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## GAMBLING LEGISLATION (AMENDMENT) BILL 2025

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### Explanatory Memorandum

1. This Bill is promoted by Dr Alex Allinson, MHK.
2. In the opinion of the member moving the Bill its provisions are compatible with the Convention rights within the meaning of the Human Rights Act 2001.
3. Part 1 of this Bill comprises *clauses 1 and 2*. *Clause 1* gives the title of the resulting Act and *clause 2* provides for it to commence by an order made by the Isle of Man Gambling Supervision Commission (the “Commission”). The order may include such supplemental, incidental, consequential and transitional provisions as appear to the Commission to be necessary or expedient.
4. Part 2 of this Bill comprises *clauses 3 to 10*, which amend the *Gaming (Amendment) Act 1984* (“1984 Act”).
5. *Clause 3* introduces the amendments to the 1984 Act.
6. *Clause 4* substitutes sections 12 and 13 of the 1984 Act with new sections 12, 12A and 13. New section 12 introduces new Schedule 4A, which provides for enhanced powers of inspection and investigation of the Gaming Board. New section 12A introduces the power for the Gaming Board to issue directions to the holder of any certificate or licence issued under the 1984 Act. A direction may require the holder of a certificate or licence to comply with a request for information, take action specified in the direction, impose requirements to secure suspension or discontinuance of a business or require a person to take action to discontinue or wind up a business. New section 12A enables the Gaming Board to revoke a certificate or licence if a direction is contravened; and provides that failure to comply with a written direction is an offence. New section 13 provides offences where a person provides false or misleading information to the Gaming Board.
7. *Clause 5* amends section 16 of the 1984 Act to enable orders and regulations under the 1984 Act to confer a function on a specified person or body and, in particular, enable or require a specified person or body to exercise a discretion. Orders or regulations may also require the holder of a licence or certificate under the 1984 Act to comply with such standards, rules, regulations, codes or guidance as are in operation from time to time.
8. *Clause 6* amends section 17 of the 1984 Act to omit the definition of “authorised officer” (as that term is now been replaced by “the Gaming Board”) and updates the definition of “public house” so as to refer to the *Liquor Licensing and Public Entertainments Act 2021*.
9. *Clause 7* amends Schedule 1 to the 1984 Act, to provide that a certificate remains in force for one month (instead of 14 days) after an application for renewal is

refused, or where a certificate is revoked; and adds as a ground for revocation the failure of a holder of a certificate to comply with a direction under section 12A.

10. *Clause 8* amends Schedule 2 to the 1984 Act to provide for the Gaming Board, instead of an “authorised officer”, to make regulations or issue a temporary certificate of registration in relation to a controlled machine.
11. *Clause 9* amends Schedule 3 to the 1984 Act to require the Gaming Board to notify the holder of a licence in writing of its decision to revoke the licence and provides that a licence remains in force for one month (instead of 21 days) after the Gaming Board’s decision to revoke it.
12. *Clause 10* inserts Schedule 4A into the 1984 Act. Schedule 4A sets out the powers of the Gaming Board for the purposes of it carrying out its functions under the Act, including powers of entry and inspection, requesting or requiring information, entry to premises under warrant, and seizing goods; and provides offences for obstruction or failing to cooperate with a person seeking to exercise the powers, failing to comply with a requirement to provide information, or falsifying concealing, or destroying information.
13. Part 3 of this Bill comprises clauses 11 to 29, which amend the *Casino Act 1986* (“1986 Act”)
14. *Clause 11* introduces the amendments to the 1986 Act.
15. *Clause 12* amends section 2 of the 1986 Act to extend the duties of the Isle of Man Gambling Supervision Commission (referred to as “the Board” in the 1986 Act). In particular, the Board supervises any premises in respect of which a temporary premises certificate has been issued. The Board is also required to investigate the fitness and propriety and financial standing of any person applying for holding any licence or concession under the 1986 Act, or otherwise concerned with the provision, operation or management of any casino or proposed casino.
16. *Clause 13* amends section 3 of the 1986 Act to provide that an application for the grant of a casino licence must be in such form as is required by the Council of Ministers, and be accompanied by such documents and information as the Council of Ministers may require.
17. Section 3 of the 1986 act is also amended to provide that the Council of Ministers must not grant a casino licence unless it is satisfied as to the matters set out in section 3 in relation to an applicant, including an applicant that is a body corporate.
18. Section 3 is also amended to enable the Board, after consulting the Council of Ministers, to issue written guidance setting out the criteria that the Council of Ministers will normally apply in assessing whether it is satisfied as to the matters set out in section 3 when considering whether to grant a casino licence under the 1986 Act.

19. *Clause 14* amends section 4 of the 1986 Act to enable the Council of Ministers to include a condition in a casino licence that requires the holder of the licence to carry out specified works at the casino or any associated premises. Section 4 is amended to require the holder of a licence that is a body corporate to notify the Board of any change in the legal or beneficial ownership of the share capital, or any class of share capital, of the holder over at percentage specified in the licence, any change in the ownership structure of the holder, any change in the control of the holder and any change in the beneficial ownership of the holder. In the case of a holder of a licence who is an individual, the holder of the licence must notify the Board of any change in the control of the business of the holder.
20. *Clause 15* amends section 5 of the 1986 Act to clarify that a casino licence application is to be in such form as is required by the Board and be accompanied by such documents and information as the Board may require.
21. *Clause 16* amends section 7 of the 1986 Act to remove the definition of “beneficial owner” (which is now re-defined in section 22 of the 1986 Act); and redefines “the court” as the High Court.
22. *Clause 17* amends section 8 of the 1986 Act to clarify that, subject to any order to the contrary made by the Gambling Appeals Tribunal, a casino licence ceases to have effect on its expiry, surrender or revocation, and has no effect at any time when the casino licence is suspended.
23. *Clause 18* amends section 11 of the 1986 Act to widen the scope of the Board’s regulation making powers to the making of provision to ensure the lawfulness of any processing of personal data by the Council of Ministers or the Board in exercise of their functions under the 1986 Act, to confer a function on a specified person or body and, in particular, enable or require a specified person or body to exercise a discretion. Regulations may also require the holder of a licence or certificate under the 1986 Act to comply with such standards, rules, regulations, codes or guidance as are in operation from time to time. *Clause 18* removes the power to make provision about the supervision of casinos by the Board, constables and inspectors.
24. *Clause 19* amends section 12C of the 1986 Act in consequence of the repeal of section 12G, since appeals are to be made under section 7 (appeal to Tribunal) of the *Gambling (Amendment) Act 2006*.
25. *Clause 20* amends section 12D of the 1986 Act to correct a cross-reference, so as to clarify that an authorisation conferred by a temporary premises certificate is subject to any conditions specified in it, and the breadth of that power is not limited by the fact that the certificate may include conditions described in section 12D(7).
26. *Clause 21* repeals section 12G of the 1986 Act, in consequence of appeals now being made under section 7 (appeal to Tribunal) of the *Gambling (Amendment) Act 2006*.
27. *Clause 22* repeals section 12L of the 1986 Act (as inspections are now dealt with under new Schedule 1A).

28. *Clause 23* amends section 12M of the 1986 Act to widen the scope of the Board's regulation making powers in respect of temporary premises certificates under Part IIA of the 1986 Act. The amendment enables regulations to make provision to confer a function on a specified person or body and, in particular, enable or require a specified person or body to exercise a discretion. Regulations may also require the holder of a licence or certificate under the 1986 Act to comply with such standards, rules, regulations, codes or guidance as are in operation from time to time. Clause 23 removes the power to make regulations concerning the supervision of the playing of prescribed games on the premises by the Board, constables, inspectors and others.
29. *Clause 24* amends section 13 of the 1986 Act in order to gender-neutralise provisions in the section and to provide for appeals against the revocation of a concession under section 13(5), or the refusal by the Council of Ministers to grant a casino licence to the concessionaire in accordance with the concession, to may be made under section 7 of the *Gambling (Amendment) Act 2006*.
30. *Clause 25* inserts new part IIIA and sections 14A to 14C into the 1986 Act. New section 14A introduces new schedule 1A into the 1986 Act.
31. New section 14B introduces the power for the Board to issue directions to the holder of a licence issued under the 1986 Act. A direction may require the holder of a licence to comply with a request for information, take action specified in the direction, impose requirements to secure suspension or discontinuance of a business or require a person to take action to discontinue or wind up a business. New section 14B enables the Gaming Board to revoke a licence if a direction is contravened; and provides that failure to comply with a written direction is an offence.
32. New section 14C provides a power to the board to direct a director or senior manager, a controller or the beneficial owner of the holder of a licence that such person must not continue in that role in relation to the holder of a licence without the written consent of the Board, in circumstances where the Board considers that the person is not a fit and proper person to continue in such a role. New Section 14B sets out the matters that the board must take into account when deciding whether or not to issue a direction and provides for the coming into operation of the direction and the process for appealing against the direction.
33. *Clause 26* repeals section 19 of the 1986 Act, as the right of constables to enter casinos is now dealt with in new Schedule 1A.
34. *Clause 27* inserts new section 19A into the 1986 Act. New section 19A introduces offences in respect of a person who furnishes or sends to the Board a document which the person knows is false or misleading in any particular; recklessly furnishes or sends to the Board such information, furnishes a statement which the person knows to be false or misleading in any material particular or does so recklessly; or fails without reasonable excuse to furnish information that the person is required to furnish to the Board.

35. *Clause 28* amends section 22 of the 1986 Act to add definitions of terms used in the 1986 Act by virtue of the amendments being made by this Bill.
36. *Clause 29* inserts new Schedule 1A into the 1986 Act. Schedule 1A sets out the powers of the Board for the purposes of it carrying out its functions under the 1986 Act, including powers of entry and inspection, requesting or requiring information, entry to premises under warrant, and seizing goods; and provides offences for obstruction or failing to cooperate with a person seeking to exercise the powers, failing to comply with a requirement to provide information, or falsifying concealing, or destroying information.
37. Part 4 of this Bill comprises clauses 30 to 42, which amend the *Gaming, Betting and Lotteries Act 1988* (“1988 Act”).
38. *Clause 30* introduces the amendments to the 1988 Act.
39. *Clause 31* amends section 29 of the 1988 Act, which sets out the offences relating to lotteries, and defences, so as to amend one of the defence provisions. It will be a defence under section 29(2A) for any person charged to prove that the lottery to which the proceedings relate was a lawfully promoted lottery under the Gambling Act 2005 (an Act of Parliament) by virtue of being a lottery promoted by a non-commercial society (as defined in that Act) in accordance with an operating licence granted under that Act authorising that activity, or a small society lottery within the meaning of Part 4 (small society lotteries) of Schedule 11 (exempt lotteries) to that Act; that the promotion of the lottery was managed by a person registered by the Commission under section 33A of the 1988 Act, and that at the date of the alleged offence the person believed, and had reasonable grounds for believing, that it was being conducted in accordance with the requirements of that Act and any regulations for the time being in force under that Act.
40. *Clause 32* amends section 30 of the 1988 Act to insert a definition of “licensed premises”, which is an expression used in that section but which was not previously defined.
41. *Clause 33* amends section 33 of the 1988 Act, to provide that the Gambling Supervision Commission may refuse to register a society under that section where the society has failed, without reasonable excuse, to comply with a direction under the 1988 Act.
42. *Clause 34* amends section 33A of the 1988 Act in respect of the information that needs to be specified in an application for registration of managers of British societies’ lotteries (being lotteries described in section 29(2A) of the 1988 Act).
43. *Clause 35* amends section 33B of the 1988 Act to provide that a lottery is not unlawful if it is a lawfully promoted lottery under the Gambling Act 2005 (an Act of Parliament) by virtue of being a lottery promoted by a non-commercial society (as defined in that Act) in accordance with an operating licence granted under that Act authorising that activity; or a small society lottery within the meaning of Part 4 (small society lotteries) of Schedule 11 (exempt lotteries) to that Act.

44. *Clause 36* amends section 38 of the 1988 Act, which makes it unlawful to conduct certain prize competitions, so that regulations may be made to authorise an activity which would otherwise be unlawful under that section. Such regulations must, at least, provide for the circumstances in which prize competitions can take place and set a maximum value for prizes.
45. *Clause 37* substitutes section 46 of the 1988 Act, and inserts sections 46A and 46B into, the 1988 Act. New section 46 introduces new schedule 5A into the 1988 Act.
46. New section 46A introduces the power for the Commission to issue directions to the holder of a licence, permit or registration issued under the 1988 Act. A direction may require the holder of a licence, permit or registration to comply with a request for information, take action specified in the direction, impose requirements to secure suspension or discontinuance of a business or require a person to take action to discontinue or wind up a business. A direction may be varied or revoked. New section 46A enables the Commission to exercise any of its powers described in section 46A(4) if a direction is contravened; and provides that failure to comply with a written direction is an offence.
47. New section 46B introduces offences in respect of a person who furnishes or sends to the Commission a document which the person knows is false or misleading in any particular; recklessly furnishes or sends to the Commission such information, furnishes a statement which the person knows to be false or misleading in any material particular or does so recklessly; or fails without reasonable excuse to furnish information that the person is required to furnish to the Commission.
48. *Clause 38* amends section 47 of the 1988 Act to widen the scope of the Commission's regulation making powers to confer a function on a specified person or body and, in particular enable or require a specified person or body to exercise a discretion. Regulations may also require the holder of a licence, permit, registration or certificate under the 1988 Act to comply with such standards, rules, regulations, codes or guidance as are in operation from time to time.
49. *Clause 39* amends section 48 of the 1988 Act to define "lottery", a term used regularly throughout the Act, but not previously defined.
50. *Clause 40* amends Schedule 1 to the 1988 Act, to remove an offence of making false statements in an application, as the offence is now included in new section 46B.
51. *Clause 41* amends Schedule 3 to the 1988 Act to amend the grounds for refusing an application for the grant or renewal of a permit.
52. *Clause 42* inserts new Schedule 5A into the 1988 Act. Schedule 5A sets out the powers of the Commission for the purposes of it carrying out its functions under the Act, including powers of entry and inspection, requesting or requiring information, entry to premises under warrant, and seizing goods; and provides offences for obstruction or failing to cooperate with a person seeking

- to exercise the powers, failing to comply with a requirement to provide information, or falsifying concealing, or destroying information.
53. Part 5 of this Bill comprises clauses 43 to 68, which amend the *Online Gambling Regulation Act 2001* (“2001 Act”).
  54. *Clause 43* introduces the amendments to the 2001 Act
  55. *Clause 44* replaces all references throughout the Act to “Commissioners” with “Commission”
  56. *Clause 45* amends section 4 of the 2001 Act to provide that an application for the grant of a licence must be in such form as is required by the Commission, and be accompanied by such documents and information as the Commission may require. Section 4 is also amended to set out the matters in respect of which the Commission must be satisfied before granting a licence, and enables the Commission to issue written guidance setting out the criteria that it will normally apply in assessing whether it is satisfied as to the matters referred to in section 4.
  57. *Clause 46* amends section 6 of the 2001 Act, which provides that a licence shall be subject to such conditions as are specified in the licence. Section 6 is amended to expressly permit the conditions to include conditions requiring the holder of a licence to notify the Commission of certain events that are described in section 6.
  58. *Clause 47* amends section 7 of the 2001 Act to provide for the surrender of a licence. The holder of a licence will be required to give notice of the intended surrender; and the Commission will be able to require information from the holder of the licence and determine steps that must be taken before the commission will permit the surrender and will enable the Commission to impose conditions in relation to the surrender of the licence.
  59. *Clause 48* amends section 8 of the 2001 Act to extend from 21 days to one month the period during which a licence continues in force following a refusal by the Commission to renew a licence; and to extend from 21 days to one month the period before which a variation of a licence, or a condition of a licence, or the imposition of a new condition takes effect.
  60. *Clause 49* amends section 9 of the 2001 Act to enable the Commission to impose new conditions on the application of the holder of a licence or of its own motion, in relation to a licence
  61. *Clause 50* amends section 10 of the 2001 Act to provide that the Commission must not approve an individual as a designated official unless satisfied that the person is a fit and proper person to act as such and must withdraw such approval if the commission ceases to be so satisfied. Section 10 is also amended to set out the matters in respect of which the Commission must be satisfied before approving an individual as a designated official and enables the Commission to issue written guidance setting out the criteria that it will normally apply in assessing whether it is satisfied as to the matters referred to in section 10.

62. *Clause 51* amends section 10A of the 2001 Act only to substitute “Commission” for “them”.
63. *Clause 52* amends section 11 of the 2001 Act to specify that it is a duty of the Commission to investigate the fitness and propriety and financial standing of any person applying for or holding any licence (including any beneficial owner or controller of such a person) or any other person concerned with the operation of any online gambling conducted in the Island.
64. *Clause 53* amends section 12 of the 2001 Act to require the holder of a licence to notify the Commission if the holder of the licence or any designated official, director, controller, senior manager or beneficial owner in relation to the licence is cautioned, charged or convicted of certain offences or becomes the subject of an investigation by any regulatory body. Section 12 is also amended to prohibit the appointment of directors of the holder of a licence unless the Commission is satisfied that the person is a fit and proper person.
65. *Clause 54* amends section 13 of the 2001 Act to add to the circumstances when the Commission must cancel a licence, and when it may suspend a licence. The new circumstances are that the holder of the licence has made a material change to the business model most recently submitted to the Commission by the holder. Section 13 is also amended as a consequence of the insertion of the new inspection and investigation powers in Schedule 1.
66. *Clause 55* amends section 14 of the 2001 Act to make a minor amendment in consequence of the substitution of “Commission” for Commissioners”.
67. *Clause 56* amends section 15 of the 2001 Act to set out the actions that the Commission must or may take where it appears to the Commission that a director or senior manager, a controller or a beneficial owner of the owner of a licence is not a fit and proper person to continue as such. Section 15 describes when a direction may be given, and when it takes effect.
68. *Clause 57* inserts section 15A into the 2001 Act. New section 15A introduces the power for the Commission to issue directions to the holder of a licence issued under the 2001 Act. A direction may require the holder of a certificate or licence to comply with a request for information, take action specified in the direction, impose requirements to secure suspension or discontinuance of a business or require a person to take action to discontinue or wind up a business. New section 15A enables the Commission to vary or revoke a direction. New section 15A also sets out the enforcement action that the Commission may take if a direction is contravened; and provides that failure to comply with a written direction is an offence.
69. *Clause 58* substitutes section 16 of the 2001 Act, which contain the Commission’s powers of entry and inspection under the Act. New section 16 introduces Schedule 1, which sets out the powers of inspection and investigation of the Commission.
70. *Clause 59* inserts section 16A into the 2001 Act. New section 16A introduces offences in respect of a person who furnishes or sends to the Commission a

document which the person knows is false or misleading in any particular; recklessly furnishes or sends to the Commission such information, furnishes a statement which the person knows to be false or misleading in any material particular or does so recklessly; or fails without reasonable excuse to furnish information that the person is required to furnish to the Commission.

71. *Clause 60* amends section 17 of the 2001 Act to remove the definition of “beneficial owner”, as this is now re-defined in section 25.
72. *Clause 61* amends section 18 of the 2001 Act to provide for the maximum penalty for an offence under the 2001 Act.
73. *Clause 62* amends section 21 of the 2001 Act to expand the powers of the Treasury to make regulations, so that the powers include the power to prescribe standards in respect of systems (including software), processes and procedures used in the conduct of online gambling and require compliance with such standards to be certified or audited; require the Commission to keep registers and make such registers available for inspection by members of the public; and make any provision as may be necessary to ensure the lawfulness of any processing of personal data by the Commission in the exercise of its functions under the 2001 Act in accordance with the data protection legislation. The amendment enables regulations to make provision to confer a function on a specified person or body and, in particular, enable or require a specified person or body to exercise a discretion. Regulations may also require the holder of a licence or certificate under the 2001 Act to comply with such standards, rules, regulations, codes or guidance as are in operation from time to time.
74. *Clause 63* inserts section 21A into the 2001 Act. New section 21A enables the Commission to establish, or provide for the establishment of standards in respect of any systems (including software), processes and procedures used in the conduct of online gambling. New section 21A enables the Commission to provide for compliance with standards and enforcement of the standards by specifying conditions in a licence; auditing compliance with any standards; approving persons to certify or audit compliance; and maintaining lists of any persons approved.
75. *Clause 64* inserts section 21B into the 2001 Act. New section 21B requires the Commission to keep a register of current and former holders of a licence which must be made available for inspection by members of the public at all reasonable times. The Commission may also keep a register of some or all current or former persons who are exempt from the restrictions on online gambling set out in section 2.
76. *Clause 65* amends section 22 of the 2001 Act to make a minor amendment in consequence of the renumbering of the original (and, previously only) schedule to the 2001 Act.
77. *Clause 66* amends section 25 of the 2001 Act to insert new definitions into section 25, which are needed as a result of the amendments to the 2001 Act generally.
78. *Clause 67* renumbers the existing Schedule to the 2001 Act as Schedule 2.

79. *Clause 68* inserts Schedule 1 into the 2001 Act. Schedule 1 sets out the powers of the Commission for the purposes of it carrying out its functions under the 2001 Act, including powers of entry and inspection, requesting or requiring information, entry to premises under warrant, and seizing goods; and provides offences for obstruction or failing to cooperate with a person seeking to exercise the powers, failing to comply with a requirement to provide information, or falsifying concealing, or destroying information.
80. Part 6 of this Bill comprises clauses 69 and 70, which amend the *Gambling (Amendment) Act 2006* (“2006 Act”).
81. *Clause 69* introduces the amendments to the 2006 Act.
82. *Clause 70* amends Schedule 4 to the 2006 Act to include in that Schedule all decisions under the various gambling acts that may be subject to appeal under the 2006 Act.
83. Part 7 of this Bill comprises clauses 71 to 75, which amend the *Gambling Supervision Act 2010* (“2010 Act”).
84. *Clause 71* introduces the amendments to the 2010 Act.
85. *Clause 72* amends section 3 of the 2010 Act to include within the list of Acts set out in the definition of “gambling Acts” the *Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Act 2018*.
86. *Clause 73* amends section 5 of the 2010 Act to add to the regulatory objectives of the Commission the objectives of implementing and applying recognised international standards; and safeguarding the reputation of the Island. Section 5 is also amended to remove the objectives of facilitating the development of the gambling industry in the Island; securing competition within that industry; and ensuring that gambling products promoted by that industry can compete effectively throughout the world.
87. *Clause 74* amends section 6 of the 2010 Act to redefine “gambling regulatory authority” to enable the authorities to be listed on the Commissions website.
88. *Clause 75* amends Schedule 2 to the 2010 Act to prohibit the disclosure of certain information specified in paragraph 1 and provide for further exceptions from restrictions on disclosure. In particular, the restriction in paragraph 1 does not preclude the disclosure of information for the purpose of enabling or assisting the Commission to discharge its functions under the gambling Acts or any other of its functions; for the purpose of enabling any person, appointed or authorised by the Commission, to exercise any powers of inspection and investigation under the gambling Acts; for the purposes of satisfying obligations created by a memorandum of understanding pertaining to medicinal cannabis to which the Commission or any Department is party; for the purpose of enabling or assisting a person appointed or to be appointed by an operator under section 24 of the *Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Act 2018*; or pursuant to an obligation under the *Freedom of Information Act 2015*.

89. Part 8 of this Bill comprises clauses 76 to 97, which amend the *Gambling (Anti-Money Laundering and Countering the Financing of Terrorism) Act 2018*. (“2018 Act”).
90. *Clause 76* introduces the amendments to the 2018 Act.
91. *Clause 77* amends section 3 of the 2018 Act to add definitions which are needed as a result of the amendments being made to the 2018 Act, and to remove any that are no longer needed.
92. *Clause 78* amends section 5 of the 2018 Act in respect of the Commission’s duty to provide AML/CFT regulation and oversight so that in carrying out his duty the commission may conduct such inspections and investigations as it considers necessary, and that the powers of the Commission under Part 2 may be exercised instead of or in conjunction with any other powers of the Commission under any other enactment.
93. *Clause 79* amends section 6 of the 2018 Act to require the commission to specify the AML/CFT information that must be included in the AML/CFT return to be submitted to the Commission.
94. *Clause 80* substitutes section 7 of the 2018 Act, which now introduces the Schedule in respect of the powers of investigation and inspection of the Commission.
95. *Clauses 81 to 86* repeal sections 8 to 13 of the 2018 Act, as these sections are re-enacted with amendments in the Schedule.
96. *Clause 87* amends section 14 of the 2018 Act to make minor corrections and provide that regulations made under that section require Tynwald approval.
97. *Clause 88* amends section 18 of the 2018 Act to add to the list of directions that the Commission may make, so that a direction may require the holder of a licence to comply with a request for information. It also adds “key persons” to the list of persons that may be regarded by the Commission as “not fit and proper” persons when an operator fails to comply with a written direction issued under section 18.
98. *Clause 89* amends section 19 of the 2018 Act to add to the list of public statements which the Commission may make.
99. *Clause 90* amends section 22 of the 2018 Act to enable it to impose a civil penalty on a person who has contravened any provision of the 2018 Act, instead of the operator only, so that a civil penalty may be imposed upon controllers, key persons or senior managers if the Commission is satisfied that a contravention was committed with the consent or connivance of, or was attributable to neglect on the part of, such a person. The Commission must also publish a statement setting out the maximum civil penalties that the Commission may impose, the factors that the Commission will have regard to in determining the imposition and amount of a civil penalty and the process the commission will follow when exercising the power to impose a civil penalty. The Commission is required to

consult such persons as the Commission considers appropriate before revising a statement.

100. *Clause 91* inserts section 22A into the 2018 Act which provides that the Commission may not impose a civil penalty on a person other than an operator in respect of a contravention that occurred before the commencement of clause 71 of this Bill except that if the contravention was continuing at the time of the commencement of that section, a civil penalty may be imposed in respect of such part of the contravention as continued after the commencement. The Commission must also not impose a civil penalty on an individual more than 6 years after the contravention came to the attention of the Commission.
101. *Clause 92* amends section 23 of the 2018 Act to enable the Commission to issue a warning notice to a relevant person (being a person who has been a director, senior manager, key person or controller) before the Commission makes a direction under section 18 or before the Commission imposes a prohibition under section 26 (prohibition of “not fit and proper” persons); or in any other circumstance in which the Commission considers it appropriate to do so. A warning notice may propose that a relevant person take such action as is specified in the notice; request a relevant person to propose action; or specify action that a relevant person must take and the time within which it must be taken.
102. *Clause 93* amends section 25 of the 2018 Act to include a “key person” as a person the Commission may direct an operator not to appoint unless the operator has received the written consent of the Commission.
103. *Clause 94* amends section 26 of the 2018 Act to make a minor correction to the text.
104. *Clause 95* inserts section 32A into the 2018 Act. New section 32A introduces offences in respect of a person who furnishes or sends to the Commission a document which the person knows is false or misleading in any particular; recklessly furnishes or sends to the Commission such information, furnishes a statement which the person knows to be false or misleading in any material particular or does so recklessly; or fails without reasonable excuse to furnish information that the person is required to furnish to the Commission.
105. *Clause 96* repeals section 35 of the 2018 Act, which provided the Tynwald procedure for the making of orders. The provision is no longer needed as all statutory documents under the Act are in future to be made by Regulations, requiring Tynwald approval.
106. *Clause 97* inserts a Schedule into the 2018 Act. The Schedule sets out the powers of the Commission for the purposes of it carrying out its functions under the 2018 Act, including powers of entry and inspection, requesting or requiring information, entry to premises under warrant, and seizing goods; and provides offences for obstruction or failing to cooperate with a person seeking to exercise the powers, failing to comply with a requirement to provide information, or falsifying concealing, or destroying information.



