



ONLINE GAMBLING REGULATION ACT 2001

(Chapter 10)

Arrangement of Sections

Control of online gambling

1. Meaning of 'online gambling' etc.
2. Restrictions on online gambling.
3. Exclusion of certain activities.
4. Licensing of online gambling.
5. Licence fees and duties.
6. Conditions of licence.
7. Duration of licences.
8. Renewal of licences.
9. Variation and transfer of licence.
10. Designated official.
- 10A. Designated official outside the Island

Enforcement

11. Duties of Commissioners.
12. Obligations of holder of licence.
13. Cancellation etc. of licence.
14. Effect of cancellation etc. of licence.
15. Control of management, advertising etc.
16. Rights of entry, inspection etc.
17. Beneficial ownership.
18. Offences.

Miscellaneous and supplemental

19. Appeals.
 20. Licences not to be assigned.
 21. Regulations.
 22. Exemption from certain restrictions.
 23. Online gambling contracts to be enforceable at law.
 24. Notices.
 25. Interpretation: general.
 26. Short title.
- Schedule Amendment of enactments.

Received Royal Assent: 15 May 2001

Passed: 15 May 2001

AN ACT

to provide for the regulation of certain forms of gambling carried on by means of telecommunications; and for connected purposes

Control of online gambling

1 Meaning of 'online gambling' etc

(1) In this Act **'online gambling'** means-

- (a) any gaming, where any player enters or may enter the game, or takes or may take any step in the game, by means of a telecommunication,
- (b) the negotiating or receiving of any bet by means of a telecommunication, or
- (c) any lottery in which any participant acquires or may acquire a chance by means of a telecommunication.

(2) For the purposes of this Act, a person 'conducts' online gambling where-

- (a) in the case of gaming or a lottery, he takes part in its organisation, management or promotion;
- (b) in the case of a bet, he carries on any business involving the negotiating or receiving of the bet; or
- (c) he maintains, or permits to be maintained, in the Island any computer or other device on or by means of which the game or lottery is operated, or the bet is received, as the case may be.

(3) A service provider shall not be treated as conducting online gambling by reason only that, in the course of a business, he handles electronic communications on behalf of another person with whom he is not associated.

(4) In subsection (3)-

'associated' shall be construed in accordance with section 8(5) and (6) of the Fair Trading Act 1996;

other expressions have the same meanings as in section 10 of the Electronic Transactions Act 2000.

2 Restrictions on online gambling

(1) Subject to section 3, any person who conducts any online gambling, otherwise than in accordance with a licence granted under section 4 to that person or to a company of which he is a director or employee, is guilty of an offence.

(2) Any person conducting online gambling who permits-

- (a) a minor, or
- (b) a person who at the material time is in a prescribed country or territory,

to participate in the online gambling is guilty of an offence.

(3) It shall be a defence for any person charged with an offence under subsection (2) to prove that the contravention occurred without his consent or connivance and that he exercised all due diligence to prevent it (and, in particular, that he took all such steps as may

be prescribed for the purpose of ensuring that such persons do not participate in online gambling).

3 Exclusion of certain activities

(1) Subject to subsection (2), nothing in section 2(1) applies to-

- (a) a transaction effected by a licensed bookmaker and authorised by a betting office licence under Part II of the Gaming, Betting and Lotteries Act 1988 ('the 1988 Act') that consists of the negotiating or receiving of any bet from a person in the Island by means of a telecommunication;

[Para (a) substituted by Gambling (Amendment) Act 2006 Sch 2.]

- (b) any activity connected with the organisation, management or promotion of a lottery declared not to be unlawful by-

- (i) section 30, 31, 32, 34A, 35 or 36 of the 1988 Act, or
(ii) section 1 of the National Lottery Act 1999;

- (c) the playing at a casino of a prescribed game (within the meaning of the Casino Act 1986);

- (d) a contract to which section 46 of the Financial Services Act 2008 applies;

[Para (d) amended by Financial Services Act 2008 Sch 6.]

- (e) a contract the effecting of which constitutes the carrying on of insurance business within the meaning of the Insurance Act 1986;

- (f) any other activity prescribed for the purpose of this section.

