

Isle of Man

Ellan Vannin

AT 2 of 2018

GAMBLING (ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM) ACT 2018

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GAMBLING (ANTI-MONEY LAUNDERING AND COUNTERING THE FINANCING OF TERRORISM) ACT 2018

Signed in Tynwald:	*16 January 2018*
Received Royal Assent:	*16 January 2018*
Announced to Tynwald:	*16 January 2018*

AN ACT to provide the necessary powers to conduct regulatory oversight of the gambling sector's compliance with Anti-Money Laundering and Countering the Financing of Terrorism legislation; to provide sanctions for non-compliance; and for connected purposes.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

PART 1 – INTRODUCTORY

1 Short title

The short title of this Act is the Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Act 2018.

2 Commencement

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

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

3 Interpretation

(1) In this Act —

"**AML/CFT**" means anti-money laundering and countering the financing of terrorism;

~~"**AML/CFT Codes**" means instruments of a legislative character, referred to as Codes, made under any of the enactments referred to in paragraphs (a) to (c) of the definition of "AML/CFT legislation";~~

"**AML/CFT information**" means information, specified under subsection (2)(a) of section 6 (returns), included in AML/CFT returns that are submitted in accordance with section 6;

~~;"AML/CFT legislation" means he requirements of the following enactments —~~

~~(a) sections 7 to 11 and section 14 of the *Anti-Terrorism and Crime Act 2003*;~~

~~(b) Part 3 of the *Proceeds of Crime Act 2008*;~~

~~(c) Part 2, 3 and 4 of the *Terrorism and Other Crime (Financial Restrictions) Act 2014*;~~

~~(d) any instrument of a legislative character made under any of the enactments referred to in any of paragraphs (a) to (c),~~

~~and includes, in the case of anything done outside the Island, anything that would constitute a requirement under any of the enactments specified in paragraphs (a) to (d) if done in the Island;~~

"**AML/CFT legislation**" means any code made under section 157 (money laundering codes) of the *Proceeds of Crime Act 2008* or section 68 (codes relating to the financing of proliferation and terrorism) of the *Terrorism and other Crime (Financial Restrictions) Act 2014*

"**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;

~~**"authorised person"** means a person authorised in writing by the Commission to act on behalf of the Commission;~~

"**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;

"**bookmaker**" has the same meaning as that given to it in subsection (1) of section 48 (interpretation) of the *Gaming, Betting and Lotteries Act 1988*;

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

~~**"controller"** means a person —~~

~~(a) who, on account of the person's financial contribution to a body corporate, has power to significantly influence the activities of that body corporate; or~~

~~(b) on whose non-financial contribution a body corporate places such considerable reliance as to be dependent on that contribution in order to function as it normally would;~~

"**controller**" means —

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

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

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

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

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

the voting power at any general meeting of that operator or that other body corporate; or

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

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

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

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

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

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

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

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

"**corporate service provider**" means the provider of any services listed under the heading 'CLASS 4 – CORPORATE SERVICES' in Schedule 1 to the Regulated Activities Order 2011;

"**Court**" means the High Court;

"**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;

"**directions**" means directions given by the Commission requiring the holder of a licence, permit or certificate, as the case may be, to undertake or refrain from undertaking a specified activity;

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

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

"**FATF Recommendations**" means the 40 Recommendations set out in the Financial Action Task Force ("FATF") document 'International Standards on Combating Money Laundering and the Financing of Terrorism & Proliferation', adopted by the FATF in February 2012;

~~"**Financial Intelligence Unit**" or "**FIU**" means the body corporate established in that name by section 4 (establishment of Financial Intelligence Unit) of the *Financial Intelligence Unit Act 2016*;~~

"Financial Services Authority" means the Isle of Man Financial Services Authority established by section 1 (the Isle of Man Financial Services Authority) of the *Financial Services Act 2008*;

"**former operator**" means a person who was, but is no longer, an operator;

"**gambling**" means —

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

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

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

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

"**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

(f) the *Gambling Supervision Act 2010*;

"**key person**" means a Money Laundering Reporting Officer and an AML/CFT Compliance Officer (as both of those terms are defined in the Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Code 2019[1]) of an operator;

"**National Risk Assessment**" means an evaluation of a jurisdiction's money laundering and terrorist financing risks, which —

[1] SD 2019/0219

(a) is required by the FATF Recommendations; and

(b) aims to ensure that actions are coordinated domestically to combat money laundering and the financing and proliferation of terrorism;

"**non-aggregated data**" means personally identifiable data;

~~"**operator**" or "**designated gambling operator**" means any or all of the following, as the context may require —~~

~~(a) the holder of an online gambling licence issued under the *Online Gambling Regulation Act 2001*;~~

~~(b) the holder of a casino licence issued under the *Casino Act 1986*;~~

~~(c) the holder of a temporary premises certificate, issued under the *Casino Act 1986*;~~

~~(d) the holder of a bookmaker's permit, issued under the *Gaming, Betting and Lotteries Act 1988*;~~

~~(e) the holder of a betting office licence, issued under the *Gaming, Betting and Lotteries Act 1988*;~~

~~(f) the holder of a racecourse licence or a totalisator licence, issued under the *Gaming, Betting and Lotteries Act 1988*;~~

~~(g) the holder of a temporary exemption, issued under the *Gaming, Betting and Lotteries Act 1988*;~~

"**operator**" means any or all of the following, as the context may require —

(a) the holder of an online gambling licence issued under the *Online Gambling Regulation Act 2001*;

(b) the holder of a casino licence issued under the *Casino Act 1986*;

(c) the holder of a temporary premises certificate, issued under the *Casino Act 1986*;

(d) the holder of a bookmaker's permit, issued under the *Gaming, Betting and Lotteries Act 1988*;

(e) the holder of a betting office licence, issued under the *Gaming, Betting and Lotteries Act 1988*;

(f) the holder of a racecourse licence or a totalisator licence, issued under the *Gaming, Betting and Lotteries Act 1988*;

