



Northern Ireland
Assembly

Committee for Agriculture, Environment
and Rural Affairs

OFFICIAL REPORT (Hansard)

Horse Racing (Amendment) Bill:
Department of Agriculture, Environment
and Rural Affairs

22 April 2021

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Members present for all or part of the proceedings:

Mr Declan McAleer (Chairperson)
Mr Philip McGuigan (Deputy Chairperson)
Ms Clare Bailey
Mrs Rosemary Barton
Mr John Blair
Mr Maurice Bradley
Mr Harry Harvey
Mr William Irwin
Mr Patsy McGlone

Witnesses:

Mrs Colette McMaster	Department of Agriculture, Environment and Rural Affairs
Mr John Terrington	Department of Agriculture, Environment and Rural Affairs

The Deputy Chairperson (Mr McGuigan): I welcome, via StarLeaf, Colette McMaster, who is the director of sustainable agri-food development, and John Terrington, head of agri-food Brexit policy. I invite the officials to brief the Committee.

Mrs Colette McMaster (Department of Agriculture, Environment and Rural Affairs): Good morning. I am joined online by John Terrington, who heads the Bill team.

Thank you for the opportunity to present on the outcome of the Department's consultation on policy underpinning the Horse Racing (Amendment) Bill. The objective is to allow for the reinstatement of payments from the horse racing fund in support of Northern Ireland's two horse racecourses as soon as is practicable. It is a short Bill with a narrow scope. The Bill will amend the Horse Racing (Northern Ireland) Order 1990, which is the legal basis for the horse racing fund. The Bill will amend the named beneficiaries of the fund to reflect a change in the operator at one of Northern Ireland's two horse racecourses so that the current operators of Down Royal racecourse are eligible for support. Members will be aware that the Bill was introduced to the Assembly on 13 April.

As you have been provided with the background to the 1990 Order and the fund, I will not go through that in great detail at this point. Briefly, the 1990 Order provides for the fund, which is intended to support horse racing at Northern Ireland's two racecourses, Down Royal and Downpatrick. Bookmakers, who are licensed under legislation that is the responsibility of the Department for Communities, are required to pay into the fund, which is then to be disbursed to the beneficiaries

named in the legislation. The support from the fund is to be used to assist in the operation and development of the two racecourses. As a result of a change in the operator at Down Royal in December 2018, payments ceased, as the new operator is not named in the legislation. Therefore, the Bill is necessary in order to change the named operator at Down Royal so that payments can be reinstated.

Members are aware that a consultation on the proposal to make such a change took place last year. While the consultation focused on that specific proposal, stakeholders were also invited to submit comments on the wider operation of the fund and support for horse racing in Northern Ireland more generally. Such comments will be invaluable in helping to shape a wider review of the fund. Eleven responses were received, most of which were supportive of the proposal. Some respondents gave qualified support. For example, one suggested that the fund should be opened out to others involved in horse racing other than Downpatrick and Down Royal, and one suggested that it should be extended to support greyhound racing. One key sector, in particular, did not agree with the proposal. I will come back to that shortly.

Papers on the outcome of the consultation have been shared with the Committee, so I will not discuss those in detail. I will, however, mention a few key issues, particularly where the proposal was questioned. The off-course bookmakers were against the proposed amendment. They argued that it would be a departure from the policy intent of the 1990 Order, which, they believed, related only to the operators named in the legislation at that time. Their concerns stemmed from a view that, as the new operator at Down Royal is part of a larger profit-making organisation, it should not be eligible for support from the fund. They raised concerns that public money could be used to supplement a profit-making organisation. The corporation that formerly operated at Down Royal noted similar concerns, although it was generally supportive of payments being reinstated to Down Royal with adequate safeguards. The Department is content that a key aim of the 1990 Order is to provide support for horse racing at the two named locations, and the Bill will not change that. The Department does not consider that being a profit-making organisation should bar an organisation from accessing the fund. There is nothing in the original legislation in that regard. As set out in the Committee's papers, the legislation already limits how the fund must be spent in support of horse racing at the two racecourses.

