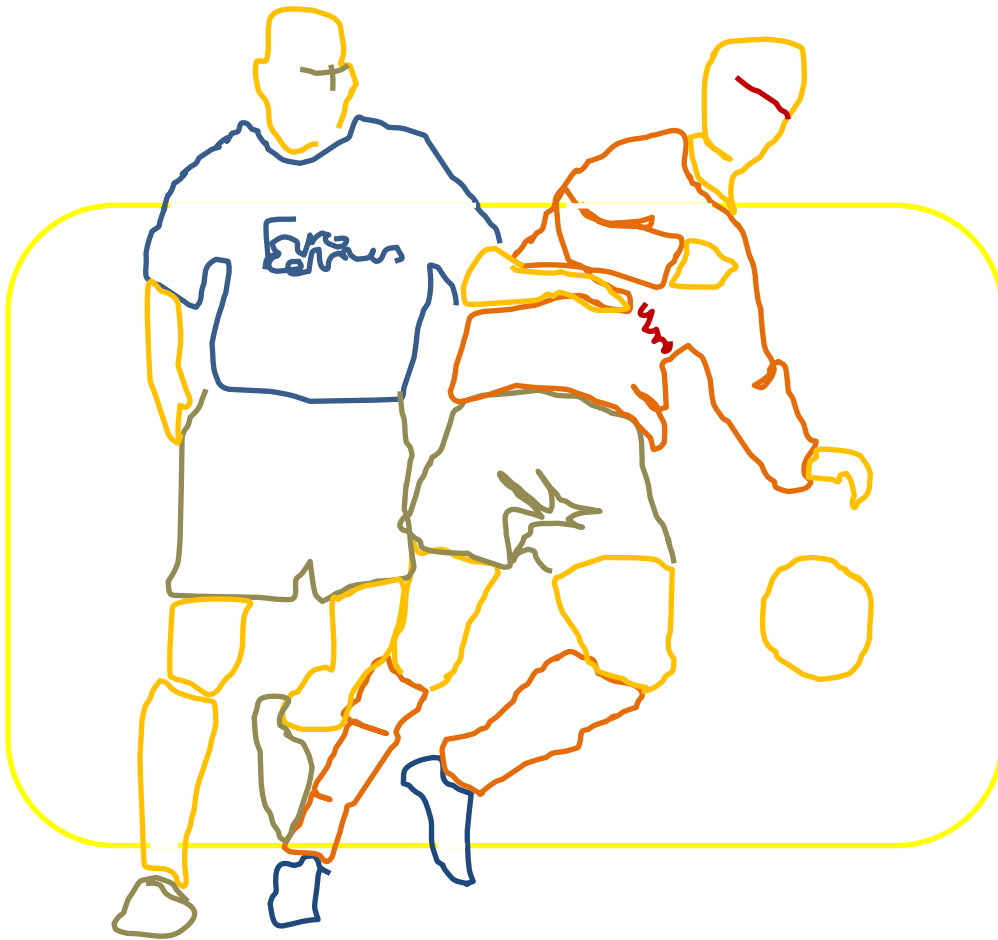


ISLE OF MAN
GAMBLING
SUPERVISION
COMMISSION



Guidance for Online Gambling (Amendments)
Regulations 2016

Version (2):01/06/2017DC

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This guidance is effective from 1st January 2017.

1. Introduction

1.1 About this document

This document has been prepared by the Gambling Supervision Commission (GSC) and contains advice and guidance necessary to understand the provisions of the Online Gambling (Amendments) Regulations 2016.

Throughout the consultation process, the GSC has recognised that the changes being made to the law would require additional clarification and advice. This guidance intends to clarify, where necessary, certain elements of the changes and provide interested parties with further information to ensure that the changes have been properly understood.

The contents of this guidance should not be construed as legal advice.

1.2 The Gambling Supervision Commission

The application of the gambling legislation to the industry falls to the GSC. The GSC is an independent statutory board of Tynwald and comprises the Inspectorate and the Commission.

The Commission consists of five independent members drawn from various professions and backgrounds. The Commission members conduct monthly hearings into all matters that pertain to gambling in the Isle of Man and are supported by their Inspectorate.

The Inspectorate is managed by the Chief Executive of the GSC.

The GSC is available 9:00am to 5:00pm Monday to Friday.

It can be contacted via phone on +44 (0)1624 694331.

