

Isle of Man

Ellan Vannin

AT 8 of 2010

GAMBLING SUPERVISION ACT 2010

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GAMBLING SUPERVISION ACT 2010

Received Royal Assent:	*19 October 2010*
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AN ACT to make further provision for the status, constitution and functions of the Isle of Man Gambling Supervision Commission; to make further provision as to appeals from the Commission; to amend the *Online Gambling Regulation Act 2001*; and for connected purposes.

Introductory

1 Short title

The short title of this Act is the Gambling Supervision Act 2010.

2 Commencement

(1) This Act (except sections 1 and 3 and this section) shall come into operation on such day or days as the Treasury may by order appoint.[1]

(2) An order under subsection (1) may make such consequential, incidental, supplemental and transitional provisions as appear to the Treasury to be necessary or expedient for the purposes of the order.

3 Interpretation

In this Act —

"**the Advisory Council**", "cannabis", "cannabis resin" and "controlled drug" have the meanings given to them in the Misuse of Drugs Act 1976;[2]

"**cannabinol derivatives**" has the same meaning as in Part IV of Schedule 2 (controlled drugs) to the Misuse of Drugs Act 1971 (an Act of Parliament);[3]

"**cannabis-based product for medicinal use in humans**" has the meaning given in the Misuse of Drugs Regulations 2001[1] (as they are applied to the Island)[2];[4]

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

"**gambling**" means —

(a) gaming (within the meaning of the *Gaming, Betting and Lotteries Act 1988*);

(b) making, negotiating and receiving bets and wagers;

(c) organising, managing, promoting or participating in a lottery;

(d) supplying or operating controlled machines (within the meaning of the *Gaming (Amendment) Act 1984*);

"**the gambling Acts**" means —

(a) the *Gaming (Amendment) Act 1984*;

(b) the *Casino Act 1986*;

(c) the *Gaming, Betting and Lotteries Act 1988*;

(d) the *Online Gambling Regulation Act 2001*;

(e) the *Gambling (Amendment) Act 2006*; ~~and~~

(ea) the *Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Act 2018*; and

(f) this Act;

"**the regulatory objectives**" means the objectives specified in section 5(2) and (2A);[5]

"**transferred function**" means a function transferred to the Commission under the Transfer of Functions (Cannabis) Order 2020[3].[6]

The Commission

4 Status and constitution of Commission

(1) The Commission shall be a Statutory Board.

(2) Schedule 1 shall have effect with respect to the constitution, functions and proceedings of the Commission.

5 Regulatory objectives

(1) The Commission must, so far as is reasonably practicable, exercise its functions in such a way as is —

[1] SI 2001/3998

[2] See SD 0310/13

[3] SD 2020/0547

(a) compatible with the regulatory objectives set out in subsections (2) and (2A); and[7]

(b) in the opinion of the Commission, most appropriate for the purpose of meeting those objectives.

(2) The regulatory objectives, in relation to the Commission's functions relating to gambling, are —

(a) ensuring that gambling is conducted in a fair and open way;

(b) protecting children and other vulnerable persons from being harmed or exploited by gambling; ~~and~~

(c) preventing gambling from being —

(i) a source of crime or disorder,

(ii) associated with crime or disorder, or

(iii) used to support crime~~;~~.[8]

(d) implementing and applying recognised international standards; and

(e) safeguarding the reputation of the Island.

