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Island of



Alderney

Ordinance of the States

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THE GAMBLING (BOOKMAKERS) (ALDERNEY) ORDINANCE, 2002

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The Gambling (Bookmakers) (Alderney) Ordinance, 2002

THE STATES, in pursuance of their Resolution of the 20th day of November, 2002, and in exercise of the powers conferred upon them by section 6 of the Gambling (Alderney) Law, 1999, as amended ¹, hereby order:

Lawfulness of betting

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
- (ii) the carriage by a young person of a communication relating to a betting transaction for the purpose of its conveyance by post; and

- (c) the betting transaction is not effected at any place other than approved premises, conducted and managed in accordance with the provisions of section 2;

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.

(2) Private betting shall not be unlawful gambling.

¹ Order in Council No. XIV of 1999; No. XXVII of 2001.

**Conduct of
licensed
bookmaker's
premises.**

2. (1) A licensed bookmaker's approved premises shall be managed and conducted in accordance with the provisions of this Ordinance and any conditions attached to a licence issued by the Commission under section 13(1) 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, approved premises any person 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 approved premises 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 approved premises 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 approved premises 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) A licensed bookmaker must, at the request of the Commission, do anything reasonably necessary to allow a servant or agent of the Commission to monitor the operations at his approved premises.

(6) Subject to subsection (7), if, saved in approved premises or in a manner provided by conditions attached to a licence issued by the Commission under section 13(1), and advertisement is published-

- (a) Indicating that any particular premises are a licensed bookmaker's approved premises; or
- (b) Indicating where any such approved premises are to be found; or
- (c) drawing attention to the availability of, or to the facilities afforded by, any such approved premises, other than an advertisement drawing attention to the availability of, or 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.

(7) 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 with a licensed bookmaker;
 - (ii) a coupon or other entry form in respect of a betting transaction 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 (6) by reason only that the matter so published contains an indication that any particular premises are approved premises.

Right to prohibit betting and to refuse bets.

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

Bookmaker's licences

Application for bookmaker's licence.

4. (1) A person who wishes to obtain a bookmaker's licence (the "applicant") shall make application in that behalf to the Commission.

(2) An application under this section shall be in an approved form and identify clearly the premises in respect of which the application is made.

(3) 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 enactment, in respect of the structure of 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.

(4) A person making application under this section shall-

- (a) at the same time-
 - (i) send to the Chief Officer of Police a copy of his application form as submitted to the Commission, 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-

- (i) his full name and address, and
- (ii) the address of the premises,

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 commission 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 bookmaker's 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.

5. The Commission shall not consider an application under section 4(1) unless it is made by an individual who satisfies the Commission that he is ordinarily resident in the Island of Alderney.

Bookmaker's licence may be granted only to Alderney individual.

6. There shall not be in force at any one time more than two bookmaker's licences.

Limitation on number of bookmaker's licences.

Chief Officer of Police's report to the Commission.

7. Within a period of 21 days from the date of the application under section 4(1), a report by or on behalf of the Chief Officer of Police shall be presented to the Commission, in such form, if any, as the Commission may from time to time determine, containing-

- (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.

Objection to application for bookmaker's licence.

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

- (a) by any person who in pursuance of section 4(4)(b) has delivered or sent to the Commission such a notice; or
- (b) by or on behalf of the Chief Officer of Police,

the Commission 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, an accountant or, as the case may be, some other professional adviser.

(3) Unless the Commission otherwise directs, the hearing shall be in public.

9. (1) Subject to this section, the Commission shall consider an application that complies with sections 4 and 5 and either grant or refuse it.

Consideration of application.

(2) The Commission may, by notice in writing given to the applicant, require the applicant to supply to the Commission such further information or documentation as the Commission may reasonably require in order to give proper consideration to the application.

(3) Where a notice under subsection (2) has been given, the Commission is not required to determine the application until the notice has been complied with.

(4) At any time before the Commission determines an application, the applicant may, by notice in writing given to the Commission, withdraw the application.

10. (1) The Commission shall refuse the grant of a bookmaker's licence in any case where-

Grounds for refusal to grant bookmaker's licence.