(g) the holder of a temporary exemption, issued under the *Gaming, Betting and Lotteries Act 1988*,

and, in Parts 2 (supervision and oversight of compliance with AML/CFT legislation) and 3 (sanctions), includes (unless the context otherwise requires) a former operator in respect of, or in connection with, any regulated activity carried on when that former operator was an operator;

"preliminary notice" has the meaning given in section 27(1);

~~"**prescribe**" means prescribe by order made under this Act, and **"prescribed"** must be construed accordingly;~~

"**prohibition**" means a prohibition against a "not fit and proper" person's involvement in a regulated ~~gambling~~ activity;

"**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);

"**regulated activity**" means an activity regulated under any of the Gambling Acts;

~~"**senior manager**" means a person who, by virtue of the person's role within a body corporate, has powers and responsibilities of sufficient significance to enable the person to directly influence corporate decision making and corporate activity;~~

"**senior manager**" means such person as appears to the Commission to have significant powers or responsibilities with respect to any activities conducted or to be conducted by an operator;

"**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;

"**Tribunal**" means the Gambling Appeals Tribunal established under section 6 (the Gambling Appeals Tribunal) of the *Gambling (Amendment) Act 2006*;

"**warning notice**" means a notice that —

(a) asserts that the Commission has grounds to believe that such activities or circumstances as are specified in the notice are prejudicial to a person's fitness and propriety; and

(b) is accompanied by a statement of the reasons for the giving of it.

~~(2) The Treasury may by order amend the definition of "**operator**" or "**designated gambling operator**", and any such order will not come into operation until it has been approved by Tynwald.~~

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

Tynwald procedure – approval required.

4 Restrictions on scope of application

(1) This Act does not extend to businesses that conduct gambling without a proper licence, permit or certificate under the Gambling Acts.

(2) Businesses referred to in subsection (1) are subject to the provisions of the Gambling Acts.

PART 2 – SUPERVISION AND OVERSIGHT OF COMPLIANCE WITH AML/CFT LEGISLATION

5 Duty to provide AML/CFT regulation and oversight

(1) Consistently with the regulatory objectives set out in section 5 (regulatory objectives) of the *Gambling Supervision Act 2010*, the Commission must regulate gambling with a view to securing compliance with AML/CFT legislation and this Act, and in so doing may conduct ~~such investigations into alleged breaches~~ such inspections and investigations as it considers necessary.

(2) In fulfilling its duty under subsection (1), the Commission has and is required to exercise (as it considers appropriate) the powers set out in the remainder of this Part.

(3) The powers of the Commission under this Part may be exercised instead of or in conjunction with any other powers of the Commission under any other enactment.

6 Returns

(1) An operator must, at such frequency as may be determined by the Commission from time to time, submit to the Commission an AML/CFT return that includes AML/CFT information.

(2) The Commission must specify —

~~(a) AML/CFT information; and~~

(a) the AML/CFT information to be included in the AML/CFT return; and

(b) the frequency at which an AML/CFT return must be submitted to it in accordance with subsection (1).

(3) AML/CFT information may be used by the Commission in a National Risk Assessment.

~~7 On-site inspections and investigations~~

~~(1) An authorised person —~~

~~(a) may at any reasonable time enter any premises in which gambling is conducted by an operator;~~

~~(b) may carry out in those premises inspections and investigations to assess the extent to which the operator complies with AML/CFT legislation; and~~

~~(c) in so doing, must take into account the operator's own procedures for achieving such compliance.~~

~~(2) An authorised person has every power of entry and access as may be necessary for the purposes of subsection (1) and may take possession or copies of all relevant books, accounts and documents (whether in hard copy or in electronic form and, with respect to the latter, however or wherever stored) for so long as may be necessary for those purposes.~~

~~(3) An authorised person may, for the purpose of inspecting the transactions of the operator and generally investigating the operator under this section, take copies of all books, accounts and documents (whether in hard copy or in electronic form and, with respect to the latter, however or wherever stored).~~

~~(4) The powers under this section extend to premises —~~

~~(a) where an operator is acting under a temporary exemption issued under the *Gaming, Betting and Lotteries Act 1988*; and~~

~~(b) which the authorised person has reasonable cause to believe are or have been used by an operator for any purpose connected with gambling.~~

~~(5) Every operator of whom access to premises in accordance with this section is requested by an authorised person must provide the requested access, and failure to do so without reasonable excuse is an offence punishable on summary conviction by a fine not exceeding level 5 on the standard scale or custody for a term not exceeding 6 months.~~

~~This is subject to subsection (6).[2]~~

~~(6) It is a defence for an operator referred to in subsection (5) to prove that the person professing to be an authorised person failed, when asked to do so upon the person's making a request for access, to provide evidence of the person's authorisation.~~

7 Inspection and investigation

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

~~8 Obligations to assist~~

~~(1) Every —~~

~~(a) member of staff of a person who (irrespective of whether or not the person is an operator or service provider) owns or operates premises connected to online gambling (hereafter referred to as a "staff member"); and~~

~~(b) other person (including an operator),~~

~~must cooperate with inspections under section 7 (on site inspections and investigations) and must answer questions and provide explanations of records.~~

This obligation is subject to subsection (2).

(2) Despite subsection (1), no staff member or other person is under an obligation under this Act to disclose any information subject to legal privilege within the meaning of section 13 (meaning of "items subject to legal privilege") of the *Police Powers and Procedures Act 1998*.

(3) A statement by a staff member or another person made in compliance with this section may not be used in evidence against that staff member in respect of any criminal proceedings except proceedings under subsection (4).

(4) A staff member or another person who, without reasonable excuse, contravenes subsection (1) or provides any false or misleading information in purported compliance with subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale or to custody for a term not exceeding 6 months, or both.[3]

(5) It is a defence for a staff member or another person charged with an offence under subsection (4) to prove that he or she did not answer questions or provide explanations in accordance with subsection (1) because doing otherwise would have entailed the divulging of information subject to legal privilege within the meaning of section 13 of the *Police Powers and Procedures Act 1998*.

