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THE GAMBLING (ELECTRONIC BETTING) (ALDERNEY) ORDINANCE, 2002

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THE GAMBLING (ELECTRONIC BETTING) (ALDERNEY) ORDINANCE 2002

THE STATES OF ALDERNEY, in pursuance of their Resolution of the 20th day of November, 2002, and in exercise of the powers conferred upon them by sections 6 and 10(3) of the Gambling (Alderney) Law, 1999, as amended¹, hereby order:

PART I

LAWFULNESS OF ELECTRONIC BETTING

1. A betting transaction shall not be unlawful gambling if-
- (a) the betting transaction is effected with an electronic betting centre licensee;
 - (b) the betting transaction is not effected by, with or through a young person;
 - (c) the betting transaction is not effected at any place other than an electronic betting centre licensee's approved premises, conducted and managed in accordance with the provisions of this Ordinance;

Lawful electronic betting.

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. The holder of an electronic betting centre licence issued by the Commission under section 14(1) acting in accordance with any conditions attached to it by the Commission under section 18 or 19 is thereby authorised to negotiate or enter into a betting transaction made lawful by this Ordinance with, or on behalf of, a stranger.

Electronic betting with strangers.

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

PART II
ELECTRONIC BETTING CENTRE LICENCES

Applications for electronic betting centre licences

**Application for
electronic betting
centre licence.**

3. (1) A person who wishes to obtain an electronic betting centre 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 the deposit of monies determined in accordance with section 4.

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

(a) at the same time supply to the Chief Officer of Police a copy of his application form as submitted to the Commission;

(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 an electronic betting centre 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.

4. (1) A person making an application under section 3 shall pay to the Commission the reasonable costs associated with processing, investigating and determining his application.
- (2) Upon making application for an electronic betting centre licence, the applicant shall deposit with the Commission the sum of £10,000, from which the Commission is permitted to draw the costs referred to in subsection (1).
- (3) If, prior to the determination of the application, the monies deposited with the Commission in accordance with this section have been exhausted, the Commission may by notice in writing to the applicant require the deposit of such further sum as it thinks necessary.
- (4) Where a notice under subsection (3) has been given, the Commission is not required to determine the application until the notice has been complied with.
- (5) After determining the application, the Commission shall repay to the applicant any monies not drawn by it from the monies deposited by the applicant in accordance with this section.
- (6) The Commission shall, whenever requested to do so by the applicant, account to him in respect of the

**Costs of
investigating
application**

costs as at that time incurred by the Commission in respect of the application.

**Electronic betting
centre licence
may only be
granted to
Alderney
resident.**

5. (1) The Commission shall not consider an application under section 3 unless it is made by—
- (a) an individual who satisfies the Commission that he is ordinarily resident in the Island; or
 - (b) a company incorporated in the Island and registered in the Register of Companies kept in accordance with the Companies (Alderney) Law, 1994², in which case subsection (2) shall also be satisfied.
- (2) The Commission shall not consider an application from a company unless it proposes one of the applicant's officers, servants or agents, being an individual who satisfies the Commission that he is ordinarily resident in the Island, as nominee to carry out the functions and duties conferred by this Ordinance.

**Chief Officer of
Police's report to
the Commission**

6. Within a period of 60 days from the date of the application under section 3, 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 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, any business or executive associate of the applicant or, as the case may be, the individual proposed as the applicant's nominee.

² Order in Council No. XXXIV of 1994.

7. (1) Where any objection to the grant of an electronic betting centre licence is raised—

Objection to application for electronic betting centre licence.

(a) by any person who in pursuance of section 3(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 give 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 Procurer,

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

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

8. (1) Subject to this section, the Commission shall consider an application that complies with sections 3, 4 and 5 and, after taking into account the economic and social policies (if any) approved and published by the States, 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.
- (5) Where a notice under subsection (4) has been given, the Commission shall give no further consideration to the application and section 4(5) shall have effect with the substitution for "determining" of "withdrawal of".

Grounds for refusal to grant application.

- 9. (1) The Commission shall refuse the grant of an electronic betting centre licence in any case where—
 - (a) it is not satisfied that the applicant is a fit and proper person to hold an electronic betting centre licence;
 - (b) it is not satisfied that each business or executive associate of the applicant is a fit and proper person to be associated with an electronic betting centre licensee's operations;
 - (c) it is not satisfied that the individual proposed by the applicant to be its nominee is a fit and proper person to carry out the functions and duties conferred by this Ordinance;
 - (d) the applicant or, as the case may be, the individual proposed by the applicant to be its nominee is—
 - (i) under the age of 18 years, or

- (ii) a person disqualified from holding a licence by virtue of any provision of this Ordinance; or
 - (e) the applicant has, within the 12 months immediately preceding the date of the application, been refused the grant or renewal of an electronic betting centre licence under paragraph (a).
 - (2) The Commission may refuse the grant of an electronic betting centre licence in any case where-
 - (a) the applicant or the individual proposed by the applicant to be its 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 any licence previously granted by the Commission to the applicant has not been properly conducted; or
 - (c) it is satisfied that the grant of the licence would not be consistent with the economic and social policies (if any) approved and published by the States; or
 - (d) it is not satisfied, having regard to the character, condition or lay-out of the premises, that they are suitable for use by an electronic betting centre licensee.
 - (3) The Commission may refuse to grant an application even if none of the matters mentioned in subsections (1) and (2) is satisfied.
10. (1) In deciding whether an applicant is a fit and proper person to hold an electronic betting centre licence, the Commission may have regard to the following matters—
- Suitability of applicant to hold electronic betting centre 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;
- (d) whether the applicant has the appropriate business ability to conduct an electronic betting centre successfully under an electronic betting centre licence;
- (e) if the applicant has a business association with another entity--
 - (i) the entity's character or business reputation; and
 - (ii) the entity's current financial position and financial background; and
- (f) where the applicant is not an individual, whether the applicant has, or has arranged, a satisfactory ownership, trust or corporate structure.

(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 an electronic betting centre 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 an electronic betting centre.

11. In deciding whether a business or executive associate of an applicant is a fit and proper person to be associated with an electronic betting centre licensee's operations, the Commission may have regard to the following matters—

Suitability of business and executive associates.

- (a) the person's character or business reputation;
- (b) the person's current financial position and financial background; and
- (c) if the person has a business association with another entity—
 - (i) the entity's character or business reputation; and
 - (ii) the entity's current financial position and financial background.

12. In deciding whether an individual proposed by an applicant is a fit and proper person to be a nominee of an electronic betting centre licensee, the Commission may have regard to the following matters—

Suitability of nominee.

- (a) the individual's character and, if appropriate, business reputation; and
- (b) whether the individual has the appropriate business or other general ability to carry out the functions and duties conferred by this Ordinance.

13. (1) The Commission may investigate an applicant to decide whether he is a fit and proper person to hold an electronic betting centre licence.

Investigations into suitability.

- (2) The Commission may investigate a business or executive associate of an applicant to decide whether the business or executive associate is a fit and proper person to be associated with an electronic betting centre licensee's operations.

- (3) The Commission may investigate an individual proposed by an applicant to be its nominee to decide whether the individual is a fit and proper person to carry out the functions and duties conferred by this Ordinance on a nominee of an electronic betting centre licensee.

Determination of application.

14. (1) If the Commission grants an application for an electronic betting centre licence, it shall promptly issue an electronic betting centre licence to the applicant.
- (2) If the Commission refuses to grant an application for an electronic betting centre licence, it shall give the applicant written notice of the decision and of the reasons for the refusal.

Period of validity of licence on first grant.

15. Unless surrendered, suspended or revoked under this Ordinance, a licence issued under section 14(1) shall be valid on such day as the Commission shall direct for a period of three years.

