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THE GAMBLING (BETTING) (ALDERNEY) ORDINANCE, 1997

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THE GAMBLING (BETTING) (ALDERNEY) ORDINANCE, 1997

THE STATES OF ALDERNEY, in pursuance of their Resolution of the 20th day of July, 1994 and in exercise of the powers conferred upon them by sections 2 and 8 of the Gambling (Alderney) Law, 1975, as amended(a), hereby order:

1. (1) A betting transaction shall not be unlawful gambling if— **General provisions as to betting.**
- (a) the betting transaction is effected with a licensed bookmaker;
 - (b) the betting transaction is not effected by, with or through a young person:

PROVIDED THAT this paragraph shall not operate so as to make unlawful a betting transaction by reason only of—

 - (i) the employment of a young person in the effecting of betting transactions by post or electronic means; or
 - (ii) the carriage by a young person of a communication relating to a betting transaction for the purpose of its conveyance by post; or
 - (iii) the sending or receiving by a young person of a communication relating to a betting transaction by electronic means; and
 - (c) the betting transaction is not effected at any place other than a licensed betting office or electronic betting centre, conducted and managed in accordance with the provisions of section 3;

and, if any of the conditions in paragraphs (a) to (c) is not satisfied, every person concerned in the betting transaction shall be guilty of an offence and liable, on conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the Alderney uniform scale, or to both.

- (2) Private betting shall not be unlawful gambling.

Betting with strangers.

2. The holder of an electronic betting centre licence acting in accordance with any conditions attached to it by the Committee under section 14 is thereby authorised to negotiate or enter into a betting transaction made lawful by this Ordinance with, or on behalf of, a stranger.

Conduct of licensed betting offices and electronic gambling centres.

3. (1) A licensed betting office or electronic betting centre shall be managed and conducted in accordance with any conditions attached to a licence issued by the Committee under section 14 and if any of those conditions is contravened, the person by whom the contravention was committed shall be liable, on conviction, to a fine not exceeding level 5 on the Alderney uniform scale.

(2) Without prejudice to any other right to refuse a person admission to premises or to expel a person from premises, the licensee or any servant or agent of his may refuse to admit to, or may expel from the premises of, the licensed betting office any person who is under the influence of alcohol, or who is violent, quarrelsome or disorderly or whose presence on the premises would subject the licensee or any servant or agent of his to any penalty under subsection (1); and if any person liable to be expelled from the licensed betting office under the provisions of this subsection when requested by the licensee, any servant or agent of his or any officer of police to leave those premises, fails to do so, he shall be guilty of an offence and liable, on conviction, to a fine not exceeding level 4 on the Alderney uniform scale.

(3) An officer of police may help to expel from a licensed betting office any person whom he has reasonable cause to believe to be liable to be expelled therefrom under the provisions of subsection (2), and he may use such force as may be required for that purpose.

(4) It shall be lawful for an officer of police to enter any licensed betting office or electronic betting centre for the purpose of ascertaining whether the provisions of subsection (1) are being complied with, and any person who obstructs an officer of police in the exercise of his powers under this subsection shall be guilty of an offence and liable, on conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding level 5 on the Alderney uniform scale, or to both.

(5) Subject to subsection (6), if, save in a licensed betting

office or in a manner provided by conditions attached to a licence issued by the Committee under section 14, any advertisement is published—

- (a) indicating that any particular premises are a licensed betting office or electronic betting centre; or
- (b) indicating where any such office is to be found; or
- (c) indicating the means by which contact may be made electronically with a licensed electronic betting centre; or
- (d) drawing attention to the availability of, or to the facilities afforded by, any such office or centre, other than an advertisement drawing attention to the availability of, or to the facilities afforded for, the purchase of tickets in a public lottery;

any person who published the advertisement, or caused or allowed it to be published, shall be guilty of an offence and liable, on conviction, to a fine not exceeding level 4 on the Alderney uniform scale:

PROVIDED THAT it shall be a defence for a person charged with an offence under this subsection to prove that he did not know and had no reasonable cause to suspect that the advertisement was, and that he had taken all reasonable steps to ascertain that it was not, such an advertisement as aforesaid.

- (6) Where there is published to any person—
 - (a) on demand by him—
 - (i) a copy of the rules subject to which betting transactions are effected in a licensed betting office or at a licensed electronic betting centre;
 - (ii) a coupon or other entry form in respect of a betting transaction proposed to be effected by him;
 - (b) a receipt or other document evidencing a betting transaction effected by him;
 - (c) a statement of account in respect of any betting transaction effected by him;

such publication shall not contravene the provisions of subsection (5) by reason only that the matter so published

contains an indication that any particular premises are a licensed betting office or electronic betting centre.