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*Ellan Vannin*

## GAMBLING LEGISLATION (AMENDMENT) BILL 2025

1 A **BILL** to amend gambling-related enactments and for connected purposes.

BE IT ENACTED by the King'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:—

### 2 PART 1 – INTRODUCTORY

#### 3 1 Short title

4 The short title of this Act is the Gambling Legislation (Amendment) Act 2025.

#### 5 2 Commencement

6 (1) This Act, apart from section 1 and this section, comes into operation on  
7 such day or days as the Commission may by order appoint.

8 (2) An order under subsection (1) may include such supplemental,  
9 incidental, consequential and transitional provisions as appear to the  
10 Commission to be necessary or expedient.

### 11 PART 2 – AMENDMENT OF THE GAMING (AMENDMENT) 12 ACT 1984

#### 13 3 Amendment of the Gaming (Amendment) Act 1984

14 The *Gaming (Amendment) Act 1984* is amended in accordance with this Part.

#### 15 4 Section 12 and 13 substituted and section 12A inserted

16 For section 12 (powers of entry, seizure, etc) and section 13 (false statements)  
17 substitute –

**“12 Inspection and investigation**

Schedule 4A has effect in respect of the powers of inspection and investigation of the Gaming Board.

**12A Directions**

(1) The Gaming Board may issue written directions under this section to the holder of any certificate or licence issued under this Act.

(2) A direction may –

- (a) require the holder of a certificate or a licence to comply with a request for information under paragraph 4 (requests for information for regulatory inspection purposes) of Schedule 4A (inspection and investigation);
- (b) require the holder of a certificate or a licence to take such action in respect of the holder’s business as is specified in the direction;
- (c) impose such requirements as are necessary to secure that any business carried on by the holder of a certificate or a licence is in whole or in part suspended or discontinued; or
- (d) where a holder of a certificate or a licence intends to surrender a certificate or a licence, require the person to take such action as is necessary to secure that any business or activity carried on by the holder is in whole or in part discontinued and wound up,

and the direction must include a statement of the reasons for its issue.

(3) The Gaming Board may, on an application by the holder of a certificate or a licence or of its own motion, vary or revoke a direction under this section and any variation or revocation of a direction must include a statement of the reasons for that variation or revocation.

(4) If the holder of a certificate or a licence contravenes a written direction under this section, the Gaming Board may exercise any one or more of the following powers as appropriate –

- (a) revoke a certificate granted under section 3 (certification of premises) under paragraph 9 (revocation and suspension of certificate) of Schedule 1 (procedure for grant of certificate);
- (b) revoke a licence issued under section 5 (restrictions on sale or supply of controlled machines) under paragraph 3 (revocation of licence) of Schedule 3 (licences under section 5).

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- (5) In addition to being subject to the powers of the Gaming Board under subsection (4), if the holder of a certificate or a licence fails to comply with a written direction under subsection (2)(d), the holder is guilty of an offence.

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Maximum penalty (summary) – 6 months’ custody or a fine of level 5 on the standard scale.

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- (6) The power to issue a written direction under this section is in addition to, and does not affect, the power of the Gaming Board to issue a direction under paragraph 8(2) (renewal and amendment of certificate) and paragraph 9(3) (revocation and suspension of certificate) of Schedule 1 (certification of premises).

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### 13 Offence in connection with information

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A person who –

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- (a) furnishes or sends to the Gaming Board for any purposes under this Act a document which the person knows is false or misleading in a material particular;

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- (b) recklessly furnishes or sends to the Gaming Board for the purposes of this Act a document which is false or misleading in a material particular;

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- (c) in furnishing information to the Gaming Board for the purposes of this Act –

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- (i) makes a statement which the person knows to be false or misleading in a material particular; or

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- (ii) recklessly makes a statement which is false or misleading in a material particular; or

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- (d) without reasonable excuse, fails to furnish information which that person is required to furnish to the Gaming Board under this Act,

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is guilty of an offence.

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Maximum penalty –

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- (a) (summary) – 6 months’ custody or a fine of level 5 on the standard scale; or
- (b) (information) – 2 years’ custody or a fine.”.

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### 5 Section 16 amended

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In section 16 (Tynwald control over orders and regulations) –

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- (a) in the heading for “Tynwald control over orders” substitute “Orders”;

38

- (b) number the existing text as subsection (1);

39

- (c) after subsection (1) (as renumbered) insert –

- 1 | “(2) Any regulations or orders made under this Act may –
- 2 | (a) confer a function on a specified person or body (including
- 3 | the Gaming Board) and a function conferred may, in
- 4 | particular, be a power or duty to exercise a discretion;
- 5 | (b) require the holder of a certificate or licence under this Act
- 6 | to comply with such standards, rules, regulations, codes or
- 7 | guidance as are from time to time in operation and made
- 8 | or issued by the Gaming Board or any other person
- 9 | whether in the Island or elsewhere.”.

## 10 | 6 Section 17 amended

11 | In section 17 (interpretation) –

- 12 | (a) omit the definition of “authorised officer”;
- 13 | (b) in the definition of “public house” for the words “has the same
- 14 | meaning as in the *Licensing Act 1961*” substitute “means premises
- 15 | in respect of which a licence has been granted under the *Liquor*
- 16 | *Licensing and Public Entertainments Act 2021* authorising the sale or
- 17 | supply of liquor on the premises for consumption on or off the
- 18 | premises;”.

## 19 | 7 Schedule 1 amended

20 | In Schedule 1 (certification of premises), in Part II (supplementary provisions) –

- 21 | (a) in paragraph 8(3)(b) (renewal and amendment of certificate), for
- 22 | “14 days from the date on which notification of the Gaming
- 23 | Board’s decision is given to the applicant or, where an appeal is
- 24 | made under paragraph 10” substitute “one month beginning with
- 25 | the date of the Gaming Board’s decision or, where an appeal is
- 26 | made under section 7 of the *Gambling (Amendment) Act 2006*”;
- 27 | (b) in paragraph 9 (revocation and suspension of certificate),
- 28 | (i) at the end of subparagraph (1)(c)(iv), insert “or”;
- 29 | (ii) after subparagraph (1)(c) insert –
- 30 | “(d) the holder of a certificate has failed, without reasonable
- 31 | cause, to comply with a direction under section 12A
- 32 | (directions),”;
- 33 | (iii) in subparagraph (2), for “14 days from the date on which
- 34 | such notification is given or, where an appeal is made
- 35 | under paragraph 10” substitute “one month beginning
- 36 | with the date of the decision to revoke the certificate or,
- 37 | where an appeal is made under section 7 of the *Gambling*
- 38 | *(Amendment) Act 2006*”.

1 **8 Schedule 2 amended**

2 In Schedule 2 (registration of controlled machines), in paragraph 7(2)(a) and (b)  
3 (regulations), for “an authorised officer” substitute “the Gaming Board”.

4 **9 Schedule 3 amended**

5 In Schedule 3 (licences under section 5), for paragraph 4, substitute –

6 “4. On revoking a licence under paragraph 3, the Gaming Board must notify  
7 the holder of the licence in writing and the licence shall (subject to paragraph 2)  
8 remain in force until the expiration of one month beginning with the date of the  
9 decision to revoke the licence or, where an appeal is made under section 7 of the  
10 *Gambling (Amendment) Act 2006*, until the appeal is abandoned or determined.”.

11 **10 Schedule 4A inserted**

12 After Schedule 4 (interim duty on controlled machines) insert –

13 “SCHEDULE 4A

14 INSPECTION AND INVESTIGATION

15 [Section 12]

16 **1 Interpretation**

17 (1) In this Schedule –

18 “associate” means –

- 19 (a) in relation to any individual –
- 20 (i) the parent, spouse, civil partner, child, stepchild or  
21 sibling of the individual;
- 22 (ii) any body corporate of which that individual is a  
23 director;
- 24 (iii) a partner or employee of that individual; or  
25 (iv) any person with whom the individual is known to  
26 have a close relationship;
- 27 (b) in relation to a body corporate –
- 28 (i) any director or employee of that body;
- 29 (ii) any subsidiary of that body;
- 30 (iii) any holding company of that body;
- 31 (iv) any subsidiary of that holding company;
- 32 (v) any director of any such holding company or  
33 subsidiary; or

(vi) any person with whom the body corporate is known to have a close relationship;

(c) in relation to an individual or a body corporate, any person with whom the individual or body corporate has an agreement, arrangement or other obligation —

(i) in respect of the acquisition, holding or disposal of shares or interests in a body corporate; or

(ii) to act together in exercising voting power with respect to such a body corporate;

“**beneficial owner**” means a natural person who ultimately owns or controls a legal entity, in whole or in part, through direct or indirect ownership or control of shares or voting rights or other ownership interest in that entity, or who exercises control via other means;

“**controller**” of a person (“**P**”) means —

(a) a person who either alone or with any associate or associates owns or controls, directly or indirectly —

(i) if P or another body corporate of which P is a subsidiary is a private company or a public company whose shares are not quoted on an exchange, 5% or more of the shares in P or that other body corporate; or

(ii) if P or another body corporate of which P is a subsidiary is a public company whose shares are quoted on an exchange, 20% or more of the shares in P or that other body corporate;

(b) a person who either alone or with any associate or associates owns or controls, directly or indirectly —

(i) if P or another body corporate of which P is a subsidiary is a private company or a public company whose shares are not quoted on an exchange, 5% or more of the voting power at any general meeting of P or that other body corporate; or

(ii) if P or another body corporate of which P is a subsidiary is a public company whose shares are quoted on an exchange, 20% or more of the voting power at any general meeting of P or that other body corporate;

(c) a person who is a director of P or of another body corporate of which P is a subsidiary;

(d) a person who is a director of a corporate director of P or of another body corporate of which P is a subsidiary;

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- (e) a person who, on account of that person's financial contribution to P or another body corporate of which P is a subsidiary, has power to significantly influence or control the activities of P or of another body corporate of which P is a subsidiary;
  - (f) a person on whose non-financial contribution P, or a body corporate of which P is a subsidiary, places such considerable reliance as to be dependent on that contribution in order to function as it normally would;
  - (g) a person in accordance with whose directions or instructions one or more of the directors of P or of another body corporate of which P is a subsidiary are accustomed to act unless such director or directors are accustomed to so act by reason only that they do so on advice given by that person in a professional capacity;
  - (h) a person who has the power to appoint directors to the board of directors or other executive committees of P or of another body corporate of which P is a subsidiary and to remove them;
  - (i) a person who otherwise appears to the Gaming Board to be able to exercise significant influence or control over P or another body corporate of which P is a subsidiary;
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- “**designated exchange**” means an investment exchange (not being a recognised exchange) for the time being included on the list of designated investment exchanges maintained by the Financial Conduct Authority of the United Kingdom;
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- “**equipment**” includes any computer, machine, controlled machine, electronic device, apparatus, software or other thing;
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- “**exchange**” means a recognised exchange or a designated exchange;
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- “**recognised exchange**” means a body for the time being declared to be a recognised investment exchange by an order of the Financial Conduct Authority of the United Kingdom under section 290 of the Financial Services and Markets Act 2000 (of Parliament)<sup>1</sup>;
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- “**subsidiary**” means a body corporate (whether or not incorporated under the *Companies Acts 1931 to 2004* or the *Companies Act 2006*) that is a subsidiary of another body corporate (whether or not incorporated under those Acts) and in determining whether one body corporate is a subsidiary of another the provisions of section 1 of the *Companies Act 1974* or section 220 of the *Companies Act 2006* shall apply (as the context requires), and “holding company” shall be construed accordingly.

<sup>1</sup> 2000 c.8

(2) The Treasury may by regulations amend the definition of “associate”, “beneficial owner”, “controller” or “exchange”.

Tynwald procedure – approval required.

## 2 Power of the Gaming Board

(1) The Gaming Board may exercise the powers in this Schedule for the purposes of the Gaming Board’s functions under this Act.

(2) Those functions of the Gaming Board include –

(a) securing compliance with the provisions of this Act (and any statutory documents made under it);

(b) supervising the keeping of controlled machines for use on any premises and the sale or supply of controlled machines in the Island;

(c) securing compliance with any conditions of a certificate or licence under this Act;

(d) securing that the keeping of controlled machines for use on any premises and the sale or supply of controlled machines is conducted in a manner consistent with the regulatory objectives set out in section 5 (regulatory objectives) of the *Gambling Supervision Act 2010*.

(3) To avoid doubt, the powers of the Gaming Board under this Schedule may be exercised in relation to –

(a) a person who is the holder of a certificate or licence under this Act;

(b) a person who was the holder of a certificate or licence under this Act but is no longer, but only in respect of or in connection with any transactions, matters or circumstances as occurred or existed when that person was such a holder;

(c) a person whom the Gaming Board reasonably suspects of currently –

(i) keeping controlled machines for use on any premises without a certificate; or

(ii) selling or supplying controlled machines without a licence;

(d) a person whom the Gaming Board reasonably suspects of having, in the past –

(i) kept controlled machines for use on any premises without a certificate; or

(ii) sold or supplied controlled machines without a licence,

but only in respect of or in connection with any transactions, matters or circumstances as occurred or existed when that person is suspected of having conducted that activity without a certificate or licence;

- (e) a person who keeps or has kept controlled machines on premises in respect of which an exemption applies or has applied under section 2(1)(d) (control of certain machines).

### 3 Entry and inspection

- (1) For a purpose mentioned in paragraph 2 (power of the Gaming Board), the Gaming Board may enter and inspect any premises that the Gaming Board reasonably believes are being or have been used for or in connection with –

- (a) the keeping of controlled machines for use; or  
(b) the sale or supply of controlled machines.

- (2) The power of entry under this paragraph –

- (a) may be exercised without a warrant;  
(b) subject to subparagraph (3), may be exercised with or without consent and with or without giving prior notice; and  
(c) must be exercised at a reasonable time.

- (3) The power under this paragraph to enter premises without a warrant does not apply in relation to premises used wholly or mainly as a private dwelling unless 24 hours' notice of the intended entry has been given to the occupier and the occupier consents to the person entering the premises.

- (4) A person ("P") entering any premises by virtue of this paragraph may –

- (a) be accompanied by such persons, and may take onto the premises such equipment, as P thinks necessary;  
(b) request any person on the premises to provide such assistance or information as P may reasonably require;  
(c) inspect any part of the premises and inspect, examine and test any equipment on the premises;  
(d) inspect or examine any books, accounts, documents and information (in whatever form they are held) on the premises or accessible from the premises and take possession of any such books, accounts, documents and information;  
(e) have access to, and inspect and examine the operation of, any electronic device and any associated apparatus or

material which is or has been in use in connection with any books, accounts, documents or information;

- (f) take copies of any books, accounts, documents and information and, in the case of any information kept in electronic form, require such information to be produced in a form in which it can be taken away and in which it is visible or legible or from which it can be readily produced in a visible and legible form;
- (g) request any person having charge of, or otherwise concerned with the operation of, any equipment to afford P such assistance as P may reasonably require;
- (h) seize, remove and retain anything (including documents and equipment) if P reasonably believes that it constitutes or contains evidence of —
  - (i) the commission of an offence under this Act;
  - (ii) the breach of a term or condition of a certificate or licence issued under this Act; or
  - (iii) non-compliance with any provision of this Act;
- (i) take any other steps in relation to anything referred to in subparagraph (4)(h) as appear to be necessary for preserving it and preventing interference with it.

(5) Nothing in this paragraph —

- (a) compels a person to disclose any items subject to legal privilege (within the meaning of section 13 of the *Police Powers and Procedures Act 1998*); or
- (b) confers a right on a person who enters premises in exercise of a power under this paragraph to seize any items subject to legal privilege.

#### 4 Requests for information for regulatory inspection purposes

- (1) The Gaming Board may request any person whom it reasonably believes may hold information that the Gaming Board reasonably requires for a purpose mentioned in paragraph 2 (power of the Gaming Board) to provide that information to the Gaming Board.
- (2) Without affecting the generality of subparagraph (1), the power to request any person to provide information under this paragraph includes the power to request information from —
  - (a) a person that the Gaming Board reasonably believes is or has been keeping controlled machines for use on any premises or selling or supplying controlled machines (whether with or without a certificate or licence under this Act) (“O”);

- 1 (b) any person other than O, including (without limitation) —  
2 (i) a person who is or has been an employee of O;  
3 (ii) a person who is or has been a controller or  
4 beneficial owner of O;  
5 (iii) a person that provides or has provided services to O  
6 or a person who is or has been an employee of such  
7 a person; or  
8 (iv) a person that is or was an associate of O;
- 9 (3) Without affecting the generality of subparagraph (1), the Gaming  
10 Board may request information about —  
11 (a) the affairs of any person who is or has been a customer of  
12 O or who has requested to be a customer of O;  
13 (b) any body corporate that is or has been —  
14 (i) a holding company, subsidiary or related company  
15 of O;  
16 (ii) a subsidiary of a holding company of O;  
17 (iii) a holding company of a subsidiary of O;  
18 (iv) a body corporate in respect of which a shareholder,  
19 controller or beneficial owner of O, either alone or  
20 with any associate or associates, is or has been  
21 entitled to exercise, or control the exercise of, 25% or  
22 more of the voting power at a general meeting or a  
23 meeting of the board of directors;  
24 (c) any partnership of which O is or has been a member;  
25 (d) any person who is or has been a controller or beneficial  
26 owner of O;  
27 (e) any hosting services provided to O; or  
28 (f) any other services provided to O.
- 29 (4) The power to request any person to provide information under  
30 subparagraph (1) includes the power to request a person to  
31 produce a document.
- 32 (5) If the Gaming Board has made a request of a holder of a certificate  
33 or licence, the Gaming Board may issue a direction under section  
34 12A (directions) to that holder to secure that effect is given to a  
35 request under this paragraph.
- 36 (6) A statement given by a person in response to such a direction may  
37 not be used in evidence against that person in respect of any  
38 criminal proceedings except proceedings alleging contravention  
39 of section 13 (offences in connection with information) or  
40 paragraph 9 (offences).

1 (7) A person shall not be under an obligation under this paragraph to  
2 disclose any items subject to legal privilege within the meaning of  
3 section 13 of the *Police Powers and Procedures Act 1998*.

4 (8) In this paragraph, “document” includes information recorded in  
5 any form and, in relation to any information kept in electronic  
6 form, references to its production include reference to producing  
7 the information in a form in which it can be taken away and in  
8 which it is visible and legible or from which it can be readily  
9 produced in a visible and legible form.

10 (9) In this paragraph —

11 (a) “related company”, in relation to O, means a body  
12 corporate (other than a subsidiary of O) in which O holds a  
13 qualifying capital interest;

14 (b) “qualifying capital interest” means an interest in relevant  
15 shares of the body corporate which O holds on a long-term  
16 basis for the purpose of securing a contribution to its own  
17 activities by the exercise of control or influence arising  
18 from that interest;

19 (c) “relevant shares” means shares comprised in the equity  
20 share capital of the body corporate of a class carrying  
21 rights to vote in all circumstances at general meetings of  
22 the body;

23 (d) “equity share capital” has the same meaning as in section  
24 1(5) of the *Companies Act 1974*;

25 (e) a holding of 20% or more of the nominal value of the  
26 relevant shares of a body corporate shall be presumed to  
27 be a qualifying capital interest unless the contrary is  
28 shown.

29 (10) The power in this paragraph may be exercised by the Gaming  
30 Board during an inspection of premises under paragraph 3 (entry  
31 and inspection) or otherwise.

## 32 5 Power of the Gaming Board to require information

33 (1) The Gaming Board may apply to a justice of the peace for a  
34 written instrument authorising the Gaming Board to exercise the  
35 powers in this paragraph.

36 (2) The justice of the peace may issue the written instrument if the  
37 justice of the peace is satisfied that there is good reason to do so  
38 for the purposes of investigating the affairs, or any aspect of the  
39 affairs, of any person, in so far as those affairs are relevant to —

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- (a) any controlled machines that the person is or was keeping or appears to be or have been keeping for use on any premises; or
- (b) the sale or supply of any controlled machines that the person is or was conducting or appears to be or have been conducting.
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- (3) The Gaming Board may by notice in writing, accompanied by a copy of the instrument issued by the justice of the peace under subparagraph (2), require the person whose affairs are to be investigated or any other person whom the Gaming Board has reason to believe has relevant information, documents or equipment –
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- (a) to attend before the Gaming Board at a specified time and place to answer questions or otherwise furnish information with respect to any matter relevant to the investigation;
- (b) to produce at a specified time and place any specified documents, class of documents or copies of documents which appear to the Gaming Board to be relevant to the investigation;
- (c) to make available to the Gaming Board for inspection, examination or testing, at a specified time and place, any specified equipment which appears to the Gaming Board to be relevant to the investigation.
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- (4) If a person who is required to produce a document or copies of documents under subparagraph (3)(b) fails to do so, the Gaming Board may require that person to state, to the best of that person's knowledge and belief, where they are.
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- (5) If any documents are produced as required under subparagraph (3)(b), the Gaming Board may –
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- (a) take possession of all such documents for so long as the Gaming Board considers necessary;
- (b) take copies or extracts from them; or
- (c) require the person producing them to provide an explanation of any of them.
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- (6) A notice under subparagraph (3) must include a statement informing the person of the offences under paragraph 9 (offences) and section 13 (offences in connection with information).
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- (7) A person shall not be under an obligation under this paragraph to disclose any items subject to legal privilege within the meaning of section 13 of the *Police Powers and Procedures Act 1998*.
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- (8) A statement given by a person in response to a requirement imposed under this paragraph may not be used in evidence

1 against that person in respect of any criminal proceedings except  
2 proceedings alleging contravention of section 13 (offences in  
3 connection with information) or paragraph 9 (offences).

4 (9) In this paragraph “document” includes information recorded in  
5 any form and, in relation to any information kept in electronic  
6 form, references to its production include reference to producing  
7 the information in a form in which it can be taken away and in  
8 which it is visible and legible or from which it can be readily  
9 produced in a visible and legible form.

10 (10) If a person claims a lien on a document, its production under this  
11 paragraph is without prejudice to the lien.

## 12 6 Entry to premises under warrant

13 (1) The Gaming Board may apply to a Deemster for a warrant  
14 authorising the Gaming Board to enter any premises.

15 (2) A Deemster may issue the warrant only if, on information on oath  
16 laid by the Gaming Board, the Deemster is satisfied that —

17 (a) the Gaming Board would be permitted to enter the  
18 premises without a warrant in accordance with paragraph  
19 3 (entry and inspection) and at least one of the conditions  
20 in subparagraph (3) is satisfied;

21 (b) a person has failed (wholly or in part) to comply with an  
22 obligation under paragraph 5 to furnish information,  
23 produce documents or make equipment available and  
24 there are reasonable grounds for suspecting that the  
25 information, documents or equipment are on the premises;

26 (c) there are reasonable grounds for suspecting that there are  
27 on the premises information, documents or equipment in  
28 relation to which the power in paragraph 5 could be  
29 exercised but if such a requirement were imposed it would  
30 not be complied with or might seriously prejudice the  
31 purpose of exercising that power; or

32 (d) there are reasonable grounds for suspecting that there are  
33 on the premises information, documents or equipment in  
34 relation to which the power in paragraph 5 could be  
35 exercised but it is not practicable to serve a notice under  
36 paragraph 5(3) in relation to them.

37 (3) Those conditions are —

38 (a) entry to the premises has been refused or is likely to the  
39 refused;

- 1 (b) the purpose of entry may be frustrated or seriously  
2 prejudiced unless immediate entry to the premises can be  
3 secured; or
- 4 (c) the premises are unoccupied or the occupier is absent.
- 5 (4) A warrant issued by a Deemster may authorise any person named  
6 in the warrant (“P”), to do any one or more of the following –
- 7 (a) to enter any premises specified in the warrant, using such  
8 force as is reasonably necessary for the purpose;
- 9 (b) to search any such premises;
- 10 (c) to be accompanied by such persons, and take onto the  
11 premises such equipment, as P thinks necessary;
- 12 (d) to seize, remove and retain any information, documents or  
13 equipment appearing to be information, documents or  
14 equipment of the description specified in the application  
15 for the warrant or take any other steps in relation to such  
16 information, documents or equipment as appear to be  
17 necessary for preserving them and preventing interference  
18 with them;
- 19 (e) if it is not reasonably practicable to determine on the  
20 premises if information, documents or equipment is or  
21 contains something that is entitled to be seized under the  
22 warrant, to seize and remove such information, documents  
23 or equipment from the premises to enable that  
24 determination to be made;
- 25 (f) to require any person on the premises to provide such  
26 assistance or information as P may reasonably require;
- 27 (g) to inspect any part of the premises and inspect, examine  
28 and test any equipment on the premises;
- 29 (h) to inspect or examine any books, accounts, documents and  
30 information (in whatever form they are held) on the  
31 premises or accessible from the premises and take  
32 possession of any such books, accounts, documents and  
33 information;
- 34 (i) to have access to, and inspect and examine the operation  
35 of, any electronic device and any associated apparatus or  
36 material which is or has been in use in connection with any  
37 books, accounts, documents or information;
- 38 (j) to take copies of any books, accounts, documents and  
39 information and, in the case of any information kept in  
40 electronic form, require such information to be produced in  
41 a form in which it can be taken away and in which it is  
42 visible or legible or from which it can be readily produced  
43 in a visible and legible form;

1 (k) to require any person having charge of, or otherwise  
2 concerned with the operation of, any equipment to afford P  
3 such assistance as P may reasonably require;

4 (l) to seize, remove and retain anything (including documents  
5 and equipment) if P reasonably believes that it constitutes  
6 or contains evidence of —

7 (i) the commission of an offence under this Act;

8 (ii) the breach of a term or condition of a certificate or  
9 licence issued under this Act; or

10 (iii) non-compliance with any provision of this Act;

11 (m) take any other steps in relation to anything referred to in  
12 subparagraph (4)(l) as appear to be necessary for  
13 preserving it and preventing interference with it.

14 (5) Any person executing a warrant issued under this paragraph  
15 must be accompanied by a constable.

16 (6) A warrant issued under this paragraph ceases to have effect at the  
17 end of the period of one month beginning with the day it is  
18 issued.

