

The Alderney eGambling (Amendment)

Ordinance, 2018

THE STATES OF ALDERNEY, in pursuance of their Resolution of the 10th January, 2018, and in exercise of the powers conferred on them by sections 1(3), 6 and 10(3) of the Gambling (Alderney) Law, 1999^a and section 46 of the Government of Alderney Law, 2004^b, hereby order:-

Amendment of the 1999 Law.

1. In paragraph 2 of Schedule 1 to the Gambling (Alderney) Law, 1999, before "five years" insert "up to".

Amendment of the 2009 Ordinance.

2. (1) The Alderney eGambling Ordinance, 2009^c is amended as follows.

(2) In section 1(1)(a) after "Category 1 eGambling licence" insert ", Category 1 associate certificate".

(3) For section 1(2)(d), substitute –

^a Ordres en Conseil Vol. XIV, p. 374; as amended by Order in Council No. I of 2000; No. XXVII of 2001; Ordinance No. XVI of 2003; and No. VII of 2006.

^b Order in Council No. III of 2005; as amended by No. XXII of 2010; No. XI of 2012; No. V of 2014; and Ordinance No. IX of 2016.

^c Alderney Ordinance No. X of 2009; as amended by Alderney Ordinance No. XIII of 2010; No. IX of 2013; No. XV of 2014; and No. I of 2015.

"(d) in the case of any person –

(i) located, registered or incorporated in Alderney or Guernsey or elsewhere, or

(ii) who is carrying out an activity in Alderney or Guernsey, or who is organising or promoting gambling transactions,

a Category 1 eGambling licence, a Category 1 associate certificate or a Temporary eGambling licence (as the case may be) is held by that person,".

(4) In section 1(3) –

(a) delete "or" at the end of paragraph (a), and immediately after paragraph (a) insert –

"(ab) Category 1 associate certificate, or",

(b) for "A Category 1 eGambling licensee may exercise its eGambling licence" substitute "A Category 1 eGambling licensee or Category 1 associate certificate holder may exercise its licence or certificate (as the case may be)", and

(c) for "eGambling licensee's" substitute "eGambling

licensee's or Category 1 associate certificate holder's".

(5) In section 2, after "eGambling licensee" insert ", Category 1 associate certificate holder".

(6) In sections 3, 14(6), 19(1), and 21(1)(b), and the definitions of "key individual certificate" and "annual gambling business association fee" in section 30, for "eGambling licensee or a Category 2 associate certificate holder" substitute "eGambling licensee, Category 1 associate certificate holder or a Category 2 associate certificate holder".

(7) In sections 3(a), 14(1) and 19(1), for "eGambling licence or Category 2 associate certificate" substitute "eGambling licence, Category 1 associate certificate or Category 2 associate certificate".

(8) In section 4(1), after paragraph (e) insert –

"(ea) a Category 1 associate certificate,".

(9) In section 8(1), after "without prejudice to section 12" insert "and subject to subsections (1A) and (1B)", and after section 8(1), insert –

"(1A) If a fee referred to in subsection (1) is not paid –

(a) within one month of the Commission issuing the licence or certificate, or

(b) within one month after the anniversary of the date of validity specified on the licence or

certificate in accordance with section 7,

the eGambling licence or certificate shall be deemed to have lapsed.

(1B) The Commission may, at its discretion, increase the periods in paragraph (a) or (b) of subsection (1) or (1A), as those subsections apply in any particular case."

(10) In sections 3(b), 22(2)(a), (b), (c), (d), (f) and (g), and the definition of "net gaming yield" in section 30, for "eGambling licensee" substitute "eGambling licensee and Category 1 associate certificate holder".

(11) In sections 8(3)(b), 16(2)(a), 24(3) and (4), and 29, for "eGambling licensee" substitute "eGambling licensee or Category 1 certificate holder".

(12) In sections 14(1), (2), and (3)(c)(iii), 17(2)(a), and 21(1)(b), and in the definitions of "annual gambling business associate fee" and "eGambling" in section 30, for "eGambling licensee or Category 2 associate certificate holder", substitute "eGambling licensee, Category 1 associate certificate holder or Category 2 associate certificate holder".

(13) In section 15 -

(a) after (1), insert –

"(1A) A Category 1 associate certificate holder may not operate under its certificate unless it has obtained approval by the Commission of the gambling equipment it utilises to organise and promote gambling transactions, including gambling equipment

supplied to it by an associate.",

- (b) in (3), after "eGambling licensee" insert ", Category 1 associate certificate holder",
- (c) in (4), after "eGambling licensee" insert ", a Category 1 associate certificate holder or a Category 2 associate certificate holder",
- (d) in (5)(c)(iii), after "eGambling licensee" insert ", Category 1 associate certificate holder", and
- (e) in (6), in the first place it appears, after "eGambling licensee" insert ", a Category 1 associate certificate holder".

