

ORDINANCE
OF THE STATES OF ALDERNEY

ENTITLED

The Alderney eGambling Ordinance, 2006 *

[CONSOLIDATED TEXT]

NOTE

This consolidated version of the enactment incorporates all amendments listed in the footnote below. However, while it is believed to be accurate and up to date, it is not authoritative and has no legal effect, having been prepared in-house for the assistance of the Law Officers. No warranty is given that the text is free of errors and omissions, and no liability is accepted for any loss arising from its use. The authoritative text of the enactment and of the amending instruments may be obtained from the Greffier, The Court of Alderney, Queen Elizabeth II Street, Alderney, GY9 3TB.

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* Alderney Ordinance No. VI of 2006; as amended by the Alderney eGambling (Amendment) Ordinance, 2007 (Alderney Ordinance No. XIII of 2007); the Alderney eGambling (Amendment) Ordinance, 2008 (Alderney Ordinance No. XI of 2008). This Ordinance has been repealed by the Alderney eGambling Ordinance, 2009 (Alderney Ordinance No. X of 2009).

ORDINANCE OF THE STATES OF ALDERNEY

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The Alderney eGambling Ordinance, 2006

ARRANGEMENT OF SECTIONS

Lawfulness of eGambling

1. Lawful eGambling.
2. eGambling with strangers.
3. Activities of eGambling licensee outside Alderney.

Licensing and certification

4. Applications.
5. Grounds for refusing applications.
6. Application costs.
7. Grant and duration of licences and certificates.
8. Fees for licences and certificates.
9. Licences and certificates personal to holder.
10. Licence or certificate conditions.
11. Surrender of licence or certificate.
12. Suspension, revocation and other sanctions.
13. Register of licences and certificates.

Operational requirements

14. Internal controls.
15. Gambling equipment.
16. Evaluation and testing costs.
- 16A. Associates providing core services.
17. Key individuals.
18. Exercise of restricted use eGambling licence.
19. Investigations.
20. General compliance matters.

Miscellaneous and general provisions

21. Appeals.
22. Offences.
23. Offences by bodies corporate.
24. Accessories and abettors.
25. General provisions as to regulations.
26. Giving notices.

Consolidated text

- 27. Right to prohibit gambling and to refuse transactions.
- 28. Interpretation.
- 29. Repeals, savings and transitional provisions.
- 30. Citation.
- 31. Commencement.

SCHEDULE 1 Repeals.

SCHEDULE 2 Savings and transitional provisions.

REPEALED

(Made on 21st June, 2006.)

The Alderney eGambling Ordinance, 2006

THE STATES OF ALDERNEY, in pursuance of their Resolution of the 21st day of June, 2006, and in exercise of the powers conferred upon them by sections 6 and 10(3) of the Gambling (Alderney) Law, 1999, as amended^a, hereby order: –

Lawfulness of eGambling

Lawful eGambling.

1. Effecting a gambling transaction shall not be unlawful gambling if –
 - (a) the transaction is effected with an eGambling licensee,
 - (b) the transaction is not effected by, with or through a young person,
 - (c) the transaction is not effected at any place other than approved premises controlled by the holder of a hosting certificate,

and, if any of the conditions in paragraphs (a) to (c) is not satisfied, every person concerned in the gambling transaction shall be guilty of an offence.

eGambling with strangers.

2. Notwithstanding section 10(1) of the Law, an eGambling licensee complying with any conditions attached to its licence and acting in accordance with the provisions of this Ordinance and of regulations made under this Ordinance is thereby authorised to conduct a business in the course of which a gambling transaction is negotiated or entered into with, or on behalf of, a stranger and to permit a stranger to participate in any form of gambling lawfully conducted,

^a Order in Council No. XIV of 1999; No. XXVII of 2001; Ordinance No. XVI of 2003.

organised or promoted by that licensee.

Activities of eGambling licensee outside Alderney.

3. For the avoidance of doubt, an eGambling licensee does not organise or in any way take part in unlawful gambling for the purposes of section 5(2) of the Law by –

- (a) exercising its eGambling licence at, or from, approved premises in Guernsey controlled by the holder of a hosting certificate, or
- (b) effecting gambling transactions at, or from, a place outside the Bailiwick of Guernsey in accordance with its approved internal control system in circumstances where, as a result of an event or incident outside the licensee's control, the ability to effect those gambling transactions in Alderney or, as the case may be, Guernsey under its eGambling licence is for the time being rendered impossible, or
- (c) making arrangements in accordance with its approved internal control system for a customer to gamble with a person other than itself in a place outside Alderney or, as the case may be, Guernsey.

Licensing and certification.

Applications.

4. (1) A person who wishes to obtain –
- (a) an eGambling licence,
 - (b) a key individual certificate,
 - (c) an associate certificate, or

- (d) a hosting certificate, shall make application in that behalf to the Commission.