Right to prohibit betting and to refuse bets.

4. Nothing in this Ordinance shall be construed as requiring a licensed bookmaker or any servant or agent of his to accept any bet.

Application for a licence.

5. (1) A person who wishes to obtain a licence shall make application in that behalf to the Committee in writing stating—

- (a) his full name and address;
- (b) the category of licence for which application is made;
- (c) the address of the premises in respect of which the application is made.

(2) An application under this section shall be accompanied by—

- (a) a plan of the premises in respect of which the application is made; and
- (b) evidence that any authorisation, consent or permission (by whatever name called) required, under any other enactment, in respect of the structure or use of any premises which are the subject of such application has been granted in respect of that structure or those premises or that, in the particular circumstances of the case, no such authorisation, consent or permission is necessary.

(3) A person who makes an application under this section shall—

- (a) at the same time—
 - (i) send to the Chief Officer of Police a notice in writing of the fact which shall specify the situation of the premises; and
 - (ii) supply the Chief Officer of Police with information about his previous employment and the names of at least two referees to whom reference may be made;
- (b) cause a notice containing the particulars set out in subsection (1) to be published in the edition of the Alderney Official Gazette next following the date of his application and such notice shall state that any person desiring to oppose the application should deliver or

send to the Committee within 14 days from the date of publication a written statement of the grounds of his objection;

- (c) unless there is already in force a licence in respect of the premises concerned, cause a notice containing those particulars to be affixed for a period of at least 14 days immediately following the date of his application—
 - (i) to, on or as near as possible to the premises concerned in such manner as to enable it to be easily read by a person on a public thoroughfare adjacent to the premises; and
 - (ii) on the noticeboard outside the Court of Alderney.

6. The Committee shall not consider an application under section 5(1) unless it is made by—

Licence may only be granted to Alderney resident.

- (a) an individual who satisfies the Committee that he is ordinarily resident in the Island of Alderney; or
- (b) a company incorporated in the Island of Alderney and registered in the Register of Companies kept in accordance with the Companies (Alderney) Law, 1994(b), whose application shall also nominate one of its officers, servants or agents, being a person satisfying paragraph (a), to be personally responsible for the supervision of the exercise of the licence as if he were the licensee.

7. Within a period of 21 days from the date of the application under section 5(1), a report by or on behalf of the Chief Officer of Police shall be presented to the Committee, in such form, if any, as the Committee may from time to time determine, containing—

Chief Officer of Police's report to the Committee.

- (a) a description of the premises concerned and a general description of their immediate neighbourhood;
- (b) his views relating to the application, including any objections he wishes to raise;

and with any such report there shall be presented any reference or certificate of character in the possession of the Chief Officer of Police relating to the applicant or nominee.

Objection to application for a licence.

8. (1) Where any objection to the grant of a licence is raised—

- (a) by any person who in pursuance of section 5(3) (b) has delivered or sent to the Committee such a notice; or
- (b) by or on behalf of the Chief Officer of Police,

the Committee shall appoint a date, time and place for the hearing of the application and shall serve notice in writing upon the applicant and the person objecting of such date, time and place as soon as may be reasonably practicable and, in any event, giving at least 14 days' notice of the hearing.

(2) At the hearing of the application—

- (a) the applicant;
- (b) any person objecting to the grant of the licence; and
- (c) Her Majesty's Procureur;

shall be entitled to appear and be heard or to be represented by an advocate.

Grant of licences by the Committee and limitation on number of licences.

9. (1) Subject to the provisions of subsection (4), the Committee may, on application being made to it in accordance with the provisions of sections 5 and 6, after taking into consideration the report upon the application presented to it by or on behalf of the Chief Officer of Police in accordance with section 7 and, where appropriate, any representations made to it at the hearing of the application in accordance with section 8, grant to the applicant therefor a licence.

(2) A licence granted under subsection (1) may be made subject to any conditions that the Committee in its absolute discretion thinks necessary or expedient.

- (3) There shall not be in force at any one time more than—
 - (a) two betting office licences; and
 - (b) two electronic betting centre licences,

or such other maximum number of licences in respect of either category as shall from time to time be prescribed by Resolution of the Committee.

(4) The Committee shall publish a Resolution prescribing the maximum number of licences in respect of either category in accordance with subsection (3) in the Alderney Official Gazette.

10. (1) A licence granted under section 9 may be renewed by the Committee.

Renewal of licences.

