



Isle of Man

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**ONLINE GAMBLING (AMENDMENTS)
REGULATIONS 2016**



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Statutory Document No. 2016/0341

*Online Gambling Regulation Act 2001*

ONLINE GAMBLING (AMENDMENTS) REGULATIONS 2016

Laid before Tynwald: 13 December 2016
Coming into Operation: 1 January 2017

The Treasury makes the following Regulations under sections 5 and 21 of the Online Gambling Regulation Act 2001.

PART 1 – INTRODUCTION

1 Title

These Regulations are the Online Gambling (Amendments) Regulations 2016.

2 Commencement

These Regulations come into operation on 1 January 2017.

3 Interpretation

In these Regulations—

“the **Accounts Regulations**” means the Online Gambling (Registration and Accounts) Regulations 2008;

“the **Licence Fees Regulations**” means the Online Gambling (Licence Fees) Regulations 2009;

“the **Participants’ Money Regulations**” means the Online Gambling (Participants’ Money) Regulations 2010; and

“the **Verification Regulations**” means Online Gambling (Systems Verification)(No. 2) Regulations 2007;

PART 2 – ACCOUNTS REGULATIONS AMENDED

4 Accounts Regulations amended

The Accounts Regulations are amended in accordance with this Part.

5 Interpretation: regulation 1 amended

For regulation 1(2) substitute —

(2) In these Regulations—

“**the Act**” means the *Online Gambling Regulation Act 2001*;

“**business participant**” means a person participating, in the course of business, in online gambling with an operator;

“**the Commissioners**” has the meaning given in the Act;

“**online gambling**” has the meaning given in the Act;

“**participant**” (without more) means a person who is either a player or a business participant;

“**player**” means a person participating in online gambling who is not—

- (a) an operator;
- (b) a director or an employee of an operator; or
- (c) a business participant. **(2)**.

6 Registration and accounts: regulation 2 amended

(1) Regulation 2 is amended as follows.

(2) For paragraph (1) substitute—

(1) A participant may engage in online gambling if, and only if, the participant —

- (a) is registered with the operator; and
- (b) holds an account with the operator.

This is subject to the following qualification. **(2)**.

(3) In paragraph (2) for “consisting of Online Gambling where—” substitute **if— (2)**.

7 Rules for registration: regulation 3 substituted

For regulation 3 substitute—

(3) Rules for registration

(1) The following provisions of this regulation apply to online gambling to which regulation 2(1) applies.

- (2) No participant may be registered, except on an application for registration in such form, and containing such particulars, as may be approved by the Commissioners.
- (3) No person may be registered as a player if the person is under the age of 18.
- (4) Before a prospective player is registered he or she must provide details of his or her age, identity and place of residence.
- (5) The operator must use the operator's best endeavours to exclude from registration, and to cancel the registration of, any person —
 - (a) who identifies himself or herself as a problem gambler;
 - (b) who is so identified, with his or her consent, by a registered medical practitioner (within the meaning of section 3 of the *Health Care Professionals Act 2014*) who is responsible for the care of the person; or
 - (c) whom the operator believes to be a problem gambler.
- (6) The operator must maintain a secure database of all present and past participants. .

8 Rules of play: regulation 5 substituted

For regulation 5 substitute —

5 Rules as to play

Regulations 5A to 5C apply to any online gambling.

5A Overdrawing a participant's account

- (1) An operator must not accept any stake or bet in money or money's worth from a participant which, were the stake or bet to be lost in the course of online gambling (whether alone or in combination with any other stake or bet), would result in the participant's account becoming overdrawn.
- (2) Paragraph (1) does not apply if the Commissioners have given their prior written consent to its disapplication.

5B Identifying the player

Before a player is permitted to begin a session of online gambling, the operator must request, and the player must provide, unique identifying information which has been provided to, or supplied by, the operator.

5C Limiting the player's exposure to gambling

- (1) Operators must make available to players at least one of the following —
 - (a) the ability to set deposit limits;
 - (b) the ability to set spending limits or
 - (c) the ability to set loss limits.
- (2) The operator must comply with any request to apply a limit under paragraph (1) as soon as reasonably practicable.
- (3) If the operator cannot, for any reason, comply with a request to apply a limit under paragraph (1) when the request is received, the operator must notify the player that this is so, and at the same time inform the player when the limit will take effect.
- (4) For the purposes of this regulation—
 - (a) a “deposit limit” is a limit restricting the amount a player can deposit with an operator during a period specified by the player;
 - (b) a “spending limit” is a limit restricting the amount a player can spend on online gambling within a period specified by the player;
 - (c) a “loss limit” is a limit restricting the net amount which a player can lose within a period specified by the player; and
 - (d) “the net amount which a player can lose” is the total amount staked by the player during that period less any winnings arising during the period. **22**.

9 Privacy: regulation 6 amended

In regulation 6(3) omit the words following “2002”.

10 Penalties: regulation 8 amended

In regulation 8 omit “regulation 2 or 6 or any of the rules contained in”.

