

**GAMING, BETTING AND LOTTERIES (AMENDMENT)
ACT 2001**

Chapter 22

Arrangement of sections

Betting offices

1. Conduct of betting offices
2. Advertising of betting offices
3. Betting office licences

Lotteries

4. Christmas draws
5. Advertising of society lotteries
6. Society lotteries: prizes
7. Society lotteries: accounting bodies
8. Lotteries played as games
9. Exemption for British societies' lotteries
10. Duty on certain lotteries

Controlled machines

11. Controlled machines on ships

The Commissioners

12. The Commissioners

Supplemental

13. Short title and commencement



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AN ACT

to amend the Gaming, Betting and Lotteries Act
1988 and the Gaming (Amendment) Act 1984

WE, your Majesty's most dutiful and loyal subjects, the Council and Keys of the said Isle, do humbly beseech your Majesty that it may be enacted, and 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 (that is to say):—

Betting offices

1. Conduct of betting offices

(1) In section 20 of the Gaming, Betting and Lotteries Act 1988¹ ("the 1988 Act"), for subsection (1) substitute —

- "(1) The Commissioners may make regulations —
- (a) prescribing the rules in accordance with which public licensed betting offices shall be managed; and
 - (b) providing that a contravention of any provision thereof shall be an offence punishable —
 - (i) on information by a fine; or
 - (ii) on summary conviction by a fine not exceeding £5,000."

(2) In the said section 20, for subsection (2) substitute —

"(2) Where any person is charged with an offence under regulations under subsection (1) or (1A) by reason only of his being the licensee, it shall be a defence to prove that the contravention took place without his consent or connivance and that he exercised all due diligence to prevent it."

¹ 1988 c.17

Gaming, Betting and Lotteries (Amendment) Act 2001

(3) Until the coming into operation of section 2(2) and (3) of the Betting Offices Act 2001², the said section 20, as amended by subsections (1) and (2), is modified —

- (a) by the substitution in subsection (1) of "licensed betting office" for "public licensed betting office";
- (b) by the omission in subsection (2) of "or (1A)".
- (4) Subject to subsection (5), the following provisions are repealed

—

- (a) in the 1988 Act, Schedule 2 and, in Schedule 5, the entry relating to section 20(1);
- (b) in section 2 of the Betting Offices Act 2001 —
 - (i) in subsection (2), "(1)", and
 - (b) subsection (4).

(5) Schedule 2 to the 1988 Act shall continue in force, with the substitution for paragraph 1 of the following —

"Opening hours

1. The premises shall be closed throughout Good Friday and Christmas Day."

as if it were contained in regulations under section 20(1) of that Act, as substituted by subsection (1), and may be amended or revoked accordingly.

2. Advertising of betting offices

(1) In section 20 of the 1988 Act, for subsection (6) substitute —

"(6) Subject to subsection (6A), no advertisement may be published —

- (a) indicating that any particular premises are a public licensed betting office; or
- (b) indicating where any such office may be found; or
- (c) drawing attention to the availability of, or to the facilities afforded to persons resorting to, such offices.

(6A) Subsection (6) does not apply to an advertisement which —

- (a) is published in a material form; or
- (b) is published inside but not outside a public licensed betting office; or
- (c) complies with such restrictions as may be prescribed and is, in such manner as may be prescribed, published outside a public licensed betting office —
 - (i) from a place inside such an office; or

² 2001 c.

Gaming, Betting and Lotteries (Amendment) Act 2001

(ii) in premises giving access to such an office.

(6B) If subsection (6) is contravened —

(a) any person who published the advertisement or caused or permitted it to be published, and

(b) in the case of an advertisement in connection with the office or offices of a particular licensee, that licensee,

shall be guilty of an offence."

(2) In section 20(7) of the 1988 Act, for "subsection (6)" substitute "subsection (6B)".

(3) In column 1 of Schedule 5 to the 1988 Act, for "Section 20(7)" substitute "Section 20(6B)".

(4) Until the coming into operation of section 2(2) of the Betting Offices Act 2001, section 20(6) and (6A) of the 1988 Act, as substituted by subsection (1), is modified by the substitution of "licensed betting office" for "public licensed betting office".

3. Betting office licences

In section 4(4) of the Betting Offices Act 2001, for the words from "and expiring" onwards substitute "and expiring —

"(i) in the case mentioned in paragraph (a), on the expiration of 3 months beginning with the commencement of this Act;

(ii) in the case mentioned in paragraph (b), on the date on which it would have expired if this Act had not been passed."