Annual fee in respect of electronic betting centre licence.

16. An electronic betting centre licensee shall pay to the Treasurer of the States—
- (a) within seven days of the Commission issuing his electronic betting centre 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 £75,000.

Form of electronic betting centre licence.

17. (1) An electronic betting centre 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 electronic betting centre licensee'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.

Electronic betting centre licence conditions.

18. An electronic betting centre licence may be issued subject to such conditions as the Commission considers necessary, expedient or desirable—

Conditions of electronic betting centre licence.

- (a) for the proper conduct of an electronic betting centre; or
- (b) in the public interest.

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

Varying or adding conditions of electronic betting centre licence.

- (a) for the proper conduct of an electronic betting centre; or
- (b) in the public interest,

it may by notice in writing (a “**condition notice**”) to an electronic betting centre licensee, vary or rescind a condition to which the electronic betting centre 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 electronic betting centre licensee; or
 - (b) such later day as is specified in the condition notice.

Modification to or change of approved premises.

20. (1) An electronic betting centre licensee who wishes to obtain the Commission's approval to a proposed modification to, or change of, the premises in respect of which he holds an electronic betting centre licence (the "**approved premises**") shall make application in that behalf to the Commission before effecting such modification or change.
- (2) An application under this section shall be in an approved form and accompanied by an application fee of £200, which shall not be reimbursable (whether or not the application is granted).
- (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 an electronic betting centre licence.
- (4) If the Commission grants an application under this section, it shall promptly issue to the electronic betting centre licensee written notice of its decision (a "**premises approval**").
- (5) If the Commission refuses to grant an application under this section, it shall give the electronic betting centre licensee notice of the decision and of the reasons for the refusal.

Return of electronic betting centre licence for endorsement of changed conditions.

21. (1) An electronic betting centre licensee shall return the electronic betting centre 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.
- (2) An electronic betting centre licensee 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 electronic betting centre licence, the Commission shall—
- (a) amend the licence in an appropriate way and return the amended licence to the electronic betting centre licensee; or
 - (b) if the Commission does not consider it is practicable to amend the licence, issue a replacement electronic betting centre 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 electronic betting centre licensee.
- (4) A change of conditions or, as the case may be, modification to, or change of, approved premises does not depend on the electronic betting centre licence being amended to record the change or modification or a replacement electronic betting centre licence being issued.

General provisions about electronic betting centre licences

22. (1) An electronic betting centre licensee may apply to the Commission for the renewal of his electronic betting centre licence.
- (2) The provisions of this Part, other than section 15, shall apply to the renewal of an electronic betting centre licence as they apply to the grant thereof.
- (3) Unless surrendered, suspended or revoked under this Ordinance, the period of validity of an electronic betting centre licence renewed under this section shall be 12 months.
23. (1) The Commission shall keep a register, in a book kept solely for that purpose, of all electronic betting centre

Renewal of electronic betting centre licences.

Register of electronic betting centre licences.

licences issued by the Commission under this Ordinance.

- (2) The Commission shall—
- (a) upon a court ordering the suspension or revocation of an electronic betting centre licence; or
 - (b) upon reaching any decision itself in respect of the continuing validity of an electronic betting centre licence; or
 - (c) upon the electronic betting centre licensee surrendering his electronic betting centre 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.

Electronic betting centre licence not transferable.

24. An electronic betting centre licence cannot be transferred.

Surrender of electronic betting centre licence.

25. (1) An electronic betting centre licensee may surrender his electronic betting centre 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 an electronic betting centre 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.

Suspension and revocation of electronic betting centre licences.

26. (1) A ground for suspending or revoking an electronic betting centre licence exists if--

Grounds for suspension or revocation of electronic betting centre licence.

- (a) the electronic betting centre licensee is not, or is no longer, a fit and proper person to hold an electronic betting centre licence;
- (b) a business or executive associate of the electronic betting centre licensee is not, or is no longer, a fit and proper person to be associated with the electronic betting centre licensee's operations;
- (c) the electronic betting centre licensee's nominee is not, or is no longer, a fit and proper person to carry out the functions and duties conferred by this Ordinance;
- (d) the electronic betting centre licensee has been convicted of an offence under the Law or any Ordinance made thereunder, or of any offence involving fraud or dishonesty;
- (e) the electronic betting centre licensee has contravened a condition of his licence;
- (f) the electronic betting centre licensee has contravened a provision of this Ordinance, being a provision the contravention of which does not constitute an offence;

- (g) the electronic betting centre licensee has failed to discharge a financial commitment for his operations;
 - (h) the electronic betting centre licence was obtained by a materially false or misleading representation or in some other improper way.
- (2) When considering whether the ground referred to in paragraph (a) of subsection (1) exists, the Commission may have regard to the matters to which it may have regard in deciding whether an applicant is a fit and proper person to hold an electronic betting centre licence.
- (3) When considering whether the ground referred to in paragraph (b) of subsection (1) exists, the Commission may have regard to the matters to which it may have regard in deciding whether a business or executive associate of an applicant is a fit and proper person to be associated with an electronic betting centre licensee's operations.
- (4) When considering whether the ground referred to in paragraph (c) of subsection (1) exists, the Commission may have regard to the matters to which it may have regard in deciding whether an individual proposed by an applicant as its nominee is a fit and proper person to carry out the functions and duties conferred by this Ordinance.

Direction to rectify.

27. (1) This section applies where the Commission believes that—
- (a) a ground referred to in section 26(1) exists;
 - and
 - (b) it is appropriate to give the electronic centre licensee an opportunity to rectify the matter or

matters that give rise to the Commission's belief that such a ground exists.

- (2) The Commission shall give to the electronic betting centre licensee written notice that the Commission proposes to give him a direction under this section and a reasonable opportunity to make representations about the proposed direction.
- (3) After considering any representations made by the electronic betting centre licensee, the Commission may, by written notice to him, direct him to rectify the matter or matters specified in the notice in a manner specified in the notice within the period of time specified in the notice.
- (4) The period of time stated in the notice shall be reasonable having regard to the nature of the matter or matters to be rectified.
- (5) A notice under this section shall
 - (a) state the reasons for the decision to give the direction; and
 - (b) warn the electronic betting centre licensee of the consequences of failing to comply with the notice as specified in section 29.

28. (1) The Commission may suspend an electronic betting centre licence under this section if it is satisfied on reasonable grounds that—

Immediate suspension.

- (a) a ground referred to in section 26(1) exists;
- (b) the urgency of the matter does not permit the taking of action under section 27; and
- (c) the circumstances require that the licence be suspended to ensure that—

- (i) the public interest is not affected in an adverse and material way; or
- (ii) the integrity of the conduct of an electronic betting centre by the electronic betting centre licensee is not jeopardised in any way.

(2) A suspension under this section—

- (a) shall be effected by written notice (a “**suspension notice**”) given to the electronic betting centre licensee;
- (b) takes effect immediately when the suspension notice is given; and
- (c) is for such period of time as is specified in the suspension notice.

Suspension after direction to rectify.

29. (1) The Commission may suspend an electronic betting centre licence under this section if a direction under section 27 has not been complied with.

(2) A suspension under this section—

- (a) shall be effected by a suspension notice;
- (b) takes effect immediately when the suspension notice is given; and
- (c) is for such period of time as is specified in the suspension notice.

Cancellation or reduction of period of suspension.

30. The Commission may, by written notice to an electronic betting centre licensee whose electronic betting centre licence is, or is about to be, suspended—

- (a) cancel the suspension; or

- (b) reduce the remaining period of the suspension by a period of time specified in the notice.