(6) If a staff member or another person who is required to produce a document or copies of documents fails to do so as required under subsection (1), the authorised person may require the staff member or other person to state, to the best of the staff member's or other person's knowledge or belief, where they are.

(7) In this section, "staff member" includes a director, a manager, an employee or a worker, and a person who performs (for a service provider or a company whose premises are connected to gambling) a role equivalent to any of the foregoing.

9 Offences in connection with inspections and investigations, search warrants and information requests

(1) A person who —

(a) knows or suspects that —

(i) an inspection is being or is likely to be carried out under section 7 (on site inspections and investigations);

(ii) information is being or is likely to be required under section 10 (power to request information) or section 13 (search warrants); or

(iii) information is being or is likely to be requested under section 11 (procedure and further details for requesting information); 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 inspection or investigation or is or would be requested,

commits an offence, unless the person proves that the person had no intention of concealing facts disclosed by the information from persons carrying out such an inspection or investigation or requesting such information.

(2) A person who commits an offence under this section is liable —

(a) on summary conviction, to a fine not exceeding level 5 on the standard scale or to custody for a term not exceeding 6 months, or both; or[4]

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

10 Power to request information

(1) An authorised person may request, from anyone the Commission has reasonable grounds to believe is in possession of it, information the Commission reasonably requires to enable it to better supervise compliance with AML/CFT legislation.

This section is subject to section 11 (procedure and further details for requesting information).

(2) A person of whom a request for information is made by the authorised person must provide the information within such reasonable time as may be specified by the authorised person in the request or in subsequent correspondence.

(3) A person who, without reasonable excuse, fails to comply with subsection (2) commits an offence and is liable —

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

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

11 Procedure and further details for requesting information

(1) An authorised person may request information about —

(a) the affairs of a customer of an operator;

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

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

(ii) a subsidiary of a holding company of the operator;

(iii) a holding company of a subsidiary of the operator; or

(iv) a body corporate in respect of which a shareholder or controller of the operator, either alone or with any associate, is entitled to exercise, or control the exercise of, more than 50% of the voting power at a general meeting or a meeting of the board of directors; or

(c) any partnership of which the operator is or has at any relevant time been a member.

(2) If an authorised person has made a request of an operator, the Commission may issue a direction under section 18 (directions) to that operator to secure that effect is given to a request under subsection (1) of section 10 (power to request information); and the direction must include a statement of reasons for its issue.

(3) A statement by an operator in response to the direction may not be used in evidence against that operator in respect of any criminal proceedings except proceedings alleging contravention of Schedule 2 to the *Gambling Supervision Act 2010*.

12 Power to require persons to attend before the Commission, etc.

(1) A justice of the peace may by written instrument authorise an authorised person to exercise the powers under this section if, on an application made by the authorised person, —

(a) the justice of the peace is satisfied that there is good reason for the authorised person to do so;

(b) the good reason is for the purpose of investigating the affairs, or any aspect of the affairs, of any operator; and

(c) doing so is relevant to assessing compliance with AML/CFT legislation in relation to the conduct of any business which the operator is carrying on or appears to be or to have been carrying on.

These powers are not otherwise exercisable.

(2) The authorised person may, by notice in writing accompanied by a copy of the instrument issued by the justice of the peace under subsection (1) and a statement of the reasons given to the justice of the peace in the application submitted under subsection (1), —

(a) require the person whose affairs are to be investigated, or any other person who it has reason to believe has relevant information, to attend before the Commission at a specified time and place to

answer questions or otherwise furnish information with respect to any matter relevant to the investigation; or[6]

(b) require any person to produce at a specified time and place —

(i) specified documents or copies of documents; or

(ii) information of a specified class,

associated or appearing to be associated with any matter relevant to the investigation.

(3) If a person who is required to produce a document or copies of documents fails to do so as required under subsection (2)(b), the Commission may require the person to state, to the best of the person's knowledge or belief, where they are.

(4) If any documents are produced as required under subsection (2)(b), the Commission may —

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

(b) take copies of or extracts from them; or

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

(5) Any statement by a person in response to a requirement imposed under this section may not be used in evidence against that person in respect of any criminal proceedings except proceedings alleging contravention of —

(a) subsection (2) of section 10 (power to request information); or

(b) Schedule 2 to the *Gambling Supervision Act 2010*.

(6) Where a person claims a lien on a document, its production under this section is without prejudice to the lien.

(7) The Commission may permit the attendance at a sitting of the Commission under subsection (2) of a person the Commission considers has expertise in any aspect of the subject matter with which the sitting is concerned, and such person may participate in the proceedings to whatever extent the Commission permits.

(8) A person who fails, without reasonable excuse, to appear before the Commission as required under subsection (2)(a) commits an offence and is liable on summary conviction to a fine not exceeding level 4 on the standard scale or to custody for a term not exceeding 6 months, or both.[7]

13 Search warrants

(1) Where, on information on oath laid by the Commission, a judge is satisfied in relation to any documents that there are reasonable grounds for believing —

(a) that —

~~(i) a person has failed to comply with an obligation under section 10 (power to request information) to produce them or copies of them;~~

~~(ii) it is not practicable to serve a notice under subsection (2) of section 12 (power to require persons to attend before the Commission, etc.) in relation to them; or~~

~~(iii) the service of such a notice in relation to them might seriously prejudice the investigation; and~~

~~(b) that they are on the premises specified in the information,~~

~~the judge may issue such a warrant as mentioned in subsection (2).~~

~~(2) That warrant is a warrant authorising any person named in it —~~

~~(a) to enter (using such force as is reasonably necessary for the purpose) and search the premises; and~~

~~(b) to take possession of any documents appearing to be documents of the description specified in the information, or to take in relation to any documents so appearing any other steps which may appear to be necessary for preserving them and preventing interference with them.~~

