

**Consultation on Proposed  
Gambling Duties Bill**

Request for views on a proposed Bill to  
replace existing legislation concerned  
with the administration and  
collection of excise duty on various  
forms of gambling  
(excluding the National Lottery)

Consultation Period: 21 March 2011 to 13 June 2011

Issued by:

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## **Introduction**

The Gambling Duties Bill is intended to ensure that duties and other economic benefits from both local bookmakers and online gambling are maintained on a secure basis, by providing Customs and Excise with adequate powers to provide assurance as to the compliance of operators using the Island, but also providing a more flexible structure capable of coping with changes arising in a constantly evolving industry.

The Bill would replace various provisions contained in the Betting Act 1970, the Online Gambling Regulation Act 2001 and the Pool Betting (Isle of Man) Acts 1961 to 1970.

A single excise duty regime, with payment of a new "gambling duty" by all relevant operators, both online and otherwise, would replace the various different duties and structures currently applying to online gambling, bookmaking and pools betting.

The Bill is not concerned with the regulatory or social aspects of the industry, but only with matters connected to the collection of excise duty, and with the prevention and investigation of criminal activity such as money laundering and corrupt behaviour affecting sports and other matters on which wagers may be placed.

A previous consultation on a proposed Bill was undertaken in 2008. However, since that exercise the gambling sector has continued to develop, further emphasising the need for improving the flexibility of the legislation. Provisions contained in this new Bill reflect the experience of Customs and Excise and discussions it has had with many existing and prospective operators.

Both the Gambling Supervision Commission and the Financial Supervision Commission will be involved in considering responses to this consultation, and both will be invited to submit their own comments.

## **Rationale**

The legislation dealing with the excise duty aspects of the gambling sector has developed in a piecemeal fashion since "international telephone betting", the forerunner in many ways of today's online gambling, was first provided for in 1998. The Treasury has had to adapt existing legislation concerned with bookmakers and pools promoters to deal with situations and types of gambling that was never envisaged by those who drafted the relevant legislation many years previously. Even using the relatively recent Online Gambling Regulation Act 2001, despite an amendment of that Act in 2006, has sometimes proved problematic.

It is felt that what is needed is a clear but flexible structure that can be more easily adapted to suit a multi-faceted industry that continues to evolve and develop. Bringing all types of gambling (except the National Lottery) under one Bill will also prevent the confusion that sometimes occurs.

At the same time, it is recognised that the modern gambling industry is an international one. Operators have customers, associates and affiliates all around the world; and this it is important to ensure that the industry in the Island maintains its good reputation.

The international aspect of the industry also means that problems that may arise can have implications and effect in more than one country. The Bill will enhance the ability of Customs and Excise to co-operate with authorities elsewhere, subject to satisfactory safeguards, to combat the risk of unlawful activity undermining the reputation of the gambling sector, or of the Island as a whole.

### **Consideration of responses**

The Treasury views open dialogue with the industry and other stakeholders as an essential element in developing an optimal legal framework. We therefore appreciate the time you spend reading and commenting upon the proposals set out in this document. Please send your responses, as well as any general comments and observations in the next 12 weeks. **The closing date for comments is 13<sup>th</sup> June 2011.**

**Please let us have your views in writing and preferably by email, sent to:**

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## **Annex 1**

### **Contents of the Bill**

The general layout and purposes of the Bill are as follows.

#### **Part 1 (Introductory)**

Deals with commencement, and with the general interpretation of terms used in the Bill. One clause would allow the Treasury to amend by order any of the definitions in this Part, so as to be able to cope with future developments.

#### **Part 2 (Duty)**

Describes the new "gambling duty" that would replace general betting duty (on local bookmakers), online gambling duty, pool betting duty (on pools promoters) and British Society lottery duty (on certain scratch cards sold in the Island). The Treasury would be able to change the basis of liability by order, if required to cater for new or changing gambling types.

#### **Part 3 (Payment of gambling duty)**

This deals with the setting of accounting periods, payment and assessment of duty, etc. The Part would allow the Treasury to treat connected operators and networked operators as a group, if they met certain criteria.