- (a) to do so would result in exceeding the limitation on bookmaker's licences imposed by section 6; or
- (b) it is not satisfied that the applicant is a fit and proper person to hold a bookmaker's licence; or
- (c) the applicant is-
 - (i) under the age of 18 years, or
 - (ii) a person disqualified from holding a bookmaker's licence by virtue of section 25(4); or
- (d) the applicant has, within the 12 months immediately preceding the date of the application, been refused the grant or renewal of a bookmaker's licence under paragraph (b); or
- (e) it is not satisfied that an authorisation, consent or permission mentioned in section 4(3)(b) has been granted or, in the particular circumstances of the case, was not necessary.

(2) The Commission may refuse to grant a bookmaker's licence in any case where-

- (a) the applicant 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 bookmaker's licence previously granted to the applicant has not been properly conducted; or
- (c) it is not satisfied, having regard to the character, condition or lay-out of the premises, that they are suitable for use as approved premises of a licensed bookmaker; or
- (d) it is not satisfied as to the necessity for the grant of the licence having regard to the demand for the time being for the facilities afforded by the licensed bookmaker and to the number of such offices for the time being available to meet that demand; or
- (e) it is satisfied that the grant of the bookmaker's 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.

(3) The Commission may refuse to grant an application even if none of the matters mentioned in subsections (1) and (2) is satisfied.

11. (1) In deciding whether an applicant is a fit and proper person to hold a bookmaker's licence, the Commission may have regard to the following matters-

Suitability of applicant to hold bookmaker's licence.

- (a) the applicant's character or business reputation;
- (b) the applicant's current financial position and financial background;
- (c) whether the applicant has, or is able to obtain, appropriate resources and appropriate services; and
- (d) whether the applicant has the appropriate business ability to operate as a bookmaker successfully under a bookmaker's licence.

(2) In subsection (1)-

"appropriate resources" means financial resources-

- (a) adequate, in the Commission's opinion, to ensure the financial viability of operations conducted under a bookmaker's licence; and
- (b) available from a source that is not, in the Commission's opinion, tainted with illegality; and

"appropriate services" means the services of persons who have appropriate experience to ensure the proper and successful conduct of a bookmaker's operations.

12. The Commission may investigate an applicant to decide whether he is a fit and proper person to hold a bookmaker's licence.

Investigations into suitability.

13. (1) If the Commission grants an application for a bookmaker's licence, it shall promptly issue a bookmaker's licence to the applicant.

Determination of application.

(2) If the Commission refuses to grant an application for a bookmaker's licence, it shall give the applicant written notice of the decision and of the reasons for the refusal.

Period of validity of bookmaker's licence on first grant.

14. Unless surrendered, suspended or revoked under this Ordinance, a bookmaker's licence issued under section 13(1) shall be valid on such day as the Commission shall direct for a period of 12 months.

Annual fee in respect of bookmaker's licence.

15. A licensed bookmaker shall pay to the Treasurer of the States-

- (a) within seven days of the Commission issuing his bookmaker's licence; and
- (b) in advance of each anniversary of the date from which the Commission directed that his electronic betting centre licence shall be valid,

a fee of £650.

Form of bookmaker's licence.

16. (1) A bookmaker's licence shall be in a form approved by the Commission.

(2) The approved form shall provide for the inclusion of the following particulars-

- (a) the licensed bookmaker's name;
- (b) the approved premises;
- (c) the date of issue of the licence;
- (d) the period of validity of the licence;
- (e) the conditions to which the licence is subject; and
- (f) any other prescribed particulars.

Conditions of bookmaker's licence.

17. A bookmaker's licence may be issued subject to such conditions as the Commission considers necessary, expedient or desirable-

- (a) for the proper conduct of a licensed bookmaker's operations; or
- (b) in the public interest

Varying or adding conditions of bookmaker's licence.

18. (1) Where the Commission considers it necessary, expedient or desirable to do so-

- (a) for the proper conduct of a licensed bookmaker's operations; or

(b) in the public interest,

it may by notice in writing (a **"condition notice"**) to a licensed bookmaker, vary or rescind a condition to which the bookmaker's licence is subject, or add a condition.

(2) A condition notice shall contain the Commission's reasons for the change.

(3) A change of conditions takes effect on-

- (a) the day on which the condition notice is given to the licensed bookmaker; or
- (b) such later day as is specified in the condition notice.

19. (1) A licensed bookmaker who wishes to obtain the Commission's approval to a proposed modification to, or change of, the premises in respect of which he holds a bookmaker's licence (the **"approved premises"**) shall make application in that behalf to the Commission before effecting such modification or change.

