

Island of  Alderney

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2001

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THE GAMBLING (INTERACTIVE GAMING)
(ALDERNEY) ORDINANCE, 2001

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THE GAMBLING (INTERACTIVE GAMING) (ALDERNEY) ORDINANCE, 2001

THE STATES OF ALDERNEY, in pursuance of their Resolution of the 18th day of April, 2001, and in exercise of the powers conferred upon them by sections 6 and 10(3) of the Gambling (Alderney) Law, 1999¹, hereby order:-

PART I LAWFULNESS OF INTERACTIVE GAMING

Lawful interactive gaming.

1. Conducting, or participating in, interactive games shall not be unlawful gambling if-

- (a) the game is played by, or with, an interactive gaming licensee;
- (b) the game is not played by, with or through a young person;
- (c) the game is not operated at, or from, any place other than an interactive gaming licensee's approved premises, conducted and managed in accordance with the provisions of this Ordinance;

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

Interactive gaming with strangers.

2. The holder of an interactive gaming licence issued by the Commission under section 15(1) acting in accordance with any conditions attached to it by the Commission under section 19 or 20 is thereby authorised to play interactive games made lawful by this Ordinance with a stranger.

¹ Order in Council No. XIV of 1999.

PART II
INTERACTIVE GAMING LICENCES

Applications for interactive gaming licences

3. (1) A person who wishes to obtain an interactive gaming licence (the “**applicant**”) shall make application in that behalf to the Commission.

Application for interactive gaming licence.

(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 interactive gaming 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.

**Costs of
investigating
application.**

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

**Interactive
gaming 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 Order in Council No. XXXIV of 1994.

(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.

6. There shall not be in force at any one time more than six interactive gaming licences.

Limitation on number of interactive gaming licences.

7. Within a period of 21 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.

Chief Officer of Police's report to the Commission.

8. (1) Where any objection to the grant of an interactive gaming licence is raised-

Objection to application for interactive gaming 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 Procureur,

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

Consideration of application.

9. (1) Subject to this section, the Commission shall consider an application that complies with sections 3, 4 and 5 and either grant or refuse it.

(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.

Grounds for refusal to grant application.

10. (1) The Commission shall refuse the grant of an interactive gaming licence in any case where-

- (a) it is not satisfied that the applicant is a fit and proper person to hold an interactive gaming 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 interactive gaming 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;
- (e) the applicant has, within the 12 months immediately preceding the date of the application, been refused

the grant or renewal of an interactive gaming licence under paragraph (a); or

- (f) there are already in force the maximum number of interactive gaming licences prescribed by section 6.

(2) The Commission may refuse the grant of an interactive gaming 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 not satisfied, having regard to the character, condition or lay-out of the premises, that they are suitable for use by an interactive gaming licensee.

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

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

Suitability of applicant to hold interactive gaming 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 interactive games successfully under an interactive gaming 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 interactive gaming 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 interactive games.

Suitability of business and executive associates.

12. In deciding whether a business or executive associate of an applicant is a fit and proper person to be associated with an interactive gaming licensee's operations, the Commission may have regard to the following matters-

- (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.

Suitability of nominee.

13. In deciding whether an individual proposed by an applicant is a fit and proper person to be a nominee of an interactive gaming licensee, the Commission may have regard to the following matters-

- (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.

14. (1) The Commission may investigate an applicant to decide whether he is a fit and proper person to hold an interactive gaming 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 interactive gaming 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 interactive gaming licensee.

15. (1) If the Commission grants an application for an interactive gaming licence, it shall promptly issue an interactive gaming licence to the applicant.

Determination of application.

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

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

Period of validity of licence on first grant.

17. An interactive gaming licensee shall pay to the Treasurer of the States-

Annual fee in respect of interactive gaming licence.

- (a) within seven days of the Commission issuing his interactive gaming licence; and

- (b) in advance of each anniversary of the date from which the Commission directed that his interactive gaming licence shall be valid,

a fee of £75,000.

Form of interactive gaming licence.

18. (1) An interactive gaming 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 interactive gaming 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.

Interactive gaming licence conditions

Conditions of interactive gaming licence.

19. An interactive gaming licence may be issued subject to such conditions as the Commission considers necessary, expedient or desirable-

- (a) for the proper conduct of interactive games; or
- (b) in the public interest.

Varying or adding conditions of interactive gaming licence.

