

Isle of Man

Ellan Vannin

AT 10 of 2001

ONLINE GAMBLING REGULATION ACT 2001

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Received Royal Assent:	*15 May 2001*
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AN ACT to provide for the regulation of certain forms of gambling carried on by means of telecommunications; and for connected purposes.

Control of online gambling

1 Meaning of "online gambling" etc

(1) In this Act "**online gambling**" means —

(a) any gaming, where any player enters or may enter the game, or takes or may take any step in the game, by means of an electronic communication,[1]

(b) the negotiating or receiving of any bet by means of an electronic communication, or[2]

(c) any lottery in which any participant acquires or may acquire a chance by means of an electronic communication.[3]

(2) For the purposes of this Act, a person "conducts" online gambling where —

(a) in the case of gaming or a lottery, he takes part in its organisation, management or promotion;

(b) in the case of a bet, he carries on any business involving the negotiating or receiving of the bet; or

(c) he maintains, or permits to be maintained, in the Island any computer or other device on or by means of which the game or lottery is operated, or the bet is received, as the case may be.

(3) A service provider shall not be treated as conducting online gambling by reason only that, in the course of a business, he handles electronic communications on behalf of another person with whom he is not associated.

(4) In subsection (3) —

"associated" shall be construed in accordance with section 8(5) and (6) of the *Fair Trading Act 1996*;

other expressions have the same meanings as in section 10 of the *Electronic Transactions Act 2000*.

2 Restrictions on online gambling

(1) Subject to section 3, any person who conducts any online gambling, otherwise than in accordance with a licence granted under section 4 to that person or to a company of which he is a director or employee, is guilty of an offence.

(2) Any person conducting online gambling who permits —

(a) a minor, or

(b) a person who at the material time is in a prescribed country or territory,

to participate in the online gambling is guilty of an offence.

(3) It shall be a defence for any person charged with an offence under subsection (2) to prove that the contravention occurred without his consent or connivance and that he exercised all due diligence to prevent it (and, in particular, that he took all such steps as may be prescribed for the purpose of ensuring that such persons do not participate in online gambling).

3 Exclusion of certain activities

(1) Subject to subsection (2), nothing in section 2(1) applies to —

(a) a transaction effected by a licensed bookmaker and authorised by a betting office licence under Part II of the *Gaming, Betting and Lotteries Act 1988* ("the 1988 Act") that consists of the negotiating or receiving of any bet from a person in the Island by means of an electronic communication;[4]

(b) any activity connected with the organisation, management or promotion of a lottery declared not to be unlawful by —

(i) section 30, 31, 32, 34A, 35 or 36 of the 1988 Act, or

(ii) section 1 of the *National Lottery Act 1999*;

(c) the playing at a casino of a prescribed game (within the meaning of the *Casino Act 1986*);

(d) a contract to which section 47 of the *Financial Services Act 2008* applies;[5]

(e) a contract the effecting of which constitutes the carrying on of insurance business within the meaning of the *Insurance Act 2008*;[6]

(f) any other activity prescribed for the purpose of this section.

(2) Regulations may provide that, notwithstanding subsection (1), section 2(1) shall apply to any activity or other matter mentioned in that subsection unless it complies with such conditions as are prescribed.

(3) Regulations may amend paragraphs (a) to (e) of subsection (1).[7]

(4) A person who conducts online gambling by virtue of an exemption under regulations made pursuant to subsection (1)(f) shall pay to the Treasury such fee as may be prescribed in the regulations.[8]

(5) The Treasury may prescribe fees for different exemptions or classes of exemption, different classes of gambling and different classes of persons.[9]

(6) [Repealed][10]

4 Licensing of online gambling

(1) The Isle of Man Gambling Supervision Commission ~~("the Commissioners")~~ ("the Commission") may grant to a person named therein, being a company limited by shares and incorporated in the Island, a licence authorising it to conduct online gambling —

(a) of any prescribed description, or

(b) of such prescribed descriptions as are specified in the licence.[11]

(1A) An application for the grant of a licence must be in such form as is required by the Commission, and be accompanied by such documents and information as the Commission may require.

~~(2) The Commissioners shall not grant a licence to any company unless it is satisfied —~~

~~(a) that the company is under the control of a person or persons of integrity;~~

~~(b) as to the beneficial ownership of the share capital of the company;~~

~~(c) that the activities of the company are under the management of a person or persons of integrity and competence; and~~

~~(d) that the company has adequate financial means available to conduct online gambling of the descriptions in question.~~[12]

(2) The Commission shall not grant a licence to any company unless it is satisfied –

(a) that the company is a fit and proper person to conduct online gambling of the descriptions in question;

(b) that any director of the company is a fit and proper person to act as such;

(c) that any controller of the company is a fit and proper person to act as such;

(d) as to the beneficial ownership of the share capital of the company;

(e) that any beneficial owner of the company is a fit and proper person to be such an owner;

(f) that any senior manager of the company is a fit and proper person to act as such; ~~and~~

(g) that the company has adequate financial means available to conduct online gambling of the descriptions in question.~~;~~ and

(h) that any online gambling is being or will be conducted in a manner consistent with the regulatory objectives set out in section 5 (regulatory objectives) of the *Gambling Supervision Act 2010*.

(2A) In assessing whether the Commission is satisfied as to the requirements in subsection (2), the Commission may have regard (among other things) to –

(a) the integrity, competence, financial standing, structure and organisation of the company;

(b) the integrity, competence and financial standing of any other person mentioned in subsection (2), as the context requires;

(c) the business the company proposes to carry on or is carrying on;

(d) the money laundering risk and the risk of financing of terrorism or proliferation;

(e) the integrity of any person who is an associate of the company or an associate of any other person mentioned in subsection (2).

(2B) The Commission must, after consulting the Treasury, issue written guidance setting out the criteria that it will normally apply in assessing whether it is satisfied as required by subsection (2).

(3) Before granting a licence the ~~Commissioners~~ Commission shall consult —

(a) the Treasury;

(b) the Department for Enterprise,[13]

(c) the Isle of Man Financial Services Authority,[14]

(d) the Chief Constable, and

(e) the Isle of Man Information Commissioner.[15] [16]

(4) The ~~Commissioners~~ Commission shall not be required to give reasons for refusing a licence.[17]

(5) to (7) [Repealed][18]

5 Licence fees and duties

(1) An applicant for a licence shall pay to the Treasury on an application for the grant of a licence such fee as is prescribed.

(2) The holder of a licence shall pay to the Treasury —

(a) on the grant of a licence, and

(b) on each anniversary of the grant of the licence, for as long as the licence remains in force,

such annual fee as is prescribed.

(2A) The Treasury may prescribe different fees for different licences or classes of licence, different classes of gambling and different classes of persons.[19]

(3) [Repealed][20]

(4) and (5) [Repealed][21]

(6) [Repealed][22]

(7) Where a licence is surrendered under section 7(2), no refund of any fee or duty under this section or any proportion of such a fee or duty shall be allowed.[23]

(8) [Repealed][24]

6 Conditions of licence

(1) The authorisation conferred by a licence shall be subject to such conditions as are specified in the licence.

(2) The conditions of a licence shall include conditions requiring the holder of the licence —

(a) to provide such security (real or personal or both), and to maintain such deposits and reserves, as are specified in or determined in accordance with the licence for the payment of debts arising out of online gambling conducted by the holder ~~him~~;

(b) to notify the ~~Commissioners~~ Commission forthwith if it realises or calls upon any such security or draws on any such deposits or reserves (including any new or substituted security, deposits or reserves provided under paragraph (c)); and

(c) in the case mentioned in paragraph (b), to comply with any directions of the ~~Commissioners~~ Commission as to the provision of substituted security, deposits or reserves.

(2A) Without affecting the generality of subsection (1), the conditions of a licence may include conditions requiring the holder of the licence to notify the Commission (within the time periods specified in the condition) of certain events, including —

(a) any change in the legal or beneficial ownership of the share capital, or of any class of share capital, of the holder over a percentage specified in the licence;

(b) any change in controller of the holder;

(c) any change in the ownership structure of the holder;

(d) any change in the beneficial ownership of the holder.

(3) If a condition of a licence is contravened the holder of the licence is guilty of an offence.

7 Duration of licences

(1) Subject to section 8(2), a licence, unless it is cancelled or surrendered, shall remain in force for such period, not exceeding 5 years, as may be specified in it, beginning on such date as is so specified.

~~(2) The holder of a licence may surrender the licence by notice in writing to the Commissioners.[25]~~

(2) The holder of a licence intending to surrender the licence must give notice in writing to the Commission to that effect and provide with that notice such information as the Commission may require.

