



Isle of Man

Ellan Vannin

GAMBLING DUTY BILL 2012

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Explanatory Memorandum

1. This Bill which is promoted by the Treasury, makes new and consolidated provision about the duty payable in respect of gambling.

Part 1 – Introductory

2. *Clause 1* names the Bill and *clause 2* provides for its commencement. *Clause 3* contains a definition of many of the terms used though *clauses 4 to 6* define the key terms of “gambling”, “lottery” and “operator”. *Clause 7* enables the Treasury to make regulations amending Part 1.

Part 2 – Scope of Gambling Duty

3. *Clause 8* provides by whom and on what gambling duty is payable and when it is not payable. It sets out the rate of duty and requires an operator to notify the Treasury before commencing a gambling operation. The rates of duty and the exemptions may be altered by regulations. *Clause 9* provides for the calculation of the gambling yield and *clause 10* explains the calculation of gambling receipts. *Clause 11* sets out how expenditure on gambling winnings is worked out.

Part 3 – Payment of Gambling Duty

4. *Clause 12* provides for the payment of gambling duty by an operator and *clause 13* covers where the duty is payable by two or more operators. *Clause 14* makes provision for an accounting period and *clause 15* imposes an obligation to make returns for each accounting period. *Clause 16* provides for relief for losses and *clause 17* provides relief where a similar duty has been paid in another jurisdiction. *Clause 18* contains provisions about regulations. *Clause 19* applies the collection and enforcement provisions of the Customs and Excise Management Act 1986 to operators under the Bill. *Clause 20* provides for the recovery of overpaid gambling duty.

Part 4 – Enforcement and Protection of Officers

5. *Clause 21* contains regulation-making powers concerned with administration, enforcement and protection of the revenue. *Clause 22* enables the Treasury to require evidence before remitting or repaying duty and if it thinks it necessary for the protection of the revenue, the Treasury may require security. *Clause 23* provides for the recovery of unpaid gambling duty and in the event of non-payment the Treasury may give notice and thereafter issue a warrant enforceable as an execution of the High Court under *clause 24*. *Clause 25* gives power to the Chief Registrar to set aside Treasury warrants. *Clause 26* gives protection to officers of customs and excise from committing offences when acting in pursuance of instructions of the Treasury.

Part 5 – Mutual Assistance and International Co-operation

6. *Clause 27* enables the Treasury to disclose information to regulatory and other bodies to assist them in the performance of duties imposed by legislation pertaining to gambling. Under *clause 28* the Treasury may by order provide for the exchange of information obtained under the Bill or capable of facilitating enforcement of the Bill. *Clause 29* enables the Treasury by order to give effect to arrangements for the exchange of information, the recovery of debts and the service of documents relating to gambling duty or foreign gambling duty.

Part 6 – Legal Proceedings

7. *Clause 30* sets out the various offences that may be committed under the Bill and *clause 31* makes provisions about when proceedings may not be commenced and about the admissibility of the consent to commence proceedings. *Clause 32* is concerned with the liability of officers of bodies corporate. *Clause 33* makes provision about civil penalties.

Part 7 – General

8. *Clause 34* provides for most regulations to be laid before Tynwald and for regulations under *clause 8(8)* and orders not to come into operation without Tynwald approval. *Clause 35* provides for the Treasury's expenses under the Bill to be paid out of monies provided by Tynwald. *Clause 36* amends the Pool Betting (Isle of Man) Act 1961 and *clause 37* and the *Schedule* make various repeals to gambling legislation.
9. The primary purpose of the Bill is to introduce greater flexibility into how gambling duty is administered by the Customs and Excise Division of the Treasury, and to future-proof the legislation so as to be able to cope with technological and industry developments, and with changes made in other jurisdictions that impact operators in the Island. The Treasury does not anticipate that the Bill will involve any significant additional resources being required to administer the duty regime, but that any changes arising as a consequence of the Bill would be met within existing resources.
10. In the view of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.



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GAMBLING DUTY BILL 2012

- 1 **A BILL** to make new and consolidated provision for the administration of
 2 excise duty on gambling; 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:—

3 **PART 1 – INTRODUCTORY**

4 **1 Short title**

5 The short title of this Act is the Gambling Duty Act 2012.

6 **2 Commencement**

- 7 (1) This Act (other than this section and section 1) comes into operation on
 8 such day or days as the Treasury by order appoints and different days
 9 may be appointed for different provisions and for different purposes.
- 10 (2) An order under subsection (1) may (without limiting the generality of the
 11 Interpretation Act 1976¹) —
- 12 (a) include transitional provision and saving provisions modifying
 13 the application of a provision of an enactment pending the
 14 commencement of, or pending the doing of anything under, a
 15 provision of another enactment;
 - 16 (b) save, with or without modification, a provision repealed by this
 17 Act;
 - 18 (c) make provision of a kind similar to provision made by a provision
 19 repealed by this Act;
 - 20 (d) modify a provision of this Act for such a purpose;
 - 21 (e) make such provisions modifying the application of any provision
 22 of this Act in such circumstances and for such purposes as are
 23 prescribed.

¹ c.20



(3) Subsection (2) and this subsection are treated as having been repealed on the expiry of 3 years immediately following the date on which this Act is passed.