#### **Part 4 (Enforcement and general)**

This Part allows for the Treasury to make regulations dealing with enforcement, administration and protection of the revenue. This can include the requirement for security, and use of Treasury warrants to collect unpaid duty.

#### **Part 5 (Mutual assistance and international co-operation etc)**

These provisions supplement those in other legislation which permit Customs and Excise to co-operate with enforcement and regulatory bodies on- and off-Island.

#### **Part 6 (Offences and penalties)**

This Part deals with offences that could render a person or operator liable to a civil or criminal penalty.

#### **Part 7 (General)**

This Part is concerned with the Tynwald procedure for making of subordinate legislation, consequential amendments and the repeal of other legislation contained in the Schedule to the Bill.

## **Annex 2 – Draft Gambling Duties Bill**

### *Arrangement of Sections*

#### Section

#### **PART 1 INTRODUCTORY**

1. Short title
2. Commencement
3. General Interpretation
4. Meaning of “gambling”
5. Meaning of “lottery”
6. Meaning of “operator”
7. Amendment of this Part

#### **PART 2 GAMBLING DUTY**

8. Gambling duty
9. Gambling yield
10. Gambling receipts
11. Expenditure on gambling winnings

#### **PART 3 PAYMENT OF GAMBLING DUTY**

12. Gambling duty payable by operator and others
13. Gambling duty payable by two or more operators
14. Accounting period and duty payable
15. Returns
16. Relief for losses
17. Double duty relief
18. Regulations about payment of gambling duty

19. Collecting and enforcing
20. Recovery of overpaid gambling duty

**PART 4  
ENFORCEMENT AND GENERAL**

21. General administration and enforcement
22. Security for protection of revenue
23. Recovery of unpaid gambling duty
24. Treasury warrants
25. Power to set aside Treasury warrants
26. Protection of officers

**PART 5  
MUTUAL ASSISTANCE AND INTERNATIONAL CO-OPERATION ETC.**

27. Mutual assistance
28. International co-operation
29. International tax enforcement arrangements

**PART 6  
OFFENCES AND PENALTIES**

30. Offences and penalties
31. General provisions governing offences
32. Liability of officers of bodies corporate
33. Civil penalties

**PART 7  
GENERAL**

34. Tynwald procedure
35. Financial provision
36. Amendment of Pool Betting (Isle of Man) Act 1961
37. Enactments repealed



## A BILL

to make new and consolidated provision for the administration of 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:—

### **PART 1**

### **INTRODUCTORY**

#### **Short title**

1. The short title of this Act is the Gambling Duties Act 2011.

#### **Commencement**

2. (1) This Act (other than this section and section 1) comes into operation on such day or days as the Treasury by order appoints and different days may be appointed for different provisions and for different purposes.

(2) An order under subsection (1) may (without limiting the generality of the Interpretation Act 1976) —

- (a) include transitional provision and saving provisions modifying the application of a provision of an enactment pending the commencement of, or pending the doing of anything under, a provision of another enactment;
- (b) save, with or without modification, a provision repealed by this Act;
- (c) make provision of a kind similar to provision made by a provision repealed by this Act;
- (d) modify a provision of this Act for such a purpose;
- (e) make such provisions modifying the application of any provision of this Act in such circumstances and for such purposes as are prescribed.

(3) Subsection (2) expires on the expiry of 3 years immediately following the date on which this Act is passed.

## General interpretation

### 3. 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;

“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 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;

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

“lottery” has the meaning given in section 5;

“officer” means a person authorised in writing by the Treasury to be an officer of customs and excise;

“on-course betting” means betting on the outcome of an event at the site of the event on the occasion when the event is to take place (for example bets on horse or dog racing placed at the track).

“operator” has the meaning given in section 6;

“pool betting” has the same meaning as in section 2 of the Pool Betting (Isle of Man) Act 1961;



“prize” in relation to lotteries includes any money, articles or services—

- (a) whether or not described as a prize; and
- (b) whether or not consisting wholly or partly of money paid, or articles or services provided, by the members of the class among whom the prize is allocated;

“spread bet” means a contract the making and accepting of which is a regulated activity within section 3 of the Financial Services Act 2008 or the Collective Investment Schemes Act 2008;

“user” means a person who engages in gambling.

