

Isle of Man

Ellan Vannin

AT 17 of 1984

GAMING (AMENDMENT) ACT 1984

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GAMING (AMENDMENT) ACT 1984

Received Royal Assent:	*31 July 1984*
Passed:	*16 October 1984*
Commenced:	*See endnotes*

AN ACT to control the keeping for use, and the sale and supply, of certain amusement machines; to impose an interim excise duty in relation to such machines; and for connected purposes.

GENERAL NOTES

1. References to the Finance Board are to be construed in accordance with the *Treasury Act 1985* s 6.

PART I – CONTROLLED MACHINES

1 Definition of "controlled machine", etc

[P1968/65/31]

(1) Subject to subsection (2), Parts I to IV of this Act apply to any machine, whether mechanical, electric or electronic, which is designed or adapted for the playing of a game of chance or skill or both by means of the machine, whether by one person or more, if a player pays to play the machine, and any such machine is in this Act referred to as a "**controlled machine**".

(2) A machine of such a description, which complies with such conditions, as may be prescribed by order made by the Gaming Board for the purpose of this subsection shall be treated as not being a controlled machine for the purposes of this Act.

(3) A controlled machine in respect of which a prize can be won by playing a game or games by means of the machine is in this Act referred to as a "**prize machine**".

(4) A controlled machine, whether a prize machine or not, which is designed or adapted for the playing of a game of chance, or of chance and skill, by

means of the machine is in this Act referred to as a "**prohibited machine**" if —

(a) the charge for playing a game once by means of the machine exceeds such amount as may be prescribed for the purpose of this paragraph; or

(b) in respect of any one game played by means of the machine, a player may receive any article, benefit or advantage other than —

(i) an opportunity to play again without payment, or

(ii) a coin or coins delivered by the machine; or

(iii) an amount in money, paid by a method prescribed for the purpose of this paragraph; or

(c) the prize in respect of any one game exceeds such amount as may be prescribed for the purpose of this paragraph; or

(d) in accordance with the way in which the machine is constructed, adapted or regulated, it is designed to pay out as a prize less than such percentage as may be prescribed for the purpose of this paragraph of the aggregate value of the charges for play inserted in the machine.[1]

(5) In subsection (4) 'prescribed' means prescribed by regulations made by the Gaming Board.

PART II – CERTIFICATION AND REGISTRATION

2 Control of certain machines

[1981/63/24]

(1) No controlled machine shall be kept for use on any premises other than —

(a) a private dwelling;

(b) subject to section 11(3) of the *Casino Act 1986*, a casino;[2]

(ba) subject to section 12M(5) of the *Casino Act 1986*, premises in respect of which a temporary premises certificate is in issue under Part IIA of that Act;[3]

(c) premises in respect of which a certificate under section 3 is for the time being in force; or

(d) subject to subsection (2), premises generally or specially exempted by order of the Gaming Board for the purposes of this section.

(2) An order under subsection (1)(d) may provide that premises exempted by the order shall be treated as not being so exempted unless such conditions as are specified in the order are complied with.

(3) No controlled machine of any description shall be kept for use on any premises in respect of which a certificate under section 3 is for the time being in force —

(a) contrary to the conditions subject to which the certificate is granted;

(b) without the machine being registered under paragraph 2 of Schedule 2; or

(c) contrary to the conditions prescribed, either generally or as respects controlled machines of the same description, by regulations under paragraph 7(1)(b) of Schedule 2.

(4) If any controlled machine is kept for use on any premises in contravention of subsection (1) or (3), any person who at the time when it is so kept —

(a) is the occupier of the premises; or

(b) is at the material time responsible for the management or control of the premises;

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale, but if the offence relates to a prohibited machine, he shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding 6 months, or to both.[4]

(5) If a controlled machine is kept for use on any premises in contravention of subsection (3)(a), and the contravention consists of a failure to comply with a condition regulating the admission of persons to the premises, then (without prejudice to subsection (4)) any person who at the material time is responsible for controlling the admission of persons to the premises shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.[5]

(6) If, in any proceedings for an offence under subsection (4) or (5), it is proved that a controlled machine was on any premises, it shall be presumed that the machine was kept for use on the premises, unless the contrary is shown.

3 Certification of premises

(1) The Gaming Board may, in accordance with the provisions of Part I of Schedule 1, grant a certificate under this section in respect of any premises authorising such numbers of controlled machines, of such descriptions, as may be specified in the certificate to be kept for use on the premises, subject to such conditions as may be so specified.

(2) A certificate under this section may be either —

(a) a full certificate; or

(b) a restricted certificate; or

(c) a club certificate.

(3) A restricted certificate may only be granted in respect of premises being —

(a) premises mainly and ordinarily used for the supply of refreshment to the public for consumption on the premises, not being premises with a seating capacity of less than 20; or

(b) an hotel or guest-house; or

(c) a public house;

and shall not be granted so as to authorise any prize machine, or more than two controlled machines, to be kept for use on the premises.

(4) A club certificate may only be granted in respect of premises exclusively occupied by or for the purposes of a bona fide sporting or recreational club, and shall not be granted so as to authorise more than two controlled machines to be kept for use on the premises.

(5) Part II of Schedule 1 shall have effect as to the further matters specified therein relating to certificates under this section.

4 Registration of machines

The Gaming Board shall maintain a register of controlled machines kept for use on all premises in respect of which certificates under section 3 are for the time being in force, and Schedule 2 shall have effect as to the registration of controlled machines for the purposes of this section.

PART III – SALE AND SUPPLY OF CONTROLLED MACHINES

5 Restrictions on sale or supply of controlled machines

[P1968/65/27]

(1) Except as provided by subsection (2), no person shall, whether as principal or as a servant or agent, sell or supply a controlled machine in the Island unless —

(a) he is the holder of a licence issued for the purposes of this section by the Gaming Board and for the time being in force, or

(b) where he sells or supplies the machine as the servant or agent of another person, that other person is the holder of such a licence.

