

The Alderney eGambling (Amendment) Ordinance, 2014

THE STATES OF ALDERNEY, in pursuance of their Resolution of the 16th July, 2014 and in exercise of the powers conferred upon them by sections 2, 6 and 16 of the Gambling (Alderney) Law, 1999^a, hereby order:-

Amendment of 2009 Ordinance.

1. The Alderney eGambling Ordinance, 2009^b ("**the 2009 Ordinance**") is amended as follows.

2. In the Arrangement of Sections of the 2009 Ordinance –

(a) immediately after section 3 insert –

"3A. Licensing Objectives.

3B. Functions of the Commission.", and

(b) in section 5, for "Grounds for refusing" substitute "Grant or refusal of".

3. In section 1(1) of the 2009 Ordinance –

(a) in paragraph (a) after "licence" insert "or a Temporary eGambling licence", and

^a Ordres en Conseil Vol. XXXIX, p. 374; as amended by Ordres en Conseil Vol. XL, p. 15; Vol. XLI, p. 769; Alderney Ordinance No. XVI of 2003; and Alderney Ordinance No. VII of 2006.

^b Alderney Ordinance No. X of 2009; as amended by Alderney Ordinance No. XIII of 2010 and No. IX of 2013.

- (b) in paragraph (b) after "licence" insert ",Temporary eGambling licence".

4. In section 1(2) of the 2009 Ordinance –

- (a) in paragraph (b) remove the word "and" which appears at the end of the paragraph,
- (b) in paragraph (c) for the full-stop at the end of the paragraph, substitute a comma, and
- (c) after paragraph (c) insert –

"(d) in the case of any person –

- (i) located, registered or incorporated in Alderney or Guernsey, or
- (ii) who is carrying out an activity in Alderney or Guernsey,

who is organising or promoting gambling transactions, a Category 1 eGambling licence must be held by that person,

- (e) in the case of any person located, registered or incorporated in Alderney, who is effecting gambling transactions, a Category 2 eGambling licence or a Category 2 associate certificate must be held by that person,

(f) in the case of any person who is carrying out an activity in Alderney, who is effecting gambling transactions, a Category 2 eGambling licence must be held by that person, and

(g) in the case of any person –

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

(ii) who is carrying out an activity in or Guernsey,

who is effecting gambling transactions, a Category 2 eGambling licence must be held by that person."

5. In section 1(2) of the Ordinance –

(a) in paragraph (d) after "licence" insert "or a Temporary eGambling licence",

(b) in paragraph (e) after "licence" insert ", a Temporary eGambling licence",

(c) in paragraph (f) after "licence" insert "or a Temporary eGambling licence", and

(d) in paragraph (g) after "licence" insert "or a Temporary eGambling licence".

6. Immediately after section 3 of the 2009 Ordinance, insert –

"Licensing Objectives and Functions of the Commission

Licensing objectives.

3A. In this Ordinance, and any Regulations made thereunder, "**licensing objectives**" means the objectives of –

- (a) protecting and enhancing the reputation of Alderney as a well regulated eGambling centre,
- (b) ensuring that eGambling is conducted honestly and fairly and in compliance with good governance,
- (c) preventing eGambling from being a source of crime, being associated with crime, or being used to support crime, including preventing the funding, management and operation of eGambling from being under criminal influence, and
- (d) protecting the interests of young persons and other vulnerable persons from being harmed or exploited by eGambling.

Functions of the Commission.

3B. (1) Without prejudice to any existing functions assigned to the Commission by the Law or by any Ordinance made thereunder (including any provisions under this Ordinance), the functions of the Commission in relation to eGambling, include -

- (a) taking such steps as the Commission considers necessary or expedient –
 - (i) for the effective regulation, supervision and control of eGambling in Alderney, and pursuant to the Alderney eGambling (Operations in Guernsey) Ordinance, 2006, in Guernsey,
 - (ii) in order to pursue the licensing objectives,
 - (iii) for maintaining confidence in, and the safety, soundness, and integrity of Alderney's eGambling sector,
- (b) the countering of financial crime and of the financing of terrorism in the eGambling sector; and in this paragraph "financial crime" includes any offence involving –
 - (i) fraud or dishonesty,
 - (ii) misconduct in, or misuse of information relating to, a financial market,
 - (iii) handling the proceeds of crime,

and "offence" includes an act or omission which would be an offence if it had taken place in Alderney."

7. In section 5 of the 2009 Ordinance –

(a) in the section heading, for "**Grounds for refusing**" substitute "**Grant or refusal of**",

(b) immediately before subsection (1) insert the following subsection -

"(A1) The Commission may upon receipt and consideration of an application for a licence or certificate grant or refuse the application.", and

(c) in subsection (2),

(i) for "The Commission" substitute "Without prejudice to the generality of its powers conferred by subsection (A1), the Commission",

(ii) for the full-stop at the end of the subsection, substitute a comma, and

(iii) after paragraph (c) insert –

"(d) it would be in the best interests of Alderney for the applicant to be granted a licence or certificate,

- (e) the reputation of Alderney as a well regulated eGambling centre would not be jeopardised by the applicant being granted a licence or certificate."

