
Consultation on Amendment of the Horse Racing (Northern Ireland) Order 1990

May 2020



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1. THE CONSULTATION

1.1 Topic of this Consultation

This consultation seeks views about a proposed amendment to the Horse Racing (Northern Ireland) Order 1990, which is the legal basis for the Horse Racing Fund (HRF/the Fund).

The proposed amendment would amend the name of the beneficiaries of the HRF so that the current operators of Down Royal racecourse are eligible for support under the Fund. Further details are set out later in the document.

1.2 Scope of this Consultation

The Department of Agriculture, Environment and Rural Affairs (the Department) is keen to hear the views of those with an interest in this issue. The consultation is focused on a proposed specific amendment which would seek to make the legislation fully operable, and as it was intended when it first became law. Stakeholder views will be considered in preparing a narrow amendment to the Horse Racing (Northern Ireland) Order 1990 (the 1990 Order).

Wider issues with respect to the 1990 Order and support for horse racing in Northern Ireland more generally are outside the scope of this consultation. The level of, and the arrangements for, current or future levies to support racing are also beyond the scope of the consultation. However, the consultation does provide the opportunity for stakeholders to submit comments on the wider operation of the Fund. Such comments will be invaluable to the Department in helping to shape any potential wider review of the HRF in the future.

1.3 Geographical Scope

This consultation relates to the operation of the Horse Racing Fund and an amendment to legislation in Northern Ireland only.

1.4 Duration

This consultation closes on the 25 June 2020.

In order to supplement written submissions, the Department will be happy to discuss the consultation directly with stakeholders during the consultation period. Given the current restrictions on travel and face to face meetings, the Department will seek to do this remotely. Details of how to make the necessary arrangements are set out in paragraph [1.6](#).

1.5 Enquiries

For any enquiries about the consultation please email the Department at: HRF.Consultation@daera-ni.gov.uk.

If you are unable to email and would prefer to post a query, please call 028 9037 8510 to make the necessary arrangements.

1.6 How to Respond

A number of questions on the proposed amendment to the legislation are set out in Section 4 (Questions and Comments) of this document. You are invited to add your responses and comments directly into this document, attach it to an email and send it to: HRF.Consultation@daera-ni.gov.uk.

If you are unable to email and would prefer to post your response, please call 028 9037 8510, in order to make the necessary arrangements.

When you reply, it would be helpful if you would confirm whether you are responding as an individual or submitting an official response on behalf

of an organisation.

If you are responding on behalf of an organisation please include:

- Your name.
- Your position (if applicable).
- The name of your organisation.
- An address (including postcode).
- An email address.

As noted above, in order to supplement your written submissions, the Department will be happy to discuss the consultation directly with key stakeholders during the consultation. Given the current restrictions on travel and face to face meetings, the Department will seek to do this remotely. If you wish to discuss your response, please e-mail the address, or call the number above, as soon as possible, and we will seek to make the appropriate arrangements.

1.7 Impact Assessments

When introducing new measures, or a new or amended strategy, policy, procedure, or legislation, the Department is required to consider the impact the proposals may have on equality and human rights and to have due regard to rural needs. Where regulation is being proposed, consideration of the regulatory impact is also required. Each of these impacts have been assessed and further details are contained in this document. You are asked to consider these assessments and provide any comments about them alongside your comments on the proposed amendment itself.

Hard copies of the assessments are available on request via the contact details set out in section 1.6 above.

1.8 Consultation Responses

Your comments will be considered alongside the responses of other

stakeholders and be used to advise the Minister of Agriculture, Environment and Rural Affairs. The responses received will be collated and published in an outcome report on the Departmental website.

If, as a result of consideration of stakeholder comments, the Minister decides to bring forward amendments to the 1990 Order, he will seek to introduce a Bill to the Northern Ireland Assembly, with the agreement of the Executive. The Bill will take a number of months to complete its Assembly passage before coming into law.

1.9 Accessibility

A range of alternative formats are available upon request. Please email the Department at: HRF.Consultation@daera-ni.gov.uk.

If you prefer to post your response, please call 028 9037 8510, in order to make the necessary arrangements.