11 Rules about accounts: Schedule amended

- (1) In paragraph 1 of the Schedule (rules as to accounts: opening an account)—
 - (a) renumber the existing text as sub-paragraph (1) of that paragraph;
 - (b) before “a deposit of money” insert “(a)”;
 - (c) renumber the existing sub paragraphs (a) and (b) as subheads (i) and (ii) of the new head (a) (formed by the preceding amendment); and
 - (d) after the end of the new head (a) add —

or;

(b) a deposit of something which has a value in money's worth.

(2) For the purposes of subparagraph (1)(b) something has a value in money's worth if —

(a) it is capable of conversion into a currency used anywhere in the world; or

(b) it is capable of acceptance by an operator as a deposit (in the form of a store of value) for the purposes of online gambling.

For the purpose of head (b) of this subparagraph it is immaterial whether the thing is capable of such acceptance generally or only for the purpose of a particular form of online gambling.

Examples for head (b): the deposit of a value in a virtual currency (such as Bitcoins) or a virtual good (such as a skin for a weapon in electronic gaming)..

PART 3 — LICENCE FEES REGULATIONS AMENDED

12 Licence Fees Regulations amended

The Licence Fees Regulations are amended as follows.

13 Interpretation: regulation 1(3) amended

For regulation 1(3) of the Licence Fees Regulations substitute—

(3) In these Regulations—

(a) “**licence**” means a licence granted under section 4 of the Online Gambling Regulation Act 2001;

(b) “**full licence**” means a licence other than a sub-licence;

(c) “**network services**” means services provided, by means of a computer platform in the Island and an associated telecommunications system, enabling operators outside the Island to use facilities on the Island for the purpose of online gambling;

(d) “**sub-licence**” means a licence granted subject to a condition that the holder conduct online gambling by —

(i) using only its own licensable services and those of a single holder of a full licence (including a licence for network services); or

(ii) using only the licensable services of one full licence holder; and

- (e) “licensable services” means any service which, if it were operated in the Isle of Man would require an online gambling licence. **22**.

14 Licence fees for network services: regulation 3 amended

- (1) Regulation 3 is amended as follows.
- (2) After paragraph (1) insert—
- 23**(1A) If a licence holder applies to the Commission to vary its licence so as to provide or cease to provide network services, the Commission may issue a new licence to include or omit those services.
- (1B) The fee for the new licence shall be found by the formula below, subject to paragraph (1C).

$$F = \left(N \times \frac{U}{365} \right) - \left(O \times \frac{U}{365} \right)$$

Here—

F is the fee payable for the new licence;

N is the annual fee for the new class of licence;

O is the annual fee for the licence held by the licence holder prior to the application; and

U is the number of days remaining, at the date of the change of licence, before the next annual licence fee would be payable for that licence.

- (1C) If the result of the formula in paragraph (1B) is negative, no refund is payable, and the new licence is to be issued without a further fee being charged.

The amount by which *F* is less than zero is to be applied in reducing the next annual licence fee (and so on in subsequent years) until the amount is extinguished. **24**.

- (3) The existing paragraphs (2) and (3), and regulation 3(4) of the Online Gambling Regulations (Amendment) (Network Services) Regulations 2011 to the extent that it inserted them, are revoked.

PART 4 — PARTICIPANTS’ MONEY REGULATIONS AMENDED

15 Participant’s Money Regulations amended

The Participants’ Money Regulations are amended as follows.

16 Definition of “participants’ money”: regulation 3 amended

In regulation 3(1) for the definition of “participants’ money” substitute —

“participants’ money” has the meaning given by regulation 3A;

17 What is and is not participants’ money: regulation 3A inserted

After regulation 3 insert—

3A Meaning of “participants’ money”

- (1) In these Regulations “participants’ money” means subject to paragraphs (2) and (3), money which an operator—
 - (a) holds or receives from a participant; or
 - (b) owes to a participant;for the purposes of, or in the course of, online gambling.
- (2) Participants’ money includes, subject to paragraph (3), deposits, winnings, sums transferred to the participant’s account with the operator, gratuities and bonuses redeemed by the participant.
- (3) Despite paragraphs (1) and (2) money received by the operator from the participant is not participants’ money if—
 - (a) the money has been placed by the operator with a third party of a kind approved for that purpose by the Commission, in order to permit the participant to gamble with that third party;
 - (b) the money is still with the third party or has been lost in gambling with the third party;
 - (c) the placing of the money mentioned in subparagraph (a) took place with the knowledge and consent of the participant; and
 - (d) the operator can demonstrate that, at the time of the placing of the money as mentioned in subparagraph (a), the operator informed the participant that the money would thereafter be unprotected.