19 (7) If the premises are unoccupied or the occupier is temporarily  
20 absent, on leaving the premises the person executing the warrant  
21 must —

22 (a) leave a notice on the premises stating that the premises  
23 have been entered under a warrant under this paragraph;  
24 and

25 (b) leave the premises as effectively secured against  
26 trespassers as that person found them.

27 (8) Nothing in this paragraph —

28 (a) compels a person to disclose any items subject to legal  
29 privilege (within the meaning of section 13 of the *Police  
30 Powers and Procedures Act 1998*); or

31 (b) confers a right on a person who enters premises in exercise  
32 of a power under this paragraph to seize any items subject  
33 to legal privilege.

34 (9) A statement given by a person in response to a requirement  
35 imposed under this paragraph may not be used in evidence  
36 against that person in respect of any criminal proceedings except  
37 proceedings alleging contravention of section 13 (offences in  
38 connection with information) or paragraph 9 (offences).

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**7 Seized goods**

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(1) If the Gaming Board seizes, removes or takes possession of anything under paragraph 3 (entry and inspection) or paragraph 6 (entry to premises under warrant), the Gaming Board must take reasonable steps as soon as reasonably practicable to —

(a) inform the person from whom they are seized, removed or taken that they have been seized, removed or taken; and

(b) provide that person with a written record of what has been seized, removed or taken.

(2) Anything seized, removed or taken under this paragraph may be retained for so long as it may be required for the purpose for which it was seized, removed or taken.

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**8 Authorisation**

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(1) The Gaming Board may authorise in writing such persons as it thinks appropriate to exercise on its behalf all or any of the powers under this Schedule.

(2) A person seeking to exercise a power under this Schedule must, if requested to do so, produce evidence of the person's identity and authority to do so.

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**9 Offences**

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(1) A person who, without reasonable excuse —

(a) obstructs or fails to cooperate with any person who is exercising or seeking to exercise a power under paragraph 3 (entry and inspection) or paragraph 6 (entry to premises under warrant); or

(b) fails to comply with a requirement imposed under paragraph 5 (power of the Gaming Board to require information),

is guilty of an offence.

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(2) A person who —

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(a) knows or suspects that an inspection or investigation by the Gaming Board is being or is likely to be carried out; and

(b) falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, information that the person knows or suspects is or would be relevant to such an inspection or investigation,

is guilty of an offence.

(3) It is a defence for a person charged with an offence under subparagraph (2) to prove that there was no intention of concealing the facts disclosed by the information from persons carrying out such an inspection or investigation.

Maximum penalty for this paragraph –

- (a) (summary) – 6 months’ custody or a fine of level 5 on the standard scale; or
- (b) (information) – 2 years’ custody or a fine.

## PART 3 – AMENDMENT OF THE CASINO ACT 1986

### 11 Amendment of the Casino Act 1986

The *Casino Act 1986* (“1986 Act”) is amended in accordance with this Part.

### 12 Section 2 amended

In section 2 (duties of the Board) –

- (a) in subsection (1)(b), after “casino” insert “ and any premises in respect of which a temporary premises certificate is issued”;
- (b) for subsection (1)(c), substitute –
  - “(c) investigate (as the context requires) the fitness and propriety and financial standing of any person applying for or holding any licence or concession under this Act or otherwise concerned with the provision, operation or management of any casino or proposed casino;”.

### 13 Section 3 amended

(1) Section 3 (casino licence) is amended as follows.

(2) After subsection (1), insert –

“(1ZA) An application for the grant of a casino licence must be in such form as is required by the Council of Ministers, and be accompanied by such documents and information as the Council of Ministers may require.”.

(3) For subsection (6), substitute –

- “(6) The Council of Ministers shall not grant a casino licence to any person unless it is satisfied –
  - (a) in the case of a licence intended to be granted to an individual –
    - (i) that the individual is a fit and proper person to hold a casino licence;

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- (ii) that the individual has adequate knowledge and financial means available to operate the casino;
  - (iii) that any controller of the business that the individual proposes to carry on is a fit and proper person to act as such;
  - (iv) that any senior manager of the business that the individual proposes to carry on is a fit and proper person to act as such;
  - (v) that the individual is the occupier of the whole of the casino and any associated premises and has such security of tenure of the casino and any associated premises as the Council of Ministers considers adequate;
  - (vi) that the individual intends to operate all the facilities and amenities to be provided at the casino and any associated premises; and
  - (vii) that the casino is being or will be operated in a manner consistent with the regulatory objectives set out in section 5 (regulatory objectives) of the *Gambling Supervision Act 2010*;
- (b) in the case of a licence intended to be granted to a body corporate –
- (i) that the body is incorporated in the Island;
  - (ii) that the body is a fit and proper person to hold a casino licence;
  - (iii) that any director of the body is a fit and proper person to act as such;
  - (iv) that any controller of the body is a fit and proper person to act as such;
  - (v) as to the beneficial ownership of the share capital of the body;
  - (vi) that any beneficial owner of the body is a fit and proper person to be such an owner;
  - (vii) that any senior manager of the body is a fit and proper person to act as such;
  - (viii) that the body has adequate financial means available to operate the casino;
  - (ix) that the body is the occupier of the whole of the casino and any associated premises and has such security of tenure of the casino and any associated premises as the Council of Ministers considers adequate;

- (x) that the body intends to operate all the facilities and amenities to be provided at the casino and any associated premises; and
- (xi) that the casino is being or will be operated in a manner consistent with the regulatory objectives set out in section 5 (regulatory objectives) of the *Gambling Supervision Act 2010*.

(6A) In assessing whether the Council of Ministers is satisfied as to the requirements in subsection (6), the Council of Ministers may have regard (among other things) to –

- (a) in the case of a licence intended to be granted to a body corporate, the integrity, competence, financial standing, structure and organisation of that body;
- (b) the integrity, competence and financial standing of any other person mentioned in subsection (6), as the context requires;
- (c) the business the applicant for the licence proposes to carry on or is carrying on;
- (d) the money laundering risk and the risk of financing of terrorism or proliferation;
- (e) the integrity of any person who is an associate of the applicant for the licence or an associate of any other person mentioned in subsection (6).

(6B) The Board may, after consulting the Council of Ministers, issue written guidance setting out the criteria that the Council of Ministers will normally apply in assessing whether it is satisfied as required by subsection (6).”

## 14 Section 4 amended

- (1) Section 4 (conditions of casino licence) is amended as follows.
- (2) In subsection (2) –
- (a) for “direction” where it first appears, substitute “licence”;
- (b) in paragraph (a), omit “(which shall not be less than an amount specified in the direction)”.
- (3) In subsection (3) –
- (a) for paragraphs (b) and (c) substitute –
- “ (b) where the holder of the licence is a body corporate, that the holder of the licence must notify the Board of –
- (i) any change in the legal or beneficial ownership of the share capital, or of any class of share capital, of the holder over a percentage specified in the licence;

- 1 (ii) any change in the ownership structure of the holder;
- 2 (iii) any change in the controller of the holder;
- 3 (iv) any change in the beneficial ownership of the
- 4 holder;
- 5 (ba) where the holder of the licence is an individual, that the
- 6 holder of the licence must notify the Board of any change
- 7 in a controller of the business of the holder;
- 8 (c) where the holder of the licence is a body corporate, that no
- 9 person shall be appointed to be a director of the body
- 10 unless the Board is satisfied that the person is a fit and
- 11 proper person to act as such;”;
- 12 (b) after subsection (3), insert –
- 13 “(3A) In assessing whether the Board is satisfied as to the requirements
- 14 in subsection (3)(c), the Board may have regard (among other
- 15 things and with any necessary modifications) to the matters
- 16 mentioned in section 3(6A).”;
- 17 (c) in subsection (5)(c) for “Civil Division (Summary Jurisdiction)”
- 18 substitute “High Court”;
- 19 (d) for subsection (7) substitute –
- 20 “(7) In this section “AML/CFT legislation” means any code made
- 21 under section 157 (money laundering codes) of the *Proceeds of*
- 22 *Crime Act 2008* or section 68 (codes relating to the financing of
- 23 proliferation and terrorism) of the *Terrorism and Other Crime*
- 24 *(Financial Restrictions) Act 2014*.”.

## 25 15 Section 5 amended

- 26 (1) Section 5 (duration etc of casino licence) is amended as follows.
- 27 (2) After subsection (2) insert –
- 28 “(2A) An application under subsection (2) must be in such form as is
- 29 required by the Board, and be accompanied by such documents
- 30 and information as the Board may require.”.
- 31 (3) In subsection (6), for “(3) and (4)” substitute “(3) to (4)”.

## 32 16 Section 7 amended

33 In section 7(5) (beneficial ownership of casinos) –

- 34 (a) omit the definition of “beneficial owner”;
- 35 (b) in the definition of “the court”, for “Civil Division” substitute
- 36 “High Court”.

**17 Section 8 amended**

In section 8(3) (sale of liquor etc), for “Subject to any order under section 6(2),” substitute “Subject to any order to the contrary made by the Gambling Appeals Tribunal.”

**18 Section 11 amended**

(1) Section 11 (regulations) is amended as follows.

(2) For subsection (1) substitute –

“ (1) The Board may by regulations –

(a) provide for anything it considers to be necessary or expedient for the licensing, regulation and good conduct of casinos;

(b) make any provision as may be necessary to ensure the lawfulness of any processing of personal data by the Council of Ministers or the Board in the exercise of their functions under this Act in accordance with the data protection legislation.”

(3) Omit subsection (2)(h).

(4) After subsection (2) insert –

“ (2A) Regulations under subsection (1) may –

(a) confer a function on a specified person or body (including the Board) and a function conferred may, in particular, be a power or duty to exercise a discretion;

(b) without limiting paragraph (a), confer a function on a specified person or body (including the Board) to approve persons employed in a casino, approve forms of notices or approve technology;

(c) require holders of a licence to comply with such standards, rules, regulations, codes or guidance as are from time to time in operation and made or issued by the Board or any other person whether in the Island or elsewhere.”

**19 Section 12C amended**

In section 12C (the certificate), in subsection (4)(b)(i), for “12G” substitute “7 of the *Gambling (Amendment) Act 2006*”.

**20 Section 12D amended**

In section 12D (certificate conditions), in subsection (2), for “(3) to (6)” substitute “(3) to (7)”.

1 **21 Section 12G repealed**

2 Section 12G (appeals to the Gambling Appeals Tribunal) is repealed.

3 **22 Section 12L repealed**

4 Section 12L (inspection) is repealed.

5 **23 Section 12M amended**

6 (1) Section 12M (regulations under Part II of the Casino Act 1986) is  
7 amended as follows.

8 (2) Omit subsection (2)(f).

9 (3) After subsection (2) insert –

10 | “(2A) Regulations under subsection (1) may –

11 | (a) confer a function on a specified person or body (including  
12 | the Board) and a function conferred may, in particular, be a  
13 | power or duty to exercise a discretion;

14 | (b) without limiting paragraph (a), confer a function on a  
15 | specified person or body (including the Board) to approve  
16 | forms of notices or approve technology;

17 | (c) require holders of a licence or any person or body involved  
18 | in promoting or organising the playing of prescribed  
19 | games on the premises (in conjunction with the holder of  
20 | the casino licence) to comply with such standards, rules,  
21 | regulations, codes or guidance as are from time to time in  
22 | operation and made or issued by the Board or any other  
23 | person whether in the Island or elsewhere.”.

24 **24 Section 13 amended**

25 (1) Section 13 (casino concession) is amended as follows.

26 (2) In subsection (4) –

27 (a) for “he” substitute “that person”;

28 (b) for “paragraph (c)” substitute “paragraph (a)(v) or (b)(ix)”.

29 (3) In subsection (5) –

30 (a) in paragraph (a), for “he” substitute “the concessionaire”;

31 (b) in paragraph (b) –

32 (i) for “him” substitute “the concessionaire”;

33 (ii) for “his” substitute “the concessionaire’s”.

34 (4) In subsection (6)(b), for “him” substitute “the concessionaire”.

35 (5) In subsection (8) –

- 1 (a) for “Section 6(1) and (3) (appeals)” substitute “Section 7 of the  
2 *Gambling (Amendment) Act 2006* (appeals to tribunal);”
- 3 (b) for “as it applies to a refusal to renew a casino licence, and any  
4 such revocation or refusal may not, otherwise than in accordance  
5 with section 6(1)” substitute “ as it applies to a refusal to renew, or  
6 the revocation of, a casino licence by the Board, and any such  
7 revocation or refusal may not, otherwise than in accordance with  
8 section 7 of the *Gambling (Amendment) Act 2006*”.

9 **25 Part IIIA and section 14A to 14C inserted**

- 10 (1) After section 14 (deposits) insert –

11 **“PART IIIA – INSPECTION AND INVESTIGATION**

12 **14A Inspection and investigation**

13 Schedule 1A has effect in respect of the powers of inspection and  
14 investigation of the Board.”.

- 15 (2) After the heading “Part IV – miscellaneous and supplemental”  
16 insert –

17 **“14B Directions**

- 18 (1) The Board may issue written directions under this section to the  
19 holder of a casino licence.

- 20 (2) A direction may –

- 21 (a) require the holder of a licence to comply with a request for  
22 information under paragraph 3 (requests for information  
23 for regulatory inspection purposes) of Schedule 1A  
24 (inspection and investigation);
- 25 (b) require the holder of a licence to take such action in respect  
26 of the holder’s business as is specified in the direction;
- 27 (c) impose such requirements as are necessary to secure that  
28 any business carried on by the holder of a licence is in  
29 whole or in part suspended or discontinued; or
- 30 (d) where a holder of a licence intends to surrender a licence,  
31 require the person to take such action as is necessary to  
32 secure that any business carried on by the holder is in  
33 whole or in part discontinued and wound up,

34 and the direction must include a statement of the reasons for its  
35 issue.

- 1 | (3) The Board may, on an application by the holder of a licence or of  
2 | its own motion, vary or revoke a direction under this section and  
3 | any variation or revocation of a direction must include a  
4 | statement of the reasons for that variation or revocation.
- 5 | (4) If a holder of a licence contravenes a written direction under this  
6 | section, the Board may exercise any one or more of the following  
7 | powers as appropriate —
- 8 | (a) the refusal to renew the licence under section 5 (duration  
9 | etc of casino licence);
- 10 | (b) the suspension or revocation of the licence under section 5;
- 11 | (c) the variation or revocation of any condition specified in a  
12 | temporary premises certificate under section 12E (variation  
13 | of certificate);
- 14 | (d) the imposition of a new condition on the temporary  
15 | premises certificate under section 12E;
- 16 | (e) the suspension or revocation of a temporary premises  
17 | certificate under section 12F (revocation or suspension of  
18 | certificate);
- 19 | (f) the variation of any licence issued by the Board for the sale  
20 | by retail of liquor under section 12H (sale of liquor);
- 21 | (g) the revocation of a certificate issued under section  
22 | 12K(1)(b) (approval of management and staff);
- 23 | (h) any of its powers under any regulations made under  
24 | section 11 (regulations) or section 12M (regulations under  
25 | this Part).
- 26 | (5) In addition to being subject to the powers of the Board under  
27 | subsection (4), if the holder of a casino licence fails to comply with  
28 | a written direction issued under subsection (2)(d), the holder is  
29 | guilty of an offence.
- 30 | Maximum penalty (summary) – 6 months’ custody or a fine of  
31 | level 5 on the standard scale.
- 32 | (6) In this section, a reference to the “holder’s business” or “any  
33 | business carried on by the holder” includes any business to which  
34 | a temporary premises certificate relates.

35 | **14C Persons unfit to be directors, senior managers, controllers or**  
36 | **owners**

- 37 | (1) If, on reasonable grounds, it appears to the Board that any —
- 38 | (a) director or senior manager;
- 39 | (b) controller; or
- 40 | (c) beneficial owner,

1 of the holder of a licence is not a fit and proper person to continue  
2 as such, the Board may direct the holder of the licence and the  
3 person concerned that such person must not continue as a  
4 director, senior manager, controller or beneficial owner, without  
5 the written consent of the Board.

6 (2) In deciding whether to issue a direction under subsection (1), the  
7 Board may have regard (among other thing and with any  
8 necessary modifications) to the matters mentioned in section  
9 3(6A).

10 (3) The Board must give written notice to the holder of the licence  
11 and to the person concerned of any decision to make a direction  
12 under this section together with a statement of the reasons for the  
13 decision.

14 (4) Subject to subsection (5), if a notice has been given under  
15 subsection (3), the direction shall take effect —

16 (a) if no appeal under section 7 (appeal to Tribunal) of the  
17 *Gambling (Amendment) Act 2006* is made before the end of  
18 the period of one month beginning with the date of the  
19 decision to make a direction, on the expiry of that period;  
20 or

21 (b) if there is an appeal under section 7 of the *Gambling*  
22 *(Amendment) Act 2006* —

23 (i) where the appellant abandons the appeal, on the  
24 date of the abandonment;

25 (ii) where the decision of the Board is confirmed, on the  
26 date of confirmation; or

27 (iii) where the decision of the Board is varied, on such  
28 date as the Gambling Appeals Tribunal directs.

29 (5) If the Board is of the opinion that a direction should have  
30 immediate effect, the notice under subsection (3) must contain a  
31 statement to that effect together with the reasons for that opinion,  
32 and the direction shall have effect on the giving of the notice.

33 (6) Any direction or consent given by the Board under subsection (1)  
34 may be —

35 (a) given subject to conditions;

36 (b) varied from time to time;

37 (c) revoked at any time,

38 and the Board must give written notice to the holder of the licence  
39 and to the person concerned of any decision to exercise the power  
40 conferred by paragraph (a), (b) or (c).

- 1 (7) A person must not continue in any of the roles referred to in  
2 subsection (1) in contravention of a direction under this section.
- 3 (8) It is the duty of a holder of a licence to take reasonable care not to  
4 continue the appointment of a person in contravention of a  
5 direction under this section.”.

6 **26 Section 19 repealed**

7 Section 19 (right of constables etc to enter casino) is repealed.

8 **27 Section 19A inserted**

9 Before section 20 (offences by body corporate) insert –

10 **“19A Offence in connection with information**

11 | A person who –

- 12 (a) furnishes or sends to the Board for any purposes under this  
13 Act a document which the person knows is false or  
14 misleading in a material particular;
- 15 (b) recklessly furnishes or sends to the Board for the purposes  
16 of this Act a document which is false or misleading in a  
17 material particular;
- 18 (c) in furnishing information to the Board for the purposes of  
19 this Act –
- 20 (i) makes a statement which the person knows to be  
21 false or misleading in a material particular; or
- 22 (ii) recklessly makes a statement which is false or  
23 misleading in a material particular; or
- 24 (d) without reasonable excuse, fails to furnish information  
25 which that person is required to furnish to the Board under  
26 this Act,  
27 is guilty of an offence.
- 28 Maximum penalty –
- 29 (a) (summary) – 6 months’ custody or a fine of level 5 on the  
30 standard scale; or
- 31 (b) (information) - 2 years’ custody or a fine.”.

32 **28 Section 22 amended**

- 33 (1) Section 22 (interpretation) is amended as follows.
- 34 (2) Number the existing text beginning “in this Act” as subsection (1).

(3) In subsection (1) (as renumbered), at the appropriate place in alphabetical order, insert –

“**“associate”** means –

(a) in relation to any individual –

- (i) the parent, spouse, civil partner, child, stepchild or sibling of the individual;
- (ii) any body corporate of which that individual is a director;
- (iii) a partner or employee of that individual; or
- (iv) any person with whom the individual is known to have a close relationship;

(b) in relation to a body corporate –

- (i) any director or employee of that body;
- (ii) any subsidiary of that body;
- (iii) any holding company of that body;
- (iv) any subsidiary of that holding company;
- (v) any director of any such holding company or subsidiary; or
- (vi) any person with whom the body corporate is known to have a close relationship;

(c) in relation to an individual or a body corporate, any person with whom the individual or body corporate has an agreement, arrangement or other obligation –

- (i) in respect of the acquisition, holding or disposal of shares or interests in a body corporate; or
- (ii) to act together in exercising voting power with respect to such a body corporate;”;

“**“controller”** means –

(a) a person who either alone or with any associate or associates owns or controls, directly or indirectly –

- (i) if the holder of a casino licence or another body corporate of which the holder is a subsidiary is a private company or a public company whose shares are not quoted on an exchange, 5% or more of the shares in that holder or that other body corporate; or
- (ii) if the holder of a casino licence or another body corporate of which the holder is a subsidiary is a public company whose shares are quoted on an exchange, 20% or more of the shares in that holder or that other body corporate;

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- (b) a person who either alone or with any associate or associates owns or controls, directly or indirectly –
    - (i) if the holder of a casino licence or another body corporate of which the holder is a subsidiary is a private company or a public company whose shares are not quoted on an exchange, 5% or more of the voting power at any general meeting of that holder or that other body corporate; or
    - (ii) if the holder of a casino licence or another body corporate of which the holder is a subsidiary is a public company whose shares are quoted on an exchange, 20% or more of the voting power at any general meeting of that holder or that other body corporate;
  - (c) a person who is a director of the holder of a casino licence or of another body corporate of which that holder is a subsidiary;
  - (d) a person who is a director of a corporate director of the holder of a casino licence or of another body corporate of which that holder is a subsidiary;
  - (e) a person who, on account of that person's financial contribution to the holder of a casino licence or another body corporate of which that holder is a subsidiary, has power to significantly influence or control the activities of the holder of a casino licence or of another body corporate of which that holder is a subsidiary;
  - (f) a person on whose non-financial contribution the holder of a casino licence, or a body corporate of which that holder is a subsidiary, places such considerable reliance as to be dependent on that contribution in order to function as it normally would;
  - (g) a person in accordance with whose directions or instructions one or more of the directors of the holder of a casino licence or of another body corporate of which that holder is a subsidiary are accustomed to act unless such director or directors are accustomed to so act by reason only that they do so on advice given by that person in a professional capacity;
  - (h) a person who has the power to appoint directors to the board of directors or other executive committees of the holder of a casino licence or of another body corporate of which that holder is a subsidiary and to remove them;
  - (i) a person who otherwise appears to the Board to be able to exercise significant influence or control over the holder of a

casino licence or another body corporate of which that holder is a subsidiary,

and any reference to the holder of a casino licence (however expressed) in this definition is to be read as including a reference to an applicant for a casino licence (as the context requires);”;

“**data protection legislation**” has the meaning given in regulation 5(1) of the GDPR and LED Implementing Regulations 2018<sup>2</sup>;”;

“**designated exchange**” means an investment exchange (not being a recognised exchange) for the time being included on the list of designated investment exchanges maintained by the Financial Conduct Authority of the United Kingdom;”;

“**employed**” includes employed or engaged under a contract of service, a contract for services or otherwise than under a contract;”;

“**equipment**” includes any computer, machine, electronic device, apparatus, software or other thing;”;

“**exchange**” means a recognised exchange or a designated exchange;”;

“**recognised exchange**” means a body for the time being declared to be a recognised investment exchange by an order of the Financial Conduct Authority of the United Kingdom under section 290 of the Financial Services and Markets Act 2000 (of Parliament)<sup>3</sup>;”;

“**senior manager**” means such person as appears to the Board to have significant powers or responsibilities with respect to any activities conducted or to be conducted by the holder of a casino licence or an applicant for such a licence;”;

“**subsidiary**” means a body corporate (whether or not incorporated under the *Companies Acts 1931 to 2004* or the *Companies Act 2006*) that is a subsidiary of another body corporate (whether or not incorporated under those Acts) and in determining whether one body corporate is a subsidiary of another the provisions of section 1 of the *Companies Act 1974* or section 220 of the *Companies Act 2006* shall apply (as the context requires), and “holding company” shall be construed accordingly;”;

“**temporary premises certificate**” has the same meaning as in section 12A (temporary premises certificate).”.

(4) For the definition of “beneficial owner” substitute –

“**beneficial owner**” means a natural person who ultimately owns or controls a legal entity, in whole or in part, through direct or indirect ownership or control of shares or voting rights or other

<sup>2</sup>SD 2018/0145

<sup>3</sup>2000 c.8

- 1 ownership interest in that entity, or who exercises control via  
 2 other means;”.
- 3 (5) Omit the definition of “quoted company” and “relevant share”.
- 4 (6) After subsection (1) insert –
- 5 “(2) The Treasury may by regulations amend the definitions of  
 6 “associate”, “beneficial owner”, “controller”, “exchange” or  
 7 “senior manager”.  
 8 Tynwald procedure – approval required.”.

9 **29 Schedule 1A inserted**

- 10 (1) After Schedule 1 insert –

11 **SCHEDULE 1A**

12 **INSPECTION AND INVESTIGATION**

13 [Section 14A]

14 **1 Power of the Board**

- 15 (1) The Board may exercise the powers in this Schedule for the  
 16 purposes of the Board’s functions under this Act.
- 17 (2) Those functions of the Board include –
- 18 (a) the functions of the Board under section 2 (duties of the  
 19 Board);
- 20 (b) securing compliance with the provisions of this Act (and  
 21 any statutory documents made under it) and any  
 22 conditions of a casino licence or a temporary premises  
 23 certificate issued under this Act;
- 24 (c) securing that any gaming at a casino (and associated  
 25 premises) or at any premises in respect of which a  
 26 temporary premises certificate is issued is conducted in a  
 27 manner consistent with the regulatory objectives set out in  
 28 section 5 (regulatory objectives) of the *Gambling Supervision*  
 29 *Act 2010*.
- 30 (3) To avoid doubt, the powers of the Board under this Schedule may  
 31 be exercised in relation to –
- 32 (a) the holder of a casino licence;
- 33 (b) a person who was the holder of a casino licence, but only  
 34 in respect of or in connection with any transactions,  
 35 matters or circumstances as occurred or existed when that  
 36 person was such a holder.

## 2 Entry and inspection

- (1) For a purpose mentioned in paragraph 1 (power of the Board), the Board may enter and inspect any premises that the Board reasonably believes are being or have been used as, or in connection with, —
- (a) a casino; or
  - (b) premises in respect of which a temporary premises certificate is or was issued.
- (2) The power of entry under this paragraph —
- (a) may be exercised without a warrant;
  - (b) subject to subparagraph (3), may be exercised with or without consent and with or without giving prior notice; and
  - (c) must be exercised at a reasonable time.
- (3) The power under this paragraph to enter premises without a warrant does not apply in relation to premises used wholly or mainly as a private dwelling unless 24 hours' notice of the intended entry has been given to the occupier and the occupier consents to the person entering the premises.
- (4) A person ("P") entering any premises by virtue of this paragraph may —
- (a) be accompanied by such persons, and may take onto the premises such equipment, as P thinks necessary;
  - (b) request any person on the premises to provide such assistance or information as P may reasonably require;
  - (c) inspect any part of the premises and inspect, examine and test any equipment on the premises;
  - (d) inspect or examine any books, accounts, documents and information (in whatever form they are held) on the premises or accessible from the premises and take possession of any such books, accounts, documents and information;
  - (e) have access to, and inspect and examine the operation of, any electronic device and any associated apparatus or material which is or has been in use in connection with any books, accounts, documents or information;
  - (f) take copies of any books, accounts, documents and information and, in the case of any information kept in electronic form, require such information to be produced in a form in which it can be taken away and in which it is visible or legible or from which it can be readily produced in a visible and legible form;

- 1 (g) request any person having charge of, or otherwise  
 2 concerned with the operation of, any equipment to afford P  
 3 such assistance as P may reasonably require;
- 4 (h) seize, remove and retain anything (including documents  
 5 and equipment) if P reasonably believes that it constitutes  
 6 or contains evidence of –
- 7 (i) the commission of an offence under this Act;  
 8 (ii) the breach of a term or condition of a casino licence  
 9 or temporary premises certificate issued under this  
 10 Act; or  
 11 (iii) non-compliance with any provision of this Act;
- 12 (i) take any other steps in relation to anything referred to in  
 13 subparagraph (4)(h) as appear to be necessary for  
 14 preserving it and preventing interference with it.
- 15 (5) Nothing in this paragraph –
- 16 (a) compels a person to disclose any items subject to legal  
 17 privilege (within the meaning of section 13 of the *Police*  
 18 *Powers and Procedures Act 1998*); or
- 19 (b) confers a right on a person who enters premises in exercise  
 20 of a power under this paragraph to seize any items subject  
 21 to legal privilege.