(2) Subsection (1) does not apply —

(a) to the sale of controlled machines to a person who carries on a business which consists of or includes selling or supplying controlled machines;

(b) to the sale or supply of a controlled machine to a person buying or agreeing or proposing to buy it under a credit-sale agreement, or to the supply of a controlled machine to a person as being a person hiring or agreeing or proposing to hire it under a hire-purchase agreement, where (in any such case) the person who is or is to be

the seller or owner in relation to the agreement has at no time had possession of the machine and became or becomes the owner of it only for the purpose of entering into the agreement;

(c) to the supply of a controlled machine under a lease, where the person who supplies the machine —

(i) carries on the business of financing by means of leases the use of goods by others; and

(ii) in the course of that business acquired his interest in the machine for the purpose of financing its provision to any person; and

(iii) has not himself or by his agent had possession of the machine;

(d) to the sale or supply of a controlled machine as scrap;

(e) to any transaction whereby the premises in which a controlled machine is installed are sold or let and the machine is sold or supplied to the purchaser or tenant as part of the fixtures and fittings of the premises;

(f) to the sale or disposal of a controlled machine by a coroner pursuant to Schedule 1 to the *Administration of Justice Act 1981*; or

(g) to the sale or supply of a controlled machine by the holder of a full certificate, where the Gaming Board has consented in writing to the sale or supply.

(3) Schedule 3 shall have effect with respect to the issue of licences under this section.

(4) In this section —

'credit-sale agreement' means an agreement for the sale of goods under which the whole or part of the purchase price is payable by instalments;

'hire-purchase agreement' has the same meaning as in the Hire Purchase Acts 1939 to 1973;

'lease' means an agreement or arrangement under which payments are or are to be made for the supply of an article, not being a contract of sale, a credit-sale agreement or a hire-purchase agreement.

6 Restrictions as to terms and conditions of sale or supply

[P1968/65/28]

(1) The Gaming Board may by regulations impose such restrictions as it may consider necessary or expedient with respect to the terms and conditions on which controlled machines may be sold or supplied.

(2) In this section 'terms and conditions' includes any terms and conditions as to price, rent or any other payment.

7 Application of ss 5 and 6 to concessionaires

[P1968/65/29]

For the purposes of sections 5 and 6 a person who, in pursuance of any concession, licence or other right granted to him, places a controlled machine, or causes a controlled machine to be placed, on premises which are not in his occupation shall be treated as supplying the machine at the time when it is placed on those premises.

8 Offences against ss 5 and 6

[P1968/65/38]

Any person who —

(a) contravenes section 5(1); or

(b) sells or supplies a controlled machine in contravention of regulations made under section 6(1);

shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.[6]

PART IV – TAXATION OF CONTROLLED MACHINES

9 Interim duty

(1) There shall in each year commencing 1st April be charged a duty on every certificate under section 3 (not being a club certificate) in respect of any premises.

(2) The duty under this section shall be determined in accordance with Part I of Schedule 4.

(3) Part II of Schedule 4 shall have effect as to the administration and payment of duty under this section.

(4) Any person convicted of an offence under section 2(4) in relation to any premises shall, if the court by whom he is convicted is satisfied that any duty under this section which was payable in respect of those premises had not been paid in full at the time the offence was committed, be liable to a penalty of three times the duty unpaid, in addition to any other penalty to which he may be liable under any other provision of this Act.

(5) For the purposes of subsection (4), the duty payable in respect of any premises shall be deemed to be the duty which would have been payable —

(a) if a certificate under section 3 had been in force in respect of those premises (if no such certificate was actually in force); and

(b) if all controlled machines on the premises had been authorised by such a certificate to be kept for use there and registered under

paragraph 2 of Schedule 2, whether or not any such machine was, or was capable of being, so authorised or registered;

and the duty unpaid shall be the duty so deemed to be payable, less any duty actually paid.

10 [Repealed][7]

PART V – GENERAL PROVISIONS

11 [Repealed][8]

~~**12 Powers of entry, seizure, etc**~~

~~[P1972/25/4 15ff]~~

~~(1) An authorised officer may without payment enter any premises in respect of which a certificate under section 3 is for the time being in force on which he knows or has reasonable cause to suspect that controlled machines are or have been kept for use, and inspect those premises and any controlled machine thereon, and may require of any person who is concerned in the management of the premises, or who is on the premises and appears to the officer to have any responsibility whatsoever in respect of the management thereof or of the control of the admission of persons thereto —~~

~~(i) to produce or secure the production of any certificate under section 3 or paragraph 4 of Schedule 2 for the time being in force with respect to the premises, or~~

~~(ii) to provide information with respect to any use to which the premises are or have been put, or to any controlled machine which is or has been on the premises and any game which may have been played by means of such a machine or to the way in which the machine works, or to the amount which is or has been payable to play it.~~

~~(2) If a justice of the peace is satisfied on information on oath that there is reasonable ground for suspecting that controlled machines are or have been, or are to be, kept for use on any premises in contravention of section 2(1) or (3), he may issue a warrant in writing authorising an authorised officer to enter, by force if need be, either the premises in question or any other premises (which, in either case, shall be specified in the warrant) and search them at any time within 14 days of the issue of the warrant.~~

~~(3) An authorised officer who enters premises under the authority of a warrant issued under subsection (2) may —~~

(a) exercise in respect of the premises any of the powers exercisable by virtue of subsection (1) in respect of premises specified in that subsection;

(b) seize and remove any records, accounts or other documents, or any controlled machine or other machine appearing to the officer to be a controlled machine, or any tokens or other thing whatsoever, found on the premises which he has reasonable cause to believe may be required as evidence for the purpose of proceedings in respect of an offence under section 2(4) or (5); and

(c) search any person found on the premises whom he has reasonable cause to believe to be or to have been concerned with the keeping of controlled machines for use on the premises, or with the management of the premises, or to be or to have been responsible for the admission of persons to the premises.

(4) If an authorised officer finds a controlled machine on any premises in such circumstances that he has reasonable cause to believe that a certificate under section 3 is required so as to authorise it to be kept for use thereon, and either —

(a) there are not produced to him on demand valid certificates under section 3 and paragraph 4 of Schedule 2 in respect of the premises; or

(b) such certificates are produced, but the officer is satisfied that there is or has been a contravention of section 2(1) or (3) in respect of the premises;

he may seize all or any controlled machines found on the premises, and the Gaming Board may, not less than 21 days after such seizure, cause any such machine so seized to be destroyed or otherwise disposed of, unless an application under subsection (5) is pending or an order under that subsection has been made in relation to the machine.

(5) The owner or hirer of a machine seized under subsection (4) may, within 21 days of such seizure, apply to the High Bailiff for an order that the machine be delivered to him, and the High Bailiff may, if he is satisfied that the keeping of the machine was not in contravention of section 2(1) or (3), order the Gaming Board to deliver the machine to the applicant or to such other person as appears to the High Bailiff to be entitled to the possession thereof.