3 General interpretation

In this Act —

“**accounting period**” shall be construed in accordance with section 14;

“**betting**” means making or accepting a bet on —

(a) the outcome of a race, competition or other event or process (including when the event is in the past and one party to the transaction knows the outcome);

(b) the likelihood of anything occurring or not occurring (including when the thing has occurred or failed to occur and one party to the transaction knows the outcome); or

(c) whether anything is or is not true,

and includes spread betting made with a bookmaker in the Island who holds a bookmaker’s licence and pool betting but not on-course betting;

“**betting intermediary**” means a person who, in the course of a business, provides facilities (other than premises) or a service designed to enable the making or acceptance of bets between others;

“**bookmaker**” means a person (whether or not licensed as a bookmaker under any enactment) who —

(a) carries on the business of receiving or negotiating bets or conducting pool betting operations (whether as principal or agent and whether regularly or not); or

(b) holds himself or herself out (or permits such holding out), in the course of a business, as a person carrying on such business;

“**Collector**” has the same meaning as in section 1 of the Customs and Excise Management Act 1986²;

“**foreign gambling duty**” means any tax or duty imposed under the law of any country or territory that appears to the Treasury to be of a like nature to gambling duty;

“**gambling**” has the meaning given in section 4;

“**gambling duty**” shall be construed in accordance with section 8;

“**gambling yield**” shall be construed in accordance with section 9;

“**lottery**” has the meaning given in section 5;

“**networked operator**” has the same meaning as in section 13(3);

² c.34

- 1 “**officer**” means a person authorised in writing by the Treasury to be an officer
2 of customs and excise;
- 3 “**on-course betting**” means betting on the outcome of an event at the site of the
4 event on the occasion when the event is to take place (for example bets
5 on horse or dog racing placed at the track);
- 6 “**on-line gambling**” has the same meaning as in section 1 of the Online
7 Gambling Regulation Act 2001³;
- 8 “**operator**” has the meaning given in section 6;
- 9 “**pool betting**” has the same meaning as in section 2 of the Pool Betting (Isle of
10 Man) Act 1961⁴;
- 11 “**prize**” in relation to lotteries includes any money, articles or services —
12 (a) whether or not described as a prize; and
13 (b) whether or not consisting wholly or partly of money paid, or articles or
14 services provided, by the members of the class among whom the prize is
15 allocated;
- 16 “**spread bet**” means a contract the making and accepting of which is a regulated
17 activity within section 3 of the Financial Services Act 2008⁵ or the
18 Collective Investment Schemes Act 2008⁶;
- 19 “**user**” means a person who engages in gambling.
- 20 **4 Meaning of “gambling”**
- 21 (1) Gambling means —
22 (a) gaming within the meaning of section 1 of the Gaming, Betting
23 and Lotteries Act 1988⁷;
24 (b) betting;
25 (c) participating in a lottery;
26 (d) the taking of a ticket or chance in a lottery that is not unlawful by
27 virtue of section 5(3) of the Lotteries and Amusement Act 1976 (of
28 Parliament); or
29 (e) on-line gambling,
30 where the operator is acting in the course of a business, whether or not
31 the operator is licensed for the purpose of conducting gambling
32 operations by the Isle of Man Gambling Supervision Commission.
- 33 (2) However, “gambling” does not mean —

³ c.10

⁴ XIX p.317

⁵ c.8

⁶ c.7

⁷ c.17

- 1 (a) participating in a lottery that forms part of the National Lottery
2 (within the meaning of the National Lottery etc. Act 1993 (of
3 Parliament)); or
4 (b) playing a game of chance or skill by means of a controlled
5 machine within the meaning of section 1 of the Gaming, Betting
6 and Lotteries Act 1988.

7 5 Meaning of “lottery”

- 8 (1) For the purposes of this Act an operation is a lottery, irrespective of how
9 it is described, if –
10 (a) users are required to pay in order to participate in the operation;
11 (b) in the course of the operation one or more prizes are allocated to
12 any user; and
13 (c) either –
14 (i) the prizes are allocated by a process which relies wholly on
15 chance; or
16 (ii) the prizes are allocated by a series of processes and the first
17 of those processes relies wholly on chance.
18 (2) A process that requires persons to exercise skill or judgment or to display
19 knowledge is nevertheless treated for the purposes of this section as
20 relying wholly on chance if –
21 (a) the requirement cannot reasonably be expected to prevent a
22 significant proportion of persons who participate in the
23 arrangement of which the process forms part from receiving a
24 prize; and
25 (b) the requirement cannot reasonably be expected to prevent a
26 significant proportion of persons who wish to participate in that
27 arrangement from doing so.

28 6 Meaning of “operator”

- 29 (1) A person is an operator (whether or not licensed as such) if the person –
30 (a) in the case of gaming or a lottery, takes part in its organisation,
31 management or provision;
32 (b) in the case of betting, carries on any business involving the
33 negotiating or receiving of bets;
34 (c) maintains or permits to be maintained in the Island a computer or
35 other device on or by means of which the game or lottery is
36 operated or bets are received, as the case may be; or
37 (d) is a betting intermediary.
38 (2) However, a person is not an operator by reason only –

- 1 (a) that, in the course of a business, he or she handles electronic
2 communications on behalf of, or provides software to or on behalf
3 of, a person involved in gambling; or
4 (b) of being granted a casino licence granted under section 3 of the
5 Casino Act 1986⁸.
- 6 (3) For the purposes of the payment of gambling duty a reference in this Act
7 to an operator includes any group operator or representative operator
8 within the meaning of section 13.

9 **7 Amendment of this Part**

10 The Treasury may by regulations amend this Part so as to add to, alter or repeal
11 any of the definitions contained in it.

