



JOINT SELECT COMMITTEE ON
**THE GAMBLING (GAMING AND BETTING)
CONTROL BILL, 2016**

INTERIM REPORT

FOURTH SESSION ELEVENTH PARLIAMENT (2018/2019)



Committee Mandate

Pursuant to resolutions of the House of Representatives on Friday September 28, 2018 and of the Senate on Monday October 22, 2018, a Joint Select Committee was established to consider the Gambling (Gaming and Betting) Control Bill, 2016 and report on or before December 31st, 2018.

Committee Membership

Mr. Colm Imbert, MP	Chairman
Mr. Faris Al-Rawi, MP	Member
Mr. Stuart Young, MP	Member
Ms. Nicole Olivierre, MP	Member
Mr. Ganga Singh, MP	Member
Mr. Rudranath Indarsingh, MP	Member
Mr. Foster Cummings	Member
Mr. Robert Le Hunte	Member
Mr. Wade Mark	Member
Ms. Allyson West	Member
Mr. Paul Richards	Member
Dr. Varma Deyalsingh ¹	Member

Secretariat Support

Ms. Chantal La Roche, Senior Legal Officer	Secretary
Ms. Simone Yallery, Legal Officer I	Assistant Secretary
Ms. Sharla Elcock, Legal Officer I	
Mr. Jean-Marc Morris, Legal Officer I	
Mr. Kaleem Hosein, Legal Intern	
Mrs. Susannah Gittens, Business Operations Assistant II	
Ms. Dionne Cedeno, Business Operations Assistant II	

Contact

The Secretary

Joint Select Committee Gambling (Gaming and Betting) Control Bill, 2016

Office of the Parliament

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Date Laid in HOR: January 11, 2019

Date Laid in Senate:

HOR Paper No.:

Senate Paper No.:

PARL No.: 14/3/70

¹ w.e.f. November 27, 2018 in lieu of Melissa Ramkissoon

CHAIRMANSHIP

1. At its First Meeting on Tuesday November 13, 2018, your Committee elected Mr. Colm Imbert, MP to be its Chairman, in accordance with **Standing Order 97(3)** of the House of Representatives and **Standing Order 87(3)** of the Senate.

MEETINGS

2. Since its appointment, your Committee has held three (3) meetings on the following dates:
 - Tuesday November 13, 2018;
 - Thursday November 15, 2018; and
 - Wednesday December 19, 2018.
3. The Minutes of the Meetings are attached at **Appendix I**.

WORK TO DATE

4. During preliminary discussions, your Committee agreed to adopt the work completed by the Committee established during the Third Session including written comments submitted by stakeholders and further oral evidence provided by these stakeholders during meetings with the Committee.
5. At its **Second Meeting**, your Committee continued its clause by clause analysis of the Bill by reconsidering the Clauses which were referred to the Gambling Consultant. At this meeting, your Committee was supported by Ms. Laura Ramnath, Senior Parliamentary Counsel (Ag.) and Ms. Megan Doyle, Parliamentary Counsel II (Ag.) who were assigned by Chief Parliamentary Counsel's Department of the Ministry of the Attorney General to assist the Committee in its deliberations.
6. Your Committee was also assisted by Mr. Chevon Robinson, Project Manager, Strategic Management and Execution Unit of the Ministry of Finance, who offered his expert views on the Bill.
7. At its **Third Meeting**, your Committee proposed to consider the Report of the Gambling Consultants which is attached at **Appendix II**. However, the consideration of the Report was deferred to a later date when there would be a greater representation of Members to examine the contents of the Report.

REPORT

8. Your Committee wishes to report that additional time is required by the Committee to consider the Gambling Consultant's Report, to properly review the Bill, and to compile proposed amendments. As such, the Committee was unable to submit its final report by the deadline of December 31, 2018.

RECOMMENDATION

9. Your Committee humbly requests a further period of five (5) months to complete its work and to submit a final report to Parliament by **May 31, 2019**.
10. During the period of the extension, your Committee proposes to complete its clause by clause examination of the Bill with the assistance of the Chief Parliamentary Counsel Department of the Ministry of the Attorney General and Legal Affairs and with input from its preferred expert consultant, Governance Associates.

Respectfully Submitted,

Sgd.

Mr. Colm Imbert, MP

Chairman

January 11, 2019

Appendix I
Attendance and
Minutes of Meetings

JSC ON GAMBLING (GAMING AND BETTING CONTROL) BILL, 2016
4TH Session (2018-2019) Eleventh Parliament

Meetings	Mr. Colm Imbert	Mr. Faris Al-Rawi	Mr. Stuart Young	Ms. Nicole Olivierre	Mr. Ganga Singh	Mr. Rudranath Indarsingh	Ms. Melissa Ramkissoon	Dr. Varma Deyalsingh ¹	Mr. Foster Cummings	Mr. Robert Le Hunte	Mr. Wade Mark	Ms. Allyson West	Mr. Paul Richards
First Meeting 13.11.2018	✓	✓	✓	✓	✓	✓	EXCUSED		EXCUSED	✓	✓	✓	✓
Second Meeting 15.11.2018	✓	✓	EXCUSED	✓	✓	EXCUSED	EXCUSED (Ceased to be a member on 19.11.2018)		✓	✓	✓	EXCUSED	✓
Third Meeting 19.12.2018	✓	EXCUSED	✓	EXCUSED	EXCUSED	EXCUSED		EXCUSED	✓	✓	EXCUSED	✓	EXCUSED

¹ Dr. Varma Deyalsingh appointed a Member w.e.f. Nov. 27, 2018 in lieu of Ms. Melissa Ramkissoon.

**JOINT SELECT COMMITTEE ON THE GAMBLING (GAMING AND BETTING) CONTROL
BILL, 2016**

**MINUTES OF THE FIRST MEETING HELD IN THE A.N.R. ROBINSON ROOM (WEST),
LEVEL 9, OFFICE OF THE PARLIAMENT, TOWER D, IWC, #1A WRIGHTSON ROAD, PORT
OF SPAIN ON TUESDAY NOVEMBER 13, 2018 at 10:30 A.M.**

PRESENT

Mrs. Bridgid Annisette-George, MP - Speaker of the House

Committee Members

Mr. Colm Imbert, MP	-	Member
Mr. Faris Al-Rawi, MP	-	Member
Mr. Stuart Young, MP	-	Member
Ms. Nicole Olivierre, MP	-	Member
Mr. Ganga Singh, MP	-	Member
Mr. Rudranath Indarsingh, MP	-	Member
Ms. Allyson West	-	Member
Mr. Robert Le Hunte	-	Member
Mr. Wade Mark	-	Member
Mr. Paul Richards	-	Member

Secretariat

Ms. Chantal La Roche	-	Secretary
Ms. Simone Yallery	-	Assistant Secretary

ABSENT/ EXCUSED

Ms. Melissa Ramkissoon	-	Member <i>[Excused]</i>
Mr. Foster Cummings	-	Member <i>[Excused]</i>

COMMENCEMENT

1.1 The meeting was called to order by the Speaker of the House at 10:38 a.m.

ANNOUNCEMENTS BY THE SPEAKER

2.1 The Speaker informed Members that Ms. Chantal La Roche would serve the Committee as Secretary, and Ms. Simone Yallery would serve as Assistant Secretary.

ELECTION OF CHAIRMAN

3.1 The Speaker advised that her role was to facilitate the election of a Chairman and invited nominations.

3.2 Mr. Faris Al-Rawi nominated Mr. Colm Imbert for the chairmanship and this nomination was seconded by Ms. Nicole Olivierre.

- 3.3 There being no further nominations, Mr. Colm Imbert was declared Chairman. The Speaker wished the Members productive and cooperative deliberations. Mr. Colm Imbert was invited to take the Chair.

(The Speaker exited the meeting and Mr. Colm Imbert assumed his role as Chairman)

- 3.4 The Chairman thanked Members for electing him to serve as the Chairman.

ANNOUNCEMENTS BY THE CHAIRMAN

- 4.1 The Chairman advised that the following Members asked to be excused from the day's meeting:
- a) Ms. Melissa Ramkissoon.
 - b) Mr. Foster Cummings.

QUORUM

- 5.1 The Chairman proposed and Members agreed to a quorum of five (5) persons, inclusive of the Chair with representation from at least one Member of each House.

TERMS OF REFERENCE

- 6.1 The Chairman informed Members of the Committee's mandate:
- i. to consider and report on the Gambling (Gaming and Betting) Control Bill, 2016 by Monday December 31, 2018; and
 - ii. to adopt the work done in the Third Session, Eleventh Parliament of the Committee appointed to consider the Bill.

DISCUSSION ON THE WAY FORWARD

- 7.1 The Chairman gave a brief synopsis of the work of the Committee done to date.
- 7.2 The Chairman instructed the Secretariat to:
- i. circulate to Members no later than Wednesday November 14, 2018 a summary table of the clauses and queries which were referred to Governance Associates; and
 - ii. request that Governance Associates Limited provide a comprehensive report on the clauses which were referred for its consideration within two weeks.
- 7.3 The Committee agreed to continue discussions on the deferred clauses with the assistance of the Consultants from Governance Associates Limited at the Second meeting.

Second Meeting

- 7.4 The Chairman proposed and the Committee agreed that the Committee's Second meeting would be held on Thursday November 15, 2018 at 10:00 a.m.

ADJOURNMENT

8.1 The Chairman thanked Members and adjourned the meeting to Thursday November 15, 2018 at 10:00 a.m.

8.2 The adjournment was taken at 10:58 a.m.

I certify that these Minutes are true and correct.

