

A CONSULTATION DOCUMENT



Isle of Man Gambling Supervision Commission

CASINO ACT REFORM

[February 2017]

Contents

Section	Page
1. Introduction	4
2. Background	4
3. Measures Proposed	5
4. Consultation Process	5
Appendices:	
A List of Stakeholders consulted	8
B Code of Practice on Consultation	9
C Proposed legislative change	10

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1. Introduction

The Isle of Man Gambling Supervision Commission (GSC) is responsible for regulating all gambling in the Isle of Man.

Part of that remit is to ensure that the law relating to Isle of Man casinos remains fit for purpose.

The GSC is proposing amendments to the Casino legislation which give it the explicit powers to supervise the Anti-money laundering & countering financing of terrorism compliance (AML/CFT) of a casino licence holder. In addition the amendments also change the way a Casino can transfer operations from one premises to another and introduce a degree of flexibility in law that would make development of new casinos and the associated facilities more commercially viable.

2. Background

AML/CFT

The GSC has a statutory obligation under the Gambling Supervision Act 2010 to ensure that it prevents gambling from being a source of, associated with or being used to support criminal activity.

The GSC does not currently have explicit legislative powers to supervise the AML/CFT compliance of a casino licence holder.

Licence Transfer

The Island's gambling law does not contain a provision that allows a casino to transfer from one premises to another without surrendering and re-applying for its licence.

A lack of such a provision means that any casino licence holder wishing to develop new premises faces business uncertainty in having to surrender and obtain a new licence in order to facilitate the site transition.

Deposits placed with Treasury by developers of new casinos

The Island's gambling law does have a provision for promising a licence to a potential casino operator in respect of premises that have yet to be built (known as 'the concession').

When CoMIN agrees to a concession (to give the holder a casino licence once the works have been completed) it must ask the prospective licensee for a deposit equal to a percentage (20%) of the cost of providing the casino and it may specify conditions which, if not adhered to, cause the concession and the deposit to be forfeit and paid to general revenue.

The immutability of the concession has an inhibitive effect on the development of new casino premises.

The changes proposed by the GSC to address these points are outlined in Appendix C.

3. Measures proposed

The GSC is consulting on the following items:

3.1 Provisions to ensure that the GSC does have explicit legislative powers to supervise the AML/CFT compliance of a casino licence holder.

3.2 Provisions to allow an existing casino licence holder to transfer operations from one set of premises to another

3.3 A change which allows the Council of Ministers (CoMIN) to waive or adjust the value of the deposit required to be made by the applicant of a casino licence concession – that is, when the applicant does not own suitable premises (e.g. but intends to provide (build or purchase) premises in expectation of a licence.)

4. Consultation Process

4.0 As the GSC has already consulted on the policy changes in 3.2 & 3.3, this consultation exercise is being undertaken to introduce 3.1 and to allow stakeholders to review the proposed legislation.

For this reason the consultation exercise will remain open for two weeks only.

4.1 This consultation exercise is designed to invite comments on the new proposals in the consultation document and is being conducted by the Gambling Supervision Commission.

4.2 A list of Consultees can be found at Appendix A of this document. If there is anyone not on the list who you think should be consulted please contact the Officer named below.

4.3 The GSC welcomes your views on the proposed policy changes in the attached Casino Act reform proposal (Appendix C).

4.4 Comments should be submitted in writing (by post or email) to the following:

Ty Smith CMgr MCMI
Director – Licensing & Compliance,
Gambling Supervision Commission
Ground Floor, St Georges Court, Myrtle St.
Douglas, Isle of Man, IM1 1ED
ty.smith@gaming.gov.im

The consultation will be open until the close of business on:

17th February 2017

4.5 When submitting your views please can you indicate whether you are responding on behalf of an organisation.

4.6 For additional hard copies please contact the Gambling Supervision Commission by telephoning 01624 694331. Hard copies will also be available from the Central Reference Library, Government Offices, Bucks Road, Douglas.

4.7 Electronic copies of this document are also available at <https://www.gov.im/consultations>

4.8 To ensure that the process is open and in line with the Government's Code of Conduct on Consultation responses can only be accepted if you provide your name with your response.

4.9 Unless specifically requested otherwise, any responses received may be published either in part or in their entirety. Please mark your response clearly if you wish your response and name to be kept confidential. Confidential responses will be included in any statistical summary and numbers of comments received.

4.10 A summary of the responses received will be published within 3 months of the closing date for this consultation, and will be made available on the Government website or by contacting the above named Officer.

4.11 The purpose of consultation is not to be a referendum but an information, views and evidence gathering exercise from which to take an informed decision on the content of proposed regulation changes. In any consultation exercise the responses received do not guarantee changes will be made to what has been proposed.

4.12 Having previously consulted (April 2013) on the proposed changes relating to the 'Licence Transfer' & 'Deposits placed with Treasury' the GSC (in line with the Consultation Code of Practice) will be expediting the consultation process relating to the Bill.

Issued on 3rd February 2017

Appendix A

A list of stakeholders consulted

Members of Tynwald;
The general public of the Isle of Man;
General Government via chief officers;
The Isle of Man Law Society;
The Isle of Man Chamber of Commerce;
The current casino license holder.

Appendix B

Consultation Code of Practice

This consultation follows the Code of Practice on Consultation the criteria for which are set below.

The Six Consultation Criteria

1. Consult widely throughout the process, allowing a minimum of 6 weeks for a minimum of one written consultation at least once during the development of the legislation or policy.
2. Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.
3. Ensure your consultation is clear, concise and widely accessible.
4. Give feedback regarding the responses received and how the consultation process influenced the policy.
5. Monitor your Department's effectiveness at consultation.
6. Ensure your consultation follows best practice, including carrying out an Impact Assessment if appropriate.