### 22 3 Requests for information for regulatory inspection purposes

- 23 (1) The Board may request any person whom it reasonably believes  
 24 may hold information that the Board reasonably requires for a  
 25 purpose mentioned in paragraph 1 (power of the Board) to  
 26 provide that information to the Board.
- 27 (2) Without affecting the generality of subparagraph (1), the power to  
 28 request any person to provide information under this paragraph  
 29 includes the power to request information from –
- 30 (a) a person who is or has been the holder of a casino licence  
 31 (“O”);
- 32 (b) any person other than O, including (without limitation) –
- 33 (i) a person who is or has been an employee of O;  
 34 (ii) a person who is or has been a controller or  
 35 beneficial owner of O;  
 36 (iii) a person that provides or has provided services to O  
 37 or a person who is or has been an employee of such  
 38 a person;  
 39 (iv) a person who is or has been involved in promoting  
 40 or organising the playing of games on premises in

respect of which a temporary premises certificate is or has been issued to O; or

(v) a person that is or was an associate of O.

(3) Without affecting the generality of subparagraph (1), the Board may request information about —

(a) the affairs of any person who is or has been a customer of O or who has requested to be a customer of O;

(b) any body corporate that is or has been —

(i) a holding company, subsidiary or related company of O;

(ii) a subsidiary of a holding company of O;

(iii) a holding company of a subsidiary of O;

(iv) a body corporate in respect of which a shareholder, controller or beneficial owner of O, either alone or with any associate or associates, is or has been entitled to exercise, or control the exercise of, 25% or more of the voting power at a general meeting or a meeting of the board of directors;

(c) any partnership of which O is or has been a member;

(d) any person who is or has been a controller or beneficial owner of O;

(e) any hosting services provided to O; or

(f) any other services provided to O.

(4) The power to request any person to provide information under subparagraph (1) includes the power to request a person to produce a document.

(5) If the Board has made a request of a holder of a casino licence, the Board may issue a direction under section 14B (directions) to that holder to secure that effect is given to a request under this paragraph.

(6) A statement given by a person in response to such a direction may not be used in evidence against that person in respect of any criminal proceedings except proceedings alleging contravention of section 19A (offences in connection with information) or paragraph 8 (offences).

(7) A person shall not be under an obligation under this paragraph to disclose any items subject to legal privilege within the meaning of section 13 of the *Police Powers and Procedures Act 1998*.

(8) To avoid doubt, any person playing a prescribed game on premises in respect of which a temporary premises certificate is

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issued, is a customer of the holder of the temporary premises certificate.

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(9) In this paragraph, “document” includes information recorded in any form and, in relation to any information kept in electronic form, references to its production include reference to producing the information in a form in which it can be taken away and in which it is visible and legible or from which it can be readily produced in a visible and legible form.

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(10) In this paragraph —

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(a) “related company”, in relation to O, means a body corporate (other than a subsidiary of O) in which O holds a qualifying capital interest;

(b) “qualifying capital interest” means an interest in relevant shares of the body corporate which O holds on a long-term basis for the purpose of securing a contribution to its own activities by the exercise of control or influence arising from that interest;

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(c) “relevant shares” means shares comprised in the equity share capital of the body corporate of a class carrying rights to vote in all circumstances at general meetings of the body;

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(d) “equity share capital” has the same meaning as in section 1(5) of the *Companies Act 1974*;

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(e) a holding of 20% or more of the nominal value of the relevant shares of a body corporate shall be presumed to be a qualifying capital interest unless the contrary is shown.

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(11) The power in this paragraph may be exercised by the Board during an inspection of premises under paragraph 2 (entry and inspection) or otherwise.

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#### 4 **Power of the Board to require information**

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(1) The Board may apply to a justice of the peace for a written instrument authorising the Board to exercise the powers in this paragraph.

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(2) The justice of the peace may issue the written instrument if the justice of the peace is satisfied that there is good reason to do so for the purposes of investigating the affairs, or any aspect of the affairs, of any person, in so far as those affairs are relevant to a casino or any gaming that the person is or was operating or appears to be or have been operating.

- 1 (3) The Board may by notice in writing, accompanied by a copy of the  
2 instrument issued by the justice of the peace under subparagraph  
3 (2), require the person whose affairs are to be investigated or any  
4 other person whom the Board has reason to believe has relevant  
5 information, documents or equipment –
- 6 (a) to attend before the Board at a specified time and place to  
7 answer questions or otherwise furnish information with  
8 respect to any matter relevant to the investigation;
- 9 (b) to produce at a specified time and place any specified  
10 documents, class of documents or copies of documents  
11 which appear to the Board to be relevant to the  
12 investigation;
- 13 (c) to make available to the Board for inspection, examination  
14 or testing, at a specified time and place, any specified  
15 equipment which appears to the Board to be relevant to the  
16 investigation.
- 17 (4) If a person who is required to produce a document or copies of  
18 documents under subparagraph (3)(b) fails to do so, the Board  
19 may require that person to state, to the best of that person's  
20 knowledge and belief, where they are.
- 21 (5) If any documents are produced as required under subparagraph  
22 (3)(b), the Board may –
- 23 (a) take possession of all such documents for so long as the  
24 Board considers necessary;
- 25 (b) take copies or extracts from them; or
- 26 (c) require the person producing them to provide an  
27 explanation of any of them.
- 28 (6) A notice under subparagraph (3) must include a statement  
29 informing the person of the offences under paragraph 8 (offences)  
30 and section 19A (offences in connection with information).
- 31 (7) A person shall not be under an obligation under this paragraph to  
32 disclose any items subject to legal privilege within the meaning of  
33 section 13 of the *Police Powers and Procedures Act 1998*.
- 34 (8) A statement given by a person in response to a requirement  
35 imposed under this paragraph may not be used in evidence  
36 against that person in respect of any criminal proceedings except  
37 proceedings alleging contravention of section 19A (offences in  
38 connection with information) or paragraph 8 (offences).
- 39 (9) In this paragraph “document” includes information recorded in  
40 any form and, in relation to any information kept in electronic  
41 form, references to its production include reference to producing  
42 the information in a form in which it can be taken away and in

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which it is visible and legible or from which it can be readily produced in a visible and legible form.

- (10) If a person claims a lien on a document, its production under this paragraph is without prejudice to the lien.

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## 5 Entry to premises under warrant

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- (1) The Board may apply to a Deemster for a warrant authorising the Board to enter any premises.

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- (2) A Deemster may issue the warrant only if, on information on oath laid by the Board, the Deemster is satisfied that —

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(a) the Board would be permitted to enter the premises without a warrant in accordance with paragraph 2 (entry and inspection) and at least one of the conditions in subparagraph (3) is satisfied;

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(b) a person has failed (wholly or in part) to comply with an obligation under paragraph 4 to furnish information, produce documents or make equipment available and there are reasonable grounds for suspecting that the information, documents or equipment are on the premises;

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(c) there are reasonable grounds for suspecting that there are on the premises information, documents or equipment in relation to which the power in paragraph 4 could be exercised but if such a requirement were imposed it would not be complied with or might seriously prejudice the purpose of exercising that power; or

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(d) there are reasonable grounds for suspecting that there are on the premises information, documents or equipment in relation to which the power in paragraph 4 could be exercised but it is not practicable to serve a notice under paragraph 4(3) in relation to them.

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- (3) Those conditions are —

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(a) entry to the premises has been refused or is likely to be refused;

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(b) the purpose of entry may be frustrated or seriously prejudiced unless immediate entry to the premises can be secured; or

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(c) the premises are unoccupied or the occupier is absent.

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- (4) A warrant issued by a Deemster may authorise any person named in the warrant (“P”), to do any one or more of the following —

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(a) to enter any premises specified in the warrant, using such force as is reasonably necessary for the purpose;

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(b) to search any such premises;

- 1 (c) to be accompanied by such persons, and take onto the  
2 premises such equipment, as P thinks necessary;
- 3 (d) to seize, remove and retain any information, documents or  
4 equipment appearing to be information, documents or  
5 equipment of the description specified in the application  
6 for the warrant or take any other steps in relation to such  
7 information, documents or equipment as appear to be  
8 necessary for preserving them and preventing interference  
9 with them;
- 10 (e) if it is not reasonably practicable to determine on the  
11 premises if information, documents or equipment is or  
12 contains something that is entitled to be seized under the  
13 warrant, to seize and remove such information, documents  
14 or equipment from the premises to enable that  
15 determination to be made;
- 16 (f) to require any person on the premises to provide such  
17 assistance or information as P may reasonably require;
- 18 (g) to inspect any part of the premises and inspect, examine  
19 and test any equipment on the premises;
- 20 (h) to inspect or examine any books, accounts, documents and  
21 information (in whatever form they are held) on the  
22 premises or accessible from the premises and take  
23 possession of any such books, accounts, documents and  
24 information;
- 25 (i) to have access to, and inspect and examine the operation  
26 of, any electronic device and any associated apparatus or  
27 material which is or has been in use in connection with any  
28 books, accounts, documents or information;
- 29 (j) to take copies of any books, accounts, documents and  
30 information and, in the case of any information kept in  
31 electronic form, require such information to be produced in  
32 a form in which it can be taken away and in which it is  
33 visible or legible or from which it can be readily produced  
34 in a visible and legible form;
- 35 (k) to require any person having charge of, or otherwise  
36 concerned with the operation of, any equipment to afford P  
37 such assistance as P may reasonably require;
- 38 (l) to seize, remove and retain anything (including documents  
39 and equipment) if P reasonably believes that it constitutes  
40 or contains evidence of —
- 41 (i) the commission of an offence under this Act;

- 1 (ii) the breach of a term or condition of a casino licence  
2 or temporary premises certificate issued under this  
3 Act; or  
4 (iii) non-compliance with any provision of this Act;
- 5 (m) take any other steps in relation to anything referred to in  
6 subparagraph (4)(l) as appear to be necessary for  
7 preserving it and preventing interference with it.
- 8 (5) Any person executing a warrant issued under this paragraph  
9 must be accompanied by a constable.
- 10 (6) A warrant issued under this paragraph ceases to have effect at the  
11 end of the period of one month beginning with the day it is  
12 issued.
- 13 (7) If the premises are unoccupied or the occupier is temporarily  
14 absent, on leaving the premises the person executing the warrant  
15 must —
- 16 (a) leave a notice on the premises stating that the premises  
17 have been entered under a warrant under this paragraph;  
18 and  
19 (b) leave the premises as effectively secured against  
20 trespassers as that person found them.
- 21 (8) Nothing in this paragraph —
- 22 (a) compels a person to disclose any items subject to legal  
23 privilege (within the meaning of section 13 of the *Police  
24 Powers and Procedures Act 1998*); or  
25 (b) confers a right on a person who enters premises in exercise  
26 of a power under this paragraph to seize any items subject  
27 to legal privilege.
- 28 (9) A statement given by a person in response to a requirement  
29 imposed under this paragraph may not be used in evidence  
30 against that person in respect of any criminal proceedings except  
31 proceedings alleging contravention of section 19A (offences in  
32 connection with information) or paragraph 8 (offences).

## 33 6 Seized goods

- 34 (1) If the Board seizes, removes or takes possession of anything under  
35 paragraph 2 (entry and inspection) or paragraph 5 (entry to  
36 premises under warrant), the Board must take reasonable steps as  
37 soon as reasonably practicable to —
- 38 (a) inform the person from whom they are seized, removed or  
39 taken that they have been seized, removed or taken; and

(b) provide that person with a written record of what has been seized, removed or taken.

(2) Anything seized, removed or taken under this paragraph may be retained for so long as it may be required for the purpose for which it was seized, removed or taken.

## 7 Authorisation

(1) The Board may authorise in writing such persons as it thinks appropriate to exercise on its behalf all or any of the powers under this Schedule.

(2) A person seeking to exercise a power under this Schedule must, if requested to do so, produce evidence of the person's identity and authority to do so.

## 8 Offences

(1) A person who, without reasonable excuse —

(a) obstructs or fails to cooperate with any person who is exercising or seeking to exercise a power under paragraph 2 (entry and inspection) or paragraph 5 (entry to premises under warrant); or

(b) fails to comply with a requirement imposed under paragraph 4 (power of the Board to require information),

is guilty of an offence.

(2) A person who —

(a) knows or suspects that an inspection or investigation by the Board is being or is likely to be carried out; and

(b) falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, information that the person knows or suspects is or would be relevant to such an inspection or investigation,

is guilty of an offence.

(3) It is a defence for a person charged with an offence under subparagraph (2) to prove that there was no intention of concealing the facts disclosed by the information from persons carrying out such an inspection or investigation.

Maximum penalty for this section —

(a) (summary) – 6 months' custody or a fine of level 5 on the standard scale; or

(b) (information) - 2 years' custody or a fine.”.

## PART 4 – AMENDMENT OF THE GAMING BETTING AND LOTTERIES ACT 1988

### 30 Amendment of the Gaming Betting and Lotteries Act 1988

The *Gaming Betting and Lotteries Act 1988* is amended in accordance with this Part.

### 31 Section 29 amended

In section 29 (offences relating to lotteries), in subsection (2A)(a) for the words following “that the lottery to which the proceedings relate was a” to the end of that paragraph substitute –

“lawfully promoted lottery under the Gambling Act 2005 (an Act of Parliament)<sup>4</sup> by virtue of being –

- (i) a lottery promoted by a non-commercial society (as defined in that Act) in accordance with an operating licence granted under that Act authorising that activity, or
- (ii) a small society lottery within the meaning of Part 4 (small society lotteries) of Schedule 11 (exempt lotteries) to that Act.”

### 32 Section 30 amended

In section 30 (private lotteries), after subsection (6), insert –

“(7) In this section, “licensed premises” has the same meaning as in the *Liquor Licensing and Public Entertainments Act 2021*.”.

### 33 Section 33 amended

In section 33 (registration of societies), in subsection (2) –

- (a) in paragraph (b), for the full stop substitute “; or”;
- (b) after paragraph (b) insert –
  - “(c) that the society has failed, without reasonable excuse, to comply with a direction under section 46A (directions).”.

### 34 Section 33A amended

(1) Section 33A (registration of managers of British societies’ lotteries) is amended as follows.

(2) In subsection (1) –

- (a) in paragraph (b), for “society” substitute “non-commercial”;

<sup>4</sup> 2005 c.19

- 1 (b) before “by which the lottery is promoted” insert “(as defined in  
2 the 2005 Act)”;
- 3 (c) in paragraph (c), before “society” insert “non-commercial”;
- 4 (d) for paragraphs (d) and (e) substitute –
- 5 “(d) in the case of a small society lottery within the meaning of  
6 Part 4 (small society lotteries) of Schedule 11 (exempt  
7 lotteries) to the 2005 Act, the name and address of the local  
8 authority (as defined in the 2005 Act) with which the  
9 society is registered under Part 5 (registration with local  
10 authority) of Schedule 11 to the 2005 Act;
- 11 (da) in the case of a lottery that does not fall within paragraph  
12 (d), that the lottery is promoted by the non-commercial  
13 society in accordance with any operating licences granted  
14 under the 2005 Act authorising that activity, together with  
15 details of any such licences;
- 16 (db) where the applicant is an external lottery manager (as  
17 defined in the 2005 Act), that the applicant is acting on  
18 behalf of the non-commercial society in accordance with an  
19 operating licence granted under the 2005 Act authorising  
20 that activity, together with details of the licence;
- 21 (e) where the applicant is an employee of an external lottery  
22 manager (as defined in the 2005 Act), the name and  
23 address of that external lottery manager and that the  
24 external lottery manager is acting on behalf of the non-  
25 commercial society in accordance with an operating licence  
26 granted under that 2005 Act authorising that activity,  
27 together with details of the licence; and”.
- 28 (3) In subsection (2), for paragraphs (a) to (c) substitute –
- 29 “(a) a description of the lottery, containing such details as the  
30 Commission may require,
- 31 (aa) where the lottery is not a small society lottery within the  
32 meaning of Part 4 (small society lotteries) of Schedule 11  
33 (exempt lotteries) to the 2005 Act, a copy of the non-  
34 commercial society’s operating licence (as defined in the  
35 2005 Act),
- 36 (b) where the applicant is an external lottery manager (as  
37 defined in the 2005 Act) or an employee of an external  
38 lottery manager, a copy of the external lottery manager’s  
39 operating licence (as defined in the 2005 Act), and
- 40 (c) a statement in writing signed by the person specified in the  
41 application under subsection (1)(f) that he understands  
42 that he may be liable to pay gambling duty under the  
43 *Gambling Duty Act 2012* in respect of the lottery.”.

- 1 (4) In subsection (4) –
- 2 (a) in paragraph (a), after “on behalf of the” insert “non-commercial”;
- 3 (b) in paragraph (b) –
- 4 (i) before “society” (in both places where it appears) insert
- 5 “non-commercial”;
- 6 (ii) for “1976” substitute “2005”;
- 7 (c) in paragraph (c) –
- 8 (i) omit “or manager”;
- 9 (ii) for “qualified to manage the lottery under section 9A(1) of
- 10 that Act” substitute “authorised to promote the lottery on
- 11 behalf of the non-commercial society under the 2005 Act”;
- 12 (d) in sub-paragraph (d)(iii) for “section 37A(8)” substitute “the
- 13 *Gambling Duty Act 2012*”.
- 14 (5) In subsection (9) –
- 15 (a) for “Lotteries and Amusements Act 1976” substitute “Gambling
- 16 Act 2005”;
- 17 (b) for “1976” (in the first place that it appears) substitute “2005”.

### 18 **35 Section 33B amended**

19 In section 33B (exemption for British societies’ lotteries), for paragraph (a)

20 substitute –

- 21 “(a) it is a lawfully promoted lottery under the Gambling Act
- 22 2005 (an Act of Parliament) by virtue of being –
- 23 (i) a lottery promoted by a non-commercial society (as
- 24 defined in that Act) in accordance with an operating
- 25 licence granted under that Act authorising that
- 26 activity; or
- 27 (ii) a small society lottery within the meaning of Part 4
- 28 (small society lotteries) of Schedule 11 (exempt
- 29 lotteries) to that Act.”.

### 30 **36 Section 38 amended**

31 In section 38 (prize competitions), for subsection (2) and (3) substitute –

- 32 “(2) Regulations may authorise an activity that would otherwise be
- 33 unlawful under subsection (1), but such regulations must –
- 34 (a) at least, provide for the circumstances in which prize
- 35 competitions can take place;
- 36 (b) set maximum values for prizes.
- 37 Tynwald procedure – approval required.

- (3) A person who engages in an activity that —
- (a) is unlawful under subsection (1); or
  - (b) is not authorised by regulations under subsection (2),
- commits an offence.
- (4) Liability for an offence under subsection (3) is unaffected by any liability under section 29.”.

### 37 Section 46 substituted and sections 46A and 46B inserted

For section 46 (powers of entry) substitute —

#### “46 Inspection and investigation

Schedule 5A has effect in respect of the powers of inspection and investigation of the Commission.”.

- (1) After section 46, insert —

#### “46A Directions

- (1) The Commission may issue written directions under this section to the holder of a licence, permit or registration under this Act.
- (2) A direction may —
- (a) require the holder of a licence, permit or registration to comply with a request for information under paragraph 4 (requests for information for regulatory inspection purposes) of Schedule 5A (inspection and investigation);
  - (b) require the holder of a licence, permit or registration to take such action in respect of the holder’s business or activities as is specified in the direction;
  - (c) impose such requirements as are necessary to secure that any business or activity carried on by the holder of a licence, permit or registration is in whole or in part suspended or discontinued; or
  - (d) where a holder of a licence, permit or registration intends to surrender a licence, permit or registration, require the person to take such action as is necessary to secure that any business or activity carried on by the holder is in whole or in part discontinued and wound up,
- and the direction must include a statement of the reasons for its issue.
- (3) The Commission may, on an application by the holder of a licence, permit or registration or of its own motion, vary or revoke a direction under this section and any variation or revocation of a

- 1 direction must include a statement of the reasons for that  
2 variation or revocation.
- 3 (4) If a holder of a licence, permit or registration contravenes a  
4 written direction under this section, the Commission may exercise  
5 any one or more of the following powers as appropriate –
- 6 (a) the refusal to renew a permit under paragraph 10(2)  
7 (grounds for refusal to grant or renew permit) of Schedule  
8 1 (bookmaker’s permits and betting office licences);
- 9 (b) the refusal to renew a betting office licence under  
10 paragraph 11 (grounds for refusal to grant or renew  
11 licence) of Schedule 1;
- 12 (c) the amendment or cancellation of a racecourse licence  
13 under section 22 (grant etc of racecourse licences);
- 14 (d) the amendment or revocation of a licence to set up, keep  
15 and operate a totalisator on an approved racecourse under  
16 section 24 (authorisation of totalisator etc);
- 17 (e) the cancellation of the registration of a registered society  
18 under section 33 (registration of societies);
- 19 (f) the imposition or variation of any conditions under section  
20 32(4) or (4A) (exemption of society lotteries).
- 21 (5) In addition to being subject to the powers of the Commission  
22 under subsection (4), if the holder of a licence, permit or  
23 registration fails to comply with a written direction under  
24 subsection (2)(d), the holder is guilty of an offence.
- 25 Maximum penalty (summary) – 6 months’ custody or a fine of  
26 level 5 on the standard scale.
- 27 (6) In this section, a written direction under subsection (2)(b) to (d)  
28 may be issued to a registered society only in so far as the direction  
29 relates to any business or activities of that registered society in  
30 respect of or in connection with a society lottery.

### 31 **46B Offence in connection with information**

- 32 A person who –
- 33 (a) furnishes or sends to the Commission for any purposes  
34 under this Act a document which the person knows is false  
35 or misleading in a material particular;
- 36 (b) recklessly furnishes or sends to the Commission for the  
37 purposes of this Act a document which is false or  
38 misleading in a material particular;
- 39 (c) in furnishing information to the Commission for the  
40 purposes of this Act –

(i) makes a statement which the person knows to be false or misleading in a material particular; or

(ii) recklessly makes a statement which is false or misleading in a material particular; or

(d) without reasonable excuse, fails to furnish information which that person is required to furnish to the Commission under this Act,

is guilty of an offence.

Maximum penalty –

(a) (summary) – 6 months’ custody or a fine of level 5 on the standard scale; or

(b) (information) – 2 years’ custody or a fine.”.

### 38 Section 47 amended

In section 47 (orders and regulations), after subsection (3) insert –

“(4) Any regulations or order made under this Act may –

(a) confer a function on a specified person or body (including the Commission) and a function conferred may, in particular, be a power or duty to exercise a discretion;

(b) without limiting paragraph (a), confer a function on a specified person or body (including the Commission) to approve other persons for a particular purpose;

(c) require the holder of a licence, permit or registration under this Act to comply with such standards, rules, regulations, codes or guidance as are from time to time in operation and made or issued by the Commission or any other person whether in the Island or elsewhere.”.

### 39 Section 48 amended

In section 48(1) (interpretation) -

(a) omit the definition of “licensed premises”; and

(b) before the definition of “pool betting” insert –

““lottery” means an arrangement in which a person acquires one or more chances to win a prize, where –

(a) each such chance has an equal opportunity; and

(b) the selection of the winning chance is random;”.

### 40 Schedule 1 amended

In Schedule 1 (bookmakers’ permits and betting office licences) –

(a) in paragraph 3 omit subparagraph (2);

- 1 (b) in paragraph 7 omit subparagraph (2);
- 2 (c) in paragraph 10 –
- 3 (i) for subparagraph (1)(b)(ii), substitute –
- 4 “(ii) section 136 (disqualification) of the Gambling Act
- 5 2005 (an Act of Parliament)<sup>5</sup>; or”;
- 6 (ii) for subparagraph (1)(e)(ii), substitute –
- 7 “(ii) of an operating licence or a personal licence under
- 8 the Gambling Act 2005 (an Act of Parliament); or”;
- 9 (iii) for subparagraph (1)(f) substitute –
- 10 “(f) has been the holder of –
- 11 (i) a permit, bookmaker’s permit or bookmaker’s
- 12 licence which has within the immediately preceding
- 13 12 months been cancelled under paragraph 17, or
- 14 revoked under Article 27 of the said Order of
- 15 1985; or
- 16 (ii) an operating licence or personal licence which has
- 17 within the immediately preceding 12 months been
- 18 suspended or revoked under the Gambling Act 2005
- 19 (an Act of Parliament); or
- 20 (g) has undergone changes so extensive as, in the opinion of
- 21 the Commission, to render the information submitted in
- 22 the application unreliable.”;
- 23 (iv) in subparagraph (2)(a), omit the “or” after the semi-colon;
- 24 (v) after subparagraph (2)(a) insert –
- 25 “(aa) the applicant has failed, without reasonable excuse,
- 26 to comply with a direction under section 46A
- 27 (directions); or”;
- 28 (d) after paragraph 11(2) insert –
- 29 “(2A) The Commission may refuse an application for the renewal
- 30 of a licence if the applicant has failed, without reasonable
- 31 excuse, to comply with a direction under section 46A
- 32 (directions).”;
- 33 (e) in paragraph 17(7) –
- 34 (i) in subparagraph (a) for “notice of an appeal under
- 35 paragraph 18 may be given” substitute “an appeal under
- 36 section 7 of the *Gambling (Amendment) Act 2006* may be
- 37 instituted”;
- 38 (ii) in subparagraph (b) for “if such notice is duly given”
- 39 substitute “if an appeal is instituted”;

<sup>5</sup> 2005 c.19

- (f) in paragraph 19(3) for “notice is duly given” substitute “an appeal is instituted”.

#### 41 Schedule 3 amended

In Schedule 3 (operation of totalisator), in paragraph 3 in the definition of “the operator”, for “certificate” substitute “licence”.