(2) The Commission shall by regulations make provision in respect of an application under subsection (1) and, without prejudice to the generality of the foregoing, it shall, in particular, prescribe –

- (a) its form,
- (b) the information which it shall contain and the means by which further information may be sought,
- (c) the form, if any, in which it shall be publicised in order to invite representations with regard to it,
- (d) the means by which it may be withdrawn prior to determination,
- (e) the manner in which it shall be –
 - (i) investigated and assessed by servants or agents of the Commission,
 - (ii) determined, and
 - (iii) the outcome notified to the applicant.

(3) The Commission shall by regulations make provision for the manner in which –

- (a) an eGambling licensee or a certificate holder may apply to the Commission to supplement, vary or remove any details contained in the eGambling licence or certificate in question, and
- (b) such an application shall be processed and determined.

NOTE

The following Regulations have been made under section 4:

Alderney eGambling Regulations, 2006;
Alderney eGambling (Amendment) Regulations, 2006;
Alderney eGambling (Money Laundering Amendments) Regulations,
2008;
Alderney eGambling (Amendment) (No. 2) Regulations, 2008;
Alderney eGambling (Amendment) (No. 3) Regulations, 2008.

Grounds for refusing applications.

5. (1) The Commission shall refuse the grant of a full eGambling licence unless the application is made by a company incorporated in Alderney and registered in the Register of Companies kept in accordance with the Companies (Alderney) Law, 1994^b.

(2) The Commission shall refuse the grant of the licence or certificate for which application has been made under section 4 if it is not satisfied that –

(a) the applicant is a fit and proper person to hold that licence or certificate, and

(b) where applicable, any associate of the applicant is a fit and proper person to be associated with the operations proposed by the applicant.

(3) The Commission shall prescribe by regulations the matters it shall or may take into account in deciding whether an applicant or, as the case may be, an associate is a fit and proper person for the purposes of subsection (2).

NOTE

The following Regulations have been made under section 5:

^b Order in Council No. XXXIV of 1994.

Alderney eGambling Regulations, 2006.

Application costs.

6. (1) A person making an application under section 4 shall pay to the Commission the reasonable costs associated with processing, investigating and determining that application.

(2) The Commission shall by regulations make provision for the manner in which –

- (a) monies shall be deposited from time to time by, or on behalf of, an applicant,
- (b) any surplus monies deposited with the Commission and not utilised by it for the purposes of subsection (1) shall be [retained or, as the case may be,] repaid, and
- (c) information concerning the costs incurred by the Commission shall be provided.

NOTES

In section 6, the words in square brackets in paragraph (b) of subsection (2) were inserted by the Alderney eGambling (Amendment) Ordinance, 2008, section 1(2), with effect from 1st October, 2008.

The following Regulations have been made under section 6:

*Alderney eGambling Regulations, 2006;
Alderney eGambling (Amendment) (No. 2) Regulations, 2008.*

Grant and duration of licences and certificates.

7. If the Commission grants an application made under section 4, it shall promptly issue to the applicant an eGambling licence or the certificate sought in a form prescribed by regulations which, unless surrendered, lapsed, suspended or revoked under this Ordinance or in accordance with regulations made under this Ordinance, shall be valid from the date specified thereon as directed by the Commission for an indefinite period.

NOTE

The following Regulations have been made under section 7:

Alderney eGambling Regulations, 2006.

Fees for licences and certificates.

8. (1) The fee set out in subsection (2) corresponding to the type of licence or certificate held shall be paid by an eGambling licensee or certificate holder to the Commission as agent for the States –

- (a) within seven days of the Commission issuing the licence or certificate, and
- (b) in advance of each anniversary of the date of validity specified on the licence or certificate in accordance with section 7.

(2) For the purposes of subsection (1), the annual fee in respect of –

- (a) a full eGambling licence shall be £70,000,
- (b) an associate certificate shall be [£10,000],
- (c) a hosting certificate shall be [£10,000].

(3) The holder of a restricted use eGambling licence shall, within seven days after each occasion on which it exercises that licence, pay to the Commission as agent for the States a fee of £200 in respect of each day or part thereof during which it so exercised the licence.

NOTE

In section 8, the figures and symbols in square brackets in, first, paragraph (b) and, second, paragraph (c) of subsection (2) were substituted by the

Alderney eGambling (Amendment) Ordinance, 2008, respectively section 1(3)(a) and section 1(3)(b), with effect from 1st October, 2008.

Licences and certificates personal to holder.

9. An eGambling licence or any certificate issued by the Commission under section 7 of this Ordinance is not capable of being assigned and cannot be transferred by the eGambling licensee or certificate holder.

Licence or certificate conditions.

10. (1) The Commission may attach to an eGambling licence or a certificate issued by it under section 7 of this Ordinance such conditions as it considers necessary, expedient or desirable –

- (a) for the proper conduct of eGambling, or
- (b) in the public interest.

(2) The Commission shall by regulations make provision for the manner in which a condition may be added to an eGambling licence or a certificate and thereafter varied or rescinded.

NOTE

The following Regulations have been made under section 10:

*Alderney eGambling Regulations, 2006;
Alderney eGambling (Money Laundering Amendments) Regulations,
2008;
Alderney eGambling (Amendment) Regulations, 2008;
Alderney eGambling (Amendment) (No. 2) Regulations, 2008.*

Surrender of licence or certificate.