(2A) The regulatory objective, in relation to the Commission's transferred functions, is preventing the misuse of cannabinol, cannabinol derivatives, cannabis or cannabis resin.[9]

(3) Subject to subsection (1), in discharging its functions relating to gambling the Commission must have regard to —

(a) the need for the regulation, supervision and control of gambling to be —

(i) effective,

(ii) responsive to commercial developments, and

(iii) proportionate to the benefits which are expected to result from the imposition of any regulatory burden;

(b) the need to use its resources in the most efficient and economic way;

~~(c) the desirability of implementing and applying recognised international standards;~~

(d) the desirability of cooperating with governments, regulators and others outside the Island;

~~(e) the need to safeguard the reputation of the Island;~~

(f) the responsibilities of those who manage the affairs of persons permitted to carry on regulated activities;

(g) the international character of gambling; and

~~(h) the desirability of —~~

~~(i) facilitating the development of the gambling industry in the Island;~~

~~(ii) securing competition within that industry; and~~

~~(iii) ensuring that gambling products promoted by that industry can compete effectively throughout the world.~~[10]

(h) the stability and sustainability of the sectors it regulates.

(3A) Subject to subsection (1), in discharging its transferred functions the Commission must have regard to any advice or recommendation given to it under the Misuse of Drugs Act 1976 by the Advisory Council.[11]

(4) The Treasury may by order —

(a) specify policies and strategies to be implemented by the Commission in exercising its functions relating to gambling; and[12]

(b) to such extent as is necessary for consistency with those policies and strategies, amend subsection (3).

(5) The Commission must, so far as is —

(a) reasonably practicable, and

(b) consistent with the regulatory objectives set out in subsection (2),[13]

act in a way which promotes any policy or strategy specified by the Treasury under subsection (4).

(6) An order under subsection (4) shall be laid before Tynwald as soon as practicable after it is made, and if Tynwald at the sitting at which is it laid or at the next following sitting resolves that it shall be annulled, it shall cease to have effect.

6 Mutual assistance

(1) Subject to subsection (2), in relation to its functions relating to gambling, the Commission may enter into an agreement with a gambling regulatory authority for the purpose of —

(a) the provision by the Commission of assistance to that authority, and

(b) the provision by that authority of assistance to the Commission,

in regulating, supervising or controlling gambling.[14]

(1A) In relation to its transferred functions, the Commission may enter into an agreement with a cannabis regulatory authority for the purpose of preventing the misuse of drugs.[15]

(2) At the request of a gambling regulatory authority, the Commission may investigate any matter relating to the regulation, supervision or control of gambling, and for that purpose may exercise any of the powers conferred on it by any of the gambling Acts.[16]

(3) Subsections (1) to (2) do not permit the disclosure of any information relating to the affairs of any person otherwise than in accordance with Schedule 2.[17]

(4) In this section —

"cannabis regulatory authority" means any person or body, whether of a public or private nature, and whether established in the Island or elsewhere, which —

(a) regulates, supervises or controls the use of cannabinol, cannabinol derivatives, cannabis or cannabis resin other than a cannabis-based product for medicinal use in humans, or

(b) regulates or supervises any trade or business relating to cannabinol, cannabinol derivatives, cannabis or cannabis resin other than a cannabis-based product for medicinal use in humans;[18]

"gambling" includes any activity carried on outside the Island which, if carried on in the Island, would constitute gambling as defined in section 3;

"gambling regulatory authority" means any person or body, whether of a public or private nature, and whether established in the Island or elsewhere, specified in a list published by the Commission on its website. ~~which —~~

~~(a) regulates, supervises or controls gambling, or~~

~~(b) regulates or supervises any trade or business relating to gambling.~~[19]

7 Disclosure of information

Schedule 2 shall have effect for the purpose of restricting the disclosure of information by the Commission and others.

8 Liability for exercise of functions

(1) This section applies to any act or matter done or omitted to be done —

(a) in the exercise, or purported exercise, of —

(i) the functions conferred by or under any of the gambling Acts; or

(ii) any transferred function; or[20]

(b) in the implementation, or purported implementation, of a mutual assistance agreement under section 6(1) or (1A).[21]

(2) None of the following —

(a) the Commission,

(b) any member, officer or employee of the Commission; or

(c) any other person acting on behalf of the Commission; or

(d) any person acting pursuant to any authority conferred by the Commission,

shall be liable in damages for, or in respect of, any act or matter to which this section applies unless it is shown to have been done or omitted to be done in bad faith.