### **Meaning of “gambling”**

4. (1) Gambling means –
- (a) gaming within the meaning of section 1 of the Gaming, Betting and Lotteries Act 1988;
  - (b) betting;
  - (c) participating in a lottery;
  - (d) the taking of a ticket or chance in a lottery that is not unlawful by virtue of section 5(3) of the Lotteries and Amusement Act 1976 (of Parliament); or
  - (e) on-line gambling within the meaning of section 1 of the Online Gambling Regulation Act 2001,

where the operator is acting in the course of a business, whether or not the operator is licensed for the purpose of conducting gambling by the Gambling Supervision Commission.

- (2) However, “gambling” does not mean –
- (a) participating in a lottery that forms part of the National Lottery (within the meaning of the National Lottery etc. Act 1993 (of Parliament)); or
  - (b) playing a game of chance or skill by means of a controlled machine within the meaning of section 1 of the Gaming, Betting and Lotteries Act 1988.

### **Meaning of “lottery”**

5. (1) For the purposes of this Act an operation is a lottery, irrespective of how it is described, if –
- (a) users are required to pay in order to participate in the operation;
  - (b) in the course of the operation one or more prizes are allocated to any user; and
  - (c) either –
    - (i) the prizes are allocated by a process which relies wholly on chance; or
    - (ii) the prizes are allocated by a series of processes and the first of those processes relies wholly on chance.

(2) A process that requires persons to exercise skill or judgment or to display knowledge is nevertheless treated for the purposes of this section as relying wholly on chance if—

- (a) the requirement cannot reasonably be expected to prevent a significant proportion of persons who participate in the arrangement of which the process forms part from receiving a prize; and
- (b) the requirement cannot reasonably be expected to prevent a significant proportion of persons who wish to participate in that arrangement from doing so.

### **Meaning of “operator”**

6. (1) A person is an operator (whether or not licensed as such) if the person —

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

(2) However, a person is not an operator by reason only that, in the course of a business, he or she handles electronic communications on behalf of, or provides software to or on behalf of, a person involved in gambling.

(3) For the purposes of the payment of gambling duty a reference in this Act to an operator includes any group operator or representative operator within the meaning of section 13.

### **Amendment of this Part**

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

## **PART 2**

### **GAMBLING DUTY**

#### **Gambling duty**

8. (1) A duty of excise, known as gambling duty, is payable in accordance with this Act.

(2) Gambling duty is payable -

- (a) by an operator on the gambling yield of any gambling (whether or not that gambling is unlawful under any enactment); and
- (b) on the gross amounts charged by a betting intermediary (“commission charges”), whether by deduction from winnings or otherwise, for using facilities provided by the intermediary.

(3) However gambling duty is payable only where a significant part of the gambling concerned takes place in the Island;

(4) Without limiting subsection (3)(a), that provision is satisfied in any case where –

- (a) an operator is licensed under any enactment (or would have been licensed if he or she had applied and satisfied the eligibility criteria); or
- (b) the facilities for, or at least one piece of equipment used in, the provision of, any gambling operation is situated in the Island, irrespective of whether or not the facilities are provided wholly or partly for use in the Island.

(5) Subject to subsections (5A) and (6), the rate of gambling duty is a percentage of the gambling yield or commission charges as follows –

- (a) where the yield or charges do not exceed £20 million a year, 1.5%;
- (b) where the yield or charges exceed £20 million but do not exceed £40 million, 0.5%; and
- (c) where the yield or commission charges exceed £40 million a year, 0.1%.

(5A) The rate of gambling duty due from a networked operator approved by the Treasury under section 13 shall be 1.5% of the gambling yield or commission charge.

(6) However, the rate of gambling duty payable by an operator in respect of pool betting is 15% of the gambling yield unless the pool betting consists of an operator accepting bets by means of, or placing bets received into, a totalisator, wherever situated.

(7) Where an operator proposes to undertake any gambling operation in respect of which gambling duty is payable, he or she must notify the Collector of Customs and Excise not less than 7 days before commencing the operation (or the coming into operation of this section, whichever is the later).

(8) The Treasury may by regulations –

- (a) amend subsections (5), (5A) or (6) so as to alter any percentage rate of gambling duty;
- (b) provide for further exemptions from the payment of gambling duty.