~~(3) If, during the course of a search of premises for documents of a description specified in the information, other documents are discovered that appear to contain evidence in relation to any offence, the person named in the warrant may —~~

~~(a) take possession of those documents; or~~

~~(b) take in relation to them any other steps which may appear to be necessary for preserving them and preventing interference with them.~~

~~(4) A person executing a warrant issued under subsection (1) must be accompanied by a constable.~~

~~(5) A person who intentionally obstructs a person exercising powers conferred by subsection (2) or (3) commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale or to custody for a term not exceeding 6 months.~~[8]

14 Information sharing

(1) The Commission may —

(a) share non-aggregated data —

(i) with any or any combination of the parties set out in paragraph 1(3), or referred to in ~~paragraph (6)(b)~~ paragraph 6(b), of Schedule 2 to the *Gambling Supervision Act 2010*; or

(ii) with such other entities as the Commission may prescribe by regulations; or

(b) share information with the Financial Services Authority with respect to corporate service providers that provide or have provided services to operators.

Tynwald procedure – approval required.

~~(2) An order under subsection (1)(a)(ii) will not come into operation unless it has first been approved by Tynwald.~~

(3) The Commission's power under subsection (1) is subject to the restrictions on disclosure of information imposed by Schedule 2 to the *Gambling Supervision Act 2010*.

PART 3 – SANCTIONS

15 Sanctioning powers

(1) Where the Commission detects a failure by an operator to comply with AML/CFT legislation, the Commission may impose sanctions in accordance with this Part.

(2) In addition to the sanctions set out in the following provisions of this Part, the Commission may —

(a) identify deficiencies through visit reports;

(b) set actions for the operator to address deficiencies and deadlines by which those actions must be taken;

(c) increase the intensity or frequency of future inspections; or

(d) refer the failure to the Attorney General for prosecution for breach of AML/CFT legislation or this Act.

16 Power to restrict holders of permits or licences

(1) The Commission may by written notice —

(a) restrict all or any part of the business operations of the holder of a bookmaker's permit or a betting office licence, in either case issued under the *Gaming, Betting and Lotteries Act 1988* ("the holder"); or

(b) restrict business operations of the holder in relation to one or more of the holder's betting offices only,

for a period specified in the written notice, unless rectification has occurred sooner.

This power may only be exercised when the circumstance referred to in subsection (2) obtains.

(2) Subsection (1) applies only where the holder fails to comply with any requirement of AML/CFT legislation the contravention of which is not made an offence thereunder.

(3) Where the Commission exercises the power under subsection (1), the Commission must —

(a) notify the holder in writing of the details of the alleged failure to comply; and

(b) give the holder an opportunity to make representations (either personally or through a duly authorised representative) in order to show cause why the Commission should not take action against the holder in accordance with subsection (1).

(4) The Commission must, when deciding whether or not to exercise its power under subsection (1), take into account and give appropriate weight to any representations made by or on behalf of the holder in accordance with subsection (3)(b).

(5) Failure to comply with a restriction imposed under this section is an offence.

17 Licence conditions

(1) The Commission may by written notice add to or amend an operator's licence conditions for AML/CFT reasons, but in doing so must be motivated by any of the following purposes —

(a) to restrict activities until the Commission is satisfied that appropriate controls are in place regarding a specific element of an operator's business; or

(b) to require an operator to comply with certain recommendations or guidance.

This is subject to subsections (2) and (3).

(2) Before adding to or amending an operator's licence conditions, the Commission must —

(a) notify the operator in writing of the details of the proposed addition or amendment; and

(b) give the operator an opportunity to make representations (either personally or through a duly authorised representative) in order to show cause why the Commission should not make the proposed addition or amendment.

(3) The Commission must, when deciding whether or not to make the proposed addition or amendment, take into account and give appropriate weight to any representations made by or on behalf of the operator in accordance with subsection (2)(b).

(4) Subsection (1) is in addition to the provisions of section 5A (variation of casino licences) and 12D (certificate conditions) of the *Casino Act 1986* and subsection (3) of section 9 (variation and transfer of licence) of the *Online Gambling Regulation Act 2001.*

(5) Failure to comply with a condition as added to or amended under this section is an offence.

18 Directions

(1) The Commission may issue directions to an operator. This power includes the power to issue directions under —

(a) subsection (6) of section 22 (civil penalties);

(b) section 24 (direction to appoint appropriate expert); and

(c) section 25 (direction not to appoint an individual).~~; and~~

~~(d) section 26 (prohibition of "not fit and proper" persons).~~

All such directions must be in writing, regardless of whether or not a particular provision referred to in this subsection expressly so requires.

(2) A direction may —

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

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

(b) impose such requirements as are necessary to secure that any business carried on by that operator is in whole or in part suspended or discontinued; or

(c) require the operator to provide to the Commission a report —

(i) on any other matter that the Commission considers appropriate;

(ii) in such form as is specified in the direction; and

(iii) by a person with relevant professional skills nominated by, or considered acceptable to, the Commission,

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

The purposes for which a direction may be issued under this subsection are in addition to the purposes for which a direction may be issued under the sections referred to in subsection (1).

(3) The Commission may revoke or vary a direction under this section. The requirement in subsection (2) to give a statement of reasons applies to revocation and variation as it applies to the issue of a direction.

(4) If an operator fails to comply with a written direction issued under this section, the operator commits an offence and is liable on summary conviction to a fine not exceeding level 5 on the standard scale or to custody for a term not exceeding 6 months, or both.[9]

(5) In addition to having committed an offence, an operator who fails to comply with a written direction issued under this section is liable to —

(a) have a public statement issued by the Commission under section 19 (public statements);

(b) the Commission's applying to the Court for an injunction or a remedial order under section 21 (injunctions and remedial orders); or

(c) have the operator's controllers, key persons or senior managers regarded by the Commission, in its sole discretion, as "not fit and proper" persons and, accordingly, to the Commission's taking action under section 26 (prohibition of "not fit and proper" persons).