Chairman

Secretary

November 13, 2018

**JOINT SELECT COMMITTEE ON THE GAMBLING (GAMING AND BETTING) CONTROL
BILL, 2016**

**MINUTES OF THE SECOND MEETING HELD IN THE A.N.R. ROBINSON ROOM (EAST), LEVEL
9, OFFICE OF THE PARLIAMENT, TOWER D, IWC, #1A WRIGHTSON ROAD,
PORT OF SPAIN ON THURSDAY NOVEMBER 15, 2018 at 10:00 A.M.**

PRESENT

Committee Members

Mr. Colm Imbert, MP	-	Chairman
Mr. Faris Al-Rawi, MP	-	Member
Ms. Nicole Olivierre, MP	-	Member
Mr. Ganga Singh, MP	-	Member
Mr. Foster Cummings	-	Member
Mr. Robert Le Hunte	-	Member
Mr. Wade Mark	-	Member
Mr. Paul Richards	-	Member

Secretariat

Ms. Chantal La Roche	-	Secretary
Ms. Simone Yallery	-	Assistant Secretary

ABSENT/ EXCUSED

Mr. Stuart Young, MP	-	Member <i>[Excused]</i>
Mr. Rudranath Indarsingh, MP	-	Member <i>[Excused]</i>
Ms. Allyson West	-	Member <i>[Excused]</i>
Ms. Melissa Ramkissoon	-	Member <i>[Excused]</i>

COMMENCEMENT

1.1 The meeting was called to order by the Chairman at 10:25 a.m.

ANNOUNCEMENTS

2.1 The Chairman advised that the following Members asked to be excused from the meeting:

- Mr. Stuart Young, MP
- Mr. Rudranath Indarsingh, MP
- Ms. Allyson West
- Ms. Melissa Ramkissoon

CONFIRMATION OF MINUTES OF THE FIRST MEETING

3.1 The Committee examined the Minutes of the First Meeting held on Tuesday November 13, 2018.

3.2 The Committee agreed that the following amendment be made:

- Insert the following:

“7.3 The Committee agreed to continue discussions on the deferred clauses with the assistance of the Consultants from Governance Associates Limited at the Second meeting.”

- 3.3 There being no further amendments, the motion for the confirmation of the Minutes was moved by Mr. Paul Richards and was seconded by Mr. Robert Le Hunte.

MATTERS ARISING

- 4.1 The Chairman brought the following matter to the attention of Members:
- i. Per **Item 7.2:**
 - The Secretariat circulated to Members a Summary Table of Clauses and Issues referred to Governance Associates Limited.
 - The Secretariat advised Governance Associates Limited of the Committee’s request to submit a report within two weeks.
 - ii. The Consultants of Governance Associates Limited requested a revised submission date of Thursday December 6, 2018.
- 4.2 The Committee considered the Consultant’s request and agreed to a submission date of Thursday December 6, 2018.

CONSIDERATION OF CLAUSES REFERRED TO THE GAMBLING CONSULTANT

- 5.1 The Committee engaged in a preliminary discussion on the clauses which were referred to Governance Associates Limited.

Representatives of the Office of the Chief Parliamentary Counsel and Ministry of Finance were invited into the Meeting Room at this time

- 5.2 Representing the Office of the Chief Parliamentary Counsel were:
- | | | |
|-------------------|---|------------------------------------|
| Ms. Laura Ramnath | - | Senior Parliamentary Counsel (Ag.) |
| Ms. Megan Doyle | - | Parliamentary Counsel II (Ag.) |
- 5.3 Representing the Ministry of Finance was:
- | | | |
|---------------------|---|---------------------------------------------------------------|
| Mr. Chevon Robinson | - | Project Manager,
Strategic Management and Execution Office |
|---------------------|---|---------------------------------------------------------------|
- 5.4 The video conferencing call was initiated, the Chairman then introduced himself and Members of the Committee and welcomed the representatives of Governance Associates Limited.
- 5.5 Representing Governance Associates Limited were:
- | | | |
|-----------------|---|------------------------------|
| Mr. Alan Pedley | - | CEO and Principal Consultant |
| Mr. Tony Clark | - | Principal Consultant |
- 5.6 The reconsideration of the clauses referred to Governance Associates Limited proceeded as outlined in **Appendix I** of these Minutes.

5.7 The meeting with the Gambling Consultant ended at 11:30 a.m.

OTHER BUSINESS

6.1 The Committee requested the following:

- i. the Technocrat team to draft and submit clauses for the Committee's consideration to address:
 - the various options on 'grandfathering' employees;
 - the minimum six month time period of employment in the industry to qualify to be 'grandfathered';
 - a probationary period; and
 - the training which should be provided to employees.
- ii. the Secretariat:
 - to circulate to Members a tabulation of the clause by clause examination of the Bill.
 - to request the submission of a report on the Draft Regulations from the Gambling Consultant.
- iii. the Consultants of Governance Associates:
 - to consider and review:
 - the Draft Regulations made under the Bill.
 - clause 92 in relation to the Draft Regulations.
 - to submit a subsequent report on the Draft Regulations.

DISCUSSION ON THE WAY FORWARD

7.1 The Committee agreed to consider the following issues at its next meeting:

- clause 34 and the granting of licences.
- the compliance requirements of the Commissioner of Police of potential licensee applicants.
- the report on Bill from Governance Associates Limited.

Determination of Next Meeting Date

7.2 The Chairman proposed that the Committee should await the submission of the Report from Governance Associates Limited before convening its Third Meeting.

7.3 In this regard, the Chairman proposed and the Committee agreed that the Committee's Third meeting would be tentatively scheduled for Friday December 14, 2018 at 10:00 a.m.

ADJOURNMENT

8.1 The Chairman thanked Members and adjourned the meeting to Friday December 14, 2018 at 10:00 a.m.

8.2 The adjournment was taken at 11:45 a.m.

I certify that these Minutes are true and correct.

Chairman

Secretary

December 18, 2018

**Reconsideration of Clauses Referred to Gambling Consultant
Thursday November 15, 2018**

Clause	Marginal Note	Issues for Consideration
4	Interpretation	<p>Definition: “betting”:</p> <ul style="list-style-type: none"> ▪ Whether the definition “betting” should be amended. The current definition is intended to define criminal offence provision and as such, some type of betting may be excluded. ▪ Consultant to provide additional information on clause via report. <hr/> <p>Definition: “gambling”:</p> <ul style="list-style-type: none"> ▪ Consultant to provide additional information on clause via report. <hr/> <p>Definition: “game of chance”:</p> <ul style="list-style-type: none"> ▪ Consultant to provide additional information on clause via report. <hr/> <p>Definition: “equal chance game ”:</p> <ul style="list-style-type: none"> ▪ Whether the word “bank” should be defined? ▪ Whether the definition should be amended to bring more clarity. ▪ Consultant to provide additional information on clause via report. <hr/> <p>Definition: “gaming”:</p> <ul style="list-style-type: none"> ▪ What amounts to gaming? ▪ Consultant to provide additional information on clause via report. <hr/> <p>Clause 4(2): Definition of amusement machines</p> <ul style="list-style-type: none"> ▪ Consultant to provide additional information on clause via report. <hr/> <p>Clause 4(3):</p> <ul style="list-style-type: none"> ▪ Consultant to provide additional information on clause via report. <hr/> <p>“vulnerable persons”:</p> <ul style="list-style-type: none"> ▪ The current definition speaks of someone who incurs betting debts, or gambling debts, and it may be more consistent to speak of betting losses or gambling losses if only for that to be overly treated before a person is actually passed for him to return. ▪ Consideration should be given to an alternative definition that would give some ground for action for an excessive gambler that brought him into debt. ▪ Whether to grant the Commission the power to make enquiries. ▪ Consultant to provide additional information on clause via report.

Clause	Marginal Note	Issues for Consideration
14	Powers and duties of the Commission	<p>Clause 14 (2)(r):</p> <ul style="list-style-type: none"> ▪ The need to identify the parties who would need the information for example the technical aspect of the gaming machines. ▪ The type of information involved in the auditing process. <p>Clause 14 (2)(b):</p> <ul style="list-style-type: none"> ▪ Consultant to provide additional information on clause.
31	Requirement	<p>Clause 31(f):</p> <ul style="list-style-type: none"> ▪ The need to apply the best practice to this clause. ▪ Whether adaptation of the software also includes an update and the clause assumes that the software is being centrally controlled, or there is a change to a specific component which a machine by machine exercise? ▪ Whether more context could be provided in light of the evolving paradigm of software updates as they apply to gaming machines and the ever increasing realm of artificial intelligence. ▪ The use of algorithms and if the clause should be more specific to address this issue. ▪ Consultant to provide additional information on clause via report. <p>Clause 31(g) – (h):</p> <ul style="list-style-type: none"> ▪ Consultant to provide additional information on clause via report.
33	Application for a licence	<ul style="list-style-type: none"> ▪ Consultant to provide additional information on clause via report.
38	Conditions of licence	<p>Clause 38(1)(d) to 38 (2):</p> <ul style="list-style-type: none"> ▪ Whether to ‘grandfather’ in existing employees. ▪ The minimum period of time an existing employee should be employed in the industry in order to be grandfathered – e.g. six months ▪ The probationary time limit applicable if grandfathered. ▪ The level and type of training which the Commission will give to employees. The level of responsibility the Commission. ▪ Whether a training facility should be established. ▪ Consultant to provide additional information on clause via report.
75	Gambling software	<ul style="list-style-type: none"> ▪ Consultant to provide additional information on clause via report.
76	Cheating	<ul style="list-style-type: none"> ▪ Consultant to provide additional information on clause via report.
84	Obstruction	<ul style="list-style-type: none"> ▪ Consultant to provide additional information on clause via report.

