



CASINO AMENDMENT BILL 2012

EXPLANATORY NOTES

These notes are circulated for the information of Members with the approval of the Member in charge of the Bill, Mr. Henderson

Introduction

This Bill is promoted by the Treasury on behalf of the Gambling Supervision Commission to make provision for a more flexible regime for an Isle of Man casino licence holder that allows premises other than its own to be used for the purpose of gaming.

The main purpose of the Bill is to amend the Casino Act 1986 by adding in an entirely new part which introduces *temporary premises certificates*. Such certificates will allow a casino to operate outside its traditional venue for a short period of time.

Temporary premises certificates will allow an Isle of Man casino to host events which cannot be practically accommodated in their existing facilities, most likely large gambling tournaments which see the gathering of players in one place for the purpose of determining an overall winner.

Such tournaments are commonplace in the world of gambling and attract significant interest from the gambling community. A typical tournament consists of a series of rounds which are staged over a number of days, culminating in a final which may be televised.

The Bill also amends the Gaming, Betting and Lotteries Act 1988 and makes consequential amendments to the Gaming (Amendment) Act 1984, the Value Added Tax Act 1996, the Proceeds of Crime Act 2008 and the codes of that Act relating to money laundering and terrorist financing.

Structure of the Bill

Part 1 contains introductory provisions. The Bill if enacted will be brought into operation by the Treasury using an appointed day order.

Part 2 sets out the amendments to the Casino Act 1986 to provide for the temporary premises certificate regime, describing who may apply for a certificate, how an application is processed and the powers of the Commission to inspect venues, as well as suspend and revoke certificates. This Part also introduces regulation making powers for the Commission with respect to temporary premises certificates.

Part 3 amends the Gaming, Betting and Lotteries Act 1988 to enable gaming in accordance with a temporary premises certificate to be lawfully advertised and played. Part 3 also introduces a schedule containing consequential amendments to other Acts so as to extend provisions currently applicable to casinos to include premises in respect of which a temporary premises certificate is in force.

Consultation

The Bill has been the subject of a consultation exercise with the general public and various interested parties.

The consultation exercise produced 8 instances of feedback, all of which supported the concept and introduction of the Bill or which expressed no particular concerns with it. One small amendment to one of the clauses in the Bill resulted from the feedback received.

Commentary on Clauses

PART 1 – INTRODUCTORY PROVISIONS

Clause 1 is the short title – the Casino (Amendment) Act 2012

Clause 2 explains the commencement provisions. The Act will be brought into operation using an appointed day order made by the Treasury.

Clause 3 provides for the automatic repeal of the Act once it has performed its amending function. There is no need for a purely amending Act to remain on the statute book indefinitely.

PART 2 – AMENDMENTS TO THE CASINO ACT 1986

Clause 4 removes a provision about the composition of the Gaming Board of Control from the Casino Act 1986 that has been superseded by a provision in the Gambling Supervision Act 2010.

Clause 5 inserts a new Part IIA into the Casino Act 1986, in such a way that the amendments, collectively called Part II A fall just before the beginning of Part III in that Act. The fourteen new sections in Part IIA (12A to 12N) are described below.

New section 12A establishes the temporary premises certificate, limits its default life-span to 21 days, defines the Island as including its territorial waters (to accommodate a cruise ship or similar being used to host a tournament) and creates regulation making powers to increase or restrict the 21-day limit should it prove necessary in the future.

New section 12B describes the application process for a temporary premises certificate. The process includes a requirement that the public be informed by advertising in a newspaper that an application is to be made.

New section 12C describes how the Commission approves a request for a certificate, in particular how it evaluates objections to the proposed event from the public. This section also describes the contents of a temporary premises certificate and how it must be displayed at the event.

New section 12D describes how a certificate may carry conditions which are specific to the particular event. These conditions can include requirement for minimum standards of facilities and amenities, the charges that can be levied for entry to an event and whether credit may be extended to participants.

It also provides for the certificate's conditions to stipulate what proportion of gross daily receipts arising from the casino licence-holder's activities in premises under a temporary premises certificate must be paid to the government.

Finally, it describes how provision may be made for the protection of players' funds. If a casino cooperates with a company which holds a licence under the Online Gambling Regulation Act 2001 (OGRA) then the Commission may agree that that OGRA licensee's mandatory fund protection as required under that Act can be used to cover the event's players' funds.

New section 12E explains that the certificate's conditions may be varied at short notice. Conditions may be added, modified or revoked. This section is intended to allow the Commission to react swiftly to a problem if it develops during an event.

New section 12F details how the temporary premises certificate may be revoked or suspended – it also explains that the certificate can be reinstated if suspended. A suspended or revoked certificate effectively stops the event from continuing.

New section 12G sets out the range of appeals that can be made against the Commission's decisions by the casino licence holder (for refusing a temporary premises certificate request) and by an objector to the event (if the Commission considers that the objections are without justification).

New section 12H describes the liquor licensing regime that applies to certificated temporary premises.

If the premises are already licensed under the Licensing Act 1995 to serve liquor then liquor may be served under that licence. If the premises are unlicensed and the Commission considers it reasonable that liquor be served at an event, it may grant a temporary liquor licence which expires when the temporary premises certificate expires. The Commission already issues the liquor licence to Isle of Man casino licence holders.