(6) Any person who contravenes or fails to comply with any requirement lawfully made of him under subsection (1), or obstructs an authorised officer in the performance of any function conferred on him by this section, shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.[9]

(7) Where an authorised officer takes any action in pursuance of instructions of the Gaming Board given in connection with the enforcement of any

~~provision of this Act and, apart from the provisions of this subsection, the officer would in taking that action be committing an offence under any enactment relating to betting, gaming or lotteries, he shall not be guilty of such an offence.~~

~~**13 False statements**~~

~~Any person who, in making any application or giving any notification under this Act, makes any statement which he knows to be false in a material particular or recklessly makes any statement which is false in a material particular shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a term not exceeding six months, or to both.~~[10]

12 Inspection and investigation

Schedule 4A has effect in respect of the powers of inspection and investigation of the Gaming Board.

12A Directions

(1) The Gaming Board may issue written directions under this section to the holder of any certificate or licence issued under this Act.

(2) A direction may —

(a) require the holder of a certificate or a licence to comply with a request for information under paragraph 4 (requests for information for regulatory inspection purposes) of Schedule 4A (inspection and investigation);

(b) require the holder of a certificate or 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 certificate or a licence is in whole or in part suspended or discontinued; or

(d) where a holder of a certificate or a licence intends to surrender a certificate or a licence, require the person to take such action as is necessary to secure that any business or activity 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 Gaming Board may, on an application by the holder of a certificate or 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 the holder of a certificate or a licence contravenes a written direction under this section, the Gaming Board may exercise any one or more of the following powers as appropriate —

(a) revoke a certificate granted under section 3 (certification of premises) under paragraph 9 (revocation and suspension of certificate) of Schedule 1 (procedure for grant of certificate);

(b) revoke a licence issued under section 5 (restrictions on sale or supply of controlled machines) under paragraph 3 (revocation of licence) of Schedule 3 (licences under section 5).

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

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

(6) The power to issue a written direction under this section is in addition to, and does not affect, the power of the Gaming Board to issue a direction under paragraph 8(2) (renewal and amendment of certificate) and paragraph 9(3) (revocation and suspension of certificate) of Schedule 1 (certification of premises).

13 Offence in connection with information

A person who —

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

(c) in furnishing information to the Gaming Board 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 Gaming Board under this Act,

is guilty of an offence.

Maximum penalty —

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

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

14 Provisions in relation to offences

[P1981/63/27]

(1) No proceedings for an offence under this Act shall, except with the consent of the Attorney General, be brought by any person other than the Attorney General, the Gaming Board or a constable.

(2) Where an offence under any provision of this Act is committed by a body corporate, every person who at the time of the commission of the offence was a director, manager, secretary or other similar officer of the body corporate, or was purporting to act in any such capacity, shall be deemed to be guilty of that offence unless he proves that the offence was committed without his consent or connivance, and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions in that capacity and all the circumstances of the case.

(3) In any proceedings against a person as occupier of any premises under section 2(4), it shall be a defence for the person accused to prove that the contravention in question occurred without his consent or connivance and that he exercised all due diligence to prevent it.

(4) to (7) [Repealed][11]

15 Financial provisions

Any monies received by the Gaming Board under this Act shall be paid into the general revenue of the Island.

15A [Repealed][12]

16 ~~Tynwald control over orders~~ Orders and regulations

(1) No order or regulations under any provision of this Act shall have effect unless approved by Tynwald.

(2) Any regulations or orders made under this Act may —

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

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

17 Interpretation

(1) In this Act —

~~"**authorised officer**" means any person duly authorised in writing by the Gaming Board to perform any of the functions conferred on an authorised officer by any provision of this Act or regulations made thereunder, or by any condition subject to which a certificate under section 3 is granted or which is prescribed by regulations under paragraph 7(1)(b) of Schedule 2;~~

"**casino**" has the same meaning as in the *Casino Act 1986*;[13]

"**club certificate**" means a certificate under section 3 which is expressed to be a club certificate;

"**controlled machine**" has the meaning assigned by section 1(1) and (2);

"**enactment relating to gaming, betting or lotteries**" includes any enactment contained in this Act;

"**full certificate**" means a certificate under section 3, not being a club certificate or a restricted certificate;

"**holder**", in relation to a certificate under section 3, means the person specified therein under paragraph 6(c), or the person so specified by virtue of an amendment under paragraph 8(4), of Schedule 1;

"**kursaal**" [Repealed][14]

"**the Gaming Board**" means the Isle of Man Gambling Supervision Commission;[15]

"**the Local Government Board**" [Repealed][16]

"**machine**" includes any apparatus or device of any description;

"**premises**" includes —

(a) any land,

(b) any shed, tent, booth, shelter or other structure, whether permanent or temporary,

(c) any vehicle, and

(d) any vessel used for navigation;[17]

"**prize machine**" has the meaning assigned by section 1(3);

"**prohibited machine**" has the meaning assigned by section 1(4);

"**public house**" ~~has the same meaning as in the *Licensing Act 1961*~~ means premises in respect of which a licence has been granted under the *Liquor Licensing and Public Entertainments Act 2021* authorising the sale or supply of liquor on the premises for consumption on or off the premises;

"**restricted certificate**" means a certificate under section 3 which is expressed to be a restricted certificate.

(1A) The Gaming Board may by regulations amend the definition of "public house".

(1B) Before making regulations under subsection (1A), the Gaming Board must consult —

(a) persons appearing to the Board to represent the interests of licence holders likely to be affected; and

(b) such other persons as the Board considers appropriate.

(2) References in this Act to a private dwelling shall be construed as excluding any premises or part of any premises —

(a) used, whether temporarily or not, for a purpose other than the purpose of, or a purpose ordinarily incidental to, the use of the premises as a private dwelling; or

(b) in which a controlled machine is kept for use for the purposes of private gain.

(3) In determining for any purpose of this Act whether a person at any material time has or had actual charge of any premises, regard shall be had to —

(a) whether that person at that time is or was resident in the Island;

(b) the frequency and regularity of his attendance at the premises; and

(c) the degree and extent of the management or control of the premises exercised by him.

18 Short title and commencement

(1) This Act may be cited as the Gaming (Amendment) Act 1984.

