

Order of the Day

1. Casino (Amendment) Bill 2017 – Second Reading approved

Mr Henderson to move:

That the Casino (Amendment) Bill 2017 be read a second time.

The President: I have no apologies for absence, so we turn to the Order Paper.

Item 1, for Second Reading and Clauses stage, the Casino (Amendment) Bill, and I call on the mover, the Hon. Member, Mr Henderson.

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Mr Henderson: Gura mie eu, Eaghtyrane.

This Bill is being presented for its Second Reading with the ultimate intention of ensuring the Isle of Man's reputation as a Tier 1 jurisdiction for gambling regulation is maintained, in addition to ensuring that its businesses have an appropriate environment and framework of regulation within which they can compete commercially, further contributing to the Island's economy.

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Eaghtyrane, as the gambling industry has evolved, so too have international standards and best practices relating to regulation of the industry. One area in which significant development has occurred in recent years relates to the prevention of money-laundering and countering financing of terrorism. The Gambling Supervision Commission has clear regulatory oversight of any casino licensed via the Casino Act 1986 – the Act. However, the Act does not provide the commission with explicit powers in relation to oversight of a casino licence holder for the purposes of anti-money laundering and counter-financing of terrorism (AML/CFT). These responsibilities are currently managed through licence conditions, a situation out of line with current best practice.

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The lack of such powers was a discussion point during the 2016 Moneyval visit. Subsequently, a recommendation was made that such powers should be explicitly defined. The Bill ensures that the GSC has explicit powers to supervise the AML/CFT compliance of a casino licence holder. The Bill also looks to support the Island's desire to allow its business to flourish and the GSC to discharge its responsibility to allow its operators to compete commercially.

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The Bill facilitates the permanent transfer of a casino licence holder's facilities to alternative premises and permits the board to vary the facilities and amenities to be provided at the said premises. Under the Act, the Council of Ministers can grant a concession to a person intending to provide premises to be used as a casino. A deposit is required in regard to this concession which is set at 20% of the total cost of the proposed premises – a level viewed as prohibitive to business.

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The Bill provides the Council of Ministers with flexibility relating to the requirement for a deposit and the ability to specify a deposit amount where required.

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Eaghtyrane, I beg to move the Second Reading of the Casino (Amendment) Bill 2017.

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The President: Hon. Member, Mr Coleman.

Mr Coleman: Thank you, Mr President.

I beg to second and reserve my remarks.

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The President: Hon. Member, Mr Anderson.

Mr Anderson: Thank you, Mr President.

45 Can the mover assure me that this is not actually making the process for granting casino licences ... I understand from the original legislation there was only capacity for two licences to be offered by the Government. Can you assure me that this does not actually increase that offering?

The President: Mr Henderson.

50 **Mr Henderson:** Gura mie eu, Eaghtyrane.

I thank the Hon. Member for his question and wishes for clarification on that. The answer is, no, it does not. What it is intending to do is to remove some of the cumbersome bureaucracy surrounding a licence whereby a casino operator may wish to transfer to different premises and it makes it easier for that move to transition, rather than increasing the number of licences or anything else of that matter.

Mr Anderson: Thank you.

The President: Mr Turner.

60 **Mr Turner:** Thank you, Mr President.

Given that at the moment there is only one licence operative and there has always been the talk of a second licence, especially during the days when Mr Gubay was wanting one, shouldn't this be quite a straightforward issue in the fact that the Regulator – the licensing body – is only actually dealing with one operation?

65 So is he confident that the amount of legislation is proportionate, given that they are only dealing with at the moment one operation and if there is a second casino opened then it will only be two maximum? Is he confident that this legislation is adequate to do what they need to do?

70 **The President:** Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.

75 The simple answer is, yes, I am. This, though, is enshrining into primary law the AML/CFT regulation more so, so that we have got proper regulatory oversight. It is an additional piece of legislation recognising Moneyval's critique of our current systems, rather than what the Hon. Member is referring to. However, it will match what he is talking to at any rate, Eaghtyrane.

The President: Mr Crookall.

80 **Mr Crookall:** Thank you, Mr President.

We were told that it used to be a 20% deposit and that is now seen as prohibitive – I think that was the word that the Hon. Member used.

85 Has the Department got any figure in mind? I know there is nothing mentioned as to what that figure should now be in the future, because I see we are now using the word 'may' take a deposit instead of 'shall'?