(2A) The Commission, if it receives a notice under subsection (2) may by written notice to the holder of the licence —

(a) require such additional information from the holder of the licence as it reasonably considers necessary; or

(b) if satisfied that it has the information it requires of the holder of the licence, determine —

(i) the steps the holder of the licence must take before the Commission will permit the surrender of the licence;

(ii) any conditions that it imposes upon the holder of the licence in relation to the surrender of the licence; and

(iii) the date upon which the surrender is to take effect, or the steps that must be taken by the holder of the licence before the Commission will permit the surrender to take effect.

(2B) The Commission may impose a condition under subsection 7(2A)(b)(ii) and stipulate that it continues to have effect after the surrender of the licence for such period as the Commission specifies but not exceeding —

(a) 5 years, in the case of a condition concerning the retention of information; and

(b) 2 years in any other case.

(2C) The Commission may vary or remove a condition.

(2D) The Commission, upon being satisfied that the holder of the licence has taken the steps required under subsection (2A)(b)(i) and agreed to comply with the conditions referred to in subsection (2A)(b)(ii) must permit the surrender to take effect.

(2E) The Commission may, in exceptional circumstances, permit the surrender of a licence despite having not received the information it requires under subsection (2A).

(2F) The Commission must publish on its website guidance as to the exercise of its functions under this section.

(2G) The Treasury may by regulations make supplementary provisions in respect of the surrender of a licence including (but not limited to) —

(a) the process for surrendering a licence;

(b) the content of a notice to surrender of a licence;

(c) records to be retained following a surrender of a licence.

(3) The surrender or expiry of a licence shall not affect any liability for anything done or omitted to be done before the date on which it ceases to have effect.

8 Renewal of licences

(1) The holder of a licence may, not later than the date of its expiry, apply to the ~~Commissioners~~ Commission for the renewal of the licence.[26]

(2) Where an application is made under subsection (1), the licence shall continue in force —

(a) until the determination of the application, or

(b) if the application is refused, until the expiration of ~~21 days from~~ one month beginning with the date ~~on which notice of the refusal is given to the applicant~~ of the decision to refuse the application or, where an appeal is made under section 7 of the *Gambling (Amendment) Act 2006*, until the appeal is abandoned or determined.[27]

(3) Sections 4 to 7 (except section 4(4)) apply, with any necessary modifications, to the renewal of a licence as they apply to the grant of a licence.

9 Variation and transfer of licence

(1) The ~~Commissioners~~ Commission may, on an application by the holder of a licence or of its own motion, vary a licence by adding a prescribed description of online gambling to, or deleting a description of online gambling from, the descriptions specified in the licence.[28]

(2) Subject to section 6(2), the ~~Commissioners~~ Commission may, on an application by the holder of a licence or of its own motion, vary or cancel any condition specified in the licence or impose a new condition.[29]

(3) A variation of a licence, or of a condition of a licence, or the imposition of a new condition, made otherwise than on an application by the holder

shall not have effect until the expiration of ~~21 days from the date on which notice of it is given to the applicant~~ one month beginning with the date of the decision or, where an appeal is made under section 7 of the *Gambling (Amendment) Act 2006*, until the appeal is abandoned or determined.[30]

(4) The ~~Commissioners~~ Commission may, on an application by the holder of a licence, transfer the licence to a person specified in the application.[31]

(4A) An application under this section must be in such form as is required by the Commission, and be accompanied by such documents and information as the Commission may require.

(5) A transfer under subsection (4) shall be endorsed on the licence.

(6) Sections 4(2) to (4) applies, with any necessary modifications, to a transfer of a licence as it applies to the grant of a licence.[32]

(7) Section 5(1) applies, with any necessary modifications, to an application for —

(a) the variation of a licence, or of a condition of a licence, or

(b) a transfer of a licence,

as it applies to the grant of a licence.[33]

10 Designated official

(1) A licence, and a transfer of a licence, shall not come into force until at least one designated official in relation to the licence has been approved by the ~~Commissioners~~ Commission.

(2) A designated official, in relation to a licence, is an individual nominated by the holder or transferee, as the case may be, of the licence who is —

(a) a director of the holder or transferee of the licence.

(b) [Repealed][34]

(3) ~~The Commissioners shall not approve an individual as a designated official unless they are satisfied that he is a person who satisfies the integrity and competency requirements set by the Commissioners, and shall withdraw such approval if they cease to be so satisfied.~~[35]

(3) The Commission shall not approve an individual as a designated official unless the Commission is satisfied that the person is a fit and proper person to act as such, and shall withdraw such approval if the Commission ceases to be so satisfied.

(3ZA) In assessing whether the Commission is satisfied as to the requirements in subsection (3), the Commission may have regard (among other things and with any necessary modifications) to the matters mentioned in section 4(2A).

~~(3A) The Commissioners shall, after consulting the Treasury, issue written guidance about the integrity and competency requirements set under subsection (3).~~[36]

(3A) The Commission shall, after consulting the Treasury, issue written guidance setting out the criteria that it will normally apply in assessing whether it is satisfied as required by subsection (3).

(4) If —

(a) the ~~Commissioners~~ Commission ~~withdraw their~~ withdraws its approval of a designated official, or

(b) a designated official —

(i) dies; or

(ii) [Repealed][37]

(iii) ceases to be a director of the holder of the licence,

and (in either case) there is no other designated official approved by the ~~Commissioners~~ Commission in relation to the licence, the holder of the licence shall apply to the ~~Commissioners~~ Commission for the approval of another person, being such an individual as is mentioned in subsection (2), in his place.

(5) If —

(a) the holder of the licence fails to comply with subsection (4) within the period of 6 weeks beginning with the event referred to in that subsection, or

(b) the ~~Commissioners~~ Commission ~~refuse~~ refuses an application under subsection (4) without specifying a period within which a further application may be made,

the licence is suspended from the end of the relevant period until another designated official is approved by the ~~Commissioners~~ Commission.

In this subsection "the relevant period" means the period of 6 weeks referred to in paragraph (a), or any period specified as that within which a further application may be made, as the case may be.

(6) The name and address of every designated official for the time being approved under this section shall be endorsed on the licence.

(7) Where any provision of this Act or regulations —

(a) imposes any criminal or other liability on the holder of a licence, or

(b) provides for any power to arise or anything to happen on the conviction of the holder of a licence,

the reference to the holder includes a reference to any person who at the material time is or was a designated official in relation to the licence.

10A Designated official outside the Island

(1) This section has effect where a designated official is not resident in the Island.

(2) The holder of a licence shall appoint an operations manager who shall be an individual who is resident in the Island and is approved or is of a class of persons approved by the ~~Commissioners~~ Commission for this purpose.

(3) A person shall be treated as approved for the purposes of subsection (2) if that person is an employee of a body that is licensed under section 7 of the *Financial Services Act 2008* to carry on the regulated activity of corporate services and that body is approved by the ~~Commissioners~~ Commission for the purposes of this section.[38]

(4) The operations manager shall, when required by notice in writing given by the ~~Commissioners~~ Commission, attend before the ~~Commissioners~~ Commission or a person nominated by ~~them~~ the Commission for the purpose.

(5) When requested under subsection (4), the operations manager shall attend at such place and time as is specified in the notice but shall not be required to attend within the five days following the service of the notice.

(6) Without prejudice to Part 4, Division 5 of the *Interpretation Act 2015* (service of documents), the service of a notice under subsection (4) may be effected by email or facsimile transmission.[39]

(7) If the operations manager cannot for any reason comply with a requirement under subsection (4), the designated official shall attend at the place and time specified in the notice.

(8) The holder of a licence who fails to comply with subsection (2) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.[40]

(9) An operations manager or designated official who fails to comply with a requirement by the ~~Commissioners~~ Commission under subsection (4) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.[41]

(10) In proceedings against a person for an offence under subsection (8) or (9) it shall be a defence for that person to show that all reasonable steps were taken and all due diligence was exercised to avoid committing the offence.[42]

Enforcement

11 Duties of ~~Commissioners~~ the Commission

(1) The ~~Commissioners~~ Commission shall, subject to the provisions of this Act and of regulations, —

(a) supervise the operation of any online gambling conducted in the Island;

~~(b) investigate the character and financial status of any person applying for or holding any licence or otherwise concerned with the operation of any online gambling conducted in the Island; and~~

(b) investigate (as the context requires) the fitness and propriety and financial standing of any person applying for or holding any licence (including any beneficial owner or controller of such a person) or otherwise concerned with the operation of any online gambling conducted in the Island; and

(c) ensure that all fees payable to the Treasury by a person conducting online gambling in the Island are duly paid and accounted for;

with a view to securing that online gambling is fairly and properly conducted, and that the provisions of this Act and regulations, and the conditions of any licences, are complied with.