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2. Background

The GSC identified that some of its laws were not in keeping with that of other regulatory jurisdictions. Coupled with the speed in which technology has developed over a relatively short timescale, the GSC determined to introduce proposals designed to improve the regulatory environment afforded by it to licence holders.

In April 2016, the GSC undertook a consultation detailing a number of proposed changes that would be made to secondary legislation. The consultation highlighted certain areas of the law that the GSC considered would benefit from having changes applied. Those changes included –

- Allowing virtual currencies to be accepted by operators (subject to certain regulatory safeguards);
- Broadening the services that a full licence holder can provide to its sub-licensee;
- Allowing for the GSC to recognise test certificates issued in respect of the laws of other gambling regulators as being equal to Isle of Man standards;
- Extending the range of voluntary gambling controls that operators' can provide to players;
- Providing clarity for winnings (that the GSC considers to be out of scope for protection); and,
- Having an ability to offset unused portions of licence fees against new licences.

Following industry feedback, an additional limited consultation was undertaken in November 2016. This consultation was centred on one specific issue –

- The abolition of network partner fees.

The GSC, with the support of its sponsoring body Treasury, laid down the regulatory changes before Tynwald at its December 2016 sitting. The regulations came into effect on 1st January 2017.

3. The changes made

3.1 Online Gambling (Registration and Accounts) Regulations 2008

The GSC has provided clarity with regard to some of the definitions used within the Online Gambling Regulation Act 2001 and its associated regulations.

:: Modernisation of wording

It is customary for drafters to take the opportunity of regulatory reform to tidy up wording that has become outdated or which is incorrect. A number of changes reflect this tradition.

Grammatical amendments have been made to **Regulation 2 (Registration and Accounts)** and **Regulation 3 (Rules for Registration)** with the renumbering of sub-paragraphs.

A new sub-paragraph (5) has been added requiring an operator to exclude from registration or cancel the registration of problem gamblers. Amendments have been made to **Regulation 5 (Rules as to play)**.

Clarity with regard to the instances that may result in a player having an overdrawn account has been provided. This is detailed in **Regulation 5A (Overdrawing a participant's account)**.

Amendments have been made to the **Schedule (Rules as to accounts – opening of account)** of the regulations.

Existing text has been renumbered and the paragraph set differently introducing sub-headers to accommodate the introduction of the ability to be able to open an account using ***a deposit of something which has a value in money's worth***

:: Elective controls for gamblers

Significant changes have been made to the types of controls that operators may make available to registered players. The changes are detailed in **Regulation 5C (Limiting the player's exposure to gambling)**.

Licensees should consider which of the controls is most likely to assist their players control their gambling to prevent it becoming a problem. They may elect to continue with their existing controls, add more controls to their functionality or switch to a different control.

The controls now include –

- The ability for players to be able to set limits on the amount that they can deposit;
- The ability for players to be able set limits on the amount that they can spend; or,
- The ability for players to be able to limit the net amount that they can lose.

At least one of the elective controls above must be made available to players.

Licensees currently offering limits that comply with the old regulations are automatically deemed to be compliant with the spend-limit function in the new regulations and need not change that functionality if they consider it to be effective.

When selecting a control, a player should be able to choose (or if no choices are available) specify a term over which time the control will operate. If a term is chosen or specified by a player then the control chosen must stay in effect until the full term has passed. The exception is where a player wishes to further tighten the control (that is, to reduce a value or increase the term further).

Operators must offer functionality that they believe will be helpful. The controls are primarily aimed at people who have a rational idea of what they wish to spend and who know they will be tempted to stray from those limits once they start gambling.

For example, a player may wish to limit the amount of money they can deposit into their gambling account. They may ask that they can only deposit £100 over the next seven days. Later that evening they decide they feel lucky and ask for the limit to be increased to £500. The licensee refuses because seven days have not elapsed. After seven days, the limit may be changed.

The regulatory changes now require operators to accommodate requests for elective limits to be made, *as soon as reasonably practicable*. If it is not possible to implement the limit immediately, operators are required to inform players when the limit will take effect.

The ability to set loss limits is another elective control that operators may offer. The GSC considers a loss limit to be a limit on the maximum net amount a player can lose. For example, a player has an account balance of £500. He sets a maximum loss limit of £100 in a period of 24 hours. After 30 minutes of gameplay, the player's account is in positive position and shows a balance of £800. After a further 2 hours of gameplay, the player's balance has been reduced to £400 resulting in the player being unable to place any more stakes (due to his net loss limit of £100 being reached).