New section 12I effectively allows liquor to be served where gaming is taking place (which is otherwise an offence under the Licensing Act 1995 with very limited exceptions) by providing an express defence. This will allow contemporaneous gaming and the service of liquor within premises to which a temporary premises certificate has been issued, provided the games are prescribed under the Casino Act 1986.

New section 12J creates a requirement on the casino licence holder to provide supervision for an event in order to verify that all of the conditions of a temporary premises certificate are adhered to. This section also allows the Commission to require information pertaining to the event.

New section 12K details the requirement for all staff representing the parties organizing or managing the event to be approved by the Commission before they can take part in the games. Typically, such approval will be required by dealers and croupiers, technicians who have access to gambling equipment and those charged with supervising such staff.

This section contains a provision that allows a representative of the organizer to participate as a player. This would typically be used if the game cannot be played without their involvement – such a person would require the Commission's approval.

New section 12L provides authority for the Gambling Supervision Commission and its inspectorate to enter an event and obtain information from the parties responsible for the event.

New section 12M confers regulation making powers which:

- Allow games to be specified or prohibited;
- Regulate the stakes (that is, the value of money that can be wagered) ;
- Allow the entry fees for an event to be controlled;
- Regulate the provision of credit to gamblers;
- Specify the nature of the oversight a certificate holder must exercise;
- Allow inspectors and constables to enter the premises;
- Control the times and dates upon which events can take place;
- Prevent access to events by minors;
- Specify how applications for temporary premises certificates must be notified to the public;
- Regulate the advertising that can be undertaken in respect of an event;
- Regulate any entertainment offered at the event;
- Require the approval of staff employed on the premises;
- Regulate the deployment of controlled machines (such as fruit machines).

This section refers to section 11 of the Casino Act 1986 which is the section of that Act which applies regulations to a casino in its traditional, established venue. It describes how those standards apply to the venue under a temporary premises certificate unless superseded by regulations made under Part IIA above. It is anticipated that bespoke regulations for Part IIA will be introduced shortly after the Bill is enacted.

Please note that the Casino Act 1986 requires all regulations made under its powers (including new Part IIA) be approved by Tynwald.

New section 12N enables the Commission to make rules which apply to how prescribed games are played. These rules would typically be appended to a temporary premises certificate if made and do not require regulations. If no rules are made under this section, then any standing rules created by the Commission pertain by default.

Clause 6 amends Section 15 of the Casino Act 1986 so as to extend the court's power to exclude certain persons from entering a casino to include the power to exclude them from a venue operating under a temporary premises certificate.

Clause 7 repeals certain provisions of Section 16 of the Casino Act 1986 which refers legislation that is no longer extant.

Clause 8 amends Section 19 of the Casino Act 1986 so as to give a constable the right to enter premises under a temporary premises certificate.

Clause 9 amends Section 21 of the Casino Act 1986 to provide that all regulations made under the new Part IIA must also be approved by Tynwald before coming into force.

Clause 10 amends Section 22 of the Casino Act 1986. It amends the definition of "The Board" to remove the reference to the Isle of Man Gambling Board of Control and also modifies the definition of the word "prescribed" to cover the regulation-making powers under new Part IIA.

Clause 11 amends Schedule 1 of the Casino Act 1986 to extend the modifications that already apply to the application of the Licensing Act 1995 in respect of the casino to premises operating under a temporary premises certificate.

PART 3 – AMENDMENTS TO THE GAMING, BETTING AND LOTTERIES ACT 1988

Clause 12 amends Section 7 of the Gaming, Betting and Lotteries Act 1988 to extend the exemption within that Act that already exists for casino advertising to those events which will run under a temporary premises certificate. Please note that this refers to advertising the event in order to attract interest and not the advertising of the application for the temporary premises certificate (mentioned in the commentary for clause 5 section 12B above) in order to alert potential objectors to the proposal.

Clause 13 amends Section 8 of the Gaming, Betting and Lotteries Act 1988 to create a general exemption for gaming taking place under a temporary premises certificate. All gaming in the Isle of Man is illegal unless specifically enabled by the Gaming, Betting and Lotteries Act 1988. The mechanism that the Gaming, Betting and Lotteries Act 1988 uses is a list of exemptions. The amendment in this clause adds into that list the playing of prescribed games under a temporary premises certificate.

Clause 14 amends Section 48 of the Gaming, Betting and Lotteries Act 1988 so as to update the definition of a “prescribed game” within that Act to include those games played under a temporary premises certificate.

Clause 15 introduces a schedule of consequential amendments.

Paragraph 1 amends the Gaming (Amendment) Act 1984 in order to enable regulations under new Section 12M to provide that controlled machines (such as fruit machines) may be deployed under a temporary premises certificate.

Paragraph 2 amends the Value Added Tax Act 1996 so as to place gaming under a temporary premises certificate on the same footing as gaming in a casino.

Paragraph 3 amends the Proceeds of Crime Act 2008 and ensures that its provisions apply to an event held under a temporary premises certificate to the same extent as they apply in respect of a casino.

Paragraphs 4 and 5 perform the same function for the following codes:

- Proceeds of Crime (Money Laundering) Code 2010; and
- Prevention of Terrorist Financing Code 2011.