(2) and (3)[Repealed][43]

(4) The Treasury, the Isle of Man Financial Services Authority, the Isle of Man Information Commissioner and the Chief Constable shall supply to the ~~Commissioners~~ Commission such information in their possession relating to holders of and applicants for licences, and officers and servants of those persons, as the ~~Commissioners~~ Commission may reasonably require for the exercise of ~~their~~ its functions under this Act.[44]

(5) The Treasury, the Isle of Man Financial Services Authority, the Isle of Man Information Commissioner and the Chief Constable may disclose information to the ~~Commissioners~~ Commission for the purpose of assisting the ~~Commissioners~~ Commission in the performance of ~~their~~ its functions under this Act.[45]

(6) The ~~Commissioners~~ Commission may disclose information to the Treasury for the purpose of assisting the Treasury in the performance of their functions in relation to the collection of gambling duty payable in accordance with the *Gambling Duty Act 2012*.[46]

(7) The duties imposed and powers conferred by subsections (4) to (6) may be exercised despite any obligation not to disclose information which would otherwise apply.

12 Obligations of holder of licence

(1) The holder of a licence shall —

~~(a) notify the Commissioners of any change in the beneficial ownership of more than 5 per cent. of the share capital, or of any class of share capital, in the holder;~~

(b) whenever required by the ~~Commissioners~~ Commission, provide such information as the ~~Commissioners~~ Commission may require to satisfy ~~them~~ it that the holder of the licence continues to have adequate financial means available to conduct the online gambling authorised by the licence; and

~~(c) notify the Commissioners of any conviction of the holder of the licence, or of any designated official in relation to the licence, falling within section 13(3).~~

(c) notify the Commission, as soon as reasonably practicable, if the holder of the licence or any designated official, director, controller, senior manager or beneficial owner in relation to the licence –

(i) is cautioned, charged or convicted of an offence falling within section 13(3); or

(ii) becomes the subject of an investigation by any regulatory body.

~~(2) No person shall be appointed to be a director of the holder of a licence unless the Commissioners are satisfied that he is a person of integrity and have approved his appointment.~~

(2) No person shall be appointed to be a director of the holder of a licence unless the Commission –

(a) is satisfied that the person is a fit and proper person to act as such; and

(b) has approved the person's appointment.

(2A) In assessing whether the Commission is satisfied as to the requirements in subsection (2), the Commission may have regard (among other things and with any necessary modifications) to the matters mentioned in section 4(2A).

(3) If subsection (1) or (2) is contravened the holder of a licence is guilty of an offence.

(4) In this section, "regulatory body" includes any body (whether in the Island or elsewhere) which has functions similar to those of the Commission or which regulates or supervises any profession.

13 Cancellation etc of licence

(1) The ~~Commissioners~~ Commission shall cancel a licence where, after consultation with the Treasury, ~~they are~~ the Commission is satisfied that the holder of the licence would not be eligible to be granted a licence on one or more of the grounds specified in section 4(2).[47]

(2) In the circumstances specified in subsections (3), (4) or (5) the ~~Commissioners~~ Commission may by notice to the holder of a licence either —

(a) suspend the licence for such period as may be specified in the notice, or until such conditions as are specified in the notice are complied with; or

(b) cancel the licence.

(3) The ~~Commissioners~~ Commission may act under subsection (2) where the holder of the licence, or any designated official in relation to the licence, is convicted —

(a) by a court in the Island of any offence under the *Casino Act 1986*, the 1988 Act, the *Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Act 2018* or this Act;

(b) by any court in the British Islands or the Republic of Ireland of an indictable offence; or

(c) by a court in any country or territory in the world of an offence punishable (in that country or territory) in the case of an adult by custody for an unlimited period or a term of 2 years or more.

(3A) The Treasury may by regulations specify circumstances when the Commission may act under subsection (2) in the event of a person who is not the holder of the licence or a designated official being convicted in a manner described in subsection (3)(a), (b) or (c).

Tynwald procedure – approval required.

(4) The ~~Commissioners~~ Commission may also act under subsection (2) where ~~they are~~ the Commission is satisfied that the holder of the licence —

(a) has failed to pay any sum due under section 5;

(b) has failed without reasonable excuse to comply with any condition of the licence;

(c) has contravened any provision of section 12 or of regulations;

(d) has failed without reasonable excuse to comply with a direction under section 6(2)(c) ~~or 15~~, 15 or 15A;

(e) has failed to comply with any requirement of a relevant code of practice under section 157 (money laundering codes) of the *Proceeds of Crime Act 2008*; ~~or~~[48]

(f) has ceased to conduct online gambling of any description authorised by the licence; or

(g) has made a material change to the business model most recently submitted to the Commission by the holder.

(5) The ~~Commissioners~~ Commission may also act under subsection (2) where, in the circumstances mentioned in section 12(1)(b), the holder of a licence has failed to satisfy ~~them~~ the Commission that it continues to have adequate financial means available to conduct the online gambling authorised by the licence.

(6) Where the ~~Commissioners~~ Commission ~~give~~ gives a direction under section 6(2)(c) ~~or 15~~ , 15 or 15A ~~they~~ the Commission may also make an order suspending the licence until the direction is complied with.

(7) Where it appears to the ~~Commissioners~~ Commission that any person has failed to comply with a requirement under ~~section 16~~ Schedule 1 (inspection and investigation) in relation to any online gambling, ~~they~~ the Commission may also make an order suspending the licence authorising the conduct of that gambling until the requirement is complied with.

(8) An order under subsection (6) or (7) may be expressed to apply —

(a) with immediate effect, or

(b) with effect from the expiration of such period as is specified in the order.

(9) In this section, "business model" means a written statement provided to the Commission by the holder setting out details of the holder's current or proposed business.

14 Effect of cancellation etc of licence

(1) The cancellation or suspension of a licence does not affect any liability for anything done or omitted to be done before the date on which the cancellation or suspension takes effect.

(2) [Repealed][49]

(3) Subject to subsections (1) and (2), where a licence is suspended under any provision of this Act, the licence is of no effect until the ~~Commissioners~~ Commission by notice to the holder ~~declare~~ declares, or, where an appeal is brought under section 7 of the *Gambling (Amendment) Act 2006*, the Gambling Appeal Tribunal certifies, that the suspension has ceased.[50]

15 Control of management, controllers, owners, advertising etc

~~(1) Where it appears to the Commissioners that —~~

~~(a) any director of the holder of a licence, or~~

~~(b) any other person who exercises managerial functions with respect to the conduct of online gambling authorised by a licence,~~

~~is not a suitable person to act as a director of the holder of the licence, or to exercise such functions, they may by notice to the holder direct that the person be removed from his position as a director, or deprived of any such managerial functions, as the case may be.~~

~~(2) Even though a direction under subsection (1) has been complied with, it shall, unless it is withdrawn by a further notice to the holder of the licence, remain in force as a direction —~~

~~(a) not to appoint the person to whom it relates as a director of the holder, and~~

~~(b) not to allow him to exercise any managerial functions with respect to the conduct of online gambling authorised by the licence.~~

(1) If, on reasonable grounds, it appears to the Commission that any –

(a) director or senior manager;

(b) controller; or

(c) beneficial owner,

of the holder of a licence is not a fit and proper person to continue as such, the Commission may direct the holder of the licence and the person concerned that such person must not continue as a director, senior manager, controller or beneficial owner, without the written consent of the Commission.

(2) In deciding whether to issue a direction under subsection (1), the Commission may have regard (among other things and with any necessary modifications) to the matters mentioned in section 4(2A).

(2A) The Commission must give written notice to the holder of the licence and to the person concerned of any decision to make a direction under this section together with a statement of the reasons for the decision.

(2B) Subject to subsection (2C), if a notice has been given under subsection (2A), the direction shall take effect —

(a) if no appeal under section 7 (appeal to Tribunal) of the *Gambling (Amendment) Act 2006* is made before the end of the period of one month beginning with the date of the decision to make a direction, on the expiry of that period; or

(b) if there is an appeal under section 7 of the *Gambling (Amendment) Act 2006* —

(i) where the appellant abandons the appeal, on the date of abandonment;

(ii) where the decision of the Commission is confirmed, on the date of confirmation; or

(iii) where the decision of the Commission is varied, on such date as the Gambling Appeals Tribunal directs.