Clause	Marginal Note	Issues for Consideration
Schedule 3		<p>Fit and Proper Criteria:</p> <ul style="list-style-type: none"> ▪ Consideration may be given to a discretionary approach which will allow for a greater degree of flexibility. ▪ Commission should consider applications on a case-by-case basis, taking into account individual circumstances in reaching its determination. ▪ Whether or not to automatically reject an application because the candidate has been convicted of a criminal offence. ▪ Whether the seriousness of the offence should be considered with the requisite explanations. The relevance of the offence to the role being applied for, the length of time since the commission of the offence, and the evidence of the person’s rehabilitation. ▪ The Commission’s power to take into account any other factors as it sees appropriate. ▪ Whether a candidate should make full disclosure of convictions. How will previous convictions be addressed may depend on the specific position for which the person may apply? ▪ Almost all jurisdictions moving from a semi-regulated to a fully regulated scheme have had to address its own facts and circumstances. ▪ Consultant to provide additional information on clause via report.
Additional Considerations/Comments		
<p>General Comments:</p> <ul style="list-style-type: none"> ▪ Whether to formalise the power of the Commission to enter into MOUs with other regulatory agencies and law enforcement agencies in other jurisdictions. ▪ Whether to expand the definition of “independent monitoring system” to include other processes, procedures and systems. This would allow for more wiggle room, according to the facts and circumstances. ▪ The need to protect police intelligence. Consideration of a mechanism whereby the identity of other police source or other things that may disclose the method of discovering their intelligence is properly protected. ▪ Consultant to provide additional information on clause via report. <p>Policy with regard to Firearms:</p> <ul style="list-style-type: none"> ▪ There is a need to look at the approach in other jurisdictions however it will be a policy decision for Trinidad and Tobago. ▪ Whether safe areas should be designated. ▪ Whether a casino should be designated a no-gun zone via the Firearms Act, Chap. 16:01. 		

Clause	Marginal Note	Issues for Consideration
		<ul style="list-style-type: none"><li data-bbox="180 258 992 296">▪ Consultant to provide additional information on clause via report.

December 18, 2018

**JOINT SELECT COMMITTEE ON THE GAMBLING (GAMING AND BETTING) CONTROL
BILL, 2016**

**MINUTES OF THE THIRD MEETING HELD IN THE A.N.R. ROBINSON ROOM (EAST),
LEVEL 9, OFFICE OF THE PARLIAMENT, TOWER D, IWC, #1A WRIGHTSON ROAD,
PORT OF SPAIN ON WEDNESDAY DECEMBER 19, 2018 at 10:15 A.M.**

PRESENT

Committee Members

Mr. Colm Imbert, MP	-	Chairman
Mr. Stuart Young, MP	-	Member
Mr. Foster Cummings	-	Member
Mr. Robert Le Hunte	-	Member
Ms. Allyson West	-	Member

Secretariat

Ms. Chantal La Roche	-	Secretary
Ms. Simone Yallery	-	Assistant Secretary

ABSENT/ EXCUSED

Mr. Faris Al-Rawi, MP	-	Member [<i>Excused</i>]
Ms. Nicole Olivierre, MP	-	Member [<i>Excused</i>]
Mr. Ganga Singh, MP	-	Member [<i>Excused</i>]
Mr. Rudranath Indarsingh, MP	-	Member [<i>Excused</i>]
Dr. Varma Deyalsingh	-	Member [<i>Excused</i>]
Mr. Wade Mark	-	Member [<i>Excused</i>]
Mr. Paul Richards	-	Member [<i>Excused</i>]

COMMENCEMENT

1.1 The meeting was called to order by the Chairman at 10:35 a.m.

CONFIRMATION OF MINUTES OF THE FIRST MEETING

2.1 The Committee examined the Minutes of the Second Meeting held on Thursday November 15, 2018.

2.2 There being no amendments, the motion for the confirmation of the Minutes was moved by Mr. Foster Cummings and was seconded by Mr. Robert Le Hunte.

MATTERS ARISING

3.1 The Chairman brought the following matter to the attention of Members:

- i. Per **Item 7.1**:
 - Governance Associates Ltd. submitted its Report on Bill as requested by the Committee, which was circulated to all Members.

WAY FORWARD

Representatives of the Office of the Chief Parliamentary Counsel and Ministry of Finance were invited into the Meeting Room at this time

- 5.1 The Chairman welcomed the technocrats.
 - Representing the Office of the Chief Parliamentary Counsel was:
Ms. Laura Ramnath - Senior Parliamentary Counsel (Ag.)
 - Representing the Ministry of Finance was:
Mr. Chevon Robinson - Project Manager, Strategic Management and Execution Office
- 5.2 Representatives of Governance Associates Limited were also available via videoconferencing link. Representing Governance Associates Limited were:
 - Mr. Alan Pedley - CEO and Principal Consultant
 - Mr. Tony Clark - Principal Consultant
- 5.3 The Chairman noted the absence of several Members of the Committee and conveyed concern that the input of all Members was critical since the Bill requires a three-fifths majority in Parliament.
- 5.4 The Chairman also expressed the importance of allowing all Members the opportunity to engage in discussions with the Consultants of Governance Associates Ltd., on the comprehensive Report submitted.
- 5.5 The Chairman then invited views on the way forward. After a brief discussion, the Committee agreed to the following:
 - i. Discussions with the Consultants of Governance Associated Ltd. which were scheduled to take place during the Committee's Third meeting, would be postponed due to the absence of Members of the Committee;
 - ii. Members would be allowed further time to review the Report, and submit comments or questions on same by **December 31, 2018**;
 - iii. Thereafter, the Committee's Fourth meeting would be scheduled to facilitate discussions with the Consultants of Governance Associated Ltd. (via videoconference facilities); and
 - iv. If required, additional meetings would be scheduled during January 2019 to allow Members to engage with the Consultants.
- 5.6 The Secretariat was directed to provide the Report by Governance Associates Ltd. to the technocrats of the Office of the Chief Parliamentary Counsel and the Ministry of Finance, and the technocrats were instructed to submit their comments by December 31, 2018.

ADJOURNMENT

6.1 The Chairman thanked Members and adjourned the meeting to a date to be fixed.

6.2 The adjournment was taken at 10:44 a.m.

I certify that these Minutes are true and correct.

Chairman

Secretary

December 21, 2018

Appendix II
Report of the Gambling Consultant

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Report to the Parliament of Trinidad and Tobago, Joint Select Committee on Gambling (Gaming and Betting) Control Bill 2016

Authorised by:

Tony Clark

Date:

13 December 2018

Presentation of Report

Governance Associates is pleased to provide this Report to the Parliament of Trinidad and Tobago's Joint Select Committee on the *Gambling (Gaming and Betting) Control Bill 2016*.

We were asked to critically analyse the *Gambling (Gaming and Betting) Control Bill 2016*, in order to examine the effectiveness of the legislation. Specific matters were referred to us for comment or consideration.

This Report has four parts.

The first addresses the particular clauses raised for our consideration by the Joint Select Committee ("JSC").

The second suggests other minor changes to the wording of particular sections of the Bill, in order to better express the policy that underpins them.

The third explores some of the policy questions raised during our discussions with the JSC, such as the licensing of landlords.

The final section consists of possible additional clauses for the consideration of the JSC. It must be stressed these are suggestions only, and are offered to either round out or complete the regulatory scheme.

It is apposite to state from the outset that where particular forms of words are offered, the intention is to illustrate and describe the kind of clause that is proposed for consideration. Their adoption is subject to the JSC's views as to merits of the policy, the Office of the Attorney General's advice as to propriety, and the Office of the Parliamentary Counsel's views as to the preferred form of words.

Tony Clark
Alan Pedley

13 December 2018

Part 1 - Clauses Referred to Governance Associates for Comment

Definitions

The following definitions were referred for our comments.

“Betting”

The current definition is restricted to (“means”) a bet “*on the outcome of an animal race, including a horse or dog race, or a sporting event.*” This definition does not include betting on other “events” such as elections or appointments, betting on economic indicia such as the oil price, stock market indices, the gold price and similar, and does not include common “novelty bets” such as the outcome of reality-TV shows, or the colour of Queen’s hat at the next Ascot race meeting.

It is understood that Trinidad and Tobago’s policy is only to allow betting on horse races and sporting events.

However, this definition underpins the “unlawful gambling” offence provisions found in Part VIII.

Accordingly, it is proposed two amendments be made to the Bill. The first is to expand the definition of “betting” by adding “or other events”. The second is insert a provision that restricts lawful bets able to be taken by licensed providers to horse racing and sporting events only.

“Equal chance game”

The Bill mirrors the concept, definition and method of operation of “*equal chance gaming*” from the UK *Gambling Act 2005*. The 2005 Act carried forward the concept from the UK *Gaming Act 1968*.

In consequence, the Bill has a similar definition of “casino game” as that found in the UK Act (i.e., excludes equal chance gaming), and the concept is included in the definition of “private gaming”.

Like the UK scheme, the Bill uses the concept as a fundamental construct for setting out “exempt gaming” which may be carried out without a gambling licence or permit.

Despite its pedigree, there is a degree of uncertainty inherent in the concept.

For example, is there an exhaustive list of “equal chance games”? We suggest there is not, because the games are being assessed against simple principles – all players have an “equal chance of winning” and there is not a “bank”.

Thus, some games may be an equal chance game if they are played one way, but not another. Poker is an example. Furthermore, there are several games which are, or arguably are, “equal chance games” but which are designated as “gaming” and controlled. (An Australian example is “two-up” where two coins are thrown in the air. Players bet on whether the coins will fall with both heads (obverse) up, both tails (reverse) up, or with one coin a head and one a tail.)

Backgammon is a game which is the subject of a deal of mathematical probability theory, with many analysts concluding it is an equal chance game, and others disagreeing.

Even when consideration is given to two games that are regarded as “equal chance games” – poker and bingo – and that are intended to be exempt games played in clubs and pubs, the UK

exemption is subject to conditions. It cannot involve staking against a bank, and there are set daily and weekly prize limits.

This is further complicated when a distinction is made between commercial and non-commercial gaming. Under the UK scheme, gaming is non-commercial if it takes place at a non-commercial event, whether as an incidental activity or as the principal or only activity. An event is non-commercial if the arrangements for the event are such that no part of the proceeds is to be appropriated for the purpose of private gain.