31. (1) This section applies where the Commission believes that—

**Sanctions short
of suspension
financial
penalties.**

- (a) a ground referred to in section 26(1) exists; and

- (b) the circumstances are such that it is unnecessary to suspend or revoke the electronic betting centre licence in accordance with section 28, 29 or 32.

(2) The Commission shall give to the electronic betting centre licensee written notice that the Commission is considering imposing a financial penalty under this section and offering a reasonable opportunity to make representations about the imposition of such a penalty at a hearing before the Commission or, at the licensee's election, in writing.

(3) After considering any oral or written representations made by, or on behalf of, an electronic betting centre licensee, the Commission may, by notice in writing to the licensee, impose a financial penalty on the licensee.

(4) A financial penalty imposed by the Commission under subsection (3)—

- (a) shall not exceed £25,000; and

(b) may be imposed—

- (i) whether or not a direction under section 28 has been made; and

- (ii) if such a direction has been made,

whether or not the electronic betting centre licensee has complied with it.

- (5) Where the Commission has given a notice under subsection (2) and believes that the situation of the electronic betting centre licensee arose with the consent or connivance of, or was attributable to any neglect on the part of, a key personnel licensee of the electronic betting centre licensee, the Commission may, at the same time or subsequently, give to that key personnel licensee written notice that the Commission is considering imposing a financial penalty on him and offering a reasonable opportunity to make representations about the imposition of such a penalty at a hearing before the Commission or, at the key personnel licensee's election, in writing.
- (6) After considering any oral or written representations made by, or on behalf of, a key personnel licensee, the Commission may, by notice in writing to the licensee, impose a financial penalty on the licensee.
- (7) A financial penalty imposed by the Commission under subsection (6) shall not be greater than the amount of the penalty imposed on the electronic betting centre licensee under subsection (3).
- (8) A financial penalty imposed under subsection (3) or (6) shall, unless the Commission directs that it shall be suspended, become payable with immediate effect upon receipt of the notice, in which case the full amount of the penalty shall be paid to the Treasurer of the States within seven days.
- (9) Where the Commission directs suspension of a financial penalty in accordance with subsection (8), it shall specify in the notice given under subsection (3) or (6) the period, which shall not in any event exceed

12 months, during which the penalty is capable of being activated and, at the end of the period so specified, the penalty shall no longer be capable of taking effect.

- (10) Where during the period of suspension the Commission is satisfied on reasonable grounds that a ground referred to in section 26(1) exists, the Commission shall give to the licensee in question written notice that the Commission is considering activating the financial penalty suspended in accordance with subsections (8) and (9) and offering a reasonable opportunity to make representations about the activation of the penalty at a hearing before the Commission or, at the licensee's election, in writing.
- (11) After considering any oral or written representations made by, or on behalf of, the licensee and having regard to all the circumstances which have arisen since the financial penalty suspended in accordance with subsections (8) and (9) was imposed, the Commission shall direct by notice in writing to the licensee that the penalty—
 - (a) shall be payable with immediate effect—
 - (i) with the original amount unaltered; or
 - (ii) with the substitution of a lesser amount for the original amount, in which case that amount shall be paid to the Treasurer of the States within seven days of receipt of the notice; or
 - (b) shall be suspended for such further period not exceeding 12 months as it specifies; or
 - (c) shall not be activated on this occasion and shall continue unaltered.

- (12) At a hearing under this section—
 - (a) an electronic betting centre licensee or a key personnel licensee shall be entitled to appear and be heard or to be represented by an advocate; and
 - (b) unless the Commission otherwise directs, the hearing shall be in public.
- (13) The Commission shall give a copy of every notice to an electronic betting centre licensee or, as the case may be, a key personnel licensee under subsections (3), (6) and (11) requiring immediate payment of a financial penalty to the Treasurer of the States at the same time it gives the notice to the licensee.
- (14) In default of payment by the due date of a financial penalty imposed under this section, and without prejudice to any action that the Commission may as a result of that default, the States may proceed to enforce payment as if the amount due were a civil debt.

Revocation of electronic betting centre licence.

- 32. (1) Subject to this section, the Commission may, by notice in writing (a **“revocation notice”**) to an electronic betting centre licensee, revoke his electronic betting centre licence if—
 - (a) it is satisfied on reasonable grounds that—
 - (i) a ground referred to in section 26(1) exists; and
 - (ii) the circumstances on which the ground is based are of a serious and fundamental nature; or
 - (b) a direction under section 27 has not been complied with, being a direction given on grounds based on circumstances of a serious and fundamental nature.

- (2) The Commission shall not revoke an electronic betting centre licence under paragraph (a) of subsection (1) unless it is satisfied that, unless the licence is revoked-
 - (a) the integrity of the conduct of an electronic betting centre by the electronic betting centre licensee may be jeopardised in a material way; or
 - (b) the public interest may be affected in an adverse or material way.
- (3) Revocation of an electronic betting centre licence takes effect when the revocation notice is given or, if the revocation notice specifies a later day, on the later day.
- (4) A person whose electronic betting centre licence has been revoked shall return the licence to the Commission within seven days of receiving a revocation notice.
- (5) A person who, without reasonable excuse, fails to comply with subsection (4) shall be guilty of an offence and liable, on conviction, to a fine not exceeding level 5 on the Alderney uniform scale.

33. (1) Where an electronic betting centre licensee 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 electronic betting centre licence issued to the person convicted shall be suspended for such period as the court may order or shall be revoked.

Court order for suspension or revocation of electronic betting centre licence.

- (2) An order made under subsection (1) shall not take effect-

- (a) until after the expiration of the period within which notice of appeal against 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 that appeal.
- (3) Where, in pursuance of subsection (1), a court has ordered the revocation of an electronic betting centre 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 for a period of five years from the date of the conviction which gave rise to the order or for such shorter period as the court may direct.

PART III
NOMINEES

Requirement for approved nominee.

34. (1) An electronic betting centre licensee that is a company may exercise its electronic betting centre licence only if it has a nominee approved by the Commission.
- (2) A nominee approved by the Commission shall always hold a valid key personnel licence issued under section 45(1).
- (3) Where a nominee's key personnel licence is surrendered, suspended or revoked under this Ordinance, the Commission's approval for that nominee shall, by virtue of this subsection, be withdrawn.

Functions and duties of nominee.

35. (1) A nominee approved by the Commission shall personally supervise the exercise of the electronic betting centre licence in respect of which he is the nominee.

- (2) In relation to any of the Commission's functions and duties under this Ordinance or the Law, an electronic betting centre licensee shall authorise its nominee to deal with the Commission as if the nominee were himself the electronic betting centre licensee.
- (3) Any notice required to be given by the Commission to an electronic betting centre licensee under this Ordinance shall also be given to that licensee's nominee and acted upon by the nominee as if he were himself the electronic betting centre licensee.
- (4) Subject to the provisions of section 36, a nominee shall not absent himself from the Island—
 - (a) for any single period exceeding 14 days; and
 - (b) cumulatively for more than 42 days in any period of 12 months.

36. (1) A nominee desiring to absent himself for any period in excess of those specified in section 35(4) shall, before so absenting himself, apply to the Commission for permission to that effect.

Absence of nominee.

- (2) An application under subsection (1) shall propose—
 - (a) where the Commission has approved an alternate nominee under section 37, that person; or
 - (b) in any other case, a person eligible to be a nominee of an electronic betting centre licensee under this Ordinance,

to act as temporary nominee during the nominee's absence and, in default of proposing such a person, the application shall be refused.

- (3) On application being made to it under this section, the Commission may approve a temporary nominee

for such period and subject to such conditions as it considers necessary, expedient or desirable.

- (4) A temporary nominee approved under this section shall for the period to which the approval under this section relates perform the same functions and be subject to the same duties as if he were the electronic betting centre licensee's nominee.