(2) This Act shall come into operation on such day as the Governor in Council may by order appoint, and different days may be so appointed for different provisions and different purposes.[18]

(3) [Repealed][19]

SCHEDULE 1

CERTIFICATION OF PREMISES

Section 3

PART I – PROCEDURE FOR GRANT OF CERTIFICATE

Application for a certificate

1. (1) An application for a certificate in respect of any premises shall be made to the Gaming Board —

(a) in the case of an application for a full certificate or a restricted certificate, by the occupier or intended occupier of the premises;

(b) in the case of an application for a club certificate, by the person or body of persons having the effective control and management of the club.

(2) The application shall be made in the prescribed form and shall specify —

(a) the name of the applicant and his address or, if the applicant is a company, its registered office;

(b) the address or description of the premises;

(c) if the applicant is a company, the names and addresses of its directors and secretary, and (except where the applicant is a quoted company) the beneficial owners of the issued share capital of the body of every class carrying rights to vote in all circumstances at general meetings of the body;

(d) whether, and if so when, an application for a certificate has been previously refused, either to the applicant (stating in relation to what premises) or in relation to the premises the subject of the application;

(e) the name and address of the person (being an individual) having or intended to have actual charge of the premises;

(f) whether the application is for a full certificate, a restricted certificate or a club certificate;

(g) the total number of controlled machines and, if appropriate, the numbers of machines of such different descriptions as may be prescribed, intended to be kept for use on the premises;

(h) the period and times during which it is intended that the premises should be open for the use of controlled machines thereon;

(i) any restrictions on access to the premises or to controlled machines thereon, which it is intended should be imposed; and

(j) such other matters as may be prescribed.

(3) On any application there shall be paid to the Gaming Board the following fee: —

(a) for a Full Certificate, £219;[20]

(b) for a Restricted Certificate, £127;[21]

(c) for a Club Certificate, £52.[22]

(4) The Gaming Board, with the concurrence of the Treasury, may by order substitute other amounts for the amounts specified in sub-paragraph (3) (or the amounts substituted therefor by a previous order under this sub-paragraph).[23]

Consultation with local authority etc.

2. On receipt of an application for a full certificate or a restricted certificate, the Gaming Board shall consult the local authority in whose district the premises in question are situated or, if the application is made by that authority, the Department of Infrastructure, and, if the application is for a full certificate, the Chief Constable.[24]

Publicity for applications

3. (1) The applicant for a full certificate shall cause a notice in the prescribed form to be —

(a) exhibited in a conspicuous position outside the premises during the whole of the period specified in the notice in accordance with sub-paragraph (2); and

(b) published, not later than 7 days after the making of the application, in at least 2 newspapers published and circulating in the Island.

(2) The notice under sub-paragraph (1) shall specify —

(a) the name and address or registered office of the applicant;

(b) the address or description of the premises; and

(c) the number of controlled machines intended to be kept for use on the premises;

and shall state —

(i) that objections or representations with respect to the application may be made to the Gaming Board within such period as may be specified in the notice, being not less than 21 days from the date on which the notice is first published in accordance with sub-paragraph (1)(b); and

(ii) that a copy of the application may be inspected at all reasonable hours at the offices of the Gaming Board during the whole of the period specified in the notice in accordance with sub-sub-paragraph (i).

Conditions for grant of certificate

4. The Gaming Board shall refuse an application for a certificate unless it is satisfied —

(a) that the applicant is qualified to make the application under paragraph 1(1)(a) or (b), as the case may be;

(b) that the premises, in the case of an application for a restricted certificate or a club certificate, comply with the requirements of section 3(3) or (4), as the case may be;

(c) that the applicant is a fit and proper person to whom a certificate may be granted;

(d) that the person specified under paragraph 1(2)(e) is a fit and proper person to have actual charge of the premises;

(e) that the requirements (if applicable) of paragraph 3 have been complied with in respect of the application;

(f) if the applicant is a body corporate, that it is incorporated in the Island; and

(g) in the case of an application for a full certificate, if the applicant is not a body corporate, that he has, or (if more than one) that they have all, been resident in the Island for at least 6 months.

Consideration by Gaming Board

5. (1) The Gaming Board, before determining an application for full certificate, shall afford to —

(a) the applicant;

(b) any person consulted under paragraph 2; and

(c) any person by whom any objection or representation with respect to the application has been made pursuant to paragraph 3(2)(i);

an opportunity of appearing before and being heard by the Gaming Board, either in person or by an advocate.

(2) In determining an application for a full certificate, the Gaming Board shall have regard to —

(a) any representation made by any person consulted under paragraph 2;

(b) any objection or representation made under paragraph 3(2)(i) or sub-paragraph (1);

(c) the suitability of the premises for the keeping of controlled machines for use thereon in the circumstances specified in the application, including the location of the premises and (without prejudice to the generality of the foregoing) —

(i) the appearance, illumination and means of access to the premises;

(ii) the noise likely to be generated by the premises and its effect on the amenities of the area;

(iii) the sanitary facilities available on the premises for the use of the staff of the premises and of persons likely to resort to the premises;

(iv) the facilities for fire prevention and control, and for escape in case of fire, provided at the premises; and

(v) the state of repair, maintenance and decoration of the premises;

(d) the matters specified in the application under paragraph 1(2); and

(e) such other matters as may be prescribed.

(3) In determining an application for a restricted certificate or a club certificate, the Gaming Board shall have regard to the suitability of the premises for the keeping of controlled machines thereon and the persons likely to have access to such machines.

Grant of certificate

6. On the determination of an application for a certificate, the Gaming Board shall notify the applicant and, if appropriate, the persons referred to in paragraph 5(1)(b) and (c) of its decision, and if it determines to grant the application, the Board shall grant to the applicant a certificate which shall specify —

(a) the address or description of the premises;

(b) whether the certificate is a full certificate, a restricted certificate or a club certificate;

(c) the name and address or registered office of the person to whom the certificate is granted (hereafter referred to as "**the holder of the certificate**");

(d) the name and address of the person (being an individual) having actual charge of the premises (hereafter referred to as "**the designated person**");

(e) the total number of controlled machines and, if appropriate, the numbers of controlled machines of such different descriptions as may be prescribed, authorised by the certificate to be kept for use on the premises;

(f) any conditions subject to which the certificate is granted; and

(g) the date of coming into force and the date of expiry of the certificate.