#### 42 Schedule 5A inserted

After Schedule 5 (penalties), insert –

### “Schedule 5A

## INSPECTION AND INVESTIGATION

### Section 46

#### 1 Interpretation

(1) In this Schedule –

“associate” means –

(a) in relation to any individual –

- (i) the parent, spouse, civil partner, child, stepchild or sibling of the individual;
- (ii) any body corporate of which that individual is a director;
- (iii) a partner or employee of that individual; or
- (iv) any person with whom the individual is known to have a close relationship;

(b) in relation to a body corporate –

- (i) any director or employee of that body;
- (ii) any subsidiary of that body;
- (iii) any holding company of that body;
- (iv) any subsidiary of that holding company;
- (v) any director of any such holding company or subsidiary; or
- (vi) any person with whom the body corporate is known to have a close relationship;

(c) in relation to an individual or a body corporate, any person with whom the individual or body corporate has an agreement, arrangement or other obligation –

- (i) in respect of the acquisition, holding or disposal of shares or interests in a body corporate; or

- (ii) to act together in exercising voting power with respect to such a body corporate;

“**beneficial owner**” means a natural person who ultimately owns or controls a legal entity, in whole or in part, through direct or indirect ownership or control of shares or voting rights or other ownership interest in that entity, or who exercises control via other means;

“**controller**” of a person (“P”) means —

- (a) a person who either alone or with any associate or associates owns or controls, directly or indirectly —
- (i) if P or another body corporate of which P is a subsidiary is a private company or a public company whose shares are not quoted on an exchange, 5% or more of the shares in P or that other body corporate; or
- (ii) if P or another body corporate of which P is a subsidiary is a public company whose shares are quoted on an exchange, 20% or more of the shares in P or that other body corporate;
- (b) a person who either alone or with any associate or associates owns or controls, directly or indirectly —
- (i) if P or another body corporate of which P is a subsidiary is a private company or a public company whose shares are not quoted on an exchange, 5% or more of the voting power at any general meeting of P or that other body corporate; or
- (ii) if P or another body corporate of which P is a subsidiary is a public company whose shares are quoted on an exchange, 20% or more of the voting power at any general meeting of P or that other body corporate;
- (c) a person who is a director of P or of another body corporate of which P is a subsidiary;
- (d) a person who is a director of a corporate director of P or of another body corporate of which P is a subsidiary;
- (e) a person who, on account of that person’s financial contribution to P or another body corporate of which P is a subsidiary, has power to significantly influence or control the activities of P or of another body corporate of which P is a subsidiary;
- (f) a person on whose non-financial contribution P, or a body corporate of which P is a subsidiary, places such

considerable reliance as to be dependent on that contribution in order to function as it normally would;

- (g) a person in accordance with whose directions or instructions one or more of the directors of P or of another body corporate of which P is a subsidiary are accustomed to act unless such director or directors are accustomed to so act by reason only that they do so on advice given by that person in a professional capacity;
- (h) a person who has the power to appoint directors to the board of directors or other executive committees of P or of another body corporate of which P is a subsidiary and to remove them;
- (i) a person who otherwise appears to the Commission to be able to exercise significant influence or control over P or another body corporate of which P is a subsidiary;

**“designated exchange”** means an investment exchange (not being a recognised exchange) for the time being included on the list of designated investment exchanges maintained by the Financial Conduct Authority of the United Kingdom;

**“equipment”** includes any computer, machine, electronic device, apparatus, software or other thing;

**“exchange”** means a recognised exchange or a designated exchange;

**“gambling activity”** means any of the following —

- (a) gaming (other than gaming falling within section 8 (exemptions: general));
- (b) providing amusements with prizes;
- (c) using premises for the purposes of effecting any betting transactions;
- (d) carrying on business or acting as a bookmaker;
- (e) carrying on bookmaking or a pool betting business on a racecourse;
- (f) setting up, keeping and operating a totalisator;
- (g) promoting and conducting a lottery; or
- (h) conducting a prize competition;

**“recognised exchange”** means a body for the time being declared to be a recognised investment exchange by an order of the Financial Conduct Authority of the United Kingdom under section 290 of the Financial Services and Markets Act 2000 (of Parliament)<sup>6</sup>;

<sup>6</sup> 2000 c.8

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“**subsidiary**” means a body corporate (whether or not incorporated under the *Companies Acts 1931 to 2004* or the *Companies Act 2006*) that is a subsidiary of another body corporate (whether or not incorporated under those Acts) and in determining whether one body corporate is a subsidiary of another the provisions of section 1 of the *Companies Act 1974* or section 220 of the *Companies Act 2006* shall apply (as the context requires), and “holding company” shall be construed accordingly.

(2) The Treasury may by regulations amend the definition of “**associate**”, “**beneficial owner**”, “**controller**” or “**exchange**”.

Tynwald procedure – approval required.

## 2 Power of the Commission

(1) The Commission may exercise the powers in this Schedule for the purposes of the Commission’s functions under this Act.

(2) Those functions of the Commission include –

- (a) securing that any gambling activity is conducted in compliance with the provisions of this Act (and any statutory documents made under it);
- (b) supervising the conduct of any gambling activity in the Island;
- (c) securing compliance with any conditions of a licence, permit or registration under this Act;
- (d) securing that any gambling activity is conducted in a manner consistent with the regulatory objectives set out in section 5 (regulatory objectives) of the *Gambling Supervision Act 2010*.

(3) To avoid doubt, the powers of the Commission under this Schedule may be exercised in relation to –

- (a) a person who is the holder of a licence, permit or registration under this Act;
- (b) a person who was the holder of a licence, permit or registration under this Act but is no longer, but only in respect of or in connection with any transactions, matters or circumstances as occurred or existed when that person was such a holder;
- (c) a person whom the Commission reasonably suspects of currently conducting a gambling activity that requires a licence, permit or registration under this Act without holding such a licence, permit or registration;
- (d) a person whom the Commission reasonably suspects of having conducted in the past a gambling activity that

requires a licence, permit or registration under this Act without holding such a licence, permit or registration, but only in respect of or in connection with any transactions, matters or circumstances as occurred or existed when that person is suspected of having conducted that activity;

- (e) a person whom the Commission reasonably suspects is failing, or has failed, to comply with any conditions or requirements of this Act in respect of the conduct of any gambling activity.

### 3 Entry and inspection

- (1) For a purpose mentioned in paragraph 2 (power of the Commission), the Commission may enter and inspect any premises that the Commission reasonably believes are being or have been used for or in connection with the conduct of any gambling activity.
- (2) The power of entry under this paragraph —
- (a) may be exercised without a warrant;
  - (b) subject to subparagraph (3), may be exercised with or without consent and with or without giving prior notice; and
  - (c) must be exercised at a reasonable time.
- (3) The power under this paragraph to enter premises without a warrant does not apply in relation to premises used wholly or mainly as a private dwelling unless 24 hours' notice of the intended entry has been given to the occupier and the occupier consents to the person entering the premises.
- (4) A person ("P") entering any premises by virtue of this paragraph may —
- (a) be accompanied by such persons, and may take onto the premises such equipment, as P thinks necessary;
  - (b) request any person on the premises to provide such assistance or information as P may reasonably require;
  - (c) inspect any part of the premises and inspect, examine and test any equipment on the premises;
  - (d) inspect or examine any books, accounts, documents and information (in whatever form they are held) on the premises or accessible from the premises and take possession of any such books, accounts, documents and information;
  - (e) have access to, and inspect and examine the operation of, any electronic device and any associated apparatus or

- 1 material which is or has been in use in connection with any  
 2 books, accounts, documents or information;
- 3 (f) take copies of any books, accounts, documents and  
 4 information and, in the case of any information kept in  
 5 electronic form, require such information to be produced in  
 6 a form in which it can be taken away and in which it is  
 7 visible or legible or from which it can be readily produced  
 8 in a visible and legible form;
- 9 (g) request any person having charge of, or otherwise  
 10 concerned with the operation of, any equipment to afford P  
 11 such assistance as P may reasonably require;
- 12 (h) seize, remove and retain anything (including documents  
 13 and equipment) if P reasonably believes that it constitutes  
 14 or contains evidence of –
- 15 (i) the commission of an offence under this Act;  
 16 (ii) the breach of a term or condition of a licence, permit  
 17 or registration under this Act; or  
 18 (iii) non-compliance with any provision of this Act;
- 19 (i) take any other steps in relation to anything referred to in  
 20 subparagraph (4)(h) as appear to be necessary for  
 21 preserving it and preventing interference with it.
- 22 (5) Nothing in this paragraph –
- 23 (a) compels a person to disclose any items subject to legal  
 24 privilege (within the meaning of section 13 of the *Police*  
 25 *Powers and Procedures Act 1998*); or
- 26 (b) confers a right on a person who enters premises in exercise  
 27 of a power under this paragraph to seize any items subject  
 28 to legal privilege.

#### 29 4 Requests for information for regulatory inspection purposes

- 30 (1) The Commission may request any person whom it reasonably  
 31 believes may hold information that the Commission reasonably  
 32 requires for a purpose mentioned in paragraph 2 (power of the  
 33 Commission) to provide that information to the Commission.
- 34 (2) Without affecting the generality of subparagraph (1), the power to  
 35 request any person to provide information under this paragraph  
 36 includes the power to request information from –
- 37 (a) a person that the Commission reasonably believes is or has  
 38 been conducting gambling activity (whether with or  
 39 without a licence, permit or registration under this Act)  
 40 (“O”);
- 41 (b) any person other than O, including (without limitation) –

- (i) a person who is or has been an employee of O;
- (ii) a person who is or has been a controller or beneficial owner of O;
- (iii) a person that provides or has provided services to O or a person who is or has been an employee of such a person; or
- (iv) a person that is or was an associate of O.

(3) Without affecting the generality of subparagraph (1), the Commission may request information about –

- (a) the affairs of any person who is or has been a customer of O or who has requested to be a customer of O;
- (b) any body corporate that is or has been –
  - (i) a holding company, subsidiary or related company of O;
  - (ii) a subsidiary of a holding company of O;
  - (iii) a holding company of a subsidiary of O;
  - (iv) a body corporate in respect of which a shareholder, controller or beneficial owner of O, either alone or with any associate or associates, is or has been entitled to exercise, or control the exercise of, 25% or more of the voting power at a general meeting or a meeting of the board of directors;
- (c) any partnership of which O is or has been a member;
- (d) any person who is or has been a controller or beneficial owner of O;
- (e) any hosting services provided to O; or
- (f) any other services provided to O in connection with O's conduct of gambling activity.

(4) The power to request any person to provide information under subparagraph (1) includes the power to request a person to produce a document.

(5) If the Commission has made a request of a holder of a licence, permit or registration under this Act, the Commission may issue a direction under section 46A (directions) to that holder to secure that effect is given to a request under this paragraph.

(6) A statement given by a person in response to such a direction may not be used in evidence against that person in respect of any criminal proceedings except proceedings alleging contravention of section 46B (offences in connection with information) or paragraph 9 (offences).

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- (7) A person shall not be under an obligation under this paragraph to disclose any items subject to legal privilege within the meaning of section 13 of the *Police Powers and Procedures Act 1998*.
- (8) In this paragraph, “document” includes information recorded in any form and, in relation to any information kept in electronic form, references to its production include reference to producing the information in a form in which it can be taken away and in which it is visible and legible or from which it can be readily produced in a visible and legible form.
- (9) In this paragraph –
- (a) “related company”, in relation to O, means a body corporate (other than a subsidiary of O) in which O holds a qualifying capital interest;
- (b) “qualifying capital interest” means an interest in relevant shares of the body corporate which O holds on a long-term basis for the purpose of securing a contribution to its own activities by the exercise of control or influence arising from that interest;
- (c) “relevant shares” means shares comprised in the equity share capital of the body corporate of a class carrying rights to vote in all circumstances at general meetings of the body;
- (d) “equity share capital” has the same meaning as in section 1(5) of the *Companies Act 1974*;
- (e) A holding of 20% or more of the nominal value of the relevant shares of a body corporate shall be presumed to be a qualifying capital interest unless the contrary is shown.
- (10) The power in this paragraph may be exercised by the Commission during an inspection of premises under paragraph 3 (entry and inspection) or otherwise.

32 | **5 Power of the Commission to require information**

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- (1) The Commission may apply to a justice of the peace for a written instrument authorising the Commission to exercise the powers in this paragraph.
- (2) The justice of the peace may issue the written instrument if the justice of the peace is satisfied that there is good reason to do so for the purposes of investigating the affairs, or any aspect of the affairs, of any person, in so far as those affairs are relevant to any gambling activity that the person is or was conducting or appears to be or have been conducting.

- 1 (3) The Commission may by notice in writing, accompanied by a  
2 copy of the instrument issued by the justice of the peace under  
3 subparagraph (2), require the person whose affairs are to be  
4 investigated or any other person whom the Commission has  
5 reason to believe has relevant information, documents or  
6 equipment –
- 7 (a) to attend before the Commission at a specified time and  
8 place to answer questions or otherwise furnish information  
9 with respect to any matter relevant to the investigation;
- 10 (b) to produce at a specified time and place any specified  
11 documents, class of documents or copies of documents  
12 which appear to the Commission to be relevant to the  
13 investigation;
- 14 (c) to make available to the Commission for inspection,  
15 examination or testing, at a specified time and place, any  
16 specified equipment which appears to the Commission to  
17 be relevant to the investigation.
- 18 (4) If a person who is required to produce a document or copies of  
19 documents under subparagraph (3)(b) fails to do so, the  
20 Commission may require that person to state, to the best of that  
21 person’s knowledge and belief, where they are.
- 22 (5) If any documents are produced as required under subparagraph  
23 (3)(b), the Commission may –
- 24 (a) take possession of all such documents for so long as the  
25 Commission considers necessary;
- 26 (b) take copies or extracts from them; or
- 27 (c) require the person producing them to provide an  
28 explanation of any of them.
- 29 (6) A notice under subparagraph (3) must include a statement  
30 informing the person of the offences under paragraph 9 (offences)  
31 and section 46B (offences in connection with information).
- 32 (7) A person shall not be under an obligation under this paragraph to  
33 disclose any items subject to legal privilege within the meaning of  
34 section 13 of the *Police Powers and Procedures Act 1998*.
- 35 (8) A statement given by a person in response to a requirement  
36 imposed under this paragraph may not be used in evidence  
37 against that person in respect of any criminal proceedings except  
38 proceedings alleging contravention of section 46B (offences in  
39 connection with information) or paragraph 9 (offences).
- 40 (9) In this paragraph “document” includes information recorded in  
41 any form and, in relation to any information kept in electronic  
42 form, references to its production include reference to producing

the information in a form in which it can be taken away and in which it is visible and legible or from which it can be readily produced in a visible and legible form.

- (10) If a person claims a lien on a document, its production under this paragraph is without prejudice to the lien.

## 6 Entry to premises under warrant

- (1) The Commission may apply to a Deemster for a warrant authorising the Commission to enter any premises.

- (2) A Deemster may issue the warrant only if, on information on oath laid by the Commission, the Deemster is satisfied that —

- (a) the Commission would be permitted to enter the premises without a warrant in accordance with paragraph 3 (entry and inspection) and at least one of the conditions in subparagraph (3) is satisfied;
- (b) a person has failed (wholly or in part) to comply with an obligation under paragraph 5 to furnish information, produce documents or make equipment available and there are reasonable grounds for suspecting that the information, documents or equipment are on the premises;
- (c) there are reasonable grounds for suspecting that there are on the premises information, documents or equipment in relation to which the power in paragraph 5 could be exercised but if such a requirement were imposed it would not be complied with or might seriously prejudice the purpose of exercising that power; or
- (d) there are reasonable grounds for suspecting that there are on the premises information, documents or equipment in relation to which the power in paragraph 5 could be exercised but it is not practicable to serve a notice under paragraph 5(3) in relation to them.

- (3) Those conditions are —

- (a) entry to the premises has been refused or is likely to be refused;
- (b) the purpose of entry may be frustrated or seriously prejudiced unless immediate entry to the premises can be secured; or
- (c) the premises are unoccupied or the occupier is absent.

- (4) A warrant issued by a Deemster may authorise any person named in the warrant (“P”), to do any one or more of the following —

- (a) to enter any premises specified in the warrant, using such force as is reasonably necessary for the purpose;

- 1 (b) to search any such premises;
- 2 (c) to be accompanied by such persons, and take onto the
- 3 premises such equipment, as P thinks necessary;
- 4 (d) to seize, remove and retain any information, documents or
- 5 equipment appearing to be information, documents or
- 6 equipment of the description specified in the application
- 7 for the warrant or take any other steps in relation to such
- 8 information, documents or equipment as appear to be
- 9 necessary for preserving them and preventing interference
- 10 with them;
- 11 (e) if it is not reasonably practicable to determine on the
- 12 premises if information, documents or equipment is or
- 13 contains something that is entitled to be seized under the
- 14 warrant, to seize and remove such information, documents
- 15 or equipment from the premises to enable that
- 16 determination to be made;
- 17 (f) to require any person on the premises to provide such
- 18 assistance or information as P may reasonably require;
- 19 (g) to inspect any part of the premises and inspect, examine
- 20 and test any equipment on the premises;
- 21 (h) to inspect or examine any books, accounts, documents and
- 22 information (in whatever form they are held) on the
- 23 premises or accessible from the premises and take
- 24 possession of any such books, accounts, documents and
- 25 information;
- 26 (i) to have access to, and inspect and examine the operation
- 27 of, any electronic device and any associated apparatus or
- 28 material which is or has been in use in connection with any
- 29 books, accounts, documents or information;
- 30 (j) to take copies of any books, accounts, documents and
- 31 information and, in the case of any information kept in
- 32 electronic form, require such information to be produced in
- 33 a form in which it can be taken away and in which it is
- 34 visible or legible or from which it can be readily produced
- 35 in a visible and legible form;
- 36 (k) to require any person having charge of, or otherwise
- 37 concerned with the operation of, any equipment to afford P
- 38 such assistance as P may reasonably require;
- 39 (l) to seize remove and retain anything (including documents
- 40 and equipment) if P reasonably believes that it constitutes
- 41 or contains evidence of —
- 42 (i) the commission of an offence under this Act;

- 1 (ii) the breach of a term or condition of a licence, permit  
2 or registration under this Act; or  
3 (iii) non-compliance with any provision of this Act;
- 4 (m) take any other steps in relation to anything referred to in  
5 subparagraph (4)(l) as appear to be necessary for  
6 preserving it and preventing interference with it.
- 7 (5) Any person executing a warrant issued under this paragraph  
8 must be accompanied by a constable.
- 9 (6) A warrant issued under this paragraph ceases to have effect at the  
10 end of the period of one month beginning with the day it is  
11 issued.
- 12 (7) If the premises are unoccupied or the occupier is temporarily  
13 absent, on leaving the premises the person executing the warrant  
14 must —
- 15 (a) leave a notice on the premises stating that the premises  
16 have been entered under a warrant under this paragraph;  
17 and  
18 (b) leave the premises as effectively secured against  
19 trespassers as that person found them.
- 20 (8) Nothing in this paragraph —
- 21 (a) compels a person to disclose any items subject to legal  
22 privilege (within the meaning of section 13 of the *Police  
23 Powers and Procedures Act 1998*); or  
24 (b) confers a right on a person who enters premises in exercise  
25 of a power under this paragraph to seize any items subject  
26 to legal privilege.
- 27 (9) A statement given by a person in response to a requirement  
28 imposed under this paragraph may not be used in evidence  
29 against that person in respect of any criminal proceedings except  
30 proceedings alleging contravention of section 46B (offences in  
31 connection with information) or paragraph 9 (offences).

## 7 Seized goods

- 33 (1) If the Commission seizes, removes or takes possession of anything  
34 under paragraph 3 (entry and inspection) or paragraph 6 (entry to  
35 premises under warrant), the Commission must take reasonable  
36 steps as soon as reasonably practicable to —
- 37 (a) inform the person from whom they are seized, removed or  
38 taken that they have been seized, removed or taken; and  
39 (b) provide that person with a written record of what has been  
40 seized, removed or taken.

- 1 | (2) Anything seized, removed or taken under this paragraph may be  
 2 | retained for so long as it may be required for the purpose for  
 3 | which it was seized, removed or taken.

4 | **8 Authorisation**

- 5 | (1) The Commission may authorise in writing such persons as it  
 6 | thinks appropriate to exercise on its behalf all or any of the  
 7 | powers under this Schedule.  
 8 | (2) A person seeking to exercise a power under this Schedule must, if  
 9 | requested to do so, produce evidence of the person's identity and  
 10 | authority to do so.

11 | **9 Offences**

- 12 | (1) A person who, without reasonable excuse, —  
 13 | (a) obstructs or fails to cooperate with any person who is  
 14 | exercising or seeking to exercise a power under paragraph  
 15 | 3 (entry and inspection) or paragraph 6 (entry to premises  
 16 | under warrant); or  
 17 | (b) fails to comply with a requirement imposed under  
 18 | paragraph 5 (power of the Commission to require  
 19 | information),  
 20 | is guilty of an offence.

- 21 | (2) A person who —  
 22 | (a) knows or suspects that an inspection or investigation by  
 23 | the Commission is being or is likely to be carried out; and  
 24 | (b) falsifies, conceals, destroys or otherwise disposes of, or  
 25 | causes or permits the falsification, concealment,  
 26 | destruction or disposal of, information that the person  
 27 | knows or suspects is or would be relevant to such an  
 28 | inspection or investigation,  
 29 | is guilty of an offence.

- 30 | (3) It is a defence for a person charged with an offence under  
 31 | subparagraph (2) to prove that there was no intention of  
 32 | concealing the facts disclosed by the information from persons  
 33 | carrying out such an inspection or investigation.

34 | Maximum penalty for this section —

- 35 | (a) (summary) – 6 months' custody or a fine of level 5 on the  
 36 | standard scale; or  
 37 | (b) (information) – 2 years' custody or a fine.”

**PART 5 – AMENDMENT OF THE ONLINE GAMBLING  
REGULATION ACT 2001**

**43 Amendment of the Online Gambling Regulation Act 2001**

The *Online Gambling Regulation Act 2001* is amended in accordance with this Part.

**44 Amendment to substitute “Commission” for “Commissioners”**

For “Commissioners” substitute “Commission” wherever the expression occurs-

- (a) in sections 4(1), (3) and (4), 6(2)(b) and (c), 8(1), 9(1), (2) and (4), 10(1), (4) and (5), 10A(2), (3), (4) and (9), 11(1), (4), (5) and (6), 12(1)(b), 13(1), (2), (3), (4), (5), (6) and (7), 14(3), 15(3), (4) and (5), 17(1), (2) and (4), 21(1)(f) and 24(b);
- (b) in the heading to section 11.

**45 Section 4 amended**

(1) Section 4 (licensing of online gambling) is amended as follows.

(2) After subsection (1), insert-

“(1A) An application for the grant of a licence must be in such form as is required by the Commission, and be accompanied by such documents and information as the Commission may require.”.

(3) For subsection (2), substitute –

“(2) The Commission shall not grant a licence to any company unless it is satisfied –

- (a) that the company is a fit and proper person to conduct online gambling of the descriptions in question;
- (b) that any director of the company is a fit and proper person to act as such;
- (c) that any controller of the company is a fit and proper person to act as such;
- (d) as to the beneficial ownership of the share capital of the company;
- (e) that any beneficial owner of the company is a fit and proper person to be such an owner;
- (f) that any senior manager of the company is a fit and proper person to act as such;
- (g) that the company has adequate financial means available to conduct online gambling of the description in question; and

(h) that any online gambling is being or will be conducted in a manner consistent with the regulatory objectives set out in section 5 (regulatory objectives) of the *Gambling Supervision Act 2010*.

(2A) In assessing whether the Commission is satisfied as to the requirements in subsection (2), the Commission may have regard (among other things) to –

- (a) the integrity, competence, financial standing, structure and organisation of the company;
- (b) the integrity, competence and financial standing of any other person mentioned in subsection (2), as the context requires;
- (c) the business the company proposes to carry on or is carrying on;
- (d) the money laundering risk and the risk of financing of terrorism or proliferation;
- (e) the integrity of any person who is an associate of the company or an associate of any other person mentioned in subsection (2).

(2B) The Commission may, after consulting the Treasury, issue written guidance setting out the criteria that it will normally apply in assessing whether it is satisfied as required by subsection (2).”

#### 46 Section 6 amended

In section 6 (conditions of licence) –

- (a) in subsection (2)(a), for “him” substitute “the holder”;
- (b) after subsection (2), insert –

“(2A) Without affecting the generality of subsection (1), the conditions of a licence may include conditions requiring the holder of the licence to notify the Commission (within the time periods specified in the condition) of certain events, including –

- (a) any change in the legal or beneficial ownership of the share capital, or of any class of share capital, of the holder over a percentage specified in the licence;
- (b) any change in controller of the holder;
- (c) any change in the ownership structure of the holder;
- (d) any change in the beneficial ownership of the holder.”

#### 47 Section 7 amended

In section 7 (duration of licences), for subsection (2), substitute –

- 1 “(2) The holder of a licence intending to surrender the licence must  
2 give notice in writing to the Commission to that effect and  
3 provide with that notice such information as the Commission may  
4 require.
- 5 (2A) The Commission, if it receives a notice under subsection (2) may  
6 by written notice to the holder of the licence –
- 7 (a) require such additional information from the holder of the  
8 licence as it reasonably considers necessary; or
- 9 (b) if satisfied that it has the information it requires of the  
10 holder of the licence, determine –
- 11 (i) the steps the holder of the licence must take before  
12 the Commission will permit the surrender of the  
13 licence;
- 14 (ii) any conditions that it imposes upon the holder of  
15 the licence in relation to the surrender of the licence;  
16 and
- 17 (iii) the date upon which the surrender is to take effect,  
18 or the steps that must be taken by the holder of the  
19 licence before the Commission will permit the  
20 surrender to take effect.
- 21 (2B) The Commission may impose a condition under subsection  
22 (2A)(b)(ii) and stipulate that it continues to have effect after the  
23 surrender of the licence for such period as the Commission  
24 specifies but not exceeding –
- 25 (a) 5 years, in the case of a condition concerning the retention  
26 of information; and
- 27 (b) 2 years in any other case.
- 28 (2C) The Commission may vary or remove a condition.
- 29 (2D) The Commission, upon being satisfied that the holder of the  
30 licence has taken the steps required under subsection (2A)(b)(i)  
31 and agreed to comply with the conditions referred to in  
32 subsection (2A)(b)(ii) must permit the surrender to take effect.
- 33 (2E) The Commission may, in exceptional circumstances, permit the  
34 surrender of a licence despite having not received the information  
35 it requires under subsection (2A).
- 36 (2F) The Commission must publish on its website guidance as to the  
37 exercise of its functions under this section.
- 38 (2G) The Treasury may by regulations make supplementary provisions  
39 in respect of the surrender of a licence including (but not limited  
40 to) –
- 41 (a) the process for surrendering a licence;

- (b) the content of a notice to surrender of a licence;
- (c) records to be retained following a surrender of a licence.”.