Alternate nominee.

37. (1) An electronic betting centre licensee who wishes to obtain approval from the Commission of an alternate nominee shall make application in that behalf to the Commission.
- (2) An application under this section shall be in an approved form and accompanied by an application fee of £250, which shall not be reimbursable (whether or not the application is granted).
- (3) The Commission shall determine an application under this section by reference to the same criteria that are applied in approving a nominee of an applicant for an electronic betting centre licence.
- (4) An alternate nominee approved by the Commission under this section shall act as an electronic betting centre licensee's nominee for the purposes of this Ordinance only in the absence of that nominee.
- (5) An electronic betting centre licensee shall, prior to an alternate nominee acting as nominee for the purposes of this Ordinance, notify the Commission of the dates and times at which its alternate nominee will be so acting.

Replacement nominee.

38. (1) In the absence of an alternate nominee to act as nominee, upon the decease of an electronic betting centre licensee's approved nominee or upon that nominee being certified by a medical practitioner authorised to practise in the Island as being unfit to continue to act as nominee, within 7 days, the

electronic betting centre licensee shall propose to the Commission another of its officers, servants or agents, being an individual who satisfies the Commission that he is ordinarily resident in the Island, as replacement nominee to carry out the functions and duties conferred by this Ordinance on a nominee of an electronic betting centre licensee.

- (2) An electronic betting centre licensee who wishes to obtain approval from the Commission to replace its nominee or, as the case may be, its alternate nominee shall make application in that behalf to the Commission.
- (3) An application under subsection (2) shall be in an approved form and accompanied by a fee of £250, which shall not be reimbursable (whether or not the application is granted).
- (4) The Commission shall determine a proposal under subsection (1) or an application under subsection (2) by reference to the same criteria that are applied in approving a nominee of an applicant for an electronic betting centre licence.

39. (1) Where a nominee, alternate nominee or temporary nominee of an electronic betting centre licensee 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 person shall be disqualified from being any type of nominee and from holding any licence issued under the provisions of this Ordinance for such period not exceeding five years from the date of conviction as the court may direct.

**Disqualification
of nominee.**

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

- (a) until after the expiration of the period within which notice of appeal against 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 that appeal.

PART IV
KEY PERSONNEL

Key personnel licences

Requirement to hold key personnel licence.

40. (1) A person shall not, without reasonable excuse—
- (a) accept employment as a key person; or
 - (b) agree to carry out as an employee the duties of a key person,
- unless the person holds a key personnel licence.
- (2) An electronic betting centre licensee shall not employ a person to carry out the functions of a key person unless the person holds a valid key personnel licence.
- (3) A person who contravenes subsection (1) or (2) shall be guilty of an offence and liable, on conviction, to a fine not exceeding £25,000.

Requirement to terminate unlicensed key person role.

41. (1) This section applies where—
- (a) a person has applied for a key personnel licence; and
 - (b) the application has been refused.
- (2) Where this section applies, the Commission may, by written notice (a “**termination notice**”) given to—

- (a) the person referred to in subsection (1); and
- (b) the electronic betting centre licensee with whom the Commission believes that a key relationship exists,

require both of them to terminate the relevant key relationship within the period of time stated in the termination notice.

- (3) A person who, without reasonable excuse, fails to comply with a requirement under subsection (2) within the period of time stated in the termination notice 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 £25,000.

42. (1) An application for a key personnel licence shall be made to the Commission in an approved form.

**Application for
key personnel
licence.**

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

- (a) a letter from an electronic betting centre licensee addressed to the Commission confirming the existence, or proposed existence, of the key relationship;

- (b) two copies of a recent photograph of the face of the applicant; and

- (c) an application fee of £250, which shall not be reimbursable (whether or not the application is granted).

(3) The Commission may, by written notice given to an applicant for a key personnel licence, require the applicant to give the Commission further information or a document that is necessary and reasonable to help the Commission determine the application.

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

Consideration of application.

43. (1) The Commission shall consider an application for a key personnel licence and, subject to this section, either grant or refuse to grant it.
- (2) The Commission may grant an application for a key personnel licence only if—
- (a) it is satisfied of the existence, or the proposed existence, of a key relationship; and
 - (b) it is satisfied that the applicant is a fit and proper person to hold a key personnel licence.
- (3) In determining whether an applicant is a fit and proper person to hold a key personnel licence, the Commission may have regard to the following matters—
- (a) the application and the documents submitted with it;
 - (b) the applicant's character;
 - (c) the applicant's current financial position and financial background;
 - (d) the applicant's general suitability to carry out functions for an electronic betting centre licensee as a key person; and
 - (e) if appropriate, the fact that the applicant holds, or has held, a licensed position in respect of gambling in the Island or anywhere else in the world.

Investigation into suitability.

44. The Commission may investigate an applicant for a key personnel licence to decide whether he is a fit and proper person to hold a key personnel licence.

- 45. (1)** If the Commission decides to grant an application for a key personnel licence, it shall, as soon as practicable—
- Decision on application.**
- (a) issue a key personnel licence to the applicant; and
 - (b) give written notice of the issue of the licence to the relevant electronic betting centre licensee.
- (2)** If the Commission decides to refuse to grant an application for a key personnel licence, it shall, as soon as practicable—
- (a) notify the applicant in writing of the decision and the reasons for the decision; and
 - (b) unless the Commission is not satisfied that a key relationship exists, give a copy of that notice to the relevant electronic betting centre licensee.
- 46. (1)** A key personnel licence shall be in a form approved by the Commission.
- Form of key personnel licence.**
- (2)** The approved form shall provide for the inclusion of the following particulars—
- (a) the key personnel licensee's name;
 - (b) a recent photograph of the key personnel licensee;
 - (c) the date of issue of the licence;
 - (d) the conditions to which the licence is subject; and
 - (e) any other prescribed particulars.
- 47.** The Commission may issue a key personnel licence—
- Conditions of key personnel licence.**
- (a) on conditions it considers necessary, expedient

or desirable for the proper conduct of an electronic betting centre; or

(b) on other conditions it considers necessary, expedient or desirable in the public interest.

Varying or adding key personnel licence conditions.

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

(a) for the proper conduct of an electronic betting centre; or

(b) in the public interest,

it may by notice in writing (a “**condition notice**”) to a key personnel licensee, vary or rescind a condition to which the key personnel licence is subject, or add a condition.

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

(3) The Commission shall give a copy of the condition notice to the relevant electronic betting centre licensee at the same time it gives a condition notice to the key personnel licensee.

(4) A change of conditions takes effect on—

(a) the day on which the condition notice is given to the key personnel licensee; or

(b) such later day as is specified in the condition notice.

Return of key personnel licence for endorsement of changed conditions.

49. (1) A key personnel licensee shall return his key personnel licence to the Commission within seven days of receiving a condition notice notifying a change of conditions.

(2) A person 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 key personnel licence, the Commission shall—

(a) amend the licence in an appropriate way and return the amended licence to the key personnel licensee; or

(b) if the Commission does not consider it is practicable to amend the licence, issue a replacement key personnel licence free of charge, incorporating the change of conditions, to the key personnel licensee.

(4) A change of conditions does not depend on the key personnel licence being amended to record the change or a replacement key personnel licence being issued.

50. Subject to any condition to the contrary, a key personnel licence remains valid until it lapses or is surrendered or revoked.

Period of validity of key personnel licence.

51. (1) Where—

(a) written application, accompanied by two copies of a recent photograph of the face of the key personnel licensee, is made to the Commission for issue of a duplicate of a key personnel licence; and

(b) the Commission is satisfied that the key personnel licence has been lost, stolen, destroyed or damaged in such way as to warrant replacement,

the Commission may, upon payment of a fee of £20, issue a duplicate key personnel licence to the key personnel licensee.