(2C) If the Commission is of the opinion that a direction should have immediate effect, the notice under subsection (2A) must contain a statement to that effect together with the reasons for that opinion, and the direction shall have effect on the giving of the notice.

(2D) Any direction or consent given by the Commission under subsection (1) may be —

(a) given subject to conditions;

(b) varied from time to time;

(c) revoked at any time,

and the Commission must give written notice to the holder of the licence and to the person concerned of any decision to exercise the power conferred by paragraph (a), (b) or (c).

(2E) A person must not continue in any of the roles referred to in subsection (1) in contravention of a direction under this section.

(2F) It is the duty of a holder of a licence to take reasonable care not to continue the appointment of a person in contravention of a direction under this section.

(3) The ~~Commissioners~~ Commission may give to the holder of a licence such directions as to the information and other material which must, or must not, be included in —

(a) any advertisement of online gambling;

(b) any communication to the public, or to a participant or intended participant in online gambling,

as ~~they consider~~ the Commission considers appropriate for ensuring that online gambling is fairly and properly conducted.

(4) The ~~Commissioners~~ Commission may approve and issue codes of practice with respect to the matters referred to in paragraphs (a) and (b) of subsection (3), and directions under that subsection may be framed by references to any such code of practice.

(5) Before approving and issuing a code of practice under this section the ~~Commissioners~~ Commission shall consult the Treasury.[51]

15A Directions

(1) The Commission may issue written directions under this section to the holder of a licence.

(2) A direction may —

(a) require the holder of a licence to comply with a request for information under paragraph 3 (requests for information for regulatory inspection purposes) of Schedule 1 (inspection and investigation);

(b) require the holder of a licence to take such action in respect of the holder's business as is specified in the direction;

(c) impose such requirements as are necessary to secure that any business carried on by the holder of a licence is in whole or in part suspended or discontinued; or

(d) where a holder of a licence intends to surrender a licence, require the person to take such action as is necessary to secure that any business carried on by the holder is in whole or in part discontinued and wound up,

and the direction must include a statement of the reasons for its issue.

(3) The Commission may, on an application by the holder of a licence or of its own motion, vary or revoke a direction under this section and any variation or revocation of a direction must include a statement of the reasons for that variation or revocation.

(4) If a holder of a licence contravenes a written direction under this section, the Commission may exercise any one or more of the following powers as appropriate —

(a) the variation of the licence or the variation or cancellation of any condition specified in the licence under section 9 (variation and transfer of licence);

(b) the imposition of a new condition on the licence under section 9;

(c) the suspension or cancellation of the licence under section 13 (cancellation etc of licence);

(d) the issue of a direction under section 15 (control of management, advertising etc).

(5) In addition to being subject to the powers of the Commission under subsection (4), if the holder of a licence fails to comply with a written direction issued under subsection (2)(d), the holder is guilty of an offence.

(6) The power to issue a written direction under this section is in addition to, and does not affect, the power of the Commission to issue a direction under section 6(2)(c) (conditions of licence) and section 15 (control of management, advertising etc).

16 Rights of entry, inspection etc

Schedule 1 has effect in respect of the powers of inspection and investigation of the Commission.

~~(1) For the purpose of exercising any function of the Commissioners under section 11 an authorised person may at any time —~~

~~(a) enter any premises which he has reasonable cause to believe are or have been used for any purpose connected with the conduct of online gambling;~~

~~(b) require any person to produce any documents or other records relating to or connected with the conduct of online gambling, and to take copies of such documents or records; and~~

~~(c) require any person to provide him with access to any computer program used or to be used in connection with the conduct of online gambling.~~

~~(2) An authorised person in exercise of the power conferred by subsection (1)(b) or (c) —~~

~~(a) is entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus~~

or material which is or has been in used in connection with the records in question; and

(b) may require the person by whom or on whose behalf the computer is or has been used, or any person having charge of or otherwise concerned with the operation of the computer, apparatus or material, to afford him such assistance as he may reasonably require.

(3) An authorised person exercising a power conferred by subsection (1) or (2) —

(a) shall, if asked to do so, produce some duly authenticated document showing his authority to do so;

(b) when entering any premises, may take with him such other persons and such equipment as may appear to him to be necessary.

(4) Any person who —

(a) intentionally obstructs another in the exercise of any power conferred by this section, or

(b) fails without reasonable excuse to comply with a requirement under subsection (1)(b) or (c) or (2)(b), or

(c) refuses or neglects without reasonable excuse to provide any information or to produce or provide any document or other item when required to do so under this section; or

(d) in purported compliance with any requirement imposed on him under this section, provides, or causes or permits to be provided, any information which he knows to be false or misleading in a material particular or recklessly provides information which is false or misleading in a material particular; or

(e) produces or provides, or causes or permits to be produced or provided, any document or other item which he knows to be false or misleading in a material particular or recklessly produces or provides any document or other item which is false or misleading in a material particular,

is guilty of an offence.

(5) If it is shown to the satisfaction of a justice of the peace on information on oath that there are reasonable grounds for entry of any premises for the purpose mentioned in subsection (1), the justice may by warrant under his hand authorise an authorised person to enter and search the premises, using force if need be.

(6) A warrant issued under subsection (5) shall continue in force for 7 days.

(7) Nothing in this section shall compel the production of any communication which is subject to legal privilege.

(8) In this section "authorised person" means —

~~(a) a person authorised in writing by the Commissioners to exercise any power conferred by this section;~~

~~(b) a constable.~~

~~(9) If a person who has entered on any premises under this section, or has had access to any document, record or information produced or provided pursuant to any requirement under this section, discloses to another person information about any person or business thereby obtained by him, then, unless the disclosure is made in the course of the functions for the purposes of which he was authorised to enter the premises or was given access to the document, record or information, he is guilty of an offence.~~

16A Offences in connection with information

A person who —

(a) furnishes or sends to the Commission for any purposes under this Act a document which the person knows is false or misleading in a material particular;

(b) recklessly furnishes or sends to the Commission for the purposes of this Act a document which is false or misleading in a material particular;

(c) in furnishing information to the Commission for the purposes of this Act —

(i) makes a statement which the person knows to be false or misleading in a material particular; or

(ii) recklessly makes a statement which is false or misleading in a material particular; or

(d) without reasonable excuse, fails to furnish information which that person is required to furnish to the Commission under this Act,

is guilty of an offence.

17 Beneficial ownership

(1) The High Court may, on the application of the ~~Commissioners~~ Commission, make an order in respect of the company which is the holder of a licence requiring —

(a) any member of the company holding a share in the company;

(b) any director, manager, secretary or other officer of the company; or

(c) any person appearing to the Court to be interested in the share;

to disclose to the ~~Commissioners~~ Commission the identity of the beneficial owner or owners of the share.

(2) If it appears to the High Court that default has been made in complying with an order under subsection (1) and that the identity of the beneficial owner or owners of the share in question has not been disclosed to the

~~Commissioners~~ Commission, the Court may, on the application of the ~~Commissioners~~ Commission, make an order vesting that share in the Treasury.

(3) The High Court may, in proceedings under subsection (2), summon any person to give evidence on oath as to any matter within his knowledge, and to produce any document in his custody or control, bearing upon the identity of the beneficial owner of the share in question.

(4) The High Court may, on the application of any interested person, revoke an order under subsection (2), and thereupon the share in question shall vest in the person in whom it would then have been vested apart from that order; but the court shall not revoke such an order unless it is satisfied that the identity of the person or persons who, on such revocation, will be the beneficial owner or owners of the share in question has been disclosed to the ~~Commissioners~~ Commission.

~~(5) In this section "beneficial owner", in relation to a share the beneficial ownership of which is vested in a body corporate (other than a quoted company), means an individual who, whether directly or indirectly, through the holding of, or interests in, a share or shares in that or another body corporate or other bodies corporate, is ultimately interested beneficially in the share in question.~~

18 Offences

(1) A person convicted of an offence under this Act (except under section ~~16(4)~~ 15A(5)) is liable —

(a) on conviction on information, to custody for a term not exceeding 2 years or a fine, or both;

(b) on summary conviction, to custody for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale, or both.[52]

(2) A person convicted of an offence under section ~~16(4)~~ 15A(5) is liable on summary conviction, to custody for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale, or both.[53]

(3) Proceedings for an offence under this Act or regulations shall not be instituted except by or with the consent of the Attorney General.

(4) Where an offence under this Act or regulations committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate is guilty of that offence and liable to be proceeded against and punished accordingly.