## **Gambling yield**

P1981/63/26C

**9.** (1) The gambling yield is calculated on either –

- (a) the net stakes receipt basis set out in subsection (2) or, if the Treasury by order so provides;
- (b) the retained profits basis set out in subsection (3).

(2) The net stakes receipts accruing to an operator in respect of a gambling operation is the operator's gambling receipts for the accounting period in question calculated under section 10 less the operator's expenditure on gambling winnings for that period calculated under section 11.

(3) The retained profits accruing to an operator in respect of a gambling operation is the profit accruing to the operator from the participants in the gambling in the form of commission, entrance fee or other sum in consideration of their being able to so participate.

(4) However, the Treasury may by order amend this section to provide for the gambling yield —

- (a) to be of a specified amount; or
- (b) to be calculated on some other basis.

(5) An order under subsection (4) may include transitional provision.

(6) In any case where an operator's liability to gambling duty varies according to the type of gambling that the operator has undertaken, the Treasury shall —

- (a) determine the predominant type of gambling; and
- (b) specify on which basis the gambling yield is to be calculated.

### **Gambling receipts**

P1981/63/26E

**10.** (1) The amount of gambling receipts for an accounting period is the aggregate of —

- (a) amounts falling due to the operator in that period in respect of entitlement to use facilities for gambling provided by the operator; and
- (b) amounts staked, or falling due to be paid, in that period by a user of facilities for gambling provided by the operator, if or in so far as responsibility for paying any amount won by the user falls on the operator (or a person with whom the operator is connected or has made arrangements).

(2) Amounts in respect of VAT shall be ignored for the purposes of subsection (1).

(3) Where a user makes a bet in pursuance of an offer which permits the user to pay nothing or less than the amount which the user would have been required to pay without the offer, the user shall be treated for the purposes of this section as being due to pay that amount—

- (a) to the person with whom the bet is made; and
- (b) at the time when the bet is made.

## **Expenditure on gambling winnings**

P1981/63/26F

**11.** (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**

#### **Gambling duty payable by operator and others**

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

(2) But gambling duty which is due to be paid by an operator may be recovered from the following persons as if they and the operator were jointly and severally liable to pay the duty —

- (a) a person responsible for the management of the business of the operator;
- (b) where the operator is a company, a director;

- (c) such other persons as the Treasury may by order specify.

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

**13.** (1) Two or more operators may, with the approval of the Collector, be treated as a single operator for the purposes of payment of gambling duty (to be known as a “group operator”) if –

- (a) one of them controls each of the others; or
- (b) one person (whether a body corporate or an individual) controls all of them.

(2) For the purposes of subsection (1) –

- (a) a body corporate is taken to control another body corporate if it is empowered by statute to control that body’s activities or if it is that body’s holding company;
- (b) an individual is taken to control a body corporate if, were he or she a company, he or she would be that body’s holding company within the meaning of section 1 of the Companies Act 1974.

(3) Two or more operators are to be treated as a single operator for the purposes of accounting for payment of gambling duty and submission of returns, to be known as a “networked operator”, if –

- (a) they have applied to the Treasury in writing to become a networked operator giving details –
  - (i) of the proposed linked games to be offered to users; and
  - (ii) as to which operator is to be the representative operator; and
- (b) the Treasury has approved such matters and notified each such operator in writing of its approval.

(4) Regulations may –

- (a) provide for the making applications under this section in accordance with the regulations, including the information that must be provided by individual operators; and
- (b) provide for the determination of applications, including the criteria for granting or withdrawing approval and any conditions that may be attached to the approval.

(5) Gambling duty due from a group operator may be recovered from the following persons as if they were jointly and severally liable to pay the duty –

- (a) the group operator;
- (b) any of the operators that applied under subsection (1) to a group operator;
- (c) any person responsible for the management of any of those operators;

- (d) where any of those operators is a company, a director of that company;
  - (e) such other person as the Treasury may by order specify.
- (6) Gambling duty due from a networked operator may be recovered from the following persons as if they were jointly and severally liable to pay the duty –
- (a) the representative operator;
  - (b) any of the other operators that applied under subsection (3) to be a networked operator, but only to the extent of the liability to duty of their activity;
  - (c) any person responsible for the management of the representative operator or, as the case may be, any of the operators mentioned in paragraph (b);
  - (d) where the representative operator or, as the case may be, any of the operators mentioned in sub-paragraph (b) is a company, a director of that company;
  - (e) such other person as the Treasury may by order specify.
- (7) In this section –
- “linked game” means a type of gambling access to which is available to the user via more 2 or more operators who jointly provide the prizes or winnings for the game;
- “representative operator” means an operator approved by the Treasury to be the representative operator for a networked operator under subsection (3)(b).