Duplicate key personnel licence.

- (2) A duplicate key personnel licence shall be on the same terms, and be subject to the same conditions, as the licence it replaces (the “**original licence**”).
- (3) If at any time while a duplicate key personnel licence is in force the original licence is found, the person to whom the original licence was issued, if it is in his possession, shall return it to the Commission or, if it is not in his possession but he becomes aware that it has been found, shall take all reasonable steps to obtain possession of it and, if successful, shall return it as soon as practicable to the Commission.
- (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 4 on the Alderney uniform scale.

Lapsing of key personnel licence.

52. A key personnel licence lapses if there has been no key relationship between the key personnel licensee and an electronic betting centre licensee for a continuous period of six months.

Surrender of key personnel licence.

53. (1) A key personnel licensee may surrender his key personnel licence by written notice (a “**surrender notice**”) given to the Commission.

(2) The surrender takes effect—

- (a) on the day the surrender notice is given to the Commission; or
- (b) if a later day of effect is stated in the surrender notice, that later day.

(3) A person who has surrendered a key personnel 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 4 on the Alderney uniform scale.

Suspension and revocation of key personnel licences.

54. (1) A ground for suspending or revoking a key personnel licence exists if—
- (a) the key personnel licensee is not, or is no longer, a fit and proper person to hold a key personnel licence;
 - (b) the key personnel licensee has been convicted of an offence under the Law or any Ordinance made thereunder, or of any offence involving fraud or dishonesty;
 - (c) the key personnel licensee has contravened a condition of his licence;
 - (d) the key personnel licensee has contravened a provision of this Ordinance, being a provision the contravention of which does not constitute an offence;
 - (e) the key personnel licence was obtained by a materially false or misleading representation or declaration or in some other improper way.
- (2) When considering whether the ground referred to in paragraph (a) of subsection (1) exists, the Commission may have regard to the matters to which it may have regard in deciding whether an applicant for a key personnel licence is a fit and proper person to hold a key personnel licence.

Grounds for suspension or revocation of key personnel licence.

55. (1) This section applies where the Commission believes that—

Direction to rectify.

- (a) a ground referred to in section 54(1) exists; and
 - (b) it is appropriate to give the key personnel licensee an opportunity to rectify the matter or matters that give rise to the Commission's belief that such a ground exists.
- (2) The Commission shall give to the key personnel licensee written notice that the Commission proposes to give him a direction under this section and a reasonable opportunity to make representations about the proposed direction.
- (3) After considering any representations made by, or on behalf of, the key personnel licensee, the Commission may, by written notice to him, direct him to rectify the matter or matters specified in the notice in a manner specified in the notice within the period of time specified in the notice.
- (4) The period of time stated in the notice shall be reasonable having regard to the nature of the matter or matters to be rectified.
- (5) A notice under this section shall—
 - (a) state the reasons for the decision to give the direction; and
 - (b) warn the key personnel licensee of the consequences of failing to comply with the notice as specified in section 58.
- (6) The Commission shall give a copy of a notice given under this section to the relevant electronic betting centre licensee at the same time it gives the notice to the key personnel licensee.

Immediate suspension.

- 56. (1) The Commission may suspend a key personnel licence under this section if it is satisfied on reasonable grounds that—

- (a) a ground referred to in section 54(1) exists;
- (b) the urgency of the matter does not permit the taking of action under section 55; and
- (c) the circumstances require that the licence be suspended to ensure that–
 - (i) the public interest is not affected in an adverse and material way; or
 - (ii) the integrity of the conduct of an electronic betting centre by the electronic betting centre licensee is not jeopardised in any way.

(2) A suspension under this section–

- (a) shall be effected by written notice (a “**suspension notice**”) given to the key personnel licensee;
- (b) takes effect immediately when the suspension notice is given; and
- (c) is for such period of time as is specified in the suspension notice.

57. The Commission may, by written notice to a key personnel licensee whose key personnel licence is, or is about to be, suspended–

Cancellation or reduction of period of suspension.

- (a) cancel the suspension; or
- (b) reduce the remaining period of the suspension by a period of time specified in the notice.

58. (1) Subject to this section, the Commission may, by notice in writing (a “**revocation notice**”) to a key personnel licensee, revoke his key personnel licence if–

Revocation of key personnel licence.

- (a) it is satisfied on reasonable grounds that-
 - (i) a ground referred to in section 54(1) exists;
and
 - (ii) the circumstances on which the ground is based are of a serious and fundamental nature; or
 - (b) a direction under section 55 has not been complied with.
- (2) The Commission shall not revoke a key personnel licence under paragraph (a) of subsection (1) unless it is satisfied that, unless the licence is revoked-
- (a) the integrity of the conduct of an electronic betting centre by the electronic betting centre licensee may be jeopardised in a material way; or
 - (b) the public interest may be affected in an adverse or material way.
- (3) Revocation of a key personnel licence takes effect when the revocation notice is given or, if the revocation notice specifies a later day, on the later day.
- (4) A person whose key personnel licence has been revoked shall return the licence to the Commission within seven days of receiving a revocation notice.
- (5) A person who, without reasonable excuse, fails to comply with subsection (4) shall be guilty of an offence and liable, on conviction, to a fine not exceeding level 5 on the Alderney uniform scale.

Notification of employees

- 59.** (1) Within seven days after a key personnel licensee commences to perform functions for an electronic betting centre licensee, the licensee shall notify the Commission of the commencement by notice in the approved form.
- (2) A person who, without reasonable excuse, fails to comply with a requirement under subsection (1) shall be guilty of an offence and liable, on conviction, to a fine not exceeding level 5 on the Alderney uniform scale.
- 60.** (1) The Commission may, by written notice given to an electronic betting centre licensee, require the licensee to give a return under this section.
- (2) The notice shall state a time, being not less than 14 days after the notice is given, for giving the return.
- (3) A notice shall not be given under this section within one month after the giving of a previous notice under this section.
- (4) An electronic betting centre licensee who is given a notice under subsection (1) shall give a return as required by this section listing the employees currently employed by the electronic betting centre licensee and performing functions in respect of the operations of the licensee under his electronic betting centre licence, including both those who are key personnel licensees and those who are not, and the nature of the duties in which each of them is engaged.
- (5) A return under this section—
- (a) shall be in the approved form; and

Notice of commencement of key personnel licensees.

Returns about employees.

(b) shall be given to the Commission within the time stated in the notice.

- (6) A person who, without reasonable excuse, fails to comply with a requirement under this section shall be guilty of an offence and liable, on conviction, to a fine not exceeding £25,000.

Termination of key relationships

Notice of end of key relationship.

61. (1) Within seven days after a key relationship between an electronic betting centre licensee and another person terminates, the electronic betting centre licensee shall notify the Commission of the end of the relationship by notice in the approved form.

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

Requirement to terminate key relationship.

62. (1) This section applies where—

- (a) a key relationship exists between an electronic betting centre licensee and a key personnel licensee; and
- (b) the key personnel licensee ceases to hold a key person licence because of revocation or for any other reason.

(2) The Commission may, by written notice given to the electronic betting centre licensee, require the electronic betting centre licensee to terminate the key relationship within the time specified in the notice.

- (3) An electronic betting centre licensee shall comply with a requirement under subsection (2).

