

Consultation on the Horse Racing (Charges on Bookmakers) Order 2016 Outcome and Departmental Response

The Department of Agriculture and Rural Development

March 2016

Contents

- 1. Introduction.**
- 2. List of consultation respondents.**
- 3. Summary of responses by question and Departmental response**
 - 3.1 Charges for On-course Bookmakers
 - 3.2 Charges for Off-course Bookmakers.
- 4. Impact of the proposals.**
 - 4.1 Regulatory Impact.
 - 4.2 Equality Impact and Human Rights.
- 5. Conclusion**
- 6. Abbreviations used.**

1. Introduction.

The Department of Agriculture and Rural Development (DARD) undertook consultation between 2 July 2015 and 2 October 2015 on a review of the charges paid by bookmakers into the Horse Racing Fund which is administered by DARD. The consultation set out the following options:

- **On-course bookmakers charge**
- **Off-course bookmakers charge – 3 options**
- **Relating to Option 2 only:**
 - Rate to revert to after 5 years;**
 - A separate ring-fenced development amount.**

Notification of the consultation was sent to more than 400 individuals and organisations. The consultation was published on the DARD website together with a Regulatory Impact Assessment and Equality Impact Assessment Screening document.

A total of 57 written responses to the consultation document were received, as well as two petitions requesting that DARD 'urgently reviews the Horse Racing (NI) Order and sets a fair and reasonable level of funding to safeguard the future of racing in Northern Ireland'. The responses cover a number of sectoral interests including the bookmaking industry, the racing/equine industry, the tourism industry and businesses that provide goods and services to the racecourses.

A list of organisations or sectors that responded is included below. We are grateful to all those who took the time and effort to respond.

This document presents an analysis of the responses to the consultation questions, with a summary of the responses on each issue followed by a sectoral breakdown, where this is possible, into the responses of various groups and organisations. The Department's response follows the analysis. The overall conclusion to the outcome of the consultation is presented in section 5.

In line with the policy of openness, respondents were informed that their views may be made publicly available and may be used in a summary of responses. Those wishing their comments to be treated confidentially were asked to make this clear.

This summary seeks to reflect the general views offered but, inevitably, it is not possible to describe all the responses in detail. Not all respondents answered every question. This is reflected in the analysis. A glossary of acronyms and abbreviations used in this paper is contained in section 6.

Hard copies of responses and this summary can be requested from:

Farm Policy Branch
Room 919
Dundonald House
Belfast BT4 3SB

Telephone: 028 9052 5459 or by email: farmpolicybranch@dardni.gov.uk

2. List of consultation respondents.

Responses were received from:

1. Realta Horse Racing Group
2. Harry Corry SP
3. Equine Council NI - Thorough bred Industry
4. Northern Ireland Hotels Federation
5. Northern Ireland On-Course Bookmakers Association
6. Margaret Ritchie, MP
7. The Merchant Hotel
8. Fergusons Racing Stables
9. SRB Crawford
10. David McCorkell
11. Colin McBratney
12. The Fitzwilliam Hotel
13. Irish Stablestaff Association
14. Propamedics Ltd
15. Lisburn & Castlereagh City Council
16. Press Eye
17. Goffs
18. Youth Action Northern Ireland
19. Kildangan Stud
20. Horse Racing Ireland
21. The Turf Club / Irish National Hunt Steeplechase Committee
22. Brian Graham
23. The Law Society of Northern Ireland
24. At The Races
25. Irish Racehorse Trainers Association
26. 4 Corners
27. Dr Welby Henry
28. Rowan Equestrian
29. Posh Nosh Catering Company
30. Department of Culture, Arts and Leisure
31. Complete Building Solutions
32. Hamilton and Kirk Catering
33. Racehorse to Riding Horse Ireland
34. Lee Mooney
35. Irish Racecourse Veterinary Association
36. North-East Ireland HRI Racegoers Consultative Forum
37. William Hill Bookmakers
38. Simon Graham
39. Visit Belfast
40. Beech Hill Country House B&B
41. Pamela Ballantine
42. Tanvally Stud