PART 5 — VERIFICATION REGULATIONS AMENDED**18 Verification Regulations amended**

- (1) The Verification Regulations are amended as follows.
- (2) In regulation 1(2) (interpretation)—
 - (a) for the definition of “Bet” substitute—

“bet” has the meaning given in the Act;

- (b) for the definition of “Commissioners” substitute—
 - ☒ “Commissioners” has the meaning given in the Act; ☒;
- (c) for the definition of “Gaming” substitute—
 - ☒ “gaming” has the meaning given in the Act; ☒.
- (d) for the definition of “Online Gambling” substitute—
 - ☒ “online gambling” has the meaning given in the Act; ☒;
- (e) for the definition of “Participant” substitute—
 - ☒ “participant” (without more) means a person who is either a player or a business participant;
- (f) for the definition of “Telecommunication” substitute—
 - ☒ “telecommunication” has the meaning given in the Act; ☒.
- (3) For regulation 2 (certification of systems) substitute—

☒2 Certification of systems for gaming or lotteries

- (1) Before any gaming or lottery is conducted by a participant by means of any system, the operator must produce to the Commissioners a certificate in writing by a party approved for that purpose by the Commissioners that the system by means of which such gaming or lottery is to be conducted complies —
 - (a) with the standards specified in Schedule 1;
 - (b) with the standards published for the time being by another gambling regulator with whom the Commission has entered into a Memorandum of Understanding; or
 - (c) with the standards published by an international body or grouping of gambling regulators of which (in either case) the Commission is a member.
- (2) In the case of a certificate given under paragraph (1)(b) or (c) the Commission may require an operator to show compliance with such additional requirements as it considers necessary to demonstrate an equivalent level of protection and fairness as that provided by the standards in Schedule 1 or to eliminate risk to players.
- (3) The obligation under paragraph (1) arises—
 - (a) prior to the operator permitting the system to be accessed by any participant; and,
 - (b) on or before the expiry of the periods specified in the operator's licence under the Act.
- (4) Paragraph (1) does not apply insofar as the operator intending to use the system produces to the Commissioners a certificate in writing issued —

- (a) by a party approved for the purpose by the Commissioners; and
- (b) prior to the system being accessed by a participant, that the system is not different in any material, technical or operational respect to a system already certified as being fully compliant with Schedule 1 for another operator under that paragraph. **22**.

PART 6 – MISCELLANEOUS

19 Orthographic amendments

In the Accounts Regulations, the Licence Fees Regulations, the Participants' Money Regulations and the Verification Regulations, for a term appearing in column 1 of the table below (wherever it occurs) substitute the new term in column 2.

For the sake of clarity the substitution effected by this regulation applies—

- (a) whether or not the existing term appears in the Regulations in the singular or the plural, but the new term must agree, in number, with the existing one; and
- (b) whether or not the existing term appears within quotation marks or in bold type, but those characteristics apply to the new term as they apply to the existing one.

<i>Existing term</i>	<i>New term</i>
Business Participant	business participant
Online Gambling	online gambling
Operator	operator
Participant	participant
Player	player
System	system
Telecommunication	telecommunication.

20 Revocation

Regulation 7 of the Accounts Regulations is revoked (but the Online Gambling (Registration and Accounts) Regulations 2007 are not thereby revived).

MADE 23 NOVEMBER 2016.



Minister for the Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make miscellaneous amendments to regulations having effect under the Online Gambling Regulation Act 2001.

Part 1 (regulations 1 to 3) contains introductory material dealing with the citation and commencement of the Regulations and the interpretation of certain terms used in them.

Part 2 amends the Online Gambling (Registration and Accounts) Regulations 2008. Regulation 4 introduces the amendments. Regulation 5 amends regulation 1(2), which contains the defined terms used in the 2008 Regulations. Regulation 6 amends regulation 2 which sets out restrictions on the circumstances in which a person may engage in online gambling, namely that the player must be registered with, and have an account with, an operator. Regulation 7 replaces the existing regulation 3 and restates, with amendments, the requirements for registration. Regulation 8 replaces the existing rules as to play in regulation 5 with new provisions including requirements that an operator offer a player at least one of the three specified control mechanisms to limit exposure to liability, and regulation 10 makes a consequential amendment to regulation 8. Regulation 9 makes a drafting correction. Regulation 11 extends the ambit of the rules contained in the Schedule to the 2008 Regulations to expand the meaning of “having a value in money’s worth” to include things which, although they may either not exist in the natural world or may not have value in it, are treated for the purposes of online gaming as if they existed and had a value.

Part 3 amends the Online Gambling (Licence Fees) Regulations 2009. Regulation 12 introduces the amendments, regulation 13 replaces the paragraph within regulation 1 setting out defined terms for the purposes of the Regulations, and regulation 14 provides for a reduction in a new licence fee where an operator surrenders an existing licence part-way through the licence term.

Part 4 amends the Online Gambling (Participants’ Money) Regulations 2010. Regulation 15 introduces the amendments. Regulation 17 inserts a new regulation 3A into the 2010 Regulations defining what constitutes participants’ money in greater detail than applied previously. Regulation 16 makes a consequential amendment to regulation 3 to cross-refer to the new definition.

Part 5 amends the Online Gambling (Systems Verification) (No. 2) Regulations 2007. Regulation 18 makes minor corrections to the definition provision of the 2007 Regulations: it also replaces regulation 2 which sets out how a system may be certified as satisfying the Commission’s requirements.

Finally, Part 6 makes a series of orthographic corrections to all of these sets of regulations to make them conform to normal drafting practice for statutory documents, and revokes a redundant provision.