Bookmakers also commented that the fund would not comply with EU state aid rules. The Department accepts the validity of that view and, in parallel, was considering the implications of EU state aid rules for the fund. Following the end of the transition period, EU rules no longer apply to the fund, so it was necessary that the Department considered the implications of the new UK subsidy control regime that came into force on 1 January. The Department accepts that the fund represents a subsidy under those rules as it has the potential to distort the market. The Department's assessment is that it is not possible to make payments to Downpatrick racecourse either at present, because doing so would create unfair competition in the market. To address that issue, it will be necessary to amend the 1990 Order so that the fund is available to both Northern Ireland racecourses. The Bill will, therefore, allow for reinstatement of payments to both local horse racecourses.

As I said, comments were received in the consultation on other issues beyond the scope of the Bill. For example, some stakeholders highlighted the fact that online bookmakers do not contribute to the fund. I have already mentioned calls to extend the fund beyond the two current racecourses and for it to support greyhound racing. The licensing of bookmakers and gambling legislation is the responsibility of the Department for Communities, which is reviewing the matter following a consultation that ended early last year. However, we understand that there are no plans for legislative change regarding such issues as remote gambling until the next mandate. It would therefore not be practical or possible to make any major changes to the fund or to the 1990 Order until the issue has been fully considered. We will work closely with DFC officials as they progress that work. We envisage that it will be necessary to consider the relationship between racing and the income generated from gambling, particularly online betting, before any extension to online bookmakers can be formally considered. The Department has already begun work to scope a wider review. As mentioned, comments that were received in the consultation will help shape such a review, and we will update the Committee on that work in due course.

The Bill will move to its Second Stage and, following that, will stand referred to the Committee for its Committee Stage. I assure members of our commitment to working with the Committee during the Committee Stage so that we can seek to secure the Bill's passage as soon as is practicable within the mandate. We are happy to take questions, and, if it would be helpful, we can set out what each clause does.

The Deputy Chairperson (Mr McGuigan): Thank you, Colette, for that briefing. I will go straight to members. A number of members have indicated that they want to ask a question. Harry, you are first up.

Mr Harvey: Colette, thank you very much. How does the way things are being done in the Bill and overall compare with other jurisdictions, such as GB, the Republic of Ireland or anywhere else that you may have looked at?

Mrs McMaster: We each have our own arrangements for supporting horse racing. The arrangements in the Republic of Ireland and in GB have been reviewed more recently than those here. I understand that they are subject to review again, but, yes, the arrangements in other jurisdictions reflect more recent developments than our arrangements do, as I mentioned, even in terms of online gambling and so on. I see my colleague John on the screen, so I will bring him in on the detail there.

Mr John Terrington (Department of Agriculture, Environment and Rural Affairs): Thank you, Colette. Thank you for the question. The biggest difference with GB is that its arrangements are administered by a non-departmental public body (NDPB). That is one key difference, but the main difference, as Colette mentioned, is that it includes income from online or remote bets. The levy is then set at a fixed rate — 10% of profits — whereas our levy is set through subordinate legislation under the 1990 Order and is set following consultation with the key players, namely the bookmakers and the operators of the racecourses. There is a fundamental difference in how the levy is set. In the Republic of Ireland, the horse and greyhound racing fund — so there is a fundamental difference already, just in its name — supports the 24 racecourses in the South. Again, it is managed by a non-departmental public body and uses funds raised by the Revenue through excise.

Mr Harvey: That is spot on. Thank you for that. I appreciate it.

Mr Blair: I thank the panel for the presentation and for the information given to us today. I want to get into a bit more detail about the funding around the two main racecourses versus a wider cross section of the sectors. There are clearly competition issues if, in the South of Ireland, for example, funding is being received from similar streams and, in Northern Ireland, it is not. In a sport that has a fair degree of cross-border elements and participation, it surely puts Northern Ireland at a disadvantage. Why did you not consider going to a wider base on funding that is available to, for example, greyhound racing? There is no evidence in the submission of consideration of that or why the decision was reached in relation to that. Apologies if it is there and I am not picking it up. I would like to hear more about the reasoning and rationale around that.