1.10 Privacy, Confidentiality and Access to Consultation Responses

The Department will publish a summary of responses following completion of the consultation process. Your response, and all other responses to the consultation, may be disclosed on request. The Department can only refuse to disclose information in exceptional circumstances. Before you submit your response, please read the paragraphs below on the confidentiality of consultations and they will give you guidance on the legal position about any information given by you in response to this consultation.

Section 8(e) of the Data Protection Act 2018 permits processing of personal data when necessary for an activity that supports or promotes democratic engagement. Information provided by respondents to this stakeholder engagement exercise will be held and used for the purposes of the administration of this current exercise and subsequently disposed of in accordance with the provisions of the Data Protection Act 2018 and the General Data Protection Regulation. For more information and to

view the DAERA Privacy Statement please go to: <https://www.daera-ni.gov.uk/publications/daera-privacy-statement-document>

The FOI Act gives the public a right of access to any information held by a public authority, namely, the Department in this case. This right of access to information includes information provided in response to a consultation. The Department cannot automatically consider as confidential, information supplied to it in response to a consultation. However, it does have the responsibility to decide whether any information provided by you in response to this consultation, including information about your identity should be made public or be treated as confidential. If you do not wish information about your identity to be made public please include an explanation in your response including any harm you believe such a disclosure might cause.

This means that information provided by you in response to the consultation is unlikely to be treated as confidential, except in very particular circumstances. The Lord Chancellor's Code of Practice on the FOI Act provides that:

- The Department should only accept information from third parties in confidence if it is necessary to obtain that information in connection with the exercise of any of the Department's functions and it would not otherwise be provided;
- The Department should not agree to hold information received from third parties "in confidence" which is not confidential in nature acceptance by the Department of confidentiality provisions must be for good reasons, capable of being justified to the Information Commissioner.

For further information about confidentiality of responses please contact the Information Commissioner's Office, or visit the [ICO Website](#).

For further information about this particular consultation please email the Department at: HRF.Consultation@daera-ni.gov.uk or 028 9037 8510.

2. BACKGROUND

2.1 The Horse Racing (Northern Ireland) Order 1990 and the Horse Racing Fund

The Horse Racing (Northern Ireland) Order 1990 is the legal basis for the HRF in Northern Ireland. The Fund is made up from a levy collected from licensed bookmakers in Northern Ireland and was set up in order to provide financial support to horseracing at Northern Ireland's two racecourses at Downpatrick and Down Royal.

A charge on bookmakers to support racecourses dates back to 1961. It was first introduced in Great Britain (GB) to offset the decline in race day revenue (gate receipts), following the introduction of legislation which meant that people wishing to place a bet on a horse race no longer needed to attend the racecourse. The charge is paid by bookmakers to support the racecourses as there is a direct link between the two, with some of the bookmakers' income deriving directly from betting on horse racing.

Both horse racecourses in Northern Ireland are situated in County Down - one near Lisburn, called Down Royal or more commonly "the Maze", and the other at Downpatrick. Prior to 1976, both racecourses received a small amount of government assistance. Throughout the 1970s, financial assistance for one of the courses was gradually withdrawn and the other was funded via the Horse Racing and Betting (Northern Ireland) Order 1976. The fund was administered by the Department of Agriculture and was financed by annual contributions from Northern Ireland bookmakers. It provided financial assistance towards prize money for races and the costs of technical and personnel services required on race days, as well as assistance towards the cost of improvements to the race track and facilities for participants and spectators.

After a review of horseracing in the 1980s, the Horse Racing (Northern Ireland) Order was introduced in 1990. This extended the scope of the

Horse Racing Fund (HRF) to include both of Northern Ireland's racecourses in order to assist in their operation and development. A copy of the 1999 Order can be viewed at:

<http://www.legislation.gov.uk/nisi/1990/1508/contents>

Under this legislation, licensed bookmakers in Northern Ireland pay an annual fee/levy, which the Department is required to disburse to the two specific beneficiaries named in the legislation. This financial assistance contributes to prize money for races, the costs of technical and personnel services required on race days, works or facilities which may from time to time need to be carried out specifically to ensure that race meetings may take place in safe and secure conditions, and the general provision or improvement of services for the operation of racing.

The Department sets the levy on the bookmakers via subordinate legislation made under the 1990 Order with the approval of the Department of Finance. In setting the levy, the Department is required to consult with stakeholders who represent both the interests of both the bookmakers and racecourses.

