



Statutory Document No. 24/06

THE ONLINE GAMBLING REGULATION ACT 2001

THE ONLINE GAMBLING (ADVERTISING) REGULATIONS 2006

Laid before Tynwald March 2006

Coming into operation 20 January 2006

An exercise of the powers conferred on the Department of Home Affairs by sections 3(1)(f) and 21(1)(a) and 21(1)(i) of the Online Gambling Regulation Act 2001¹, and of all other enabling powers the following Regulations are hereby made:

1 Citation, commencement and interpretation

(1) These regulations may be cited as the Online Gambling (Advertising) Regulations 2006 and shall come into operation on the 20 January 2006.

(2) In these Regulations:

"Act" means the Online Gambling Regulation Act 2001;

"Advertising" means any document, act, event or thing which solicits or encourages players or potential players to participate in online gambling, including the raising of brand and site awareness through sponsorship and endorsement

"Advertising Regulations" means the Online Gambling (Advertising) Regulations 2001;

"Commissioners" means the Isle of Man Gambling Control Commissioner;

"Disaster Recovery Regulations" means the Online Gambling (Technical Support and Disaster Recovery) Regulations 2006;

"Game", "Game of Chance" or "Gaming" means the same as defined under the Act;

"Marketing" means player retention and affiliate programmes loyalty schemes, and, where the facilities are designated to encourage players to online gamble, the provision of online gambling information, chat room and web logging services and related content;

"Off Island Online Gambling Operator" means an online gambling operator or person which inter alia provides services to online gambling operators which do not hold a licence pursuant to the Act, nor are overseas licensed operators;

"Offline" means distribution by all print and documentary media excluding all broadcast and online distributions;

"Online Gambling" means the same as defined in the Act;

"Online" means distribution via the Internet, telephone, mobile, satellite, wireless or any other form of remote communication or interactive device;

"Operator" means a person who facilitates online gambling and who is licensed pursuant to the Act;

"Overseas Licensed Operator" means an online gambling operator utilising disaster recovery facilities on the Isle of Man pursuant to the Disaster Recovery Regulations;

"Player" means in relation to online gambling a person participating in online gambling with the operator on the overseas licensed operator;

"Play for Fun" means online gambling where, irrespective of whether any wager is hazarded, or any payment for participation is made no prize or return in money or money's worth is payable or potentially payable to the player; and

"Wager"

means the stake or cost of participation in each specific game or the backing of a chance for a specific event.

2 Provision of Regulations

- (1) These Regulations are made pursuant to section 3(1)(f) of the Act and the activities prescribed for the purpose under that section are the provision of advertising or marketing support, subject to these Regulations which are promulgated pursuant to section 21(1)(a) of the Act.
- (2) Notwithstanding Regulation 8 if any person is in breach of Regulation 4, section 2(1) of the Act shall apply to such activity.

3 Advertising and marketing

- (1) Any person in the Isle of Man may supply advertising or marketing services to an operator or an overseas licensed operator subject to these Regulations.
- (2) Provided such entity or person complies with these Regulations, it may store player data and host content for and on behalf of an off island online gambling operator or overseas licensed operator, on the Isle of Man provided this does not require the hosting by any such entity or person of any algorithm of any source code responsible for generating the results of any games provided by the off island online gambling operator or overseas licensed operator and the player and potential players are made aware at all relevant times that they are wagering with the off island online gambling operator or overseas licensed operator, as distinct from such entity or person.

4 Restrictions on advertising and marketing support

- (1) No person in the Isle of Man may provide advertising or marketing support services to an off island online gambling operator or an overseas licensed operator insofar as it is directly accessing, interacting with and contacting players and potential players unless such advertising or marketing complies with Regulation 3 of the Advertising Regulations.
- (2) No person in the Isle of Man may provide advertising or marketing support services to an off island online gambling operator or overseas licensed operator unless either that person does not directly whether by itself or through or in conjunction with any other entity or person advertise to players or potential players located on the Isle of

Man or the overseas licensed operator and the off island online gambling operator have effective systems in place (which systems are deemed sufficient by the Commissioners) to preclude any deposits or wagers being effected by a player or potential player located in the Isle of Man.

5 Play for fun online gambling sites

Nothing in these Regulations shall be deemed to prevent an entity or person in the Isle of Man advertising or providing advertising or marketing support services for play for fun online gambling services to players or potential players located in the Isle of Man.

6 Meaning of advertising and marketing

For the purposes of these Regulations the overseas licensed operator or any entity or person providing advertising or marketing support will be deemed to be advertising or marketing online gambling to players or potential players located in the Isle of Man if it directly or indirectly:

- (a) wholly or partly advertises online gambling via any offline media in the Isle of Man, which if distributed in the Isle of Man is solely or primarily distributed in the Isle of Man (being at least seventy five percent of such distribution) or displayed on the Isle of Man in any place or location to which the public have access or can be viewed from any place or location on to which the public have access; or
- (b) broadcasts any advertisements for online gambling from the Isle of Man to players or potential players on the Isle of Man or solely or primarily directs any online or broadcast advertising to players or potential players on the Isle of Man or directly solicits or attempts to directly solicit players or potential players in the Isle of Man.

7 Enforcement of prohibition on advertising

- (1) If any person in the Isle of Man has reason to believe at any time that the overseas operator or entity in the Isle of Man is in breach of these Regulations it may complain to the Commissioners.
- (2) Such complaint must be in writing and set out the details of the relevant overseas licensed operator, the relevant sites and the content in relation to which the complaint is made.

- (3) Where the Commissioners are of the view that insufficient information has been provided it may seek further information from the complainant or make further investigations as it sees fit.
- (4) The Commissioners may decline to investigate a complaint where they are of the view, in their absolute discretion, that the complaint is frivolous, vexatious or not made in good faith, or where the complainant has not kept the contents of its complaint confidential.
- (5) The Commissioners will as soon as reasonably practicable after obtaining all the information requested by them decide whether the overseas licensed operator, or entity in the Isle of Man, has been in breach of these Regulations and will notify the overseas licensed operator, or entity in the Isle of Man and the complainant to that effect.
- (6) Nothing in these Regulations prevents the Commissioners investigating a matter on their own initiative.
- (7) The process for conducting the investigation, with the exception of those provisions which are specifically set out in these Regulations, is for the Commissioners to determine in their absolute discretion.

8 Penalties

If any entity or person supplying advertising or marketing services on the Isle of Man is in breach of these Regulations it will be guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

MADE

20th January

2006



Minister for Home Affairs

EXPLANATORY NOTE

(This note is not part of the Regulations.)

This Order which is made under the On-line Gambling Regulation Act 2001 provides for the rules for the provision of marketing or advertising to off Island Online Casinos from entities based in the Isle of Man. The Order also provides the Commissioners with powers of enforcement and penalties for non compliance by the Island entity providing the marketing or advertising.