(2) Regulations may provide that, notwithstanding subsection (1), section 2(1) shall apply to any activity or other matter mentioned in that subsection unless it complies with such conditions as are prescribed.

(3) Regulations may amend paragraphs (a) to (e) of subsection (1).

[Subs (3) added by Gambling (Amendment) Act 2006 Sch 2.]

(4) A person who conducts online gambling by virtue of an exemption under regulations made pursuant to subsection (1)(f) shall pay to the Treasury such fee as may be prescribed in the regulations.

[Subs (4) added by Gambling (Amendment) Act 2006 Sch 2.]

(5) The Treasury may prescribe fees for different exemptions or classes of exemption, different classes of gambling and different classes of persons.

[Subs (5) added by Gambling (Amendment) Act 2006 Sch 2.]

(6) A person who conducts online gambling by virtue of an exemption under subsection (1) shall pay to the Treasury, at such intervals and in such manner as may be prescribed, online gambling duty, which shall be of such amount or calculated in such manner as may be prescribed.

[Subs (6) added by Gambling (Amendment) Act 2006 Sch 2.]

4 Licensing of online gambling

(1) The Isle of Man Gambling Supervision Commission ('the Commissioners') may grant to a person named therein, being a company limited by shares and incorporated in the Island, a licence authorising it to conduct online gambling-

- (a) of any prescribed description, or
- (b) of such prescribed descriptions as are specified in the licence.

[Subs (1) amended by Gambling (Amendment) Act 2006 Sch 2.]

(2) The Commissioners shall not grant a licence to any company unless it is satisfied-

- (a) that the company is under the control of a person or persons of integrity;
- (b) as to the beneficial ownership of the share capital of the company;
- (c) that the activities of the company are under the management of a person or persons of integrity and competence; and
- (d) that the company has adequate financial means available to conduct online gambling of the descriptions in question.

[Subs (2) amended by Gambling (Amendment) Act 2006 Sch 2.]

(3) Before granting a licence the Commissioners shall consult-

- (a) the Treasury;
- (b) the Department of Trade and Industry,

[Para (b) amended by Gambling (Amendment) Act 2006 Sch 2.]

- (c) the Financial Supervision Commission,
- (d) the Chief Constable, and
- (e) the Isle of Man Data Protection Supervisor.

[Subs (3) amended by Gambling (Amendment) Act 2006 Sch 2. Para (e) amended by Data Protection Act 2002 Sch 12.]

(4) The Commissioners shall not be required to give reasons for refusing a licence.

[Subs (4) amended by Gambling (Amendment) Act 2006 Sch 2.]

(5) to (7)

[Subss (5) to (7) repealed by Gambling (Amendment) Act 2006 Sch 2.]

5 Licence fees and duties

(1) An applicant for a licence shall pay to the Treasury on an application for the grant of a licence such fee as is prescribed.

(2) The holder of a licence shall pay to the Treasury-

(a) on the grant of a licence, and

(b) on each anniversary of the grant of the licence, for as long as the licence remains in force,

such annual fee as is prescribed.

(2A) The Treasury may prescribe different fees for different licences or classes of licence, different classes of gambling and different classes of persons.

[Subs (2A) inserted by Gambling (Amendment) Act 2006 Sch 2.]

(3) The holder of a licence shall pay to the Treasury, at such intervals and in such manner as are prescribed, a duty of excise, to be known as 'online gambling duty', which shall be of such amount or calculated in such manner as may be prescribed.

[Subs (3) amended by Gambling (Amendment) Act 2006 Sch 2.]

(4) and (5)

[Subss (4) and (5) repealed by Gambling (Amendment) Act 2006 Sch 2.]

(6) For the purpose of collecting and enforcing online gambling duty the provisions of sections 121, 123 and 124A to 124G of the Customs and Excise Management Act 1986 shall apply, subject to such modifications as are prescribed, as if the holder of a licence were a revenue trader within the meaning of that Act.

(7) Where a licence is surrendered under section 7(2), no refund of any fee or duty under this section or any proportion of such a fee or duty shall be allowed.

[Subs (7) repealed by Gambling (Amendment) Act 2006 Sch 2.]