#### 48 Section 8 amended

In section 8 (renewal of licences), in subsection (2)(b) –

- (a) for “21 days from” substitute “one month beginning with”;
- (b) for “on which notice of the refusal is given to the applicant” substitute “of the decision to refuse the application”.

#### 49 Section 9 amended

(1) Section 9 (variation and transfer of licence) is amended as follows.

(2) In subsection (2), after “specified in the licence” insert “or impose a new condition”.

(3) Subsection (3) is amended as follows –

- (a) after “or of a condition of a licence,” insert “or the imposition of a new condition,”;
- (b) for “21 days from the date on which notice of it is given to the applicant” substitute “one month beginning with the date of the decision”.

(4) After subsection (4), insert –

“(4A) An application under this section must be in such form as is required by the Commission, and be accompanied by such documents and information as the Commission may require.”.

#### 50 Section 10 amended

(1) Section 10 (designated official) is amended as follows.

(2) For subsection (3) substitute –

“(3) The Commission shall not approve an individual as a designated official unless the Commission is satisfied that the person is a fit and proper person to act as such, and shall withdraw such approval if the Commission ceases to be so satisfied.

(3ZA) In assessing whether the Commission is satisfied as to the requirements in subsection (3), the Commission may have regard (among other things and with any necessary modifications) to the matters mentioned in section 4(2A).”.

(3) For subsection (3A) substitute –

“(3A) The Commission shall, after consulting the Treasury, issue written guidance setting out the criteria that it will normally apply in assessing whether it is satisfied as required by subsection (3).”.

1 (4) In subsection (4), for “withdraw their” substitute “withdraws its”.

2 (5) In subsection (5)(b), for “refuse” substitute “refuses”.

3 **51 Section 10A amended**

4 In section 10A(4) (designated official outside the Island), for “them” substitute  
5 “the Commission”.

6 **52 Section 11 amended**

7 (1) Section 11 (duties of the Commission) is amended as follows.

8 (2) In subsection (1), for paragraph (b), substitute –

9 “(b) investigate (as the context requires) the fitness and  
10 propriety and financial standing of any person applying  
11 for or holding any licence (including any beneficial owner  
12 or controller of such a person) or otherwise connected with  
13 the operation of any online gambling conducted in the  
14 Island; and”.

15 (3) In subsection (4), for “their” substitute “its”.

16 (4) In subsection (5), for “their” substitute “its”.

17 **53 Section 12 amended**

18 (1) Section 12 (obligations of holder of licence) is amended as follows.

19 (2) In subsection (1) –

20 (a) omit paragraph (a);

21 (b) in paragraph (b), for “them” substitute “it”;

22 (c) for paragraph (c) substitute, –

23 “(c) notify the Commission, as soon as reasonably practicable,  
24 if the holder of the licence or any designated official,  
25 director, controller, senior manager or beneficial owner in  
26 relation to the licence –

27 (i) is cautioned, charged or convicted of an offence  
28 falling within section 13(3); or

29 (ii) becomes the subject of an investigation by any  
30 regulatory body.”.

31 (3) For subsection (2) substitute –

32 “(2) No person shall be appointed to be a director of the holder of a  
33 licence unless the Commission –

34 (a) is satisfied that the person is a fit and proper person to act  
35 as such; and

36 (b) has approved the person’s appointment.

1 (2A) In assessing whether the Commission is satisfied as to the  
 2 requirements in subsection (2), the Commission may have regard  
 3 (among other things and with any necessary modifications) to the  
 4 matters mentioned in section 4(2A).”.

5 (4) After subsection (3), insert –

6 “(4) In this section, “regulatory body” includes any body (whether in  
 7 the Island or elsewhere) which has functions similar to those of  
 8 the Commission or which regulates or supervises any  
 9 profession.”.

#### 10 54 Section 13 amended

11 (1) Section 13 (cancellation etc of licence) is amended as follows.

12 (2) In subsection (1), for “they are” substitute “the Commission is”.

13 (3) In subsection (3) –

14 (a) after “or any designated official” insert “, director, controller,  
 15 senior manager or beneficial owner”;

16 (b) in paragraph (a), after “the 1988 Act” insert “, the *Gambling (Anti-  
 17 Money Laundering and Countering the Financing of Terrorism) Act  
 18 2018*”.

19 (4) In subsection (4) –

20 (a) for “they are” substitute “the Commission is”;

21 (b) in paragraph (d), for “or 15” substitute “, 15 or 15A”;

22 (c) in paragraph (f), after “authorised by licence” insert “; or”;

23 (d) after paragraph (f), insert –

24 “(g) has made a material change to the business model most  
 25 recently submitted to the Commission by the holder.”.

26 (5) In subsection (5), for “them” substitute “the Commission”.

27 (6) In subsection (6) –

28 (a) for “give” substitute “gives”;

29 (b) for “or 15” substitute “, 15 or 15A”;

30 (c) for “they” substitute “the Commission”.

31 (7) In subsection (7) –

32 (a) for “section 16” substitute “Schedule 1 (inspection and  
 33 investigation)”;

34 (b) for “they” substitute “the Commission”.

35 (8) After subsection (8), insert –

- 1 | “(9) In this section, “business model” means a written statement  
2 | provided to the Commission by the holder setting out details of  
3 | the holder’s current or proposed business.”.

4 | **55 Section 14 amended**

- 5 | In section 14 (effect of cancellation etc of licence) in subsection (3) for “declare”  
6 | substitute “declares”.

7 | **56 Section 15 amended**

- 8 | (1) Section 15 (control of management advertising etc) is amended as  
9 | follows.

- 10 | (2) In the heading, after “management” insert “, controllers, owners,”.

- 11 | (3) For subsection (1) and (2) substitute –

- 12 | “(1) If, on reasonable grounds, it appears to the Commission that any –

- 13 | (a) director or senior manager;

- 14 | (b) controller; or

- 15 | (c) beneficial owner,

16 | of the holder of a licence is not a fit and proper person to continue  
17 | as such, the Commission may direct the holder of the licence and  
18 | the person concerned that such person must not continue as a  
19 | director, senior manager, controller or beneficial owner, without  
20 | the written consent of the Commission.

- 21 | (2) In deciding whether to issue a direction under subsection (1), the  
22 | Commission may have regard (among other things and with any  
23 | necessary modifications) to the matters mentioned in section  
24 | 4(2A).

- 25 | (2A) The Commission must give written notice to the holder of the  
26 | licence and to the person concerned of any decision to make a  
27 | direction under this section together with a statement of the  
28 | reasons for the decision.

- 29 | (2B) Subject to subsection (2C), if a notice has been given under  
30 | subsection (2A), the direction shall take effect –

- 31 | (a) if no appeal under section 7 (appeal to Tribunal) of the  
32 | *Gambling (Amendment) Act 2006* is made before the end of  
33 | the period of one month beginning with the date of the  
34 | decision to make a direction, on the expiry of that period;  
35 | or

- 36 | (b) if there is an appeal under section 7 of the *Gambling*  
37 | *(Amendment) Act 2006* –

- (i) where the appellant abandons the appeal, on the date of abandonment;
- (ii) where the decision of the Commission is confirmed, on the date of confirmation; or
- (iii) where the decision of the Commission is varied, on such date as the Gambling Appeals Tribunal directs.

(2C) If the Commission is of the opinion that a direction should have immediate effect, the notice under subsection (2A) must contain a statement to that effect together with the reasons for that opinion, and the direction shall have effect on the giving of the notice.

(2D) Any direction or consent given by the Commission under subsection (1) may be –

- (a) given subject to conditions;
- (b) varied from time to time;
- (c) revoked at any time,

and the Commission must give written notice to the holder of the licence and to the person concerned of any decision to exercise the power conferred by paragraph (a), (b) or (c).

(2E) A person must not continue in any of the roles referred to in subsection (1) in contravention of a direction under this section.

(2F) It is the duty of a holder of a licence to take reasonable care not to continue the appointment of a person in contravention of a direction under this section.”.

- (4) In subsection (3), for “they consider” substitute “the Commission considers”.

## 57 Section 15A inserted

After section 15, insert –

### “15A Directions

(1) The Commission may issue written directions under this section to the holder of a licence.

(2) A direction may –

- (a) require the holder of a licence to comply with a request for information under paragraph 3 (requests for information for regulatory inspection purposes) of Schedule 1 (inspection and investigation);
- (b) require the holder of a licence to take such action in respect of the holder’s business as is specified in the direction;

- 1 (c) impose such requirements as are necessary to secure that  
 2 any business carried on by the holder of a licence is in  
 3 whole or in part suspended or discontinued; or  
 4 (d) where a holder of a licence intends to surrender a licence,  
 5 require the person to take such action as is necessary to  
 6 secure that any business carried on by the holder is in  
 7 whole or in part discontinued and wound up,  
 8 and the direction must include a statement of the reasons for its  
 9 issue.
- 10 (3) The Commission may, on an application by the holder of a licence  
 11 or of its own motion, vary or revoke a direction under this section  
 12 and any variation or revocation of a direction must include a  
 13 statement of the reasons for that variation or revocation.
- 14 (4) If a holder of a licence contravenes a written direction under this  
 15 section, the Commission may exercise any one or more of the  
 16 following powers as appropriate –
- 17 (a) the variation of the licence or the variation or cancellation  
 18 of any condition specified in the licence under section 9  
 19 (variation and transfer of licence);
- 20 (b) the imposition of a new condition on the licence under  
 21 section 9;
- 22 (c) the suspension or cancellation of the licence under section  
 23 13 (cancellation etc of licence);
- 24 (d) the issue of a direction under section 15 (control of  
 25 management, advertising etc).
- 26 (5) In addition to being subject to the powers of the Commission  
 27 under subsection (4), if the holder of a licence fails to comply with  
 28 a written direction issued under subsection (2)(d), the holder is  
 29 guilty of an offence.
- 30 (6) The power to issue a written direction under this section is in  
 31 addition to, and does not affect, the power of the Commission to  
 32 issue a direction under section 6(2)(c) (conditions of licence) and  
 33 section 15 (control of management, advertising etc).”

34 **58 Section 16 substituted**

35 For section 16 (rights of entry, inspection etc) substitute –

36 “Schedule 1 has effect in respect of the powers of inspection and  
 37 investigation of the Commission.”

38 **59 Section 16A inserted**

39 After section 16, insert –

**“16A Offences in connection with information**

A person who –

- (a) furnishes or sends to the Commission for any purposes under this Act a document which the person knows is false or misleading in a material particular;
- (b) recklessly furnishes or sends to the Commission for the purposes of this Act a document which is false or misleading in a material particular;
- (c) in furnishing information to the Commission for the purposes of this Act –
  - (i) makes a statement which the person knows to be false or misleading in a material particular; or
  - (ii) recklessly makes a statement which is false or misleading in a material particular; or
- (d) without reasonable excuse, fails to furnish information which that person is required to furnish to the Commission under this Act,

is guilty of an offence.

**60 Section 17 amended**

In section 17 (beneficial ownership) omit subsection (5).

**61 Section 18 amended**

In section 18 (offences) for “16(4)” wherever occurring in subsections (1) and (2) substitute “15A(5)”.

**62 Section 21 amended**

(1) Section 21 (regulations) is amended as follows.

(2) In subsection (1) –

(a) after paragraph (b) insert –

- “(ba) prescribe standards in respect of systems (including software), processes and procedures used in the conduct of online gambling and require compliance with such standards to be certified or audited;
- (bb) require the Commission to keep registers and make such registers available for inspection by members of the public;”;

(b) omit paragraph (d);

(c) in paragraph (l), for “*Data Protection Act 2002*” substitute “data protection legislation”;

- 1 (d) at the end of paragraph (l) for the full stop substitute a semi-colon;
- 2 (e) after paragraph (l), insert –
- 3 “(m) make any provision as may be necessary to ensure the
- 4 lawfulness of any processing of personal data by the
- 5 Commission in the exercise of its functions under this Act
- 6 in accordance with the data protection legislation.”.
- 7 (3) After subsection (1B), insert –
- 8 “(1C) Regulations under subsection (1) may –
- 9 (a) confer a function on a specified person or body (including
- 10 the Commission) and a function conferred may, in
- 11 particular, be a power or duty to exercise a discretion;
- 12 (b) require holders of a licence to comply with such standards,
- 13 rules, regulations, codes or guidance as are from time to
- 14 time in operation and made or issued by the Commission
- 15 or any other person whether in the Island or elsewhere.”.

16 **63 Section 21A inserted**

17 After section 21, insert –

18 **“21A Standards**

- 19 (1) The Commission may establish, or provide for the establishment
- 20 of, standards in respect of any systems (including software),
- 21 processes and procedures used in the conduct of online gambling.
- 22 This does not affect the power of the Treasury to prescribe
- 23 standards under section 21(1).
- 24 (2) Without affecting the generality of section 6 (conditions of
- 25 licence), the Commission may provide for compliance with such
- 26 standards and the enforcement of such standards by specifying
- 27 conditions in a licence.
- 28 (3) The Commission may approve such persons as it thinks
- 29 appropriate to certify or audit compliance with any standards,
- 30 whether such standards are prescribed by the Treasury or
- 31 established or provided for by the Commission.
- 32 (4) Persons approved by the Commission under subsection (3) may
- 33 be approved for different purposes.
- 34 (5) The Commission may maintain lists of any person approved by
- 35 the Commission under subsection (3) containing such details as
- 36 the Commission thinks appropriate and make such lists available
- 37 to the public at all reasonable times.”.

1 **64 Section 21B inserted**

2 After section 21A, insert –

3 **“21B Registers**

- 4 (1) The Commission must keep a register of current and former  
5 holders of a licence containing such details as the Commission  
6 thinks appropriate.
- 7 (2) The Commission must make the register under subsection (1)  
8 available for inspection by members of the public at all reasonable  
9 times.
- 10 (3) The Commission may keep a register of some or all current or  
11 former persons exempt from section 2(1) (restrictions on online  
12 gambling) containing such details as the Commission thinks  
13 appropriate.
- 14 (4) The Commission may make any register under subsection (3)  
15 available for inspection by members of the public at all reasonable  
16 times.”.

17 **65 Section 22 amended**

18 In section 22 (exemption from certain restrictions), for “the Schedule” substitute  
19 “Schedule 2”.

20 **66 Section 25 amended**

21 (1) Section 25 (interpretation: general) is amended as follows.

22 (2) Renumber the existing text as subsection (1).

23 (3) In subsection (1) (as renumbered) –

24 (a) at the appropriate place in alphabetical order, insert –

25 | **““associate” means –**

26 | (a) in relation to any individual –

27 | (i) the parent, spouse, civil partner, child, stepchild or  
28 | sibling of the individual;

29 | (ii) any body corporate of which that individual is a  
30 | director;

31 | (iii) a partner or employee of that individual; or

32 | (iv) any person with whom the individual is known to  
33 | have a close relationship;

34 | (b) in relation to a body corporate –

35 | (i) any director or employee of that body;

36 | (ii) any subsidiary of that body;

- 1 (iii) any holding company of that body;
- 2 (iv) any subsidiary of that holding company;
- 3 (v) any director of any such holding company or
- 4 subsidiary; or
- 5 (vi) any person with whom the body corporate is
- 6 known to have a close relationship;
- 7 (c) in relation to an individual or a body corporate, any person
- 8 with whom the individual or body corporate has an
- 9 agreement, arrangement or other obligation –
- 10 (i) in respect of the acquisition, holding or disposal of
- 11 shares or interests in a body corporate; or
- 12 (ii) to act together in exercising voting power with
- 13 respect to such a body corporate;”;
- 14 “**beneficial owner**” means a natural person who ultimately owns or
- 15 controls a legal entity, in whole or in part, through direct or
- 16 indirect ownership or control of shares or voting rights or other
- 17 ownership interest in that entity, or who exercises control via
- 18 other means;”;
- 19 “**controller**” means –
- 20 (a) a person who either alone or with any associate or
- 21 associates owns or controls, directly or indirectly –
- 22 (i) if the holder of a licence or another body corporate
- 23 of which the holder is a subsidiary is a private
- 24 company or a public company whose shares are not
- 25 quoted on an exchange, 5% or more of the shares in
- 26 that holder or that other body corporate; or
- 27 (ii) if the holder of a licence or another body corporate
- 28 of which the holder is a subsidiary is a public
- 29 company whose shares are quoted on an exchange,
- 30 20% or more of the shares in that holder or that
- 31 other body corporate;
- 32 (b) a person who either alone or with any associate owns or
- 33 controls, directly or indirectly –
- 34 (i) if the holder of a licence or another body corporate
- 35 or which the holder is a subsidiary is a private
- 36 company or a public company whose shares are not
- 37 quoted on an exchange, 5% or more of the voting
- 38 power at any general meeting of that holder or that
- 39 other body corporate; or
- 40 (ii) if the holder of a licence or another body corporate
- 41 of which the holder is a subsidiary is a public
- 42 company whose shares are quoted on an exchange,

20% of more of the voting power at any general meeting of that holder or that other body corporate;

- (c) a person who is a director of the holder of a licence or of another body corporate of which that holder is a subsidiary;
- (d) a person who is a director of a corporate director of the holder of a licence or of another body corporate of which that holder is a subsidiary;
- (e) a person who, on account of that person's financial contribution to the holder of a licence or of another body corporate of which that holder is a subsidiary, has power to significantly influence or control the activities of the holder of a licence or of another body corporate of which that holder is a subsidiary;
- (f) a person on whose non-financial contribution the holder of a licence, or a body corporate of which that holder is a subsidiary, places such considerable reliance as to be dependent on that contribution in order to function as it normally would;
- (g) a person in accordance with whose directions or instructions one or more of the directors of the holder of a licence or of another body corporate of which that holder is a subsidiary are accustomed to act unless such director or directors are accustomed to so act by reason only that they do so on advice given by that person in a professional capacity;
- (h) a person who has the power to appoint directors to the board of directors or other executive committees of the holder of a licence or of another body corporate of which that holder is a subsidiary and to remove them;
- (i) a person who otherwise appears to the Commission to be able to exercise significant influence or control over the holder of a licence or another body corporate of which that holder is a subsidiary;

and any reference to the holder of a licence (however expressed) in this definition is to be read as including a reference to an applicant for a licence (as the context requires);”;

“**“data protection legislation”** has the meaning given in regulation 5(1) of the GDPR and LED implementing Regulations 2018<sup>7</sup>;”;

“**“designated exchange”** means an investment exchange (not being a recognised exchange) for the time being included on the list of

<sup>7</sup> SD 2018/0145

- 1 designated investment exchanges maintained by the Financial  
2 Conduct Authority of the United Kingdom;”;
- 3 “**equipment**” includes any computer, machine, electronic device,  
4 apparatus, software or other thing;”;
- 5 “**exchange**” means a recognised exchange or a designated exchange;”;
- 6 “**recognised exchange**” means a body for the time being declared to be  
7 a recognised investment exchange by an order of the Financial  
8 Conduct Authority of the United Kingdom under section 290 of  
9 the Financial Services and Markets Act 2000 (of Parliament)<sup>8</sup>;”;
- 10 “**senior manager**” means such person as appears to the Commission to  
11 have significant powers or responsibilities with respect to any  
12 online gambling conducted or to be conducted by the holder of a  
13 licence or an applicant for such a licence;”;
- 14 “**subsidiary**” means a body corporate (whether or not incorporated  
15 under the *Companies Act 1931-2004* or the *Companies Act 2006*) that  
16 is a subsidiary of another body corporate (whether or not  
17 incorporated under those Acts) and in determining whether one  
18 body corporate is a subsidiary of another the provisions of section  
19 1 of the *Companies Act 1974* or section 220 of the *Companies Act*  
20 *2006* shall apply (as the context requires), and “holding company”  
21 shall be construed accordingly;”;
- 22 (b) for the definition of “the Commissioners” substitute –
- 23 “**the Commission**” means the Isle of Man Gambling Supervision  
24 Commission;”.
- 25 (4) After subsection (1), insert –
- 26 “(2) The Treasury may by regulations amend the definitions of  
27 “**associate**”, “**beneficial owner**”, “**controller**”, “**exchange**” or  
28 “**senior manager**”.
- 29 Tynwald procedure – approval required.”.

## 30 67 Schedule 2 amended

31 Renumber existing Schedule (amendment of enactments) as “Schedule 2”.

## 32 68 Schedule 1 inserted

33 Before Schedule 2 (as renumbered), insert –

### 34 Schedule 1

### 35 INSPECTION AND INVESTIGATION

<sup>8</sup> 2000 c.8

[Section 16]

**1 Power of the Commission**

- (1) The Commission may exercise the powers in this Schedule for the purposes of the Commission's functions under this Act.
- (2) Those functions of the Commission include —
- (a) the functions of the Commission under section 11 (duties of the Commission);
  - (b) securing compliance with the provisions of this Act (and any statutory documents made under it) and any conditions of a licence issued under this Act;
  - (c) securing that any online gambling is conducted in a manner consistent with the regulatory objectives set out in section 5 (regulatory objectives) of the *Gambling Supervision Act 2010*.
- (3) To avoid doubt, the powers of the Commission under this Schedule may be exercised in relation to —
- (a) a person licensed under this Act to conduct online gambling;
  - (b) a person who was licensed under this Act to conduct online gambling but is no longer so licensed, but only in respect of or in connection with any transactions, matters or circumstances as occurred or existed when that person was so licensed;
  - (c) a person whom the Commission reasonably suspects of currently conducting online gambling without a licence;
  - (d) a person whom the Commission reasonably suspects of having conducted online gambling in the past without a licence, but only in respect of or in connection with any transactions, matters or circumstances as occurred or existed when that person is suspected of having conducted online gambling without a licence;
  - (e) a person who is or was exempt from section 2(1) (restrictions on online gambling).

**2 Entry and inspection**

- (1) For a purpose mentioned in paragraph 1 (power of the Commission), the Commission may enter and inspect any premises that the Commission reasonably believes are being or have been used for or in connection with the conduct of online gambling.
- (2) The power of entry under this paragraph —

- 1 (a) may be exercised without a warrant;
- 2 (b) subject to subparagraph (3), may be exercised with or
- 3 without consent and with or without giving prior notice;
- 4 and
- 5 (c) must be exercised at a reasonable time.
- 6 (3) The power under this paragraph to enter premises without a
- 7 warrant does not apply in relation to premises used wholly or
- 8 mainly as a private dwelling unless 24 hours' notice of the
- 9 intended entry has been given to the occupier and the occupier
- 10 consents to the person entering the premises.
- 11 (4) A person ("P") entering any premises by virtue of this paragraph
- 12 may –
- 13 (a) be accompanied by such persons, and may take onto the
- 14 premises such equipment, as P thinks necessary;
- 15 (b) request any person on the premises to provide such
- 16 assistance or information as P may reasonably require;
- 17 (c) inspect any part of the premises and inspect, examine and
- 18 test any equipment on the premises;
- 19 (d) inspect or examine any books, accounts, documents and
- 20 information (in whatever form they are held) on the
- 21 premises or accessible from the premises and take
- 22 possession of any such books, accounts, documents and
- 23 information;
- 24 (e) have access to, and inspect and examine the operation of,
- 25 any electronic device and any associated apparatus or
- 26 material which is or has been in use in connection with any
- 27 books, accounts, documents or information;
- 28 (f) take copies of any books, accounts, documents and
- 29 information and, in the case of any information kept in
- 30 electronic form, require such information to be produced in
- 31 a form in which it can be taken away and in which it is
- 32 visible or legible or from which it can be readily produced
- 33 in a visible and legible form;
- 34 (g) request any person having charge of, or otherwise
- 35 concerned with the operation of, any equipment to afford P
- 36 such assistance as P may reasonably require;
- 37 (h) seize, remove and retain anything (including documents
- 38 and equipment) if P reasonably believes that it constitutes
- 39 or contains evidence of –
- 40 (i) the commission of an offence under this Act;
- 41 (ii) the breach of a term or condition of a licence issued
- 42 under this Act; or

(iii) non-compliance with any provision of this Act;

(i) take any other steps in relation to anything referred to in subparagraph (4)(h) as appear to be necessary for preserving it and preventing interference with it.

(5) Nothing in this paragraph —

(a) compels a person to disclose any items subject to legal privilege (within the meaning of section 13 of the *Police Powers and Procedures Act 1998*); or

(b) confers a right on a person who enters premises in exercise of a power under this paragraph to seize any items subject to legal privilege.

### 3 Requests for information for regulatory inspection purposes

(1) The Commission may request any person whom it reasonably believes may hold information that the Commission reasonably requires for a purpose mentioned in paragraph 1 (power of the Commission) to provide that information to the Commission.

(2) Without affecting the generality of subparagraph (1), the power to request any person to provide information under this paragraph includes the power to request information from —

(a) a person that the Commission reasonably believes is or has been conducting online gambling (whether with or without a licence) (“O”);

(b) any person other than O, including (without limitation) —

(i) a person who is or has been an employee of O;

(ii) a person who is or has been a controller or beneficial owner of O;

(iii) a person that provides or has provided services to O or a person who is or has been an employee of such a person; or

(iv) a person that is or was an associate of O.

(3) Without affecting the generality of subparagraph (1), the Commission may request information about —

(a) the affairs of any person who is or has been a customer of O or who has requested to be a customer of O;

(b) any body corporate that is or has been —

(i) a holding company, subsidiary or related company of O;

(ii) a subsidiary of a holding company of O;

(iii) a holding company of a subsidiary of O;

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(iv) a body corporate in respect of which a shareholder, controller or beneficial owner of O, either alone or with any associate or associates, is or has been entitled to exercise, or control the exercise of, 25% or more of the voting power at a general meeting or a meeting of the board of directors;

- (c) any partnership of which O is or has been a member;
- (d) any person who is or has been a controller or beneficial owner of O;
- (e) any hosting services provided to O; or
- (f) any other services provided to O in connection with O's conduct of online gambling.

(4) The power to request any person to provide information under subparagraph (1) includes the power to request a person to produce a document.

(5) If the Commission has made a request of a holder of a licence, the Commission may issue a direction under section 15A (directions) to that holder to secure that effect is given to a request under this paragraph.

(6) A statement given by a person in response to such a direction may not be used in evidence against that person in respect of any criminal proceedings except proceedings alleging contravention of section 16A (offences in connection with information) or paragraph 8 (offences).

(7) A person shall not be under an obligation under this paragraph to disclose any items subject to legal privilege within the meaning of section 13 of the *Police Powers and Procedures Act 1998*.

(8) In this paragraph, "document" includes information recorded in any form and, in relation to any information kept in electronic form, references to its production include reference to producing the information in a form in which it can be taken away and in which it is visible and legible or from which it can be readily produced in a visible and legible form.