Modification to, or change of, approved premises.

(2) An application under this section shall be in an approved form.

(3) The Commission shall determine an application under this section by reference to the same criteria that are applied in approving the premises of an applicant for a bookmaker's licence.

(4) If the Commission grants an application under this section, it shall promptly issue to the licensed bookmaker written notice of its decision (a **"premises approval"**).

(5) If the Commission refuses to grant an application under this section, it shall give the licensed bookmaker notice of the decision and of the reasons for the refusal.

20. (1) A licensed bookmaker shall return the bookmaker's licence to the Commission within seven days of receiving a condition notice or a premises approval notifying a change of conditions or, as the case may be, a modification to, or change of, approved premises.

Return of bookmaker's licence for endorsement of changed conditions.

(2) A licensed bookmaker who, without reasonable excuse, fails to comply with subsection (1) shall be guilty of an offence and liable, on conviction, to a fine not exceeding level 5 on the Alderney uniform scale.

(3) On receiving the bookmaker's licence, the Commission shall-

- (a) amend the licence in an appropriate way and return the amended licence to the licensed bookmaker; or
- (b) if the Commission does not consider it is practicable to amend the licence, issue a replacement bookmaker's licence free of charge, incorporating the change of conditions or, as the case may be, the modification to, or change of, the approved premises, to the licensed bookmaker.

(4) A change of conditions or, as the case may be, modification to, or change of, approved premises does not depend on the bookmaker's licence being amended to record the change or modification or a replacement bookmaker's licence being issued.

Renewal of bookmaker's licences.

21. (1) A licensed bookmaker may apply to the Commission for the renewal of his bookmaker's licence.

(2) The provisions of sections 4 to 13 and sections 15 to 20 shall apply to the renewal of a bookmaker's licence as they apply to the grant thereof.

(3) Unless surrendered, suspended or revoked under this Ordinance, the period of validity of a bookmaker's licence renewed under this section shall be 12 months.

Register of bookmaker's licences.

22. (1) The Commission shall keep a register, in a book kept solely for that purpose, of all bookmaker's licences issued by the Commission under this Ordinance.

(2) The Commission shall-

- (a) upon a court ordering the suspension or revocation of a bookmaker's licence; or
- (b) upon reaching any decision itself in respect of the continuing validity of a bookmaker's licence; or

(c) upon the licensed bookmaker surrendering his bookmaker's licence,

cause the register kept in accordance with subsection (1) to be amended or noted accordingly.

(3) The register kept in accordance with subsection (1) shall be made available for public inspection, but only by prior appointment, at the Commission's offices.

23. Subject to section 27, a bookmaker's licence cannot be transferred.

Bookmaker's licence not transferable. Surrender of bookmaker's licence.

24. (1) A licensed bookmaker may surrender his bookmaker's licence by written notice (a "**surrender notice**") given to the Commission.

(2) The surrender takes effect-

(a) on the day specified in the surrender notice; or

(b) if no day is specified in the surrender notice, one month after the surrender notice is given to the Commission.

(3) A person who has surrendered a bookmaker's licence under this section shall not fail, without reasonable excuse, to return the licence to the Commission within seven days after the day on which the surrender takes effect.

(4) A person who fails to comply with a requirement under subsection (3) shall be guilty of an offence and liable, on conviction, to a fine not exceeding level 5 on the Alderney uniform scale.

25. (1) Where in respect of a bookmaker's licence the Commission is satisfied that-

Suspension or revocation of bookmaker's licence.

(a) any of the grounds on which it could have refused the grant of a bookmaker's licence (such grounds being specified in section 10) exist or are satisfied; or

(b) the licensed bookmaker has contravened a condition attached to the bookmaker's licence;

the Commission may suspend or revoke, as the case may be, the bookmaker's licence.

(2) Where the holder of a bookmaker's licence 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 the bookmaker's licence issued to the person convicted shall be suspended for such period as the court may order or shall be revoked.

(3) Any order made under subsection (2) 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.

(4) Where, in pursuance of subsection (2), a court has ordered the revocation of a bookmaker's 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 bookmaker's licence 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.

Absence of licensed bookmaker.

26. (1) Subject to the provisions of this section, a licensed bookmaker shall not absent himself from the business of personally supervising the exercise of his bookmaker's licence for any reason whatever for a period exceeding 14 days.

