



THE GAMBLING SUPERVISION BILL 2009

EXPLANATORY NOTES

These notes are circulated for the information of Members with the approval of the Member in charge of the Bill, Mr R P Braidwood, MHK

Introduction

This Bill is promoted by the Treasury to make further provision as to the constitution, status and exercise of functions of the Isle of Man Gambling Supervision Commission (GSC), to consolidate licensing appeals against decisions of the Commission and to enable regulations under the Online Gambling Regulation Act 2001 to make provision for the safekeeping of participants' money.

The main purpose of the Bill is to amend the constitution of the Gambling Supervision Commission to that of a Statutory Board and to restate the regulatory objectives of the Commission and the exercise of its functions.

Summary of the Provisions of the Gambling Supervision Bill 2009

Clauses 1 to 3

These are introductory and set out the short title and commencement provisions together with the definitions used within the Bill.

Clause 4

This provides for the Commission to become a Statutory Board. This part also gives effect to Schedule 1 which sets out the constitution, functions and proceedings of the Commission.

Clause 5

This sets out the objectives that are the basis for the GSC's regulation of the gambling industry and can be summarised as:

- *ensuring that gambling is conducted in a fair and open way;*
- *protecting children and other vulnerable persons from being harmed or exploited by gambling;*
- *preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.*

In addition, clause 5 provides further matters to which the Commission is to have regard in discharging its functions and also provides the means (by Order) through which Treasury may specify policies and strategies to be implemented (subject to Tynwald approval).

Clause 6 and Clause 7

These clauses enable the Commission to make arrangements with other regulators for mutual assistance. The circumstances under which disclosure is permitted and the extent of the information disclosed is further outlined in Schedule 2.

Clause 8

This limits the liability of members and executive staff of the Commission, subject to any act or matter outlined being shown to have been done or omitted to be done in bad faith or on the grounds that it was unlawful as a result of section 6(1) of the Human Rights Act 2001.

Clause 9

This extends the scope of the appeals provisions of the Gambling (Amendment) Act 2006. This is intended to simplify the appeals process covering all the licensing decisions made by the Commission. Therefore, whilst maintaining the existing membership and appointment provisions, the extent to which an appeal can be made to the tribunal is extended to areas currently covered under other existing Acts. Decisions subject to appeal are further outlined in Schedule 3.

Clause 10

This is an enabling provision that will allow the GSC, under the Online Gambling Regulation Act 2001, to draft regulations that will afford protection to participants' funds deposited with an operator as if they (the funds) were held on trust. The regulations will make clear that should a company go into liquidation, the participants money deposited with the gaming company is clearly not money of the company, is protected from the liquidator and will be returned to the participant in full.

This clause and supporting regulation will remove the current requirement of gaming companies to provide bank guarantees or set up separate trust funds to hold monies equivalent to those deposited by the player, as such trust funds are expensive to create, administer and fund.

Clause 11

This is supplemental, dealing with minor and consequential amendments and repeals.

Schedule 1 – The Commission

This Schedule sets out in detail the constitution, functions and proceedings of the GSC. In line with other Statutory Board appointments, the Treasury will appoint suitably experienced members, subject to the approval of Tynwald. Further additions to the Schedule provide for monitoring and enforcement, record keeping, the engagement of appropriate staff, the need to present an annual performance report which is to be laid before Tynwald and a requirement to publish a document outlining a complaints procedure.

Schedule 2 – Disclosure of Information

This Schedule sets out in detail the restrictions regarding disclosure of information. In summary, information provided in confidence to the Commission, the Treasury or the Appeals Tribunal will not be disclosed to any other party without the consent of the person to whom it relates. Exceptions to this are outlined covering specific circumstances and provision is made for Tynwald to annul any Order made by the Treasury or the Commission which looks to amend the matters to be taken into account within various paragraphs of the Schedule.

Schedule 3 – Decisions Subject to Appeal

These Schedules introduce and outline all the licensing decisions made by the Commission which will be subject to appeal to the Appeals Tribunal. These cover:

- Betting (The Gaming, Betting and Lotteries Act 1988).
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- Casinos (The Casino Act 1986).
- Online Gambling (The Online Gambling Regulation Act 2001).
- Controlled Machines (The Gaming (Amendment) Act 1984).

Schedule 4 and Schedule 5 – Amendment of Enactments and Enactments Repealed

1. Provides for the GSC to be added to the Statutory Boards Act 1987.
2. and 3. Corrects references in existing legislation to the Appeals process introduced by the Gambling (Amendment) Act 2006 and specifies the Treasury as sponsoring Department as opposed to a non specific "Department".

Existing enactments repealed include previous provisions regarding the constitution of the Commission and the Appeals process, together with a number of minor corrections within existing legislation.