43. Sean Graham
44. Northern Ireland Horse Racing Group
45. LK Communications
46. Old Mill Saddlery Ltd
47. Hastings Hotels
48. Ardmore Advertising
49. Off course and on course Bookmaker
50. Paddy Power
51. Northern Ireland Turf Guardians' Association
52. Sawey's SP Bookmakers
53. Ladbrokes (Northern Ireland) Limited
54. A. McLean Bookmakers
55. J. Rainey Bookmaker Ltd
56. Online Petition from Down Royal Racecourse
57. Petition from Down Royal and Downpatrick Racecourses
58. Newry, Mourne and Down District Council
59. Inter Trade Ireland

3. Summary of responses by question and Departmental response

3.1 On-Course Bookmakers Charge.

Do you agree that the rate for on-course bookmakers should be changed from £99 to £50?

Summary of Comments:

A total of 24 respondents replied to this, 9 were generally in favour of setting the charge at £50, 12 thought it should remain at £99 with 1 response from the NI Horse Racing Group requesting the rate be increased to £150. The NI On-Course Bookmakers Association (NIOCBA) requested a rate of £1 and one response from a bookmaker thought the rate for on-course bookmakers should be a nominal rate.

On-course bookmakers referred to the increasing costs of on-course bookmakers and pointed out that the on-course bookmakers' data is used to correlate the SP for each race which is being used worldwide to settle bets at SP odds. They emphasised the need for a credible and robust betting ring at racecourses to provide betting shows as opposed to encouraging the Tote, which did not contribute directly to the courses, at their expense.

NIOCBA additionally stated that the costs of equipment, on-going maintenance costs, licence renewal and rents to the racecourses are a disincentive to new entrants.

Several off-course bookmakers as well as the NI Turf Guardians Association whilst supporting the £50 charge, expressed the opinion that if DARD is recommending the on-course charges should be reduced because the on-course bookmakers are effectively paying twice by having to pay fees to the racecourses for pitches, then the same principle of a reduction should be applied to the off-course charge as they pay twice by having to pay for media rights.

The NI Horse Racing Group pointed out that the fee for on-course bookmakers at Down Royal in 2015 is £700 and not £800 with no increase scheduled for 2016.

Horse Racing Ireland (HRI) believe that a reduction is at variance with the position in the south where in addition to the cost of the State licence on-course bookmakers pay five times the admission fee for every day they attend and 0.5% of turnover is paid to HRI as well.

Departmental Response:

There were 119 on-course charges paid in 2015 raising a total of £11,781 for the Horse Racing Fund (HRF) which was just over 3% of the total paid into the HRF. There is little difference in the number of responses in favour of a reduction at 11 and the 13 in favour of keeping the same rate or an increase.

3.2 Off-Course Bookmakers Charge.

For the off-course bookmakers rate, which option do you feel is appropriate?

Option 1 - £1,450

Option 2 - £2,350 (including £900 for development)

Option 3 - £4,374

Other

Consultees were also asked for views on what the rate should revert to after five years and whether a portion of the fund should be ring-fenced for development.

Summary of Comments:

A total of 49 respondents replied to this question. None of the respondents supported the DARD recommendation of £2,350. There were 8 responses from bookmakers who stated that the rate should be £1,450 with 2 who felt it should remain at £1,123. There were 36 responses in favour of the £4,374 rate whilst 1 response stated that the rate should be based on turnover, 1 requested no reduction and 1 requested at least £2,000.

Bookmakers

Responses from the bookmaking industry showed that they were generally content to contribute to the fund at the £1,450 rate with some responses indicating that they would struggle if Option 2 or Option 3 was adopted. Concerns were raised that the HRF should only be covering essential services and that there should be no unjust enrichment and that it should not be used to increase already competitive prize money levels. Some respondents believe that the Option 3 rate would constitute unjust enrichment and would be illegal state aid under EU rules. They saw horse racing as an important, if diminishing, betting product through which betting and horseracing are inextricably linked. They pointed to the payment of media rights as being the main basis for a commercial relationship with the racing industry.