The full Code of Practice is available at www.gov.im/cso

Appendix C

Proposed law changes

CASINO (AMENDMENT) BILL 2016

Explanatory Memorandum

1. This Bill is promoted by Mr. Cannan on behalf of the Treasury and the Isle of Man Gambling Supervision Commission. It amends the *Casino Act 1986*.
2. *Clauses 1 to 3* (which together comprise Part 1) deal with the commencement, citation and expiry of the resulting Act.
3. Part 2 contains the amendments to the *Casino Act 1986*.
4. *Clause 4* amends section 4 of the *Casino Act 1986*. It provides for a casino licence to contain a requirement to the effect that the holder of the licence must during the currency of the licence comply with AML/CFT legislation. By this is meant a number of pieces of legislation connected with money laundering and anti-terrorism. These pieces of legislation are listed in a new subsection (7) which provides the definition of the term AML/CFT legislation. The clause also confers new powers upon the Isle of Man Gambling Supervision Commission (referred to as “the Board” in the Act) to require the holder of a licence to satisfy it that the holder has complied with the new obligations in relation to money laundering. This is brought about by means of an amendment to subsection (3)(d).
5. *Clause 5* amends section 5A of the *Casino Act 1986*. The provision allows for the variation (with the approval of the Council of Ministers) of the premises specified in a casino licence or any associated premises. The provision also allows the Board to vary with the consent of the holder of the licence and the Council of Ministers the facilities and amenities to be provided at the proposed casino or any proposed associated premises.
6. *Clause 6* amends section 14 of the *Casino Act 1986*. It alters the current requirement upon the Council of Ministers to obtain a deposit of an amount equal to 20 per cent of the estimated total cost of the provision of the premises to be used as a casino before granting a concession so that this becomes a power to require a deposit.

7. 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*.

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CASINO (AMENDMENT) BILL 2016

Index

Section	Page
1 Short title.....	12
2 Commencement.....	12
3 Expiry.....	12
4 Licence conditions in relation to money laundering and counter-terrorism: section 4 amended.....	13
5 Variation of licence: section 5A amended.....	14
6 Deposits: section 14 amended.....	14

C

CASINO (AMENDMENT) BILL 2016

A **BILL** to permit the revocation of a casino licence in cases of non-compliance with money laundering and financing of terrorism legislation; to permit the Council of Ministers additional discretion in relation to deposits for concessions; to make further provision for the variation of casino licences in certain respects; to permit the premises in which casinos are located and the facilities and amenities provided under casino licences to be varied; and for connected matters.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Council and Keys in Tynwald assembled, and by the authority of the same, as follows:—

PART 1 – INTRODUCTORY

1 Short title

The short title of this Act is the Casino (Amendment) Act 2016.

2 Commencement

- (1) This Act (other than sections 1 and 3 and this section) comes into operation on a day appointed by order of the Isle of Man Gambling Supervision Commission.
- (2) Different days may be appointed for different provisions and different purposes.
- (3) An order under subsection (1) may make such transitional and saving provisions as the Isle of Man Gambling Supervision Commission considers necessary or expedient.

3 Expiry

- (1) This Act expires —

- (a) on the day after its promulgation, if all of its provisions are in operation on its promulgation; or
 - (b) otherwise, on the day after the last provision is brought into operation.
- (2) The expiry does not —
- (a) affect the continuing operation of the amendments made by this Act; or
 - (b) revive any provision not in operation when the amendments took effect.

PART 2 – AMENDMENT OF THE CASINO ACT 1986

4 Licence conditions in relation to money laundering and counter-terrorism: section 4 amended

- (1) Section 4 of the *Casino Act 1986* (conditions of licences) is amended in accordance with subsections (2) and (3).
- (2) In subsection (3) —
- (a) after the words “conditions —” insert —
 - «(za) that the holder of the licence complies at all times during the currency of the licence with AML/CFT legislation;»;
 - (b) in paragraph (d) at the end insert —
 - «(iii) that the holder of the licence has complied with its obligations under paragraph (za);».
- (3) At the end of the section insert —
- «(7) In this section “**AML/CFT legislation**” means any of the following enactments —
 - (a) the *Anti-Terrorism and Crime Act 2003*;
 - (b) Part 3 (money laundering) of the *Proceeds of Crime Act 2008*;
 - (c) the *Terrorism and Other Crime (Financial Restrictions) Act 2014*;

- (d) any instrument of a legislative character made under one of the Acts mentioned in paragraph (a) to (c).».

5 Variation of licence: section 5A amended

- (1) Section 5A of the *Casino Act 1986* (variation of casino licence) is amended in accordance with subsection (2).
- (2) In subsection (1) after the words “licence —” insert —
 - «(za) by varying with the approval of the Council of Ministers, the premises in which the casino is located or any associated premises;».
- (3) After subsection (1) insert —
 - «(1A) The Board may at any time, with the approval of the Council of Ministers and with the consent of the holder of the licence, vary any facilities or amenities to be provided by the holder of the licence at the proposed casino or at any proposed associated premises.».

6 Deposits: section 14 amended

- (1) Section 14 of the *Casino Act 1986* (deposits) is amended in accordance with subsections (2) to (4).
 - (2) In subsection (1) —
 - (a) for the word “shall” substitute «may»;
 - (b) omit the words from “equal” to “premises”;
 - (c) omit the words from “as certified” to the end.
 - (3) In subsection (2) for the words “the deposit” substitute «a deposit».
 - (4) In subsection (4) for the words “the deposit” substitute «a deposit».
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