



THE MORAY LICENSING BOARD

GAMBLING ACT 2005

summary of

SCHEME OF DELEGATION

All references are to the Gambling Act 2005.

General Principles of Delegation

- All functions save those in paragraph 1 below are delegated to a sub-committee as constituted in accordance with paragraph 4 below; and
- All functions save those in paragraphs 1 and 2 below (but including specifically those outlined in paragraph 3) are delegated to a clerk or person appointed to assist the clerk or officer.

1. Actions That Cannot be Delegated i.e. Can Only be Carried out by the Full Board

By virtue of section 155(2)(a) of the Act the following cannot be delegated:

- resolution not to issue a casino licence
- making a statement of licensing policy

2. Actions Delegated to a Sub-Committee Including those that Cannot be Further Delegated to an Officer

By virtue of section 155(1) the Board has delegated any function to a sub-committee save those functions detailed in paragraph 1 above.

By virtue of section 155(1) the Board has also sub delegated any other function to a clerk or person appointed to assist the clerk or officer. **However**, by s. 155(2)(b) the following cannot be determined by such an officer and must therefore be determined by the Board or a sub-committee:

- determination of a premises licence application where representations are made under s. 161 and not withdrawn;
- determination of a variation where representations are made under s. 161 (applied by s. 187) and not withdrawn;

- determination of a transfer where representations are made by the Gambling Commission;
- determination of a provisional statement where representations are made under s. 161 (applied by s. 204) and not withdrawn;
- review of a premises licence under s. 201.

3. Actions Delegated to an Officer

By virtue of section 155(1) the Board may and has sub delegated any function to a clerk or person appointed to assist the clerk or officer save those functions detailed in paragraphs 1 and 2 above.

In addition, where the officer deems it appropriate, a matter to be dealt with under delegated powers may be referred back to a sub-committee or the Board as follows:

- An alcohol licensed premises gaming machine permit allows any number of category C or D machines to be made available on the premises. Premises with an “on” licence and a bar counter have an automatic entitlement to up to 2 category C or D machines but a gaming machine permit allows the premises to offer any number over 2. It is recommended that the Board delegate the power to an Officer to grant gaming machine permits. Thereafter it is recommended that the Board delegate to a Sub-committee the power to deal with any application that is referred back by the Officer for being unusual or complex including the power to hold a hearing to decide the matter where it is proposed to vary the number or categories of machines in an application.
- Under Schedule 11 to the Gambling Act 2005 the Licensing Board takes over responsibility from the Council for the registration of Small Society Lotteries. It is recommended that the Board delegate the power to an Officer to grant registrations for Small Society Lotteries. Thereafter it is recommended that the Board delegate to a Sub-committee the power to deal with any application that is referred back by the Officer for being unusual or complex including the power to hold a hearing to decide the matter where it is proposed to refuse or revoke such registration.

4. Constitution of the Sub-Committee

For the purposes of the scheme of delegation, a sub-committee consists of five members with a quorum of 3 in order to exercise the functions delegated under the scheme in accordance with section 155(1) of the Gambling Act 2005.