### **Accounting period and duty payable**

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

### **Returns**

- 15.** (1) Except in the case of an assessment of gambling duty or as otherwise provided by regulations, an operator liable to pay the duty must furnish to the Collector a return for each accounting period, to be furnished at the end of that accounting period containing such information as the Treasury may by regulations prescribe.
- (2) The Treasury may designate one of the operators forming part of a group operator as being responsible for submitting the return.

(3) The Treasury may by regulations make provision about the return required under this section.

(4) The regulations may in particular make provision about —

- (a) liability to make a return;
- (b) timing;
- (c) content;
- (d) methods of making (including provision to submit returns electronically);
- (e) declarations;
- (f) authentication;
- (g) when a return is to be treated as made.

### **Relief for losses**

P1981/63/5AA

**16.** (1) This section applies if the amount of an operator's gambling yield is a negative amount.

(2) The negative amount must be carried forward to the following accounting period and, to the extent that it does not exceed it, deducted from the amount of the operator's gambling yield for that period.

(3) If the gambling yield for that following period —

- (a) is not a positive amount; or
- (b) is less than the amount carried forward,

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

### **Double duty relief**

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

(2) If subsection (1) applies and the provisions of any order made under this section are satisfied, the operator is entitled to "double duty relief" and consequently no gambling duty is payable in respect of that gambling.

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

(4) The Treasury may make an order prescribing the further conditions that have to be satisfied before an operator is entitled to double duty relief no gambling duty is payable.

(5) The order may in particular -

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



- (b) limit entitlement to double duty relief to the date of the commencement of the order;
- (c) prescribe a minimum and maximum amount of double duty relief, either in monetary value or as a proportion of the operator's total liability to pay gambling duty over a prescribed period;
- (d) provide that the Collector may charge such amount as the Collector considers reasonable for processing an application for double duty relief; and
- (e) enable the Collector to specify the form and manner of applications for double duty relief.

### **Regulations about payment of gambling duty**

**18.** The Treasury may by regulations—

- (a) provide for any payment of gambling duty to be made by electronic means;
- (b) may require further information to be provided by persons from whom gambling duty may be recovered under section 12(2);
- (c) provide for the payment of any gambling duty due in respect of any gambling operation of a description specified in the regulations to be deferred subject to any conditions or requirements that may be imposed by or under the regulations;
- (d) require payments to be made on account of any gambling duty;
- (e) provide for the methods of payment of gambling duty (including payments in different currencies other than sterling);
- (f) provide for the payment of gambling duty in instalments;
- (g) make provision about when the payment of gambling duty is to be treated as made;
- (h) make provision for the recalculation of gambling duty in specified circumstances;
- (i) provide for the giving of security by means of a deposit or otherwise for gambling duty payable now and in the future and the consequences of failing to provide such security;
- (j) provide for the payment of gambling duty when a person ceases to carry on business;
- (k) provide for relief where money owing to operators is not recovered, where gambling is allowed for free or at a discounted rate or in other cases of overpayment of gambling duty;
- (l) provide for records to be kept for the purposes of this Act.

### **Collecting and enforcing**

**19.** For the purpose of collecting and enforcing gambling duty sections 121, 123 and 124A to 124G of the Customs and Excise Management Act 1986 apply, subject to

such modifications as are prescribed by order made by the Treasury, as if the operator were a revenue trader within the meaning of that Act.

### **Recovery of overpaid gambling duty**

**20.** (1) Where a person pays to the Treasury an amount by way of gambling duty which is not due to it, the Treasury is liable to repay that amount in such circumstances as the Treasury may by order prescribe.