12 **PART 2 – SCOPE OF GAMBLING DUTY**

13 **8 Gambling duty**

- 14 (1) A duty of excise, known as gambling duty, is payable in accordance with
15 this Act.
- 16 (2) Gambling duty is payable –
- 17 (a) by an operator on the gambling yield of any gambling (whether or
18 not that gambling is unlawful under any enactment); and
- 19 (b) on the gross amounts charged by a betting intermediary
20 (“commission charges”), whether by deduction from winnings or
21 otherwise, for using facilities provided by the intermediary.
- 22 (3) However gambling duty –
- 23 (a) is payable only where a significant part of the gambling
24 concerned takes place in the Island;
- 25 (b) is not payable in respect of bets made for community benefit.
- 26 (4) Subsection (3)(a) is satisfied in any case where –
- 27 (a) an operator is licensed under any enactment (or would have been
28 licensed if he or she had applied and satisfied the eligibility
29 criteria); or
- 30 (b) the facilities for, or at least one piece of equipment used in, the
31 provision of, any gambling operation is situated in the Island,
32 irrespective of whether or not the facilities are provided wholly or
33 partly for use in the Island.
- 34 (5) The rate of gambling duty is a percentage of the gambling yield or
35 commission charges as follows –

⁸ c.16

- 1 (a) where the yield or charges do not exceed £20 million a year, 1.5%;
- 2 (b) where the yield or charges exceed £20 million but do not exceed
- 3 £40 million, 0.5%; and
- 4 (c) where the yield or charges exceed £40 million a year, 0.1%.
- 5 (6) However, the rate of gambling duty payable by an operator in respect of
- 6 pool betting is 15% of the gambling yield unless the pool betting consists
- 7 of an operator accepting bets by means of, or placing bets received into, a
- 8 totalisator, wherever situated.
- 9 (7) Where an operator proposes to undertake any gambling operation in
- 10 respect of which gambling duty is payable, he or she must notify the
- 11 Treasury not less than 7 days before commencing the operation (or the
- 12 coming into operation of this section, whichever is the later).
- 13 (8) The Treasury may by regulations —
- 14 (a) amend subsection (5) so as to alter any percentage rate of
- 15 gambling duty;
- 16 (b) provide for further exemptions from the payment of gambling
- 17 duty.
- 18 (9) In this section “bets made for community benefit” means bets made
- 19 where —
- 20 (a) the operator is an organisation established and conducted for
- 21 charitable purposes only or wholly and mainly for the purposes of
- 22 enabling participation in or of supporting education, sport or
- 23 culture or for any other non-commercial purposes not for private
- 24 gain; and
- 25 (b) the person making the bet knows, when making it, that the
- 26 purpose of the betting is to benefit that organisation; and
- 27 (c) a substantial part of the gambling yield is to be applied for the
- 28 purposes of the organisation.

29 **9 Gambling yield**

- 30 (1) The gambling yield is calculated on either —
- 31 (a) the net stakes receipt basis set out in subsection (2); or
- 32 (b) if the Treasury by order so provides, the retained profits basis set
- 33 out in subsection (3).
- 34 (2) The net stakes receipts accruing to an operator in respect of a gambling
- 35 operation is the operator’s gambling receipts for the accounting period in
- 36 question calculated under section 10 less the operator’s expenditure on
- 37 gambling winnings for that period calculated under section 11.
- 38 (3) The retained profits accruing to an operator in respect of a gambling
- 39 operation is the profit accruing to the operator from the participants in

- 1 the gambling in the form of commission, entrance fee or other sum in
2 consideration of their being able to so participate.
- 3 (4) However, in the case a networked operator or an operator conducting
4 online gambling under a licence for network services the retained profits
5 are —
- 6 (a) his or her share of the profits from gambling in the Island on the
7 network that are distributed to members of the network; and
- 8 (b) any other sum paid in consideration of his or her being a
9 networked operator or the holder of such a licence.
- 10 (5) However, the Treasury may by order amend this section to provide for
11 the gambling yield —
- 12 (a) to be of a specified amount; or
- 13 (b) or to be calculated on some other basis.
- 14 (6) An order under subsection (5) may include transitional provision.
- 15 (7) In any case where an operator's liability to gambling duty varies
16 according to the type of gambling that the operator has undertaken, the
17 Treasury shall —
- 18 (a) determine the predominant type of gambling; and
- 19 (b) specify on which basis the gambling yield is to be calculated.

20 **10 Gambling receipts**

21 P1981/63/26E

- 22 (1) The amount of gambling receipts for an accounting period is the
23 aggregate of —
- 24 (a) amounts falling due to the operator in that period in respect of
25 entitlement to use facilities for gambling provided by the
26 operator; and
- 27 (b) amounts staked, or falling due to be paid, in that period by a user
28 of facilities for gambling provided by the operator, if or in so far
29 as responsibility for paying any amount won by the user falls on
30 the operator (or a person with whom the operator is connected or
31 has made arrangements).
- 32 (2) Amounts in respect of value added tax shall be ignored for the purposes
33 of subsection (1).
- 34 (3) Where a user makes a bet in pursuance of an offer which permits the
35 user to pay nothing or less than the amount which the user would have
36 been required to pay without the offer, the user shall be treated for the
37 purposes of this section as being due to pay that amount—
- 38 (a) to the person with whom the bet is made; and
- 39 (b) at the time when the bet is made.

11 Expenditure on gambling winnings

P1981/63/26F

- (1) The amount of the operator's expenditure on gambling winnings for an accounting period is the aggregate of the value of prizes provided by the operator in that period which have been won (at any time) by users.
- (2) For the purpose of subsection (1) —
 - (a) the reference to a prize having been provided by an operator includes a reference to his or her holding it in an account if the user is notified that the amount is being held for him or her in the account and that the user is entitled to withdraw it on demand; and
 - (b) the return of a stake shall be treated as a payment by way of gambling winnings.
- (3) Prizes provided by the operator to one user on behalf of another are not to be treated as prizes provided by the operator.
- (4) If the operator participates in arrangements under which a number of persons who provide facilities contribute towards a fund which is wholly used to provide prizes in connection with the use of those facilities (sometimes described as arrangements for “linked progressive jackpot games”) —
 - (a) the making by the operator of a contribution which relates to the provision by the operator of facilities shall be treated as the provision of a prize; and
 - (b) the award of a prize from the fund shall not be treated as the provision of a prize by the operator.
- (5) Where the operator credits the account of a user of facilities (otherwise than as described in subsection (3)), the credit shall be treated as the provision of a prize; but the Treasury may direct that this subsection shall not apply in a specified case or class of cases.
- (6) The value of any winnings due otherwise than in sterling money shall be calculated in accordance with regulations made by the Treasury.
- (7) In this section “facilities” means facilities for gambling provided by an operator and includes the use of and access to premises.

