amendment of the Principal Commencement Order: provisions relating to the successor company established under Part 1 of Horserace Betting and Olympic Lottery Act 2004**

5. The Principal Commencement Order is amended by inserting the following articles after article 6—

**“Modification of Part 1 of the Horserace Betting and Olympic Lottery Act 2004**

7.—(1) Section 8 of the 2004 Act (exclusive licence for the right to carry on horse-race pool betting) shall have effect subject to the following modifications.

(2) A term or condition of the exclusive licence under that section shall be of no effect to the extent that it is inconsistent with a term or condition of an operating licence issued to the successor company.

(3) A term or condition of an authorisation given to a person under subsection (5)(a) of that section shall be of no effect to the extent that it is inconsistent with a term or condition of any authorisation given by the successor company to that person under section 94 of the 2005 Act.

(4) Subsection (7)(b) of that section shall have effect as if it also provided for the Secretary of State to have power to direct the Gambling Commission to make an order revoking the exclusive licence under that section if any operating licence issued to the successor company ceases to have effect.

**Modification of the Gambling Act 2005 to reflect provisions of Part 1 of the Horserace Betting and Olympic Lottery Act 2004**

8.—(1) In respect of any time when the exclusive licence issued to the successor company under section 8 of the 2004 Act has effect—

(a) section 33 of the 2005 Act (which makes it an offence to provide facilities for gambling without the appropriate authorisation under that Act) shall have effect subject to the modification in paragraph (2); and

(b) Part 8 of the 2005 Act shall have effect subject to the modification in paragraph (3).

(2) A person who acts in contravention of section 8(5)(b) of the 2004 Act shall be treated as having committed an offence under section 33 of the 2005 Act irrespective of whether or not he would otherwise have committed the offence.

(3) A premises licence issued under that Part shall not authorise the use of premises for doing anything prohibited by section 8(5)(b) of the 2004 Act.

(4) Part 5 of the 2005 Act (which makes provision with respect to operating licences under that Act) shall have effect in relation to the successor company subject to the modifications in the following provisions of this paragraph.

(5) If the Gambling Commission issues the exclusive licence to the successor company under section 8 of the 2004 Act, the Commission must (if it has not already done so) issue a remote and a non-remote pool betting operating licence to the successor company which will have the effect of authorising the activities which the exclusive licence grants the successor company the right to perform.

(6) An operating licence issued in accordance with paragraph (5) must provide for section 94 of the 2005 Act to apply to the licence.

(7) Paragraph (5) applies whether or not the successor company is applying under section 69 of the 2005 Act for a remote or a non-remote pool betting operating licence when the exclusive licence is issued.

(8) If the successor company holds a remote or a non-remote operating licence when the exclusive licence is issued, the Gambling Commission must (if necessary) vary the licence so that it will—

- (a) have the effect of authorising the activities referred to in paragraph (5), and
- (b) provide for section 94 of the 2005 Act to apply to the licence.

(9) Subsection (6) of section 104 of the 2005 Act applies to the variation of the operating licence under paragraph (8) as it applies to the variation of an operating licence on an application being made under that section.”.