(5) Where the affairs of a body corporate are managed by its members, subsection (4) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(6) In relation to an offence under this Act, section 75(1) of the *Summary Jurisdiction Act 1989* (time-limit for summary proceedings) applies with the substitution for "6 months" of "2 years".

Miscellaneous and supplemental

19 [Repealed][54]

20 Licences not to be assigned

A licence shall not be capable of being assigned.

21 Regulations

(1) The Treasury may by regulations —

(a) prescribe anything which under this Act may be prescribed;[55]

(b) prescribe the principles and rules in accordance with which online gambling of any description shall be conducted;

(ba) prescribe standards in respect of systems (including software), processes and procedures used in the conduct of online gambling and require compliance with such standards to be certified or audited;

(bb) require the Commission to keep registers and make such registers available for inspection by members of the public;

(c) require the rules of online gambling of any description (whether or not prescribed under paragraph (b)) to be notified in a prescribed manner to every participant in online gambling of that description;

~~(d) prescribe the manner in which the duties of any person engaged, appointed or seconded under section 11(2) are to be carried out, and the facilities to be granted to him for the purpose;~~

(e) regulate the fees which may be charged for participating in online gambling;

(f) require any individuals employed or engaged by or on behalf of the holder of a licence in the Island in the conduct of online gambling (except persons approved under section 10(1) or 12(2)) to be approved by the ~~Commissioners~~ Commission;

(g) enable any participant by a notification to the holder of a licence to limit the stakes which he may make, or on the losses which he may incur, in any period in online gambling of any description;

(h) require a prescribed period to elapse between the notification and the coming into effect of any increase in any limit on stakes or losses previously notified by any participant in online gambling of any description;

(i) regulate the advertising of online gambling;

(j) require stakes, winnings and losses to be paid by means of credit accounts or in any other prescribed manner;

(k) require persons conducting online gambling to verify the identity and age of participants in a prescribed manner;

(l) (without prejudice to any obligation under the ~~*Data Protection Act 2002*~~[56] data protection legislation) require prescribed steps to be taken to secure the privacy of participants in online gambling~~.~~;

(m) make any provision as may be necessary to ensure the lawfulness of any processing of personal data by the Commission in the exercise of its functions under this Act in accordance with the data protection legislation. [57]

(1A) Regulations under subsection (1) may —

(a) make provision as to the treatment to be afforded to money received by the holder of a licence;

(b) provide that money held by the holder is held on trust;

(c) specify the terms and purposes of any such trust; and

(d) exclude or modify the operation of section 6(2) in relation to money held on trust in accordance with the regulations.[58]

(1B) Any institution with which an account is kept in accordance with regulations made pursuant to subsection (1A) shall not incur any liability as constructive trustee where money is wrongfully paid from the account unless the institution —

(a) permits the payment with knowledge that it is wrongful; or

(b) has deliberately failed to make enquiries in circumstances in which a reasonable and honest person would have done so.[59]

(1C) Regulations under subsection (1) may –

(a) confer a function on a specified person or body (including the Commission) and a function conferred may, in particular, be a power or duty to exercise a discretion;

(b) require holders of a licence to comply with such standards, rules, regulations, codes or guidance as are from time to time in operation and made or issued by the Commission or any other person whether in the Island or elsewhere.

(2) The Treasury may by regulations prescribe the manner in which the gross receipts of online gambling are to be accounted for, and the records to be kept, for the purposes of section 5.[60]

(3) Where online gambling of any description prescribed for the purpose of section 4(1) ceases to be so prescribed, it shall be treated as continuing to be so prescribed in relation to any licence already in force (including any such licence as from time to time renewed under section 8), but without prejudice to any variation under section 9(1).

(4) Regulations may provide that a contravention of any provision of them shall be an offence on the part of any person of a description specified in the regulations, punishable on summary conviction by a penalty not exceeding that so specified (which shall not exceed custody for a term of 6 months or a fine of level 5 on the standard scale, or both).[61]

(5) Regulations shall be laid before Tynwald as soon as may be after they are made; and if Tynwald, at the sitting at which they are laid or the next following sitting, resolves that they be annulled, they shall cease to have effect.

21A Standards

(1) The Commission may establish, or provide for the establishment of, standards in respect of any systems (including software), processes and procedures used in the conduct of online gambling.

This does not affect the power of the Treasury to prescribe standards under section 21(1).

(2) Without affecting the generality of section 6 (conditions of licence), the Commission may provide for compliance with such standards and the enforcement of such standards by specifying conditions in a licence.

(3) The Commission may approve such persons as it thinks appropriate to certify or audit compliance with any standards, whether such standards are prescribed by the Treasury or established or provided for by the Commission.

(4) Persons approved by the Commission under subsection (3) may be approved for different purposes.

(5) The Commission may maintain lists of any persons approved by the Commission under subsection (3) containing such details as the Commission thinks appropriate and make such lists available to the public at all reasonable times.

21B Registers

(1) The Commission must keep a register of current and former holders of a licence containing such details as the Commission thinks appropriate.

(2) The Commission must make the register under subsection (1) available for inspection by members of the public at all reasonable times.

(3) The Commission may keep a register of some or all current or former persons exempt from section 2(1) (restrictions on online gambling) containing such details as the Commission thinks appropriate.

(4) The Commission may make any register under subsection (3) available for inspection by members of the public at all reasonable times.

22 Exemption from certain restrictions

(1) For the purpose of exempting online gambling from certain restrictions, the enactments specified in ~~the Schedule~~ Schedule 2 are amended in accordance therewith.

(2) A lottery is not unlawful if —

(a) it is authorised by a licence, and

(b) it is conducted in accordance with the provisions of this Act and the terms of the licence.

23 Online gambling contracts to be enforceable at law

No contract entered into in the course of online gambling shall be void or unenforceable by reason of section 40 of the 1988 Act.

24 Notices

Any notice to be given to the holder of a licence for any purpose of this Act or regulations, or of any provision of the licence, shall be deemed to be duly given if it is sent by ordinary post or delivered to —

(a) such address in the Island of the holder as is specified for the purpose in the licence, or

(b) such other address in the Island as the holder may from time to time notify for the purpose to the ~~Commissioners~~ Commission.

25 Interpretation: general

(1) In this Act —

"**the 1988 Act**" means the *Gaming, Betting and Lotteries Act 1988*;

"**associate**" means —

(a) in relation to any individual —

(i) the parent, spouse, civil partner, child, stepchild or sibling of the individual;

(ii) any body corporate of which that individual is a director;

(iii) a partner or employee of that individual; or

(iv) any person with whom the individual is known to have a close relationship;

(b) in relation to a body corporate —

(i) any director or employee of that body;

(ii) any subsidiary of that body;

(iii) any holding company of that body;

(iv) any subsidiary of that holding company;

(v) any director of any such holding company or subsidiary; or

(vi) any person with whom the body corporate is known to have a close relationship;

(c) in relation to an individual or a body corporate, any person with whom the individual or body corporate has an agreement, arrangement or other obligation —

(i) in respect of the acquisition, holding or disposal of shares or interests in a body corporate; or

(ii) to act together in exercising voting power with respect to such a body corporate;

"**beneficial owner**" means a natural person who ultimately owns or controls a legal entity, in whole or in part, through direct or indirect ownership or control of shares or voting rights or other ownership interest in that entity, or who exercises control via other means;

"**bet**" does not include any bet made or stake hazarded in the course of, or incidentally to, a game of chance;

~~"**the Commissioners**" means the Isle of Man Gambling Supervision Commission;~~[62]

"**the Commission**" means the Isle of Man Gambling Supervision Commission;

"**conduct**", in relation to online gambling, has the meaning given by section 1(2);

"**controller**" means —

(a) a person who either alone or with any associate or associates owns or controls, directly or indirectly —

(i) if the holder of a licence or another body corporate of which the holder is a subsidiary is a private company or a public company whose shares are not quoted on an exchange, 5% or more of the shares in that holder or that other body corporate; or

(ii) if the holder of a licence or another body corporate of which the holder is a subsidiary is a public company whose shares are quoted on an exchange, 20% or more of the shares in that holder or that other body corporate;

(b) a person who either alone or with any associate or associates owns or controls, directly or indirectly —

(i) if the holder of a licence or another body corporate or which the holder is a subsidiary is a private company or a public company whose shares are not quoted on an exchange, 5% or more of the voting power at any general meeting of that holder or that other body corporate; or

(ii) if the holder of a licence or another body corporate of which the holder is a subsidiary is a public company whose shares are quoted on an exchange, 20% or more of the voting power at any general meeting of that holder or that other body corporate;