(2) The provisions of sections 5(1), 5(3)(b) and (c), 7, 8 and 9 shall apply to the renewal of a licence as they apply to the grant thereof.

11. (1) The Committee shall refuse the grant or renewal of a licence in any case where—

Grounds for refusal to grant or renew a licence.

- (a) the Committee is not satisfied that the applicant or nominee is a fit and proper person to hold or supervise the exercise of a licence; or
- (b) the applicant or nominee is—
 - (i) under the age of 18 years, or
 - (ii) a person disqualified from holding a licence by virtue of section 19 or 20; or
- (c) the applicant has, within the 12 months immediately preceding the date of the application, been refused the grant or renewal of a licence under paragraph (a); or
- (d) the Committee is not satisfied that an authorisation, consent or permission mentioned in section 5(2)(b) has been granted or, in the particular circumstances of the case, was not necessary.

(2) The Committee may refuse the grant or renewal of a licence in any case where—

- (a) the applicant or nominee has been convicted of an offence under the Law or any Ordinance made thereunder, or of any offence involving fraud or dishonesty; or
- (b) the business carried on under a licence previously granted to the applicant has not been properly conducted; or
- (c) it is not satisfied, having regard to the character, condition or layout of the premises, that they are suitable for use as a licensed betting office or electronic betting centre; or
- (d) it is not satisfied as to the necessity for the grant or renewal of the licence having regard to the demand for the time being for the facilities afforded by the licensed

betting office or electronic betting centre and to the number of such offices or centres for the time being available to meet that demand; or

- (e) it is satisfied that the grant or renewal of the licence—
 - (i) would injuriously affect the health or comfort of persons residing in the neighbourhood of the premises or would be detrimental to the interests of persons receiving instruction or residing in any school or any institution in that neighbourhood, or
 - (ii) would seriously impair the amenities of the neighbourhood, or
 - (iii) would result in undue congestion of traffic; or
- (f) the application does not contain all the particulars required by this Ordinance to be furnished.

(3) The Committee may require an applicant to furnish such additional information as the Committee may think necessary for the purposes of this section.

Notice of refusal.

12. Where the Committee refuses an application for the grant or renewal of a licence, notice in writing of such refusal setting out the reasons therefor and signed by the Chairman of the Committee shall be served upon the applicant as soon as may be after such refusal.

Appeals.

13. (1) Subject to section 9(4), any person aggrieved by a decision of the Committee to refuse an application for the grant or renewal of a licence may, within 28 days from the date of the service on him of a notice in pursuance of section 12, 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 Committee.

(2) An appeal under this section shall be instituted by way of summons served on the Chairman of the Committee 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 quash or confirm the decision of the Committee against which the appeal is brought, or may substitute any other decision which the Committee could have made.

(5) An order made by the Court of Alderney under this section shall be final.

14. Upon the grant or renewal of a licence under this Ordinance, or as soon as may be thereafter, the Committee, on being satisfied that the licensee has paid the fee required to be paid in accordance with section 18, shall issue to him a licence in such form as the Committee may from time to time determine.

Issue of licence.

15. The Committee shall keep a register, in a book kept solely for that purpose, of all licences of each category granted or renewed by the Committee under this Ordinance.

Register of licences.

16. The Committee shall—

Amendment of register.

- (a) upon a court ordering the suspension or forfeiture of a licence; or
- (b) upon being informed in writing by a licensee that he has ceased or will cease to exercise that licence; or
- (c) upon a licence ceasing for any other reason whatsoever to be valid,

cause the register kept in accordance with section 15 to be amended accordingly.

17. Unless suspended or ordered to be forfeited under this Ordinance, a licence granted under section 9 shall be valid on such day as the Committee shall direct and—

Period of validity of licence.

- (a) in the case of a betting office licence, for a period of one year; or
- (b) in the case of an electronic betting centre licence, for a period of five years,

and thereafter, upon being renewed in accordance with section 10, shall be valid for further periods of one year at a time.

18. (1) There shall be paid, in advance, to the Treasurer of the States in respect of every licence granted or renewed under this Ordinance, as the case may be—

Fee payable on grant or renewal of a licence.

- (a) in respect of a betting office licence, an annual fee of £650;
- (b) in respect of an electronic betting centre licence, an annual fee of £50,000;

or such other fee in respect of either category of licence as shall from time to time be prescribed by Resolution of the States.

(2) The Committee shall publish a Resolution prescribing licence fees in accordance with subsection (1) in the Alderney Official Gazette.

**Variation,
suspension or
revocation of
licences.**

19. (1) The Committee may at any time vary or rescind any condition imposed in respect of a licence granted under section 9.