Bookmakers also referred to the issue of internet bookmakers, betting exchanges and Tote Ireland who benefit from the racing product here but do not contribute to the HRF. There was concern that there was no plan to gain contributions from online or betting exchange operators.

Whilst some bookmakers accepted that the HRF should be used for some capital development, others felt that capital development should now be pursued by use of a commercial loan. Reference was made to historic increases in the charges being at the rate of inflation except on two previous occasions including the most recent £2,000 charge for off-course bookmakers set by the 2010 Order, which they saw as a temporary arrangement in exceptional circumstances to address a lack of investment by the racecourses including deficiencies with infrastructure identified by the Turf Club and health and safety experts.

NITGA refer to their review of some 61 shops as showing that there would be no mutual benefit to the bookmakers even if paying a charge of £1,450. They are also concerned that other means of income for the racecourses have not been fully

considered namely media rights, HRI grants, racecourse profits and commercial loans. NITGA state that it is not the responsibility of bookmakers to ensure the financial viability of the two racecourses. Furthermore NITGA have stated that no evidence has been presented to show that the racecourses viability is under threat and that accounts for the past five years show no threat to their viability.

NITGA refer to development that has taken place over the last number of years at both racecourses and believe that the business model adopted by the NIHRG is to increase prize money to increase the number of feature races but that there is no indication that this will increase income. They point to the fact that the facilities and the quality of racing at both courses are top class and believe that the racecourses should develop their business models to identify and deliver other commercial uses for their facilities.

Breeders and Trainers

The Breeding and Training sector responses refer to excellent facilities at the two local racecourses and the provision of safe racing despite a lack of support. They fear that inadequate funding would result in the loss of one or both racecourses and a reduction in prize money or the quality or extent of the racing programmes which would have negative impacts on the rural economy. Concerns are raised that owners may seek to move their horses to the south to be trained in such a scenario. The requirement for safe and well maintained facilities requires a dependable funding stream. They point to the amount of money that they spend locally for feed, bedding, farriers, veterinary services and equipment as well as those that they employ directly.

Others

Others in the equine sector refer to the wider rural benefits. The Equine Council for NI (ECNI) refer to a direct correlation between the successful running of racecourses and the production of thoroughbred horses. ECNI refer to the 165 Northern Ireland bred horses that won races in 2014/15 accumulating some £3 million in prize and place money.

There are a number of responses from the tourism sector including the NI Hotels Federation who point out that the level and standard of racing on offer brings in competitors, owners and fans from out of State and promotes Northern Ireland in a positive way and position it as an attractive holiday destination. They refer to the positive effect that events particularly of a sporting nature have on tourism success.

HRI, the governing body for racing on an all-Ireland basis, refer to the positive funding structure in the south that has allowed the Irish Government to build a significant global industry which is the source of much inward investment and that the same is possible here. They believe that the betting industry in the north is under burdened as evidenced by significant premiums paid for betting shops that have come on the open market in recent years. HRI point out that the gambling sector has always resisted the introduction of proper funding structures for racing and that the sector has continued to thrive and develop. HRI also refer to the many calls on their resources and, whilst willing to help DARD to develop the sector in the north, that can only be done on the basis that a long term funding base is provided for the industry.

Most responses in favour of Option 3 point to the higher levels of support in the south. A number of businesses who have working relationships with the racecourses have responded in support of Option 3 pointing out the good work of the racecourses and also refer to the worry that a loss of funding could result in a reduction in the extent of racing which would have a negative effect on the rural economy.

Racecourses

NIHRG represents the two racecourses. They have set out their requirements for funding over the next five years taking account of income and costs, and plans for development, including works eligible under the 1990 Order (Table 1 below) and other works necessary under their business model that would not be eligible under the 1990 Order. They believe that charges and conditions as presented under Options 1 and 2 would result in closure of the racecourses as they would become financially unviable.

NIHRG point out that they had believed the £2,000 charge set in the 2010 Order would be the base level and would not be reverting to the 2007 level at £1,123. They refer to the difficult and challenging economic environment during the 2010-2014 period when sponsorship was tough and consumer confidence low. They maintain that attendance fluctuation at both courses was typical of most courses during the same period.