(c) a person who is a director of the holder of a licence or of another body corporate of which that holder is a subsidiary;

(d) a person who is a director of a corporate director of the holder of a licence or of another body corporate of which that holder is a subsidiary;

(e) a person who, on account of that person's financial contribution to the holder of a licence or of another body corporate of which that holder is a subsidiary, has power to significantly influence or control the activities of the holder of a licence or of another body corporate of which that holder is a subsidiary;

(f) a person on whose non-financial contribution the holder of a licence, or a body corporate of which that holder is a subsidiary, places such considerable reliance as to be dependent on that contribution in order to function as it normally would;

(g) a person in accordance with whose directions or instructions one or more of the directors of the holder of a licence or of another body corporate of which that holder is a subsidiary are accustomed to act unless such director or directors are accustomed to so act by reason only that they do so on advice given by that person in a professional capacity;

(h) a person who has the power to appoint directors to the board of directors or other executive committees of the holder of a licence or of another body corporate of which that holder is a subsidiary and to remove them;

(i) a person who otherwise appears to the Commission to be able to exercise significant influence or control over the holder of a licence or another body corporate of which that holder is a subsidiary;

and any reference to the holder of a licence (however expressed) in this definition is to be read as including a reference to an applicant for a licence (as the context requires);

"**data protection legislation**" has the meaning given in regulation 5(1) of the GDPR and LED implementing Regulations 2018[1];

"**the Department**" [Repealed][63]

"**designated exchange**" means an investment exchange (not being a recognised exchange) for the time being included on the list of designated investment exchanges maintained by the Financial Conduct Authority of the United Kingdom;

"**designated official**" has the meaning given by section 10(2);

"**electronic communication**" means a communication sent, transmitted or received by means of an electronic communications network;[64]

"**electronic communications network**" has the same meaning as in the *Communications Act 2021* save that it does not include a network which is, or if it were on the Island would be, exempt from licensing under that Act;[65]

"**equipment**" includes any computer, machine, electronic device, apparatus, software or other thing;

"**exchange**" means a recognised exchange or a designated exchange;

"**game**" includes a game played by one person by means of a computer or other device, even though no other person participates in the game;

"**game of chance**" does not include any athletic game or sport but, with that exception, includes a game of chance and skill combined and a pretended game of chance or of chance and skill combined;

"**gaming**" means the playing of a game of chance for winnings in money or money's worth, whether or not any person playing the game is at risk of losing any money or money's worth;

"**licence**" means a licence granted under section 4 or renewed under section 8;

"**notice**" means a notice in writing;

"**online gambling**" has the meaning given by section 1(1);

"**prescribed**" means prescribed by regulations;[66]

"**recognised exchange**" means a body for the time being declared to be a recognised investment exchange by an order of the Financial Conduct Authority of the United Kingdom under section 290 of the Financial Services and Markets Act 2000 (of Parliament)[2];

"**regulations**" means regulations made by the Treasury under this Act;[67]

"**senior manager**" means such person as appears to the Commission to have significant powers or responsibilities with respect to any online gambling

[1] SD 2018/0145

[2] 2000 c.8

conducted or to be conducted by the holder of a licence or an applicant for such a licence;

"subsidiary" means a body corporate (whether or not incorporated under the Companies Act 1931-2004 or the *Companies Act 2006*) that is a subsidiary of another body corporate (whether or not incorporated under those Acts) and in determining whether one body corporate is a subsidiary of another the provisions of section 1 of the *Companies Act 1974* or section 220 of the *Companies Act 2006* shall apply (as the context requires), and "holding company" shall be construed accordingly.

"telecommunication" [Repealed][68]

"telecommunication system" [Repealed][69]

(2) The Treasury may by regulations amend the definitions of "**associate**", "**beneficial owner**", "**controller**", "**exchange**" or "**senior manager**".

Tynwald procedure – approval required.

26 Short title

This Act may be cited as the Online Gambling Regulation Act 2001.

SCHEDULE 1

INSPECTION AND INVESTIGATION

[Section 16]

1 Power of the Commission

(1) The Commission may exercise the powers in this Schedule for the purposes of the Commission's functions under this Act.

(2) Those functions of the Commission include —

(a) the functions of the Commission under section 11 (duties of the Commission);

(b) securing compliance with the provisions of this Act (and any statutory documents made under it) and any conditions of a licence issued under this Act;

(c) securing that any online gambling is conducted in a manner consistent with the regulatory objectives set out in section 5 (regulatory objectives) of the *Gambling Supervision Act 2010*.

(3) To avoid doubt, the powers of the Commission under this Schedule may be exercised in relation to —

(a) a person licensed under this Act to conduct online gambling;

(b) a person who was licensed under this Act to conduct online gambling but is no longer so licensed, but only in respect of or in connection with any transactions, matters or circumstances as occurred or existed when that person was so licensed;

(c) a person whom the Commission reasonably suspects of currently conducting online gambling without a licence;

(d) a person whom the Commission reasonably suspects of having conducted online gambling in the past without a licence, but only in respect of or in connection with any transactions, matters or circumstances as occurred or existed when that person is suspected of having conducted online gambling without a licence;

(e) a person who is or was exempt from section 2(1) (restrictions on online gambling).

2 Entry and inspection

(1) For a purpose mentioned in paragraph 1 (power of the Commission), the Commission may enter and inspect any premises that the Commission reasonably believes are being or have been used for or in connection with the conduct of online gambling.

(2) The power of entry under this paragraph —

(a) may be exercised without a warrant;

(b) subject to subparagraph (3), may be exercised with or without consent and with or without giving prior notice; and

(c) must be exercised at a reasonable time.

(3) The power under this paragraph to enter premises without a warrant does not apply in relation to premises used wholly or mainly as a private dwelling unless 24 hours' notice of the intended entry has been given to the occupier and the occupier consents to the person entering the premises.

(4) A person ("P") entering any premises by virtue of this paragraph may —

(a) be accompanied by such persons, and may take onto the premises such equipment, as P thinks necessary;

(b) request any person on the premises to provide such assistance or information as P may reasonably require;

(c) inspect any part of the premises and inspect, examine and test any equipment on the premises;

(d) inspect or examine any books, accounts, documents and information (in whatever form they are held) on the premises or accessible from the premises and take possession of any such books, accounts, documents and information;

(e) have access to, and inspect and examine the operation of, any electronic device and any associated apparatus or material which is or has been in use in connection with any books, accounts, documents or information;

(f) take copies of any books, accounts, documents and information and, in the case of any information kept in electronic form, require such information to be produced in a form in which it can be taken away and in which it is visible or legible or from which it can be readily produced in a visible and legible form;

(g) request any person having charge of, or otherwise concerned with the operation of, any equipment to afford P such assistance as P may reasonably require;

(h) seize, remove and retain anything (including documents and equipment) if P reasonably believes that it constitutes or contains evidence of —

(i) the commission of an offence under this Act;

(ii) the breach of a term or condition of a licence issued under this Act; or

(iii) non-compliance with any provision of this Act;

(i) take any other steps in relation to anything referred to in subparagraph (4)(h) as appear to be necessary for preserving it and preventing interference with it.

(5) Nothing in this paragraph —

(a) compels a person to disclose any items subject to legal privilege (within the meaning of section 13 of the *Police Powers and Procedures Act 1998*); or

(b) confers a right on a person who enters premises in exercise of a power under this paragraph to seize any items subject to legal privilege.

3 Requests for information for regulatory inspection purposes

(1) The Commission may request any person whom it reasonably believes may hold information that the Commission reasonably requires for a purpose mentioned in paragraph 1 (power of the Commission) to provide that information to the Commission.

(2) Without affecting the generality of subparagraph (1), the power to request any person to provide information under this paragraph includes the power to request information from —

(a) a person that the Commission reasonably believes is or has been conducting online gambling (whether with or without a licence) ("O");

(b) any person other than O, including (without limitation) —

(i) a person who is or has been an employee of O;

(ii) a person who is or has been a controller or beneficial owner of O;

(iii) a person that provides or has provided services to O or a person who is or has been an employee of such a person; or

(iv) a person that is or was an associate of O;

(3) Without affecting the generality of subparagraph (1), the Commission may request information about —

(a) the affairs of any person who is or has been a customer of O or who has requested to be a customer of O;

(b) any body corporate that is or has been —

(i) a holding company, subsidiary or related company of O;

(ii) a subsidiary of a holding company of O;

(iii) a holding company of a subsidiary of O;

(iv) a body corporate in respect of which a shareholder, controller or beneficial owner of O, either alone or with any associate or associates, is or has been entitled to exercise, or control the exercise of, 25% or more of the voting power at a general meeting or a meeting of the board of directors;

(c) any partnership of which O is or has been a member;

(d) any person who is or has been a controller or beneficial owner of O;

(e) any hosting services provided to O; or

(f) any other services provided to O in connection with O's conduct of online gambling.