Duration of certificate

7. (1) A certificate shall come into force on such date as may be specified therein, and shall expire on such date as may be so specified, not being later than the 31st December next following.

(2) If a certificate expires on a date other than the 31st December in any year, it shall be treated for the purpose of paragraph 8(1) as expiring on the 31st December next following the date on which it actually expires.

PART II – SUPPLEMENTARY PROVISIONS

Renewal and amendment of certificate

8. (1) The holder of a certificate in respect of any premises may, not later than the date of expiry thereof, apply to the Gaming Board for the renewal of the certificate, and —

(a) paragraphs 1(2) and (3), 3, 4, 5(2)(b) to (e), 6 and 7, in the case of a full certificate; or

(b) paragraphs 1(2) and (3), 4, 6 and 7, in the case of a restricted certificate or a club certificate;

shall, with any necessary modifications, apply to the application as they apply to an application for a certificate.

(2) The Gaming Board may, in relation to any application for the renewal of a full certificate, direct that paragraph 5(1) (except sub-sub-paragraph (b)) shall apply to the application.

(3) Where an application is made under sub-paragraph (1), the certificate shall continue in force, notwithstanding paragraph 7 —

(a) until the determination of the application, or

(b) if the application is refused, until the expiration of ~~14 days from the date on which notification of the Gaming Board's decision is given to the applicant or, where an appeal is made under paragraph 10~~ one month beginning with the date of the Gaming Board's decision or, where an appeal is made under section 7 of the *Gambling (Amendment) Act 2006*, until the appeal is abandoned or determined.

(4) The holder of a certificate or, if the holder is deceased or adjudged bankrupt, his personal representatives or trustee in bankruptcy, as the case may be, may at any time apply to the Gaming Board for the amendment of the certificate by the alteration of any of the particulars referred to in paragraph 6(c) to (g), and regulations may prescribe that such of the provisions of paragraphs 1 to 6 as are applicable to the class of certificate in question and are specified in the regulations shall apply to the application, subject to such modifications and exceptions as may be so specified.

(5) Where an application is made under sub-paragraph (1) or (4), it shall be dealt with in accordance with the provisions of Part I applicable thereto under sub-paragraph (1) or any relevant direction under sub-paragraph (2), or regulations under sub-paragraph (4), as the case may be.

(6) The holder of a certificate may at any time surrender it to the Gaming Board, and it shall thereupon cease to have effect.

Revocation and suspension of certificate

9. (1) If —

(a) any person is convicted of an offence under section 2(4) or (5), 12(6) or 13, paragraph 12(3), or paragraph 4(2) or 6(3) of Schedule 2, in relation to any premises; or

(b) the holder of a certificate or the designated person is convicted of an offence under any enactment relating to gaming, betting or lotteries; or

(c) the Gaming Board is satisfied —

(i) that premises in respect of which a restricted certificate or a club certificate is in force have ceased to comply with the requirements of section 3(3) or (4), as the case may be; or

(ii) that no person, or some person other than the designated person, has actual charge of the premises; or

(iii) that, while a certificate has been in force, the premises have not been so conducted as to prevent disturbance or disorder; or

(iv) that, while a certificate has been in force, the premises have been used for an unlawful purpose or as a resort for criminals or prostitutes; or

(d) the holder of a certificate has failed, without reasonable cause, to comply with a direction under section 12A (directions),

the Gaming Board may revoke the certificate in respect of the premises.

(2) On revoking a certificate under sub-paragraph (1), the Gaming Board shall forthwith notify the holder of the certificate in writing, and the certificate shall (subject to paragraph 7) remain in force until the expiration of ~~14 days from the date on which such notification is given or, where an appeal is made under~~ ~~paragraph 10~~ one month beginning with the date of the decision to revoke the certificate or, where an appeal is made under section 7 of the *Gambling (Amendment) Act 2006*, until the appeal is abandoned or determined.

(3) On the expiration of 14 days from the death of the holder of a certificate, or from the date on which the designated person ceases to have actual charge of the premises, the certificate shall cease to have effect until an application under paragraph 8(4) has been granted for the amendment thereof by the substitution of another person as such holder or such designated person, as the case may be, unless the

Gaming Board directs that it shall continue to have effect pending the determination of such an application, for such period, with such amendments and subject to such conditions as may be specified in the direction.

(4) A condition specified in a direction under sub-paragraph (3) in relation to a certificate shall be treated, for the purposes of section 2(3)(a), as being a condition subject to which the certificate is granted.

Appeals

10. [Repealed][25]

11. [Repealed][26]

Certificate to be exhibited on premises

12. (1) The responsible person shall secure that the certificate is at all times (except when it is produced to the Gaming Board for amendment under paragraph 8(4)) exhibited in a conspicuous position on the premises so that it is clearly visible to persons resorting thereto.

(2) In this paragraph, 'the responsible person' means —

(a) the designated person; or

(b) if the designated person has ceased to have actual charge of the premises, the holder of the certificate.

(3) Any person failing to comply with the requirement imposed by sub-paragraph (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.[27]

Register of certificates

13. The Gaming Board shall maintain a register of all certificates for the time being in force, containing the particulars specified in paragraph 6(a) to (g) in relation to each such certificate, and such register shall be available for inspection by the public at all reasonable hours.

Regulations

14. The Gaming Board may by regulations prescribe —

(a) the form of an application under paragraph 1;

(b) any matters which shall be included in any such application, apart from those specified in paragraph 1(2)(a) to (i);

(c) the form of the notice under paragraph 3(1);

(d) any matters to which regard shall be had in determining an application under paragraph 1, apart from those specified in paragraph 5(2)(a) to (d); and

(e) that the provisions of paragraphs 1 to 6 shall, subject to such modifications as may be specified, apply to an application under paragraph 8(4).

Interpretation

15. In this Schedule —

"**certificate**" means a certificate under section 3;

"**company**" means any body corporate, other than a Board of Tynwald, Statutory Board or local authority;

"**designated person**", in relation to any premises, means the person specified in the certificate in respect of the premises under paragraph 6(d);

"**premises**" means premises in respect of which a certificate is in force or an application is made, as the case may be;

"**prescribed**" means prescribed by regulations under paragraph 14;

"**quoted company**" means a company, shares in which are quoted on a recognised stock exchange in the United Kingdom.