11. An eGambling licensee or a certificate holder may at any time surrender the licence or certificate held in the manner prescribed by regulations of the Commission made under this section.

NOTE

The following Regulations have been made under section 11:

Alderney eGambling Regulations, 2006.

Suspension, revocation and other sanctions.

12. (1) The Commission may take action under this section where –
- (a) an eGambling licensee or a certificate holder is no longer a fit and proper person to hold the eGambling licence or certificate in question,
 - (b) where applicable, an associate of an eGambling licensee or a certificate holder is not, or is no longer, a fit and proper person to be associated with the operations of the licensee or certificate holder, or
 - (c) an eGambling licensee or a certificate holder has contravened –
 - (i) a provision of this Ordinance or of regulations made under this Ordinance, or
 - (ii) a condition attached to the eGambling licence or certificate in question.
- (2) The Commission shall prescribe by regulations the matters it shall or may take into account in deciding whether an eGambling licensee or a certificate holder or, as the case may be, an associate is a fit and proper person for the purposes of subsection (1).
- (3) Where subsection (1) applies, the Commission may –
- (a) issue a direction to rectify,
 - (b) issue a written caution,

- (c) impose a financial penalty not exceeding £25,000, which may take immediate effect or be suspended for such period as may be directed, during which it can be activated should subsection (1) again apply,
- (d) suspend the validity of the eGambling licence or certificate,
- (e) revoke the eGambling licence or withdraw the certificate.

(4) In respect of any one incident, the Commission may combine two or more of the actions specified in paragraphs (a) to (d) of subsection (3).

(5) The Commission shall by regulations make provision for the procedure it will adopt prior to taking action under this section, which shall include (without limitation) providing an opportunity for the eGambling licensee or certificate holder to make representations and the consequences of any action being taken.

NOTE

The following Regulations have been made under section 12:

Alderney eGambling Regulations, 2006;
Alderney eGambling (Amendment) Regulations, 2007.

Register of licences and certificates.

13. (1) The Commission shall maintain a register, in such bound or loose-leaf paper format as it thinks fit and kept solely for that purpose, of all eGambling licences and certificates issued by it under this Ordinance and shall note therein any changes affecting an eGambling licence or a certificate.

(2) The Commission shall make the register available at its offices for inspection by members of the public, but only by prior appointment.

(3) The Commission may also publish the register or any extract

therefrom in electronic form.

Operational requirements

Internal controls.

14. (1) An eGambling licensee may exercise its eGambling licence only if –

- (a) it has obtained approval of its internal control system by the Commission, and
- (b) it conducts its business of effecting gambling transactions under and in accordance with that system.

(2) An eGambling licensee who wishes to obtain approval of –

- (a) its internal control system, or
- (b) a change to its approved internal control system, shall make application in that behalf to the Commission.

(3) The Commission shall by regulations make provision in respect of an application under subsection (2) and, without prejudice to the generality of the foregoing, it shall, in particular, prescribe –

- (a) its form,
- (b) the matters on which information shall be provided and the means by which further information, where appropriate, may be sought,
- (c) the manner in which it shall be –
 - (i) assessed by servants or agents of the Commission carrying out an evaluation of the proposed internal controls,

(ii) determined, and

(iii) the outcome notified to the eGambling licensee.

(4) In accordance with regulations made under this subsection, the Commission may give an eGambling licensee a direction to change its approved internal control system.

NOTE

The following Regulations have been made under section 14:

*Alderney eGambling Regulations, 2006;
Alderney eGambling (Amendment) Regulations, 2007;
Alderney eGambling (Amendment) (No. 2) Regulations, 2007;
Alderney eGambling (Money Laundering Amendments) Regulations,
2008;
Alderney eGambling (Amendment) (No. 2) Regulations, 2008;
Alderney eGambling (Amendment) (No. 3) Regulations, 2008.*

Gambling equipment.

15. (1) An eGambling licensee may exercise its eGambling licence only if it has obtained approval by the Commission of the gambling equipment it utilises to conduct its business of effecting gambling transactions.

(2) An eGambling licensee who wishes to obtain approval of such gambling equipment shall make application in that behalf to the Commission.

(3) An application under subsection (2) may be made in conjunction with an application under section 14(2).

(4) The Commission shall by regulations make provision in respect of an application under subsection (2) and, without prejudice to the generality of the foregoing, it shall, in particular, prescribe –

(a) its form,

(b) the information which it shall contain and the means

by which further information may be sought,

- (c) the manner in which it shall be –
 - (i) assessed by servants or agents of the Commission carrying out an evaluation of the gambling equipment in question,
 - (ii) determined, and
 - (iii) the outcome notified to the eGambling licensee.

(5) The holder of an associate certificate who wishes to obtain approval in principle of any gambling equipment belonging to it intended for future use by an eGambling licensee may make application in that behalf to the Commission in the manner prescribed by regulations made by the Commission under this subsection as if it were an application by an eGambling licensee.