(9) In this paragraph –

- (a) "related company", in relation to O, means a body corporate (other than a subsidiary of O) in which O holds a qualifying capital interest;
- (b) "qualifying capital interest" means an interest in relevant shares of the body corporate which O holds on a long-term basis for the purpose of securing a contribution to its own activities by the exercise of control or influence arising from that interest;

- 1 (c) “relevant shares” means shares comprised in the equity  
 2 share capital of the body corporate of a class carrying  
 3 rights to vote in all circumstances at general meetings of  
 4 the body;
- 5 (d) “equity share capital” has the same meaning as in section  
 6 1(5) of the *Companies Act 1974*;
- 7 (e) a holding of 20% or more of the nominal value of the  
 8 relevant shares of a body corporate shall be presumed to  
 9 be a qualifying capital interest unless the contrary is  
 10 shown.

- 11 (10) The power in this paragraph may be exercised by the Commission  
 12 during an inspection of premises under paragraph 2 (entry and  
 13 inspection) or otherwise.

#### 14 4 Power of the Commission to require information

- 15 (1) The Commission may apply to a justice of the peace for a written  
 16 instrument authorising the Commission to exercise the powers in  
 17 this paragraph.
- 18 (2) The justice of the peace may issue the written instrument if the  
 19 justice of the peace is satisfied that there is good reason to do so  
 20 for the purposes of investigating the affairs, or any aspect of the  
 21 affairs, of any person, in so far as those affairs are relevant to any  
 22 online gambling that the person is or was conducting or appears  
 23 to be or to have been conducting.
- 24 (3) The Commission may by notice in writing, accompanied by a  
 25 copy of the instrument issued by the justice of the peace under  
 26 subparagraph (2), require the person whose affairs are to be  
 27 investigated or any other person whom the Commission has  
 28 reason to believe has relevant information, documents or  
 29 equipment –
- 30 (a) to attend before the Commission at a specified time and  
 31 place to answer questions or otherwise furnish information  
 32 with respect to any matter relevant to the investigation;
- 33 (b) to produce at a specified time and place any specified  
 34 documents, class of documents or copies of documents  
 35 which appear to the Commission to be relevant to the  
 36 investigation;
- 37 (c) to make available to the Commission for inspection,  
 38 examination or testing, at a specified time and place, any  
 39 specified equipment which appears to the Commission to  
 40 be relevant to the investigation.
- 41 (4) If a person who is required to produce a document or copies of  
 42 documents under subparagraph (3)(b) fails to do so, the

- 1 Commission may require that person to state, to the best of that  
2 person's knowledge and belief, where they are.
- 3 (5) If any documents are produced as required under subparagraph  
4 (3)(b), the Commission may —
- 5 (a) take possession of all such documents for so long as the  
6 Commission considers necessary;
- 7 (b) take copies or extracts from them; or
- 8 (c) require the person producing them to provide an  
9 explanation of any of them.
- 10 (6) A notice under subparagraph (3) must include a statement  
11 informing the person of the offences under paragraph 8 (offences)  
12 and section 16A (offences in connection with information).
- 13 (7) A person shall not be under an obligation under this paragraph to  
14 disclose any items subject to legal privilege within the meaning of  
15 section 13 of the *Police Powers and Procedures Act 1998*.
- 16 (8) A statement given by a person in response to a requirement  
17 imposed under this paragraph may not be used in evidence  
18 against that person in respect of any criminal proceedings except  
19 proceedings alleging contravention of section 16A (offences in  
20 connection with information) or paragraph 8 (offences).
- 21 (9) In this paragraph “document” includes information recorded in  
22 any form and, in relation to any information kept in electronic  
23 form, references to its production include reference to producing  
24 the information in a form in which it can be taken away and in  
25 which it is visible and legible or from which it can be readily  
26 produced in a visible and legible form.
- 27 (10) If a person claims a lien on a document, its production under this  
28 paragraph is without prejudice to the lien.

## 29 5 Entry to premises under warrant

- 30 (1) The Commission may apply to a Deemster for a warrant  
31 authorising the Commission to enter any premises.
- 32 (2) A Deemster may issue the warrant only if, on information on oath  
33 laid by the Commission, the Deemster is satisfied that —
- 34 (a) the Commission would be permitted to enter the premises  
35 without a warrant in accordance with paragraph 2 (entry  
36 and inspection) and at least one of the conditions in  
37 subparagraph (3) is satisfied;
- 38 (b) a person has failed (wholly or in part) to comply with an  
39 obligation under paragraph 4 to furnish information,  
40 produce documents or make equipment available and

1 there are reasonable grounds for suspecting that the  
2 information, documents or equipment are on the premises;

3 (c) there are reasonable grounds for suspecting that there are  
4 on the premises information, documents or equipment in  
5 relation to which the power in paragraph 4 could be  
6 exercised but if such a requirement were imposed it would  
7 not be complied with or might seriously prejudice the  
8 purpose of exercising that power; or

9 (d) there are reasonable grounds for suspecting that there are  
10 on the premises information, documents or equipment in  
11 relation to which the power in paragraph 4 could be  
12 exercised but it is not practicable to serve a notice under  
13 paragraph 4(3) in relation to them.

14 (3) Those conditions are —

15 (a) entry to the premises has been refused or is likely to the  
16 refused;

17 (b) the purpose of entry may be frustrated or seriously  
18 prejudiced unless immediate entry to the premises can be  
19 secured; or

20 (c) the premises are unoccupied or the occupier is absent.

21 (4) A warrant issued by a Deemster may authorise any person named  
22 in the warrant (“P”), to do any one or more of the following —

23 (a) to enter any premises specified in the warrant, using such  
24 force as is reasonably necessary for the purpose;

25 (b) to search any such premises;

26 (c) to be accompanied by such persons, and take onto the  
27 premises such equipment, as P thinks necessary;

28 (d) to seize, remove and retain any information, documents or  
29 equipment appearing to be information, documents or  
30 equipment of the description specified in the application  
31 for the warrant or take any other steps in relation to such  
32 information, documents or equipment as appear to be  
33 necessary for preserving them and preventing interference  
34 with them;

35 (e) if it is not reasonably practicable to determine on the  
36 premises if information, documents or equipment is or  
37 contains something that is entitled to be seized under the  
38 warrant, to seize and remove such information, documents  
39 or equipment from the premises to enable that to be  
40 determined;

41 (f) to require any person on the premises to provide such  
42 assistance or information as P may reasonably require;

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- (g) to inspect any part of the premises and inspect, examine and test any equipment on the premises;
  - (h) to inspect or examine any books, accounts, documents and information (in whatever form they are held) on the premises or accessible from the premises and take possession of any such books, accounts, documents and information;
  - (i) to have access to, and inspect and examine the operation of, any electronic device and any associated apparatus or material which is or has been in use in connection with any books, accounts, documents or information;
  - (j) to take copies of any books, accounts, documents and information and, in the case of any information kept in electronic form, require such information to be produced in a form in which it can be taken away and in which it is visible or legible or from which it can be readily produced in a visible and legible form;
  - (k) to require any person having charge of, or otherwise concerned with the operation of, any equipment to afford P such assistance as P may reasonably require;
  - (l) to seize, remove and retain anything (including documents and equipment) if P reasonably believes that it constitutes or contains evidence of —
    - (i) the commission of an offence under this Act;
    - (ii) the breach of a term or condition of a licence issued under this Act; or
    - (iii) non-compliance with any provision of this Act;
  - (m) take any other steps in relation to anything referred to in subparagraph (4)(l) as appear to be necessary for preserving it and preventing interference with it.
- (5) Any person executing a warrant issued under this paragraph must be accompanied by a constable.
- (6) A warrant issued under this paragraph ceases to have effect at the end of the period of one month beginning with the day it is issued.
- (7) If the premises are unoccupied or the occupier is temporarily absent, on leaving the premises the person executing the warrant must —
- (a) leave a notice on the premises stating that the premises have been entered under a warrant under this paragraph; and

(b) leave the premises as effectively secured against trespassers as that person found them.

(8) Nothing in this paragraph —

(a) compels a person to disclose any items subject to legal privilege (within the meaning of section 13 of the *Police Powers and Procedures Act 1998*); or

(b) confers a right on a person who enters premises in exercise of a power under this paragraph to seize any items subject to legal privilege.

(9) A statement given by a person in response to a requirement imposed under this paragraph may not be used in evidence against that person in respect of any criminal proceedings except proceedings alleging contravention of section 16A (offences in connection with information) or paragraph 8 (offences).

## 6 Seized goods

(1) If the Commission seizes, removes or takes possession of anything under paragraph 2 (entry and inspection) or paragraph 5 (entry to premises under warrant), the Commission must take reasonable steps as soon as reasonably practicable to —

(a) inform the person from whom they are seized, removed or taken that they have been seized, removed or taken; and

(b) provide that person with a written record of what has been seized, removed or taken.

(2) Anything seized, removed or taken under this paragraph may be retained for so long as it may be required for the purpose for which it was seized, removed or taken.

## 7 Authorisation

(1) The Commission may authorise in writing such persons as it thinks appropriate to exercise on its behalf all or any of the powers under this Schedule.

(2) A person seeking to exercise a power under this Schedule must, if requested to do so, produce evidence of the person's identity and authority to do so.

## 8 Offences

(1) A person who, without reasonable excuse, —

(a) obstructs or fails to cooperate with any person who is exercising or seeking to exercise a power under paragraph

- 1 | 2 (entry and inspection) or paragraph 5 (entry to premises  
2 | under warrant); or  
3 | (b) fails to comply with a requirement imposed under  
4 | paragraph 4 (power of the Commission to require  
5 | information),  
6 | is guilty of an offence.
- 7 | (2) A person who –  
8 | (a) knows or suspects that an inspection or investigation by  
9 | the Commission is being or is likely to be carried out; and  
10 | (b) falsifies, conceals, destroys or otherwise disposes of, or  
11 | causes or permits the falsification, concealment,  
12 | destruction or disposal of, information that the person  
13 | knows or suspects is or would be relevant to such an  
14 | inspection or investigation,  
15 | is guilty of an offence.
- 16 | (3) It is a defence for a person charged with an offence under  
17 | subparagraph (2) to prove that there was no intention of  
18 | concealing the facts disclosed by the information from persons  
19 | carrying out such an inspection or investigation.
- 20 | Maximum penalty for this section –  
21 | (a) (summary) – 6 months’ custody or a fine of level 5 on the  
22 | standard scale; or  
23 | (b) (information) – 2 years’ custody or a fine.”.

24 | **PART 6 – AMENDMENT OF THE GAMBLING (AMENDMENT)**  
25 | **ACT 2006**

26 | **69 Amendment of the Gambling (Amendment) Act 2006**

- 27 | (1) The *Gambling (Amendment) Act 2006* is amended in accordance with this  
28 | Part.

29 | **70 Schedule 4 amended**

- 30 | (1) Schedule 4 (decisions subject to appeal) is amended as follows.  
31 | (2) In paragraph 1, omit “or renew”.  
32 | (3) After paragraph 1 insert –  
33 | “1A. The refusal to renew a bookmaker’s permit granted under section 14 of  
34 | the 1988 Act.”;  
35 | (4) In paragraph 2, for “Schedule I” substitute “Schedule 1”.

- 1 (5) In paragraph 3, omit “renew or transfer”.
- 2 (6) After paragraph 3 insert –
- 3 “3A. The refusal to renew or transfer a betting office licence granted under  
4 section 15 of the 1988 Act.
- 5 3B. The refusal to approve a director under paragraph 15(1)(a) of Schedule 1  
6 to the 1988 Act.
- 7 3C. The refusal to approve a person under paragraph 15(1)(b) of Schedule 1  
8 to the 1988 Act.”.
- 9 (7) In paragraph 5, for “of” substitute “to grant”.
- 10 (8) After paragraph 5 insert –
- 11 “5A. The grant of a racecourse licence under section 22 of the 1988 Act subject  
12 to conditions.
- 13 5B. The amendment or cancellation of a racecourse licence granted under  
14 section 22 of the 1988 Act.”.
- 15 (9) In paragraph 6 –
- 16 (a) for “refusal of” substitute “refusal to grant”;
- 17 (b) for “that” substitute “the 1988”.
- 18 (10) After paragraph 6 insert –
- 19 “6A. The grant of a licence under section 24 of the 1988 Act subject to terms  
20 and conditions.
- 21 6B. The amendment or revocation of a licence granted under section 24 of  
22 the 1988 Act.
- 23 6C. The issue or variation of a direction under section 46A of the 1988 Act or  
24 the refusal to vary or revoke such a direction.”.
- 25 (11) After paragraph 8 insert –
- 26 “8A. The granting of authorisation to promote a series of society lotteries  
27 under section 32(4A) of the 1988 Act subject to conditions.”.
- 28 (12) In paragraph 11, after “the registration of” insert “a person as”.
- 29 (13) After paragraph 11 insert –
- 30 “11A. The issue or variation of a direction under section 46A of the 1988 Act or  
31 the refusal to vary or revoke such a direction.”.
- 32 (14) After paragraph 13 insert –

- 1 “13A. The refusal to approve a director pursuant to a licence condition under  
2 section 4(3)(c) of the 1986 Act.”
- 3 (15) After paragraph 14 insert –
- 4 “14A. The refusal to issue a temporary premises certificate under section 12C  
5 of the 1986 Act.
- 6 14B. The issue of a temporary premises certificate under section 12D of the  
7 1986 Act subject to conditions.
- 8 14C. The variation or revocation of a condition to which a temporary premises  
9 certificate is subject under section 12E(2) of the 1986 Act or the making of a  
10 temporary premises certificate subject to conditions or further conditions under  
11 that section.
- 12 14D. The revocation or suspension of a temporary premises certificate under  
13 section 12F of the 1986 Act.
- 14 14E. The decision that an objection to the issuing of a temporary premises  
15 certificate is without justification under section 12C(4) of the 1986 Act.
- 16 14F. The issue or variation of a direction under section 14B of the 1986 Act or  
17 the refusal to vary or revoke such a direction.
- 18 14G. The issue or variation of a direction under section 14C of the 1986 Act or  
19 the refusal to vary or revoke such a direction.”
- 20 (16) In paragraph 15 omit “, renew, vary or transfer”.
- 21 (17) After paragraph 15 insert –
- 22 “15A. The grant of a licence under section 4 of the 2001 Act subject to  
23 conditions (other than conditions required under section 6(2) of the 2001 Act).
- 24 15B. The refusal to renew, vary or transfer a licence granted under section 4 of  
25 the 2001 Act.
- 26 15C. The imposition of a condition under section 7(2A)(b)(ii) of the 2001 Act,  
27 or the stipulation that a condition remains in effect (or the duration for which it  
28 so remains) after surrender of a licence under section 7(2B) of the 2001 Act.
- 29 15D. The variation of a licence granted under section 4 of the 2001 Act  
30 pursuant to section 9(1) of the 2001 Act.”
- 31 (18) In paragraph 16 –
- 32 (a) for “imposition or variation of” substitute “refusal to vary or  
33 cancel”;
- 34 (b) after “licence” insert “granted”;

(c) after “2001 Act” insert “or the refusal to impose a new condition on such a licence pursuant to section 9(2) of the 2001 Act”.

(19) After paragraph 16 insert –

“16A. The variation or cancellation of a condition specified in a licence granted under section 4 of the 2001 Act or the imposition of a new condition on such a licence pursuant to section 9(2) of the 2001 Act.”.

(20) After paragraph 19 insert –

“19A. The refusal to approve a director under section 12(2) of the 2001 Act.”.

(21) In paragraph 21 –

(a) for “A” substitute “The issue or variation of a”;

(b) after “the 2001 Act” insert “or the refusal to vary or revoke such a direction”.

(22) After paragraph 21 insert –

“21A. The issue or variation of a direction under section 15A of the 2001 Act or the refusal to vary or revoke such a direction.

21B The imposition of a condition under section 7(2A)(b) of the *Online Gambling Regulation Act 2001*, or the stipulation that a condition remains in effect (or the duration for which it remains in effect) after surrender of a licence under section 7(2B) of that Act.”.

(23) In paragraph 22 omit “, renew or amend”

(24) After paragraph 22 insert –

“22A. The refusal to renew or amend a certificate under paragraph 8 of Schedule 1 to the 1984 Act.”.

(25) In paragraph 24 –

(a) after “a certificate,” insert “the specification of”;

(b) for “it” substitute “the certificate”.

(26) In paragraph 25 for “it” substitute “the certificate”.

(27) In paragraph 26 for “of” substitute “to issue or renew”.

(28) After paragraph 26 insert –

“26A. The revocation of a licence under paragraph 3 of Schedule 3 to the 1984 Act.”.

(29) After paragraph 28 insert –

“28A. The issue or variation of a direction under section 12A of the 1984 Act or the refusal to vary or revoke such a direction.”.

1 **PART 7 – AMENDMENT OF THE GAMBLING SUPERVISION**  
 2 **ACT 2010**

3 **71 Amendment of the Gambling Supervision Act 2010**

4 The *Gambling Supervision Act 2010* is amended in accordance with this Part.

5 **72 Section 3 amended**

6 In section 3 (interpretation) in the definition of “the gambling Acts”, after  
 7 paragraph (e) insert –

8 | “(ea) the *Gambling (Anti-Money Laundering and Countering the Financing*  
 9 | *of Terrorism) Act 2018*; and”.

10 **73 Section 5 amended**

11 (1) Section 5 (regulatory objectives) is amended as follows.

12 (2) In subsection 2 after paragraph (c) insert –

13 | “(d) implementing and applying recognised international  
 14 | standards; and

15 | (e) safeguarding the reputation of the Island.”.

16 (3) In subsection (3) –

17 (a) omit paragraphs (c), (e) and (h);

18 (b) in paragraph (f), after “carry on regulated activities;” insert “and”;

19 (c) in paragraph (g), for “; and” substitute a full stop.

20 **74 Section 6 amended**

21 In Section 6(4) (mutual assistance), in the definition of “gambling regulatory  
 22 authority” for the words after “or elsewhere,” (including paragraphs (a) and (b))  
 23 substitute “specified in a list published by the Commission on its website.”.

24 **75 Schedule 2 amended**

25 In Schedule 2 (disclosure of information) –

26 (a) for paragraph 1(1), substitute –

27 | “1. (1) Subject to the provisions of this Schedule, information  
 28 | which is restricted information for the purposes of this paragraph  
 29 | and relates to the business or other affairs of any person shall not  
 30 | be disclosed by a person mentioned in sub-paragraph (3) (“the  
 31 | primary recipient”) or any person obtaining the information  
 32 | directly or indirectly from the primary recipient without the  
 33 | consent of the person to whom it relates.”;

- 1 (b) in paragraph 2, omit “(1)” which appears immediately before  
2 “Paragraph 1”;
- 3 (c) omit paragraphs 2(b), 2(f) and 2(g);
- 4 (d) after paragraph 2(c), insert –
- 5 “(ca) for the purpose of enabling or assisting the Commission to  
6 discharge its functions under the gambling Acts or any  
7 other of its functions;
- 8 (cb) for the purpose of enabling any person, appointed or  
9 authorised by the Commission, to exercise any powers of  
10 inspection and investigation under the gambling Acts;”;
- 11 (e) in paragraph 2(h), after “understanding” insert “pertaining to  
12 medicinal cannabis”;
- 13 (f) omit paragraph 2(i) and insert –
- 14 “(j) for the purpose of enabling or assisting a person appointed  
15 or to be appointed by an operator under section 25 of the  
16 *Gambling (Anti-Money Laundering and Countering the*  
17 *Financing of Terrorism) Act 2018;*
- 18 (k) pursuant to an obligation under the *Freedom of Information*  
19 *Act 2015.*”; and
- 20 (g) in paragraph 3(1), omit “in the Island”.

21 **PART 8 – AMENDMENT OF THE GAMBLING (ANTI-MONEY**  
22 **LAUNDERING AND COUNTERING THE FINANCING OF**  
23 **TERRORISM) ACT 2018**

24 **76 Amendment of the Gambling (Anti-Money Laundering and**  
25 **Countering the Financing of Terrorism) Act 2018.**

26 The *Gambling (Anti-Money Laundering and Countering the Financing of Terrorism)*  
27 *Act 2018*. is amended in accordance with this Part.

28 **77 Section 3 amended**

- 29 (1) Section 3 (interpretation) is amended as follows.
- 30 (2) Omit the definitions of “AML/CFT Codes”, “authorised person”,  
31 “Financial Intelligence Unit”, and “prescribe”.
- 32 (3) For the definition of “AML/CFT legislation” substitute –
- 33 ““AML/CFT legislation” means any code made under section 157  
34 (money laundering codes) of the *Proceeds of Crime Act 2008* or  
35 section 68 (codes relating to the financing of proliferation and  
36 terrorism) of the *Terrorism and other Crime (Financial Restrictions)*  
37 *Act 2014;*”.

(4) At the appropriate place in alphabetical order insert the following definitions –

“**associate**” means –

(a) in relation to any individual –

- (i) the parent, spouse, civil partner, child, stepchild or sibling of the individual;
- (ii) any body corporate of which that individual is a director;
- (iii) a partner or employee of that individual; or
- (iv) any person with whom the individual is known to have a close relationship;

(b) in relation to a body corporate –

- (i) any director or employee of that body;
- (ii) any subsidiary of that body;
- (iii) any holding company of that body;
- (iv) any subsidiary of that holding company;
- (v) any director of any such holding company or subsidiary; or
- (vi) any person with whom the body corporate is known to have a close relationship;

(c) in relation to an individual or a body corporate, any person with whom the individual or body corporate has an agreement, arrangement or other obligation –

- (i) in respect of the acquisition, holding or disposal of shares or interests in a body corporate; or
- (ii) to act together in exercising voting power with respect to such a body corporate;”;

“**beneficial owner**” means a natural person who ultimately owns or controls a legal entity, in whole or in part, through direct or indirect ownership or control of shares or voting rights or other ownership interest in that entity, or who exercises control via other means;”;

“**designated exchange**” means an investment exchange (not being a recognised exchange) for the time being included on the list of designated investment exchanges maintained by the Financial Conduct Authority of the United Kingdom;”;

“**equipment**” includes any computer, machine, electronic device, apparatus, software or other thing;”;

“**exchange**” means a recognised exchange or a designated exchange;”;

1 “**former operator**” means a person who was, but is no longer, an  
2 operator;”;

3 “**key person**” means a Money Laundering Reporting Officer and an  
4 AML/CFT Compliance Officer (as both of those terms are defined  
5 in the Gambling (Anti-Money Laundering and Countering the  
6 Financing of Terrorism Code 2019)<sup>9</sup> of an operator;”;

7 “**recognised exchange**” means a body for the time being declared to be  
8 a recognised investment exchange by an order of the Financial  
9 Conduct Authority of the United Kingdom under section 290 of  
10 the Financial Services and Markets Act 2000 (of Parliament);”;

11 “**subsidiary**” means a body corporate (whether or not incorporated  
12 under the *Companies Act 1931 to 2004* or the *Companies Act 2006*)  
13 that is a subsidiary of another body corporate (whether or not  
14 incorporated under those Acts) and in determining whether one  
15 body corporate is a subsidiary of another the provisions of section  
16 1 of the *Companies Act 1974* or section 220 of the *Companies Act*  
17 *2006* shall apply (as the context requires), and “holding company”  
18 shall be construed accordingly;”.

19 (5) For the definition of “**controller**” substitute –

20 “**controller**” means –

21 (a) a person who either alone or with any associate or  
22 associates owns or controls, directly or indirectly –

23 (i) if the operator or another body corporate of which  
24 the operator is a subsidiary is a private company or  
25 a public company whose shares are not quoted on  
26 an exchange, 5% or more of the shares in that  
27 operator or that other body corporate; or

28 (ii) if the operator or another body corporate of which  
29 the operator is a subsidiary is a public company  
30 whose shares are quoted on an exchange, 20% or  
31 more of the shares in that operator or that other  
32 body corporate;

33 (b) a person who either alone or with any associate or  
34 associates owns or controls, directly or indirectly –

35 (i) if the operator or another body corporate of which  
36 the operator is a subsidiary is a private company or  
37 a public whose shares are not quoted on an  
38 exchange, 5% or more of the voting power at any  
39 general meeting of that operator or that other body  
40 corporate; or

<sup>9</sup> SD 2019/0219

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- (ii) if the operator or another body corporate of which the operator is a subsidiary is a public company whose shares are quoted on an exchange, 20% or more of the voting power at any general meeting of that operator or that other body corporate;
  - (c) a person who is a director of the operator or of another body corporate of which that operator is a subsidiary;
  - (d) a person who is a director of a corporate director of the operator or of another body corporate of which that operator is a subsidiary;
  - (e) a person who, on account of that person's financial contribution to the operator or another body corporate of which that operator is a subsidiary, has power to significantly influence or control the activities of the operator or of another body corporate of which that operator is a subsidiary;
  - (f) a person on whose non-financial contribution the operator, or a body corporate of which that operator is a subsidiary, places such considerable reliance as to be dependent on that contribution in order to function as it normally would;
  - (g) a person in accordance with whose directions or instructions one or more of the directors of the operator or of another body corporate of which that operator is a subsidiary are accustomed to act unless such director or directors are accustomed to so act by reason only that they do so on advice given by that person in a professional capacity;
  - (h) a person who has the power to appoint directors to the board of directors or other executive committees of the operator or of another body corporate of which that operator is a subsidiary and to remove them;
  - (i) a person who otherwise appears to the Commission to be able to exercise significant influence or control over the operator or another body corporate of which that operator is a subsidiary;".
- 36 (6) In the definition of "**gambling**" –
- 37 (a) at the end of paragraph (b), insert "or";
  - 38 (b) in paragraph (c), omit "or";
  - 39 (c) omit paragraph (d).
- 40 (7) In the definition of "**Gambling Acts**" omit paragraph (a).
- 41 (8) For the definition of "**operator**" substitute –

1 “operator” means any or all of the following, as the context may  
2 require –

- 3 (a) the holder of an online gambling licence issued under the  
4 *Online Gambling Regulation Act 2001*;
- 5 (b) the holder of a casino licence issued under the *Casino Act*  
6 *1986*;
- 7 (c) the holder of a temporary premises certificate, issued  
8 under the *Casino Act 1986*;
- 9 (d) the holder of a bookmaker’s permit, issued under the  
10 *Gaming, Betting and Lotteries Act 1988*;
- 11 (e) the holder of a betting office licence, issued under the  
12 *Gaming, Betting and Lotteries Act 1988*;
- 13 (f) the holder of a racecourse licence or a totalisator licence,  
14 issued under the *Gaming, Betting and Lotteries Act 1988*;
- 15 (g) the holder of a temporary exemption, issued under the  
16 *Gaming, Betting and Lotteries Act 1988*,

17 and, in Parts 2 (supervision and oversight of compliance with  
18 AML/CFT legislation) and 3 (sanctions), includes (unless the  
19 context otherwise requires) a former operator in respect of, or in  
20 connection with, any regulated activity carried on when that  
21 former operator was an operator;”.

22 (9) For the definition of “senior manager” substitute –

23 “senior manager” means such person as appears to the Commission to  
24 have significant powers or responsibilities with respect to any  
25 activities conducted or to be conducted by an operator;”.