(14) In section 17(1), after "and a" insert "Category 1 associate certificate holder and a", and after section 17 insert –

"Category 1 Associate Certificates.

17A. (1) The Commission may by regulations make provision generally for, or in relation to, the grant, use, effect and requirements of Category 1 associate certificates.

(2) A Category 1 associate certificate may be issued to an Alderney company that is a Category 1 eGambling licensee or a Category 2 eGambling licensee, but in no other circumstances shall a Category 1 associate certificate be issued to an Alderney company.

(3) A Category 1 associate certificate may not be issued to a natural person."

(15) In sections 21(1)(a) and 22(2)(e), (h) and (i), for "eGambling licensee and a Category 2 associate certificate holder" substitute "eGambling licensee, Category 1 associate certificate holder and a Category 2 associate certificate holder".

(16) In section 30 –

(a) in the definition of "approved premises" and "ordinary investigation", for "eGambling licensee's" substitute "eGambling licensee's or associate certificate holder's",

(b) in the definition of "associate certificate", in paragraph (a) after "eGambling licensee" insert ", a Category 1 associate certificate holder", at the end of paragraph (a) delete "and", and before paragraph (b) insert –

"(ab) a Category 1 associate certificate, and",

(c) at the appropriate place insert –

""Category 1 associate certificate" means a certificate issued under section 7 and in accordance with section 17A,"

(d) in the definitions of "certificate" and "certificate holder", in both places after "a core services associate certificate," insert "a Category 1 associate certificate,"

- (e) in the definition of "customer" and paragraphs (a)(i) and (ii) of the definition of "gambling business associate", for "Category 1 eGambling licensee" substitute "Category 1 eGambling licensee or Category 1 associate certificate holder",
- (f) in paragraph (a) of the definition of "gambling business associate", after "contracts" insert "(either directly or through a contract or other arrangement with a third party)", in paragraph (b)(i) of that definition, for "eGambling licence or a Category 2 associate certificate" substitute "eGambling licence, a Category 1 associate certificate or a Category 2 associate certificate", and in paragraph b(ii) of that definition, for "eGambling licence or Category 2 associate certificate" substitute "eGambling licence, Category 1 associate certificate or Category 2 associate certificate",
- (g) in paragraph (a) of the definition of "key individual", for "an eGambling licensee's or a Category 2 associate certificate holder's" substitute "an eGambling licensee's, a Category 1 associate certificate holder's or a Category 2 associate certificate holder's", and in paragraph (b) of that definition, for "eGambling licence or a Category 2 associate certificate" substitute "eGambling licence, a Category 1 associate certificate or a Category 2 associate certificate", and

(h) for the definition of "licensed activity", substitute-

""**licensed activity**" means any gambling transaction organised, promoted or effected by an eGambling licensee, Category 1 associate certificate holder or a Category 2 associate certificate holder in exercise of its eGambling licence, Category 1 associate certificate or Category 2 associate certificate, as the case may be,".

(17) In Schedule 3, in the table below the entry in respect of "Core services associate certificate" (Item 16), insert the following rows:

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16A	Category 1 associate certificate	For a certificate holder with no previous licensed activity as a Category 1 associate certificate holder, for its first year	£35,000
16B	Category 1 associate certificate	For a new application which does not satisfy the criteria set out at Item 16A of this Table	£50,000
16C	Category 1 associate certificate	For renewal by a certificate holder	£50,000, and an additional fee as set out at Items 4 to 9 of this Table: see Note
16D	Category 1 associate certificate listed in	Annual gambling business association fee	£3,000 per gambling

	item 16C of this table		business associate
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and after the table insert –

"**Note:** in addition to a fee of £50,000, the fees set out at Items 4 to 9 of this table (Category 1 eGambling licence Bands B to G) apply in respect of renewals of Category 1 associate certificates as they do in respect of renewals of Category 1 eGambling licences, and references therein to "Category 1 eGambling licence" and "a licensee" shall be construed accordingly."

Interpretation.

3. (1) In this Ordinance -

"**enactment**" includes a Law, an Ordinance and any subordinate legislation and includes any provision or portion of a Law, an Ordinance or any subordinate legislation, and

"**subordinate legislation**" means any regulation, rule, order, rule of court, resolution, scheme, byelaw or other instrument made under any statutory, customary or inherent power and having legislative effect, but does not include an Ordinance.

(2) The Interpretation (Guernsey) Law, 1948^d applies to the interpretation of this Ordinance.

^d Ordres en Conseil Vol. XIII, p. 355.

(3) Any reference in this Ordinance to an enactment is a reference thereto as from time to time amended, re-enacted (with or without modification), extended or applied.

Citation and commencement.

4. This Ordinance may be cited as the Alderney eGambling (Amendment) Ordinance, 2018, and shall come into force on the date it is made by the States of Alderney.