(2) The Treasury is not required to make any such repayment unless a claim is made to it in such form as the Treasury determines and supported by such documentary evidence as may be prescribed by it by regulations.

(3) It is a defence to a claim for repayment that the repayment would unjustly enrich the claimant.

(4) No claim for repayment may be made after the expiry of the period of 4 years beginning with the date of the payment or, if later, the date on which the claimant (or, where the right to repayment has been assigned or otherwise transmitted, any predecessor in title of the claimant) discovered, or could with reasonable diligence have discovered, that the amount was not due.

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

## **PART 4**

### **ENFORCEMENT AND GENERAL**

#### **General administration and enforcement**

**21.** (1) The Treasury may make regulations providing for any matter appearing to it to be necessary for the administration or enforcement of gambling duty or for the protection of that revenue.

(2) Regulations under this section may in particular include provision —

- (a) for the furnishing to such persons or displaying in such manner of such information or records as the regulations may require by persons engaging or proposing to engage in gambling by reason of which they are or may become liable for gambling duty, and by persons providing facilities for another to engage in such an activity or entering into any transaction with another in the course of any such activity of that person;
- (b) for the keeping, preserving and producing of accounts, records or other documents by persons engaging in any such activity;
- (c) for the inspecting of the accounts, records and other documents of persons engaging or suspected of engaging in any such activity, and of premises or equipment used or suspected of being used by such persons for or in connection with any such activity and of any other premises where any such activity is carried on;
- (d) permitting any officer to enter on any premises used, or suspected of being used, for the purposes of gambling or in

connection with such activities and to inspect, remove and take copies of any books, records, accounts or other documents which relate or appear to relate to a gambling operation on those premises;

- (e) requiring any person carrying on or suspected of carrying on a gambling operation to produce specified books, records, accounts or documents within a specified time;
- (f) requiring information to which the regulations relate to be produced in a form in which it can be taken away and in which it is visible and legible.

### **Security for protection of revenue**

P1996/1/Sch 12, para 4

**22.** (1) The Treasury may, as a condition of remitting or repaying gambling duty to any person, require the production of such evidence relating to the duty as it may specify.

(2) If it thinks it necessary for the protection of the revenue, the Treasury may require, as a condition of making any payment, the giving of such security for the amount of the payment as appears to it appropriate.

(3) If it thinks it necessary for the protection of the revenue, the Treasury may require an operator to give security, or further security, for the payment of any gambling duty that is or may become due.

(4) Security under sub section (2) shall be of such amount, and shall be given in such manner, as the Treasury may determine.

### **Recovery of unpaid gambling duty**

**23.** (1) Gambling duty is recoverable as a civil debt.

(2) The Treasury may by regulations make provision —

- (a) for authorising distress to be levied on the goods and chattels of any person refusing or neglecting to pay gambling duty;
- (b) for the disposal of any goods or chattels on which distress is levied in pursuance of the regulations; and
- (c) for the imposition and recovery of costs, charges, expenses and fees in connection with anything done under the regulations.

(3) The provision that may be contained in regulations under this section may include, in particular —

- (a) provision for the levying of distress, by any person authorised to do so under the regulations, on goods or chattels located at any place whatever (including on a public highway); and
- (b) provision authorising distress to be levied at any such time of the day or night, and on any such day of the week, as may be specified or described in the regulations.

(4) Regulations under this section may contain such incidental, supplemental, consequential or transitional provision as the Treasury thinks fit,

(5) The transitional provision that may be contained in the regulations may include provision in connection with the coming into operation of the repeal by this Act of any other power by regulations to make provision for or in connection with the levying of distress.

### **Treasury warrants**

P1996/1/Sch 12, para 6

**24.** (1) If a person neglects or refuses to pay gambling duty, or any amount recoverable as if it were gambling duty that he or she is required to pay under this Act, the Treasury may by notice in writing require that person to pay such gambling duty within 14 days of the delivery of the notice.

(2) No notice shall be served under subsection (1) until 30 days after the gambling duty becomes due.

(3) A notice issued under subsection (1) shall be served by sending it by post in a letter addressed to the person at the last or usual residence or place of business of that person.