(4) The power to request any person to provide information under subparagraph (1) includes the power to request a person to produce a document.

(5) If the Commission has made a request of a holder of a licence, the Commission may issue a direction under section 15A (directions) to that holder to secure that effect is given to a request under this paragraph.

(6) A statement given by a person in response to such a direction may not be used in evidence against that person in respect of any criminal proceedings except proceedings alleging contravention of section 16A (offences in connection with information) or paragraph 8 (offences).

(7) A person shall not be under an obligation under this paragraph to disclose any items subject to legal privilege within the meaning of section 13 of the *Police Powers and Procedures Act 1998*.

(8) In this paragraph, "document" includes information recorded in any form and, in relation to any information kept in electronic form, references to its production include reference to producing the information in a form in which it can be taken away and in which it is visible and legible or from which it can be readily produced in a visible and legible form.

(9) In this paragraph –

(a) "related company", in relation to O, means a body corporate (other than a subsidiary of O) in which O holds a qualifying capital interest;

(b) "qualifying capital interest" means an interest in relevant shares of the body corporate which O holds on a long-term basis for the purpose of securing a contribution to its own activities by the exercise of control or influence arising from that interest;

(c) "relevant shares" means shares comprised in the equity share capital of the body corporate of a class carrying rights to vote in all circumstances at general meetings of the body;

(d) "equity share capital" has the same meaning as in section 1(5) of the *Companies Act 1974*;

(e) a holding of 20% or more of the nominal value of the relevant shares of a body corporate shall be presumed to be a qualifying capital interest unless the contrary is shown.

(10) The power in this paragraph may be exercised by the Commission during an inspection of premises under paragraph 2 (entry and inspection) or otherwise.

4 Power of the Commission to require information

(1) The Commission may apply to a justice of the peace for a written instrument authorising the Commission to exercise the powers in this paragraph.

(2) The justice of the peace may issue the written instrument if the justice of the peace is satisfied that there is good reason to do so for the purposes of investigating the affairs, or any aspect of the affairs, of any person, in so far as those affairs are relevant to any online gambling that the person is or was conducting or appears to be or to have been conducting.

(3) The Commission may by notice in writing, accompanied by a copy of the instrument issued by the justice of the peace under subparagraph (2), require the person whose affairs are to be investigated or any other person whom the Commission has reason to believe has relevant information, documents or equipment —

(a) to attend before the Commission at a specified time and place to answer questions or otherwise furnish information with respect to any matter relevant to the investigation;

(b) to produce at a specified time and place any specified documents, class of documents or copies of documents which appear to the Commission to be relevant to the investigation;

(c) to make available to the Commission for inspection, examination or testing, at a specified time and place, any specified equipment which appears to the Commission to be relevant to the investigation.

(4) If a person who is required to produce a document or copies of documents under subparagraph (3)(b) fails to do so, the Commission may require that person to state, to the best of that person's knowledge and belief, where they are.

(5) If any documents are produced as required under subparagraph (3)(b), the Commission may —

(a) take possession of all such documents for so long as the Commission considers necessary;

(b) take copies or extracts from them; or

(c) require the person producing them to provide an explanation of any of them.

(6) A notice under subparagraph (3) must include a statement informing the person of the offences under paragraph 8 (offences) and section 16A (offences in connection with information).

(7) A person shall not be under an obligation under this paragraph to disclose any items subject to legal privilege within the meaning of section 13 of the *Police Powers and Procedures Act 1998*.

(8) A statement given by a person in response to a requirement imposed under this paragraph may not be used in evidence against that person in respect of any criminal proceedings except proceedings alleging contravention of section 16A (offences in connection with information) or paragraph 8 (offences).

(9) In this paragraph "document" includes information recorded in any form and, in relation to any information kept in electronic form, references to its production include reference to producing the information in a form in which it can be taken away and in which it is visible and legible or from which it can be readily produced in a visible and legible form.

(10) If a person claims a lien on a document, its production under this paragraph is without prejudice to the lien.

5 Entry to premises under warrant

(1) The Commission may apply to a Deemster for a warrant authorising the Commission to enter any premises.

(2) A Deemster may issue the warrant only if, on information on oath laid by the Commission, the Deemster is satisfied that —

(a) the Commission would be permitted to enter the premises without a warrant in accordance with paragraph 2 (entry and inspection) and at least one of the conditions in subparagraph (3) is satisfied;

(b) a person has failed (wholly or in part) to comply with an obligation under paragraph 4 to furnish information, produce documents or make equipment available and there are reasonable grounds for suspecting that the information, documents or equipment are on the premises;

(c) there are reasonable grounds for suspecting that there are on the premises information, documents or equipment in relation to which the power in paragraph 4 could be exercised but if such a requirement were imposed it would not be complied with or might seriously prejudice the purpose of exercising that power; or

(d) there are reasonable grounds for suspecting that there are on the premises information, documents or equipment in relation to which the power in paragraph 4 could be exercised but it is not practicable to serve a notice under paragraph 4(3) in relation to them.

(3) Those conditions are —

(a) entry to the premises has been refused or is likely to be refused;

(b) the purpose of entry may be frustrated or seriously prejudiced unless immediate entry to the premises can be secured; or

(c) the premises are unoccupied or the occupier is absent.

(4) A warrant issued by a Deemster may authorise any person named in the warrant ("P"), to do any one or more of the following —

(a) to enter any premises specified in the warrant, using such force as is reasonably necessary for the purpose;

(b) to search any such premises;

(c) to be accompanied by such persons, and take onto the premises such equipment, as P thinks necessary;

(d) to seize, remove and retain any information, documents or equipment appearing to be information, documents or equipment of the description specified in the application for the warrant or take any other steps in relation to such information, documents or equipment as appear to be necessary for preserving them and preventing interference with them;

(e) if it is not reasonably practicable to determine on the premises if information, documents or equipment is or contains something that is entitled to be seized under the warrant, to seize and remove such information, documents or equipment from the premises to enable that to be determined;

(f) to require any person on the premises to provide such assistance or information as P may reasonably require;

(g) to inspect any part of the premises and inspect, examine and test any equipment on the premises;

(h) to inspect or examine any books, accounts, documents and information (in whatever form they are held) on the premises or accessible from the premises and take possession of any such books, accounts, documents and information;

(i) to have access to, and inspect and examine the operation of, any electronic device and any associated apparatus or material which is or has been in use in connection with any books, accounts, documents or information;

(j) to take copies of any books, accounts, documents and information and, in the case of any information kept in electronic form, require such information to be produced in a form in which it can be taken away and in which it is visible or legible or from which it can be readily produced in a visible and legible form;

(k) to require any person having charge of, or otherwise concerned with the operation of, any equipment to afford P such assistance as P may reasonably require;

(l) to seize remove and retain anything (including documents and equipment) if P reasonably believes that it constitutes or contains evidence of —

(i) the commission of an offence under this Act;

(ii) the breach of a term or condition of a licence issued under this Act; or

(iii) non-compliance with any provision of this Act;

(m) take any other steps in relation to anything referred to in subparagraph (4)(l) as appear to be necessary for preserving it and preventing interference with it.

(5) Any person executing a warrant issued under this paragraph must be accompanied by a constable.

(6) A warrant issued under this paragraph ceases to have effect at the end of the period of one month beginning with the day it is issued.

(7) If the premises are unoccupied or the occupier is temporarily absent, on leaving the premises the person executing the warrant must —

(a) leave a notice on the premises stating that the premises have been entered under a warrant under this paragraph; and

(b) leave the premises as effectively secured against trespassers as that person found them.

(8) Nothing in this paragraph —

(a) compels a person to disclose any items subject to legal privilege (within the meaning of section 13 of the *Police Powers and Procedures Act 1998*); or

(b) confers a right on a person who enters premises in exercise of a power under this paragraph to seize any items subject to legal privilege.

(9) A statement given by a person in response to a requirement imposed under this paragraph may not be used in evidence against that person in respect of any criminal proceedings except proceedings alleging contravention of section 16A (offences in connection with information) or paragraph 8 (offences).

6 Seized goods

(1) If the Commission seizes, removes or takes possession of anything under paragraph 2 (entry and inspection) or paragraph 5 (entry to premises under warrant), the Commission must take reasonable steps as soon as reasonably practicable to —

(a) inform the person from whom they are seized, removed or taken that they have been seized, removed or taken; and

(b) provide that person with a written record of what has been seized, removed or taken.