Consider “bingo”: The UK Gambling Commission’s Advice Note of January 2014 *“What constitutes bingo?”*

The Advice Note states that *“in deciding whether or not something offered as bingo is truly equal chance gaming, regard needs to be had to the following:*

- a) are stakes involved at all, or merely participation fees? For instance, if the person makes a payment to participate for a prize put up by the operator, that is not a stake and the game is not a banker’s game.*
- b) if there are stakes, are there any circumstances in which any part of those stakes may be retained by the operator, or are they all paid out in prizes, either in that game or rolled over to later ones? If the latter, there is no bank against which the person is betting; instead the operator merely holds the prize fund on behalf of the players.*

A.9 *A game which has both a participation fee and stakes which are fully returned to the winning player(s) also remains ‘equal chance’ gaming.*

A.10 *Thus, as long as bingo operators either return all stakes in prizes or decide themselves how much to put up as prizes and separately decide how much to charge to ensure that the payouts are likely to be covered (such that they do not make a commercial loss) the format will not be a banker’s game and will (provided chances are equally favourable to all players) meet the definition of ‘equal chance gaming’.*

In short, the game itself can be regarded as an “equal chance game” if it is played one way, but not if it is played another way.

Furthermore, *“Bingo itself, whilst traditionally played for a prize pool comprising players’ stakes less participation fees, may also be played for a set prize or prizes determined neither by reference to the number of persons playing nor the amount paid for or raised by the gaming, and therefore in a format which meets the definition of prize gaming. Such a bingo format, especially when played for modest prizes, is often referred to as ‘prize bingo’. But bingo of this type also meets the essential requirements ...”*

Finally, both poker and bingo may be played in UK casinos.

There is also the application of the principle that the game cannot involve a “bank”. The Advice Note observes that a game involves *“a bank where one player plays against all the others, winning from them the stakes that they lose and paying out to them the stakes that they win.*

The most obvious types of banker’s game are those (such as roulette or blackjack) which contain an inbuilt advantage to whoever is the banker (a house or banker’s edge). The players’ payments are made up entirely of stakes: the operator does not need to decide what deductions to make from stakes and never makes any such deductions.

The position is however complicated by the fact that, even if the bank does not have an edge, the game remains a banker’s game if the operator acts as the bank.” [emphasis added].

While there is conceptual uncertainty, the UK experience shows this approach works.

Should it be replaced with simple provisions that list the types of games that can be played socially (supplemented by Regulations that may define the bet or payout limits, and that preclude a “participation fee”), coupled with the redefinition of “private gaming” and “casino games”?

We are reluctant to recommend change for change’s sake. Although perhaps not our preferred form of words, these provisions work. However, it is desirable that the Commission have the discretion to designate games that are to be considered as “equal chance games”, and the power to regulate the conditions under which they are offered.

“game of chance”

The Bill defines a “game of chance”. The term *“means a game that—*
(a) involves both an element of chance and an element of skill;
(b) involves an element of chance that can be eliminated by superlative skill; and
(c) is presented as involving an element of chance.”

This is, almost, an identical form words to that found in the UK Act.

The crucial difference is that the UK Act defines the term as “includes” (not “means” – an exhaustive definition).

We suggest that an amendment be made to replace “means” with “includes”. We also suggest that “or” be inserted after each limb of the definition. Thus,
“(a) involves both an element of chance and an element of skill; or
(b) involves an element of chance that can be eliminated by superlative skill; or
(c) is presented as involving an element of chance.”

“gambling”

This is an orthodox and acceptable definition.

“gaming”

The Bill defines “gaming” as *“to play a game of chance for a prize or winnings in money or money’s worth.”*

Again, this is an orthodox and acceptable definition. Other jurisdictions sometimes expand the definition by “including” such circumstances as playing *“whether or not there are other participants in the game”* or *“whether or not a computer generates images or data taken to represent the actions of other participants in the game,”* or whether or not the player *“risks losing anything at the game.”*

We do not consider extra elements such as these add to the integrity of the definition. They serve more as illustrations rather than substantively expanding the definition.

S. 4(2) and (3): Is software included in the definitions of “amusement machine”?

Software is a collection of data or computer instructions (programs) that control the operation of a computer.

The definition contained in section 4(2) carries forward an older definition of “gaming machine”, and in our view includes “software”.

We have considered whether the definition may be tightened, but we have been unable to settle on a criterion that better makes the distinction between one species of gaming machine, namely “amusement machines”, from another species of gaming machines, namely a “device that is used to play casino games”.

It is noted that Clause 57 permits the Commission to designate any *machine* “to be an amusement machine or a gaming machine.” (We note the term “gaming machines” is not defined, although the term “gambling machines” is.) We note that the criteria for designation are not specified and the Commission therefore has the wide power to declare a machine to be in one category or the other based on function, name or otherwise. We consider this to be sufficient to enable the Commission to maintain the desired distinction between the types of machines.

S. 14(1)(b) The operationalisation of this provision

This provision enables the Commission, subject to obligations of confidentiality, to *provide such information to other regulatory and government agencies, including the Board of Inland Revenue, the Financial Intelligence Unit, the Integrity Commission, the Customs and Excise Division, the Commissioner of Police and the Betting Levy Board, as may be agreed between the Commission and those agencies.*

There are several aspects to this provision.

The first is that the nominated agencies are all agencies of Trinidad and Tobago. It does not explicitly include international regulatory agencies. Comments are made in the following Part about making provision for formal arrangements (Memoranda of Understanding) for information-sharing with international agencies. If the JSC agrees that such formal arrangements are desirable, it may be prudent that this provision be amended to reflect that change.

The second is that the provision is a “one-way” exchange of information. It enables the Commission to provide information to those agencies, but not necessarily to receive relevant intelligence from them. The provision may be amended to enable the “exchange of information” with the agencies. (It may be that cognate amendments are needed to the Acts governing those agencies, to ensure such exchanges are within power.)

Finally, as to the practical operation of this clause, it is suggested that formal Memoranda be documented to specify what information may be exchanged between the agencies, and under what circumstances (e.g., on the “need to know” principle).

The importance of this arrangement should not be underestimated. All agencies have the same regulatory goals even though their areas of specialisation may differ. The FIU, for example, is often the first to discover an illegal money trail. It may have advice on new money laundering typologies involving gambling. Similarly, the Commissioner of Police may receive information from his or her international counterparts about a money laundering gang operating from cruise ships. In short, it is vital that the exchange of information occur in a full and timely manner. All agencies must work together.

S. 14(2)(r): How should this computerised internal enterprise network system be made private and confidential?

The computerised internal enterprise network system is, in essence, a computerised monitoring system.

The kinds of confidential information it collects will vary according to its design and function. For example, in the monitoring of gaming machine operations, it will collect sensitive commercial data relevant to a particular venue such as gaming turnover and profit. This is highly valuable and commercially sensitive information. However, it is unlikely to be configured to collect personal information about particular players (although the identities of major prize winners may be recorded in other records.)

If a monitoring system is deployed for betting systems, it is possible that additional personal information is recorded, especially where bettors use account-betting.

Monitoring systems are common in jurisdictions throughout the world, and the scope and depth of monitoring is increasing. For example, some agencies are exploring “real-time” monitoring of betting trends to detect match-fixing.

We would caution against limiting the reach of the scope of the monitoring system in order to preclude the receipt of certain information. The global trend is to make monitoring more efficient and comprehensive rather than curtailing it.

Instead, the focus must be on ensuring adequate protection of the information.

There are two “standard” means of protecting of the confidential information that is collected. The first is the application of strict information-sharing protocols within the agency, as to who may access, and receive the information and for what purposes. Often, access-controls and access-records (i.e., who accessed what information at what time) are built into the system to provide a level of protection.

The second is to impose strict criminal penalties on anyone within the agency who discloses confidential information. This is provided for by section 93 of the Bill.

S. 31 (f): Does the term “adapt” cover the manipulation of the programming within gaming and gambling machines by participants in gaming and gambling establishments?

The answer to this question depends on what is meant by “manipulate”. In our view, this clause is intended to cover the lawful modification of gaming machines, for example, by way of updating software or by adjusting (where permitted) the Return To Player percentage of the machine.

This modification may occur at a central point (where machines are linked or operated from a point of central control) or on a machine-by-machine basis.

The objective is to control exactly who may make lawful modifications, under what circumstances, and how such changes are to be recorded and tested.

If “manipulate” connotes a form “cheating”, and “participant” means someone other than an approved person, e.g., a player, we would refer to our comments on “cheating” below.

Clause 31 (g) and (h): These clauses should be removed to protect a landlord or licensor, placing the burden solely on the operator [or] person directly involved in the gaming and betting sector (the tenant or licensee) to obtain a licence.

In relation to the licensing of landlords (31(h)), we refer to our comments in Part 3 of this Report.

In relation to “providing facilities” (31(g)), we note that this defined in s.77 of the Bill. This definition mirrors the Act. We consider this provision to be appropriate.

s. 38(1)(d) to 38(2)

These provisions concern the content of licence conditions.

The first two sub-clauses, (1) (d) and (e), concern matters that must be included in the conditions, namely, to: -

- (d) notify the Commission of the conviction of the licensee, an associate or any employee for any offence under the law as may be specified by the Commission from time to time; and*
- (e) comply with any other written law relating to the prevention of money laundering and combatting the financing of terrorism.*

While (e) may be considered otiose – it is irrelevant to the application of the AML/CTF laws whether this provision is contained as a licence condition or not, as the licensee is still subject to those laws – its inclusion as a licence condition serves two beneficial purposes. Firstly, it gives visibility and prominence to a most important legal obligation and a foundation objective of the Bill.

Secondly, it provides a specific and additional ground for action to be taken against the licence should the licensee fail to comply with the AML/CTF laws. This is beneficial as the Commission does not have to rely on the alternative ground that non-compliance with law shows the person is not “fit and proper” to hold a gambling licence, an argument that may involve such issues as the number or seriousness of breaches to ground such a finding.