Mrs McMaster: Yes, John, thank you. You are right: it is not in this Bill. The aim of the Bill is to fix the operability of the fund. That is simply what it is about. As I said, it has a narrow scope. The position that we are in at the moment is that we are unable to make payments from the fund to either racecourse. To fix that operability, we must change the legislation so that both the current racecourses are named as beneficiaries and can therefore receive the money from the fund. That is the immediate priority and the immediate step, and that is what the Bill is about. We hope to bring that through in the current mandate so that those payments can resume. We absolutely recognise that there are wider, complex issues to consider, such as what the fund does and the scope of that fund. The legislation dates back to 1990, and matters such as online gambling or online betting are developments that have happened since then. We absolutely need to look at that, and we need to do it in a considered way. It would not be possible to introduce complex changes like that through a short and narrow Bill during the remainder of this mandate. We know absolutely that we need to do that.

The other question that you raised was about greyhound racing. Again, the scope of the 1990 Order is horse racing. It dates back to then, and that gives us that narrow scope. Greyhound racing was one of the questions raised in the consultation. As it was raised, we have said that we will look at it as part of a wider review. However, whether it would be appropriate to extend the scope of the horse racing fund to greyhound racing is a matter to be explored. We will have to take account of all the issues and implications around that in coming to a conclusion.

I hope that that explains why we cannot do those major things at this time. What we are doing now is providing an immediate fix, to be followed by a wider review.

Mr Blair: Thank you, Colette. I understand that you need to make that fix and deal with the practicalities around this within a closely defined window. Given that those issues were raised in your consultation, is there a timeline or suggested timeline for the review that you mentioned?

Mrs McMaster: We have already started work for the review, and we have started to scope out what it will include. We asked for those wider comments when we consulted because it is something that we wanted to gather information on, to help inform what the scope of the review would be. There are issues that were raised during that that we will look at.

We are still at the early stages of scoping out what the review is. We have made a start, but clearly we need to do further work, but it will include the sort of things that we have already been asked about this morning. They include the arrangements in GB and the Republic of Ireland, the scope of support from the gambling industry to racing and other activities in those other jurisdictions. It is necessarily a complex review, and it will take some time, but we have made a start on it, so it is something that we will see taken forward in the next mandate.

I hope that that is helpful.

Mr Blair: Is that likely to include the greyhound racing element as well?

Mrs McMaster: Since it is one of the issues that was raised in the consultation, we will look at it.

Mr Terrington: It is worth saying, John, that the horse racing fund has been around a long time, and, clearly, at the time there was a recognition that there was a connection with the potential loss of revenue from moving off-course. I cannot second-guess what the thinking was at the time, but greyhound racing was not included. We have never explored the relationship, if any, between off-course betting and greyhound racing. I have had the privilege or experience of being at one meet, and most of the betting was obviously on-course, but that does not mean to say that the potential for higher-level moneys would attract a better event and ergo it would have online betting or off-course betting. That is work we need to do to be aware of the relationship between betting away from a greyhound track and any income accrued.

Mr Blair: Thank you both for that.

Mrs Barton: Thank you for your presentation. Just for clarification, this Bill is extremely narrow in scope and is for the sake of changing the names so that payments can be made.

Mrs McMaster: Yes.

Mrs Barton: Yes, the owners. That is exactly what it is at the moment.

You will be looking at further changes to the horse racing regime. You spoke about looking at online gambling, off-course betting etc. When you look at that, will you take into consideration the consequences of online and off-course gambling?

Mrs McMaster: Yes. As we set out in our opening words, we are aware that the Department for Communities also has responsibility for gambling legislation. It is considering a fairly wide review of that legislation, which has also been in place for some time. We anticipate that it will be necessary to, first, work closely with the Department for Communities. There is some sort of crossover, and there are links between what we are talking about in respect of horse racing and support for that and any wider review of gambling legislation. There will be things that are not necessarily totally within the scope of what we do, but we will seek to work with colleagues in the Department for Communities so that what we do can be complementary or informed by the other developments around wider gambling. Is that helpful? I do not know whether John has anything.

Mrs Barton: Yes. The Department of Health may be relevant in relation to mental health issues. I know somebody — I am sure that we all do — who overstepped the mark in gambling and, unfortunately, is not with us today.