19 Public statements

(1) The Commission may issue a public statement —

(a) with respect to, or setting out, any direction that it has given under section 18 (directions) or any of the sections referred to in that section;

(aa) with respect to, or setting out, any prohibition that it has imposed under section 26 (prohibition of "not fit and proper" persons);

(ab) concerning any civil penalty that it has imposed under section 22 (civil penalties);

(b) concerning a person if the Commission has reasonable cause to believe that that person has contravened any of the following —

(i) a direction given under section 18 (directions) or any of the sections referred to in that section; ~~or~~

(ii) AML/CFT legislation; or

(iii) a prohibition imposed under section 26 (prohibition of "not fit and proper" persons); or

(c) concerning regulated activities that —

(i) the Commission reasonably believes a person is engaging in, whether in the Island or elsewhere; and

(ii) in the opinion of the Commission, it is desirable in the public interest should be brought to the attention of the public.

(2) If a public statement will identify an operator (other than a former operator), the Commission must serve notice on that operator before issuing a public statement.

~~(3) If a public statement will identify a person who is not an operator and at any time before the Commission issues the public statement it is reasonably practicable for it to serve notice on that person, the Commission must do so.~~

(3) If a public statement will identify a former operator or a person who is not an operator and at any time before the Commission issues the public statement it is reasonably practicable for it to serve notice on that former operator or person (as the case may be), the Commission must do so.

(3A) If a public statement concerns an individual, the information in the statement to identify that individual must be limited to the individual's full name and date of birth and the jurisdiction of residence of the individual at the date of issue of the statement.

(4) A notice under subsection (2) or (3) must —

(a) give the reasons for issuing the statement;

(b) give the proposed or actual date of issue of the statement;

(c) be served with a copy of the statement;

(d) give the reasons for the decision to issue the statement before the date specified in subsection (1) of section 20 (notice of period for public statements), but only if the condition in subsection (5) is met; and

(e) specify and give details of the right to appeal provided for by subsection (2)(d) of section 34 (appeals to Tribunal).

(5) The condition referred to in subsection (4)(d) is that, in accordance with a decision under section 20(2)(b), the statement is to be issued earlier than one month after the date on which the notice was served.

(6) Subsection (4) does not require the Commission —

(a) to specify any reason that would, in the Commission's opinion, involve the disclosure of confidential information which would be prejudicial to a third party; or

(b) to specify the same reasons, or reasons in the same manner, in the case of notices to different persons about the same matter.

(7) If on the appeal or review of a decision or action of the Commission that is specified in the public statement the Tribunal or a court makes a decision that is different to that of the Commission that is specified in the public statement, the Commission must as soon as reasonably practicable make another statement to accurately state the outcome of the appeal or review, as the case may be.

20 Notice period for public statements

(1) If service of a notice is required under subsection (2) or (3) of section 19 (public statements) in relation to a public statement, the Commission must not issue the public statement earlier than one month after the date of that service.

This subsection is subject to subsection (2).

(2) Without limiting subsection (1), the Commission may issue a public statement at an earlier date if —

(a) each of the persons identified in the public statement agrees to that date; or

(b) the Commission decides on reasonable grounds that the interest of the public in the issue of the public statement on that earlier date outweighs any detriment to the persons identified in the statement as a result of such issue.

(3) In making a decision under subsection (2)(b), the Commission may choose as the date of issue of a public statement the date of service (if any) of a notice under section 19 (public statements).

(4) Despite this section, if an appeal is made to the Tribunal and the Tribunal orders that the statement not be issued before any specified date or event, the Commission must not issue the statement before that date or event.

21 Injunctions and remedial orders

(1) If, on perusal of an application for an injunction submitted by the Commission, the Court is satisfied that it is likely that a person will contravene (or continue or repeat a contravention of) —

(a) a direction given under section 18 (directions);

(b) section 24 (direction to appoint appropriate expert);

(c) section 25 (direction not to appoint an individual);

(d) section 26 (prohibition of "not fit and proper" persons); or

(e) AML/CFT legislation,

the Court may, if it thinks fit, issue the injunction with the effect of restraining that person from committing (or, as the case may be, continuing or repeating) the contravention.

(2) If, on perusal of an application for a remedial order submitted by the Commission, the Court is satisfied that there are steps that could be taken to remedy the contravention, the Court may make the remedial order requiring that person, or any other person who appears to the Court to have been knowingly concerned, to take such steps to remedy the contravention as the Court may direct.

22 Civil penalties

(1) If the Commission is satisfied that ~~an operator~~ a person —

(a) has contravened any provision of this Act~~, irrespective of whether or not such contravention is declared by this Act to be an offence~~;

(b) has failed in any respect to comply with AML/CFT legislation; or

(c) in purported compliance with AML/CFT legislation, has furnished the Commission with false, inaccurate or misleading information,

(each a "contravention") it may require ~~the operator~~ that person to pay a civil penalty in respect of the contravention, irrespective of whether or not the contravention is an offence.

(1A) If the contravention referred to in subsection (1) is committed by an operator and the Commission is satisfied that the contravention was committed with the consent or connivance of, or was attributable to neglect on the part of, a controller, key person or senior manager, the Commission may require that controller, key person or senior manager to pay a civil penalty in respect of the contravention.

(2) Where the contravention referred to in subsection (1) is an offence, any civil penalty imposed by the Commission under subsection (1) or (1A) must —

(a) be an alternative to prosecution for the offence; and

(b) have the effect, upon payment of it by the operator, controller, key person or senior manager (as the case may be), of conferring on the operator, controller, key person or senior manager (as the case may be), immunity from prosecution for the offence.

However, the operator, controller, key person or senior manager (as the case may be) will be liable to such prosecution if the operator, controller, key person or senior manager (as the case may be) fails to pay the civil penalty before the deadline indicated in writing by the Commission.