The racecourses are required to submit a statement of their proposed budget and expenditure annually, and the Department considers this statement and makes payments as are appropriate for the purposes set out above.

2.2 Support for Horse Racing in GB and ROI

A Horserace Betting Levy is operated in GB under the provisions of the Horserace Betting Levy Regulations 2017. The levy is used to support 60 racecourses in GB. It is managed by a Non Departmental Public Body, the Horserace Betting Levy Board (HBLB) which is sponsored by the Department for Digital, Culture, Media and Sport.

All betting operators in GB – whether they operate on or off-course, on or offline or on or offshore – pay 10% of their profits from British customers to British horseracing. This new fixed rate has been set at 10% of profits on leviable bets which exceed £500,000 in any levy period as a bookmaker or betting exchange provider. A leviable bet is defined

as a bet which relates to horseracing in GB made by a person (whether in person or remotely) who is in GB when the bet is made.

In ROI, the Horse and Greyhound Racing Fund is operated under the provisions of the Horse and Greyhound Racing (Betting Charges and Levies) Act 1999. It supports 24 racecourses and is managed by Horse Racing Ireland, using funds from the revenue received by the Finance Ministry from excise duty on off-course betting.

3. CONSULTATION PROPOSAL

3.1 The Issue

Until 31 December 2018, the HRF was used to assist the operation and development of both Northern Ireland's racecourses - as was the original intention of the legislation. However, since then, as a result of a change in operator, Down Royal has been ineligible for support from the Fund. Therefore, while the levy continues to be collected from licensed bookmakers, the new operators of Down Royal have been unable to draw funds from the HRF since they took over the management of the racecourse in January 2019. This is because they are not specifically named in the 1990 Order as a beneficiary of the Fund.

A change to the Order is necessary to enable the Department to make payments from the Fund to the new operators for use in support of horse racing at that location.

In order to address this issue, and therefore to meet the original aims of the 1990 Order, it is necessary to bring forward a Bill (primary legislation) at the Northern Ireland Assembly. Such legislation will take a number of months to complete its Assembly passage before coming into law.

While the Department has been aware of this matter since January 2019, it was not possible to bring forward the necessary change in the absence of a fully functioning Assembly. However, now that he is in office, the Minister of Agriculture, Environment and Rural Affairs wishes to fix the matter as soon as practicable.

3.2 Proposal to amend the named beneficiaries of the HRF

The Department proposes to amend the 1990 Order to address the issue set out above.

This proposed change is the specific issue on which the Department is seeking stakeholder views in this consultation.

3.3 Horse Racing Fund – Arrangements Generally

Whilst this consultation is focused specifically on the proposed change needed to fix the operability issue in relation to who may benefit from the HRF, the Department would welcome any additional comments that stakeholders may wish to make on the overall operation of the HRF in Northern Ireland, and support for horseracing here more generally. Stakeholder comments in this regard will be invaluable to the Department in helping to shape any potential wider review of the HRF in the future.

Equally, the Department would welcome any comments on the arrangements for current or future levies to support racing for consideration as part of any future review.

4. QUESTIONS AND COMMENTS

4.1 Amendment of the named beneficiaries of the HRF

The Department is proposing to amend legislation with the intention of making the legislation fully operable and meeting the original aim of the 1990 Order— namely to provide for the HRF to assist in the operation and development of both of Northern Ireland’s horse racecourses. This will require a change in legislation to amend the name of one of the beneficiaries of the Fund.

Q. Do you support this proposal?

Yes or No?

Do you have any comments in support of your views (whether for or against the Department’s proposal) which you want the Department to consider?

If so, please write them in the box below.

(Please continue on a separate page if necessary).

4.2 Regulatory Impact

The Department has considered the proposal to amend the 1990 Order in order to change one of the named beneficiaries of the HRF in terms of its regulatory impacts (the potential economic impact of the proposed change).

Given that the proposal simply seeks to amend legislation with the intention of making the legislation fully operable and meeting its original aim assisting in the operation and development of both of Northern Ireland's horse racecourses, the Department does not believe that there are any potential economic impacts in the proposal and there will be no impacts on the private, voluntary or public sector as a result of these changes when compared to the aims of the original legislation.