(8)

[Subs (8) repealed by Gambling (Amendment) Act 2006 Sch 2.]

6 Conditions of licence

(1) The authorisation conferred by a licence shall be subject to such conditions as are specified in the licence.

(2) The conditions of a licence shall include conditions requiring the holder of the licence-

(a) to provide such security (real or personal or both), and to maintain such deposits and reserves, as are specified in or determined in accordance with the licence for the payment of debts arising out of online gambling conducted by him;

(b) to notify the Commissioners forthwith if it realises or calls upon any such security or draws on any such deposits or reserves (including any new or substituted security, deposits or reserves provided under paragraph (c)); and

(c) in the case mentioned in paragraph (b), to comply with any directions of the Commissioners as to the provision of substituted security, deposits or reserves.

(3) If a condition of a licence is contravened the holder of the licence is guilty of an

offence.

7 Duration of licences

(1) Subject to section 8(2), a licence, unless it is cancelled or surrendered, shall remain in force for such period, not exceeding 5 years, as may be specified in it, beginning on such date as is so specified.

(2) The holder of a licence may surrender the licence by notice in writing to the Commissioners.

[Subs (2) amended by Gambling (Amendment) Act 2006 Sch 2.]

(3) The surrender or expiry of a licence shall not affect any liability for anything done or omitted to be done before the date on which it ceases to have effect.

8 Renewal of licences

(1) The holder of a licence may, not later than the date of its expiry, apply to the Commissioners for the renewal of the licence.

[Subs (1) amended by Gambling (Amendment) Act 2006 Sch 2.]

(2) Where an application is made under subsection (1), the licence shall continue in force-

- (a) until the determination of the application, or
- (b) if the application is refused, until the expiration of 21 days from the date on which notice of the refusal is given to the applicant or, where an appeal is made under section 19, until the appeal is abandoned or determined.

(3) Sections 4 to 7 (except section 4(4)) apply, with any necessary modifications, to the renewal of a licence as they apply to the grant of a licence.

9 Variation and transfer of licence

(1) The Commissioners may, on an application by the holder of a licence or of its own motion, vary a licence by adding a prescribed description of online gambling to, or deleting a description of online gambling from, the descriptions specified in the licence.

[Subs (1) amended by Gambling (Amendment) Act 2006 Sch 2.]

(2) Subject to section 6(2), the Commissioners may, on an application by the holder of a licence or of its own motion, vary or cancel any condition specified in the licence.

[Subs (2) amended by Gambling (Amendment) Act 2006 Sch 2.]

(3) A variation of a licence, or of a condition of a licence, made otherwise than on an application by the holder shall not have effect until the expiration of 21 days from the date on which notice of it is given to the applicant or, where an appeal is made under section 19, until the appeal is abandoned or determined.

(4) The Commissioners may, on an application by the holder of a licence, transfer the licence to a person specified in the application.

[Subs (4) amended by Gambling (Amendment) Act 2006 Sch 2.]

(5) A transfer under subsection (4) shall be endorsed on the licence.

(6) Sections 4(2) to (4) applies, with any necessary modifications, to a transfer of a licence as it applies to the grant of a licence.

[Subs (6) amended by Gambling (Amendment) Act 2006 Sch 2.]

(7) Section 5(1) applies, with any necessary modifications, to an application for-

- (a) the variation of a licence, or of a condition of a licence, or
- (b) a transfer of a licence,

as it applies to the grant of a licence.

[Subs (7) amended by Gambling (Amendment) Act 2006 Sch 2.]

10 Designated official

(1) A licence, and a transfer of a licence, shall not come into force until at least one designated official in relation to the licence has been approved by the Commissioners.

(2) A designated official, in relation to a licence, is an individual nominated by the holder or transferee, as the case may be, of the licence who is-

- (a) a director of the holder or transferee of the licence.
- (b)

[Para (b) repealed by Gambling (Amendment) Act 2006 Sch 2.]

(3) The Commissioners shall not approve an individual as a designated official unless they are satisfied that he is a person who satisfies the integrity and competency requirements set by the Commissioners, and shall withdraw such approval if they cease to be so satisfied.

[Subs (3) amended by Gambling (Amendment) Act 2006 Sch 2.]