(3) Despite subsections ~~(1) and (2)~~ (1) to (2), a civil penalty cannot be required if —

(a) the Commission has revoked, revokes or intends to revoke the operator's licence, permit or certificate, as the case may be; or

(b) criminal proceedings have already been commenced in respect of the ~~failure~~ contravention.

(4) If the Commission intends to impose a civil penalty, it must give to ~~the operator concerned~~, the operator, controller, key person or senior manager (as the case may be) written notice of the decision, the amount of the civil penalty it proposes to impose and the reasons for the decision.

(5) The Commission is prohibited from imposing a civil penalty for failure to comply with the requirements of section 6 (returns).

(6) In respect of failure to comply with the requirements of section 6, the Commission may instead issue a written direction to require the operator to provide the AML/CFT return within a specified timeframe.

Failure to comply with such a direction is an offence.

(6A) The Treasury must make regulations specifying the maximum civil penalty that the Commission may impose.

Tynwald procedure - approval required.

(6B) Before making regulations under this section, the Treasury must consult such persons as the Treasury considers appropriate.

~~(7) The Commission may prescribe —~~

~~(a) additional circumstances in which a civil penalty may be imposed in lieu of criminal proceedings under this Act; or~~

~~(b) further provisions about civil penalties,~~

~~and any such order will not come into operation until it has been approved by Tynwald.~~

(7) The Commission may by regulations make further provisions about civil penalties including (but not limited to) —

(a) additional circumstances in which a civil penalty may be imposed in lieu of criminal proceedings under this Act;

(b) the factors that the Commission will have regard to in determining the imposition and amount of a civil penalty; and

(c) the processes the Commission will follow when exercising the power to impose a civil penalty.

Tynwald procedure – approval required.

(8) Any amount received as a civil penalty must be paid into and forms part of the General Revenue of the Island.

(9) The Commission may publish information, in such form and manner as it considers appropriate, with respect to any civil penalties it has imposed.

(10) A reference in this section to a "controller", "key person" or "senior manager" includes a person who was a controller, key person or senior manager at the time of the contravention.

22A Restrictions on imposing civil penalties

(1) The Commission may not impose a civil penalty on a person (other than an operator) in respect of a contravention referred to in section 22(1) that occurred before the commencement of section 91 of the Gambling Legislation (Amendment) Act [2026], except that if the contravention was continuing at the time of the commencement of that section, a civil penalty may be imposed in respect of such part of the contravention as continued after the commencement.

(2) The Commission must not impose a civil penalty on an individual more than 6 years after the contravention came to the attention of the Commission.

23 Warning notices

(1) ~~An authorised person~~ The Commission may —

(a) before the Commission makes a direction under section 18 (directions); or

(aa) before the Commission imposes a prohibition under section 26 (prohibition of "not fit and proper" persons); or

(b) in any other circumstance in which the ~~authorised person~~ Commission considers it appropriate to do so,

issue a written warning notice under this section to a person who is or has been a director, senior manager, key person or controller (a "relevant person") of an operator.

(1A) A warning notice must —

(a) specify the reasons the Commission considers it has for taking any action referred to in subsection (1)(a), (b) or (c), by reference to the alleged contravention of this Act or AML/CFT legislation;

(b) provide details of the matters relied upon by the Commission in support of its suspicion that there has been a contravention of this Act or AML/CFT legislation; and

(c) explain the potential consequences if the matter is not remedied.

(2) A warning notice may —

(a) propose that a relevant person take such action as is specified in the notice;

(b) request a relevant person to propose action; or

(c) specify action that a relevant person must take and the time within which it must be taken.

(3) Where a warning notice has been given under this section, the ~~authorised person~~ Commission must, before the Commission —

(a) issues a direction under section 18 (directions) or section 24 (direction to appoint appropriate expert); or

(b) imposes a prohibition under section 26 (prohibition of "not fit and proper" persons),

take into account any action taken by a relevant person in response to the warning notice.

(4) The Commission's powers under ~~sections 26 (prohibition of "not fit and proper" persons) and 27 (preliminary notices)~~ this Part are not limited by the giving of a warning notice under this section; neither is the giving of such a notice required before the Commission may exercise those powers.

(5) A warning notice issued under this section —

(a) has effect for a period of up to 3 years from the date on which it is issued, and in each case the period must be specified in the notice; or

(b) will terminate sooner than the expiration of the specified period upon the Commission's indicating in writing that it is content that any action under subsection (2) has been completed to its satisfaction.

(6) The Commission may disclose the circumstances surrounding a warning notice to —

(a) an employer who currently employs a notified person;

(b) a person who has received an employment application from a notified person; provided that, if successful in the application, the notified person would be required to be a relevant person of an operator; or

(c) a company of which a notified person is, or is likely to become, an officer.

(7) In subsection (6) —

"**notified person**" means a person to whom has been given a notice under subsection (1) that is still effective in accordance with subsection (6); and

"**officer**" means an officer of a company for the purposes of the *Company Officers (Disqualification) Act 2009* (see subsection (2) of section 1 (disqualification orders: introduction) of that Act).

24 Direction to appoint appropriate expert

(1) The Commission may require an operator to appoint or contract a professional with appropriate expertise to remedy any deficiencies in respect of complying with AML/CFT legislation.

(2) The suitability of the professional that the operator proposes to appoint or contract must be determined based on an assessment of —

(a) the appropriateness of the professional's knowledge of and experience in complying with AML/CFT legislation; and

(b) the professional's ability to adhere to deadlines for taking remedial action.

25 Direction not to appoint an individual

(1) If, on reasonable grounds, it appears to the Commission that a person is not a fit and proper person —

(a) to be appointed —

(i) as a director, senior manager, key person or controller of an operator; or

(ii) to any other role specified in the direction in relation to an operator; or

(b) to continue in any of the roles referred to in paragraph (a),

the Commission may direct an operator not to appoint or (as the case may be) not to continue the appointment of that person, unless the operator has received the written consent of the Commission.