We support their inclusion as licence conditions.

As to s.38(2), this lists matters that may be included.

- (2) A licence may also contain the following conditions:*
- (a) the nature, circumstances and extent of the licensed activities;*
- (b) the facilities and the manner in which facilities may be provided;*
- (c) how licensed activities are to be advertised;*
- (d) the recording of users of facilities;*
- (e) the installation of identification discs and online monitoring software as approved by the Commission, on gaming machines, gaming devices, betting machines and betting devices;*
- (f) the quantum of financial resources to be made available or maintained for licensed activities;*
- (g) the provision of annual financial statements and audited accounts of the licensed operations;*
- (h) the requirement to pay fees and levies to the Commission and the Betting Levy Board, as prescribed; and*
- (i) any other matter as the Commission determines.*

Again, this lists matters that may be considered otiose (e.g., the requirement to pay the fees and levies, an obligation that falls on the licensee regardless of inclusion as a licence condition), and matters that may be dealt with by way of other instruments including regulations (e.g. how licensed

activities are to be advertised).

However, for similar reasons as expressed above, we would not object to the inclusion of any or all these matters as licence conditions.

s. 75

What is the international best practice with regard to software manipulation in gaming machines?

Why is this an issue that must be captured in legislation? How are cheating and manipulation detected?

What are the payout ratios?

s. 76

What is the international best practice with regard to software manipulation and gaming machines?

How are cheating and manipulation detected?

Software can be stored in various types of memory, some readily amended, some not.

Software is fundamental to the operation of a gaming machine. In particular, it controls the RTP (Return to Player percentage) and so controls the fairness of machines to players (or, in the case of cheating, may control the advantage to selected players). The obverse of this is that software controls the gross profit of a machine.

The following sets out the kinds of risks that may be present, and the controls that may be applied.

Risk

No.	<i>What can happen?</i>	<i>How can it happen?</i>
1	Software allows players to select a winning sequence or is unfair or allows for accounting errors.	Programming errors lead to flaws.
2	Software allows players to select a winning sequence or is unfair or allows for accounting errors.	Software is manipulated before or after installation of the machine. Software is corrupted.

Controls

No.	<i>Prevent</i>	<i>Detect</i>	<i>Mitigate</i>
1	Program code must be certified for fairness and absence of flaws.	Measure game performance against stated design requirements. Measure game performance against like- games.	Investigate anomalies in game performance. Authority to instruct machines are to be disabled where anomaly is suspected.
2	Program storage device (PSD) is subject to restricted access control. PSD contents are checked against	Access to PSDs is auditable. Measure game performance against stated design requirements.	Investigate anomalies in game performance. Investigate anomalies to PSD access (punitive action against operator). Authority to instruct

No.	Prevent	Detect	Mitigate
	certified and approved versions during installation, before operations. Only licensed persons are permitted to access PSDs (and penalties for malpractice apply). Threat of punitive action for deliberate manipulation.	Measure game performance against like-games. Periodic inspection programme to confirm integrity of PSD contents.	machines are to be disabled where anomaly is suspected. Punitive action against deliberate manipulation.
3	The content of PSD becomes corrupted (by any means).	Measure game performance against stated design requirements. Measure game performance against like- games. Periodic inspection of program to confirm integrity of PSD contents.	Investigate anomalies in game performance. Investigate anomalies to PSD contents. Authority to instruct machines are to be disabled where anomaly is suspected.

Why is this an issue that must be captured in legislation?

The first reason is that community confidence in the proper operation of gaming machines is a fundamental objective of gambling regulation. The commercial viability of the entire gambling sector may be adversely affected if players doubts the integrity of gambling.

Apart from the reputational impact on both the venue and the jurisdiction, the practical impacts can be many and varied -

- The fairness to legitimate players is adversely affected;
- Fraud is enabled to benefit either the criminal “winner” or the criminal licensee;
- Accountability is affected (e.g., gross revenue calculation and related tax obligations).

Accordingly, it is most desirable that the legislation enable the strongest punitive action to be taken against persons responsible for deliberate interference with gambling operations. It is also most desirable that the regulator has the authority to order a licensee to cease the operation of a malfunctioning or corrupted gaming machine.

How are cheating and manipulation detected?

We refer you to the “detect” column above. The following additional points are helpful.

<p>Measure game performance against stated design requirements.</p>	<p>This is best-practice; requires technical expertise and administration from game approval and throughout the life-cycle of the machine. Contemporary computerised monitoring systems can be expensive and may require wholesale replacement of machines, as they may operate under different communication protocols (i.e., can they talk to the monitoring system?) and may have limits on what actions they record and detect. Other monitoring methods have adequate effectiveness while minimising disruption and cost.</p>
<p>Measure game performance against like-games.</p>	<p>This is an effective method of detection sufficient to instigate investigation or enhanced surveillance. Similar comments are made about monitoring systems as made above.</p>
<p>Periodic inspection programme to confirm integrity of PSD contents.</p>	<p>This can be costly and may have limited success, although probably has a high deterrent effect when coupled with possible punitive action.</p>

In summary, the assessment of gaming machine performance through monitoring systems assesses gaming transactions, against financial transactions and human behaviour.

All ratios across all machines establish a pattern of behaviour. Where a ratio on a particular machine differs from the “normal” pattern, investigation may be warranted. For example, money-in/games played establishes the “normal” pattern depositing money and playing games; a high ratio might indicate suspicious matters (high amounts of money in without a corresponding level of gambling).

In considering the issue of cheating and manipulation of software, we suggest it is important to look across the entire system. Simply stated, a system is an integrated composite of people, products, and processes that provide a capability to satisfy a stated need or objective. We suggest that it is important not to focus on software to the exclusion of the other parts of the system. Manipulation (especially on older machines) is possible through hardware, and the recent conviction of poker player, Phil Ivey, in the English courts, where he used an “edge sorting” scam, is an example of “social engineering” interfering with “processes”.

It is apposite to suggest some amendments to section 76.

For example, sub-section (1) states “A person, whether a licensee or associate of an employee or patron in a gambling establishment, shall not cheat at any gambling activity.”

The person who is cheating may not be any of those persons. It may be better to simply state that a person shall not cheat at any gambling activity, and shall not aid, abet or conspire to cheat in any gambling activity.

Sub-section (2) states “For the purposes of this Act, “cheating” means to alter the selection criteria which determine—

- (a) the result of a game or race; or
- (b) the amount or frequency of payment in a game or race.”

The focus on “game or race” does not include any other “events” that may be the subject of

gambling, whether in Trinidad and Tobago or elsewhere. Furthermore, “means” suggests an exhaustive definition. It may be preferable to state that the definition “includes” such matters.

It should also be an offence to interfere with any component of a gambling system (which includes processes, as described above.)

What are the pay-out ratios?

Payout ratios are the theoretical percentages that are returned to players. Thus, an RTP of 96% would see 96% of money gambled on the machine returned to players (leaving a 4% profit to the licensee). However, it is important to note that this is an RTP percentage measured over time. In other words, a machine may operate at a higher or lower percentage when measured over a short period of time but over a longer period should reflect the expected RTP.

Payout ratios will vary depending on the meter set available on machines. For example, Australian meter sets are different to US meter sets. Basic Australian meter sets provide detailed gaming and financial information, whereas US meter sets provide financial information and limited gaming information. Ideally, software meters should show both gaming and financial information.

For machines with hoppers (generally older machines, where monies are held inside the machine for cash-out capability) then Payout ratios are typically:

“Total win” divided by “turnover” = percentage return-to-player.
 $\%rtp = \text{total win} / \text{turnover}$

Other ratios, which might be referred to as “pay-out ratios” are:

Meter win % = meter win / money-in.
 = (money-in – money-out – jackpots) / money-in Actual win %
 = actual win / money-in
 = (drop – jackpots – fills) / coin-in

Other measures might be:

Gross profit = “monies-in” minus “monies-out” minus “jackpot increments”.

s. 84: What is the international best practice with regards to the bringing of firearms onto gambling/ gaming premises?

International best-practice precludes the bringing of firearms in to gambling premises.

We have reviewed the approach in a number of jurisdictions, for example, the various states of the USA that permit gambling and which provide for “concealed carry” gun permits, European jurisdictions such as Germany and France, and other jurisdictions such as Australia and Canada.

The European jurisdictions strictly control the carrying of weapons. In Canada, carrying a concealed firearm in a public place is allowed, subject to a valid permit. Such permits are rarely granted. In Australia, carrying a concealed firearm in a public place is prohibited without genuine reason. In law, personal protection is not a genuine reason.

The United States, despite the Second Amendment, allows the States to determine gun policy.

The following States have (or had) an explicit provision in their firearms laws prohibiting the carrying of weapons in gambling-related establishments.

Delaware	State-approved slots Slot machine casinos
Illinois	Properties licensed under Riverboat Gambling Act or the Illinois Horse Racing Act
Indiana	Riverboat casino
Maine	Licensed slot machine facilities
Michigan	Casino
Missouri	Riverboat gambling
New Jersey	Casino and casino-simulcasting
Oklahoma	Pari-mutuel wagering establishments
Oregon	Racecourses
Pennsylvania	(formerly) Licensed slot machine establishments (now amended)
Texas	Racetrack

It is noted that the States also may prohibit weapons by a more generic description that may include casinos and gambling establishments, for example, prohibiting weapons on “Tribal lands” (where casinos may be located) or by providing that “No Guns” signs have the force of law.

Other States, notably Nevada, have no express statutory prohibition but allow casinos, as private premises, to adopt a “house policy” prohibiting weapons. The key difference in this case is that the casino may ask a patron to either disarm or leave the premises. Failure to comply is trespass.