(3A) The Commissioners shall, after consulting the Treasury, issue written guidance about the integrity and competency requirements set under subsection (3).

[Subs (3A) inserted by Gambling (Amendment) Act 2006 Sch 2.]

(4) If-

- (a) the Commissioners withdraw their approval of a designated official, or
- (b) a designated official-
 - (i) dies; or
 - (ii)

[Subpara (ii) repealed by Gambling (Amendment) Act 2006 Sch 2.]

(iii) ceases to be a director of the holder of the licence,

and (in either case) there is no other designated official approved by the Commissioners in relation to the licence, the holder of the licence shall apply to the Commissioners for the approval of another person, being such an individual as is mentioned in subsection (2), in his place.

(5) If-

- (a) the holder of the licence fails to comply with subsection (4) within the period of 6 weeks beginning with the event referred to in that subsection, or
- (b) the Commissioners refuse an application under subsection (4) without specifying a period within which a further application may be made,

the licence is suspended from the end of the relevant period until another designated official is approved by the Commissioners.

In this subsection 'the relevant period' means the period of 6 weeks referred to in paragraph (a), or any period specified as that within which a further application may be made, as the case may be.

(6) The name and address of every designated official for the time being approved under this section shall be endorsed on the licence.

(7) Where any provision of this Act or regulations-

- (a) imposes any criminal or other liability on the holder of a licence, or
- (b) provides for any power to arise or anything to happen on the conviction of the holder of a licence,

the reference to the holder includes a reference to any person who at the material time is or was a designated official in relation to the licence.

10A Designated official outside the Island

(1) This section has effect where a designated official is not resident in the Island.

(2) The holder of a licence shall appoint an operations manager who shall be an individual who is resident in the Island and is approved or is of a class of persons approved by the Commissioners for this purpose.

(3) A person shall be treated as approved for the purposes of subsection (2) if that person is an employee of a body that is licensed under section 7 of the Financial Services Act 2008 to carry on the regulated activity of corporate services 2000 and that body is approved by the Commissioners for the purposes of this section.

[Subs (3) amended by Financial Services Act 2008 Sch 6.]

(4) The operations manager shall, when required by notice in writing given by the Commissioners, attend before the Commissioners or a person nominated by them for the purpose.

(5) When requested under subsection (4), the operations manager shall attend at such

place and time as is specified in the notice but shall not be required to attend within the five days following the service of the notice.

(6) Without prejudice to section 40 of the Interpretation Act 1976, the service of a notice under subsection (4) may be effected by email or facsimile transmission.

(7) If the operations manager cannot for any reason comply with a requirement under subsection (4), the designated official shall attend at the place and time specified in the notice.

(8) The holder of a licence who fails to comply with subsection (2) shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

(9) An operations manager or designated official who fails to comply with a requirement by the Commissioners under subsection (4) shall be guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.

(10) In proceedings against a person for an offence under subsection (8) or (9) it shall be a defence for that person to show that all reasonable steps were taken and all due diligence was exercised to avoid committing the offence.

[S 10A inserted by Gambling (Amendment) Act 2006 Sch 2.]

Enforcement

11 Duties of Commissioners

(1) The Commissioners shall, subject to the provisions of this Act and of regulations,-

- (a) supervise the operation of any online gambling conducted in the Island;
- (b) investigate the character and financial status of any person applying for or holding any licence or otherwise concerned with the operation of any online gambling conducted in the Island; and
- (c) ensure that all fees payable to the Treasury by a person conducting online gambling in the Island are duly paid and accounted for;

with a view to securing that online gambling is fairly and properly conducted, and that the provisions of this Act and regulations, and the conditions of any licences, are complied with.

(2) and (3).....

[Subss (2) and (3) repealed by Gambling (Amendment) Act 2006 Sch 2.]

(4) The Treasury, the Financial Supervision Commission, the Isle of Man Data Protection Supervisor and the Chief Constable shall supply to the Commissioners such information in their possession relating to holders of and applicants for licences, and officers and servants of those persons, as the Commissioners may reasonably require for the exercise of their functions under this Act.

[Subs (4) amended by Gambling (Amendment) Act 2006 Sch 2.]