(4) If the person on whom notice is served does not pay the sum due within the period of 14 days mentioned in subsection (1), the Treasury may issue to the appropriate Coroner a warrant in such form as is determined by the Treasury.

(5) A warrant issued under this section shall be enforceable in the same manner as an execution of the High Court.

(6) Without limiting the generality of subsection (5), sections 13 to 14A of, and Schedules 1 to 2A to, the Administration of Justice Act 1981 shall apply, with the necessary modifications, to the enforcement of a warrant issued under this paragraph as they apply to the enforcement of an execution of the High Court.

(7) This section does not limit any other remedy available for the recovery of unpaid gambling duty.

### **Power to set aside Treasury warrants**

P1996/1/Sch 12, para 7

**25.** (1) Where the Chief Registrar is, on the application of a person named in a warrant issued under section 23, satisfied that —

- (a) the sum due under the warrant has been paid in full; or
- (b) the notice issued under section 23(1) was not served in the manner required by subsection (3) of that section; or
- (c) there is an error on the face of the warrant,

the Chief Registrar may, on such terms as he or she thinks fit, set aside the warrant.

(2) If, on application under this section, the Chief Registrar is satisfied that there is an error on the face of the warrant, but that the applicant is not prejudiced by it, the Chief Registrar may dismiss the application on such terms as he or she thinks fit.

(3) Whenever the Chief Registrar entertains a doubt as to any question of law arising in the course of any application under this section, the Chief Registrar may refer the question to a Deemster for his or her opinion.

(4) An application under this section shall be made in writing to the Chief Registrar within 14 days of the date on which the warrant first came to the notice of the applicant and on receipt of the application the Chief Registrar shall stay the enforcement of the warrant and shall immediately give notice to the Treasury.

(5) The application shall be in such form and contain such information as the Chief Registrar may require.

(6) The Chief Registrar may adopt any method of procedure which he or she may consider to be convenient and to afford a fair and equal opportunity to the applicant and the Treasury to present their respective cases.

(7) An application under this section may be determined without a hearing but where a hearing is held it shall be informal and in private.

(8) A decision of the Chief Registrar to set aside a warrant shall not prejudice any gambling duty properly due under this Act.

(9) Where the Chief Registrar sets aside a warrant —

- (a) the Treasury is not prevented, except in a case to which subsection (1)(a) applies, from issuing a fresh warrant in place of that set aside;
- (b) no person is liable for anything previously done in good faith under the warrant.

### **Protection of officers**

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

## **PART 5**

### **MUTUAL ASSISTANCE AND INTERNATIONAL CO-OPERATION ETC.**

#### **Mutual assistance**

P1993/34 /37

**27.** (1) Despite any obligation not to disclose information that would otherwise apply, the Treasury may disclose information to any the following bodies for the purpose of assisting any of them in the performance of duties imposed by or under any enactment relating to gambling —

- (a) the Gambling Supervision Commission;
- (b) the Financial Supervision Commission;
- (c) the Department of Economic Development;
- (d) the Isle of Man Office of Fair Trading;
- (e) the Isle of Man Constabulary; and
- (f) such other body as is specified in an order made by the Treasury.

(2) Despite any obligation not to disclose information that would otherwise apply, any of the bodies mentioned in subsection (1) may disclose information to the Treasury for the purposes of assisting it in the performance of its duties under this Act.

(3) 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.

### **International co-operation**

**28.** (1) The Treasury may by order make provision for the exchange of 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 information.

### **International tax enforcement arrangements**

**29.** (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 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 information that is authorised to be disclosed in accordance with the arrangements to any authorised officer of the authorities of any country or the

territory in relation to which the arrangements have been made;  
or

- (b) prevents the Treasury or any officer from disclosing to any such authorised officer any information which is authorised to be so disclosed in accordance with the arrangements.

(4) But neither the Treasury nor any officer may disclose any information in pursuance of any arrangements having effect by virtue of this section to any authorised officer of the authorities of any country or territory in relation to which the arrangements have been made unless satisfied that the authorities of the country or territory concerned are bound by, or have undertaken to observe, rules of confidentiality with respect to the information that are not less strict than those applying to it in the Island.

(5) An order made under this section revoking an earlier such order may contain any transitional provisions that appear appropriate.

