

Island of  Guernsey

Ordinance of the States

XXXVIII
2001

Made 1st November, 2001.

The Gambling (Casino Gaming) Ordinance, 2001

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THE STATES, in pursuance of their Resolution of 15 October 1998^a and in exercise of the powers conferred upon them by section 2 of the Gambling (Guernsey) Law, 1971, as amended^b, section 2 of the Guernsey Gambling Control Commission Law, 2001^c and all other powers enabling them hereby order:-

Authorised casino gaming.

1. (1) Subject to the provisions of this Ordinance, authorised casino gaming shall not be unlawful gambling for the purposes of the Gambling (Guernsey) Law, 1971, as amended.

(2) "**authorised casino gaming**" means the playing of a prescribed game or gambling by means of a gaming machine-

(a) at premises in respect of which a casino operator's licence is in force, and

(b) in accordance with the terms of a casino operator's licence.

^a Billet d'État No. XX of 1998.

^b Ordres en Conseil Vol. XXIII, p. 109; Vol. XXIV, p. 400; No. XXVII of 1997 and Order in Council II of 2001.

^c Order in Council ** of 2001.

Casino operator's licence.

2. (1) Subject to the provisions of this Ordinance, the Commission may grant to a person named therein a licence (a "**casino operator's licence**") authorising-

- (a) the playing of prescribed games, and
- (b) gambling by means of gaming machines

at such premises (a "**casino**") as may be specified in the licence.

(2) The Commission shall not grant a casino operator's licence to any person unless it is satisfied-

- (a) that he is the holder of a concession;
- (b) that he is a person of integrity;
- (c) that he has adequate knowledge and financial means available to operate the casino;
- (d) that he is the occupier of the whole of the casino and has such security of tenure of the casino as the Commission considers adequate;
- (e) that he intends to operate all the facilities and amenities to be provided at the casino;

and, in the case of a casino operator's licence intended to be granted to a body

corporate-

- (f) that the body is incorporated as a Guernsey company;
and
- (g) that the shares in the body are owned by a person or persons of integrity.

(3) A casino operator's licence shall specify the room or rooms in the casino which may be used for the purposes of authorised casino gaming.

Conditions of a casino operator's licence.

3. (1) Subject to the following provisions of this section, a casino operator's licence may contain such conditions as the Commission thinks fit.

(2) A casino operator's licence shall contain the following conditions-

- (a) that the holder of the licence shall pay to the States or the Commission-
 - (i) on the grant or renewal of the licence, an annual fee specified in the licence; and
 - (ii) if any proportion is specified in the licence for the purpose of this sub-paragraph, a royalty consisting of that proportion of the gross daily receipts of the casino, to be accounted for and paid at such intervals as may be so specified;

- (b) that the holder of the licence, if a body corporate, shall notify the Commission of any change in the ownership of any shares in the body;
- (c) where the holder of the licence is a body corporate, that no person shall be appointed to be a director of the body unless the Commission is satisfied that he is a person of integrity;
- (d) that the holder of the licence shall, whenever required by the Commission, provide such information as the Commission may require to satisfy the Commission-
 - (i) as to the profitability of the business of the holder of the licence carried on at the casino;
and
 - (ii) that the holder of the licence continues to have adequate financial means available to operate the casino;
- (e) that no structural alteration or extension of the casino shall be carried out without the consent of the Commission;
- (f) that no part of the casino other than a gaming room shall be used for the purposes of authorised casino gaming;

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- (g) that the whole of the casino shall remain in the occupation and under the control of the holder of the licence;
- (h) that the holder of the licence shall provide and continue to provide at the casino any facilities and amenities specified in the licence;
- (i) that only such number (not exceeding 100) of gaming machines as are specified in the licence shall be located or available for use in the gaming rooms; and
- (j) that-
 - (i) only such number (being not less than 6) of gaming tables as are specified in the licence shall be located in the gaming rooms, and
 - (ii) of those gaming tables specified under subparagraph (i), during each session, the holder of the licence shall make available for use (for at least half of the duration of that session) such number of gaming tables (being not less than 1) as are specified in the licence.