The President: Mr Henderson.

90 **Mr Henderson:** Gura mie eu, Eaghtyrane.

I think it is very much down to the GSC to ask the Council of Ministers as to what they would set as a future amount. It just gives the flexibility there to determine what that may be, or determine it at a lower amount perhaps. If an operator was going to progress a project to open a premises it could cost £2 million or £3 million to do so, and an upfront cash deposit of 20% is

95 quite a considerable sum of money to put up front, plus your project fees and everything else that would go towards the front loading and setting up of new premises.

Therefore it was seen that perhaps if we built some flexibility into this, to make a proposal work better and more proportionately, then the 20% could be varied.

100 **The President:** Mr Crookall.

Mr Crookall: Thank you, Mr President.

105 While I would agree that it might be prohibitive and you may well be talking if somebody builds a new premises into the tens of millions of pounds rather than two or three, so you could be talking two or three or four million pounds' deposit at least, I feel that there probably should be a minimum figure in there that is a fair and equitable figure that we all know somebody has to put down. I think there is a need for a minimum figure.

The President: Mr Henderson.

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Mr Henderson: Gura mie eu, Eaghtyrane.

Again, I thank Mr Crookall for his questions.

115 I think with consultation with the industry such as it is, it was felt that this was the best and most pragmatic way forward, I think is the answer to that. Obviously I am sure that the GSC/Council of Ministers would take the point that Mr Crookall, the Hon. Member of Council, is making, in that if it is set too low it becomes meaningless, almost. So I think there would be a pragmatic compromise in their judging the flexibility on the issue, I am given to understand.

The President: Mr Henderson, do you wish to reply further to the debate?

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Mr Henderson: No thank you, Eaghtyrane. I think I have supplied sufficient to conclude.

The President: I put the motion that the Casino (Amendment) Bill be read for the second time. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

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**Casino (Amendment) Bill 2017 –
Clauses considered**

The President: Turning to the clauses stage, Mr Henderson, you wish to take clauses 1 to 3 together?

130 **Mr Henderson:** Gura mie eu, Eaghtyrane.

Clause 1 gives the short title of the Act.

Clause 2 provides for the commencement of the Act which will be through an Appointed Day Order.

135 Clause 3 is the expiry clause. Once all of the Act's provisions are in operation, the Act will expire. This is the method of tidying up the statute books where, once the amendment is complete, the effect continues in operation but the Act itself expires.

Eaghtyrane, I beg to move clauses 1, 2 and 3.

The President: Mr Coleman.

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Mr Coleman: Thank you, Mr President.

I beg to second.

145 **The President:** I put the motion, clauses 1 to 3 stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Clause 4.

Mr Henderson: Gura mie eu, Eaghtyrane.

150 This clause provides for the Casino Act 1986 to be amended to provide for a casino licence to contain conditions requiring the holder of the licence to comply with anti-money laundering and counter-financing of terrorism legislation throughout the licence duration.

155 Anti-money laundering and counter-financing of terrorism legislation refers to a number of pieces of legislation designed to prevent acts of money laundering and terrorist financing. This clause also provides the Isle of Man Gambling Supervision Commission – ‘the board’ – with new powers to require the licensee to provide to the board information pertaining to compliance with the new money laundering obligations.

Eaghtyrane, I beg to move that clause 4 stands part of the Bill.

The President: Mr Coleman.

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Mr Coleman: Thank you, Mr President.

I beg to second and reserve my remarks.

The President: Mr Turner.

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Mr Turner: Can I just ask: I know the mover briefly touched on this in the Second Reading, but isn't it a given that they would have to comply with legislation anyway, so why do they need to put it in again because surely if there is legislation in force then you have to comply with it anyway?

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I just wonder whether we could maybe just reinforce the reasons as to why this additional line has been put in; and whether it is unique and whether he is aware of any other legislation which puts in a new Act that they must comply with an Act that is already in force? It seems to me it is just doubling up on something they have to comply with anyway.

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The President: Reply, sir.

Mr Henderson: Gura mie eu, Eaghtyrane.

180 I thank the Hon. Member for his question again, of which I alluded to some of the answers in the previous stage of the Bill. I can only reiterate the same again really, Hon. Member, in that due to our recent Moneyval assessment it was quite clear from them that best practice would dictate that, yes, there is mention in the Casino Act 1986 of AML issues, but this can only be regulated through conditions on the actual licence.