PART 3 – PAYMENT OF GAMBLING DUTY**12 Gambling duty payable by operator and others**

- (1) Gambling duty must be paid by an operator.

- 1 (2) But gambling duty which is due to be paid by an operator may be
2 recovered from the following persons as if they and the operator were
3 jointly and severally liable to pay the duty —
- 4 (a) a person responsible for the management of the business of the
5 operator;
- 6 (b) where the operator is a company, a director;
- 7 (c) such other persons as the Treasury may by order specify.

8 **13 Gambling duty payable by two or more operators**

- 9 (1) Two or more operators may, with the approval of the Collector, be
10 treated as a single operator for the purposes of payment of gambling
11 duty (to be known as a “group operator”) if —
- 12 (a) one of them controls each of the others; or
- 13 (b) one person (whether a body corporate or an individual) controls
14 all of them.
- 15 (2) For the purposes of subsection (1) —
- 16 (a) a body corporate is taken to control another body corporate if it is
17 empowered by statute to control that body’s activities or if it is
18 that body’s holding company;
- 19 (b) an individual is taken to control a body corporate if, were he or
20 she a company, he or she would be that body’s holding company
21 within the meaning of section 1 of the Companies Act 1974⁹.
- 22 (3) Two or more operators are to be treated as a single operator for the
23 purposes of payment of gambling duty (in this section called a
24 “networked operator”), if —
- 25 (a) they have applied to the Treasury in writing to become a
26 networked operator giving details —
- 27 (i) of the proposed linked games to be offered to users; and
- 28 (ii) as to which operator is to be the representative operator;
29 and
- 30 (b) the Treasury has approved the application and the details it
31 contains and notified each such operator in writing of its
32 approval.
- 33 (4) Regulations may —
- 34 (a) provide for the making applications under this section in
35 accordance with the regulations, including the information that
36 must be provided by individual operators; and

⁹ c.30

- 1 (b) provide for the determination of applications, including the
2 criteria for granting or withdrawing approval and any conditions
3 that may be attached to the approval.
- 4 (5) Gambling duty due from a group operator may be recovered from the
5 following persons as if they were jointly and severally liable to pay the
6 duty —
- 7 (a) the group operator;
- 8 (b) any of the operators that applied under subsection (1) to a group
9 operator;
- 10 (c) any person responsible for the management of any of those
11 operators;
- 12 (d) where any of those operators is a company, a director of that
13 company;
- 14 (e) such other person as the Treasury may by order specify.
- 15 (6) Gambling duty due from a networked operator may be recovered from
16 the following persons as if they were jointly and severally liable to pay
17 the duty —
- 18 (a) the representative operator;
- 19 (b) any of the other operators that applied under subsection (3) to be
20 a networked operator, but only to the extent of the liability to
21 duty of their activity.
- 22 (c) any person responsible for the management of the representative
23 operator or, as the case may be, any of the operators mentioned in
24 paragraph (b);
- 25 (d) where the representative operator or, as the case may be, any of
26 the operators mentioned in paragraph (b) is a company, a director
27 of that company;
- 28 (e) such other person as the Treasury may by order specify.
- 29 (7) In this section —
- 30 “linked game” means a type of gambling access to which is available to the user
31 via 2 or more operators who jointly provide the prizes or winnings for
32 the game;
- 33 “representative operator” means an operator approved by the Treasury to be
34 the representative operator for a networked operator under subsection
35 (3)(b).

36 **14 Accounting period and duty payable**

- 37 (1) The accounting period for the purposes of this Act shall be one month
38 unless the Collector otherwise agrees in writing.

- 1 (2) The amount of gambling duty owing in respect of the accounting period
2 in question must be paid by the date on which the return is due.
- 3 (3) If the assessment of the amount of gambling duty payable is based on
4 turnover, adjustments may be made at the end of any 12 month period
5 by such manner as is provided in regulations made by the Treasury.
- 6 (4) If an operator ceases to carry on business for more than 28 days the
7 operator must pay any gambling duty owing within a further period of
8 28 days.

9 **15 Returns**

- 10 (1) Except in the case of an assessment of gambling duty or as otherwise
11 provided by regulations, an operator liable to pay the duty must furnish
12 to the Collector a return for each accounting period, to be furnished at
13 the end of that accounting period containing such information as the
14 Treasury may by regulations prescribe.
- 15 (2) The Treasury may designate one of the operators forming part of a group
16 operator as being responsible for submitting the return.
- 17 (3) The Treasury may by regulations make provision about the return
18 required under this section.
- 19 (4) The regulations may in particular make provision about —
20 (a) liability to make a return;
21 (b) timing;
22 (c) content;
23 (d) methods of making (including provision to submit returns
24 electronically);
25 (e) declarations;
26 (f) authentication;
27 (g) when a return is to be treated as made.

28 **16 Relief for losses**

29 P1981/63/5AA

- 30 (1) This section applies if the amount of an operator's gambling yield is a
31 negative amount.
- 32 (2) The negative amount must be carried forward to the following
33 accounting period and, to the extent that it does not exceed it, deducted
34 from the amount of the operator's gambling yield for that period.
- 35 (3) If the gambling yield for that following period —
36 (a) is not a positive amount; or
37 (b) is less than the amount carried forward,

1 the amount carried forward or, as the case may be, the balance of it may be
2 treated for the purposes of this section as if it were a negative amount of
3 gambling yield in that period.