(3) For the purpose of subsection (2)(a)(ii) "**gross daily receipts**"

means-

- (a) in a case where the holder of a casino operator's licence accepts any bet or stake made during the

playing of a prescribed game-

- (i) the total amount taken in bets or stakes at all such prescribed games played during any session (after deducting therefrom the total amounts of all winnings paid out to persons making such bets or stakes), and
 - (ii) the total amount taken in bets and stakes by all gaming machines operated during the session (after deducting therefrom the total amount of all winnings paid out to persons making such bets or stakes);
- (b) in a case where the holder of a casino operator's licence does not accept any bet or stake during the playing of a prescribed game, but instead charges a fee to any person or persons for the use of its facilities and staff in connection with the playing of any prescribed game-
- (i) the total amount taken in fees at all such prescribed games played during any session, and
 - (ii) the total amount taken in bets and stakes by all gaming machines operated during the session (after deducting therefrom the total amount of all winnings paid out to persons making such bets or stakes); or

(c) in a case which, in the opinion of the Commission does not fall within either paragraph (a) or paragraph (b) or, although falling within one or other paragraph, operates so as to produce royalties which the Commission considers to be disproportionately low in comparison with the profit accruing or believed to be accruing to the holder of a casino operator's licence, either directly or indirectly, out of the playing of a prescribed game or gaming machine, such amount calculated in such manner as the Commission and the holder of the licence may agree or, in default of agreement, as may be determined by the Royal Court as being the gross receipts of the holder arising out of the playing of a prescribed game or gaming machine.

(4) Failure by the holder of a casino operator's licence to comply with a condition under subsection (2)(c) shall not invalidate the appointment in question.

Duration etc. of casino operator's licence.

4. (1) A casino operator's licence shall remain in force for a period of one year from the date on which it is granted.

(2) Subject to this Ordinance, the Commission may renew a casino operator's licence for successive periods of one year on the application of the holder of the licence.

(3) A casino operator's licence shall not be renewed so as to be in force after the expiry of 10 years after the date on which it was originally granted.

(4) The Commission shall not renew a casino operator's licence if it is satisfied that the holder of the licence would not be eligible to be granted a licence anew on one or more of the grounds specified in section 2(2).

(5) Subject to subsections (3) and (4), the Commission shall not refuse to renew a casino operator's licence unless the holder of the licence-

- (a) is convicted of an offence under section 6 of the Gambling (Guernsey) Law, 1971, as amended (cheating);
- (b) is convicted of an indictable offence by any court in the British Islands;
- (c) is convicted twice within any period of 12 months of an offence under section 28(1) of the Liquor Licensing Ordinance, 1993, as amended^d (drunkenness in licensed premises);
- (d) has failed without reasonable excuse to comply with a condition of the licence;
- (e) has ceased to be the occupier of the whole of the casino or has ceased to control the operation or management of all the facilities or amenities of the casino; or

^d Recueil d'Ordonnances Tome XXVI, p. 197 and No. XVI of 1998.

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- (f) has failed without reasonable excuse to comply with any provision of the Hotel Casino Concession Law, 2001, this Ordinance or regulations thereunder relating to the management or operation of the casino.

(6) If at any time the Commission is satisfied that it would be precluded by subsection (4) from renewing a casino operator's licence or empowered by subsection (5) to refuse to renew the licence, it may by notice to the holder of the licence either-

- (a) suspend the licence for such period as may be specified in the notice, or until such conditions as are specified in the notice are complied with; or
- (b) revoke the licence.

(7) Where a casino operator's licence is suspended by virtue of a notice under subsection (6)(a), it shall be treated for all purposes as of no effect until the expiry of the period specified therein or, as the case may be, until the conditions specified therein are complied with.

(8) In any proceedings a certificate purporting to be signed on behalf of the Commission, and stating that a condition specified in a notice under subsection (6)(a) had or had not at the material time been complied with, shall be evidence of the facts stated therein.

(9) The holder of a casino operator's licence may, with the consent of the Commission, at any time surrender the licence to the Commission, subject to such conditions as the Commission thinks fit.

Variation of casino operator's licence.

5. (1) The Commission may at any time, with the consent of the holder of the licence, vary a casino operator's licence-

- (a) by varying the rooms which may be used as gaming rooms; or
- (b) subject to subsection (2), by varying the conditions of the licence.

(2) A condition required by paragraphs 3(2)(a) to (h) may not be varied under this section.

Appeals.

6. (1) A person aggrieved by a decision of the Commission -

- (a) to refuse to grant a casino operator's licence;
- (b) to refuse to renew his casino operator's licence;
- (c) to revoke his casino operator's licence;
- (d) to suspend his casino operator's licence; or
- (e) to impose, vary or rescind any condition in respect of his casino operator's licence

may appeal to the Court against the decision.

(2) The grounds of an appeal under this section shall be that the decision was ultra vires or was an unreasonable exercise of the Commission's powers.