185 What Moneyval were concerned about is that it is not directly mentioned in primary legislation, which shows a more genuine intent on behalf of the Isle of Man to be addressing the issue of AML/CFT issues. This is one of the primary reasons we are here, so that it is enshrined properly in primary legislation and mentioned. It may be slightly doubling up, if you want to call it that, but it does strengthen the powers of the Gambling Supervision Commission to the standard being required by the Moneyval assessment.

190 However, having said that, Eaghtyrane, this is being done in full consultation with the industry who are content and can see the reasoning why are doing this and are happy for it to go forth.

The President: In that case, I put the motion that clause 4 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

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Clause 5.

Mr Henderson: Gura mie eu, Eaghtyrane.

200 The Casino Act 1986 does not allow for a casino licence to be transferred from one premises to another, and does not allow for a licence to cover the operations of more than one physical site.

205 The current procedure requires the licensee to surrender and obtain a new licence in order to facilitate a transfer of its licence which understandably would create business uncertainty. This clause provides for the amendment of section 5A of the Casino Act 1986. It allows the board to vary, with the consent of the holder of the licence and the Council of Ministers, the premises in which the casino is located 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 casino or any associated premises.

Eaghtyrane, I beg to move that clause 5 stands part of the Bill.

210 **The President:** Mr Coleman.

Mr Coleman: Thank you, Mr President.
I beg to second and reserve my remarks.

215 **The President:** I put the motion that clause 5 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Finally, clause 6.

Mr Henderson: Gura mie eu, Eaghtyrane.

220 Section 14 of the Casino Act 1986 provides the Council of Ministers with the ability to undertake to grant a casino licence to a concessionaire, who is a person who intends to provide premises specified in the concession which are to be used as a casino.

225 This clause provides for the amendment of section 14 of the Casino Act 1986. The amendment alters the current requirement whereby the Council of Ministers must, before granting a concession, obtain a deposit of an amount equal to 20% of the estimated total cost of the provision of proposed premises to be used as a casino. The provision provides the Council of Ministers with flexibility to require a deposit and the ability to specify a deposit amount where such is deemed appropriate.

Mr Speaker, I beg to move that clause 6 stands part of the Bill.

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The President: Mr Coleman.

Mr Coleman: Thank you, Mr President.
I beg to second and reserve my remarks.

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The President: Mr Turner.

240 **Mr Turner:** Yes, I am quite happy to support this clause as long as we are clear this is a softening of the procedure, and we should at least have on the record that is what this clause is doing. I am sure the regulator will, in operating this, regularly review whether it is working as to whether the relaxing of these requirements have had the desired effect.

I fully understand when the mover explained in detail why this was happening and I am quite content without that, but as long as we know that this is actually a softening, the relaxing, of the requirements.

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The President: Mr Henderson.

Mr Henderson: Gura mie eu, Eaghtyrane.

250 I thank the Hon. Member for his queries and as mentioned in the Second Reading this is building in more flexibility. I would not go as far as to say 'softening' because that gives the impression that the legislation is being downgraded – it is not. What we are attempting to achieve here is a more pragmatic approach to meet business needs.

255 And to answer his other question: yes, the GSC will be monitoring the situation quite closely I would say, and especially with the advent of Moneyval coming back here next year to reassess how we have got on with our action plan with regard to their observations from the last visit, if I can put it like that, Eaghtyrane.

Mr Coleman: Thank you, Mr President.

260 I would just like to point out that although we may well be taking a smaller deposit for premises, the attraction to the Island of a second casino would add considerably to our VAT income and our Gambling Tax income; and if this is an inducement to get the second casino licence operative, then that actually would produce far more income than a deposit on a property.

265 We are, of course, coming *very* close to the end of the Middlemarch deal which we did, which means that there is a large area of land in the centre of Douglas which is going to become available – and an option on that is of course held by the Sefton.

So this is quite an opportune time to bring this legislation through.

Thank you, Mr President.

270 **The President:** Mr Henderson.

Mr Henderson: I think Mr Coleman was making some observational points, Eaghtyrane, many of which I fully agree with; and I think, as I have been discussing with the Act, it shows a more pragmatic and flexible approach to try and achieve some desirable outcomes.

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The President: With that I put the motion that clause 6 do stand part of the Bill. Those in favour, say aye; against, no. The ayes have it. The ayes have it.

Thank you, Hon. Members, that concludes Item 1 on the Order Paper.