PART V
COMPLIANCE CONTROLS

Control systems

- 63.** (1) An electronic betting centre licensee may exercise his electronic betting centre licence only if—
- Electronic betting centre to be conducted under approved control system.**
- (a) he has obtained approval of a control system by the Commission; and
- (b) betting transactions are effected under the system.
- (2) An electronic betting centre licensee may change the approved control system only—
- (a) if directed by, or with the approval of, the Commission; and
- (b) in the way directed or approved by the Commission.
- 64.** (1) An electronic betting centre licensee shall make a submission in writing, prepared at his own cost and by, or with the approval of, his auditors (a "**control system submission**"), to the Commission
- Control system submission.**
- (a) before effecting betting transactions; and
- (b) before effecting any change to an existing approved control system.
- (2) A control system submission shall describe and explain the electronic betting centre licensee's proposed control system.
- (3) Without prejudice to the generality of subsection (2), a control system submission shall include information about—

- (a) the following things to be used for the conduct of the electronic betting centre—
 - (i) accounting systems and procedures and chart of accounts;
 - (ii) administrative systems and procedures;
 - (iii) computer software;
 - (iv) standard forms and terms;
 - (b) the general procedures to be followed for the effecting of betting transactions;
 - (c) the procedures and standards for the maintenance, security, storage and transportation of equipment to be used for the effecting of betting transactions;
 - (d) the procedures for recording bets and paying winnings won in a betting transaction;
 - (e) the procedures for using and maintaining security facilities; and
 - (f) the positions to be designated as key positions.
- (4) A control system submission may include information additional to the information mentioned in subsection (3).

Consideration of and decisions about control system submissions.

65. (1) The Commission shall consider a control system submission and either approve it or refuse to approve it.
- (2) In considering a control system submission, the Commission may, by written notice given to the electronic betting centre licensee, require the licensee—
- (a) to give the Commission such further information about the submission as is specified in the notice

and is necessary and reasonable to help the Commission to make a decision about the submission; or

- (b) to allow the Commission, by its servants or agents, to submit the proposed control system, or the approved control system as proposed to be changed, to tests.
- (3) If the Commission carries out tests in accordance with subsection (2)(b), the electronic betting centre licensee shall pay to the Commission the reasonable costs incurred by the Commission associated with carrying out those tests.
- (4) In considering whether to give an approval, the Commission shall have regard to—
- (a) whether the control system submission satisfies the requirements of this Ordinance; and
 - (b) whether the electronic betting centre licensee's proposed control system, or the approved control system as proposed to be changed, is capable of providing satisfactory and effective control over the management and conduct of an electronic betting centre.
- (5) The Commission may refuse to give an approval if—
- (a) without reasonable excuse, the electronic betting centre licensee fails to comply with a requirement under subsection (2); or
 - (b) the costs payable under subsection (3) have not been paid to the Commission.
- (6) The Commission shall promptly give to the electronic betting centre licensee a written notice of the Commission's decision to give, or refuse to give, an approval.

- (7) If the Commission decides to refuse to give an approval, the notice under subsection (6) shall state the reasons for the decision and, if the Commission believes that the submission is capable of being easily rectified to enable the Commission to give an approval, the notice shall also—
- (a) explain how the submission may be changed; and
 - (b) invite the electronic betting centre licensee to resubmit the control system submission after making the appropriate changes.

Direction to change approved control system.

66. (1) The Commission may, by written notice given to an electronic betting centre licensee, direct the licensee to change the licensee's approved control system within the time, and in the way, stated in the notice.
- (2) An electronic betting centre licensee shall comply with a direction under subsection (1).
- (3) A person who, without reasonable excuse, fails to comply with a direction under this section shall be guilty of an offence.
- (4) If an electronic betting centre licensee does not comply with a direction under subsection (1), the approval for the electronic betting centre licensee's control system shall, by virtue of this subsection, be withdrawn.

Customers effecting betting transactions

Requirement for customer to be registered.

67. (1) An electronic betting centre licensee shall not permit a person to effect a betting transaction unless the person is registered with the licensee as a customer.
- (2) A person who fails to comply with subsection (1) shall be guilty of an offence.

(3) A person shall not effect a betting transaction as a customer of an electronic betting centre licensee unless he is registered as a customer with the licensee who also effects that betting transaction.

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

68. (1) An electronic betting centre licensee may only register a person as a customer on receipt of an application for registration in an approved form.

Procedure for registration of customer.

(2) A person is not eligible for registration as a customer unless he produces evidence of a kind required by the Commission—

(a) of his identity and place of residence; and

(b) that he is at least 18 years of age.

69. (1) An electronic betting centre licensee shall not register a person as a customer unless—

Restrictions for registration.

(a) the person's identity has been authenticated; and

(b) the person's place of residence has been verified, under the licensee's approved control system.

(2) An electronic betting centre licensee shall not register one of his employees, whether a key personnel licensee or not, as a customer.

(3) A person who fails to comply with subsection (1) or (2) shall be guilty of an offence and liable, on conviction, to a fine not exceeding £25,000.

70. (1) An electronic betting centre licensee shall, at the request of a registered customer, remit funds standing to the credit of that customer as directed by

Dealings involving customer's funds.

the customer no later than the first business day after the request is received.

- (2) A person 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 £25,000.
- (3) An electronic betting centre licensee shall not have recourse to funds in a customer's account except—
 - (a) to debit to the account a wager made by the customer or an amount the customer indicates he wants to wager in the course of effecting a betting transaction;
 - (b) to remit funds standing to the credit of the account to the customer at the customer's request; or
 - (c) as otherwise authorised under this Ordinance.
- (4) If a customer with a customer's account has winnings arising from a betting transaction effected with an electronic betting centre licensee, the licensee shall immediately credit the amount of the winnings to the customer's account.
- (5) A person who, without reasonable excuse, fails to comply with subsection (3) or (4) shall be guilty of an offence.
- (6) In subsection (1), "business day" means a day on which banks are open in the Island.

Limitation on permitted amount of customer's wagers.

71. (1) A registered customer may, by written notice to an electronic betting centre licensee, set a limit on the amount the customer may wager.
- (2) A limit may be set under subsection (1)–

- (a) in relation to one betting transaction or any number of single or combined betting transactions;
 - (b) by way of a maximum limit that may be wagered over a number of betting transactions specified in the notice or effected during a period of time specified in the notice; or
 - (c) at zero.
- (3) An electronic betting centre licensee who has received a notice under subsection (1) shall not debit a wager to a customer's account in excess of a limit set out in the notice.
- (4) A person who fails to comply with subsection (3) shall be guilty of an offence and liable, on conviction, to a fine not exceeding £25,000.
- (5) A customer who has set a limit under this section may change or remove the limit by written notice given to the electronic betting centre licensee.
- (6) A notice increasing or removing a limit shall not have effect unless—
- (a) seven days have passed since the electronic betting centre licensee received the notice; and
 - (b) the customer has not notified the electronic betting centre licensee of his intention to withdraw the notice.
- (7) A notice reducing a limit has effect on its receipt by the electronic betting centre licensee.
72. (1) Application may be made to the Commission in the approved form for an order—

**Prohibition of
electronic betting
centre.**

- (a) prohibiting a person who is a registered customer from effecting betting transactions at electronic betting centres; or
 - (b) revoking an order under paragraph (a).
- (2) An application under this section may only be made by–
- (a) a person who seeks a prohibition, or the revocation of a prohibition, against himself; or
 - (b) a person who satisfies the Commission of a close personal interest in the welfare of the person against whom a prohibition is sought.
- (3) If the application is made by a person other than the person against whom the prohibition is sought or has been imposed (the “**affected person**”), the Commission shall–
- (a) give to the affected person written notice of the application and the reasons for it; and
 - (b) invite the affected person to make representations to the Commission about the application within a reasonable period of time stated in the notice.
- (4) The Commission shall, after considering any representations from the person making the application and, if that person is not the affected person, the affected person–
- (a) if satisfied that the order sought in the application should be made in the interests of the affected person and the public interest, make the order; or
 - (b) if not so satisfied, refuse to make the order.