NIHRG have forwarded a letter from HRI stating that there is only a remote possibility of capital grant being available to the two racecourses in the north and that proposals from both Downpatrick and Down Royal racecourses may be prioritised last.

NIHRG point to DARD assessing needs based on historical spend rather than future needs. They point to increases in the costs of race day security and technical costs including health and safety, ambulance costs, CCTV and TV costs increasing by 100% since 2007. They also point to cost of preparation of the track having increased by more than indexation. They also expect income to be affected by the Euro exchange rate in particular for media rights.

Table 1: Other Eligible Expenditure Items 2016-2020 in Racecourses Development Plans.

Down Royal	Downpatrick
Weigh-room and jockeys' changing refurbishment and extension	Track widening (excluding watering system)
Stables and refurbishment	Extension to jockeys' facilities
Resurface stable-yard enclosure	Upgrade to Grandstand, glazed sides
Resurface unsaddling enclosure	Crowd barrier fence
Soil storage bunker	CCTV system
Replace running rail	Disabled lift
Build permanent integrity/camera towers	

Levelling of racetrack	
Pump for watering system	
Renewals/repairs/ upgrades to equipment, integrity tower, canter track and ambulance road	

Ring-fencing for development work was not supported in any of the responses.

NITGA and William Hill refer to the possibility of additional voluntary contributions to the racecourses in a scheme over and above the HRF that would operate on the basis of mutual benefit and increase betting turnover on races.

Departmental Response

The Department notes the lack of support for ring-fencing for development from all sectors. As regards the setting of a rate the 1990 Order maintains that the HRF shall be used with the object of assisting the operation and development of the racecourses. The funds paid into the HRF are public money and the Department in setting fees, charges and levies must ensure that rules on managing public money are followed. The Department feels that it is not unreasonable to include historic spend from 2010 as part of its analysis and notes that the 2014 accounts not considered in the consultation document are not dissimilar to previous years.

Any voluntary arrangement would be for the bookmakers and the racecourses to pursue and would be outside the parameters of the 1990 Order. The Department previously sought legal opinion on voluntary payments being made to the HRF which confirmed that it would not be possible under the 1990 Order.

Similarly, online bookmakers and betting exchanges are also outside the scope of the 1990 Order. We are aware that collection of betting taxes changed in December 2014 from a 'place of supply' basis' to 'place of consumption' meaning that an operator offering remote gambling to a person who usually lives in the UK, is liable to betting taxes. However, none of the additional revenue raised as a result of the move to place of consumption taxation will be used to supplement the horseracing industry.

4. Impact of the proposals

4.1 Regulatory Impact.

Summary of Comments:

Reference was made by NITGA to the information in the RIA on Summary Analysis and Evidence not being adequate in relation to the four options presented. The reference in the RIA to the limited income generated by bookmakers from horse racing here as being a factor in fixing the off-course levy is referred to by NITGA but they point out that the consultation document gave no consideration to this.

Departmental Response:

Before being finalised, the draft RIA will be reviewed to reflect on these comments. However, at this stage it is not expected that its overall conclusions will change with regards to DARD proposals.

4.2 Equality Impact and Human Rights.

Summary of Comments:

There were no comments on the equality screening.

Departmental Response:

No comments were made in respect of the screening and therefore the Department does not propose to complete a full EQIA.

5. Conclusion

Taking into account the objective of the Horse Racing Fund of *assisting with the operation and development* of the racecourses at Down Royal and Downpatrick, the Department proposes to retain the rate for on-course bookmakers at £99, and to set the rate for off-course bookmakers at £2,350. This is based on the analysis of information available at this time from the consultation process and the Regulatory Impact Assessment.

On-course bookmakers

Although the consultation had proposed reducing the rate payable by on-course bookmakers from £99 to £50, the Department has noted that the fees payable directly to the racecourses by these bookmakers has not increased as much as originally thought. In addition, it is recognised that while a reduction in the amount paid by on-course bookmakers would represent a very small decrease in the total amount of the Horse Racing Fund, this could be perceived as being unfair to off-course bookmakers.