(6) If the Commission grants an application under subsection (5), a description of the gambling equipment so approved in principle shall be endorsed on the associate certificate in question in accordance with regulations made under this subsection.

NOTE

The following Regulations have been made under section 15:

*Alderney eGambling Regulations, 2006;
Alderney eGambling (Amendment) Regulations, 2007;
Alderney eGambling (Amendment) (No. 2) Regulations, 2008;
Alderney eGambling (Amendment) (No. 3) Regulations, 2008.*

Evaluation and testing costs.

16. (1) A person making an application under section 14 or 15 shall pay to the Commission the reasonable costs associated with evaluating and testing the proposed internal controls or, as the case may be, the gambling equipment and processing and determining that application.

- (2) The Commission shall by regulations make provision for the manner in which –
- (a) monies shall be deposited from time to time by, or on behalf of, an eGambling licensee or, as the case may be, an associate,
 - (b) any surplus monies deposited with the Commission and not utilised by it for the purposes of subsection (1) shall be [retained or, as the case may be,] repaid, and
 - (c) information concerning the costs incurred by the Commission shall be provided.

NOTES

In section 16, the words in square brackets in paragraph (b) of subsection (2) were inserted by the Alderney eGambling (Amendment) Ordinance, 2008, section 1(4), with effect from 1st October, 2008.

The following Regulations have been made under section 16:

*Alderney eGambling Regulations, 2006;
Alderney eGambling (Amendment) Regulations, 2007;
Alderney eGambling (Amendment) (No. 2) Regulations, 2008.*

[Associates providing core services.]

16A. (1) A full eGambling licensee may exercise its eGambling licence only if every business associate providing it with one or more core services as prescribed by regulations of the Commission made under this subsection holds a current associate certificate.

(2) Notwithstanding subsection (1), if within 21 days of first becoming an associate providing one or more core services to an eGambling licensee a person makes application for an associate certificate under section 4, until his application is determined by the Commission he shall be deemed to hold an associate certificate.]

NOTES

Section 16A was inserted by the Alderney eGambling (Amendment) Ordinance, 2008, section 1(5), with effect from 1st October, 2008.

The following Regulations have been made under section 16:

Alderney eGambling (Amendment) (No. 2) Regulations, 2008.

Key individuals.

17. (1) An eGambling licensee may exercise its eGambling licence only if every person –

- (a) performing functions identified by the licensee in its approved internal control system as those of a key individual, or
- (b) designated as a key individual by the Commission in accordance with regulations made under this paragraph,

holds a current key individual certificate.

(2) Notwithstanding subsection (1), if within 21 days of first becoming a key individual a person makes application for a key individual certificate under section 4, until his application is determined by the Commission he shall be deemed to hold a key individual certificate.

(3) A person who is a key individual and who does not, without reasonable excuse, hold a key individual certificate shall be guilty of an offence and liable, on conviction, to a fine not exceeding £25,000.

NOTE

The following Regulations have been made under section 17:

*Alderney eGambling Regulations, 2006;
Alderney eGambling (Amendment) (No. 2) Regulations, 2008.*

Exercise of restricted use eGambling licence.

18. An eGambling licensee who holds a restricted use eGambling licence may exercise that licence only if all the requirements of regulations made by the Commission under this section are satisfied.

NOTE

The following Regulations have been made under section 18:

*Alderney eGambling Regulations, 2006;
Alderney eGambling (Money Laundering Amendments) Regulations,
2008.*

Investigations.

19. (1) The Commission may conduct such ordinary or special investigations as it considers necessary or expedient into –

- (a) an eGambling licensee, including its operations, whether located in Alderney, Guernsey or elsewhere,
- (b) an associate of an eGambling licensee, whether or not it holds an associate certificate, including the operations undertaken by it on behalf of the licensee, whether located in Alderney, Guernsey or elsewhere,
- (c) a holder of a hosting certificate, including its approved premises, or
- (d) a holder of a key individual certificate.

(2) If the Commission carries out an investigation under this section, the eGambling licensee or the certificate holder in question shall pay, or cause to be paid, to the Commission the reasonable costs incurred by the Commission associated with the carrying out of that investigation.

(3) The Commission shall by regulations make provision for –

- (a) the conduct of an investigation, including the procedures to be adopted by it before, during and following an investigation, and
- (b) the manner in which –
 - (i) payment shall be made,
 - (ii) any surplus monies deposited with the Commission and not utilised by it for the purpose of subsection (2) shall be [retained or as the case may be,] repaid, and
 - (iii) information concerning the costs incurred by the Commission shall be provided.

NOTES

In section 19, the words in square brackets in paragraph (b)(ii) of subsection (3) were inserted by the Alderney eGambling (Amendment) Ordinance, 2008, section 1(6), with effect from 1st October, 2008.

The following Regulations have been made under section 19:

*Alderney eGambling Regulations, 2006;
Alderney eGambling (Amendment) (No. 2) Regulations, 2008.*

General compliance matters.

20. (1) The Commission may by regulations provide for anything necessary or expedient for the regulation, good conduct and control of eGambling.