(3) Subsection (2) does not apply so as to prevent the award of damages made in respect of an act or omission on the ground that it was unlawful as a result of section 6(1) of the *Human Rights Act 2001*.

Appeals

9 Appeals

(1) [Amends section 7 of the *Gambling (Amendment) Act 2006* by substituting subsection (1).]

(2) [Amends section 9 of the *Gambling (Amendment) Act 2006* as follows: paragraph (a) inserts in subsection (1)(f) ", permit, certificate or registration" after "licence"; and paragraph (b) substitutes subsection (2).]

(3) [Adds Schedule 4 to the *Gambling (Amendment) Act 2006*.]

(4) Nothing in this section applies in relation to a decision or action taken before the coming into operation of this section.[22]

Participants' money

10 Online gambling- participants' money

[Amends section 21 (regulations) of the *Online Gambling Regulation Act 2001* by inserting subsections (1A) and (1B).]

Supplemental

11 Minor and consequential amendments and repeals

(1) The enactments specified in Schedule 4 are amended in accordance with that Schedule.

(2) The enactments specified in Schedule 5 are repealed to the extent specified in column 3 of that Schedule.

SCHEDULE 1

THE COMMISSION

Section 4(2)

Constitution

1. (1) The Commission shall consist of not less than 5 persons appointed by the Treasury, subject to the approval of Tynwald.

(2) The Treasury shall appoint one member of the Commission to be chairperson and another to be deputy chairperson of the Commission.

(3) A person may not be appointed or be a member of the Commission if he or she is —

(a) a member of the Council or the Keys;

(b) a public sector employee (within the meaning of section 3 of the *Public Services Commission Act 2015*).[23]

(c) [Repealed][24]

(4) The Treasury shall ensure that —

(a) at least one member of the Commission is an advocate, barrister or solicitor of at least 5 years' standing;

(b) at least one member of the Commission is a person with experience of online business; and

(c) at least one member of the Commission is a person with experience of gambling business.

Tenure of office

2. (1) A member of the Commission shall go out of office —

(a) subject to sub-paragraphs (2) to (5), on the expiration of 5 years beginning with the date on which he or she was appointed;

(b) if he or she becomes disqualified by paragraph 1(3) from being a member of the Commission.

(2) A member of the Commission may be removed from office by resolution of Tynwald.

(3) A member of the Commission may at any time resign on giving to the Treasury notice in writing of his or her intention to do so.

(4) A casual vacancy in the members of the Commission shall be filled as soon as practicable in like manner and subject to the like conditions as the office vacated, but a member appointed to fill such a vacancy shall hold office until the member in whose place he or she is appointed would ordinarily have gone out of office.

(5) Where a member of the Commission goes out of office under sub-paragraph (1)(a) he or she shall continue to be a member of the Commission for all purposes (except that of filling the vacancy) until his or her successor is appointed.

(6) A retiring member of the Commission shall be eligible to be re-appointed if he or she is otherwise qualified.

(7) Section 3 (tenure of office) of the *Statutory Boards Act 1987* shall not apply to the Commission.

Exercise of functions

3. (1) The quorum necessary for the transaction of business by the Commission shall be 3 members of the Commission.

(2) Paragraphs 1 (vice chairman), 2(3)(c) (quorum) and 7 (compulsory purchase) of Schedule 2 to the *Statutory Boards Act 1987* shall not apply to the Commission.

Monitoring and enforcement

4. (1) The Commission shall maintain arrangements designed to enable it to determine whether persons on whom requirements are imposed under any of the gambling Acts are complying with them.

(2) Those arrangements may provide for functions to be performed on behalf of the Commission by any body or person who, in its opinion, is competent to perform them.

(3) This paragraph is without prejudice to paragraph 3 (delegation of functions) of Schedule 2 to the *Statutory Boards Act 1987*.