Lotteries

4. Christmas draws

In section 30(2) of the 1988 Act, for "the month of December" substitute "the months of November and December".

5. Advertising of society lotteries

In section 32(3) of the 1988 Act, for paragraphs (h) and (i) substitute —

"(h) no written notice or advertisement of the lottery shall be exhibited, published or distributed, and no notice or advertisement of the lottery shall be included in a

programme service (within the meaning of the Broadcasting Act 1993³), except —

- (i) a notice or advertisement exhibited on the premises of the society, or published or distributed exclusively or solely to members of the society;
 - (ii) such notice or advertisement as may be contained in the tickets, if any;
 - (iii) a notice or advertisement of such a description, and complying with such conditions, as may be prescribed;
- (i) every ticket shall specify the name of the society, the name and address of the promoter, and the date on which the draw, determination or event by or by reference to which the prize-winners are ascertained will take place;
 - (ia) every notice or advertisement of the lottery lawfully exhibited, distributed or published (other than such notice or advertisement as may be contained in the tickets, if any) shall contain such information as may be prescribed;"

6. Society lotteries: prizes

- (1) In section 32(3) of the 1988 Act, for paragraph (c) substitute —
 - "(c) no ticket or chance shall be sold at a price exceeding £1;
 - (ca) no prize (except a jackpot prize authorised under subsection (4A)) shall exceed £2,000 in amount or value;
 - (cb) no jackpot prize authorised under subsection (4A) shall exceed £10,000 in amount or value;"
- (2) For section 32(4) of the 1988 Act substitute —
 - "(4) Subject to subsection (4B), the Commissioners may vary the conditions imposed by subsection (3)(c), (ca), (cb) and (g) in their application to a society lottery, to such extent and subject to such conditions as the Commissioners may determine.
 - (4A) Subject to subsection (4B), the Commissioners may authorise a registered society, subject to such conditions as the Commissioners may determine, to promote a series of society lotteries in which a jackpot prize or prizes may be given.
 - (4B) Subsections (4) and (4A) do not apply to a society lottery unless —

³ 1993 c.12

- (a) it is promoted on behalf of a registered society, being a society established and conducted wholly or mainly for charitable purpose, and
 - (b) the whole proceeds of the lottery, after deducting sums lawfully appropriated on account of expenses or for the provision of prizes, are to be devoted to a charitable purpose."
- (3) In section 48(1) of the 1988 Act, after the definition of "gaming" insert —
- ""jackpot prize" means a prize which accumulates in size from one lottery to the next until it is won;"

7. Society lotteries: accounting bodies

- (1) In section 48 of the 1988 Act, after subsection (1) insert —
- "(1A) The Commissioners may by order amend the definition of "approved accounting body" in subsection (1)."
- (2) In section 47(2) of the 1988 Act, for "32(9) and 33(6)" substitute "32(9), 33(6) and 48(1A)".

8. Lotteries played as games

- (1) After section 34 of the 1988 Act insert —
- "34A. Society lotteries played as games**
- A society lottery is not unlawful if —
- (a) it is played as a game, and
 - (b) it complies with such conditions as may be prescribed."
- (2) In section 1 of the 1988 Act, after subsection (2) insert —
- "(2A) Subsection (2)(b) does not apply to a lottery mentioned in section 34A except so far as any conditions prescribed under paragraph (b) of that section so provide."
- (3) In section 9(1)(b) of the 1988 Act, for the words from "not more" to "those games" substitute "the total value of all prizes and awards distributed in respect of all games played at the entertainment".
- (4) In section 15(1)(a)(ii) of the Pool Betting (Isle of Man) Act 1961⁴, after "section 32(2)(b), (c) and (g)" insert ", or the conditions mentioned in section 34A(a) and (b),".
- (5) In the Licensing Act 1995⁵ —
- (a) in section 37(2), for paragraph (c) substitute —

⁴ XIX p.317

⁵ 1995 c.8

- "(c) a society lottery (within the meaning of that Act) which by virtue of section 32 or 34A of that Act is not unlawful;"
- (b) in section 80(4), for "31(1) or 32(3)" substitute "31(1), 32(3) or 34A".

9. Exemption for British societies' lotteries

- (1) In section 29 of the 1988 Act, after subsection (2) insert —
 - "(2A) In any proceedings for an offence under subsection (1) it shall be a defence for any person charged to prove —
 - (a) that the lottery to which the proceedings relate was a lottery which is declared to be not unlawful in Great Britain by section 5(3) (societies' lotteries promoted in Great Britain) of the Lotteries and Amusements Act 1976 (an Act of Parliament)⁶,
 - (b) that the promotion of the lottery was managed by a person registered by the Commissioners under section 33A, and
 - (c) that at the date of the alleged offence he believed, and had reasonable ground 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."