(2) Without prejudice to the generality of subsection (1), the Commission shall make regulations to provide for the way in which –

- (a) a customer of an eGambling licensee is registered,
- (b) a customer is informed by an eGambling licensee

about the rules for effecting a gambling transaction,

(c) payment for a customer's gambling is received by, or on behalf of, an eGambling licensee,

(d) winnings accruing to a customer are returned by, or on behalf of, an eGambling licensee,

[(dd) an eGambling licensee and, where appropriate, its associates are obliged to take steps to comply with applicable international measures in respect of money laundering and terrorist financing,]

(e) a customer can impose limitations on his gambling activity with an eGambling licensee,

(f) a complaint by a customer of an eGambling licensee is handled,

(g) an eGambling licensee shall keep, or cause to be kept, accounting and other records and provide, or arrange to provide, such records, reports and other information relating to its business to the Commission, and

(h) the operations of an eGambling licensee are to be monitored by the Commission.

(3) The Commission may –

(a) establish and maintain a website to support the performance of its functions under this Ordinance and regulations made thereunder, and

(b) issue such written guidance as it considers appropriate for the purpose of providing information about

compliance with the provisions of this Ordinance and regulations made thereunder.

NOTES

In section 20, paragraph (dd) of subsection (2) was inserted by the Alderney eGambling (Amendment) Ordinance, 2007, section 1(2), with effect from 19th December, 2007.

The following Regulations have been made under section 20:

*Alderney eGambling Regulations, 2006;
Alderney eGambling (Amendment) (No. 2) Regulations, 2006;
Alderney eGambling (Amendment) Regulations, 2007;
Alderney eGambling (Money Laundering Amendments) Regulations,
2008;
Alderney eGambling (Amendment) Regulations, 2008;
Alderney eGambling (Amendment) (No. 2) Regulations, 2008;
Alderney eGambling (Amendment) (No. 3) Regulations, 2008.*

Miscellaneous and general provisions

Appeals.

21. (1) Any person aggrieved by a decision of the Commission under this Ordinance or under regulations made under this Ordinance may, within 28 days immediately following the date of notification to him of the Commission's decision, appeal to the Court of Alderney against that decision on the grounds that it was ultra vires or was an unreasonable exercise of the powers of the Commission.

(2) An appeal under this section shall be instituted by way of summons served on the chairman of the Commission stating the grounds, and setting out the material facts, on which the appellant relies.

(3) On an appeal under this section, the appellant shall have the burden of proof and the final right of reply.

(4) On an appeal under this section, the Court of Alderney may, upon the application of the appellant, and on such terms as the Court thinks just, suspend or modify the operation of the decision against which the appeal is brought, pending the determination of the appeal in question.

(5) On an appeal under this section, the Court of Alderney may quash or confirm the decision of the Commission against which the appeal is brought, or may substitute any other decision which the Commission could have made.

(6) An appeal on a question of law shall lie from the Court of Alderney to the Royal Court of Guernsey and, for that purpose, Part II of the Court of Alderney (Appeals) Law, 1969^c shall apply as if it were an appeal in a civil matter.

Offences.

22. (1) A person who, for the purpose of –
- (a) obtaining the grant of a licence or certificate under this Ordinance, whether to himself or to some other person, or
 - (b) satisfying a requirement imposed by regulations made under this Ordinance,

makes any declaration or statement or gives any information, or produces or makes any document, knowing the same to be false in a material particular shall be guilty of an offence.

(2) A person who, without the Commission's written authorisation, interferes in the conduct of a gambling transaction made lawful by this Ordinance shall be guilty of an offence and liable, on conviction, to a fine not exceeding £25,000.

(3) A customer of an eGambling licensee who fails to comply with the rules of a gambling transaction made lawful by this Ordinance as notified to him by the eGambling licensee shall be guilty of an offence and liable, on conviction, to a fine not exceeding level 5 on the Alderney uniform scale.

^c Ordres en Conseil Vol. XXII, p. 192.

(4) A person who has not registered as a customer of an eGambling licensee but effects a gambling transaction with that licensee shall be guilty of an offence and liable, on conviction, to a fine not exceeding level 5 on the Alderney uniform scale.

[(5) A person who contravenes any provision of regulations made under this Ordinance which is specified therein as a "**money laundering offence**" for the purposes of this subsection shall be guilty of an offence.]

NOTE

In section 22, subsection (5) was inserted by the Alderney eGambling (Amendment) Ordinance, 2007, section 1(3), with effect from 19th December, 2007.

Offences by bodies corporate.

23. (1) Where an offence under this Ordinance is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to or to have been facilitated by any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he, as well as the body corporate, is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies to a member in connection with his functions of management as if he were a director.

Accessories and abettors.

24. Without prejudice to the generality of section 23, a person who knowingly and wilfully aids, abets, counsels, causes, procures or commands the commission of an offence under this Ordinance shall be liable to be dealt with, tried and punished as a principal offender.

General provisions as to regulations.