(3) An appeal under this section shall be instituted -

(a) within a period of 28 days immediately following the date of notification to the appellant of the Commission's decision;

(b) by summons served on the Chairman of the Commission stating the grounds and material facts on which the appellant relies.

(4) The Commission may, where an appeal under this section has been instituted, apply to the Court, by summons served on the appellant, for an order that the appeal shall be dismissed for want of prosecution; and upon hearing the application the Court may -

(a) dismiss the appeal or dismiss the application (in either case upon such terms and conditions as the Court may direct); or

(b) make such other order as the Court considers just;

and the provisions of this subsection are without prejudice to the inherent powers of the Court or to the provisions of rule 36(2) of the Royal Court Civil Rules, 1989^e.

^e O.R.C. No. VII of 1989.

- (5) On an appeal under this section the Court may -
- (a) set the decision of the Commission aside and, if the Court considers it appropriate to do so, remit the matter to the Commission with such directions as the Court thinks fit; or
 - (b) confirm the decision.

(6) On an appeal under this section against a decision described in subsection (1), the Court may, upon the application of the appellant, and on such terms as the Court thinks just, suspend or modify the operation of the refusal, revocation or suspension or the imposition, variation or rescission, pending the determination of the appeal in question.

(7) An appeal from a decision of the Court made under this Law shall lie to the Court of Appeal on a question of law.

Beneficial ownership of casinos.

7. (1) Where the holder of a casino operator's licence is a body corporate, the Court may, on the application of the Commission, make an order requiring-

- (a) any member of the body holding a share in the body;
- (b) any director, manager, secretary or other officer of the body; or
- (c) any person appearing to the Court to be interested in the share;

to disclose to the Commission the identity of the beneficial owner or owners of the share.

(2) If it appears to the Court that default has been made in complying with an order under subsection (1) and that the identity of the beneficial owner or owners of the share in question has not been disclosed to the Commission, the Court may, on the application of the Commission, make an order vesting such share in the States.

(3) The Court may in proceedings under subsection (2), summon any person to give evidence on oath as to any matter within his knowledge, and to produce any document in his custody or control, bearing upon the identity of the beneficial owner of the share in question.

(4) The Court may, on application of any interested person, revoke an order under subsection (2), and thereupon the share in question shall vest in the person in whom it would then have been vested apart from that order; but the Court shall not revoke such an order unless it is satisfied that the identity of the person or persons who, on such revocation, will be the beneficial owner or owners of the share in question has been disclosed to the Commission

(5) In this section, "**beneficial owner**", in relation to a share the beneficial ownership of which is vested in a body corporate (other than a quoted company), means an individual who, whether directly or indirectly, through the holding of, or interests in, a relevant share or shares in that or another body corporate or other bodies corporate, is ultimately interested beneficially in the share in question.

Provision of credit for gaming.

8. (1) Subject to subsection (2), where a prescribed game takes place, or a gaming machine is operated in a gaming room, neither the holder of the casino operator's licence in respect of those premises nor any person acting on his behalf or under any arrangement with him shall make any loan or otherwise provide or allow to any person any credit, or release, or discharge on another person's behalf, the whole or part of any debt-

- (a) for enabling any person to take part in the gaming; or
- (b) in respect of any loss incurred by any person in the gaming.

(2) Neither the holder of a casino operator's licence nor any person acting on his behalf or under any arrangement with him shall accept -

- (a) a cheque and give in exchange for it cash or counters for enabling any person to take part in the gaming unless the following conditions are fulfilled, that is to say-
 - (i) the cheque is dated but is not post-dated; and
 - (ii) it is exchanged for cash to an amount equal to the amount for which it is drawn, or is exchanged for counters at the same rate as would apply if cash, to the amount for which the cheque is drawn, were given in exchange for them; or

(b) a debit card payment and give in exchange for it cash or counters for enabling any person to take part in gaming in a gaming room unless the following conditions are fulfilled, that is to say -

(i) the payment is exchanged for cash to an amount equal to the amount of the payment, or is exchanged for counters at the same rate as would apply if cash, to the amount of the payment, were given in exchange for them, and

(ii) the payment has been authorised by the holder of the card and by or on behalf of the issuer of the card;

but, where those conditions are fulfilled, the giving of cash or counters in exchange for a cheque or a debit card payment shall not be taken to contravene subsection (1).