8. In section 8 of the 2009 Ordinance, immediately after subsection (3) insert –

"(4) If an eGambling licensee or certificate holder applies for a different category of eGambling licence or certificate ("**new licence**") and it wishes to surrender its existing eGambling licence or certificate ("**existing licence**") prior to the anniversary of the date of validity specified on the existing licence ("**existing licence's anniversary date**"), the Commission may specify that the fee payable under this Ordinance for the new licence is reduced by an amount which does not exceed the amount set out in subsection (5), provided that the eGambling licence or certificate holder surrenders its existing licence by the date of the issue of the new licence.

(5) The amount referred to in subsection (4) is the fee amount for the existing licence apportioned pro rata on a monthly basis multiplied by the number of whole calendar months remaining prior to the existing licence's anniversary date."

9. In section 10(1) of the 2009 Ordinance –

- (a) omit "or" at the end of paragraph (a),
- (b) for the full stop at the end of the subsection, substitute ", or", and
- (c) immediately after paragraph (b) insert –

"(c) in pursuit of the licensing objectives".

10. In section 12(1) of the 2009 Ordinance –

- (a) omit "or" at the end of paragraph (c)(ii),
- (b) for the full stop at the end of the subsection, substitute ", or", and
- (c) immediately after paragraph (d) insert –
 - "(e) the licensed activity is being, or has been, carried out by an eGambling licensee or certificate holder, or an associate of an eGambling licensee or certificate holder, in a manner which is inconsistent with the licensing objectives."

11. In section 22 of the 2009 Ordinance –

- (a) for subsection (1) substitute –

"(1) The Commission may by regulation provide for anything necessary or expedient –

- (a) for the regulation, good conduct and control of eGambling,
- (b) in pursuit of the licensing objectives.", and
- (b) in subsection (2)(e) -

- (a) delete "international", and
- (b) after "preventing money laundering" insert "and terrorist financing".

12. In section 30(1) of the 2009 Ordinance –

- (a) immediately after the definition of "**licensed activity**", insert the following definition –

""**licensing objectives**" means the objectives set out in section 3A,"

- (b) immediately after the definition of "**licensing objectives**", insert the following definition –

""**money laundering**" means doing any act which –

- (a) constitutes an offence under section 38, 39 or 40 of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999,
- (b) constitutes an offence under section 57, 58 or 59 of the Drug Trafficking (Bailiwick of Guernsey) Law, 2000,
- (c) constitutes an attempt, conspiracy or incitement to commit an offence specified in paragraph (a) or (b),

(d) constitutes aiding, abetting, counselling or procuring the commission of an offence specified in paragraph (a) or (b),

(e) would, in the case of an act done otherwise than in the Bailiwick of Guernsey, constitute an offence specified in paragraph (a), (b), (c) or (d) if done in the Bailiwick of Guernsey,

irrespective of the value of any property or the amount of any money involved and, for the purposes of this definition –

(f) having possession of any property shall be taken to be doing an act in relation to it, and

(g) if the context allows, a reference to money laundering includes a reference to the funding of terrorism,"

(c) move the definition of "**Temporary eGambling licence**" so that it appears immediately after the definition of "**telecommunication device**", and

(d) immediately after the definition of "**Temporary eGambling licence**", insert the following definition –

""**terrorist financing**" means doing any act which –

(a) constitutes an offence under section 8, 9, 10 or 11 of the Terrorism and Crime (Bailiwick of

Guernsey) Law, 2002, section 9, 10, 11, 12 or 13 of the Terrorist Asset Freezing (Bailiwick of Guernsey) Law, 2011, section 1 of the Afghanistan (Restrictive Measures) (Alderney) Ordinance, 2011, section 1 of the Afghanistan (Restrictive Measures) (Guernsey) Ordinance, 2011, section 1 of the Afghanistan (Restrictive Measures) (Sark) Ordinance, 2011, section 1 of the Al-Qaida (Restrictive Measures) (Alderney) Ordinance, 2013, section 1 of the Al-Qaida (Restrictive Measures) (Guernsey) Ordinance, 2013, section 1 of the Al-Qaida (Restrictive Measures) (Sark) Ordinance, 2013, and in those sections the "**purposes of terrorism**" include, to the extent that they do not already do so –

- (i) any attempt, conspiracy or incitement to carry out terrorism within the meaning of section 1 of the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002 , or
 - (ii) aiding, abetting, counselling or procuring the carrying out of such terrorism,
- (b) constitutes an attempt, conspiracy or incitement to commit an offence specified in paragraph (a),
- (c) constitutes aiding, abetting, counselling or

procuring the commission of an offence specified in paragraph (a), or

- (d) would, in the case of an act done otherwise than in the Bailiwick of Guernsey, constitute an offence specified in paragraph (a), (b) or (c) if done in the Bailiwick of Guernsey,

irrespective of the value of the property involved, and for the purposes of this definition, having possession of any property shall be taken to be doing an act in relation to it."

Interpretation.

13. (1) The Interpretation (Guernsey) Law, 1948^c applies to the interpretation of this Ordinance as it applies to the interpretation of an enactment in force in Guernsey.

(2) Words defined in the Gambling (Alderney) Law, 1999, and the Alderney eGambling Ordinance, 2009 have the same meaning when used in this Ordinance, unless the context otherwise requires.

(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.

14. This Ordinance may be cited as the Alderney eGambling

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

(Amendment) Ordinance, 2014.

Commencement.

15. (1) This Ordinance, other than sections 3 and 5, shall come into force on the 16th July 2014.

(2) Sections 3 and 5 of this Ordinance shall come into force on the day appointed by regulations made by the Commission.