- (2) After section 33 of the 1988 Act insert —

"33A Registration of managers of British societies' lotteries

- (1) An application for the registration under this section of a person as the manager of a lottery referred to in section 29(2A)(a) shall be made to the Commissioners and shall specify —
 - (a) the name and address of the applicant;
 - (b) the name and address of the society by which the lottery is promoted,
 - (c) the purposes for which the society is established and conducted;
 - (d) the name and address of the registration authority with which the society is registered under Schedule 1 to the 1976 Act or, as the case may be, that the society is registered with the Gaming Board for Great Britain under Schedule 1A to that Act;
 - (e) where the applicant is a person mentioned in section 9A(1)(e) of that Act, the name and address of the person

⁶ 1976 c.32

Gaming, Betting and Lotteries (Amendment) Act 2001

certified under Schedule 2A to that Act by whom he is employed; and

(f) the name and address of a person resident in the Island (who may be the applicant) who is occupying a position of responsibility in relation to the promotion of the lottery in the Island.

(2) The application shall have attached to it —

(a) a copy of the scheme approved under section 5(3)(c) of the 1976 Act which relates to the lottery,

(b) where the applicant is a person mentioned in section 9A(1)(d) or (e) of that Act, a copy of the current certificate issued under Schedule 2A to that Act to the applicant or to the person by whom he is employed, as the case may be; and

(c) a statement in writing signed by the person specified in the application under subsection (1)(f) that he understands that he will be liable under section 37A(8) to pay any society lottery duty, and to make any payments on account of society lottery duty, in respect of the lottery.

(3) Subject to the provisions of this section, the Commissioners shall, on application duly made under subsection (1) and on payment of a fee of £50, register the applicant in a register kept for the purpose, and notify the applicant in writing that they have done so.

(4) The Commissioners, after giving the person concerned an opportunity of being heard, may refuse to register an applicant as manager of a lottery, or revoke the registration of the manager of a lottery, if it appears to them —

(a) that any person has been convicted of an offence committed in connection with a lottery promoted or proposed to be promoted on behalf of the society;

(b) that the society is not or has ceased to be a society on behalf of which lotteries may be promoted under the 1976 Act;

(c) the applicant or manager is not or has ceased to be qualified to manage the lottery under section 9A(1) of that Act; or

(d) that the person is specified in the application under subsection (1)(f) —

(i) is not or has ceased to be resident in the Island;

(ii) does not occupy, or has ceased to occupy, a position of responsibility in relation to the promotion of the lottery in the Island; or

- (iii) is unlikely, or has failed, to discharge his liability under section 37A(8) in relation to that or any other lottery.

(5) Where registration has been refused or revoked under this section, the Commissioners shall forthwith notify the person concerned and the society in respect of whose lottery he is registered of the refusal or revocation, and that person or that society may, within 21 days of the giving to it of such notice, appeal to the High Court; and Schedule 4 applies, with any necessary modifications, to an appeal under this subsection as it applies to an appeal under section 33(3).

(6) Where a person is for the time being registered under this section, that person, or the society in respect of whose lottery he is registered, may at any time apply to the Commissioners for the cancellation of the registration; and the Commissioners shall cancel the registration accordingly.

(7) Every person who is registered under this section shall pay to the Treasury on the 1st January in each year while he is so registered a fee of £50, and, if any such fee remains unpaid at the end of that month, the registration of the society shall be cancelled forthwith.

(8) The Treasury may by order substitute for any amount specified in this section such other amount as may be specified in the order.

(9) In this section "the 1976 Act" means the Lotteries and Amusements Act 1976 (an Act of Parliament).

33B Exemption for British societies' lotteries

A lottery is not unlawful if —

- (a) it is declared to be not unlawful by section 5(3) (societies' lotteries promoted in Great Britain) of the Lotteries and Amusements Act 1976 (an Act of Parliament),
 - (b) the promotion of the lottery is managed by a person registered by the Commissioners under section 33A, and
 - (c) it is being conducted in accordance with the requirements of that Act and any regulations for the time being in force under that Act."
- (3) In section 47(2) of the 1988 Act, after "33(6)" insert ", 33A(8)".

10. Duty on certain lotteries

- (1) After section 37 of the 1988 Act insert —

"Duty on certain lotteries

37A. Duty on certain lotteries

(1) This section applies to any lottery falling within section 33B(a).