(2) The Committee may at any time impose in respect of a licence granted under section 9 any, or any additional, conditions that the Committee in its absolute discretion thinks necessary or expedient.

(3) Where in respect of a licence granted under section 9 the Committee is satisfied that any of the grounds on which it could have refused the grant or renewal of a licence (such grounds being specified in section 11) exist or are satisfied, the Committee may in its absolute discretion suspend or revoke, as the case may be, the licence.

(4) Where the holder of a licence issued under this Ordinance is convicted of any offence under the Law or any Ordinance made thereunder, or of any offence involving fraud or dishonesty, the court by or before which that person is convicted may, upon application being made in that behalf by Her Majesty's Procureur, in addition to any penalty imposed for the offence, order that any such licence issued to the person convicted shall be suspended for such period as the court may order or shall be revoked.

(5) Any order made under subsection (4) shall not take effect—

(a) until after the expiration of the period within which notice of appeal against the conviction or sentence may be given; or

(b) if notice of appeal against conviction or sentence is duly given within that period, until the date of the determination or abandonment of the appeal.

(6) Where, in pursuance of subsection (4), a court has ordered the revocation of a licence, the order of the court shall have the effect of disqualifying the person in respect of whom

the order was made from holding any licence issued under the provisions of this Ordinance and from being a nominee for a period of five years from the date of the conviction which gave rise to the order:

PROVIDED THAT, in any case where it appears to the court making the order to be just in all the circumstances, the court may include in the order a direction that the period of disqualification shall be such period shorter than five years, as the court may direct.

20. (1) Where a nominee under a licence issued under this Ordinance is convicted of any offence under the Law or any Ordinance made thereunder, or of any offence involving fraud or dishonesty, the court by or before which that person is convicted may, upon application being made in that behalf by Her Majesty's Procureur, in addition to any penalty imposed for the offence, order that any such nominee shall be disqualified from being a nominee and from holding any licence issued under the provisions of this Ordinance for a period of five years from the date of the conviction which gave rise to the order:

**Disqualification
of nominee.**

PROVIDED THAT, in any case where it appears to the court making the order to be just in all the circumstances, the court may include in the order a direction that the period of disqualification shall be such period shorter than five years, as the court may direct.

(2) Any order made under subsection (1) shall not take effect—

- (a) until after the expiration of the period within which notice of appeal against the conviction or sentence may be given; or
- (b) if notice of appeal against conviction or sentence is duly given within that period, until the date of the determination or abandonment of the appeal.

(3) Where, in pursuance of subsection (1), a court has ordered the disqualification of a nominee, within 7 days of such disqualification taking effect, the licensee whose nominee has been disqualified shall present for the approval of the Committee another of its officers, servants or agents, being a person eligible for the grant of a licence, as a replacement nominee for the unexpired period of the licence.

(4) In the event of the licensee failing to present a suitable person as required by subsection (3), its licence shall be suspended until such time as the Committee serves notice in writing of its approval of the replacement nominee.

(5) Where a licensee, in pursuance of subsection (3), presents a person for the approval of the Committee, the Chief Officer of Police shall furnish to the Committee such information regarding that person as may be requested by the Committee.

Absence of licensee or nominee.

21. (1) Subject to the provisions of this section, a licensee or nominee shall not absent himself from the business of personally supervising the exercise of the licence for any reason whatever for a period exceeding 14 days.

(2) A licensee or nominee desiring to absent himself for a period in excess of the said period of 14 days shall apply to the Committee for permission to that effect.

(3) On application being made to it under the provisions of subsection (2), the Committee may grant such permission, for such period and subject to such conditions as it may think necessary or expedient.

(4) A licensee or nominee shall, at the time of making an application under subsection (2), present for the approval of the Committee a suitable person, being a person eligible for the grant of a licence, to supervise personally the exercise of the licence during his absence and in default of presenting such person the application shall be refused.

(5) A person approved under subsection (4) shall, during the absence of the licensee or nominee, be personally responsible for the supervision of the exercise of the licence as if he were the licensee or nominee, as the case may be.

(6) Where a licensee or nominee, in pursuance of subsection (4), presents a person for the approval of the Committee, the Chief Officer of Police shall furnish to the Committee such information regarding that person as may be requested by the Committee.

Decease or incapacity of licensee or nominee.

22. (1) On the decease of a licensee or on his being certified by a medical practitioner authorised to practise in the Island of Alderney as incapable of personally exercising his licence, the Committee may, on the application of the legal personal

representative of the late licensee or duly authorised representative of the licensee, as the case may be, grant him permission to carry on the business hitherto carried on under the licence for such period as may be necessary to enable application to be made to the Committee for the grant of a licence under section 9.