SCHEDULE 2

REGISTRATION OF CONTROLLED MACHINES

Section 4

Notification of particulars of machines

1. The responsible person in relation to any premises shall —

(a) on the grant or renewal of a certificate under section 3, furnish to the Gaming Board the prescribed particulars of every controlled machine kept for use on the premises;

(b) on the acquisition of any controlled machine for use on the premises, furnish to the Gaming Board the prescribed particulars of the machine;

(c) on any alterations in any of the prescribed particulars of a controlled machine registered under paragraph 2, notify the Gaming Board of the particulars so altered; and

(d) on the destruction or disposal of any such machine, notify the Gaming Board of such destruction or disposal.

Registration

2. If the Gaming Board is satisfied —

(a) that a controlled machine, particulars of which are furnished under paragraph 1(a) or (b), is not a prohibited machine and complies with the prescribed conditions;

(b) that if the machine is registered, the total number of controlled machines registered in respect of the premises, and (if appropriate) the number of controlled machines of the same description, will not exceed the total number of controlled machines, and (if appropriate) the number of controlled machines of that description, authorised by the certificate under section 3 to be kept for use on the premises; and

(c) if the certificate under section 3 relating to the premises is a restricted certificate, that the machine is not a prize machine;

it shall register the machine in respect of the premises, but shall otherwise refuse to register it.

Amendment of register

3. (1) The Gaming Board shall delete from the register any controlled machine —

(a) in respect of which a notification is given under paragraph 1(d); or

(b) which it is satisfied is or has become a prohibited machine or fails or has ceased to comply with the prescribed conditions.

(2) If the Gaming Board is satisfied —

(a) that a controlled machine, amended particulars of which are furnished under paragraph 1(c), is not a prohibited machine and complies with the prescribed conditions; and

(b) that, if the register is amended to include those particulars, the number of controlled machines of the same description registered in respect of the premises will not exceed the number of controlled machines of that description authorised by the certificate under section 3 to be kept for use on the premises;

it shall amend the register accordingly, but shall otherwise delete the machine from the register.

Certificates of registration

4. (1) The Gaming Board shall issue to the responsible person a certificate listing the controlled machines registered under paragraph 2 in respect of the premises, and the responsible person shall secure that the certificate is at all times (except when it is produced to the Board under paragraph 6) exhibited in a conspicuous position on the premises so that it is clearly visible by persons resorting thereto.

(2) If the responsible person fails to comply with sub-paragraph (1), he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.[28]

Notification of refusal to register etc.

5. If the Gaming Board —

(a) refuses to register a controlled machine under paragraph 2; or

(b) deletes a controlled machine from the register under paragraph 3(1)(b) or (2);

it shall forthwith notify the responsible person in writing.

Production of certificates

6. (1) The responsible person shall, when furnishing to the Gaming Board particulars of a controlled machine under paragraph 1(b) or giving to the Board a notification under paragraph 1(c) or (d), produce to the Board the relevant certificate issued under paragraph 4, and the Board shall make such amendment to the certificate as may be necessary.

(2) If the Gaming Board notifies the responsible person under paragraph 5 that it has deleted a controlled machine from the register, and the certificate issued under paragraph 4 is not produced to the Board under sub-paragraph (1), the Board shall require the responsible person to produce the certificate to it, and the Board shall make such amendment to the certificate as may be necessary.

(3) If the responsible person fails to comply with subparagraph (1) or a requirement under sub-paragraph (2), he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.[29]

Regulations

7. (1) The Gaming Board shall by regulations prescribe —

(a) the particulars of a controlled machine to be furnished under paragraph 1(a) and (b); and

(b) the conditions with which a controlled machine must comply in order to be registered;

and such regulations may make different provisions for controlled machines of different descriptions, and for premises of different descriptions (including premises in respect of which different classes of certificate under section 3 are in force).

(2) The Gaming Board may by regulations make provision for —

(a) the notification to ~~an authorised officer~~ the Gaming Board, by such person and in such circumstances as may be prescribed by the regulations, of the prescribed particulars of a controlled machine; and

(b) the issue by the ~~authorised officer~~ Gaming Board of a temporary certificate of registration in relation to the machine;

and the regulations may provide that for such period (not exceeding 7 days) and in respect of such premises as may be specified in the certificate, and subject to such

conditions as may be prescribed by the regulations, the machine shall be deemed to be registered under paragraph 2.

Incorrect particulars

8. If at any time the particulars of a controlled machine furnished under paragraph 1(a), (b) or (c) do not correspond with the actual particulars of the machine, it shall be treated for the purposes of section 2(3)(b) as not being registered under paragraph 2.

Interpretation

9. In this Schedule —

"**premises**" means premises in respect of which a certificate under section 3 is for the time being in force;

"**the prescribed conditions**" means such conditions as may be prescribed under paragraph 7(1)(b);

"**the prescribed particulars**" means such particulars as may be prescribed under paragraph 7(1)(a);

"**the register**" means the register maintained under section 4;

"**to register**", in relation to a controlled machine, means to enter the prescribed particulars of the machine on the register;

"**the responsible person**", in relation to any premises, means —

(a) designated person (as defined in paragraph 15 of Schedule 1); or

(b) if the designated person has ceased to have actual charge of the premises, the holder of the certificate under section 3 in respect of the premises.

SCHEDULE 3

LICENCES UNDER SECTION 5

Section 5 [P1968/65/3/2-6 and 9]

Issue and renewal of licence

1. (1) Subject to sub-paragraph (2), in determining whether to issue or renew any licence under section 5, the Gaming Board shall have regard only to the question whether the person applying for it is a fit and proper person to sell or supply controlled machines.

(2) The Gaming Board shall refuse an application for a licence under section 5 unless it is satisfied that the applicant —

(a) if a body corporate, is incorporated in the Island; or

(b) if not a body corporate, has been resident in the Island for at least 6 months.

2. Any such licence issued by the Gaming Board —

(a) if not renewed, shall cease to have effect at the end of the period of 5 years beginning with the date on which it was issued, or

(b) if renewed, shall unless further renewed, cease to have effect at the end of the period of 5 years beginning with the date as from which it was renewed or last renewed, as the case may be.

Revocation of licence

3. The Gaming Board may at any time revoke any such licence if it appears to the Board that the person to whom it relates is not a fit and proper person to sell or supply controlled machines.