- (5) The Commission shall, as soon as practicable after making a decision under subsection (4), give written notice of the decision and the reasons for the decision to the person making the application and, if the affected person is not that person, the affected person.
- (6) If an order is made on the application, the Commission shall give copies of the order to
- (a) the affected person; and
 - (b) all electronic betting centre licensees.
- (7) An electronic betting centre licensee to whom a copy of an order imposing a prohibition has been given shall not accept a wager from a person, or allow a person in any other way to effect betting transactions, contrary to the prohibition.
- (8) A person who fails to comply with subsection (7) shall be guilty of an offence and liable, on conviction, to a fine not exceeding £25,000.

Monitoring and investigations

73. An electronic betting centre licensee shall, at the request of the Commission, do anything reasonably necessary to allow a servant or agent of the Commission to monitor the licensee's operations.

Monitoring operations.

74. (1) The Commission may take action under this section to ensure the integrity of the conduct of an electronic betting centre.

Presence at certain operations.

(2) The Commission may, by written notice given to an electronic betting centre licensee, direct the licensee not to do a stated thing in the conduct of an electronic betting centre unless a servant or agent of the Commission is present.

- (3) A person who, without reasonable excuse, fails to comply with a direction under subsection (2) shall be guilty of an offence and liable, on conviction, to a fine not exceeding £25,000.

**Special
investigation by
Commission.**

75. (1) This section applies where, in the opinion of the Commission, it is necessary for it to conduct a special investigation into—

- (a) an electronic betting centre licensee;
 - (b) a business or executive associate of an electronic betting centre licensee;
 - (c) a key personnel licensee having a key relationship with an electronic betting centre licensee; or
 - (d) any aspect of the operations of an electronic betting centre licensee under his electronic betting centre licence.
- (2) Subject to subsection (3), the Commission shall by notice in writing (an “**investigation notice**”) to the electronic betting centre licensee inform the licensee that a special investigation will be conducted and the reasons for the investigation.
- (3) If the nature of the special investigation is such that a prior investigation notice to the electronic betting centre licensee would be likely to compromise the investigation, the Commission may dispense with the requirement under subsection (2).
- (4) If the Commission carries out a special investigation, the electronic betting centre licensee shall pay to the Commission the reasonable costs incurred by the Commission associated with the carrying out of that investigation.

Financial accounts and reports

76. (1) An electronic betting centre licensee shall

Keeping of accounts.

- (a) keep accounting records that correctly record and explain the transactions and financial position for the electronic betting centre licensee's operations conducted under the electronic betting centre licence; and
- (b) keep the accounting records in a way that allows-
 - (i) true and fair financial statements and accounts to be prepared from time to time; and
 - (ii) the financial statements and accounts to be conveniently and properly audited.

(2) A person who fails to comply with subsection (1) shall be guilty of an offence and liable, on conviction, to a fine not exceeding £25,000.

77. (1) An electronic betting centre licensee shall give reports to the Commission as required by this section about the licensee's operations under his electronic betting centre licence.

Submission of reports.

- (2) A report under this section shall be given at the time stated in a written notice given to the electronic betting centre licensee by the Commission.
- (3) A report under this section shall be in the approved form.
- (4) The Commission may, by written notice given to an electronic betting centre licensee, require the licensee to give to the Commission further information specified in the notice within the time stated in the notice, being information that the Commission reasonably requires in order to acquire a proper

appreciation of the electronic betting centre licensee's operations.

- (5) A person who, without reasonable excuse, fails to comply with a requirement under this section shall be guilty of an offence and liable, on conviction, to a fine not exceeding £25,000.
- (6) A person who gives to the Commission in a report under this section information that he knows to be false, misleading or incomplete in a material particular shall be guilty of an offence.

Audit

Approval of auditors.

- 78. (1) An electronic betting centre licensee may effect betting transactions under his electronic betting centre licence only if he has obtained the written approval of the Commission to his auditors.
- (2) In deciding whether to grant its approval, which shall not be unreasonably withheld, the Commission may have regard to the proposed auditors' size, reputation and experience in respect of the activities to be carried out under the electronic betting centre licence.
- (3) Before making any change from auditors approved under subsection (1), an electronic betting centre licensee shall obtain the written approval of the Commission to that change.
- (4) If an electronic betting centre licensee does not comply with subsection (3), the approval for the electronic betting centre licensee's auditors shall, by virtue of this subsection, be withdrawn.

Audit of electronic betting centre licensee's operations.

- 79. (1) As soon as practicable after the end of a financial year, an electronic betting centre licensee shall, at his own expense, cause the books, accounts and financial statements for the operations conducted

under the electronic betting centre licence for the financial year to be audited by the auditors approved by the Commission under section 78.

- (2) A person who fails to comply with subsection (1) shall be guilty of an offence and liable, on conviction, to a fine not exceeding £25,000.

80. (1) An electronic betting centre licensee shall provide a copy of the report on an audit conducted under section 79 to the Commission within three months after the end of the financial year to which the audit relates.

Audit reports.

- (2) A person 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 £25,000.

81. (1) Upon receiving a copy of an audit report, the Commission may, by written notice given to the electronic betting centre licensee, require the licensee to give the Commission such further information as is specified in the notice about any matter relating to the electronic betting centre licensee's operations that is mentioned in the audit report.

Further information following audit.

- (2) A notice under subsection (1) shall specify a reasonable period of time within which the notice is to be complied with.

- (3) A person who, without reasonable excuse, fails to comply with a notice under this section shall be guilty of an offence and liable, on conviction, to a fine not exceeding £25,000.

Regulations and directions

82. (1) The Commission may, by regulations, determine or vary rules relating to-

(a) the conduct of an electronic betting centre by electronic betting centre licensees;

Regulations of Commission.

(b) winnings arising from betting transactions effected with electronic betting centre licensees; or

(c) such other matters relating to an electronic betting centre as the Commission deems necessary.

(2) Regulations made under subsection (1)–

(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;

(c) shall be laid by the Committee before a meeting of the States of Alderney 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.

(3) The power conferred by subsection (1) 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 exceptions, or in relation to any specified cases or classes of cases;

(b) so as to make, as respects 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;

- (iii) any such provision either unconditionally or subject to any conditions prescribed in the regulations.

83. The Commission may, by written notice given to—

- (a) an electronic betting centre licensee;
- (b) electronic betting centre licensees specified in the notice; or
- (c) all electronic betting centre licensees,

give directions about the conduct of authorised electronic betting by that licensee, the specified licensees or all licensees, as the case may be.

Directions to electronic betting centre licensees.

84. (1) An electronic betting centre licensee shall comply with—

- (a) the rules determined by the Commission in regulations made under section 82; and
- (b) any direction given to him by the Commission under section 83.

(2) A person who fails to comply with subsection (1) shall be guilty of an offence.

General responsibilities of electronic betting centre licensee.

PART VI

MISCELLANEOUS AND GENERAL PROVISIONS

85. (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

Appeals.

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, 1969³ shall apply as if it were an appeal in a civil matter.

Offences.

86. (1) A person who, for the purpose of obtaining the grant of a licence under this Ordinance, 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.
- (2) A person who, without the Commission's written authorisation, interferes in the effecting of a betting transaction shall be guilty of an offence and liable, on conviction, to a fine not exceeding £25,000.

Offences by bodies corporate.

87. (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

³ Ordres en Conseil Vol. XXII, p. 192.

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.

88. Without prejudice to the generality of section 87, 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.

Accessories and abettors.

89. (1) Any document other than a summons to be given under this Ordinance may be given to—

Giving notices.