The proposal has therefore been screened from the need to carry out a Regulatory Impact Assessment.

Q. Do you agree with the conclusion that the proposal will have no economic impacts?

Yes or No?

Please provide any evidence that supports your view.
(Please continue on a separate page if necessary).

(Economic Impacts cont'd)

4.3 Equality Impact

The Department has a statutory duty to consider the likely equality and human rights impacts of policy proposals. Screening identifies policies that are likely to have an impact on equality of opportunity and helps to draw considerations of equality of opportunity into the policy making process. Screening is one of the key tools to enable the Department to fulfil its statutory obligations and mainstream the Section 75 equality and good relations duties into policy development.

The proposal to amend the 1990 Order as set out in paragraph [3.2](#) of this consultation paper was tested against four screening questions, namely:

- What is the likely impact on equality of opportunity for those affected by this policy, for each of the Section 75 equality categories?
- Are there opportunities to better promote equality of opportunity for people within the Section 75 equality categories?

- To what extent is the policy likely to impact on good relations between people of a different religious belief, political opinion or racial group?
- Are there opportunities to better promote good relations between people of a different religious belief, political opinion or racial group?

These issues were considered in the Screening Document, which can be viewed at www.daera.gov.uk/consultations. The screening exercise concluded that as the proposed change to the legislation does not change the aim of the original legislation, any new legislation will not introduce a change in policy and would have no substantive impact in general. Therefore, it is the Department's view that the proposal set out at paragraph [3.2](#) will have no impact on, nor represent any opportunities to improve on, equality for any Section 75 categories. Nor does it impact on, or represent any opportunities to improve on, good relations between people of different religious belief, political opinion or racial group.

Q: Do you agree that the analysis of the evidence and the conclusion given in the accompanying Equality Screening Decision accurately describes the potential impacts of these proposals? Yes or No?

Please provide any evidence that supports your view.

Q. Are there other potential impacts we may not have anticipated in the accompanying Equality Screening exercise?

(Please continue on a separate page if necessary).

4.4 Rural Needs Impact

The Rural Needs Act (Northern Ireland) 2016 provides a statutory duty on all public authorities, including the Department, to have due regard to rural needs when developing, adopting, implementing or revising policies, strategies and plans, and when designing and delivering public services.

The proposal to amend the 1990 Order as set out in paragraph [3.2](#) was assessed for its impact on rural needs, and a copy of the Assessment is can be viewed at www.daera.gov.uk/consultations.

The Assessment concluded that as the proposed change to the legislation does not change the aim of the original legislation, the proposed amendment will not introduce new policy and would have no negative rural impacts.

Q: Do you agree that the analysis of the evidence and the conclusion given in the accompanying Rural Needs Impact Assessment accurately describes the potential impacts of these proposals? Yes or No?

Please provide any evidence that supports your view.

Q. Are there other potential impacts we may not have anticipated in the accompanying Rural Needs Impact Assessment?

(Please continue on a separate page if necessary)

(Rural Needs Cont'd)

4.5 Other Comments

As noted, while wider issues with respect to the Horse Racing (Northern Ireland) Order 1990 and support for horse racing in Northern Ireland more generally are outside the scope of this consultation, the consultation does provide the opportunity for stakeholders to submit comments on the wider operation of the Fund.

The Department will consider any comments that stakeholders may have on the overall operation of the Horse Racing Fund in Northern Ireland more generally in order to help shape any potential wider review of the HRF in the future.

Q. Have you any additional views you would wish the Department to consider in relation to the wider operation of the Horse Racing Fund in Northern Ireland more generally?

If so, please write them in the box below.
(Please continue on a separate page if necessary).

Other Comments (cont'd)

Q. If you have added any further comments above in relation to the wider operation of the Horse Racing Fund in Northern Ireland, what additional potential economic, equality or rural needs impacts might there be in relation to any of your comments?

(Please continue on a separate page if necessary).

5. HOW TO RESPOND TO THIS CONSULTATION

Details of how to respond to this consultation are set out in paragraph 1.6.

Please provide any supplementary information or evidence to support your comments, along with your response.

Please do not forget to confirm whether you are replying as an individual or submitting an official response on behalf of an organisation.