25. (1) Regulations made by the Commission under this Ordinance –

- (a) may be amended or repealed by subsequent regulations hereunder,
- (b) may contain such consequential, incidental, supplemental and transitional provision as may appear to the Commission to be necessary or expedient, and
- (c) shall be laid before a meeting of the States as soon as possible and shall, if at that or the next meeting the States resolve to annul them, cease to have effect, but without prejudice to anything done under them or to the making of new regulations.

(2) Any powers conferred upon the Commission by this Ordinance to make regulations may be exercised –

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exemptions, or in relation to specified cases or classes of cases,
- (b) so as to make, as respects the cases in relation to which it is exercised –
 - (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),
 - (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class of case for different purposes, or
 - (iii) any such provision either unconditionally or subject to any prescribed conditions.

Giving notices.

26. (1) Any document other than a summons to be given under this Ordinance or under regulations made under this Ordinance may be given to –

- (a) an individual, by being delivered to him, or by being left at, or sent by post or transmitted to, his usual or last known place of abode,
- (b) a company with a registered office in Alderney, by being left at, or sent by post or transmitted to, that office,
- (c) a company without a registered office in Alderney, by being left at, or sent by post or transmitted to, its principal or last known principal place of business in Alderney or, if there is no such place, its registered office or principal or last known principal place of business outside Alderney,
- (d) an unincorporated body, by being given to any partner, member, manager, director or other similar officer thereof in accordance with paragraph (a), or by being left at, or sent by post or transmitted to, the body's principal or last known principal place of business in Alderney or, if there is no such place, its principal or last known principal place of business elsewhere,
- (e) the Commission or its chairman, by being left at, or sent by post or transmitted to, the offices of the Commission.

(2) Notwithstanding the provisions of subsection (1) and of any other rule of law in relation to the giving of documents, no document to be given to the Commission or its chairman under this Ordinance or under regulations made

hereunder shall be deemed to have been given until it is received.

(3) A document sent by post shall, unless the contrary is shown, be deemed for the purposes of this Ordinance to have been received –

(a) in the case of a document sent to an address in the United Kingdom, the Channel Islands or the Isle of Man, on the third day after the day of posting,

(b) in the case of a document sent elsewhere, on the eighth day after the day of posting.

(4) In this section –

"by post" means by registered post, recorded delivery service or ordinary letter post, and

"transmitted" means transmitted by electronic communication, facsimile transmission or other similar means which produce a document containing the text of the communication; in which event the document shall be regarded as given when it is received.

Right to prohibit gambling and to refuse transactions.

27. Nothing in this Ordinance or in any regulations made under this Ordinance shall be construed as requiring an eGambling licensee or any of its servants or agents to negotiate or enter into any gambling transaction.

Interpretation.

28. (1) In this Ordinance, unless the context otherwise requires –

"applicant" means a person making an application under section 4,

"approved internal control system" means an internal control system approved by the Commission in accordance with section 14, and includes an approved internal control system changed with the approval, or under the direction, of the Commission,

"approved premises" means premises approved by the Commission and specified on a hosting certificate at which an eGambling licensee's gambling equipment can be situated,

"associate" means a business associate or an executive associate,

"associate certificate" means a certificate issued under section 7 to an associate by which the Commission approves that associate during the currency of the certificate as being a fit and proper person to be associated with the operations of an eGambling licensee,

"business associate" means a person who the Commission reasonably believes is or, as the case may be, will be associated with the ownership[, management or performance] of the operations of an eGambling licensee or a certificate holder, and includes (without limitation) –

- (a) a supplier of software,
- (b) a person who maintains a database of customer information,
- (c) a person involved in receiving payments from, and making payments to, customers, and
- (d) another company within the same group of companies,

"certificate" means, as the case may be, an associate certificate, a hosting certificate or a key individual certificate,

"certificate holder" means, as the case may be, a person holding an associate certificate, a hosting certificate or a key individual certificate,

"conduct" includes promote, organise and operate,

"controlled" includes owned, leased and occupied under licence,

"customer" means a person who intends to effect, or effects, a gambling transaction with an eGambling licensee,

"direction to rectify" means a notice to an eGambling licensee or a certificate holder containing –

- (a) a requirement that the licensee or certificate holder acts, or desists from acting, in a manner and within the period of time specified in the notice, and
- (b) a warning to the recipient of the consequences of failing to comply with the notice,

"executive associate" means an executive officer of a company, partner or trustee, or another person identified in writing by the Commission who the Commission reasonably believes is or, as the case may be, will be associated with the ownership or management of the operations of an eGambling licensee or a certificate holder,

"executive officer", of a company, means a person who is concerned with, or takes part in, the company's management, whether or not the person is a director or the person's position is given the name of executive officer,

"eGambling" means gambling where the gambling transaction with an eGambling licensee is effected remotely by a customer by means of a telecommunication device,

"eGambling licence" means a full eGambling licence or a restricted use eGambling licence,

"eGambling licensee" means a person who holds an eGambling licence,

"full eGambling licence" means an eGambling licence issued under

section 7 by which the holder is permitted to conduct eGambling at any time,

"gambling equipment" means a machine or other device, whether electronic, electrical or mechanical, computer software, or another thing, used, or suitable for use, in eGambling,