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

- (a) for the proper conduct of interactive games; or
- (b) in the public interest,

it may by notice in writing (a "**condition notice**") to an interactive gaming licensee, vary or rescind a condition to which the interactive gaming 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 interactive gaming licensee; or

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

21. (1) An interactive gaming 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 interactive gaming licence (the "**approved premises**") shall make application in that behalf to the Commission before effecting such modification or change.

Modification to, or change of, approved premises.

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

(4) If the Commission grants an application under this section, it shall promptly issue to the interactive gaming 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 interactive gaming licensee notice of the decision and of the reasons for the refusal.

22. (1) An interactive gaming licensee shall return the interactive gaming licence to the Commission within seven days of receiving a condition notice or a premises approval notifying a change of conditions or, as the case may be, a modification to, or change of, approved premises.

Return of interactive gaming licence for endorsement of changed conditions.

(2) An interactive gaming 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 interactive gaming licence, the Commission shall-

- (a) amend the licence in an appropriate way and return the amended licence to the interactive gaming licensee; or
- (b) if the Commission does not consider it is practicable to amend the licence, issue a replacement interactive gaming 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 interactive gaming licensee.

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

General provisions about interactive gaming licences

Renewal of interactive gaming licences.

23. (1) An interactive gaming licensee may apply to the Commission for the renewal of his interactive gaming licence.

(2) The provisions of this Part, other than section 16, shall apply to the renewal of an interactive gaming licence as they apply to the grant thereof.

(3) Unless surrendered, suspended or revoked under this Ordinance, the period of validity of an interactive gaming licence renewed under this section shall be 12 months.

Register of interactive gaming licences.

24. (1) The Commission shall keep a register, in a book kept solely for that purpose, of all interactive gaming licences issued by the Commission under this Ordinance.

- (2) The Commission shall-
 - (a) upon a court ordering the suspension or revocation of an interactive gaming licence; or

- (b) upon reaching any decision itself in respect of the continuing validity of an interactive gaming licence; or
- (c) upon the interactive gaming licensee surrendering his interactive gaming 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.

25. An interactive gaming licence cannot be transferred.

26. (1) An interactive gaming licensee may surrender his interactive gaming 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 interactive gaming 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 interactive gaming licences

27. (1) A ground for suspending or revoking an interactive gaming licence exists if-

- (a) the interactive gaming licensee is not, or is no longer, a fit and proper person to hold an interactive gaming licence;

Interactive gaming licence not transferable.

Surrender of interactive gaming licence.

Grounds for suspension or revocation of interactive gaming licence.

- (b) a business or executive associate of the interactive gaming licensee is not, or is no longer, a fit and proper person to be associated with the interactive gaming licensee's operations;
- (c) the interactive gaming 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 interactive gaming 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 interactive gaming licensee has contravened a condition of his licence;
- (f) the interactive gaming licensee has contravened a provision of this Ordinance, being a provision the contravention of which does not constitute an offence;
- (g) the interactive gaming licensee has failed to discharge a financial commitment for his operations;
- (h) the interactive gaming 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 interactive gaming 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 interactive gaming 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.

28. (1) This section applies where the Commission believes that-

Direction to rectify.

- (a) a ground referred to in section 27(1) exists; and
- (b) it is appropriate to give the interactive gaming 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 interactive gaming 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 interactive gaming 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 interactive gaming licensee of the consequences of failing to comply with the notice as specified in section 30.

29. (1) The Commission may suspend an interactive gaming licence under this section if it is satisfied on reasonable grounds that-

Immediate suspension.

- (a) a ground referred to in section 27(1) exists;

- (b) the urgency of the matter does not permit the taking of action under section 28; 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 interactive games by the interactive gaming 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 interactive gaming 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.

30. (1) The Commission may suspend an interactive gaming licence under this section if a direction under section 28 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.

31. The Commission may, by written notice to an interactive gaming licensee whose interactive gaming 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.

32. (1) Subject to this section, the Commission may, by notice in writing (a “**revocation notice**”) to an interactive gaming licensee, revoke his interactive gaming licence if-

Revocation of interactive gaming licence.

- (a) it is satisfied on reasonable grounds that-
 - (i) a ground referred to in section 27(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 28 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 interactive gaming licence under paragraph (a) of subsection (1) unless it is satisfied that, unless the licence is revoked-

- (a) the integrity of the conduct of interactive games by the interactive gaming 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 interactive gaming 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 interactive gaming 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 interactive gaming 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,

Court order for suspension or revocation of interactive gaming licence.

order that the interactive gaming licence issued to the person convicted shall be suspended for such period as the court may order or shall be revoked.