(5) The Treasury, the Financial Supervision Commission, the Isle of Man Data Protection Supervisor and the Chief Constable may disclose information to the Commissioners for the

purpose of assisting the Commissioners in the performance of their functions under this Act.

[Subs (5) amended by Gambling (Amendment) Act 2006 Sch 2.]

(6) The Commissioners may disclose information to the Treasury for the purpose of assisting the Treasury in the performance of their functions in relation to the collection of online gambling duty.

[Subs (6) amended by Gambling (Amendment) Act 2006 Sch 2.]

(7) The duties imposed and powers conferred by subsections (4) to (6) may be exercised despite any obligation not to disclose information which would otherwise apply.

12 Obligations of holder of licence

(1) The holder of a licence shall-

- (a) notify the Commissioners of any change in the beneficial ownership of more than 5 per cent. of the share capital, or of any class of share capital, in the holder;
- (b) whenever required by the Commissioners, provide such information as the Commissioners may require to satisfy them that the holder of the licence continues to have adequate financial means available to conduct the online gambling authorised by the licence; and
- (c) notify the Commissioners of any conviction of the holder of the licence, or of any designated official in relation to the licence, falling within section 13(3).

(2) No person shall be appointed to be a director of the holder of a licence unless the Commissioners are satisfied that he is a person of integrity and have approved his appointment.

(3) If subsection (1) or (2) is contravened the holder of a licence is guilty of an offence.

13 Cancellation etc of licence

(1) The Commissioners shall cancel a licence where, after consultation with the Department, they are satisfied that the holder of the licence would not be eligible to be granted a licence on one or more of the grounds specified in section 4(2).

(2) In the circumstances specified in subsections (3), (4) or (5) the Commissioners may by notice to the holder of a licence either-

- (a) suspend the licence for such period as may be specified in the notice, or until such conditions as are specified in the notice are complied with; or
- (b) cancel the licence.

(3) The Commissioners may act under subsection (2) where the holder of the licence, or any designated official in relation to the licence, is convicted-

- (a) by a court in the Island of any offence under the Casino Act 1986, the 1988 Act or this Act;
- (b) by any court in the British Islands or the Republic of Ireland of an indictable

offence; or

- (c) by a court in any country or territory in the world of an offence punishable (in that country or territory) in the case of an adult by custody for an unlimited period or a term of 2 years or more.

(4) The Commissioners may also act under subsection (2) where they are satisfied that the holder of the licence-

- (a) has failed to pay any sum due under section 5;
- (b) has failed without reasonable excuse to comply with any condition of the licence;
- (c) has contravened any provision of section 12 or of regulations;
- (d) has failed without reasonable excuse to comply with a direction under section 6(2)(c) or 15;
- (e) has failed to comply with any requirement of a relevant code of practice under section 17F (money-laundering codes) of the Criminal Justice Act 1990; or
- (f) has ceased to conduct online gambling of any description authorised by the licence.

(5) The Commissioners may also act under subsection (2) where, in the circumstances mentioned in section 12(1)(b), the holder of a licence has failed to satisfy them that it continues to have adequate financial means available to conduct the online gambling authorised by the licence.

(6) Where the Commissioners give a direction under section 6(2)(c) or 15 they may also make an order suspending the licence until the direction is complied with.

(7) Where it appears to the Commissioners that any person has failed to comply with a requirement under section 16 in relation to any online gambling, they may also make an order suspending the licence authorising the conduct of that gambling until the requirement is complied with.

(8) An order under subsection (6) or (7) may be expressed to apply-

- (a) with immediate effect, or
- (b) with effect from the expiration of such period as is specified in the order.

14 Effect of cancellation etc of licence

(1) The cancellation or suspension of a licence does not affect any liability for anything done or omitted to be done before the date on which the cancellation or suspension takes effect.

(2) The liability of the holder of a licence to pay any fee or online gambling duty under section 5 continues during any period when the licence is suspended.

(3) Subject to subsections (1) and (2), where a licence is suspended under any provision of this Act, the licence is of no effect until the Commissioners by notice to the holder declare, or, where an appeal is brought under section 19, the High Court certifies, that the

suspension has ceased.