(2) On the decease of a nominee or on his being certified by a medical practitioner authorised to practise in the Island of Alderney as incapable of personally supervising the exercise of the licence, within 7 days, the licensee shall present for the approval of the Committee another of its officers, servants or agents, being a person eligible for the grant of a licence, as a replacement nominee for the unexpired period of the licence.

(3) In the event of the licensee failing to present a suitable person as required by subsection (2), its licence shall be suspended until such time as the Committee serves notice in writing of its approval of the replacement nominee.

(4) Where a licensee, in pursuance of subsection (2), presents a person for the approval of the Committee, the Chief Officer of Police shall furnish to the Committee such information regarding that person as may be requested by the Committee.

(5) A person shall not after the decease of a licensee or nominee or after a licensee or nominee becomes incapable of personally exercising or supervising the exercise of the licence, carry on the business hitherto carried on under the licence without the permission mentioned in subsection (1) or (2).

23. Any notice served for the purposes of this Ordinance shall be validly served upon any person if delivered to him, left, or sent by registered post or recorded delivery service addressed to him, at his usual or last known place of abode.

Service of notices.

24. (1) A person who, for the purpose of obtaining the grant of a licence, whether to himself or to some other person, makes any declaration or statement or gives any information, or who produces or utters any certificate or produces any evidence, knowing the same to be false in a material particular shall be guilty of an offence and liable, on conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the Alderney uniform scale, or to both.

Offences.

(2) A licensee who contravenes any condition subject to

which his licence was granted shall be guilty of an offence and shall be liable, on conviction, in respect of each contravention, to a fine not exceeding level 5 on the Alderney uniform scale.

**Offences by
bodies corporate.**

25. (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 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.

Interpretation.

26. (1) In this Ordinance, unless the context otherwise requires—

“**betting office licence**” means a licence granted under section 9 authorising the use of the premises to which the licence relates for the purpose of effecting betting transactions;

“**betting transaction**” includes any transaction in which one or more of the parties is acting as a bookmaker;

“**bookmaker**” means any person who, whether on his own account or as servant or agent of any other person, carries on the business of receiving or negotiating bets, or, by way of business in any manner holds himself out, or permits himself to be held out, as a person who receives or negotiates bets;

“**the Committee**” means the Policy and Finance Committee;

“**electronic betting centre licence**” means a licence granted under section 9 authorising the use of the premises to which the licence relates for the purpose of effecting betting transactions by electronic means otherwise than with persons resorting to the premises;

“**electronic means**” includes all electronic data transfer, whether by telephony, facsimile, computer or any other means;

“**Her Majesty's Procureur**” includes Her Majesty's Comptroller;

“**the Law**” means the Gambling (Alderney) Law, 1975, as amended;

"licence" means a licence granted under section 9 authorising a person to act as a bookmaker from the premises identified therein;

"licensed betting office" means premises of a bookmaker holding a betting office licence;

"licensed bookmaker" and **"licensee"** means the holder of a licence granted under section 9 for the time being in force;

"licensed electronic betting centre" means premises of a bookmaker holding an electronic betting centre licence;

"nominee" means a person nominated by a licensee company to be personally responsible for the supervision of the licensee's licence as if he were the licensee;

"prescribed" means prescribed by Resolution of the Committee;

"private betting" includes entering into or negotiating a bet, paying, receiving or settling a bet, collection or payment of winnings on a bet and similar transactions in which none of the parties acts as a bookmaker;

"public lottery" means the Channel Islands Lottery, and any reference to a public lottery shall be construed accordingly;

"ticket" has the meaning assigned to it by section 11(1) of the Gambling (Channel Islands Lottery) (Bailiwick of Guernsey) Ordinance, 1975(c);

"winnings" includes winnings of any kind and any reference to the amount, or to the payment, of winnings shall be construed accordingly;

and any other expression shall have the same meaning as in the Law.

(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 the Island of Guernsey.

(c) Recueil d'Ordonnances Tome XX, p. 51; Tome XXI, p. 75; Tome XXIII, p. 470; Tome XXV, p. 131; No. XIV of 1994.

(d) Ordres en Conseil Vol. XIII, p. 355.

- Citation.** 27. This Ordinance may be cited as the Gambling (Betting) (Alderney) Ordinance, 1997.
- Commencement.** 28. This Ordinance shall come into force on the 1st October, 1997.

D.V. JENKINS
Clerk of the States