(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 interactive gaming 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 interactive gaming licensee that is a company may exercise its interactive gaming 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 interactive gaming 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 interactive gaming licensee shall authorise its nominee to deal with the Commission as if the nominee were himself the interactive gaming licensee.

(3) Any notice required to be given by the Commission to an interactive gaming 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 interactive gaming 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 interactive gaming 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 interactive gaming licensee's nominee.

Alternate nominee.

37. (1) An interactive gaming 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 interactive gaming licence.

(4) An alternate nominee approved by the Commission under this section shall act as an interactive gaming licensee's nominee for the purposes of this Ordinance only in the absence of that nominee.

(5) An interactive gaming 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 interactive gaming 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 interactive gaming 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 interactive gaming licensee.

(2) An interactive gaming 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 interactive gaming licence.

39. (1) Where a nominee, alternate nominee or temporary nominee of an interactive gaming 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

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.

Requirement to hold key personnel licence.

(2) An interactive gaming 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 level 5 on the Alderney uniform scale.

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 interactive gaming 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 level 5 on the Alderney uniform scale, or to both.

Application for key personnel licence.

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

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

- (a) a letter from an interactive gaming 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 £150, 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.

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.

Consideration of application.

(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 interactive gaming licensee as a key person; and
- (e) if appropriate, the fact that the applicant holds, or has held, a licensed position in respect of gaming, whether interactive or otherwise, anywhere 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.

Decision on application.

45. (1) If the Commission decides to grant an application for a key personnel licence, it shall, as soon as practicable-

- (a) issue a key personnel licence to the applicant; and
- (b) give written notice of the issue of the licence to the relevant interactive gaming 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 interactive gaming licensee.

Form of key personnel licence.

46. (1) A key personnel 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 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.

Conditions of key personnel licence.

47. The Commission may issue a key personnel licence-

- (a) on conditions it considers necessary, expedient or desirable for the proper conduct of interactive games; or
- (b) on other conditions it considers necessary, expedient or desirable in the public interest.

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

- (a) for the proper conduct of interactive games; 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 interactive gaming 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.

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.

Varying or adding key personnel licence conditions.

Return of key personnel licence for endorsement of changed conditions.

Period of validity of key personnel licence.

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

Duplicate 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.

(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 interactive gaming 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

Grounds for suspension or revocation of key personnel licence.

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.

Direction to rectify.

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

- (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 interactive gaming licensee at the same time it gives the notice to the key personnel licensee.

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

Immediate suspension.

- (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 interactive games by the interactive gaming 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 interactive games by the interactive gaming 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

Notice of commencement of key personnel licensees.

59. (1) Within seven days after a key personnel licensee commences to perform functions for an interactive gaming 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.

Returns about employees.

60. (1) The Commission may, by written notice given to an interactive gaming 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 interactive gaming 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 interactive gaming licensee and performing functions in respect of the operations of the licensee under his interactive gaming 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

(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 level 5 on the Alderney uniform scale.

Termination of key relationships

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

Notice of end of key relationship.

(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.

62. (1) This section applies where-

(a) a key relationship exists between an interactive gaming licensee and a key personnel licensee; and

Requirement to terminate key relationship.

(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 interactive gaming licensee, require the interactive gaming licensee to terminate the key relationship within the time specified in the notice.

(3) An interactive gaming licensee shall comply with a requirement under subsection (2).

PART V
COMPLIANCE CONTROLS

Authorised interactive games

Unauthorised interactive games prohibited.

63. (1) An interactive gaming licensee shall not under an interactive gaming licence conduct any interactive game unless it is an authorised interactive game.

(2) A person who fails to comply with subsection (1) shall be guilty of an offence and liable, on conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the Alderney uniform scale, or to both.

Authorisation of interactive game.

64. (1) The Commission may, on written application by an interactive gaming licensee, authorise the licensee to conduct an interactive game on conditions specified in a notice (an “**interactive game authorisation**”) issued under this subsection.

(2) If the Commission refuses an application for authorisation of an interactive game, it shall give the interactive gaming licensee written notice of the decision and of the reasons for the refusal.

Change to conditions of interactive game authorisation.