4 **17 Double duty relief**

5 (1) This subsection applies where an operator proves to the satisfaction of
6 the Treasury that the operator has paid foreign gambling duty in respect
7 of gambling that would, but for this section, give rise to a liability to
8 gambling duty.

9 (2) If subsection (1) applies and the provisions of any order made under this
10 section are satisfied, the operator is entitled to relief in respect of
11 gambling duty otherwise payable to be known as “double duty relief”.

12 (3) However, gambling duty becomes payable in respect of any gambling in
13 respect of which any foreign gambling duty is repaid to the operator.

14 (4) The Treasury may make an order prescribing the further conditions that
15 have to be satisfied before an operator is entitled to double duty relief.

16 (5) The order may in particular —

17 (a) prescribe the countries or territories whose gambling duty may be
18 treated as foreign gambling duty;

19 (b) limit entitlement to double duty relief to the date of the
20 commencement of the order;

21 (c) prescribe a minimum and maximum amount of double duty
22 relief, either in monetary value or as a proportion of the operator’s
23 total liability to pay gambling duty over a prescribed period;

24 (d) provide that the Collector may charge such amount as the
25 Collector considers reasonable for processing an application for
26 double duty relief; and

27 (e) enable the Collector to specify the form and manner of
28 applications for double duty relief.

29 **18 Regulations about payment of gambling duty**

30 The Treasury may by regulations—

31 (a) provide for any payment of gambling duty to be made by
32 electronic means;

33 (b) require further information to be provided by persons from
34 whom gambling duty may be recovered under section 12(2);

35 (c) provide for the payment of any gambling duty due in respect of
36 any gambling operation of a description specified in the
37 regulations to be deferred subject to any conditions or
38 requirements that may be imposed by or under the regulations;

39 (d) require payments to be made on account of any gambling duty;

- 1 (e) provide for the methods of payment of gambling duty (including
2 payments in different currencies other than sterling);
- 3 (f) provide for the payment of gambling duty in instalments;
- 4 (g) make provision about when the payment of gambling duty is to
5 be treated as made;
- 6 (h) provide for the recalculation of gambling duty in specified
7 circumstances;
- 8 (i) provide for the giving of security by means of a deposit or
9 otherwise for gambling duty payable now and in the future and
10 the consequences of failing to provide such security;
- 11 (j) provide for the payment of gambling duty when a person ceases
12 to carry on business;
- 13 (k) provide for relief where money owing to operators is not
14 recovered, where gambling is allowed for free or at a discounted
15 rate or in other cases of overpayment of gambling duty; and
- 16 (l) provide for records to be kept for the purposes of this Act.

17 **19 Collecting and enforcing**

18 For the purpose of collecting and enforcing gambling duty sections 121, 123 and
19 124A to 124G of the Customs and Excise Management Act 1986¹⁰ apply, subject
20 to such modifications as are prescribed by order made by the Treasury, as if the
21 operator were a revenue trader within the meaning of that Act.

22 **20 Recovery of overpaid gambling duty**

- 23 (1) Where a person pays to the Treasury an amount by way of gambling
24 duty which is not due to it, the Treasury is liable to repay that amount in
25 such circumstances as the Treasury may by order prescribe.
- 26 (2) The Treasury is not required to make any such repayment unless a claim
27 is made to it in such form as the Treasury determines and supported by
28 such documentary evidence as may be prescribed by it by regulations.
- 29 (3) It is a defence to a claim for repayment that the repayment would
30 unjustly enrich the claimant.
- 31 (4) No claim for repayment may be made after the expiry of the period of 4
32 years beginning with the date of the payment or, if later, the date on
33 which the claimant (or, where the right to repayment has been assigned
34 or otherwise transmitted, any predecessor in title of the claimant)
35 discovered, or could with reasonable diligence have discovered, that the
36 amount was not due.

¹⁰ c.34

- 1 (5) Except as provided by this section the Treasury is not liable to repay an
2 amount paid to it by way of gambling duty by reason of the fact that it
3 was not due to it.

4 PART 4 – ENFORCEMENT AND PROTECTION OF OFFICERS

5 21 General administration and enforcement

- 6 (1) The Treasury may make regulations providing for any matter appearing
7 to it to be necessary for the administration or enforcement of gambling
8 duty or for the protection of that revenue.
- 9 (2) Regulations under this section may in particular include provision –
- 10 (a) for the furnishing to such persons, or displaying in such manner,
11 of such information or records relating to any gambling operation
12 as the regulations may require;
- 13 (b) for the keeping, preserving and producing of accounts, records or
14 other documents by persons engaging in a gambling operation;
- 15 (c) for the inspecting of the accounts, records and other documents of
16 persons engaging or suspected of engaging in a gambling
17 operation, and of premises or equipment used or suspected of
18 being used by such persons for or in connection with any
19 gambling operation and of any other premises where any
20 gambling operation is carried on;
- 21 (d) permitting any officer to enter on any premises used, or suspected
22 of being used, for or in connection with gambling and to inspect,
23 remove and take copies of any books, records, accounts or other
24 documents which relate or appear to relate to any gambling
25 operation on those premises;
- 26 (e) requiring any person carrying on or suspected of carrying on a
27 gambling operation to produce specified books, records, accounts
28 or documents within a specified time;
- 29 (f) requiring information to which the regulations relate to be
30 produced in a form in which it can be taken away and in which it
31 is visible and legible.

32 22 Security for protection of revenue

33 1996/1/Sch 12 para 4

- 34 (1) The Treasury may, as a condition of remitting or repaying gambling duty
35 to any person, require the production of such evidence relating to the
36 duty as it may specify.
- 37 (2) If it thinks it necessary for the protection of the revenue, the Treasury
38 may require, as a condition of making any payment, the giving of such
39 security for the amount of the payment as appears to it appropriate.