It is noted that the *Firearms Act 2014* of Trinidad and Tobago provides an offence for carrying a firearm “*in a public place so prescribed by the President.*” The Firearms Regulations currently designate all courts and the Senate and the House of Representatives as prohibited places. It is also noted that the definition of “public place” under the Act “*means any place to which at the material time the public has access.*”

It is also noted that section 13A provides that a person who enters a building “*as a trespasser without reasonable excuse*” commits an offence, however this appears of limited utility in this case.

In our view, this issue is primarily a “firearms policy” question rather than one of “gambling policy”.

If the policy is to prohibit the carrying of weapons in to a casino, it is a matter for the advice of the Office of the Attorney General whether a casino is a “public place” within the meaning of the Firearms Act, and so may be prescribed, or if not, whether the alternative is to proceed with the provision in its current form.

Matters Arising from the Meeting with the JSC

In the meeting with the JSC, additional matters were raised.

s.33 – Existence of Monopolies in the Gambling industry

Some types of licenses benefit from enjoying a monopoly status, in particular, pools betting (totalisators) and lotteries.

In both cases, the commercial viability of the operator depends on attracting sufficient contributions from customers to enable attractive dividends or prizes to be offered. Both of these forms of gambling operate by way of deductions (or “commission”) being taken from monies bet before the calculation of prizes. Thus, if a “pool” of bets on a particular horse race is small, the deduction of the operator’s commission (say, 13%-15%) leaves a very small amount for return to successful punters. In this case, it is unlikely to attract large bets as the punter is, in effect, “buying back his or her money” – the punter’s large bets make up most of the betting pool but is then subject to the deduction, leaving only a smaller amount to be returned for a winning bet.

Likewise, lotteries are successful by offering “life-changing” major prizes. If the monies received as subscriptions from players are insufficient to maintain a commercially attractive level of prizes, customer interest falls away and the viability of the lottery is threatened.

However, while these are factors to be considered, it is always a question of fact as to whether the market is large enough to allow additional licenses. Even so, the more licenses of this type that are issued in a single market, the more competition there is for the operator, and the harder it is to remain viable. Too many licenses may lead to the commercial collapse of the operator with a consequent loss of confidence from the community in these forms of gambling.

Except for these licence-types, we do not support gambling monopolies. With other forms of gambling, competition promotes downward price pressure which is of advantage to the consumer.

s. 84 Obstruction

We were asked to consider the clarity of section 84. The section provides that a “*person commits an offence if, without reasonable excuse, he obstructs or fails to cooperate with an authorised person in the exercise of his power.*”

The risk is that “obstruction” is interpreted by a person as simply impeding an authorised person.

We suggest it may be desirable to insert a clarifying provision along the lines of “*In this section, “obstruction” includes any act of wilfully interfering with an investigation, by influencing, threatening, harming, or impeding a potential witness, or by furnishing false information in or otherwise impeding an investigation.*”

Online Gambling

We were asked if the Bill covers online gambling. There is a degree of ambiguity.

Section 78 of the Bill provides that a “*person commits an offence if he does anything in Trinidad and Tobago or uses remote gambling equipment situated in Trinidad and Tobago for the purpose of inviting or enabling a person in a prohibited territory to participate in remote gambling.* “Prohibited territory” means any country “outside of Trinidad and Tobago.”

The implication is that remote gambling targeting persons in Trinidad and Tobago is permitted.

This is supported by s. 77 which provides for a licensed person to provide facilities for gambling. Thus, under s.77(3) “*A person does not provide facilities for gambling by virtue of—*

(b) making facilities for remote communication available, unless he knows or ought to have known that the ... facilities may have been used for gambling.”
The implication is that if the person knew the facilities were to be used for this purpose, he or she must hold an appropriate licence.

However, the permissible gambling would appear to be restricted to online betting (not gaming) as s. 55 provides that *“a person shall not participate in a game of chance if he is not present on the premises at the time when the gaming takes place.”*

The ambiguity arises under s.78(2) which states *“The Minister may by Order, subject to affirmative resolution of Parliament, amend this section for the purposes of permitting remote gambling.”*

The implication of this subsection is that all remote gambling is prohibited. Equally, it may be that subsection (2) is meant to be read as the Minister may *“amend this section for the purposes of permitting remote gambling being offered for countries other than Trinidad and Tobago.”*

We suggest that consideration be given to these provisions to ensure they accurately reflect Trinidad and Tobago’s policy on online gambling.

Part 2 – Possible Amendments

Definitions

In the definition of “authorised officer” insert “or” after each limb of the definition.

In the definition of “betting transaction”, delete “means” and insert “includes”

In the definition of “bookmaker” insert a person who “personally or through an agent” accepts bets etc., and replace “and” with “or” after each limb of the definition.

In the definition of “fixed odds betting” amend to “betting on the basis of odds, or a method of determining the odds, determined by a bookmaker etc.” This will ensure such things as Starting Price (SP bets) are captured.

In the definition of “totalisator”, amend to “means a device calculating the number and amount of bets staked on a race, etc.”

In the definition of “vulnerable person” consider whether the indicia should be “gambling debts” or “gambling losses”. It may be that a person’s addiction to gambling incurs significant losses such as to endanger the welfare or his or her family, without actually going into debt.

In the definition of amusement machine, insert “or” between the two limbs of subsection (3) so that it reads

(3) A device that—

(a) is used to play casino games; or

(b) has a multiple player station linked to a random or other central game outcome, is not an amusement machine for the purposes of this Act.

In s.14(2)(c), is it necessary for consultations to occur “in accordance with prescribed regulations”? Might it be desirable to empower the Commission to undertake such consultations as are prescribed or which further the objectives of this Act?

In s. 14(2)(r) we suggest including “other processes or procedures” so that the Commission may “direct the implementation of a computerised internal enterprise network system, or such other processes and procedures approved by the Commission to facilitate interrogation, validation and auditing of gaming and betting operations”.

S. 17 may be amended to provide for Ministerial directions to be given in writing. Thus “The Commission shall give effect to such policy directions of the Minister, given in writing, in relation to any matter relating to the regulation of gambling as appears to the Minister to be in the public interest.”

S.32 provides that additional licence categories may be stipulated by the Commission (s.32(2)(j)), and by the Minister (s.32(5)). This is not unworkable, but it simply brought to the JSC’s attention.

In s. 34, in relation to applications, it is suggested an applicant must also “*furnish to the Commission such authorities and consents as the Commission directs for the purpose of enabling the Commission to obtain information (including financial and other confidential information) concerning the person and his or her associates or relations, from other persons including, but not limited to, any gambling regulators of any other country, and any bank located in any country.*”

In relation to s.38(2), concerning licence conditions, it is suggested it include a requirement a licensee must comply with such “processes and procedures” regarding the monitoring of gambling as the Commission may direct, in addition to the deployment of a computerised monitoring system.

In relation to s.39, is it necessary any *amendment* to a licence be published?

It is noted that there are references to the “Board” and the “Commission” in relation to the same functions. Thus, in s.46, concerning the suspension of a licence, a licensee shall submit a written statement to the Board within seven days of notice, and the Commission shall decide to suspend the licence. Likewise, in s.47, the Commission may revoke a licence if “the Board considers suspension an insufficient response”. This is not unworkable; it is simply drawn to the attention of the JSC.

It is suggested s.53(m) be amended to allow “*all such other matters as the Board may require*”, rather than “*all such other matters as the Board may require pursuant to the provisions of this Act and regulations made hereunder.*”

S.56 provides “*Participation in a competition or other arrangement under which a person wins a prize is not gambling for the purpose of this Act unless it is gaming within the meaning of this Act.*” The issue here is coverage. It is understood commercial lotteries are covered by other legislation, and fundraising lotteries need the approval of the Commissioner of Police. However, “trade lotteries” do not appear to be subject to legislation.

“Trade lotteries” are “free entry” competitions run to promote a business, although the consumer may incur a modest cost by way of the cost of a postage stamp, an SMS or other costs associated with the method of entry. The usual principle is that “trade lotteries are to promote an existing trade or business. They are not to be the trade or business”. Often, regulations will provide that only one entry/ one purchase is necessary to entitle a person to enter the competition (as opposed to, say, multiple purchases.)

If the JSC is of the view this form of gambling should be regulated, it may be the Commission should be empowered to make regulations prescribing the conditions under which such competitions may be offered to the public.

We note that s.59 (3) “The licensee or his representatives shall provide such guidance and assistance to patrons as to enable them to decide on the merits of playing a game”, is very widely drawn.

We are also uncertain as the utility of the s.65 which states that “*the conduct of betting business shall be stipulated in the licence as a condition thereof.*”

Section 70(2) (j) permits an authorised officer to “collect” intelligence information regarding individuals engaged in organised crime and other activities relating to gambling. This may be expanded to include “receive”.

S 72 states that within “48 hours” of entry onto licensed premises, the authorised officer shall produce a written report for the information of the Commission. This could be administratively cumbersome, and may be better expressed as “as soon as is reasonably practicable”. The management of staff is a matter for the Commission.

s. 74 refers to a person who—

- (a) conducts gambling;
- (b) operates as a bookmaker or promoter.

It may be desirable to include anyone who acts as an agent for those persons.

S. 75(2) states that “For the purposes of this section, “gambling software” means computer software for use in connection with gambling but does not include anything for use solely in connection with a gambling machine.” It is suggested this may be clarified by amending the clause

to “For the purposes of this section, “gambling software” means computer software for use in connection with gambling but does not include anything in connection with a gambling machine that is not related to gambling, or any component prescribed by the regulations as not being part of the gaming machine.”

S. 87(1) may be amended to “Where the Commission determines that there are reasonable grounds for believing that a person has contravened or is contravening any provision of this Act, or any conditions of any licence or any other authorisation granted pursuant to this Act, or has failed or is failing to comply with any direction or decision given by the Commission, whether under this Act or any other law which the Commission is entitled to enforce, the Commission etc...”

Turning to the Schedules, it is noted that Schedule 2 (7)(5) enables the Commission to “communicate with the regulatory bodies in those jurisdictions as part of the assessment procedure to the extent permitted by those jurisdictions.” This is very loose.