"gambling transaction" means a transaction involving any form of betting, gaming and wagering and participation in any lottery,

"Guernsey" means the Island of Guernsey and includes Herm and Jethou,

"hosting certificate" means a certificate issued under section 7 to a person enabling it to accommodate gambling equipment utilised by an eGambling licensee for its operations,

"internal control system" means a system of controls and administrative and accounting procedures used by an eGambling licensee for the conduct of eGambling,

"key individual" means a person who –

- (a) occupies or acts in a position designated in an eGambling licensee's approved internal control system as a key position,
- (b) is an associate, or occupies or acts in a managerial position, or carries out managerial functions, or is in a position to control or exercise significant influence over the operations conducted under an eGambling licence, designated by the Commission,

"key individual certificate" means a certificate issued under section 7 to a key individual enabling him to perform functions for, or on behalf of, an eGambling licensee or an associate,

"the Law" means the Gambling (Alderney) Law, 1999, as amended,

"ordinary investigation" means a general investigation carried out periodically by the Commission in relation to an eGambling licensee's operations and, where applicable, those parts of the operations undertaken by an associate,

"restricted use eGambling licence" means an eGambling licence issued under section 7 by which the holder is only permitted to conduct eGambling in accordance with the limitations imposed by section 18,

"special investigation" means an investigation for a specific purpose arising outside the ambit of an ordinary investigation,

"telecommunication device" means –

- (a) a computer adapted for communicating by way of the internet or another communications network, or
- (b) a telephone, or
- (c) a television receiver adapted to allow the user to transmit information by way of a cable television network, a satellite or another communications network, or
- (d) any other electronic device or thing for communicating at a distance.

(2) Unless the context otherwise requires, a reference in this Ordinance to any enactment includes a reference to that enactment as amended, repealed and replaced, extended or applied by or under any enactment including this Ordinance.

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

NOTE

In section 28, the words in square brackets in the definition of the expression "business associate" in subsection (1) were substituted by the Alderney eGambling (Amendment) Ordinance, 2008, section 1(7), with effect from 1st October, 2008.

Repeals, savings and transitional provisions.

- 29.** (1) The enactments set out in Schedule 1 are hereby repealed.
- (2) The savings and transitional provisions in Schedule 2 shall have effect.

Citation.

- 30.** This Ordinance may be cited as the Alderney eGambling Ordinance, 2006.

Commencement.

- 31.** This Ordinance shall come into force on the 11th July, 2006.

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

SCHEDULE 1
REPEALS

Section 29(1)

- Gambling (Interactive Gaming) (Alderney) Ordinance, 2001^e
Gambling (Interactive Gaming) (Amendment) (Alderney) Ordinance, 2002^f
Gambling (Interactive Gaming) (Amendment) (No. 2) (Alderney) Ordinance, 2002^g
Gambling (Electronic Betting) (Alderney) Ordinance, 2002^h
Gambling (Interactive Gaming) (Amendment) (Alderney) Ordinance, 2003ⁱ
Gambling (Electronic Betting) (Amendment) (Alderney) Ordinance, 2003^j
Gambling (Interactive Gaming) (Amendment) (Alderney) Ordinance, 2005^k
Gambling (Electronic Betting) (Amendment) (Alderney) Ordinance, 2005^l

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- ^e Ordinance No. X of 2001.
^f Ordinance No. IV of 2002.
^g Ordinance No. XVI of 2002.
^h Ordinance No. XVII of 2002.
ⁱ Ordinance No. XIV of 2003.
^j Ordinance No. XV of 2003.
^k Ordinance No. VII of 2005.
^l Ordinance No. VIII of 2005.

SCHEDULE 2

Section 29(2)

SAVINGS AND TRANSITIONAL PROVISIONS

Current licences and certificates

1. Subject to paragraphs 3 and 6, any electronic betting centre licence issued pursuant to the Electronic Betting Ordinance, and in force immediately before the commencement of this Ordinance, shall continue to have effect and be treated as if it were an eGambling licence issued under this Ordinance.
2. Subject to paragraphs 3 and 6, any interactive gaming licence issued pursuant to the Interactive Gaming Ordinance, and in force immediately before the commencement of this Ordinance, shall continue to have effect and be treated as if it were an eGambling licence issued under this Ordinance.
3. If, immediately before the commencement of this Ordinance, a person held both an electronic betting centre licence and an interactive gaming licence, the effect of paragraphs 1 and 2 is that its licences shall be combined into a single eGambling licence having effect under this Ordinance.
4. Subject to paragraph 6, any certificate of prior approval issued pursuant to the Interactive Gaming Ordinance, and in force immediately before the commencement of this Ordinance, shall continue to have effect and be treated as if it were an associate certificate issued under this Ordinance.
5. Subject to paragraph 6, any key personnel licence issued pursuant to the Electronic Betting Ordinance or the Interactive Gaming Ordinance, and in force immediately before the commencement of this Ordinance, shall continue to have effect and be treated as if it were a key individual certificate issued under this Ordinance.
6. (1) Within 14 days immediately following the commencement of this Ordinance, the holder of any licence or certificate issued by the Commission under the Electronic Betting Ordinance or the Interactive Gaming Ordinance shall return that licence or certificate to the Commission.
(2) On receiving the licence or certificate, the Commission shall –

- (a) destroy the returned licence or certificate, and
- (b) issue free of charge the corresponding eGambling licence, associate certificate or key individual certificate, as specified in paragraphs 1, 2, 4 and 5, to the eGambling licensee or, as the case may be, the certificate holder.