(3) Where the holder of a casino operator's licence, or person acting on behalf of or under any arrangement with the holder of such a licence, accepts a cheque in exchange for cash or counters to be used by a player in gaming in a gaming room, then, unless the cheque is redeemed for cash or counters by or on behalf of the drawer before whichever of the following events may sooner occur, that is to say-

(a) the closing of gaming during the session in which the cheque is exchanged for cash or counters, or

(b) the expiration of that session,

he shall, not more than 2 business days later, cause the cheque to be delivered to a bank for payment or collection.

(4) Where the holder of a casino operator's licence, or a person acting on behalf of or under any arrangement with the holder of such a licence, accepts a debit card payment in exchange for cash or counters to be used by a player in gaming in a gaming room, he shall not more than 2 business days later do whatever is required under his arrangements with the issuer of the card to secure that he is credited with the amount of the payment.

(5) Nothing herein shall affect the validity of, or any remedy in respect of, any cheque or debit card payment which is accepted in exchange for cash or counters to be used by a player in gaming in a gaming room.

(6) Any person who contravenes subsection (1), (2), (3) or (4) shall be guilty of an offence and liable upon summary conviction to imprisonment for a term not exceeding 6 months, or a fine not exceeding level 5 on the uniform scale, or to both.

Prohibition of gaming by certain persons.

9. (1) No person who is-

(a) a member, officer or servant of the Commission; or

(b) employed in or about a casino;

shall participate in the playing of a prescribed game or a gaming machine in the casino except in so far as he may be required to do so by the nature of his

employment in conducting the prescribed game or operating the gaming machine so as to enable other persons to play thereat.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and liable upon summary conviction to a fine not exceeding level 5 on the uniform scale, imprisonment for a term not exceeding 6 months or both.

Regulations.

10. (1) The Commission may by regulations provide for anything necessary for the regulation and good conduct of casinos.

(2) Without prejudice to the generality of subsection (1), the Commission shall make regulations for all the following purposes-

- (a) to prescribe how application shall be made for the renewal of a casino operator's licence;
- (b) to prescribe the manner in which the duties and responsibilities of any member of the Commission or officer or servant of the Commission to whom any functions are delegated in accordance with section 10(1) of the Guernsey Gambling Control Commission Law, 2001 are to be carried out and the facilities to be granted to him for such purposes;
- (c) to prescribe the games which may be played and the gaming machines which may be operated in gaming rooms and to prohibit the playing of games and operation of gaming machines not so prescribed;

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- (d) to prescribe a standard or standards of maintenance for a casino;
- (e) to regulate the stakes for which prescribed games may be played and gaming machines operated;
- (f) to regulate, prohibit or control the fees which may be charged for entry to a casino or any part thereof, or for the right to play in any prescribed game or operate any gaming machine in the gaming rooms thereof;
- (g) to provide for the supervision of a casino by an authorised person;
- (h) to prescribe the hours (commencing no earlier than 11.00 a.m. and ending no later than 4.00 a.m.) during which gaming rooms may be operated, and to prohibit the playing of a prescribed game or the operation of a gaming machine in a gaming room on Good Friday or Christmas Day;
- (i) to stipulate the name by which a casino may be called;
- (j) to prohibit, except with the consent in writing of the Commission, the entry into a casino, or such part thereof as may be specified in the regulations, of any person under such age (not exceeding 18 years) as may be so specified;
- (k) to regulate the advertising of a casino;

- (l) to regulate any entertainment provided at a casino;
- (m) to regulate the staff who may be employed in a casino and to prescribe fees for certificates which may be issued in respect of such staff.

(3) Regulations under this section may provide for a contravention of any provision thereof to be an offence punishable on summary conviction by a fine not exceeding level 5 on the uniform scale.

Rules of games and operation of machines.

11. The Commission may make rules regulating the manner in which a prescribed game is to be played or a gaming machine operated in a casino.

Power of court to prohibit persons convicted of offences from entering casino.

12. (1) Where any person is convicted by a court of an offence and the court is of the opinion that by reason of the nature of that offence, or the circumstances under which it was committed, it is undesirable that the person so convicted should be permitted to enter a casino or any part or parts thereof, the court may make an order prohibiting him from entering a casino or the part or parts thereof specified in such order, for such period as may be specified therein.

(2) Where a court makes an order under the provisions of subsection (1), the Sergeant shall as soon as practicable serve a copy on every person who is the holder of a casino licence.

(3) Every person who contravenes an order under subsection (1) shall be guilty of an offence and be liable on summary conviction to a fine not exceeding level 3 on the uniform scale.

Licences not to be assigned.