We suggest an express provision be included in the body of the Act permitting the Commission, in the exercise of its functions, to formally enter into memoranda of understanding with overseas regulatory authorities for the purpose of assisting supervision. It may be provided that no memorandum of understanding may call for assistance beyond that which is provided for by this Act or relieve the Commission of any of its functions or duties under this Act.

In Schedule 4, in relation to data requirements to be maintained for gambling devices, “*The licensed operator shall install a system for recording each gambling device and machine in use at the licensed premises.*” It is suggested this be expanded to incorporate other “processes and procedures.”

In Schedule 5, concerning consequential amendments, it is proposed “(1) *There shall be charged upon all bets placed at fixed odds, a levy at the rate of ten per cent to be known as “fixed odds betting levy” or an annual levy of four hundred thousand dollars, whichever is greater.*” We suggest this may be interpreted as imposing a tax of 10% of turnover. As bookmakers may operate at a profit margin as low as 4% to 6%, this rate of tax is unsustainable. Is it intended that the tax rate be 10% of gross revenue?

We note that it appears both the Commission and the Minister may “prescribe” matters. For example, the definition of “gaming establishment” means a casino, a gaming lounge or other premises prescribed by the Commission... S. 92 empowers the Minister to “make Regulations prescribing anything necessary or convenient for carrying out or giving effect to this Act.” Is this intended?

Finally, we note that the Act contains references to “he” or “his”. This is a more dated style of drafting and it may be appropriate to render all such references in the third person, e.g. “the licensee” or “the Minister”.

Part 3 – Landlords, “Fit and Proper Person” and Associates

Issues raised for our consideration touched on policy questions including the merit of requiring the landlords and owners of premises to be licensed, and the application of a “fit and proper” test in a jurisdiction transitioning from a semi-regulated to a regulated market.

We also note that although “associates” are included in the Bill (s.34 Investigations of Applications), the Commission’s powers in respect of adverse findings are not yet articulated.

These matters are the subject of this Part.

But before we offer our comments on these issues, it is helpful to set out their place in the context of a regulatory system – where do they fit in to the scheme?

The Licensing Process – an Overview

Anthony Cabot, an eminent US gambling academic and commentator, has suggested five factors to be taken into account when examining a licensing scheme. These are: the breadth, depth, level of review, the criteria for, and the standards of, licensing.

Breadth is the extent to which the law requires persons or entities associated with the gaming industry to obtain a licence. For example, does a finance company or a landlord have to obtain a licence?

Depth of licensing means the extent to which persons within a gambling organisation are required to undergo an individual licensing investigation and assessment. While directors and major shareholders are usually required to be fully assessed and individually licensed, which officers and employees should also undergo a background investigation?

Level of review refers to the intensity of the investigative process. A low-level review might include police record checks. A high-level review may entail a more complete and independent review of the applicant, including both background and finances.

Criteria are those matters the licensing body takes into account in granting licenses. These can include good moral character, honesty, lack of association with criminals, financial ability and business experience.

Standards are the minimum attributes that applicants should meet to qualify for licensing. Each jurisdiction will emphasise different aspects according to its particular needs and capability.

Breadth of Licensing

Broadly speaking, the criterion applied as to whether licensing or assessment is required is *whether the participant is able to influence or affect the outcome of the gambling activity*.

Under this test, those with an economic interest in the gambling business, such as owners, shareholders or investors, are to be subject to personal probity assessment. Owners of gambling businesses are usually given the highest licensing priority.

Also usually subject to licensing assessment are key suppliers, such as gaming machine suppliers, those who supply or manufacturer game content or systems including sports betting and exchange systems, and system software. Repairers of such systems are also licensed.

Those who are not immediately included are persons who are contracted to supply non-gambling services (although there is usually a discretion vested in the regulator to require the assessment and approval of such persons in any particular case).

Landlords and Creditors

A threshold issue for regulators is the approach to be taken for persons who receive a percentage of profits and some creditors and business relationships – a financial association, (as distinct from a personal association, discussed below).

An ownership interest can be easily disguised. There is a risk that persons may use the guise of being lenders, creditors or landlords to disguise such an interest, often evidenced by the receipt of moneys beyond market rates from the gambling business.

One option is to require licensing as it helps mitigate the risk that loans or leases are used to hide ownership, and that a party having potential influence over a gaming site is unsuitable.

However, requiring the licensing of creditors and landlords raises costs and creates barriers that will deter many legitimate business partners. Furthermore, in our experience, the vast majority of such commercial relationships are likely to be legitimate, consistent with existing commercial practices, and made at arm's length.

On balance, we do not support the option of licensing all “non-gambling” business partners.

However, the risk of malpractice remains. To mitigate the risk, we suggest the JSC consider the option of vesting the regulator with full investigative powers and, depending on what is found on a case-by-case basis, to require an associate of the licensee undergo probity assessment and to be formally approved or licenced by the Commission.

[It is also noted that either the Commission (s.32(2)(j)), or the Minister (s.32(5)), may amend the categories of licenses, and so may introduce targeted licence categories if it is considered desirable in the future.]

This would require amendment to the provisions in the Bill requiring the licensing of the owners of premises, (s. 31(h) and s.32(2)(b) in particular).

By way of example only, it is possible to allow the Commission to direct a person who has a relevant financial interest or who is in a special relationship with the licensee – in other words, an associate – to apply for approval or a licence to maintain that relationship.

In this case, a "relevant financial interest", in relation to a business, could include:

- any entitlement to receive any income derived from the business, or to receive any other financial benefit or financial advantage from the carrying on of the business, whether the entitlement arises at law or in equity or otherwise, or
- any entitlement to receive any rent, profit or other income in connection with the use or occupation of premises on which the business is or is to be carried on (such as, for example, an entitlement of the owner of the premises to receive rent as lessor of the premises), or
- the person is associated with the holder of such a licence or is an agent or employee of the licensee, and it is in the public interest that the person, by reason of his or her financial relationship or remuneration or his or her authority in relation to the operations in the gambling business be considered for approval or licensing.

While a regulator would be reluctant to “second-guess” the commercial judgement of the contracting parties, the regulator is entitled to consider the ongoing viability of the gambling business

as well as the effect on the reputation of the industry if those sharing in revenues are found to be criminals or persons of poor reputation.

Further comments will be made in relation to associates later in this Part.

Finally, in relation to licensing and approvals, it is also suggested attention should be given to transactions secured by gaming business assets. The Commission will need to consider its policy in relation to debt relationships. At a minimum, all gambling licensees must be required to disclose to the Commission the extent of any indebtedness, and to whom. The Commission will need to consider what responses it will take, recognising that the need to maintain control must be balanced against minimal commercial interference with the business.

Depth of Licensing

Depth of licensing means the extent to which persons within a gambling organisation are required to undergo an individual licensing investigation and assessment.

Personal licensing systems usually include directors, shareholders, senior officers or managers and certain employees.

Directors

Directors are responsible for the performance and conduct of the business and are usually the subject of licensing.

Shareholders

The issue is what level of shareholding requires probity assessment/ licensing? The Bill sets a threshold of 5%.

Officers/Senior Managers/ Key Employees

Gaming executives have the responsibility of overseeing the gaming operations.

Senior positions that are usually the subject of assessment are the Chief Executive Officer (CEO), the Chief Financial Officer (CFO), the Chief Technology Officer (CTO) and the Chief Operating Officer (COO).

In deciding on further “key employees”, it is suggested regard is had to function rather than title and includes anyone responsible for the overall conduct of gambling operations, financial control and accounting, marketing, regulatory compliance, IT provision, and gambling-related security.

The operator may submit a list of who it thinks should be licensed; the Commission may nominate others. This is matter to be decided on a case by case basis by the Commission.

Levels of Review

Broadly speaking, the levels of assessment fall across a spectrum with a high-level intensive assessment at one end, and a simple criminal history check at the other.

The most expensive and intrusive investigation is a full licensing investigation. It is a comprehensive independent review of the applicant’s financial history and personal background. Owners may have

to undergo such an investigation.

A licensing authority may analyse personal details, civil litigation history, prior gaming industry and general business history, competencies, and references, to determine the ability of key personnel to be licensed. Full investigations can be expensive and time consuming.

Low level investigation involves reviewing only limited areas on each application. Regulators may conduct only a criminal history check. A partial investigation usually is only a check for negative criminal history, reviewing responses from the applicant's references, and sometimes a personal interview.

The level of review requires consideration of various factors, including government policy objectives, capacity and budget. Usually, the top priorities are owners and operators, persons sharing in profits, key employees and distributors, manufacturers. The regulator may then apply different levels of licensing investigation to different categories.

Criteria

Gaming regulators can consider many different criteria in assessing an application for a gaming license. Criteria can be of a fixed or discretionary nature. Fixed criteria are quantifiable ones that an applicant either meets or does not. Fixed criteria can include whether person has not been convicted of a particular crime.

Discretionary criteria are minimum qualifications that are not subject to quantification, but are based on the discretion of the gaming regulators. The most common discretionary criteria involve good character, associations, management capabilities, and financial abilities.

Good Character

It is difficult to judge a person's character.

One approach is to interpret "good character" in the light of the goals of licensing. What are the minimum attributes for licensing in the gambling industry? What aspects of "good character" provide those attributes?

Integrity, honesty, and truthfulness are three criteria often prescribed as factors affecting an applicant's suitability for a license. Conduct showing "bad character" that is relevant to a gambling licence may include conduct involving dishonesty, disrespect for the law, or disregard of financial obligations.

Competency/Management Abilities

Operating a gambling business takes special knowledge and skills. Regulators may have concerns if the operators cannot properly manage their gambling operations.

Testing for adequate management skills varies depending on the complexity of the applicant's organisation and the gambling operation. These are then tested against standards of depth, *i.e.*, is there enough management coverage? Are all key management areas covered? Are responsibilities properly segregated? Does the person have adequate knowledge and experience?