:: Additional options for the currency used to open an account

Clarification about the criteria that is applied in determining whether something has a value in money's worth has been added. This clarity is shown at **Regulation 11 (2) (a) and (b) of the 2016 Regulations**.

It is now possible to open an account with an Isle of Man gambling operator by using anything which has a value in money's worth.

This includes convertible and non-convertible virtual currencies (CVCs and VCs respectively).

Convertible virtual currencies include items such as bitcoins which can be bought and sold through independent exchanges for fiat currency.

Non-convertible virtual currencies include virtual goods such as digital "skins" for avatars and weapons in video games and other digital objects that have functions in video games, as well as in-house game currencies that can be used within the game to buy such objects.

These changes can be found at Part 2 of the new regulations.

For a more detailed overview of the GCS's position regarding use of CVCs and VCs please see AML/CFT Guidance for Virtual Currencies.

3.2 Online Gambling (Licence Fees) Regulations 2009

The terms "network services" and "licensable services" have been introduced and definitions provided for both.

:: Additional permissions for licensees offering services to sub-licensees

The services that a full licence holder can offer to its sub-licensee have been expanded. Historically, a sub-licensee was permitted to only use games or lottery products operated by the holder of a full licence. The change permits a full licence holder to offer additional services to sub-licensees including back office solutions and betting platforms as well as the former games and lotteries etc.

However, there is no change to the exclusivity arrangements. For example, a full licence holder can source its platform and gambling products from a number of different suppliers whereas the sub-licensee is only permitted to use games or products supplied directly by a single full (or network services) licence holder (with which it is contracted) or games and products that it has developed itself. A sub-licensee would not be permitted to source its platform from one full licence holder and its games from another, or to source games from two or more full licence holders.

:: An offset mechanism for unused licence fees when upgrading or downgrading

Significant amendments have been made to **Regulation 3 (Licence fees)**.

Previously, there was no ability for operators to obtain a refund of any portion of a licence fee that was unused following an upgrade to a more expensive licence. A mechanism has been introduced that makes it possible for operators who wish to upgrade their licence to be able to offset any remaining unused portion of their licence fee against the cost of the upgrade.

:: Removal of the £5,000 annual network partner fee

Additionally, the network partner fee has been abolished. Network services licence holders pay £50,000 for a licence. At licence renewal, network services licence holders were additionally charged £5,000 for each network partner that they contracted with during the preceding twelve months. From 1st January 2017, on renewal, a network licensee will only be charged the network licence fee. There will be no charge raised for network partners.

These changes can be seen at Part 3 of the new regulations.

:: Relief from fund protection requirements where the funds pass to a third party and the players are professional gamblers

In the Online Gambling (Participants' Money) Regulations 2010, the definition of "participants' money" has changed. Clarification can be seen at Part 4 of the new regulations.

A new paragraph has also been added explaining what is meant by "participants' money." This change to the law was made to provide clarity about how the GSC expects operators to protect player funds at certain stages. For example, some operators employ models that are intrinsically linked with Tote betting. This change provides details about certain scenarios whereby the Commission considers funds to not be "participants' money."

3.4 Online Gambling (Systems Verification) (No. 2) Regulations 2007

Changes have been made to the definitions listed at **Regulation 1 (Citation, Commencement and Interpretation)**.

Regulation 2 (Certification of System for Gaming and Lotteries) has been substituted in its entirety.

Historically, the GSC was only able to accept test certificates that had been issued in compliance with the requirements of schedule 1 of the regulations. This change to the law now means that the GSC is able to accept test certificates that have been issued to other gambling regulators (by test houses approved by the GSC), if the regulatory authority has entered into a Memorandum of Understanding with the GSC. Presently, agreements have been signed with Alderney, Denmark, Estonia, Jersey, Malta, Seychelles and the United Kingdom and this change will enable the GSC to accept test certificates which have been issued following testing to the standards set down by those other regulatory jurisdictions.

In addition, should an international body or group of gambling regulators (of which the GSC is a member), draw up a set of standards, test certificates issued in compliance with those standards will be accepted.

These changes can be found at Part 5 of the new regulations.