~~4. Where the Gaming Board determine to revoke any such licence, they shall serve a notice on the person to whom it relates stating that the licence is revoked as from the end of the period of 21 days from the date of service of the notice; and the revocation shall take effect at the end of that period.~~

4. On revoking a licence under paragraph 3, the Gaming Board must notify the holder of the licence in writing and the licence shall (subject to paragraph 2) remain in force until the expiration of one month beginning with the date of the decision to revoke the licence or, where an appeal is made under section 7 of the *Gambling (Amendment) Act 2006*, until the appeal is abandoned or determined.

Payment of fees

5. The Gaming Board shall not issue or renew any such licence except on payment by the applicant to the Board of a fee of —

(a) £1,610, in the case of the issue of a licence; or[30]

(b) £805, in the case of a renewal of a licence.[31]

Supplementary provisions

6. (1) In determining, for the purposes of this Schedule, whether a person is a fit and proper person to sell or supply controlled machines where he carries on a business which consists of or includes such sale or supply, regard shall be had in particular to the way in which the business is conducted by him and by any persons employed by him or acting on his behalf in connection with the business.

(2) Without prejudice to sub-paragraph (1), for the purposes of this Schedule a person shall not be taken to be a fit and proper person to sell or supply controlled machines if such sale or supply, is, or if the licence in question were issued or renewed would be, performed by him as servant or agent of, or otherwise for the benefit of, a

person who would himself be refused a licence as not being a fit and proper person to sell or supply controlled machines.

7. The Gaming Board, with the concurrence of the Treasury, may by order substitute another period for the period of 5 years specified in paragraph 2(a) and (b), or other amounts for the amounts specified in paragraph 5 (or for the period or amounts respectively substituted therefor by a previous order under this paragraph).[32]

SCHEDULE 4

INTERIM DUTY ON CONTROLLED MACHINES

Section 9

PART I – RATES OF DUTY

Calculation of duty

1. (1) The duty under section 9 in respect of any premises shall be determined, subject to paragraphs 2 to 5, in accordance with the following formula: —

$$D = C \times F \times 100$$

where —

D = the duty chargeable:

C = the aggregate of the charges in pence for playing a game once on each controlled machine registered under Schedule 2 in respect of the premises;

F = a factor determined in accordance with the following table by reference to the number of controlled machines registered under Schedule 2 in respect of the premises: —

Table

Number of machines	F
1 to 24	1.0
25 to 49	1.1
50 to 74	1.2
75 to 99	1.3
100 to 124	1.4
125 to 149	1.5
150 to 174	1.6
175 to 199	1.7
200 to 224	1.8
225 to 249	1.9
250 or more	2.0

(2) For example, for premises on which 78 controlled machines are kept for use, the charge for playing each of which once is 10p, —

D = (78 × 10p) × 1.3 × 100 = £1014.00.

2. If the charge for playing a controlled machine once is 2p or less, the machine shall be ignored for the purpose of calculating the duty under section 9.

Summer season premises

3. (1) If —

(a) a certificate under section 3 is expressed to expire on or before the 30th September next following the date on which it comes into force; or

(b) it is a condition of such a certificate that controlled machines shall not be kept for use on the premises in respect of which the certificate is granted except during the whole or part of the summer season;

'75' shall be substituted for '100' in the formula in paragraph 1 in its application to the premises.

(2) In this paragraph 'the summer season' means the period from the Thursday before Good Friday to 30th September inclusive.

Increase in number of controlled machines

4. If during any year the number of controlled machines registered under Schedule 2 in respect of any premises is increased, the duty under section 9 in respect of the premises shall be determined by reference to the increased number.

Alteration of machines

5. The aggregate of the charges for playing a game once on each controlled machine registered under Schedule 2 in respect of the premises shall be determined by reference to the amount of such charge for each machine so registered at any time during the year in question, the higher amount being taken where any such charge is altered, and credit (but no refund) being given on the disposal or destruction of a machine.

PART II – SUPPLEMENTARY PROVISIONS

Regulations

6. The duty under section 9 shall be under the management of the Gaming Board who may, after consulting the Treasury, make regulations providing for any matter for which provision appears to the Gaming Board to be necessary for the administration or enforcement of the duty.[33]

Payment of duty

7. The duty under section 9 shall be paid to the Gaming Board on the furnishing of the particulars of a controlled machine under paragraph 1(a), (b) or (c) of Schedule 2, and, notwithstanding the provisions of paragraph 2 of that Schedule, no machine shall be registered thereunder except on payment of the duty, or additional duty, appearing to the Gaming Board to be due in respect of the premises pursuant to Part I.

SCHEDULE 4A

INSPECTION AND INVESTIGATION

[Section 12]

1 Interpretation

(1) In this Schedule —

"**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;

"**controller**" of a person ("**P**") means —

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

(i) if P or another body corporate of which P 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 P or that other body corporate; or

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

(ii) if P or another body corporate of which P 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 P or that other body corporate;

(c) a person who is a director of P or of another body corporate of which P is a subsidiary;

(d) a person who is a director of a corporate director of P or of another body corporate of which P is a subsidiary;

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

(f) a person on whose non-financial contribution P, or a body corporate of which P 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 P or of another body corporate of which P 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 P or of another body corporate of which P is a subsidiary and to remove them;

(i) a person who otherwise appears to the Gaming Board to be able to exercise significant influence or control over P or another body corporate of which P is a subsidiary;

"**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;

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

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

"**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)[1];

"**subsidiary**" means a body corporate (whether or not incorporated under the Companies Acts 1931 to 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.

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

Tynwald procedure – approval required.

2 Power of the Gaming Board

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

(2) Those functions of the Gaming Board include —

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

(b) supervising the keeping of controlled machines for use on any premises and the sale or supply of controlled machines in the Island;

(c) securing compliance with any conditions of a certificate or licence under this Act;

(d) securing that the keeping of controlled machines for use on any premises and the sale or supply of controlled machines 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 Gaming Board under this Schedule may be exercised in relation to —

(a) a person who is the holder of a certificate or licence under this Act;

(b) a person who was the holder of a certificate or licence under this Act but is no longer, but only in respect of or in connection with

[1] 2000 c.8

any transactions, matters or circumstances as occurred or existed when that person was such a holder;

(c) a person whom the Gaming Board reasonably suspects of currently —

(i) keeping controlled machines for use on any premises without a certificate; or

(ii) selling or supplying controlled machines without a licence;

(d) a person whom the Gaming Board reasonably suspects of having, in the past —

(i) kept controlled machines for use on any premises without a certificate; or

(ii) sold or supplied controlled machines 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 that activity without a certificate or licence;

(e) a person who keeps or has kept controlled machines on premises in respect of which an exemption applies or has applied under section 2(1)(d) (control of certain machines).