(2) A duty of excise called "society lottery duty" is chargeable on the taking of a ticket or chance in a lottery to which this section applies.

(3) The amount of the society lottery duty chargeable on the taking of a ticket or chance in a lottery is equal to 12 per cent of the value of the consideration given for the ticket or chance.

(4) Subject to subsection (5), the aggregate of everything paid or given by (or debited to the account of) the person taking the ticket or chance for, on account of, or in connection with, the ticket or chance shall be taken to be the consideration given for it.

(5) If a price is shown on a lottery ticket or any other document providing evidence of the taking of a ticket or chance in a lottery and —

(a) the consideration given for the ticket or chance is of lesser value than the price shown (or is of no value), or

(b) no consideration is given for the ticket or chance,

consideration to the value of the price shown shall be taken to be given for the ticket or chance.

(6) The society lottery duty chargeable on the taking of a ticket or chance in a lottery becomes due and payable (subject to any regulations under subsection (7)) at the time the ticket or chance is taken.

(7) Regulations made by the Treasury may —

(a) provide for the payment of any society lottery duty due in respect of a lottery of a description specified in the regulations to be deferred, subject to any conditions or requirements that may be imposed by or under the regulations;

(b) where a lottery of a description specified in the regulations is being or is to be promoted, require payments (of amounts determined by or under the regulations) to be made on account of any society lottery duty that may become due in respect of the lottery.

(8) In respect of a lottery falling within section 33B(a) and (b), any society lottery duty, and any sum on account of society lottery duty which is payable by virtue of regulations under subsection (7)(b), shall be paid by the person is specified under section 33A(1)(f) in the relevant application.

Gaming, Betting and Lotteries (Amendment) Act 2001

(9) In respect of any other lottery to which this section applies —

- (a) any society lottery duty shall be paid by the person by whom the ticket or chance is sold or supplied;
- (b) any sum on account of society lottery duty which is payable by virtue of regulations under subsection (7)(b) shall be paid by such person (being a person resident in the Island and occupying a position of responsibility in relation to the promotion of the lottery in the Island) as is specified for the purpose in the regulations.

(10) A person required by subsection (8) or (9) to make a payment who fails to do so at the time it becomes payable is guilty of an offence and liable on summary conviction to a fine not exceeding £5,000 or, if greater, treble the amount unpaid.

(11) For the purpose of collecting and enforcing society lottery duty the provisions of sections 121, 123 and 124A to 124G of the Customs and Excise Management Act 1986⁷ shall apply, subject to such modifications as are prescribed by regulations made by the Treasury, as if the person mentioned in subsection (8) or (9)(a) or (b), as the case may be, were a revenue trader within the meaning of that Act.

(12) The Treasury may by order substitute, in relation to tickets or chances taken on or after the date when the order comes into operation, for the rate specified in subsection (3) such other rate as may be specified in the order."

(2) In section 47 of the 1988 Act, at the end insert —

"(4) Regulations and orders made by the Treasury under section 37A shall not have effect unless they are approved by Tynwald."

Controlled machines

11. Controlled machines on ships

In section 17(1) of the Gaming (Amendment) Act 1984⁸, for the definition of "premises" substitute —

""premises" includes —

- (a) any land,
- (b) any shed, tent, booth, shelter or other structure, whether permanent or temporary,
- (c) any vehicle, and
- (b) any vessel used for navigation;"

⁷ 1986 c.34

⁸ 1984 c.17

The Commissioners

12. The Commissioners

(1) The Isle of Man Gaming Control Commissioners are renamed "the Isle of Man Gambling Control Commissioners".

(2) Accordingly, in any enactment or instrument, for "Gaming Control Commissioners" substitute "Gambling Control Commissioners".

(3) In Schedule 2 (Boards) of the Civil Service Act 1990⁹, the words "The Isle of Man Gaming Control Commissioners" are repealed.

(4) On the commencement of this section any person appointed for service with the said Commissioners which is wholly or mainly administrative, professional, technical or clerical shall be deemed to have been appointed for such service with the Department of Home Affairs on the like terms and conditions as those to which he was appointed immediately before such commencement.

Supplemental

13. Short title and commencement

(1) This Act may be cited as the Gaming, Betting and Lotteries (Amendment) Act 2001.

(2) This Act, except section 10, shall come into operation on such day or days as the Department of Home Affairs may by order appoint.

(3) Section 10 shall come into operation on such day as the Treasury may by order appoint.

⁹ 1990 c.8