- 1 (3) If it thinks it necessary for the protection of the revenue, the Treasury
2 may require an operator to give security, or further security, for the
3 payment of any gambling duty that is or may become due.
- 4 (4) Security under subsection (2) shall be of such amount, and shall be given
5 in such manner, as the Treasury may determine.

6 **23 Recovery of unpaid gambling duty**

- 7 (1) Gambling duty is recoverable as a civil debt.
- 8 (2) The Treasury may by regulations make provision —
- 9 (a) for authorising distress to be levied on the goods and chattels of
10 any person refusing or neglecting to pay gambling duty;
- 11 (b) for the disposal of any goods or chattels on which distress is
12 levied in pursuance of the regulations; and
- 13 (c) for the imposition and recovery of costs, charges, expenses and
14 fees in connection with anything done under the regulations.
- 15 (3) The provision that may be contained in regulations under this section
16 may include, in particular —
- 17 (a) provision for the levying of distress, by any person authorised to
18 do so under the regulations, on goods or chattels located at any
19 place whatever (including on a public highway); and
- 20 (b) provision authorising distress to be levied at any such time of the
21 day or night, and on any such day of the week, as may be
22 specified or described in the regulations.
- 23 (4) Regulations under this section may contain such incidental,
24 supplemental, consequential or transitional provision as the Treasury
25 thinks fit.
- 26 (5) The transitional provision that may be contained in the regulations may
27 include provision in connection with the coming into operation of the
28 repeal by this Act of any other power by regulations to make provision
29 for or in connection with the levying of distress.

30 **24 Treasury warrants**

31 1996/1/Sch 12 para 6

- 32 (1) If a person neglects or refuses to pay gambling duty, or any amount
33 recoverable as if it were gambling duty that he or she is required to pay
34 under this Act, the Treasury may by notice in writing require that person
35 to pay such gambling duty within 14 days of the delivery of the notice.
- 36 (2) No notice may be served under subsection (1) until 30 days after the
37 gambling duty becomes due.

- 1 (3) A notice issued under subsection (1) must be served by sending it by
2 post in a letter addressed to the person at the last or usual residence or
3 place of business of that person.
- 4 (4) If the person on whom notice is served does not pay the sum due within
5 the period of 14 days mentioned in subsection (1), the Treasury may
6 issue to the appropriate Coroner a warrant in such form as is determined
7 by the Treasury.
- 8 (5) A warrant issued under this section shall be enforceable in the same
9 manner as an execution of the High Court.
- 10 (6) Without limiting the generality of subsection (5), sections 13 to 14A of,
11 and Schedules 1 to 2A to, the Administration of Justice Act 1981¹¹ apply,
12 with the necessary modifications, to the enforcement of a warrant issued
13 under this paragraph as they apply to the enforcement of an execution of
14 the High Court.
- 15 (7) This section does not limit any other remedy available for the recovery of
16 unpaid gambling duty.

17 **25 Power to set aside Treasury warrants**

18 1996/1/Sch 12 para 7

- 19 (1) Where the Chief Registrar is, on the application of a person named in a
20 warrant issued under section 24, satisfied that —
- 21 (a) the sum due under the warrant has been paid in full; or
22 (b) the notice issued under section 24(1) was not served in the
23 manner required by subsection 24(3) of that section; or
24 (c) there is an error on the face of the warrant,
- 25 the Chief Registrar may, on such terms as he or she thinks fit, set aside
26 the warrant.
- 27 (2) If, on application under this section, the Chief Registrar is satisfied that
28 there is an error on the face of the warrant, but that the applicant is not
29 prejudiced by it, the Chief Registrar may dismiss the application on such
30 terms as he or she thinks fit.
- 31 (3) Whenever the Chief Registrar entertains a doubt as to any question of
32 law arising in the course of any application under this section, the Chief
33 Registrar may refer the question to a Deemster for his or her opinion.
- 34 (4) An application under this section shall be made in writing to the Chief
35 Registrar within 14 days of the date on which the warrant first came to
36 the notice of the applicant and on receipt of the application the Chief
37 Registrar shall stay the enforcement of the warrant and shall
38 immediately give notice to the Treasury.

¹¹ c.8

- 1 (5) The application shall be in such form and contain such information as the
2 Chief Registrar may require.
- 3 (6) The Chief Registrar may adopt any method of procedure which he or she
4 may consider to be convenient and to afford a fair and equal opportunity
5 to the applicant and the Treasury to present their respective cases.
- 6 (7) An application under this section may be determined without a hearing
7 but where a hearing is held it shall be informal and in private.
- 8 (8) A decision of the Chief Registrar to set aside a warrant does not
9 prejudice any gambling duty properly due under this Act.
- 10 (9) Where the Chief Registrar sets aside a warrant —
11 (a) the Treasury is not prevented, except in a case to which subsection
12 (1)(a) applies, from issuing a fresh warrant in place of that set
13 aside;
14 (b) no person is liable for anything previously done in good faith
15 under the warrant.

16 **26 Protection of officers**

17 Where an officer takes any action in pursuance of instructions of the Treasury
18 given in connection with the enforcement of this Act that would (without this
19 section) amount to an offence under any enactment relating to gambling, the
20 officer is not be guilty of that offence.

21 **PART 5 – MUTUAL ASSISTANCE AND INTERNATIONAL**
22 **CO-OPERATION**

23 **27 Mutual assistance**

24 P1993/34/37

- 25 (1) Despite any obligation not to make disclosure that would otherwise
26 apply, the Treasury may disclose any document or information to any
27 the following bodies for the purpose of assisting any of them in the
28 performance of duties imposed by or under any enactment relating to
29 gambling —
30 (a) the Isle of Man Gambling Supervision Commission;
31 (b) the Financial Supervision Commission;
32 (c) the Department of Economic Development;
33 (d) the Isle of Man Office of Fair Trading;
34 (e) the Isle of Man Constabulary; and
35 (f) such other body as is specified in an order made by the Treasury.
- 36 (2) Despite any obligation not to make disclosure that would otherwise
37 apply, any of the bodies mentioned in subsection (1) may disclose any

document or information to the Treasury for the purposes of assisting it in the performance of its duties under this Act.