3 Entry and inspection

(1) For a purpose mentioned in paragraph 2 (power of the Gaming Board), the Gaming Board may enter and inspect any premises that the Gaming Board reasonably believes are being or have been used for or in connection with —

(a) the keeping of controlled machines for use; or

(b) the sale or supply of controlled machines.

(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 certificate or 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.

4 Requests for information for regulatory inspection purposes

(1) The Gaming Board may request any person whom it reasonably believes may hold information that the Gaming Board reasonably requires for a

purpose mentioned in paragraph 2 (power of the Gaming Board) to provide that information to the Gaming Board.

(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 Gaming Board reasonably believes is or has been keeping controlled machines for use on any premises or selling or supplying controlled machines (whether with or without a certificate or licence under this Act) ("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 Gaming Board 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.

(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 Gaming Board has made a request of a holder of a certificate or licence, the Gaming Board may issue a direction under section 12A

(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 13 (offences in connection with information) or paragraph 9 (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 Gaming Board during an inspection of premises under paragraph 3 (entry and inspection) or otherwise.

5 Power of the Gaming Board to require information

(1) The Gaming Board may apply to a justice of the peace for a written instrument authorising the Gaming Board 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 —

(a) any controlled machines that the person is or was keeping or appears to be or have been keeping for use on any premises; or

(b) the sale or supply of any controlled machines that the person is or was conducting or appears to be or have been conducting.

(3) The Gaming Board 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 Gaming Board has reason to believe has relevant information, documents or equipment —

(a) to attend before the Gaming Board 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 Gaming Board to be relevant to the investigation;

(c) to make available to the Gaming Board for inspection, examination or testing, at a specified time and place, any specified equipment which appears to the Gaming Board 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 Gaming Board 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 Gaming Board may —

(a) take possession of all such documents for so long as the Gaming Board 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 9 (offences) and section 13 (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 13 (offences in connection with information) or paragraph 9 (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.

6 Entry to premises under warrant

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

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

(a) the Gaming Board would be permitted to enter the premises without a warrant in accordance with paragraph 3 (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 5 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 5 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 5 could be exercised but it is not practicable to serve a notice under paragraph 5(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 determination to be made;

(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 certificate or 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 13 (offences in connection with information) or paragraph 9 (offences).

7 Seized goods

(1) If the Gaming Board seizes, removes or takes possession of anything under paragraph 3 (entry and inspection) or paragraph 6 (entry to premises under warrant), the Gaming Board 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.

8 Authorisation

(1) The Gaming Board 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.

9 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 3 (entry and inspection) or paragraph 6 (entry to premises under warrant);

(b) fails to comply with a requirement imposed under paragraph 5 (power of the Gaming Board to require information),

is guilty of an offence.

(2) A person who —

(a) knows or suspects that an inspection or investigation by the Gaming Board 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 paragraph —

(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 5[34]

ENDNOTES

Table of Legislation History

Legislation	Year and No	Commencement

Table of Renumbered Provisions

Original	Current

Table of Endnote References

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[1] Subs (4) substituted by Gaming, Betting and Lotteries (Amendment) Act 1996 s 2.
[2] Para (b) substituted by Casino Act 1986 Sch 2.
[3] Para (ba) inserted by Casino (Amendment) Act 2012 Sch.
[4] Subs (4) amended by Fines and Penalties Act 2024 Sch 5.
[5] Subs (5) amended by Fines and Penalties Act 2024 Sch 3.
[6] S 8 amended by Fines and Penalties Act 2024 Sch 4.
[7] S 10 repealed by Gaming, Betting and Lotteries (Amendment) Act 1996 s 2.
[8] S 11 repealed by Casino Act 1986 Sch 3.
[9] Subs (6) amended by Fines and Penalties Act 2024 Sch 4.
[10] S 13 amended by Fines and Penalties Act 2024 Sch 5.
[11] Subss (4) to (7) repealed by Gaming, Betting and Lotteries Act 1988 Sch 9.
[12] S 15A repealed by Gaming, Betting and Lotteries Act 1988 Sch 9.
[13] Definition of 'casino' amended by Casino Act 1986 Sch 2.
[14] Definition of 'kursaal' repealed by Casino Act 1986 Sch 3.
[15] Definition of 'the Gaming Board' substituted by Gambling (Amendment) Act 2006 Sch 3.
[16] Definition of 'the Local Government Board' repealed by GC192/86.
[17] Definition of 'premises' substituted by Gaming, Betting and Lotteries (Amendment) Act 2001 s 11.
[18] ADO (ss 1, 3, 11 to 13, 14(1) and (2), 15 to 17, 18(1) and (2), Sch 1) 1/2/1985; (ss 4, 9, 10, Sch 2, Sch 4) 1/4/1985; (ss 2, 14(3), 18(3), Sch 5) 12/5/1985 (GC42/85); (ss 5 to 8, Sch 3) 1/1/1986 (Order dated 31/10/85).
[19] Subs (3) repealed by Statute Law Revision Act 1992 Sch 2.

[20] Item (a) substituted by SD322/97 and amended by SD731/03.
[21] Item (b) substituted by SD322/97 and amended by SD731/03.
[22] Item (c) substituted by SD322/97 and amended by SD731/03.
[23] Subs (4) amended by Treasury Act 1985 s 6.
[24] Para 2 amended by SD155/10 Sch 5.
[25] Para 10 repealed by Gambling Supervision Act 2010 Sch 5.
[26] Para 11 repealed by Gaming, Betting and Lotteries (Amendment) Act 1996 s 2.
[27] Subpara (3) amended by Fines and Penalties Act 2024 Sch 3.
[28] Subpara (2) amended by Fines and Penalties Act 2024 Sch 3.
[29] Subpara (3) amended by Fines and Penalties Act 2024 Sch 3.
[30] Subpara (a) amended by SD732/03.
[31] Subpara (b) amended by SD732/03.
[32] Para 7 amended by Statute Law Revision Act 1989 Sch 1.
[33] Para 6 amended by Treasury Act 1985 Sch 2.
[34] Sch 5 repealed by Statute Law Revision Act 1992 Sch 2.