26 (10) For subsection (2) substitute –

27 “(2) The Treasury may by regulations amend the definition of  
28 “associate”, “beneficial owner”, “controller”, “exchange”,  
29 “operator” or “senior manager”.

30 Tynwald procedure – approval required.”.

## 31 78 Section 5 amended

32 (1) Section 5 (duty to provide AML/CFT regulation and oversight) is  
33 amended as follows.

34 (2) In subsection (1), for “such investigations into alleged breaches”  
35 substitute “such inspections and investigations”.

36 (3) After subsection (2) insert –

37 “(3) The powers of the Commission under this Part may be exercised  
38 instead of or in conjunction with any other powers of the  
39 Commission under any other enactment.”.

1 **79 Section 6 amended**

2 In section 6 (returns), in subsection (2), for paragraph (a) substitute, -

3 | “(a) the AML/CFT information to be included in the AML/CFT  
4 | return; and”.

5 **80 Section 7 substituted**

6 For section 7 (on site inspections and investigations) substitute –

7 | **“7 Inspection and investigation**

8 | The Schedule has effect in respect of the powers of inspection and  
9 | investigation of the Commission.”.

10 **81 Section 8 repealed**

11 Section 8 (obligations to assist) is repealed.

12 **82 Section 9 repealed**

13 Section 9 (offences in connection with inspections and investigations, search  
14 warrants and information requests) is repealed.

15 **83 Section 10 repealed**

16 Section 10 (power to request information) is repealed.

17 **84 Section 11 repealed**

18 Section 11 (procedure and further details for requesting information) is  
19 repealed.

20 **85 Section 12 repealed**

21 Section 12 (power to require persons to attend before the Commission, etc.) is  
22 repealed.

23 **86 Section 13 repealed**

24 Section 13 (search warrants) is repealed.

25 **87 Section 14 amended**

26 (1) Section 14 (information sharing) is amended as follows.

27 (2) In subsection (1) –

28 (a) in paragraph (a)(i) for “paragraph (6)(b)” substitute “paragraph  
29 6(b)”;

- 1 (b) in paragraph (a)(ii) after “the Commission may prescribe” insert  
2 “by regulations”;
- 3 (c) in paragraph (b) after “service providers that provide” insert “or  
4 have provided”;
- 5 (d) after paragraph (b) insert –  
6 | “Tynwald procedure – approval required.”.
- 7 (3) Omit subsection (2).

## 8 88 Section 18 amended

- 9 (1) Section 18 (directions) is amended as follows.
- 10 (2) In section 18(1) –
- 11 (a) in paragraph (b), after “(direction to appoint appropriate expert);”  
12 insert “and”;
- 13 (b) in paragraph (c), for “; and” substitute a full stop;
- 14 (c) omit paragraph (d).
- 15 (3) In section 18(2), immediately before (2)(a) insert –
- 16 | “(za) require the holder of a licence to comply with a request for  
17 information under paragraph 3 (requests for information  
18 for regulatory inspection purposes) of the Schedule  
19 (inspection and investigation);”.
- 20 (4) In paragraph (5)(c), after “operator’s controllers” insert “, key persons”.

## 21 89 Section 19 amended

- 22 (1) Section 19 (public statements) is amended as follows.
- 23 (2) In subsection (1) –
- 24 (a) after paragraph (a), insert –
- 25 | “(aa) with respect to, or setting out, any prohibition that it has  
26 imposed under section 26 (prohibition of “not fit and  
27 proper” persons);
- 28 | (ab) concerning any civil penalty that it has imposed under  
29 section 22 (civil penalties);”;
- 30 (b) in paragraph (b), after subparagraph (ii), insert –
- 31 | “(iii) a prohibition imposed under section 26 (prohibition  
32 of “not fit and proper” persons); or”.
- 33 (3) In subsection (2), after “will identify an operator” insert “(other than a  
34 former operator)”.
- 35 (4) For subsection (3) substitute –

- 1 “(3) If a public statement will identify a former operator or a person  
2 who is not an operator and at any time before the Commission  
3 issues the public statement it is reasonably practicable for it to  
4 serve notice on that former operator or person (as the case may  
5 be), the Commission must do so.”

6 **90 Section 22 amended**

- 7 (1) Section 22 (civil penalties) is amended as follows.
- 8 (2) In subsection (1) –
- 9 (a) for “an operator” substitute “a person”;
- 10 (b) in paragraph (a), omit the words from “irrespective of whether or  
11 not” to the end;
- 12 (c) for the words following paragraph (c) –
- 13 (i) before the words “it may require” insert “(each a  
14 “contravention)”;
- 15 (ii) for “the operator” substitute “that person”;
- 16 (iii) after “in respect of the contravention” insert “, irrespective  
17 of whether or not the contravention is an offence.”
- 18 (5) After subsection (1) insert –
- 19 “(1A) If the contravention referred to in subsection (1) is committed by  
20 an operator and the Commission is satisfied that the  
21 contravention was committed with the consent or connivance of,  
22 or was attributable to neglect on the part of, a controller, key  
23 person or senior manager, the Commission may require that  
24 controller, key person or senior manager to pay a civil penalty in  
25 respect of the contravention.”
- 26 (4) In subsection (2) –
- 27 (a) after “under subsection (1)” insert “or (1A)”;
- 28 (b) in paragraph (b) –
- 29 (i) after “payment of it by the operator” insert “, controller,  
30 key person or senior manager (as the case may be),”;
- 31 (ii) after “of conferring on the operator” insert “, controller,  
32 key person or senior manager (as the case may be),”;
- 33 (c) in the words following paragraph (b), -
- 34 (i) after “However, the operator” insert “, controller, key  
35 person or senior manager (as the case may be)”;
- 36 (ii) after “such prosecution if the operator” insert “, controller,  
37 key person or senior manager (as the case may be)”.
- 38 (5) In subsection (3) –
- 39 (a) for “(1) and (2) ” substitute “(1) to (2)”;

- 1 (b) in paragraph (a), after “the Commission” insert “has revoked,”;  
 2 (c) in paragraph (b), for “failure” substitute “contravention”.  
 3 (d) in subsection (4), for “the operator concerned” substitute “the  
 4 operator, controller, key person or senior manager (as the case  
 5 may be)”.

6 (6) After subsection (6) insert, -

7 “(6A) The Commission must publish a statement setting out –

- 8 (a) the maximum civil penalty that the Commission may  
 9 impose;  
 10 (b) the factors that the Commission will have regard to in  
 11 determining the imposition and amount of a civil penalty;  
 12 and  
 13 (c) the processes the Commission will follow when exercising  
 14 the power to impose a civil penalty.

15 (6B) Before publishing the statement the Commission must consult  
 16 such persons as the Commission considers appropriate.

17 (6C) The Commission may from time to time revise the statement and  
 18 must publish any revised statement.

19 (6D) Before revising the statement the Commission must consult such  
 20 persons as the Commission considers appropriate if, in the  
 21 opinion of the Commission, the revision would result in a  
 22 substantial change to the statement.

23 (6E) Consultation undertaken by the Commission before the  
 24 commencement of subsections (6A) to (6D) is as effective for the  
 25 purposes of those subsections as consultation undertaken after  
 26 that time.

27 (6F) A statement or a revised statement issued under this section is a  
 28 public document but not a statutory document.”.

29 (7) After subsection (8) insert, -

30 “(9) The Commission may publish information, in such form and  
 31 manner as it considers appropriate, with respect to any civil  
 32 penalties it has imposed.

33 (10) A reference in this section to a “controller”, “key person” or  
 34 “senior manager” includes a person who was a controller, key  
 35 person or senior manager at the time of the contravention”.

## 36 91 Section 22A inserted

37 After section 22 (civil penalties) insert –

**“22A Restrictions on imposing civil penalties**

- (1) The Commission may not impose a civil penalty on a person (other than an operator) in respect of a contravention referred to in section 22(1) that occurred before the commencement of section 90 of the Gambling Legislation (Amendment) Act 20[26], except that if the contravention was continuing at the time of the commencement of that section, a civil penalty may be imposed in respect of such part of the contravention as continued after the commencement.
- (2) The Commission must not impose a civil penalty on an individual more than 6 years after the contravention came to the attention of the Commission.”.

**92 Section 23 amended**

- (1) Section 23 (warning notices) is amended as follows.
- (2) In subsection (1) –
- (a) for “An authorised person” substitute “The Commission”;
- (b) after paragraph (a) insert, –
- “aa) before the Commission imposes a prohibition under section 26 (prohibition of “not fit and proper” persons); or”;
- (c) in paragraph (b) –
- (i) for “authorised person” substitute “Commission”;
- (ii) after “senior manager” insert “, key person”.
- (3) In subsection (3), for “authorised person” substitute “Commission”.
- (4) In subsection (4) for “sections 26 (prohibition of “not fit and proper” persons) and 27 (preliminary notices)” substitute “this Part”.

**93 Section 25 amended**

- In section 25 (direction not to appoint an individual) –
- (a) in subsection (1)(a)(i) after “senior manager,” insert “key person”;
- (b) in subsection (3)(a) for “within the period prescribed by the Commission for the purposes of such an appeal, on the expiry of that period;” substitute “upon the expiry of time for appealing against it under section 34;”.

**94 Section 26 amended**

- In section 26 (prohibition of “not fit and proper” persons) in subsection (4)(c) for “prescribed by the Commission” substitute “specified in the prohibition”.

**1 95 Section 32A inserted**

2 After section 32 (liability of officers of bodies corporate) after the Part heading,  
3 insert –

**4 “32A Offences in connection with information**

5 | A person who –

- 6 | (a) furnishes or sends to the Commission for any purposes  
7 | under this Act a document which the person knows is false  
8 | or misleading in a material particular;  
9 | (b) recklessly furnishes to send to the Commission for the  
10 | purposes of this Act a document which is false or  
11 | misleading in a material particular;  
12 | (c) in furnishing information to the Commission for the  
13 | purposes of this Act –  
14 | (i) makes a statement which the person knows to be  
15 | false or misleading in a material particular; or  
16 | (ii) recklessly makes a statement which is false or  
17 | misleading in a material particular; or  
18 | (d) without reasonable excuse, fails to furnish information  
19 | which that person is required to furnish to the Commission  
20 | under this Act,

21 | is guilty of an offence.

22 | Maximum penalty –

- 23 | (a) (summary) – 6 months’ custody or a fine of level 5 on the  
24 | standard scale; or  
25 | (b) (information) – 2 years’ custody or a fine.”.

**26 96 Section 35 repealed**

27 Section 35 (Tynwald procedure in respect of orders) is repealed.

**28 97 Schedule inserted**

29 After section 36 (consequential amendment to the Gambling Supervision Act  
30 2010) insert, -

**31 “SCHEDULE****32 INSPECTION AND INVESTIGATION**

33 [Section 7]

1

**1 Power of the Commission**

2

(1) The Commission may exercise the powers in this Schedule for the purposes of the Commission's functions under this Act.

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(2) Those functions of the Commission include —

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(a) the functions of the Commission under section 5 (duty to provide AML/CFT regulation and oversight);

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(b) securing that any gambling is conducted in a manner consistent with the regulatory objectives set out in section 5 (regulatory objectives) of the *Gambling Supervision Act 2010*.

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(3) To avoid doubt, the powers of the Commission under this Schedule may be exercised in relation to —

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12

(a) an operator;

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(b) a former operator, but only in respect of or in connection with any transactions, matters or circumstances as occurred or existed when that person was an operator.

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**2 Entry and inspection**

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(1) For a purpose mentioned in paragraph 1 (power of the Commission), the Commission may enter and inspect any premises that the Commission reasonably believes are being or have been used for or in connection with the conduct of gambling.

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(2) The power of entry under this paragraph —

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(a) may be exercised without a warrant;

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(b) subject to subparagraph (3), may be exercised with or without consent and with or without giving prior notice; and

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(c) must be exercised at a reasonable time.

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(3) The power under this paragraph to enter premises without a warrant does not apply in relation to premises used wholly or mainly as a private dwelling unless 24 hours' notice of the intended entry has been given to the occupier and the occupier consents to the person entering the premises.

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(4) A person ("P") entering any premises by virtue of this paragraph may —

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(a) be accompanied by such persons, and may take onto the premises such equipment, as P thinks necessary;

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(b) request any person on the premises to provide such assistance or information as P may reasonably require;

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(c) inspect any part of the premises and inspect, examine and test any equipment on the premises;

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- 1 (d) inspect or examine any books, accounts, documents and  
 2 information (in whatever form they are held) on the  
 3 premises or accessible from the premises and take  
 4 possession of any such books, accounts, documents and  
 5 information;
- 6 (e) have access to, and inspect and examine the operation of,  
 7 any electronic device and any associated apparatus or  
 8 material which is or has been in use in connection with any  
 9 books, accounts, documents or information;
- 10 (f) take copies of any books, accounts, documents and  
 11 information and, in the case of any information kept in  
 12 electronic form, require such information to be produced in  
 13 a form in which it can be taken away and in which it is  
 14 visible or legible or from which it can be readily produced  
 15 in a visible and legible form;
- 16 (g) request any person having charge of, or otherwise  
 17 concerned with the operation of, any equipment to afford P  
 18 such assistance as P may reasonably require;
- 19 (h) seize, remove and retain anything (including documents  
 20 and equipment) if P reasonably believes that it constitutes  
 21 or contains evidence of —
- 22 (i) the commission of an offence under this Act or  
 23 under AML/CFT legislation; or
- 24 (ii) non-compliance with any provision of this Act or  
 25 AML/CFT legislation;
- 26 (i) take any other steps in relation to anything referred to in  
 27 subparagraph (4)(h) as appear to be necessary for  
 28 preserving it and preventing interference with it.
- 29 (5) Nothing in this paragraph —
- 30 (a) compels a person to disclose any items subject to legal  
 31 privilege (within the meaning of section 13 of the *Police*  
 32 *Powers and Procedures Act 1998*); or
- 33 (b) confers a right on a person who enters premises in exercise  
 34 of a power under this paragraph to seize any items subject  
 35 to legal privilege.

### 3 Requests for information for regulatory inspection purposes

- 37 (1) The Commission may request any person whom it reasonably  
 38 believes may hold information that the Commission reasonably  
 39 requires for a purpose mentioned in paragraph 1 (power of the  
 40 Commission) to provide that information to the Commission.

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- (2) Without affecting the generality of subparagraph (1), the power to request any person to provide information under this paragraph includes the power to request information from —
    - (a) a person that the Commission reasonably believes is or has been conducting gambling (“O”);
    - (b) any person other than O, including (without limitation) —
      - (i) a person who is or has been an employee of O;
      - (ii) a person who is or has been a controller or beneficial owner of O;
      - (iii) a person that provides or has provided services to O or a person who is or has been an employee of such a person; or
      - (iv) a person that is or was an associate of O;
  - (3) Without affecting the generality of subparagraph (1), the Commission may request information about —
    - (a) the affairs of any person who is or has been a customer of O or who has requested to be a customer of O;
    - (b) any body corporate that is or has been —
      - (i) a holding company, subsidiary or related company of O;
      - (ii) a subsidiary of a holding company of O;
      - (iii) a holding company of a subsidiary of O;
      - (iv) a body corporate in respect of which a shareholder, controller or beneficial owner of O, either alone or with any associate or associates, is or has been entitled to exercise, or control the exercise of, 25% or more of the voting power at a general meeting or a meeting of the board of directors;
    - (c) any partnership of which O is or has been a member;
    - (d) any person who is or has been a controller or beneficial owner of O;
    - (e) any hosting services provided to O; or
    - (f) any other services provided to O in connection with O’s conduct of gambling.
  - (4) The power to request any person to provide information under subparagraph (1) includes the power to request a person to produce a document.
  - (5) If the Commission has made a request of an operator who holds a licence, certificate or permit, the Commission may issue a direction under section 18 (directions) to that operator to secure that effect is given to a request under this paragraph.

- 1 (6) A statement given by a person in response to such a direction may  
2 not be used in evidence against that person in respect of any  
3 criminal proceedings except proceedings alleging contravention  
4 of section 32A (offences in connection with information) or  
5 paragraph 8 (offences).
- 6 (7) A person shall not be under an obligation under this paragraph to  
7 disclose any items subject to legal privilege within the meaning of  
8 section 13 of the *Police Powers and Procedures Act 1998*.
- 9 (8) In this paragraph, “document” includes information recorded in  
10 any form and, in relation to any information kept in electronic  
11 form, references to its production include reference to producing  
12 the information in a form in which it can be taken away and in  
13 which it is visible and legible or from which it can be readily  
14 produced in a visible and legible form.
- 15 (9) In this paragraph –
- 16 (a) “related company”, in relation to O, means a body  
17 corporate (other than a subsidiary of O) in which O holds a  
18 qualifying capital interest;
- 19 (b) “qualifying capital interest” means an interest in relevant  
20 shares of the body corporate which O holds on a long-term  
21 basis for the purpose of securing a contribution to its own  
22 activities by the exercise of control or influence arising  
23 from that interest;
- 24 (c) “relevant shares” means shares comprised in the equity  
25 share capital of the body corporate of a class carrying  
26 rights to vote in all circumstances at general meetings of  
27 the body;
- 28 (d) “equity share capital” has the same meaning as in section  
29 1(5) of the *Companies Act 1974*;
- 30 (e) a holding of 20% or more of the nominal value of the  
31 relevant shares of a body corporate shall be presumed to  
32 be a qualifying capital interest unless the contrary is  
33 shown.
- 34 (10) The power in this paragraph may be exercised by the Commission  
35 during an inspection of premises under paragraph 2 (entry and  
36 inspection) or otherwise.

#### 37 4 Power of the Commission to require information

- 38 (1) The Commission may apply to a justice of the peace for a written  
39 instrument authorising the Commission to exercise the powers in  
40 this paragraph.

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- (2) The justice of the peace may issue the written instrument if the justice of the peace is satisfied that there is good reason to do so for the purposes of investigating the affairs, or any aspect of the affairs, of any person that the Commission reasonably believes is or has been conducting gambling, in so far as those affairs are relevant for a purpose mentioned in paragraph 1 (powers of Commission).
- (3) The Commission may by notice in writing, accompanied by a copy of the instrument issued by the justice of the peace under subparagraph (2), require the person whose affairs are to be investigated or any other person whom the Commission has reason to believe has relevant information, documents or equipment –
- (a) to attend before the Commission at a specified time and place to answer questions or otherwise furnish information with respect to any matter relevant to the investigation;
- (b) to produce at a specified time and place any specified documents, class of documents or copies of documents which appear to the Commission to be relevant to the investigation;
- (c) to make available to the Commission for inspection, examination or testing, at a specified time and place, any specified equipment which appears to the Commission to be relevant to the investigation.
- (4) If a person who is required to produce a document or copies of documents under subparagraph (3)(b) fails to do so, the Commission may require that person to state, to the best of that person's knowledge and belief, where they are.
- (5) If any documents are produced as required under subparagraph (3)(b), the Commission may –
- (a) take possession of all such documents for so long as the Commission considers necessary;
- (b) take copies or extracts from them; or
- (c) require the person producing them to provide an explanation of any of them.
- (6) A notice under subparagraph (3) must include a statement informing the person of the offences under paragraph 8 (offences) and section 32A (offences in connection with information).
- (7) A person shall not be under an obligation under this paragraph to disclose any items subject to legal privilege within the meaning of section 13 of the *Police Powers and Procedures Act 1998*.

- 1 (8) A statement given by a person in response to a requirement  
2 imposed under this paragraph may not be used in evidence  
3 against that person in respect of any criminal proceedings except  
4 proceedings alleging contravention of section 32A (offences in  
5 connection with information) or paragraph 8 (offences).
- 6 (9) In this paragraph “document” includes information recorded in  
7 any form and, in relation to any information kept in electronic  
8 form, references to its production include reference to producing  
9 the information in a form in which it can be taken away and in  
10 which it is visible and legible or from which it can be readily  
11 produced in a visible and legible form.
- 12 (10) If a person claims a lien on a document, its production under this  
13 paragraph is without prejudice to the lien.

## 14 5 Entry to premises under warrant

- 15 (1) The Commission may apply to a Deemster for a warrant  
16 authorising the Commission to enter any premises.
- 17 (2) A Deemster may issue the warrant only if, on information on oath  
18 laid by the Commission, the Deemster is satisfied that —
- 19 (a) the Commission would be permitted to enter the premises  
20 without a warrant in accordance with paragraph 2 (entry  
21 and inspection) and at least one of the conditions in  
22 subparagraph (3) is satisfied;
- 23 (b) a person has failed (wholly or in part) to comply with an  
24 obligation under paragraph 4 to furnish information,  
25 produce documents or make equipment available and  
26 there are reasonable grounds for suspecting that the  
27 information, documents or equipment are on the premises;
- 28 (c) there are reasonable grounds for suspecting that there are  
29 on the premises information, documents or equipment in  
30 relation to which the power in paragraph 4 could be  
31 exercised but if such a requirement were imposed it would  
32 not be complied with or might seriously prejudice the  
33 purpose of exercising that power; or
- 34 (d) there are reasonable grounds for suspecting that there are  
35 on the premises information, documents or equipment in  
36 relation to which the power in paragraph 4 could be  
37 exercised but it is not practicable to serve a notice under  
38 paragraph 4(3) in relation to them.
- 39 (3) Those conditions are —
- 40 (a) entry to the premises has been refused or is likely to the  
41 refused;

- 1 (b) the purpose of entry may be frustrated or seriously  
2 prejudiced unless immediate entry to the premises can be  
3 secured; or
- 4 (c) the premises are unoccupied or the occupier is absent.
- 5 (4) A warrant issued by a Deemster may authorise any person named  
6 in the warrant (“P”), to do any one or more of the following –
- 7 (a) to enter any premises specified in the warrant, using such  
8 force as is reasonably necessary for the purpose;
- 9 (b) to search any such premises;
- 10 (c) to be accompanied by such persons, and take onto the  
11 premises such equipment, as P thinks necessary;
- 12 (d) to seize, remove and retain any information, documents or  
13 equipment appearing to be information, documents or  
14 equipment of the description specified in the application  
15 for the warrant or take any other steps in relation to such  
16 information, documents or equipment as appear to be  
17 necessary for preserving them and preventing interference  
18 with them;
- 19 (e) if it is not reasonably practicable to determine on the  
20 premises if information, documents or equipment is or  
21 contains something that is entitled to be seized under the  
22 warrant, to seize and remove such information, documents  
23 or equipment from the premises to enable that  
24 determination to be made;
- 25 (f) to require any person on the premises to provide such  
26 assistance or information as P may reasonably require;
- 27 (g) to inspect any part of the premises and inspect, examine  
28 and test any equipment on the premises;
- 29 (h) to inspect or examine any books, accounts, documents and  
30 information (in whatever form they are held) on the  
31 premises or accessible from the premises and take  
32 possession of any such books, accounts, documents and  
33 information;
- 34 (i) to have access to, and inspect and examine the operation  
35 of, any electronic device and any associated apparatus or  
36 material which is or has been in use in connection with any  
37 books, accounts, documents or information;
- 38 (j) to take copies of any books, accounts, documents and  
39 information and, in the case of any information kept in  
40 electronic form, require such information to be produced in  
41 a form in which it can be taken away and in which it is  
42 visible or legible or from which it can be readily produced  
43 in a visible and legible form;

- 1 (k) to require any person having charge of, or otherwise  
2 concerned with the operation of, any equipment to afford P  
3 such assistance as P may reasonably require;
- 4 (l) to seize remove and retain anything (including documents  
5 and equipment) if P reasonably believes that it constitutes  
6 or contains evidence of —
- 7 (i) the commission of an offence under this Act or  
8 under AML/CFT legislation; or
- 9 (ii) non-compliance with any provision of this Act or  
10 AML/CFT legislation;
- 11 (m) take any other steps in relation to anything referred to in  
12 subparagraph (4)(l) as appear to be necessary for  
13 preserving it and preventing interference with it.
- 14 (5) Any person executing a warrant issued under this paragraph  
15 must be accompanied by a constable.
- 16 (6) A warrant issued under this paragraph ceases to have effect at the  
17 end of the period of one month beginning with the day it is  
18 issued.
- 19 (7) If the premises are unoccupied or the occupier is temporarily  
20 absent, on leaving the premises the person executing the warrant  
21 must —
- 22 (a) leave a notice on the premises stating that the premises  
23 have been entered under a warrant under this paragraph;  
24 and
- 25 (b) leave the premises as effectively secured against  
26 trespassers as that person found them.
- 27 (8) Nothing in this paragraph —
- 28 (a) compels a person to disclose any items subject to legal  
29 privilege (within the meaning of section 13 of the *Police  
30 Powers and Procedures Act 1998*); or
- 31 (b) confers a right on a person who enters premises in exercise  
32 of a power under this paragraph to seize any items subject  
33 to legal privilege.
- 34 (9) A statement given by a person in response to a requirement  
35 imposed under this paragraph may not be used in evidence  
36 against that person in respect of any criminal proceedings except  
37 proceedings alleging contravention of section 32A (offences in  
38 connection with information) or paragraph 8 (offences).

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**6 Seized goods**

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(1) If the Commission seizes, removes or takes possession of anything under paragraph 2 (entry and inspection) or paragraph 5 (entry to premises under warrant), the Commission must take reasonable steps as soon as reasonably practicable to –

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- (a) inform the person from whom they are seized, removed or taken that they have been seized, removed or taken; and
- (b) provide that person with a written record of what has been seized, removed or taken.

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(2) Anything seized, removed or taken under this paragraph may be retained for so long as it may be required for the purpose for which it was seized, removed or taken.

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**7 Authorisation**

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(1) The Commission may authorise in writing such persons as it thinks appropriate to exercise on its behalf all or any of the powers under this Schedule.

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(2) A person seeking to exercise a power under this Schedule must, if requested to do so, produce evidence of the person's identity and authority to do so.

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**8 Offences**

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(1) A person who, without reasonable excuse, –

(a) obstructs or fails to cooperate with any person who is exercising or seeking to exercise a power under paragraph 2 (entry and inspection) or paragraph 5 (entry to premises under warrant); or

(b) fails to comply with a requirement imposed under paragraph 4 (power of the Commission to require information),

is guilty of an offence.

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(2) A person who –

(a) knows or suspects that an inspection or investigation by the Commission is being or is likely to be carried out; and

(b) falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, information that the person knows or suspects is or would be relevant to such an inspection or investigation,

is guilty of an offence.

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(3) It is a defence for a person charged with an offence under subparagraph (2) to prove that there was no intention of concealing the facts disclosed by the information from persons carrying out such an inspection or investigation.

Maximum penalty for this section –

- (a) (summary) – 6 months’ custody or a fine of level 5 on the standard scale; or
- (b) (information) – 2 years’ custody or a fine.”.



IN THE KEYS

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**GAMBLING LEGISLATION (AMENDMENT) BILL 2025**

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A **BILL** to amend gambling-related enactments and for connected purposes.

Approved by the Council of Ministers  
for introduction in the House of Keys.

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DR ALLINSON

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OCTOBER 2025