Records

5. (1) The Commission shall maintain satisfactory arrangements for —

(a) recording decisions made in the exercise of its functions; and

(b) the safe-keeping of those records which it considers ought to be preserved.

(2) This paragraph is without prejudice to the *Public Records Act 1999*.

Staff

6. (1) For the purpose of enabling it to exercise its functions, the Commission shall —

(a) engage the services of such persons, being persons qualified and experienced in the fields of —

(i) accountancy,

(ii) the auditing of computer software,

(iii) statistics and the theory of probability,

(iv) pharmacology,[25]

(v) chemistry or chemical analysis,[26]

(vi) physical security,[27]

(vii) horticulture or bio-security,[28]

and such other fields as are appropriate for that purpose; and

(b) make arrangements for the appointment or secondment of persons (whether or not employees of the Public Services Commission) as officers of the Commission.[29]

(2) The terms on which persons may be engaged under sub-paragraph (1) (other than employees of the Public Services Commission) shall be such as the Commission may determine.[30]

Annual report

7. (1) As soon as reasonably practicable after the end of each year ending on 31st March the Commission shall send to the Treasury a report about the activities of the Commission during that year.

(2) The annual report shall include a report on the performance of the Commission in —

(a) achieving the regulatory objectives;

(b) fulfilling its obligations under section 5(3) or (3A); and[31]

(c) implementing any policies and strategies specified under section 5(4).

(3) The report shall also include such information about the effectiveness and efficiency of the Commission in exercising its functions as the Treasury may direct.

(4) Where the Treasury receives a report under sub-paragraph (1) it shall lay a copy before Tynwald.

Complaints

8. The Commission shall make and publish a document setting out procedures for the making, investigation and adjudication of complaints against the Commission.

Financial provisions

9. (1) Any expenses incurred under the gambling Acts by the Treasury or the Commission shall be defrayed out of money provided by Tynwald.

(2) Any fees received under the gambling Acts shall form part of the general revenue of the Island.

SCHEDULE 2

DISCLOSURE OF INFORMATION

Section 7

Restrictions on disclosure of information

1. (1) Subject to the provisions of this Schedule ~~paragraph 2~~, information which is restricted information for the purposes of this paragraph and relates to the business or other affairs of any person shall not be disclosed by a person mentioned in sub-paragraph (3) ("the primary recipient") or any person obtaining the information directly or indirectly from the primary recipient without the consent of the person to whom it relates. ~~—~~

~~(a) either —~~

~~(i) is restricted information for the purposes of this paragraph; or~~

~~(ii) is received under the *Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Act 2018*; and~~

~~(b) relates to the business or other affairs of any person,~~

~~shall not be disclosed by a person mentioned in sub-paragraph (3) ("the primary recipient") or any person obtaining the information directly or indirectly from the primary recipient without the consent of the person to whom it relates.~~[32]

(2) Subject to sub-paragraph (4), information is restricted information for the purposes of this paragraph if it is obtained by the primary recipient for the purposes of, or in the discharge of the primary recipient's functions under any of the gambling Acts or under the Misuse of Drugs Act 1976 or under any regulations or order under, or applied to the Island by an order made under, the Misuse of Drugs Act 1976 (whether or not by virtue of any requirement to supply it made under any of those Acts, regulations or orders).[33]

(3) The persons mentioned in sub-paragraph (1) are —

(a) the Treasury and its members;

(b) the Commission and its members;

(c) the Gambling Appeals Tribunal and its members; and

(d) any officer or employee of any person or body mentioned in (a) to (c).

(4) Information shall not be treated as restricted information for the purposes of this paragraph if it has been made available to the public by virtue of being disclosed in any circumstances in which or for any purpose for which disclosure is not precluded by this paragraph.