(3) A licence or certificate issued under subparagraph (2)(b) shall contain the identical date of validity as appeared on the licence or certificate returned under subparagraph (1).

(4) Where a certificate of prior approval returned in accordance with subparagraph (1) carries on it endorsements made under section 72A of the Interactive Gaming Ordinance, the associate certificate issued under subparagraph (2)(b) shall carry identical endorsements.

Current approvals

7. Any approved control system approved by the Commission pursuant to the Electronic Betting Ordinance or the Interactive Gaming Ordinance before the commencement of this Ordinance shall be treated as if it were an approved internal control system approved under this Ordinance.

8. (1) Any approved interactive gaming equipment approved, or interactive game authorisation issued, by the Commission pursuant to the Interactive Gaming Ordinance before the commencement of this Ordinance shall be treated as if it confers approval of gambling equipment for the purposes of section 15 of this Ordinance or, as the case may be, is part of an eGambling licensee's approval internal control system under this Ordinance.

(2) Within 42 days immediately following the commencement of this Ordinance, the Commission shall issue to an eGambling licensee notification of the gambling equipment for which approval shall be treated as having been given by subparagraph (1) in the same way as if the licensee had applied for and obtained approval in accordance with section 15.

Pending applications

9. Subject to paragraphs 11 and 12, any application for an electronic betting centre licence made under the provisions of the Electronic Betting Ordinance, and received but not determined by the Commission before the commencement of this Ordinance, shall be considered by the Commission under the provisions of the Electronic Betting Ordinance as if those provisions had not been repealed by this Ordinance.

10. Subject to paragraphs 11 and 12, any application for an interactive gaming licence made under the provisions of the Interactive Gaming Ordinance, and received but not determined by the Commission before the commencement of this Ordinance, shall be considered by the Commission under the provisions of the Interactive Gaming Ordinance as if those provisions had not been repealed by this Ordinance.

11. If an application for an electronic betting centre licence or an interactive gaming licence received but not determined by the Commission before the commencement of this Ordinance was made by a person holding a licence to which paragraph 1 or 2 applies, the application shall be treated as having been withdrawn on the day immediately before this Ordinance came into force.

12. If the Commission grants an application for an electronic betting centre licence or an interactive gaming licence considered in accordance with paragraph 9 or 10, it shall issue an eGambling licence under section 7 in place of the electronic betting centre licence or interactive gaming licence for which application was made.

13. Any application for a certificate of prior approval made under the provisions of the Interactive Gaming Ordinance, and received but not determined by the Commission before the commencement of this Ordinance, shall be considered by the Commission under the provisions of the Interactive Gaming Ordinance as if those provisions had not been repealed by this Ordinance, save that, if the Commission grants the application, it shall issue an associate certificate under section 7 in place of the certificate of prior approval for which application was made.

14. Any control system submission made under the provisions of the Electronic Betting Ordinance or the Interactive Gaming Ordinance, and received but not determined by the Commission before the commencement of this Ordinance, shall be considered by the Commission under the provisions of this Ordinance and of regulations made thereunder as if it were an application for approval of an internal control system or, as the case may be, a change to an approved internal control system made under section 14(2).

15. Any application made under section 64(1), 72(1) or 72A(1) of the Interactive Gaming Ordinance, and received but not determined by the Commission before the commencement of this Ordinance, shall be considered by the Commission under the provisions of this Ordinance and of regulations made thereunder as if it were an application for approval of gambling equipment made under section 15(2) or (5) and, where applicable, an application for approval of a change to an approved internal control system made under section 14(2).

Hosting certificates

16. For the purposes of section 1(c), premises which were approved premises in accordance with the provisions of the Electronic Betting Ordinance or the Interactive Gaming Ordinance shall be treated as approved premises controlled by the holder of a hosting certificate –

- (a) during the period of 28 days immediately following the commencement of this Ordinance, and
- (b) if, during that period, an application for a hosting certificate under section 4(1) is made in respect of those premises, until 28 days after that application is determined by the Commission.

Interpretation

17. In this Schedule –

"the Electronic Betting Ordinance" means the Gambling (Electronic Betting) (Alderney) Ordinance, 2002, as amended^m, and

"the Interactive Gaming Ordinance" means the Gambling (Interactive Gaming) (Alderney) Ordinance, 2001, as amendedⁿ.

^m Ordinance No. XVII of 2002; No. XV of 2003; No. VIII of 2005.

ⁿ Ordinance No. X of 2001; Nos. IV and XVI of 2002; No. XIV of 2003; No. VII of 2005.