Mr Terrington: Rosemary, Colette prompted me to speak. Regulation of gambling sits with the Department for Communities. It undertook a pretty wide-ranging, albeit high-level, consultation on reforming gambling, which ended this time last year. That included matters such as machines in shops, limits and things that have changed in GB over the last three or four years. It is our understanding that DFC will seek to bring some changes along those lines, at least in the shorter term, with a wider review of the licensing of bookmakers and so on happening in the longer term. There are bits that are entirely in that Department's gift and do not necessarily overlap with what we do. As

Colette said, in the longer term, we will have to work closely on the relationship between the two bits of legislation and where they overlap.

Mrs Barton: Thank you.

Ms Bailey: Thanks, Colette and John. The fund is paid into by off-course bookmakers, not online bookmakers and not on-course bookmakers. I can see the rate that you have given us in the pack. The rate is meant to go up according to the annual rate of inflation as well. How much is in the fund?

Mrs McMaster: Clare, I think on-course bookmakers pay into the fund as well as off-course bookmakers. The levy collected annually is in the region of £350,000, and the last increase to the rate dates back, I think, to 2010. It is not set to increase with inflation, Clare; the legislation says that the rate is set by agreement between racecourse operators and bookmakers. That was the last time that there actually was agreement to increase the rate that was reflected in the legislation. There was a consultation in 2017 with a view to increasing the rate again, but that did not make it into legislation at the time because the Assembly was not functioning. The rate has not increased at this stage. The Bill is not looking at that aspect. The Order itself provides for the rates to be increased by subordinate legislation subject to affirmative resolution of the Assembly.

You asked how much is in the fund currently. As we have not been making payments since the end of 2018, there is around £680,000 in the fund currently.

Ms Bailey: Who makes the decisions about how those funds are distributed?

Mrs McMaster: The funds are paid to the named beneficiaries in the legislation. The funds are paid out on the basis of racecourses' business plans for the use of the funds. They are paid out for specific reasons. The use of the fund is defined in the 1990 Order. The purposes for which it can be used at the two locations are:

"(a) to provide ... prize money;

(b) to provide or improve technical or other services ... with respect to the operation of racing;

(c) for ... safety of spectators at race meetings or the proper conduct of racing."

Ms Bailey: Is that overseen by a board, or is that a Departmental decision? Who looks at the business plans and works that out?

Mrs McMaster: The funds are administered by the Department. John, were you going to come in there?

Mr Terrington: I was going to say the same thing. Every year, the operators are required to put in their business plan, and, with reference to the amount of money in the fund, the Department considers the appropriateness of the requests, in line with the provisions that Colette set out.

Ms Bailey: Are there any plans to increase the levy?

Mrs McMaster: There are no plans to increase the levy at this stage. As I mentioned, because we have not paid out from the fund, there is about £680,000 in that fund, so there are no plans to increase the levy.

Ms Bailey: One last question: are you aware of any potential development of new racecourses happening or being scoped out?

Mrs McMaster: I will maybe bring John in on this. There could be. There are only two racecourses in Northern Ireland, as you are aware. In the future, there could potentially be other racecourses. I will bring John in on that.

Mr Terrington: A racecourse is one of many possible projects that have been discussed for a multi-use site at Giant's Park, the old Belfast Foreshore. However, obviously, it would take some time to

develop. We are hopeful that we will have moved from what we have now to something new or different, at the end of review, before that would be up and running, if it ever does.

Ms Bailey: A potential development at the Giant's Park?

Mr Terrington: That is my understanding.

Ms Bailey: Thank you.

Mr Terrington: The possibility of using that land is one of many things that have been mooted.

Ms Bailey: Thank you very much.

(The Chairperson [Mr McAleer] in the Chair)

The Chairperson (Mr McAleer): We will go to Maurice.

Mr M Bradley: Chair, it is good to see that you are back.

The Chairperson (Mr McAleer): Thank you, Maurice.