15 Control of management, advertising etc

(1) Where it appears to the Commissioners that-

- (a) any director of the holder of a licence, or
- (b) any other person who exercises managerial functions with respect to the conduct of online gambling authorised by a licence,

is not a suitable person to act as a director of the holder of the licence, or to exercise such functions, they may by notice to the holder direct that the person be removed from his position as a director, or deprived of any such managerial functions, as the case may be.

(2) Even though a direction under subsection (1) has been complied with, it shall, unless it is withdrawn by a further notice to the holder of the licence, remain in force as a direction-

- (a) not to appoint the person to whom it relates as a director of the holder, and
- (b) not to allow him to exercise any managerial functions with respect to the conduct of online gambling authorised by the licence.

(3) The Commissioners may give to the holder of a licence such directions as to the information and other material which must, or must not, be included in-

- (a) any advertisement of online gambling;
- (b) any communication to the public, or to a participant or intended participant in online gambling,

as they consider appropriate for ensuring that online gambling is fairly and properly conducted.

(4) The Commissioners may approve and issue codes of practice with respect to the matters referred to in paragraphs (a) and (b) of subsection (3), and directions under that subsection may be framed by references to any such code of practice.

(5) Before approving and issuing a code of practice under this section the Commissioners shall consult the Treasury.

[Subs (5) added by Gambling (Amendment) Act 2006 Sch 2.]

16 Rights of entry, inspection etc

(1) For the purpose of exercising any function of the Commissioners under section 11 an authorised person may at any time-

- (a) enter any premises which he has reasonable cause to believe are or have been used for any purpose connected with the conduct of online gambling;
- (b) require any person to produce any documents or other records relating to or connected with the conduct of online gambling, and to take copies of such documents or records; and
- (c) require any person to provide him with access to any computer program used or to

be used in connection with the conduct of online gambling.

(2) An authorised person in exercise of the power conferred by subsection (1)(b) or (c)-

- (a) is entitled at any reasonable time to have access to, and inspect and check the operation of, any computer and any associated apparatus or material which is or has been in used in connection with the records in question; and
- (b) may require the person by whom or on whose behalf the computer is or has been used, or any person having charge of or otherwise concerned with the operation of the computer, apparatus or material, to afford him such assistance as he may reasonably require.

(3) An authorised person exercising a power conferred by subsection (1) or (2)-

- (a) shall, if asked to do so, produce some duly authenticated document showing his authority to do so;
- (b) when entering any premises, may take with him such other persons and such equipment as may appear to him to be necessary.

(4) Any person who-

- (a) intentionally obstructs another in the exercise of any power conferred by this section, or
- (b) fails without reasonable excuse to comply with a requirement under subsection (1)(b) or (c) or (2)(b), or
- (c) refuses or neglects without reasonable excuse to provide any information or to produce or provide any document or other item when required to do so under this section; or
- (d) in purported compliance with any requirement imposed on him under this section, provides, or causes or permits to be provided, any information which he knows to be false or misleading in a material particular or recklessly provides information which is false or misleading in a material particular; or
- (e) produces or provides, or causes or permits to be produced or provided, any document or other item which he knows to be false or misleading in a material particular or recklessly produces or provides any document or other item which is false or misleading in a material particular,

is guilty of an offence.

(5) If it is shown to the satisfaction of a justice of the peace on information on oath that there are reasonable grounds for entry of any premises for the purpose mentioned in subsection (1), the justice may by warrant under his hand authorise an authorised person to enter and search the premises, using force if need be.

(6) A warrant issued under subsection (5) shall continue in force for 7 days.

(7) Nothing in this section shall compel the production of any communication which is subject to legal privilege.

(8) In this section 'authorised person' means-

- (a) a person authorised in writing by the Commissioners to exercise any power conferred by this section;
- (b) a constable.

(9) If a person who has entered on any premises under this section, or has had access to any document, record or information produced or provided pursuant to any requirement under this section, discloses to another person information about any person or business thereby obtained by him, then, unless the disclosure is made in the course of the functions for the purposes of which he was authorised to enter the premises or was given access to the document, record or information, he is guilty of an offence.