Therefore, it is proposed that the rate for on-course bookmakers will be kept at £99, subject to any future reviews of the Horse Racing Fund.

Off-course bookmakers

The Department acknowledges the funding proposals put forward by the racecourses for the next 5 years, and recognises that certain race day security and technical costs have increased since 2007. It is also noted that the racecourses have proposals for certain development work which they wish to undertake on a phased basis.

It is important to reiterate that the Horse Racing Fund may only be used to assist with eligible costs, related to prize money, technical services for the operation of racing, and purposes related to the safety of spectators (such as a crowd barrier fence or a disabled lift) and proper conduct of racing (such as a replacement running rail). The Horse Racing Fund cannot be used for, or to offset, ineligible expenditure.

The Department agrees that safe and well maintained facilities for the ongoing operation of horse racing at Down Royal and Downpatrick requires a dependable funding stream. It is fair and reasonable to ask bookmakers to contribute an increased amount to the racecourses in the north given the original intention behind the creation of the Fund; the history of previous payments by bookmakers to the Fund; increased security and technical costs; and the current rates of contribution by bookmakers to horse racing in both the south and in Britain.

The rate set must be an appropriate amount to assist the racecourses, without overburdening bookmakers. Under the current legislation, where a fixed rate for all bookmakers must be applied, it is considered that the rate of £4,374 proposed by the racecourses could be disadvantageous to smaller

bookmakers. It would also represent too great a contribution towards the eligible costs under the legislation, which other means of income should address.

As referred to above, the current Horse Racing Fund is based upon a fixed charge for all off-course bookmakers. In the south and in Britain, the amount paid into equivalent funds is variable, for example based on the amount of turnover for an individual bookmaker. It may be appropriate in future to consider introduction of a corresponding mechanism here for setting the off-course bookmaker rate.

Although some responses to the consultation indicated that bookmakers could struggle if the rate was increased to £2,350, no evidence was put forward to support this position. While the rate of £2,350 represents an increase of £1,227 (109%) from the current rate of £1,123, it is only an increase of £350 (17.5%) from the rate of £2,000 paid by off-course bookmakers for the period 2010-2015. While this rate was set as the result of an agreement between the bookmakers and racecourses, it would seem evident that bookmakers were not overburdened by this amount during this time.

A rate of £2,350 for off-course bookmakers (along with a rate of £99 for on-course bookmakers) will contribute approximately £750k¹ per year to the Horse Racing Fund. This would equate to approximately 41% of the total eligible expenditure proposed by the racecourses over the next 5 years, or 22% of the total projected expenditure for this period.

Therefore, it is proposed that the rate for off-course bookmakers will be increased to £2,350, subject to any future reviews of the Horse Racing Fund. To provide a dependable funding stream for operational and development costs, which will assist the racecourses with forward-planning, the rate will not revert after a set period.

However, the Department will keep the rate under review on an annual basis to ensure that an adequate amount is available for racecourses, without overburdening bookmakers. The racecourses will be required to submit expenditure plans for each year, in advance of any drawdown from the Fund, and the Department will assess the achievement of these plans in taking forward Fund reviews.

The Department will now take forward the draft legislation, in conjunction with the Department of Finance and Personnel, in order to facilitate early consideration of the Horse Racing (Charges on Bookmakers) Order (Northern Ireland) 2016 by the new Assembly.

¹ Based on 319 off-course and 119 on-course charges paid in 2015.

6. Abbreviations used.

DARD: Department of Agriculture and Rural Development.

EQIA: Equality Impact Assessment.

HRF: Horse Racing Fund

HRI : Horse Racing Ireland

NIHRG Northern Ireland Horse Racing Group

NIOCBA: Northern Ireland On Course Bookmakers Association

NITGA Northern Ireland Turf Guardians Association

RIA: Regulatory Impact Assessment.

SP: Starting Price

1990 Order: Horse Racing (Northern Ireland) Order 1990

2010 Order: Horse Racing (Charges on Bookmakers) Order (Northern
Ireland) 2010

Copies of the 1990 and 2010 Orders above can be viewed on

<http://www.legislation.gov.uk/> (search for horse racing in Title field)