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

(3) Subject to subsection (4), where a notice has been given under subsection (2), the direction will take effect —

(a) if no appeal under section 34 (appeals to the Tribunal) is made ~~within the period prescribed by the Commission for the purposes of such an appeal, on the expiry of that period~~ upon the expiry of time for appealing against it under section 34; or

(b) if there is an appeal under section 34, —

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

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

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

(4) If the Commission is of the opinion that a direction should have immediate effect, the notice under subsection (2) must contain a statement to that effect together with the reasons for that opinion, and the direction will have ~~no~~ effect on the giving of the notice.

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

(a) given subject to conditions;

(b) varied from time to time; or

(c) revoked at any time,

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

(6) A person must not, in contravention of a direction under this section, accept an appointment to, or continue in, any of the roles referred to in subsection (1).

(7) An operator must not appoint or continue the appointment of a person in contravention of a direction under subsection (1).

26 Prohibition of "not fit and proper" persons

(1) The Commission may impose a prohibition if it appears to the Commission that an individual is not a fit and proper person to perform one or more functions in relation to a regulated activity carried on, or proposed to be carried on, by an operator.

(2) Before imposing a prohibition, the Commission must give the individual whom it proposes to prohibit an opportunity to make representations in accordance with subsection (1)(d) of section 27 (preliminary notices).

(3) A prohibition may prevent an individual from performing, either in relation to a particular operator, a specified class of operators, or generally, —

(a) any function;

(b) a specified function; or

(c) a function of a specified class.

(4) A prohibition may relate to —

(a) any regulated activity;

(b) a regulated activity specified in the prohibition; or

(c) a regulated activity of a class ~~prescribed by the Commission~~ specified in the prohibition.

(5) An individual commits an offence if he or she performs, or agrees to perform, a function which he or she is prohibited from performing.

(6) A prohibition operates subject to subsections (7) and (8).

(7) Notice of a prohibition (a "preliminary notice") which meets the requirements of section 27 (preliminary notices) must be served upon the individual prohibited. Service may be effected either personally or by registered post to the individual's last known address.

(8) Once notice has been served in accordance with subsection (7), a prohibition comes into operation on —

(a) the expiry of time for appealing against it under section 34 (appeals to the Tribunal); or

(b) if an appeal is brought within that time, —

(i) on the determination of the appeal in favour of upholding the prohibition; or

(ii) on withdrawal of that appeal.

27 Preliminary notices

(1) A preliminary notice must —

(a) state that the Commission proposes to impose a prohibition;

(b) state the terms of the proposed prohibition;

(c) state the reasons for imposing the prohibition;

(d) state that, within 28 days, the individual proposed to be prohibited may make representations to the Commission in such manner as the Commission may specify in the preliminary notice; and

(e) give particulars of the right of appeal under section 34 (appeals to the Tribunal) that would be exercisable if the Commission were to impose the prohibition.

(2) The Commission must have regard to any representations made in accordance with subsection (1)(d) before imposing a prohibition.

28 Prohibitions: variation and revocation procedure

(1) On application by a prohibited person, the Commission may vary or revoke a prohibition.

(2) The Commission must give the prohibited person a statement of its reasons for any decision it makes on an application under subsection (1).

29 List of prohibitions

(1) The Commission must maintain and publish a list of prohibitions.

(2) The list must specify the individuals prohibited and the functions or descriptions of functions to which the prohibition applies.

30 Suspension or revocation

(1) The Commission may, for any of the reasons set out in subsection (2), at any time suspend or revoke —

(a) an online gambling licence issued under the *Online Gambling Regulation Act 2001*;

(b) a casino licence, issued under the *Casino Act 1986*;

(c) a temporary premises certificate, issued under the *Casino Act 1986;*

(d) a bookmaker's permit, issued under the *Gaming, Betting and Lotteries Act 1988;*

(e) a betting office licence, issued under the *Gaming, Betting and Lotteries Act 1988*; or

(f) a racecourse licence or a totalisator licence, issued under the *Gaming, Betting and Lotteries Act 1988.*

(2) The reasons referred to in subsection (1) are that —

(a) the Commission is not satisfied that the operation is under the ownership, management or control of fit and proper persons;

(b) the operator has failed to comply with —

(i) restrictions under section 16 (power to restrict holders of permits or licences);

(ii) licence conditions under section 17 (licence conditions);

(iii) a direction under section 18 (directions);

(iv) a direction to appoint an appropriate expert under section 24 (direction to appoint appropriate expert);

(v) a direction not to appoint an individual, under section 25 (direction not to appoint an individual); or

(vi) AML/CFT legislation.

(3) Where a licence, permit or certificate was issued in respect of more than one regulated activity, the Commission may exercise its powers under this section in respect of any or all of those activities.

31 Conditions and limitations on the right to suspend or revoke

When exercising its power under section 30 (suspension or revocation), the Commission must comply with the following requirements —

(a) the Commission must give written notice to the person concerned of any decision to suspend or revoke a licence, permit or certificate, as the case may be, together with a statement of the reasons for the decision; and

(b) where the Commission suspends a licence, permit or certificate, as the case may be, it must review the suspension on a regular basis.

32 Liability of officers of bodies corporate

(1) Subsections (2) to (4) apply where an offence under this Act is committed by a body corporate and that the offence —

(a) was committed with the consent or connivance of an officer of the body; or

(b) was attributable to neglect on the part of an officer of the body corporate.

(2) The officer as well as the body corporate commit and are liable to be prosecuted for the offence.

(3) If an individual is convicted of an offence under this Act by virtue of subsection (2), the individual is liable to any custodial penalty provided for the offence.

(4) In this section, "officer" has the meaning assigned by subsection (2) of section 1 (disqualification orders: introduction) of the *Company Officers (Disqualification) Act 2009*.