65. (1) The Commission may, by written notice to an interactive gaming licensee, vary or rescind a condition on which an interactive game is authorised, or add a condition, if the Commission is of the opinion that-

- (a) the conditions attached to the interactive game authorisation are not stringent enough to prevent cheating or a contravention of this Ordinance;
 - (b) compliance with the conditions attached to the authorisation cannot be effectively monitored or enforced; or
 - (c) it is in the public interest that the conditions attached to the authorisation be changed.
- (2) The Commission shall not give a notice under subsection (1) unless it has-
- (a) given to the interactive gaming licensee written notice of the proposed change of condition and the reasons for it;
 - (b) permitted the interactive gaming licensee a reasonable opportunity to make representations in respect of the proposed change of condition; and
 - (c) considered any representation made.

66. (1) An interactive gaming licensee shall return the relevant interactive game authorisation to the Commission within seven days of receiving a notice under section 65(1).

(2) An interactive gaming 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 interactive game authorisation, the Commission shall-

- (a) amend the authorisation in an appropriate way and return the amended authorisation to the interactive gaming licensee; or
- (b) if the Commission does not consider it is practicable to amend the authorisation, issue a replacement interactive game authorisation free of charge, incorporating the change of conditions, to the interactive gaming licensee.

**Return of
interactive game
authorisation for
endorsement of
changed
conditions.**

(4) A change of conditions does not depend on the interactive game authorisation being amended to record the change or a replacement interactive game authorisation being issued.

Revocation of interactive game authorisation.

67. (1) The Commission may, by written notice given to an interactive gaming licensee, revoke a particular interactive game authorisation if the Commission is of the opinion that-

- (a) the conditions attached to the authorisation are not stringent enough to prevent cheating or a contravention of this Ordinance;
- (b) compliance with the conditions attached to the authorisation cannot be effectively monitored or enforced; or
- (c) it is in the public interest that the authorisation be revoked.

(2) The Commission shall not give a notice under subsection (1) unless it has-

- (a) given to the interactive gaming licensee written notice of the proposed revocation and the reasons for it;
- (b) permitted the interactive gaming licensee a reasonable opportunity to make representations in respect of the proposed revocation; and
- (c) considered any representation made.

(3) An interactive gaming licensee whose interactive game authorisation has been revoked shall return the authorisation to the Commission within seven days of receiving a notice under subsection (1).

(4) A person who, without reasonable excuse, fails to comply with subsection (3) shall be guilty of an offence and liable, on conviction, to a fine not exceeding level 5 on the Alderney uniform scale.

Control systems

68. (1) An interactive gaming licensee may conduct an authorised interactive game only if-

- (a) he has obtained approval of a control system by the Commission; and
- (b) the game is conducted under the system.

(2) An interactive gaming 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.

Authorised interactive games to be conducted under approved control system.

69. (1) An interactive gaming 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-

- (a) before conducting any interactive game; and
- (b) before effecting any change to an existing approved control system.

(2) A control system submission shall describe and explain the interactive gaming 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 interactive games-
 - (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 conduct of interactive games;

Control system submission.

- (c) the procedures and standards for the maintenance, security, storage and transportation of equipment to be used for the conduct of interactive games;
- (d) the procedures for recording and paying prizes won in interactive games;
- (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.

70. (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 interactive gaming 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) 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 interactive gaming 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 conduct of interactive games.

(4) The Commission may refuse to give an approval if, without reasonable excuse, the interactive gaming licensee fails to comply with a requirement under subsection (2).

(5) The Commission shall promptly give to the interactive gaming licensee a written notice of the Commission's decision to give, or refuse to give, an approval.

(6) If the Commission decides to refuse to give an approval, the notice under subsection (5) 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 interactive gaming licensee to resubmit the control system submission after making the appropriate changes.

71. (1) The Commission may, by written notice given to an interactive gaming licensee, direct the licensee to change the licensee's approved control system within the time, and in the way, stated in the notice.

Direction to change approved control system.

(2) An interactive gaming 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 and liable, on conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the Alderney uniform scale, or to both.

(4) If an interactive gaming licensee does not comply with a direction under subsection (1), the approval for the interactive gaming licensee's control system shall, by virtue of this subsection, be withdrawn.

Approval and use of interactive gaming equipment

72. (1) An interactive gaming licensee may, by application in writing, apply to the Commission-

Approval of interactive gaming equipment.

- (a) for approval of interactive gaming equipment proposed to be used in the conduct of authorised interactive games by the licensee; or

(b) for approval to modify interactive gaming equipment used in the conduct of authorised interactive games by the licensee.