Financial Abilities

A vital criterion for licensing is the financial ability of an applicant for a gaming licence to maintain its viability. The licensing processes of most jurisdictions require the applicant to be properly

financed.

Compliance With Law

An applicant's compliance with all laws covering its business is material to the granting of a gambling licence. One function of the licensing process is to assess whether, if granted a license, the applicant will comply with all gambling laws and regulations.

Again, an element of judgment is required. Does the operator have sufficient controls and processes for assuring compliance with all laws?

Criminal History and Prior Convictions

What type of criminal history should disqualify someone from obtaining a licence? A jurisdiction may take several approaches. It may use a fixed criterion that anyone convicted of a certain level of crime, or certain named crimes, is ineligible for a gaming license. A second approach would be to consider that a prior conviction for a serious crime creates a presumption of unsuitability, and the applicant must now demonstrate why that presumption should be disregarded.

Regulators may consider several factors in assessing prior criminal activities. These include:

- The nature of the crime and the circumstances;
- The length of time since the conviction;
- The person's age at the time; and
- Whether it was an isolated occurrence or part of a pattern of criminal behaviour;

Associations With Unsuitable Persons

We note that the definition of "associate" is limited to persons having a financial connection with the business or a person who "can exercise any power, control or influence over" the business.

The assessment of "power, control or influence" is a sensitive area, and the application of this test needs careful calibration. A financial association is one thing. The response to gambling licensees having friendships with persons of notorious backgrounds, is another.

For a regulator, the issue is largely reputational – does the association lead to the perception that unsuitable persons have an interest in, or influence over, the gambling business? Does the licensee's willingness to associate with persons of poor reputation reflect on his or her suitability to continue hold a licence?

How does a regulator apply this test?

Some US jurisdictions define "associations" to be more than incidental contacts with unsuitable persons. Likewise, unknowing associations are not a basis for a finding of unsuitability for a gambling licence.

While not an exhaustive list, the criteria for considering unsuitable "associations," might include: -

- The nature and intensity of the relationship;
- The possible influence or control over the licensee by the other person;
- Public interest concerns about the other person; and
- The number of unsuitable associations.

Standard of Proof

When considering a licence application, a regulator must assess the evidence against standards. But what level of confidence in the decision must a regulator have? Is it akin to the criminal standard of “beyond reasonable doubt” or better aligned to the civil standard of the “balance of probabilities”?

Application of the “Fit and Proper” Person Test

Schedule 2 of the Bill set outs the criteria to be applied in determining whether an applicant or an associate is a fit and proper person to be licensed or approved. We consider it to be an elegant statement of practice and the matters listed above are specified.

The challenge is how to apply the test – in particular, how to treat prior criminal convictions - in a jurisdiction which is transitioning from “semi-regulated” to “regulated”.

While serious criminal convictions should raise a presumption against being licensed, there is a range of convictions where it is suggested that the Commission rely more on discretionary factors. Consider the situation of a person with a prior conviction for illegal gambling. Some jurisdictions, usually with a long history of regulating a mature market, may take the view that such a conviction bars a person from being licensed. However, in a transitioning market, these are the very persons who are likely to be in the “semi-regulated” industry and who are intended to be brought under the new scheme.

In this regard, we support the pragmatic and “holistic” approach set out in Schedule 2. In the case of those persons with convictions for offences, the Commission should, as proposed, consider applications on a case-by-case basis, and take into account the applicant’s individual circumstances in reaching its determination. For example, it would not automatically reject an application because the applicant has been convicted of a criminal offence but will look at the seriousness of the offence, the explanation given, the relevance of the offence to the role being applied for, the length of time since the commission of the offence and evidence of the individual’s rehabilitation.

“Reputation”, and the Sources of Information

However, it is necessary to explore some practical questions around the whether a person of is, in the words of the Schedule 2, “reputable”.

It is possible that an applicant (or an associate) will not have been convicted of any offence, but is notorious for having been associated with improper dealings.

Is it intended that the Commission have the power to refuse the grant of a licence on this ground alone, even though the applicant (or an associate) otherwise meets the conditions for licensing (or approval)? There are strong public interest arguments in favour of this discretion, and it is a power many gambling regulators have, albeit one used very sparingly.

Licensing schemes generally require applicants to make full and true disclosure of all information requested by the regulators during the investigation. The applicant’s conduct during the investigation may become relevant to suitability for many reasons. If the applicant attempts to hide or mischaracterize a past crime, it raises questions about the person’s current credibility. If the applicant is not cooperative, does it foreshadow a similar attitude when it comes to compliance?

“Associates”

The Act speaks of “associates” (see s.34, Investigations). However, it does not specifically address the consequences of adverse findings in relation to associates.

An adverse finding may be made by the Commission as part of the investigation into the licensing application. In this case, it is arguable that the Commission may require the association to be terminated prior to the grant of a licence, or it may refuse the grant of a licence. Both of these steps are arguably within the power of the Commission under the current terms of the Bill.

However, what occurs if an adverse finding is made after a licence has been granted and the business arrangements are in place?

There are broadly two options. The first is that the Commission may take action against a licence. In other words, if the association is not voluntarily terminated, the licence will be suspended or cancelled. Depending on the circumstances, this may have a serious impact on the persons associated with the business – employees, suppliers, creditors etc.

The other option is to empower the Commission to order the termination of the association. If it is an informal association, this would appear to be readily achieved, but what if the association has been formalised by way of a contract?

The issue is the legal effect of termination, and any possible legal liability that flows from it.

In this case, it may be desirable for the liability issue to be dealt with directly. Example clauses may be: -

Effect of termination

If a contract is terminated in accordance with this Part—

- *the termination does not affect a right acquired, or a liability incurred, before that termination by a person who was a party to the contract; and*
- *no liability for breach of contract is incurred by a person who was a party to the contract by reason only of that termination; and*
- *neither Trinidad and Tobago, nor the Commission, incurs any liability by reason of that termination.*

In the case of employment contracts, an example clause may be: -

The termination of an association or of employment in a particular role may be effected despite any other Act or any law, award or industrial or other agreement and neither Trinidad and Tobago nor the Commission incurs any liability because of such a termination.

It must be noted that administrative processes and procedures are intended to be dealt with in the Regulations. Even so, and it is matter for advice from the Office of the Attorney General, it may be argued that any Regulations that sought to avoid or restrict liability in this manner are *ultra vires* or “beyond power” without an explicit Regulation-making power in the Act. In short, if the policy decision of the JSC is that clauses of this nature are desirable, it may be argued they must be contained in the Act. As noted, this is matter for legal advice.

A further policy option is to provide a clause along the lines that if the contract “*is not terminated as required by the notice, it is terminated by this [Act] at the expiration of the time period specified in the notice*”. If this is supported as a policy option, a further question for the Office of the Attorney General is whether this is best included in the Act for clarity and certainty, or if it may be included in any Regulations.

Decisions Appeals and Reviews – “Protected Information”

In the course of making a decision, the Commission may have access to, and rely on, confidential information, be it sourced from police intelligence or provided by overseas regulatory agencies. For example, the police may consider an applicant or associate to be a major crime figure even though the person has not been convicted of a substantive offence.

The question is whether it is desirable to protect the source of this sensitive information, especially when it comes from police intelligence. Draft Regulations have been prepared that deal with appeals and reviews of decisions of the Commission but do not yet explicitly deal with this aspect of the proceedings.

The grounds for modified procedures could include:

- (a) the public interest in protecting the confidentiality of police investigative techniques and protected information;
- (b) whether the disclosure may reveal any intelligence information, or document or thing the disclosure of which—
 - (i) reveals the identity of the police officer who provided information or otherwise puts that police officer's safety at risk; or
 - (ii) reveals the identity of a person who has provided information, or puts that person's safety at risk; or
 - (iii) reveals the identity of a person who is or has been the subject of an investigation;
 - (iv) places at risk an ongoing investigation; or
 - (v) risks the disclosure of any sensitive investigative method used by law enforcement, for example, telephone interceptions; or
 - (vi) is otherwise not in the public interest.

If the Commission or the Police Commissioner objects to the disclosure or production of protected information at the hearing of the application for review, an application may be made for modified procedures to be applied (e.g., closed court, evidence by affidavit, hearing of evidence in the absence of one of the parties etc.)

Again, the question is whether the JSC supports such an approach as a matter of policy and, if so, whether the Office of the Attorney General is of the view that such procedures may be validly included in the Regulations or if they should be included in the Act.

Part 4 – Possible Additional Amendments

All of the foregoing comments concern provisions that are already contained in the Bill.

The following are put forward as optional additions to the Bill, should the JSC support their inclusion.

(1) The first is to permit the Minister to enter into inter-jurisdictional agreements.

Broadly speaking, this would provide that the Minister, for and on behalf of Trinidad and Tobago, may enter into an agreement with the Government of another country to provide for the provision of gambling in and between Trinidad and Tobago and the other country. Such an agreement may include such provisions relating to regulation and taxation as the parties determine.

Practical examples of such agreements may concern the “co-mingling of betting pools” or “onboard gambling”.

As an example of the latter, the Minister, for and on behalf of Trinidad and Tobago, may enter into an agreement with the Government of another country to provide for the payment to Trinidad and Tobago of a proportion of any taxes that are generated in connection with gambling conducted with the territorial waters of Trinidad and Tobago on any ship or vessel.

(2) The second is to enable the Commission to require a financial institution to provide information.

Under this type of provision, the manager or other principal officer of a financial institution at which a licensee keeps and maintains an account in relation to the operation of the licensee's gambling business shall, when so required in writing by the Commission, submit to the Commission a statement of account and other particulars required by the Commission, including copies of cheques or records relevant to the account.

The Act would provide that no liability is incurred by the financial institution or the manager or other principal officer of the financial institution in respect of any breach of trust or otherwise, because of the provision of any statement or information.