17 Beneficial ownership

(1) The High Court may, on the application of the Commissioners, make an order in respect of the company which is the holder of a licence requiring-

- (a) any member of the company holding a share in the company;
- (b) any director, manager, secretary or other officer of the company; or
- (c) any person appearing to the Court to be interested in the share;

to disclose to the Commissioners the identity of the beneficial owner or owners of the share.

(2) If it appears to the High Court that default has been made in complying with an order under subsection (1) and that the identity of the beneficial owner or owners of the share in question has not been disclosed to the Commissioners, the Court may, on the application of the Commissioners, make an order vesting that share in the Treasury.

(3) The High Court may, in proceedings under subsection (2), summon any person to give evidence on oath as to any matter within his knowledge, and to produce any document in his custody or control, bearing upon the identity of the beneficial owner of the share in question.

(4) The High Court may, on the application of any interested person, revoke an order under subsection (2), and thereupon the share in question shall vest in the person in whom it would then have been vested apart from that order; but the court shall not revoke such an order unless it is satisfied that the identity of the person or persons who, on such revocation, will be the beneficial owner or owners of the share in question has been disclosed to the Commissioners.

(5) In this section 'beneficial owner', in relation to a share the beneficial ownership of which is vested in a body corporate (other than a quoted company), means an individual who, whether directly or indirectly, through the holding of, or interests in, a share or shares in that or another body corporate or other bodies corporate, is ultimately interested beneficially in the share in question.

18 Offences

(1) A person convicted of an offence under this Act (except under section 16(4)) is liable-

- (a) on conviction on information, to custody for a term not exceeding 2 years or a fine, or both;
- (b) on summary conviction, to custody for a term not exceeding 6 months or a fine not exceeding £5,000, or both.

(2) A person convicted of an offence under section 16(4) is liable on summary conviction, to custody for a term not exceeding 6 months or a fine not exceeding £5,000, or both.

(3) Proceedings for an offence under this Act or regulations shall not be instituted except by or with the consent of the Attorney General.

(4) Where an offence under this Act or regulations committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate is guilty of that offence and liable to be proceeded against and punished accordingly.

(5) Where the affairs of a body corporate are managed by its members, subsection (4) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

(6) In relation to an offence under this Act, section 75(1) of the Summary Jurisdiction Act 1989 (time-limit for summary proceedings) applies with the substitution for '6 months' of '2 years'.

Miscellaneous and supplemental

19 Appeals

(1) The holder of a licence may, not later than 21 days after the date on which it is notified in writing of it, appeal to the High Court against-

- (a) the refusal by the Department to renew the licence;
- (b) any variation of a licence or of a condition of the licence (otherwise than at the request of the holder); or
- (b) the suspension or cancellation of the licence under section 13.

(2) On an appeal under subsection (1) the High Court may vary or reverse the decision of the Department or the Commissioners, as the case may be, if it considers that it or they-

- (a) erred in law; or
- (b) based its or their decision on any incorrect material fact; or
- (c) exercised its or their discretion in an unreasonable manner.

20 Licences not to be assigned

A licence shall not be capable of being assigned.

21 Regulations

(1) The Treasury may by regulations-

(a) prescribe anything which under this Act may be prescribed;

[Para (a) amended by Gambling (Amendment) Act 2006 Sch 2.]

(b) prescribe the principles and rules in accordance with which online gambling of any description shall be conducted;

(c) require the rules of online gambling of any description (whether or not prescribed under paragraph (b)) to be notified in a prescribed manner to every participant in online gambling of that description;

(d) prescribe the manner in which the duties of any person engaged, appointed or seconded under section 11(2) are to be carried out, and the facilities to be granted to him for the purpose;

(e) regulate the fees which may be charged for participating in online gambling;

(f) require any individuals employed or engaged by or on behalf of the holder of a licence in the Island in the conduct of online gambling (except persons approved under section 10(1) or 12(2)) to be approved by the Commissioners;

(g) enable any participant by a notification to the holder of a licence to limit the stakes which he may make, or on the losses which he may incur, in any period in online gambling of any description;

(h) require a prescribed period to elapse between the notification and the coming into effect of any increase in any limit on stakes or losses previously notified by any participant in online gambling of any description;

(i) regulate the advertising of online gambling;

(j) require stakes, winnings and losses to be paid by means of credit accounts or in any other prescribed manner;

(k) require persons conducting online gambling to verify the identity and age of participants in a prescribed manner;

(l) (without prejudice to any obligation under the Data Protection Act 2002) require prescribed steps to be taken to secure the privacy of participants in online gambling.