## **PART 6**

### **LEGAL PROCEEDINGS**

#### **Offences and penalties**

**30.** (1) A person who —

- (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;
- (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,

commits an offence and is liable —

- (i) on conviction on information, to custody for not more than 7 years, a fine, or both;
- (ii) on summary conviction, to custody for not more than 6 months, a fine not exceeding £5,000, or both,

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

(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.

(3) With a view to protecting the revenue derived from gambling duty, a person who —

- (a) conducts any business or agency with respect to gambling; or

- (b) knowingly issues, circulates or distributes, or has in the person's possession for that purpose, any advertisement or other document inviting or otherwise relating to gambling,

commits an offence and is liable –

- (i) on conviction on information to a fine or, in the case of a second or subsequent conviction, to custody for not more than 1 year, a fine, or both;
- (ii) on summary conviction to a fine not exceeding £5,000 or, in the case of a second or subsequent conviction, to custody for a term not exceeding 3 months or to a fine not exceeding £5,000, or both.

(4) However no offence is committed under subsection (3) if the transaction concerned is subject to gambling duty and involves a licensed operator or is exempt from being so licensed in a country or territory as the Treasury may by order prescribe.

(5) A person who gambles or attempts to gamble, or sends or attempts to send an advertisement or other document to the person, is not guilty of an offence by reason of thereby procuring or inciting another person to commit or aiding and abetting the commission of, an offence under subsection (3).

### **General provisions governing offences**

**31.** (1) Criminal proceedings in respect of any contravention of this Act may not be commenced or continued if the Treasury has required a person to pay a civil penalty in respect of such contravention.

(2) No proceedings for an offence under this Act shall be commenced except by the Treasury or by or with the consent of the Attorney General.

(3) Any document purporting to be the consent of the Attorney General for the commencement of proceedings for an offence under this Act and appearing to be signed by the Attorney General shall be admissible as *prima facie* evidence without further proof.

### **Liability of officers of bodies corporate**

**32.** (1) Subsection (2) applies if an offence under section 30 (offence and penalties) is committed by a body corporate and it is proved that an officer of the body authorised, permitted, participated in, or failed to take all reasonable steps to prevent the commission of, the offence.

(2) The officer, as well as the body, commits the offence and is liable to the penalty provided for the offence.

(3) In this section “officer” includes —

- (a) a director, secretary or other similar officer;
- (b) a person purporting to act as a director, secretary or other similar officer;
- (c) if the affairs of the body are managed by its members, a member.



### **Civil penalties**

- 33.** (1) A contravention of any statutory provision other than –
- (a) paragraph 1 of Schedule 24 to the Finance Act 2007 (of Parliament); or
  - (b) paragraph 1 of Schedule 41 to the Finance Act 2008 (of Parliament),

attracts a penalty under section 9 of the Finance Act 1994 (of Parliament) (civil penalties).

(2) In this section a reference to an Act of Parliament is a reference to that Act as it applies to the Island from time to time.

## **PART 7 GENERAL**

### **Tynwald procedure**

**34.** (1) Regulations made under this Act must be laid before Tynwald as soon as practicable after they are made.

(2) Any order made under this Act (except an order appointing a day for the commencement of any provision of this Act) shall not come into operation unless approved by Tynwald.

### **Financial provision**

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

### **Amendment of Pool Betting (Isle of Man) Act 1961**

**36.** In section 2(7) of the Pool Betting (Isle of Man) Act 1961 for “Part and the Schedule” substitute “section”.

### **Enactments repealed**

**37.** The Schedule has effect.

## SCHEDULE

[Section 37]

<i>Reference</i>	<i>Short Title</i>	<i>Extent of repeal or revocation</i>
1961c.	Pool Betting (Isle of Man) Act 1961	Part I apart from section 2; section 15(1)(d), (g) and (h); the Schedule
1965 c.	Pool Betting (Isle of Man) Act 1965	The whole Act
1970 c.	Betting Act 1970	The whole Act
1991 c. 10	Online Gambling Regulation Act 2001	Section 5(3) and (6)
2001 c. 22	Gaming, Betting and Lotteries Act 2001	Section 10
SD 641/08	Online Gambling Duty Regulations 2008	The whole Regulations