PART 4 – MISCELLANEOUS

32A Offences in connection with information

A person who —

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

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

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

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

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

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

is guilty of an offence.

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.

33 Offences and penalties

(1) A person who commits an offence under this Act for which no penalty is provided elsewhere in this Act is liable on summary conviction to a fine not exceeding level 5 on the standard scale or custody for a term not exceeding 6 months, or both.[10]

(2) Criminal proceedings in respect of any contravention of this Act may not be commenced or continued if the Commission has required a person to pay a civil penalty under section 22 (civil penalties) in respect of such contravention, unless the person has declined to pay the civil penalty.

34 Appeals to the Tribunal

(1) A person aggrieved by a decision made or an action taken by the Commission under any of the sections listed in subsection (2) may appeal to the Tribunal in accordance with section 7 of the *Gambling (Amendment) Act 2006*, and any such appeal must be heard in accordance with the provisions of Part 4 of that Act.[11]

(2) The sections referred to in subsection (1) are —

(a) section 16 (power to restrict holders of permits or licences);

(b) section 17 (licence conditions);

(c) section 18 (directions);

(d) section 19 (public statements) (in respect of which an appeal may be made before or after the statement has been issued);

(e) section 22 (civil penalties);

(f) section 24 (direction to appoint appropriate expert);

(g) section 25 (direction not to appoint an individual);

(h) section 26 (prohibition of "not fit and proper" persons);

(i) section 28 (prohibitions: variation and revocation procedure);

(j) section 30 (suspension or revocation); and

(k) section 31 (conditions and limitations on the right to suspend or revoke).

~~**35 Tynwald procedure in respect of orders**~~

~~With the exception of orders made under —~~

~~(a) subsection (2) of section 3 (interpretation);~~

~~(b) subsection (1)(a)(ii) of section 14 (information sharing); and~~

~~(c) subsection (7) of section 22 (civil penalties),~~

~~every order made under this Act must be laid before Tynwald.~~

36 Consequential amendment to the Gambling Supervision Act 2010

(1) The *Gambling Supervision Act 2010* is amended as follows.

(2) [Substituted paragraph 1(1) in Schedule 2]

SCHEDULE

INSPECTION AND INVESTIGATION

[Section 7]

1 Power of the Commission

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

(2) Those functions of the Commission include —

(a) the functions of the Commission under section 5 (duty to provide AML/CFT regulation and oversight);

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

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

(a) an operator;

(b) a former operator, but only in respect of or in connection with any transactions, matters or circumstances as occurred or existed when that person was an operator.

2 Entry and inspection

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

(2) The power of entry under this paragraph —

(a) may be exercised without a warrant;

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

(c) must be exercised at a reasonable time.

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

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

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

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

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

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

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

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

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

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

(i) the commission of an offence under this Act or under AML/CFT legislation; or

(ii) non-compliance with any provision of this Act or AML/CFT legislation;

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

(5) Nothing in this paragraph —

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

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

3 Requests for information for regulatory inspection purposes

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

purpose mentioned in paragraph 1 (power of the Commission) to provide that information to the Commission.

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

(a) a person that the Commission reasonably believes is or has been conducting gambling ("O");

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) any hosting services provided to O; or

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

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

(5) If the Commission has made a request of an operator who holds a licence, certificate or permit, the Commission may issue a direction under section 18 (directions) to that operator 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 32A (offences in connection with information) or paragraph 8 (offences).

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

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

(9) In this paragraph —

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

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

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

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

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

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

4 Power of the Commission to require information

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

(2) The justice of the peace may issue the written instrument if the justice of the peace is satisfied that there is good reason to do so for the purposes of investigating the affairs, or any aspect of the affairs, of any person that the Commission reasonably believes is or has been conducting gambling, in so far as those affairs are relevant for a purpose mentioned in paragraph 1 (powers of Commission).

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

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

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

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

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

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

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

(b) take copies or extracts from them; or

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

(6) A notice under subparagraph (3) must include a statement informing the person of the offences under paragraph 8 (offences) and section 32A (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 32A (offences in connection with information) or paragraph 8 (offences).

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

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

5 Entry to premises under warrant

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

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

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

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

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

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

(3) Those conditions are —

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

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

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

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

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

(b) to search any such premises;

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

(d) to seize, remove and retain any information, documents or equipment appearing to be information, documents or equipment of the description specified in the application for the warrant or

take any other steps in relation to such information, documents or equipment as appear to be necessary for preserving them and preventing interference with them;

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

(ii) non-compliance with any provision of this Act or AML/CFT legislation;

(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 32A (offences in connection with information) or paragraph 8 (offences).

6 Seized goods

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

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

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

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

7 Authorisation

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

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

8 Offences

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

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

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

is guilty of an offence.

(2) A person who —

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

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

is guilty of an offence.

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

Maximum penalty for this section —

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

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

ENDNOTES

Table of Endnote References

[1] ADO - Sections 3 to 35 in operation 24/01/ 2018 [SD2018/0042]. S.36 in operation 13/02/2018 [SD 2018/0070].
[2] Subs (5) amended by Fines and Penalties Act 2024 Sch 5.
[3] Subs (4) amended by Fines and Penalties Act 2024 Sch 5.
[4] Para (a) amended by Fines and Penalties Act 2024 Sch 5.
[5] Para (a) amended by Fines and Penalties Act 2024 Sch 5.
[6] Editorial Note: Para (a) corrected by virtue of reprint powers under section 75 of, and Schedule 1 to, the Legislation Act 2015.
[7] Subs (8) amended by Fines and Penalties Act 2024 Sch 4.
[8] Subs (5) amended by Fines and Penalties Act 2024 Sch 5.
[9] Subs (4) amended by Fines and Penalties Act 2024 Sch 5.
[10] Subs (1) amended by Fines and Penalties Act 2024 Sch 5.
[11] Subs (1) amended by Statute Law Revision Act 2021 s 18.