(2) Anything seized, removed or taken under this paragraph may be retained for so long as it may be required for the purpose for which it was seized, removed or taken.

7 Authorisation

(1) The Commission may authorise in writing such persons as it thinks appropriate to exercise on its behalf all or any of the powers under this Schedule.

(2) A person seeking to exercise a power under this Schedule must, if requested to do so, produce evidence of the person's identity and authority to do so.

8 Offences

(1) A person who, without reasonable excuse, —

(a) obstructs or fails to cooperate with any person who is exercising or seeking to exercise a power under paragraph 2 (entry and inspection) or paragraph 5 (entry to premises under warrant);

(b) fails to comply with a requirement imposed under paragraph 4 (power of the Commission to require information),

is guilty of an offence.

(2) A person who —

(a) knows or suspects that an inspection or investigation by the Commission is being or is likely to be carried out; and

(b) falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, information that the person knows or suspects is or would be relevant to such an inspection or investigation,

is guilty of an offence.

(3) It is a defence for a person charged with an offence under subparagraph (2) to prove that there was no intention of concealing the facts disclosed by the information from persons carrying out such an inspection or investigation.

Maximum penalty for this section —

(a) (summary) – 6 months' custody or a fine of level 5 on the standard scale; or

(b) (information) – 2 years' custody or a fine.

SCHEDULE 2

AMENDMENT OF ENACTMENTS

Section 22(1)

[Sch amends the following Acts —

Pool Betting (Isle of Man) Act 1961 q.v.

Casino Act 1986 q.v.

Gaming, Betting and Lotteries Act 1988 q.v.]

ENDNOTES

Table of Endnote References

[1] Para (a) amended by Communications Act 2021 Sch 9.
[2] Para (b) amended by Communications Act 2021 Sch 9.
[3] Para (c) amended by Communications Act 2021 Sch 9.
[4] Para (a) substituted by Gambling (Amendment) Act 2006 Sch 2 and amended by Communications Act 2021 Sch 9.
[5] Para (d) amended by Financial Services Act 2008 Sch 6 para 44 and see also Official Correction to Act issued by authority of HM Attorney General 28 October 2011 for "section 46" substitute "section 47".
[6] Para (e) amended by Insurance Act 2008 Sch 8.
[7] Subs (3) added by Gambling (Amendment) Act 2006 Sch 2.
[8] Subs (4) added by Gambling (Amendment) Act 2006 Sch 2.
[9] Subs (5) added by Gambling (Amendment) Act 2006 Sch 2.
[10] Subs (6) repealed by Gambling Duty Act 2012 Sch 2.
[11] Subs (1) amended by Gambling (Amendment) Act 2006 Sch 2.
[12] Subs (2) amended by Gambling (Amendment) Act 2006 Sch 2.
[13] Para (b) amended by Gambling (Amendment) Act 2006 Sch 2, by SD155/10 Sch 2 and by SD2017/0325.
[14] Para (c) amended by SD2015/0090 as amended by SD2015/0276.
[15] Para (e) amended by Data Protection Act 2002 Sch 12 and by Freedom of Information Act 2015 Sch 4.
[16] Subs (3) amended by Gambling (Amendment) Act 2006 Sch 2.
[17] Subs (4) amended by Gambling (Amendment) Act 2006 Sch 2.
[18] Subss (5) to (7) repealed by Gambling (Amendment) Act 2006 Sch 2.
[19] Subs (2A) inserted by Gambling (Amendment) Act 2006 Sch 2.
[20] Subs (3) repealed by Gambling Duty Act 2012 Sch 2.
[21] Subss (4) and (5) repealed by Gambling (Amendment) Act 2006 Sch 2.
[22] Subs (6) repealed by Gambling Duty Act 2012 Sch 2.
[23] Subs (7) substituted by Gambling (Amendment) Act 2006 Sch 2.
[24] Subs (8) repealed by Gambling (Amendment) Act 2006 Sch 2.
[25] Subs (2) amended by Gambling (Amendment) Act 2006 Sch 2.
[26] Subs (1) amended by Gambling (Amendment) Act 2006 Sch 2.
[27] Para (b) amended by Gambling Supervision Act 2010 Sch 4.
[28] Subs (1) amended by Gambling (Amendment) Act 2006 Sch 2.
[29] Subs (2) amended by Gambling (Amendment) Act 2006 Sch 2.
[30] Subs (3) amended by Gambling Supervision Act 2010 Sch 4.
[31] Subs (4) amended by Gambling (Amendment) Act 2006 Sch 2.
[32] Subs (6) amended by Gambling (Amendment) Act 2006 Sch 2.
[33] Subs (7) amended by Gambling (Amendment) Act 2006 Sch 2.

[34] Para (b) repealed by Gambling (Amendment) Act 2006 Sch 2.
[35] Subs (3) amended by Gambling (Amendment) Act 2006 Sch 2.
[36] Subs (3A) inserted by Gambling (Amendment) Act 2006 Sch 2.
[37] Subpara (ii) repealed by Gambling (Amendment)Act 2006 Sch 2.
[38] Subs (3) amended by Financial Services Act 2008 Sch 6.
[39] Subs (6) amended by Interpretation Act 2015 s 106.
[40] Subs (8) amended by Fines and Penalties Act 2024 Sch 5.
[41] Subs (9) amended by Fines and Penalties Act 2024 Sch 5.
[42] S 10A inserted by Gambling (Amendment) Act 2006 Sch 2.
[43] Subss (2) and (3) repealed by Gambling (Amendment) Act 2006 Sch 2.
[44] Subs (4) amended by Gambling (Amendment) Act 2006 Sch 2, by Freedom of Information Act 2015 Sch 4 and by SD2015/0090 as amended by SD2015/0276.
[45] Subs (5) amended by Gambling (Amendment) Act 2006 Sch 2, by Freedom of Information Act 2015 Sch 4 and by SD2015/0090 as amended by SD2015/0276.
[46] Subs (6) amended by Gambling (Amendment) Act 2006 Sch 2 and by Gambling Duty Act 2012 Sch 1.
[47] Subs (1) amended by Gambling Supervision Act 2010 Sch 4.
[48] Para (e) amended by Proceeds of Crime Act 2008 Sch 7.
[49] Subs (2) repealed by Gambling Duty Act 2012 Sch 2.
[50] Subs (3) amended by Gambling Supervision Act 2010 Sch 4.
[51] Subs (5) added by Gambling (Amendment) Act 2006 Sch 2.
[52] Para (b) amended by Fines and Penalties Act 2024 Sch 5.
[53] Subs (2) amended by Fines and Penalties Act 2024 Sch 5.
[54] S 19 repealed by Gambling Supervision Act 2010 Sch 5.
[55] Para (a) amended by Gambling (Amendment) Act 2006 Sch 2.
[56] Editorial Note - References to a provision of the Data Protection Act 2002, except Part 3, must be construed as references to the appropriate provision in data protection legislation as defined in Article 7(5) of the Data Protection (Application of GDPR) Order 2018 [SD2018/0143], with effect from 01/08/2018. References to a provision in Part 3 of the Data Protection Act 2002 must be construed as references to the appropriate provision in data protection legislation as defined in Article 7(5) of the Data Protection (Application of GDPR) Order 2018 [SD2018/0143], with effect from 01/03/2019.
[57] Subs (1) amended by SD564/08. Para (l) amended by Data Protection Act 2002 Sch 12.
[58] Subs (1A) inserted by Gambling Supervision Act 2010 s 10.
[59] Subs (1B) inserted by Gambling Supervision Act 2010 s 10.
[60] Subs (2) amended by Gambling (Amendment) Act 2006 Sch 2.
[61] Subs (4) amended by Fines and Penalties Act 2024 Sch 5.
[62] Definition of "the Commissioners" substituted by Gambling (Amendment) Act 2006 Sch 2.
[63] Definition of "the Department" repealed by Gambling Supervision Act 2010 Sch 5.
[64] Definition of "electronic communication" inserted by Communications Act 2021 Sch 9.

[65] Definition of "electronic communications network" inserted by Communications Act 2021 Sch 9.
[66] Definition of "prescribed" amended by Gambling (Amendment) Act 2006 Sch 2.
[67] Definition of "regulations" substituted by Gambling (Amendment) Act 2006 Sch 2.
[68] Definition of "telecommunication" repealed by Communications Act 2021 Sch 9.
[69] Definition of "telecommunication system" repealed by Communications Act 2021 Sch 9.