[Subs (1) amended by SD564/08. Para (l) amended by Data Protection Act 2002 Sch 12.]

(2) The Treasury may by regulations prescribe the manner in which the gross receipts of online gambling are to be accounted for, and the records to be kept, for the purposes of section 5.

[Subs (2) amended by Gambling (Amendment) Act 2006 Sch 2.]

(3) Where online gambling of any description prescribed for the purpose of section 4(1) ceases to be so prescribed, it shall be treated as continuing to be so prescribed in relation

to any licence already in force (including any such licence as from time to time renewed under section 8), but without prejudice to any variation under section 9(1).

(4) Regulations may provide that a contravention of any provision of them shall be an offence on the part of any person of a description specified in the regulations, punishable on summary conviction by a penalty not exceeding that so specified (which shall not exceed custody for a term of 6 months or a fine of £5,000, or both).

(5) Regulations shall be laid before Tynwald as soon as may be after they are made; and if Tynwald, at the sitting at which they are laid or the next following sitting, resolves that they be annulled, they shall cease to have effect.

22 Exemption from certain restrictions

(1) For the purpose of exempting online gambling from certain restrictions, the enactments specified in the Schedule are amended in accordance therewith.

(2) A lottery is not unlawful if-

- (a) it is authorised by a licence, and
- (b) it is conducted in accordance with the provisions of this Act and the terms of the licence.

23 Online gambling contracts to be enforceable at law

No contract entered into in the course of online gambling shall be void or unenforceable by reason of section 40 of the 1988 Act.

24 Notices

Any notice to be given to the holder of a licence for any purpose of this Act or regulations, or of any provision of the licence, shall be deemed to be duly given if it is sent by ordinary post or delivered to-

- (a) such address in the Island of the holder as is specified for the purpose in the licence, or
- (b) such other address in the Island as the holder may from time to time notify for the purpose to the Commissioners.

25 Interpretation: general

In this Act-

'the 1988 Act' means the Gaming, Betting and Lotteries Act 1988;

'bet' does not include any bet made or stake hazarded in the course of, or incidentally to, a game of chance;

'the Commissioners' means the Isle of Man Gambling Supervision Commission;

[Definition of **'the Commissioners'** substituted by Gambling (Amendment) Act 2006 Sch 2.]

'conduct', in relation to online gambling, has the meaning given by section 1(2);

'the Department' means the Department of Home Affairs;

'designated official' has the meaning given by section 10(2);

'game' includes a game played by one person by means of a computer or other device, even though no other person participates in the game;

'game of chance' does not include any athletic game or sport but, with that exception, includes a game of chance and skill combined and a pretended game of chance or of chance and skill combined;

'gaming' means the playing of a game of chance for winnings in money or money's worth, whether or not any person playing the game is at risk of losing any money or money's worth;

'licence' means a licence granted under section 4 or renewed under section 8;

'notice' means a notice in writing;

'online gambling' has the meaning given by section 1(1);

'prescribed' means prescribed by regulations;

[Definition of 'prescribed' amended by Gambling (Amendment) Act 2006 Sch 2.]

'regulations' means regulations made by the Treasury under this Act;

[Definition of 'regulations' substituted by Gambling (Amendment) Act 2006 Sch 2.]

'telecommunication' means a communication sent, transmitted or received by means of a telecommunication system;

'telecommunication system' has the same meaning as in the Telecommunications Act 1984, but does not include a system the running of which falls or (if it were in the Island) would fall within section 4 (exemptions from licensing) of that Act.

26 Short title

This Act may be cited as the Online Gambling Regulation Act 2001.

Schedule Amendment of Enactments

[Sch amends the following Act-

Pool Betting (Isle of Man) Act 1961 q.v.

Casino Act 1986 q.v.

Gaming, Betting and Lotteries Act 1988 q.v.]