(2) A licensed bookmaker desiring to absent himself for a period in excess of the said period of 14 days shall apply to the Commission for permission to that effect.

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

(4) A licensed bookmaker shall, at the time of making an application under subsection (2), present for the approval of the Commission a suitable person, being a person eligible for the grant of a bookmaker's licence, to supervise personally the exercise of the bookmaker's 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 licensed bookmaker, be personally responsible for the supervision of the exercise of the bookmaker's licence as if he were the licensed bookmaker.

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

27. (1) On the decease of a licensed bookmaker or on his being certified by a medical practitioner authorised to practise in the Island of Alderney as incapable of personally exercising his bookmaker's licence, the Commission may, on the application of the legal personal representative of the late licensed bookmaker or duly authorised representative of the licensed bookmaker, as the case may be, grant him permission to carry on the business carried on under the bookmaker's licence for such period as may be necessary to enable application to be made to the Commission for the grant of a bookmaker's licence under section 4(1).

**Decease or
incapacity of
licensed
bookmaker.**

(2) A person shall not after the decease of a licensed bookmaker or after a licensed bookmaker becomes incapable of personally exercising the bookmaker's licence, carry on the business hitherto carried on under the bookmaker's licence without the permission mentioned in subsection (1).

*Miscellaneous and general provisions***Appeals.**

28. (1) Any person aggrieved by a decision of the Commission under this Ordinance may, within 28 days from the date of the service on him of a notice in accordance with a provision of this Ordinance, 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 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.

(5) 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, 1969² shall apply as if it were an appeal in a civil matter.

False particulars.

29. A person who, for the purpose of obtaining the grant of a bookmaker's licence, whether to himself or to some other person, makes any declaration or statement or gives any information, or who produces or makes any document, knowing the same to be false in a material particular shall be guilty of an offence.

Giving notices.

30. (1) Any document other than a summons to be given 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 approved premises or his usual or last known place of abode;

² Ordres en Conseil Vol. XXII, p. 192.

(b) 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 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 on the third 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.

31. The Commission may approve forms for the purposes of this Ordinance.

Approval of forms.

32. (1) In this Ordinance, unless the context otherwise requires-

Interpretation.

“approved form” means a form approved under section 31 for the purposes of the provision where the expression occurs;

“approved premises” has the meaning assigned to it by section 19(1);

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

“bookmaker’s licence” means a licence issued under section 13(1) authorising the use of the approved premises to which the licence relates for the purpose of effecting betting transactions;

“condition notice” means a notice given under section 18;

“conduct” includes promote, organise and operate;

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

“**the Law**” means the Gambling (Alderney) Law, 1999, as amended;

“**licensed bookmaker**” means a person who holds a bookmaker’s licence;

“**premises approval**” means a notice given under section 19(4);

“**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; ... has the meaning assigned to it by section 1(1) of the Gambling (Channel Islands Lottery) (Bailiwick of Guernsey) Ordinance, 1975, as amended³;

“**ticket**” has the meaning assigned to it by section 11(1) of the Gambling (Channel Islands Lottery) (Bailiwick of Guernsey) Ordinance, 1975, as amended;

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

“**written notice**” includes a notice given in the form of electronic data from which a written document can be produced or reproduced;

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 Recueil d’Ordonnances Tome XX, p. 51; Tome XXI, p. 75; Tome XXIII, p. 470; Tome XXV, p. 131; Tome XXVI, p. 312; No. XXXIV of 1997; No. VIII of 2001.

(3) The Interpretation (Guernsey) Law, 1948⁴ applies to the interpretation of this Ordinance as it applies to the interpretation of an enactment in force in the Island of Guernsey.

33. Any betting office licence issued pursuant to the Gambling (Betting) (Alderney) Ordinance, 1997, as amended, and in force immediately before the commencement of this Ordinance, shall continue to have effect and be treated as if it were a bookmaker's licence issued under this Ordinance

Saving and transitional arrangements.

34. This Ordinance may be cited as the Gambling (Bookmakers) (Alderney) Ordinance, 2002.

Citation.

35. This Ordinance shall come into force on the 20th November, 2002.

Commencement.

⁴ Ordres en Conseil Vol. XIII, p. 355.

D. V. JENKINS
Clerk of the States