13. A casino operator's licence is not capable of being assigned.

Prohibition of use of word "casino".

14. (1) Without prejudice to regulations under section 10, no person shall use the word "casino" as the name or part of the name of any trade or business premises unless the same are a casino or a part of a casino.

(2) Any person contravening subsection (1) shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the uniform scale.

Right of authorised person to enter casino.

15. (1) An authorised person may at any time enter a casino or any part thereof for the purposes of preventing or detecting the commission of any offence against the Guernsey Gambling Control Commission Law, 2001, the Hotel Casino Concession Law, 2001, this Ordinance or regulations made thereunder.

(2) For the avoidance of doubt, the right of entry under subsection (1), is, in the case of a police officer, exercisable in addition to, and shall not derogate from, any other lawful right of entry on to premises exercisable by a police officer.

(3) If any person, himself or by any person in his employ or acting with his consent, without reasonable excuse fails or refuses to admit an authorised person who requests entry to a casino or any part thereof in pursuance of this section he shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the uniform scale.

Offences by body corporate.

16. (1) Where an offence under this Law 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.

Approval of regulations.

17. (1) Regulations made by the Commission under section 10-

- (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."

Amendment of Slot Machines Ordinance, 1973.

18. The Slot Machines Ordinance, 1973^f is amended in the manner set out in the Schedule hereto.

Interpretation.

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

"authorised casino gaming" has the meaning given by section 1(2);

^f Recueil d'Ordonnances Tome XIX, p. 78.

"authorised person" means a police officer, a member of the Commission or an officer or servant of the Commission appointed in accordance with section 10(1) of the Guernsey Gambling Control Commission Law, 2001;

"beneficial owner" (for the purposes of section 7) has the meaning given by section 7(5);

"business day" means a day which is a business day within the meaning of section 1(1) of the Bills of Exchange (Guernsey) Law 1958^g;

"casino" has the meaning given by section 2(1);

"casino operator's licence" means a licence granted under section 2(1);

"Commission" means the Commission established by the Guernsey Gambling Control Commission Law, 2001;

"the Court" means the Royal Court;

"concession" has the same meaning as in the Hotel Casino Concession Law, 2001;

"gaming machine" has the same meaning as in the Gambling

^g Ordres en Conseil Vol. XVII, p. 384; Vol. XXIV, p. 84; and No. XI of 1993.

(Gaming and Lotteries) Ordinance, 1991^h;

"gaming room" means a room specified in a casino operator's licence in accordance with section 2(3);

"gaming table" means a table or board used for the playing of a prescribed game;

"gross daily receipts" has the meaning given by section 3(3);

"Guernsey company" means a body corporate the memorandum and articles of which are registered in the Register of Companies;

"police officer" means a member of the salaried police force or of the special constabulary of the Island of Guernsey;

"prescribed game" means a game prescribed by the Commission under section 10(2)(c);

"Register of Companies" has the same meaning as in the Companies (Guernsey) Law, 1994, as amendedⁱ;

"Sergeant" means Her Majesty's Sergeant;

"session" means the continuous period of time during which gaming may lawfully be carried on in a gaming room, by virtue of regulations made under section 10; and

^h Recueil d'Ordonnances Tome XXV, p. 348

ⁱ Orders in Council No. XXXIII of 1994; No. XIV of 1996.

"shares" means shares in the share capital of a body corporate and includes stock.

(2) In this Ordinance, except where the context otherwise requires-

(a) a reference to a numbered section, or to a numbered or lettered subdivision thereof, is to the section or subdivision thereof so identified in this Ordinance,

(b) a reference in a section to a numbered or lettered subdivision is to the subdivision so identified in that section, and

(c) a reference to any enactment is to that enactment as amended, repealed and replaced, extended or applied by or under any other enactment.

Extent.

20. This Ordinance shall have effect in the Islands of Guernsey, Herm and Jethou.

Citation.

21. This Ordinance may be cited as the Gambling (Casino Gaming) Ordinance, 2001.

Commencement.

22. This Ordinance shall come into force on the day appointed by Ordinance of the States.

SCHEDULE

Amendment of the Slot Machines Ordinance, 1973

1. In section 1(1) for "Any" substitute - "Subject to section 2, any".
2. After section 1 insert -

"2. For the purposes of this Ordinance, the term "slot machine" shall not include a gaming machine, the use of which is lawful under the provisions of the Gambling (Casino Gaming) Ordinance 2001." Application to gaming machines
3. Renumber sections 2,3 and 4 as sections 3, 4 and 5.