(5) Any person who contravenes this paragraph is guilty of an offence and liable on summary conviction to custody for a term not exceeding 6 months or to a fine not exceeding level 5 on the standard scale, or to both.[34]

Exceptions from restrictions on disclosure

2. ~~(1)~~ Paragraph 1 shall not preclude the disclosure of information —

(a) with a view to the institution of or otherwise for the purposes of criminal proceedings in the Island or elsewhere;

~~(b) to any constable for the purpose of enabling or assisting that or any other constable to discharge his or her functions;~~

(c) with a view to the institution of or otherwise for the purposes of any civil proceedings arising under or by virtue of any of the gambling Acts;

(ca) for the purpose of enabling or assisting the Commission to discharge its functions under the gambling Acts or any other of its functions;

(cb) for the purpose of enabling any person, appointed or authorised by the Commission, to exercise any powers of inspection and investigation under the gambling Acts;

(d) if the information is or has been available to the public from other sources;

(e) in a summary or collection of information framed in such a way as not to enable the identity of any person to whom the information relates to be ascertained;

~~(f) for the purpose of enabling the Public Services Commission to investigate the conduct of its employees;~~[35]

~~(g) for the purpose of enabling the Advisory Council to discharge its functions under the Misuse of Drugs Act 1976;~~[36]

(h) for the purposes of satisfying obligations created by a memorandum of understanding pertaining to medicinal cannabis to which the Commission or any Department is party;[37]

~~(i) for the purposes of enabling the Department for Enterprise to understand any economic problems experienced by any person to whom a licence has been issued by the Commission under the Misuse of Drugs Act 1976 or under any regulations or order under, or applied to the Island by an order made under, that Act.~~[38]

(j) for the purpose of enabling or assisting a person appointed or to be appointed by an operator under section 24 of the *Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Act 2018*;

(k) pursuant to an obligation under the Freedom of Information Act 2015.

3. (1) Subject to sub-paragraph (2), paragraph 1 shall not preclude the disclosure of information for the purpose of enabling or assisting any public or other authority ~~in the Island~~ for the time being designated for the purposes of this paragraph by an order made by the Treasury to discharge any functions which are specified in the order.

(2) An order under sub-paragraph (1) designating an authority for the purposes of that sub-paragraph may —

(a) impose conditions subject to which the disclosure of information is permitted by that sub-paragraph; and

(b) otherwise restrict the circumstances in which that sub-paragraph permits disclosure.

4. Paragraph 1 shall not preclude the disclosure of any information contained in any register required to be kept under any of the gambling Acts.

5. (1) Subject to [sub-paragraph (2)][4], paragraph 1 shall not preclude the disclosure of information to a regulatory authority (within the meaning of section 6); or

(a) pursuant to an agreement under that section, or

(b) for the purpose of enabling it to exercise functions corresponding to any of the Commission's functions under any of the gambling Acts.

(2) Sub-paragraph (1) shall not permit the disclosure of any information relating to the affairs of a person other than a regulated person unless —

(a) that person consents; or

(b) the Commission has consented to the disclosure in accordance with sub-paragraph (3);

and in this sub-paragraph "regulated person" means a person who carries on, has carried on or intends to carry on any activity for which a licence or permit is required under any of the gambling Acts.

(3) The Commission may consent in writing to a disclosure of information to which sub-paragraph (2) applies if it is satisfied that disclosure is appropriate having regard to all the circumstances of the case, including —

(a) the regulatory objectives;

(b) the confidential nature of the information;

(c) the purpose for which it is required;

(d) whether the making of the disclosure is proportionate to that purpose;

(e) the seriousness of the circumstances of the particular case;

(f) whether the disclosure (either by itself or in conjunction with other material) is likely to be of substantial value to the body to which it is made;

[4] Editorial correction - printed as "sub-paragraph (1)" in original text of Act.

(g) whether the information could be obtained by other means;

(h) the standards of confidentiality and information security which will be applied by the recipient; and

(i) whether, in a converse case, the recipient would afford similar assistance to the Commission.