Mr M Bradley: I have a point for clarification. Gambling is alien to me, as I have not gambled and know nothing about it. It is my understanding that the sole purpose of the amendment Bill is to create a level playing field for our two racecourses. However, if I have picked it up correctly, following the outworking of this amendment Bill, the Department of Communities will be in a position to carry out a further review that will include online gambling, machines et cetera. To start that review, the Bill needs to get over the line. Am I reading that correctly, as I know nothing about horse racing or anything like that?

Mrs McMaster: Yes. This Bill is to amend the Horse Racing (Northern Ireland) Order 1990, and that legislation is the responsibility of DAERA. Separately, the Department for Communities has responsibility for gambling legislation. From our point of view, this short Bill is necessary to fix the operability of its current fund, as you have noted. We see that there is a need to do a wider review of the Horse Racing Order 1990. The Department for Communities is, separately, considering its gambling legislation, which is also of quite some age. It may be 35 years old, while ours is about 30 years old, or in that sort of ballpark. I am aware that the Department for Communities is considering a wider review of the gambling legislation. We are talking about two separate pieces of legislation, but some areas are of common interest to the two Departments. The two Departments will want to work closely to do wider reviews of the legislation.

Mr Terrington: Maurice, thank you for your question. Colette mentioned it in her introduction, but the specific relationship in this legislation is that a licensed bookmaker is required to pay into the fund. The licence is from the Department for Communities, under its gambling legislation. Therefore, that issue, or the potential for expansion of who might pay into the fund, is outside our gift in the sense that it is a DFC licence. Until, and if, the Department of Communities reviews the definition of a licensed bookmaker in Northern Ireland, nothing can be done. If the Department of Communities changes the licensing rules, we would need to work with it to ensure that it still fits any future fund or review of the fund. An applicant for an annual licence is required to prove that it has paid into the levy. It is a two-way relationship, but that is the limit of the relationship between the two bits of legislation.

Mr M Bradley: Thank you very much. I appreciate the answer: it has cleared the matter up for me as someone who knows absolutely nothing about the sport.

The Chairperson (Mr McAleer): Maurice, you will be an expert by the time this legislation has gone through.

Mr M Bradley: I doubt that very much, Chair.

The Chairperson (Mr McAleer): Sorry, Members. I momentarily popped out. Maybe the question about the levy has already been asked, but does it apply solely to horse racing, or have greyhound tracks been included? Maybe that point has been covered.

Mrs McMaster: Yes. The levy goes into the fund, and it is paid by the licensed bookmakers into the horse racing fund. The fund is used to support the operation of the two horse racing courses in Northern Ireland. The scope of the 1990 horse racing legislation does not include greyhound racing. Currently, greyhound racing is not supported by the levy, and it does not come under that legislation.

In the consultation that we carried out, one of the suggestions was that we should consider whether to extend the support for horse racing to include greyhound racing. It is one of those issues that will be part of a wider review. It is not part of what we are doing in this Bill, during this mandate, but it is one of the issues that will be in the scope of a wider review of the horse racing amendment that we intend to carry out over a longer term than this Bill.

The Chairperson (Mr McAleer): Like Maurice, I am not particularly expert in these matters, but, on the principle of the levy and the fund, I cannot understand why greyhound track providers would not be able to access it on the same basis.

Mr Terrington: Chair — sorry, Colette — I said earlier, when this came up, that, since 1976, when the legislation was first introduced and then updated in 1990, the relationship between the loss of potential income when bets were allowed to be taken off-course was made at that time. One of the things that we need to do is to see what relationship there is between bets that were taken off-course, away from greyhound racing, on those races. It is something that we have never looked at. It may be that one reason for not extending it is that no bets are taken on greyhound racing away from the course. I am not saying that that is the case. You would have to look at it and see what level there is to be on sure ground before you would ever be able to consider how you might set a levy that would support greyhound racing.

The Chairperson (Mr McAleer): OK. I am sure that it will be considered in the wider review, at any rate.

Mr Terrington: Yes.

The Chairperson (Mr McAleer): That is great. Thank you very much, Colette and John, for attending — we are in the afternoon now — this morning/afternoon session. Obviously, this will come before the Chamber on Monday. Thank you very much.

Mrs McMaster: Thank you.

Mr Terrington: Thank you.