- (3) Any document or information that has been disclosed to a person by virtue of this section must not be disclosed by the person except —
- (a) to another person to whom (instead of the person) disclosure could by virtue of this section have been made; or
 - (b) for the purpose of any proceedings connected with the operation of this or any other enactment relating to gambling.

28 International co-operation

- (1) The Treasury may by order make provision for the exchange of documents or information obtained under this Act or capable of facilitating enforcement of this Act with a specified person or body outside the Island and for specified purposes relating to the prevention or investigation of crime.
- (2) If an order is made under subsection (1), the Treasury must issue a code of practice relating to the exchange of such documents or information.

29 International tax enforcement arrangements

- (1) If the Treasury by order declares that —
- (a) arrangements relating to international tax enforcement of a relevant tax which are specified in the order have been made in relation to any country or territory outside the Island; and
 - (b) it is expedient that those arrangements have effect,
- those arrangements have effect (and do so in spite of anything in any enactment or instrument).
- (2) For the purposes of subsection (1) arrangements relate to international tax enforcement if they relate to any or all of the following —
- (a) the exchange of documents or information foreseeably relevant to the administration, enforcement or recovery of gambling duty or any foreign gambling duty;
 - (b) the recovery of debts relating to gambling duty or foreign gambling duty;
 - (c) the service of documents relating to gambling duty or foreign gambling duty.
- (3) Where any arrangements have effect by virtue of this section, no obligation of secrecy (whether imposed by statute or otherwise) —
- (a) prevents any minister, member or officer of a Department or any member of a Statutory Board, or person with responsibilities in any Department or Statutory Board, from disclosing to the Treasury or any officer any document or information that is

- 1 authorised to be disclosed in accordance with the arrangements to
2 any authorised officer of the authorities of any country or the
3 territory in relation to which the arrangements have been made;
4 or
- 5 (b) prevents the Treasury or any officer from disclosing to any such
6 authorised officer any document or information which is
7 authorised to be so disclosed in accordance with the
8 arrangements.
- 9 (4) But neither the Treasury nor any officer may make disclosure in
10 pursuance of any arrangements having effect by virtue of this section to
11 any authorised officer of the authorities of any country or territory in
12 relation to which the arrangements have been made unless satisfied that
13 the authorities of the country or territory concerned are bound by, or
14 have undertaken to observe, rules of confidentiality with respect to the
15 information that are not less strict than those applying to it in the Island.
- 16 (5) An order made under this section revoking an earlier such order may
17 contain any transitional provisions that appear appropriate.

18

PART 6 – LEGAL PROCEEDINGS

19

30 Offences and penalties

20

- (1) A person who –

21

- (a) in connection with gambling duty, makes a statement that he or she knows to be false in a material particular, or, with intent to deceive, produces or makes use of any book, account, record, return or other document that is false in a material particular;

22

23

24

25

- (b) is knowingly concerned in, or in the taking of steps with a view to the fraudulent evasion, by the person or any other person, of gambling duty,

26

27

28

commits an offence and is liable –

29

- (i) on conviction on information, to custody for not more than 7 years, a fine, or both;

30

31

- (ii) on summary conviction, to custody for not more than 6 months, a fine not exceeding £5,000, or both,

32

33

and any equipment used or cash received in connection with the gambling in respect of which duty was evaded or attempted to be evaded is liable to forfeiture.

34

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36

- (2) A person who obstructs any officer in the exercise of his or her functions in relation to gambling duty is liable on summary conviction to a fine not exceeding £5,000.

37

38

- 1 (3) With a view to protecting the revenue derived from gambling duty, a
2 person who —
- 3 (a) conducts any business or agency with respect to gambling; or
4 (b) knowingly issues, circulates or distributes, or has in the person's
5 possession for that purpose, any advertisement or other document
6 inviting or otherwise relating to gambling,
- 7 commits an offence and is liable —
- 8 (i) on conviction on information to a fine or, in the case of a second
9 or subsequent conviction, to custody for not more than one year, a
10 fine, or both;
- 11 (ii) on summary conviction to a fine not exceeding £5,000 or, in the
12 case of a second or subsequent conviction, to custody for a term
13 not exceeding 3 months or to a fine not exceeding £5,000, or both.
- 14 (4) However no offence is committed under subsection (3) if the transaction
15 concerned —
- 16 (a) is subject to gambling duty;
17 (b) involves a licensed operator who pays a duty of excise in the
18 United Kingdom;
19 (c) involves an operator who is licensed in a member State of the
20 European Economic Area to undertake the transaction or is
21 exempt from being so licensed; or
22 (d) involves an operator in such other country or territory as the
23 Treasury may by order prescribe who is so licensed or exempt.
- 24 (5) A person who gambles or attempts to gamble, or sends or attempts to
25 send an advertisement or other document to the person, is not guilty of
26 an offence by reason of thereby procuring or inciting another person to
27 commit or aiding and abetting the commission of, an offence under
28 subsection (3).

29 **31 General provisions governing offences**

- 30 (1) Criminal proceedings in respect of any contravention of this Act may not
31 be commenced or continued if the Treasury has required a person to pay
32 a civil penalty in respect of such contravention.
- 33 (2) No proceedings for an offence under this Act may be commenced except
34 by the Treasury or by or with the consent of the Attorney General.
- 35 (3) Any document purporting to be the consent of the Attorney General for
36 the commencement of proceedings for an offence under this Act and
37 appearing to be signed by the Attorney General is admissible as *prima*
38 *facie* evidence without further proof.