- (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 the Island, by being left at, or sent by post or transmitted to, that office;
- (c) a company without a registered office in the Island, by being left at, or sent by post or transmitted to, its principal or last known principal place of business in the Island or, if there is no such place, its registered office or principal or last known principal place of business outside the Island;
- (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 the Island 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 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.

Approval of forms.

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

91. Nothing in this Ordinance shall be construed as requiring an electronic betting centre licensee or any servant or agent of his to accept any bet.

Right to prohibit betting and to refuse bets.

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

Interpretation.

“**alternate nominee**” means a person approved by the Commission under section 37;

“**applicant**” means, as the case may be—

(a) a person making application under section 3 for an electronic betting centre licence; or

(b) a person making application under section 42 for a key personnel licence;

“**approved control system**” means a control system approved by the Commission under section 65, and includes an approved control system changed with the approval, or under the direction, of the Commission;

“**approved form**” means a form approved under section 90 for the purposes of the provision where the expression occurs;

“**approved premises**” has the meaning assigned to it by section 20(1);

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

“**business associate**”

(a) of an applicant for an electronic betting centre licence, means a person whom the Commission reasonably believes—

- (i) is associated with the ownership or management of the applicant's operations; or
 - (ii) will, if an electronic betting centre licence is issued to the applicant, be associated with the ownership or management of the electronic betting centre licensee's operations;
- (b) of an electronic betting centre licensee, means a person whom the Commission reasonably believes to be associated with the licensee's operations;

"condition notice" means a notice given under section 19 or 48, as the case may be;

"conduct" includes promote, organise and operate;

"control system" means a system of internal controls and administrative and accounting procedures for the conduct of an electronic betting centre by an electronic betting centre licensee;

"control system submission" has the meaning assigned to it by section 64(1);

"customer" means a person who intends to effect, or effects, a betting transaction with an electronic betting centre licensee;

"customer's account" means an account—

- (a) that is established by an electronic betting centre licensee in the name of a customer; and
- (b) against which the electronic betting centre licensee has a right to debit the amount of a wager;

“duplicate key personnel licence” means a licence issued under section 51;

“electronic betting centre” means an operation conducted in approved premises by which betting transactions are effected remotely by customers by means of the internet or through some other telecommunication medium;

“electronic betting centre licence” means a licence issued under section 14(1);

“electronic betting centre licensee” means a person who holds an electronic betting centre licence;

“employ” includes engage under a contract for services;

“employee” means a person employed by an electronic betting centre licensee in functions related to the conduct of authorised an electronic betting centre;

“entity” includes a person;

“executive associate”

- (a) of an applicant for an electronic betting centre licence, means an executive officer of a company, partner or trustee, or another person stated by the Commission, whom the Commission reasonably believes—
 - (i) is associated with the ownership or management of the applicant’s operations; or
 - (ii) will, if an electronic betting centre licence is issued to the applicant, be associated

with the ownership or management of the electronic betting centre licensee's operations;

- (b) of an electronic betting centre licensee, means an executive officer of a company, partner or trustee, or another person stated by the Commission, whom the Commission reasonably believes to be associated with the ownership or management of the licensee's operations;

"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;

"Her Majesty's Procureur" includes Her Majesty's Comptroller;

"the Island" means the Island of Alderney;

"key person" means a person who-

- (a) occupies or acts in a managerial position, or carries out managerial functions, designated by the Commission, by written notice to the electronic betting centre licensee, as a key position or key functions, as the case may be, in relation to operations carried out under an electronic betting centre licence or the business of an electronic betting centre licensee; or
- (b) is in a position, designated by the Commission, by written notice given to the electronic betting centre licensee, as a key position, to control or exercise significant influence over the operations conducted under an electronic betting centre licence; or

(c) occupies or acts in a position designated in the electronic betting centre licensee's approved control system as a key position; or

(d) is a business or executive associate of an electronic betting centre licensee designated by the Commission, by written notice given to the licensee, as a key person;

"key personnel licence" means a licence issued under section 45(1);

"key personnel licensee" means a person who holds a key personnel licence;

"key relationship" means a relationship, other than a familial relationship, between an electronic betting centre licensee and another person as a result of which the other person is a key person;

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

"nominee" means an individual approved by the Commission to perform functions and duties under this Ordinance as if he were himself an electronic betting centre licensee;

"premises approval" means a notice given under section 20(4);

"suspension notice" means a notice given under section 28 or 56, as the case may be;

"temporary nominee" means a person approved by the Commission under section 36;

"telecommunication device" means-

(a) a computer adapted for communicating by

way of the internet or another communications network; or

(b) a television receiver adapted to allow the viewer to transmit information by way of a cable television network or another communications network; or

(c) a telephone; or

(d) any other electronic device or thing for communicating at a distance;

“wager” means an amount a customer pays to an electronic betting centre licensee to effect a betting transaction;

“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) 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.

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

93. (1) The enactments set out in Schedule 1 are hereby repealed to the extent specified in that Schedule.

Repeals savings and transitional provisions.

(2) The saving and transitional provisions in Schedule 2 shall have effect.

94. This Ordinance may be cited as the Gambling (Electronic Betting) (Alderney) Ordinance, 2002.

Citation.

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

Commencement.

Section 93(1)

SCHEDULE I

REPEALS

(1) Enactment	(2) Extent of repeal
Gambling (Betting) (Alderney) Ordinance, 1997 ⁵	The whole Ordinance
Gambling Betting (Amendment) (Alderney) Ordinance, 1999 ⁶	The whole Ordinance
Gambling (Betting) (Amendment) (Alderney) Ordinance, 2000 ⁷	The whole Ordinance
Gambling (Betting) (Transfer of Functions) (Alderney) Ordinance, 2000 ⁸	Section 2
Gambling (Betting) (Amendment) (Alderney) Ordinance, 2002 ⁹	The whole Ordinance

⁵ No. VIII of 1997.

⁶ No. IV of 1999.

⁷ No. III of 2000.

⁸ No. VII of 2000.

⁹ No. V of 2002.

SCHEDULE 2

SAVING AND TRANSITIONAL PROVISIONS

Current electronic betting centre licences

1. Subject to paragraphs 2 to 4, any electronic betting centre 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 an electronic betting centre licence issued under this Ordinance.
2. For an electronic betting centre licensee to whom paragraph 1 applies, in respect of the unexpired period of validity of his licence before commencement of this Ordinance, section 16 shall have effect with the substitution of "£50,000" for "£75,000".
3. (1) Section 40 shall not apply in respect of key persons employed by an electronic betting centre licensee to whom paragraph 1 applies during the period of 28 days following the commencement of this Ordinance.

(2) In respect of any key person who has made application in accordance with section 42 for a key personnel licence before the end of the period specified in sub-paragraph (1), section 40 shall not apply until the Commission has determined that application.
4. Sections 67 to 72 shall not apply to an electronic betting centre licensee to whom paragraph 1 applies during the period of 28 days following the commencement of this Ordinance.

Applications for electronic betting centre licences

5. Subject to paragraph 6, any application for an electronic betting centre licence made under the provisions of the Gambling (Betting) (Alderney) Ordinance, 1997, as amended, and received by the Commission on or before 31st October, 2002 and not determined by the Commission before the commencement of this Ordinance, shall be considered by the Commission under the provisions of this Ordinance.
6. In relation to an application to which paragraph 5 applies-
 - (a) sections 3(3) and 4 shall not apply; and
 - (b) if the Commission grants the application-
 - (i) section 15 shall have effect with the substitution for "three years" of "five years"; and
 - (ii) in respect of the period of so specified in section 15, section 16 shall have effect with the substitution of "£50,000" for "£75,000".

D. V. JENKINS
Clerk of the States