

STATES OF JERSEY



DRAFT GAMBLING COMMISSION (JERSEY) LAW 200- (P.139/2009): AMENDMENT (P.139/2009 Amd.) – COMMENTS

**Presented to the States on 16th November 2009
by the Minister for Economic Development**

STATES GREFFE

COMMENTS

The Minister for Economic Development has recently adopted a statement of policy for regulation that he expects the new Commission, if sanctioned by the States, to follow. I attach the CVs of the current shadow Commissioners, which demonstrate their quality and experience and which should prove beneficial to Members. One of the principles of the policy the Commission will be required to observe is that –

the Commission will ensure that its regulatory approach imposes the minimum burden necessary to promote the licensing principles. The Commission must take into account the regulatory impact on different types and sizes of licence applicant and licence holder and ensure, without compromising key licensing principles, it does not unduly hinder economic progress.

The first proposed amendment put forward by the Deputy of St. Martin states that –

‘the Commission must ensure that it carries out its functions in a way that does not give rise to, or maintain, unnecessary burdens’.

This statement appears entirely in agreement with the Minister’s stated policy and to that end, the Minister is pleased to accept the first proposed amendment to Article 3.

The second proposed amendment, to Article 5, seeks to give the Minister powers to make directions to determine the manner in which gross win is to be calculated. This was not included in the draft Law because there is already a definition of gross win that has been developed and accepted between the industry and the Income Tax Department as the method of determining GST. It seems unlikely that a future Minister would seek to change this definition, but if the States wishes to accept the amendment then the Minister would support it.

The third proposed amendment, to Article 6, inserts a mandatory Order-making role for the Minister to decide on the specific manner in which the Commission should consult regarding a Code of Practice. This seems unnecessary, as one of the benefits of introducing a new independent regulator is to release them and the industry from the slow shackles of government bureaucracy. The Commission will have to consult with its industry whether an Order is made or not, and it makes little sense for the Minister to have this role. Notwithstanding, the Minister is content to accept this amendment. The second part of this proposed amendment also relates to burdens and unnecessary inconsistencies and as noted above, this is now part of Ministerial policy and so should be adopted.

Finally, Deputy Hill seeks to have reference to this role in every annual report submitted by the Commission to the States. This seems unnecessary. The inclusion of a statement regarding the consideration of codes or standards adopted in other jurisdictions and how they are relevant to Jersey is not something that should be included in an Annual Report to the States. Rather, it should be reported by the Commission as part of the determination process for each code and published on its website or on a case-by-case basis. While supportive of the principle of open decision-making, this part of the proposed amendment will not add meaningful information to the Annual Report and should be rejected.

The proposed amendments to Article 11 refer to the Social Responsibility Levy which is a key element of the proposed draft Law. The need for a Fund stems from the requirement for the industry to meet the social debt that can be caused by gambling. Although the overwhelming majority of people gamble responsibly, there is a small, but nevertheless important, minority who get into difficulties, and these individuals need to be recognised and helped. The amendment would require the Minister to specify the manner in which the Commission would consult on the matter of raising a levy and also provide first for a voluntary route by donation. This is actually already provided for in Article 10(2)(c). Ensuring that the Minister makes an Order to do what the Commission would have to do in any event seems unnecessary and the draft Law does make provision for donations. To that extent this part of the amendment is not required.

Proposed amendment 'B' to Article 11 is welcome and will correct an error in the drafting instructions that substituted turnover for 'gross win'. Likewise, after discussion with the Deputy of St. Martin and the commercial operators, an amendment to the maximum charge of the levy to 1% of gross win is also acceptable.

The proposed amendments to Schedule 1 are not, however, so clear-cut and Members are free to make up their own minds regarding a debate on States appointments. The proposed amendments to paragraph 2(3) and paragraph 5(3) relate to States appointments being held *in camera*. Clearly, people should be open to scrutiny if they seek public office, but we must also be aware that there could be instances where worthy men and women are put off from coming forward for fear that their reputations can be publicly impugned without a right of reply. The principle that such debates are held *in camera* is a well established one and to that end, the Minister sees no reason to deviate from it and so will oppose these amendments.

With regard to the length of time that a Commissioner can be absent without permission, it is worth recognising that they would not be remunerated during such a period of absence. The period of 6 months was included as a suitable period to cover medical emergencies and other unforeseen events where a Commissioner may not, through no fault of their own, be able to communicate with the Chair of the Board. Reducing this period to 2 months naturally reduces the period during which a Commissioner may be absent but should not, in other than extreme cases, have a practical effect. For that reason the Minister is prepared to accept the amendment.