(4) The Commission may by order amend the matters to be taken into account under sub-paragraph (3).

6. Paragraph 1 shall not preclude the disclosure of information by the primary recipient to —

(a) another person mentioned in paragraph 1(3), or

(b) a person engaged by the Treasury, the Commission or the Gambling Appeals Tribunal to provide any service to it in the exercise of any of its functions under the gambling Acts.

7. An order under paragraph 3(1) or 5(4) shall be laid before Tynwald as soon as practicable after it is made, and if Tynwald at the sitting at which the order is laid or at the next following sitting resolves that it shall be annulled, it shall cease to have effect.

SCHEDULE 3

NEW SCHEDULE 4 TO 2006 ACT

Section 9(3)

[Sch 3 amends the following Act —

Gambling (Amendment) Act 2006 q.v.]

SCHEDULE 4

AMENDMENT OF ENACTMENTS

Section 11(1)

[Sch 4 amends the following Acts —

Statutory Boards Act 1987 q.v.

Gaming Betting and Lotteries Act 1988 q.v.

Online Gambling Regulation Act 2001 q.v.]

SCHEDULE 5

ENACTMENTS REPEALED

Section 11(2)

[Sch 5 repeals the following Acts in part —

Gaming (Amendment) Act 1984

Casino Act 1986

Gaming Betting and Lotteries Act 1988

Online Gambling Regulation Act 2001

Gambling (Amendment) Act 2006.]

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

[1] ADO (ss 4 to 11 and Schs) 20/11/2010 (SD833/10).
[2] Definition of "the Advisory Council" inserted by SD2020/0547.
[3] Definition of "cannabinol derivatives" inserted by SD2020/0547.
[4] Definition of "cannabis-based product for medicinal use in humans" inserted by SD2020/0547.
[5] Definition of "the regulatory objectives" amended by SD2020/0547.
[6] Definition of "transferred function" inserted by SD2020/0547.
[7] Para (a) amended by SD2020/0547.
[8] Subs (2) amended by SD2020/0547.
[9] Subs (2A) inserted by SD2020/0547.
[10] Subs (3) amended by SD2020/0547.
[11] Subs (3A) inserted by SD2020/0547.
[12] Para (a) amended by SD2020/0547.
[13] Para (b) amended by SD2020/0547.
[14] Subs (1) amended by SD2020/0547.
[15] Subs (1A) inserted by SD2020/0547.
[16] Subs (2) amended by SD2020/0547.
[17] Subs (3) amended by SD2020/0547.
[18] Definition of "cannabis regulatory authority" inserted by SD2020/0547.
[19] Definition of "regulatory authority" replaced with definition of "gambling regulatory authority" by SD2020/0547.
[20] Para (a) substituted by SD2020/0547.
[21] Para (b) amended by SD2020/0547.

[22] S 9 operative 20/11/2010 (SD833/10).
[23] Item (b) substituted by Public Services Commission Act 2015 Sch.
[24] Item (c) repealed by Public Services Commission Act 2015 Sch.
[25] Subpara (iv) inserted by SD2020/0547.
[26] Subpara (v) inserted by SD2020/0547.
[27] Subpara (vi) inserted by SD2020/0547.
[28] Subpara (vii) inserted by SD2020/0547.
[29] Item (b) amended by Public Services Commission Act 2015 Sch.
[30] Subpara (2) amended by Public Services Commission Act 2015 Sch.
[31] Para (b) amended by SD2020/0547.
[32] Subpara (1) substituted by Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Act 2018 s 36.
[33] Subpara (2) amended by SD2020/0547.
[34] Subpara (5) amended by Fines and Penalties Act 2024 Sch 5.
[35] Item (f) substituted by Public Services Commission Act 2015 Sch.
[36] Item (g) inserted by SD2020/0547.
[37] Item (h) inserted by SD2020/0547.
[38] Item (i) inserted by SD2020/0547.