- 1 **32 Liability of officers of bodies corporate**
- 2 (1) Subsection (2) applies if an offence under section 30 (offences and
- 3 penalties) is committed by a body corporate and it is proved that an
- 4 officer of the body authorised, permitted, participated in, or failed to take
- 5 all reasonable steps to prevent the commission of, the offence.
- 6 (2) The officer, as well as the body, commits the offence and is liable to the
- 7 penalty provided for the offence.
- 8 (3) In this section “officer” includes —
- 9 (a) a director, secretary or other similar officer;
- 10 (b) a person purporting to act as a director, secretary or other similar
- 11 officer;
- 12 (c) if the affairs of the body are managed by its members, a member.

13 **33 Civil penalties**

- 14 (1) A contravention of any statutory provision other than —
- 15 (a) paragraph 1 of Schedule 24 to the Finance Act 2007 (of
- 16 Parliament); or
- 17 (b) paragraph 1 of Schedule 41 to the Finance Act 2008 (of
- 18 Parliament),
- 19 attracts a penalty under section 9 of the Finance Act 1994 (of Parliament)
- 20 (civil penalties).
- 21 (2) In this section a reference to an Act of Parliament is a reference to that
- 22 Act as it applies to the Island from time to time.

23 **PART 7 – GENERAL**

24 **34 Tynwald procedure**

- 25 (1) Regulations made under this Act, apart from regulations made under
- 26 section 8(8), must be laid before Tynwald as soon as practicable after
- 27 they are made.
- 28 (2) Regulations made under section 8(8) and any order made under this Act
- 29 (except an order appointing a day for the commencement of any
- 30 provision of this Act) shall not come into operation unless approved by
- 31 Tynwald.

32 **35 Financial provision**

- 33 There shall be paid out of monies provided by Tynwald any increase in the
- 34 expenses of the Treasury which are attributable to this Act.

1 **36 Amendment of enactments**

2 (1) Schedule 1 has effect.

3 (2) The Treasury may, by order, amend any enactment of the United
4 Kingdom relating to excise matters, as it applies to the Island, so as to
5 give effect to this Act.

6 **37 Enactments repealed**

7 Schedule 2 has effect.

8

1

SCHEDULE 1

2

[Section 36]

3

AMENDMENT OF ENACTMENTS

4

1 Pool Betting (Isle of Man) Act 1961

5

(1) The Pool Betting (Isle of Man) Act 1961¹² is amended as follows.

6

(2) In section 2(7) for “Part and the Schedule” substitute “section”.

7

(3) In section 5(1) for “Local Government Board (hereinafter in this Act referred to as ‘the Board’)” substitute “Isle of Man Gambling Supervision Commission constituted under the Gambling Supervision Act 2010¹³ (in this Act called “the Commission”)”.

8

9

10

11

(4) In the following provisions for “Board” wherever occurring substitute “Commission” —

12

13

(a) section 5(2), (2A), (3), (4), (5), (7) and (8);

14

(b) section 6(1), (2) and (3);

15

(c) section 8(5) and (8);

16

(d) section 9(1)(c), (3) and (4);

17

(e) section 12(2);

18

(f) section 13(a).

19

(5) In section 8(2)(a) for “pool betting duty” substitute “gambling duty”

20

(6) In section 15(1) —

21

(a) after paragraph (a) insert —

22

“(aa) “gambling duty” means the duty payable in accordance with the Gambling Duty Act 2012;”;

23

24

(b) in paragraph (ab) for “pool betting duty” substitute “gambling duty”.

25

26

2 Gaming, Betting and Lotteries Act 1988

27

In Schedule 1 to the Gaming, Betting and Lotteries Act 1988¹⁴ —

28

(b) in paragraph 1 after the definition of “the collector” insert —

29

““gambling duty” means the duty payable in accordance with the Gambling Duty Act 2012;”;
--

30

31

(b) in paragraphs 10(2)(a) and 17(5) (a) for “the general betting duty” substitute “gambling duty”.

32

¹² XIX p.137¹³ c.10¹⁴ c.17

1

3 Online Gambling Regulation Act 2001

2

In section 11(6) of the Online Gambling Regulation Act 2001¹⁵ for “online gambling duty” substitute “gambling duty payable in accordance with the Gambling Duty Act 2012”.

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4

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¹⁵ c.10



1

SCHEDULE 2

2

[Section 37]

3

REPEALS

<i>Reference</i>	<i>Short Title</i>	<i>Extent of repeal or revocation</i>
XIX p.317	Pool Betting (Isle of Man) Act 1961	Part I apart from section 2. Section 15(1)(d), (g) and (h). The Schedule.
XIX p.1370	Pool Betting (Isle of Man) Act 1965	The whole Act.
XXI p.220	Betting Act 1970	The whole Act.
XX1 p.354	Pool Betting (Isle of Man) Act 1970	The whole Act.
1976 c.25	Gambling Laws (Amendment) Act 1976	In Schedule 2, the entries relating to section 4(3)(a) and (b) of the Pool Betting (Isle of Man) Act 1961.
1986 c.34	Customs and Excise Management Act 1986	Schedule 4 paragraph 1.
1988 c.17	Gaming, Betting and Lotteries Act 1988	Schedule 7 paragraph 4.
2001 c.10	Online Gambling Regulation Act 2001	Section 3(6), 5(3) and (6) and 14(2).
2001 c.22	Gaming, Betting and Lotteries (Amendment) Act 2001	Section 10.
SD 641/08	Online Gambling Duty Regulations 2008	The whole Regulations.

4

IN THE KEYS

GAMBLING DUTY BILL 2012

A **BILL** to make new and consolidated provision for the administration of excise duty on gambling; and for connected purposes

Approved by the Council of Ministers
for introduction in the House of Keys.

MR HENDERSON

JANUARY 2012