Turning to the proposal to delete paragraph 4(3)(f), this refers to mandatory retirement at 73 and is in line with other legislation of this sort. On reflection, it is certainly true that many people are capable of giving sterling service after the age of 73 and accordingly the Minister accepts the amendment.

The final proposed amendment of the Deputy of St. Martin to Schedule 1 refers to paragraph 6(3)(c). The effect of removing the Chair's casting vote in the event of a tie between 3 Commissioners effectively gives a veto to the dissenting voice and removes the leadership of the Chair. This is not an appropriate way of running a Board, and is not in keeping with generally accepted principles of corporate governance. The draft Law confers on the Chair a higher degree of leadership and responsibility than that held by ordinary Commissioners and expects him or her to exercise that role to the public good. Removing the Chair's ability to lead their Board in the event of a tie runs contrary to the principles of their appointment and accordingly the Minister will oppose this amendment.

COMMISSIONERS' CURRICULUM VITAE

GRAHAM WHITE, OBE

EMPLOYMENT HISTORY

1983 – 2005 – The Gaming Board for Great Britain

Responsibilities

- Chief Regulator responsible for the effectiveness and efficiency of 40 staff. This includes budget control, financial planning, policy, operational deployment based upon intelligence and risk assessment, long-term planning, recruitment and promotion.
- Advisor to HM Government and Gaming Board Officials on all matters relating to gaming legislation, inspection and enforcement – including the investigation of applicants.
- Advisor on all cases of revocation and granting of company certificates and individual licenses. Ensuring that action is taken in accordance with current legislation and the Human Rights Act.
- Advisor to licensee and applicant company representatives on matters relating to proposed acquisitions, expansion, management structure and other related issues.
- Inspection of gaming licensed premises and Inspectorate Regional Offices to assess the effectiveness of the Inspectorate and to provide feedback on trends and developments.
- Liaison with police at Chief Officer level and with senior representatives of other agencies and regulatory bodies on enforcement, investigation, intelligence and legal issues.
- Liaison with foreign governments (Regulatory Agency Heads) on matters relating to legislation, investigation, enforcement and the exchange of information. In appropriate cases, carry out investigations on foreign applicants for gaming licences.
- Co-chair of the Technical Committee of the Gaming Regulators European Forum.
- Member of the Financial Fraud Information Network.
- Member of the Joint Action Group on Organised Crime.
- Visiting lecturer to the Universities of Las Vegas and Salford on gaming legislation. Also lectured in South Africa, USA, Italy, Aruba, Netherlands and Jamaica.

Achievements:

- Instigated a major internal and external review, which enhanced the operational and cost effectiveness of the Inspectorate ('The Need for Change'). Improvements included the introduction of an intelligence led risk based inspection regime.
- Implemented a major internal review on all gaming legislation for the Gambling Review Body, which resulted in the new Betting and Gaming Act.
- Chaired the joint working group with HM Customs & Excise, which has produced, for example, a multi-agency approach to tackling illegal activities.
- Implemented IT strategy for the Inspectorate and regional offices, producing an enhanced communication policy.

- Established an Intelligence database for the Inspectorate, Board and the National Criminal Intelligence Service (NCIS).
- Recruited a team of specialist Inspectors to manage Intelligence and technical functions.
- Introduced multi-agency approach to investigations, incorporating Police, HM Customs & Excise and other regulatory authorities.
- Provided advice on legislation, social responsibility programmes and regulatory controls to Israel, South Africa, Malta, Hungary, Slovenia, Seychelles, Italy, Jamaica, Alderney, Guernsey, Jersey and both Northern and Southern Cyprus.
- Carried out successful gaming license investigations in USA, Canada, Spain, Bahamas and South Africa.
- Established a Gaming Inspector at the National Criminal Intelligence Service.
- Introduced an annual Strategic and Operational Plan for the Inspectorate with objectives for individuals and their personal development plans.
- Introduced an Inspectorate budget control system to ensure that expenditure is spent to the best effect.
- Established Memorandums of Understanding with the Association of Chief Police Officers (England, Scotland and Wales).
- Established a Memorandum of Understanding with the Scottish Drugs Enforcement Agency and HM Customs & Excise.
- Introduced Inspections at corporate level for all gaming companies to confirm or deny corporate governance and the integrity of management and operational systems.
- Devised and introduced an inspection regime to ascertain if licensees were correctly operating a social responsibility programme.

