

**EXPLANATORY MEMORANDUM TO
THE COMPANIES (DISCLOSURE OF INFORMATION) (DESIGNATED
AUTHORITIES) ORDER 2006**

2006 No. 1644

1. Introduction

This explanatory memorandum has been prepared by the Department of Trade and Industry and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments and the House of Lords Select Committee on the Merits of Statutory Instruments.

2. Description

2.1 When authorised to do so by the Secretary of State the Department's Companies Investigation Branch carries out investigations into the activities of companies using certain of the statutory powers in Part 14 of the Companies Act 1985 or Part 3 of the Companies Act 1989.

2.2 Information obtained through the use of these statutory powers may only be disclosed to third parties as permitted by statute.

2.3 The Gambling Commission was established under the Gambling Act 2005. Among its responsibilities is the licensing of individuals and establishments who wish to provide facilities for certain types of gambling.

2.4 The Department of Culture Media and Sport has approached the Companies Investigation Branch and requested that the Gambling Commission be given access to information obtained through the use of the statutory investigatory powers when it (the Gambling Commission) is considering licence applications under the Gambling Act 2005. Companies Investigation Branch is minded to accede to this request.

2.5 In order for Companies Investigation Branch to lawfully disclose such material to the Gambling Commission it is necessary for the Gambling Commission to be added to the list of organisations to which information obtained under either Part 14 of the Companies Act 1985 or Part 3 of the Companies Act 1989 can be disclosed. That is the purpose of this Instrument.

3. Matters of special interest to the Joint Committee on Statutory Instruments or the House of Lords Select Committee on the Merits of Statutory Instruments

3.1 None

4. Legislative Background

4.1 By virtue of section 449(2) of Companies Act 1985 information obtained through the use of certain of the statutory powers in Part 14 of the Companies Act 1985 may only be disclosed as described in Schedules 15C and 15D to that Act. Section 449(3) of the Act allows the Secretary of State, by order, to amend Schedules 15C and 15D. Section 449(5) provides for such an order to be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament. The new order amends Schedule 15D by adding a disclosure to the Gambling Commission for the purposes of enabling or assisting it to exercise its functions under the Gambling Act 2005.

4.2 Similarly, by virtue of sections 86 and 87 of the Companies Act 1989 information obtained through the use of the statutory powers in Part 3 of that Act may only be disclosed (without the consent of the person from whom the information was obtained and, if different, the person to whom it relates) as provided therein. Section 87(1)(b) allows disclosure for the purpose of enabling or assisting a relevant authority to discharge any relevant function. Relevant authorities and their corresponding relevant functions are described in the table in section 87(4). Section 87(5) of the Act allows the Secretary of State, by order, to amend the table in section 87(4) of the Act. Section 87(6) provides for such an order to be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament. The new order amends the table in section 87(4) of the Companies Act 1989 by adding the Gambling Commission to the list of relevant authorities and its functions under the Gambling Act 2005 to the list of relevant functions.

5. Extent

5.1 This instrument applies to Great Britain.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The need for the new Instrument does not arise from a DTI initiative. Rather, it arises because the Department's Companies Investigation Branch is willing to accede to a request received from the Department of Culture Media and Sport and disclose information obtained through the use of its statutory investigation powers to the Gambling Commission to assist with the consideration of licence applications under the Gambling Act 2005. To make any such disclosures legal a "gateway" to the Gambling Commission has to be established in both Companies Act 1985 and Companies Act 1989.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The impact on the public sector has been considered and the Order does not meet the Public Services Threshold criteria.

9. Contact

Mr. Colin Evans at the Companies Investigation Branch of the Insolvency Service, an executive agency of the Department of Trade and Industry, telephone number 0207 215 8765 or e-mail: colin.evans@dti.gsi.gov.uk can answer any queries regarding the Statutory Instrument.