1966 – 1983 – Commissioned Officer, Queen’s Royal Surrey Regiment, Queen’s Regiment, Royal Military Police, and Sultan of Muscat Armed Forces.

AWARDS

- Order of the British Empire (OBE) for services to The Gaming Board for Great Britain.
- General Service Medal, Ulster.
- Oman Defence Medal.
- Commander in Chief, US Forces West Germany Commendation.

COMMUNITY AFFAIRS

- Clerk of the Course Tweseldown Racecourse 1973-75
- Deputy Chairman Gordon Moody Association (treatment centres for gambling addiction).
- Chairman Community Action Responsible Gambling (CARG) London, Swansea, Newcastle Upon Tyne, Northampton.
- Chairman of Whittlesford War Memorial Committee.

PETER SCOTT CRUICKSHANK

EMPLOYMENT HISTORY

1988 – 2004 – LE SABLON LTD.

- Position: Director
- Duties: Investments

1984 – 2001 – CHANNEL ISLANDS MONEY BROKERS LTD.

- Position: Chairman / Managing Director
- Duties: Company management

1992 – date – PASADAM LTD.

- Position: Director
- Duties: Investments & administration

1990 – 1992 – STERLING BROKERS ASSOCIATION – LONDON

- Position: Secretary
- Duties: Admin & liaison with Bank of England Money Markets Division.

1984 – 2001 – CI MONEY BROKERS JERSEY & GUERNSEY

- Position: Chief dealer, Director of Treasury, Managing Director
- Duties: Dealing room treasury operations, staff administration, recruitment and training, telecommunications/Reuters, advertising, client management, correspondent office liaison, advertising, money market regulatory affairs, Sterling Brokers Assoc & Bank of England meetings, company banking and investments.

1979 – 1984 – KIRKLAND WHITTAKER (CI) LTD – JERSEY

- Position: Chief Dealer & Dealing Room Manager.
- Duties: Dealing room treasury operations, client & correspondent office liaison & marketing, staff administration, recruitment and training.

1972 – 1979 – KIRKLAND WHITTAKER (CI) LTD – JERSEY

- Position: Sterling & Currency Dealer
- Duties: Money market trading, marketing & client & correspondent office liaison

1970 – 1972 – NATIONAL WESTMINSTER BANK LTD. – JERSEY

- Position: Correspondence & Deposits Clerk
- Duties: As above.

1969 – 1970 – WESTMINSTER BANK LTD. – JERSEY

- Position: Bank Cashier
- Duties: As above.

1968 – 1969 – WESTMINSTER BANK LTD – JERSEY

- Position: Junior – Cheque processing department.
- Duties: As above.

ACHIEVEMENTS

- In 1984, formed the first independent Jersey and Guernsey money broking companies which became the largest and most successful money broking group in the Channel Islands.

COMMUNITY INTEREST

1977 – Date

- Member of the Public Lotteries Board. Currently Deputy Chairman.

Current

- Accredited Jersey Heritage guide for offshore towers.

JEREMY ARNOLD

Jeremy retired in 1994 at the age of 56 and has since lived full-time in Jersey. His career began in 1957 as an articled clerk with an old firm of Chartered Accountants in the City. The company was taken over by Touche, Ross shortly before he qualified in 1962. Jeremy worked for Touche, Ross in Sydney and San Francisco before joining Arthur Andersen in London in 1966. He opened the Firm's Birmingham Office in 1971. He became a partner in 1974 and transferred to the Toronto Office in 1976 where he ran the audit practice for 13 years. In 1989, he moved back to Europe to work in the Brussels Office until his retirement in 1994. During his time in Belgium, he was the liaison partner for training in Europe, Middle East, India, and Africa.

Jeremy's clients have been in a wide variety of industries such as stock-broking, banking, insurance, manufacturing, consumer products, film and music production, advertising, real-estate and retailing. Most of these were parts of very large multinational companies. His other work experience within the Firm has been in practice management, training and quality control. The last has involved extensive practice reviews of offices in Australia, Malaysia, Switzerland, Kuwait, Egypt, Thailand, USA and England.

Since retirement, Jeremy has spent his time on projects, which has involved considerable time in the Middle East. He also has a number of non-executive directorships.