(2) If the Commission considers it necessary for the equipment, or the equipment as proposed to be modified, to be evaluated in order to be in a position to determine an application under subsection (1), the Commission shall-

(a) carry out the evaluation; or

(b) direct the interactive gaming licensee-

(i) to arrange to have the equipment evaluated at his own expense by an approved evaluator; and

(ii) to give to the Commission a written report of the evaluation.

(3) If the Commission carries out an evaluation of the equipment, the interactive gaming licensee shall pay to the Commission the reasonable costs incurred by the Commission associated with carrying out that evaluation.

(4) The Commission may refuse to give an approval if-

(a) the costs payable under subsection (3) have not been paid to the Commission; or

(b) the interactive gaming licensee fails to comply with a direction of the Commission under paragraph (b) of subsection (2).

(5) The Commission shall approve, or refuse to approve, the equipment or modification and give to the interactive gaming licensee written notice of its decision.

(6) Where the Commission decides to refuse an application under this section, the notice under subsection (5) shall state the reasons for the decision.

(7) The Commission may of its own motion by written notice to an interactive gaming licensee give general approval under this section of interactive gaming equipment specified in the notice.

73. (1) An interactive gaming licensee shall not use interactive gaming equipment in conducting an authorised interactive game unless the equipment is approved interactive gaming equipment.

Use of interactive gaming equipment.

(2) An interactive gaming licensee shall not modify approved interactive gaming equipment unless the modification has been approved by the Commission in writing.

(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 level 5 on the Alderney uniform scale.

74. (1) The Commission may, by notice published in the Alderney Official Gazette, declare an entity to be an approved entity for evaluating interactive gaming equipment.

Approved evaluators.

(2) An entity's approval under subsection (1) may be for such period of time as the Commission shall determine.

Players of interactive games

75. (1) An interactive gaming licensee shall not permit a person to participate as a player in an authorised interactive game unless the person is registered with the licensee as a player.

Requirement for player to be registered.

(2) A person who fails to comply with subsection (1) shall be guilty of an offence and liable, on conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the Alderney uniform scale, or to both.

(3) A person shall not participate as a player in an authorised interactive game unless he is registered as a player with the interactive gaming licensee who conducts the interactive game.

(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.

Procedure for registration of player.

76. (1) An interactive gaming licensee may only register a person as a player on receipt of an application for registration in an approved form.

(2) A person is not eligible for registration as a player 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.

Restrictions for registration.

77. (1) An interactive gaming licensee shall not register a person as a player unless-

- (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 interactive gaming licensee shall not register one of his employees, whether a key personnel licensee or not, as a player.

(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 level 5 on the Alderney uniform scale.

Player to be bound by rules of interactive game.

78. (1) A player who participates in an authorised interactive game shall comply with rules of the game as notified to the player under the conditions on which the game is authorised by the Commission.

(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 level 5 on the Alderney uniform scale.

Dealings involving player's funds.

79. (1) An interactive gaming licensee shall, at the request of a registered player, remit funds standing to the credit of that player as directed by the player 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 level 5 on the Alderney uniform scale.

(3) An interactive gaming licensee shall not have recourse to funds in a player's account except-

- (a) to debit to the account a wager made by the player or an amount the player indicates he wants to wager in the course of an authorised game the player is playing or is about to play;
- (b) to remit funds standing to the credit of the account to the player at the player's request; or
- (c) as otherwise authorised under this Ordinance.

(4) If a player with a player's account wins a monetary prize in an authorised interactive game conducted by an interactive gaming licensee, the interactive gaming licensee shall immediately credit the amount of the prize to the player's account.

(5) A person who, without reasonable excuse, fails to comply with subsection (3) or (4) shall be guilty of an offence and liable, on conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the Alderney uniform scale, or to both.

(6) In subsection (1), "**business day**" means a day on which banks are open in the Island.

80. (1) A registered player may, by written notice to an interactive gaming licensee, set a limit on the amount the player may wager.

Limitation on permitted amount of player's wagers.

- (2) A limit may be set under subsection (1)-
 - (a) in relation to a game or any number of single games;
 - (b) by way of a maximum limit that may be wagered over a number of games specified in the notice or played during a period of time specified in the notice; or
 - (c) at zero.

(3) An interactive gaming licensee who has received a notice under subsection (1) shall not debit a wager to a player'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 level 5 on the Alderney uniform scale.

(5) A player who has set a limit under this section may change or remove the limit by written notice given to the interactive gaming licensee.

(6) A notice increasing or removing a limit shall not have effect unless-

- (a) seven days have passed since the interactive gaming licensee received the notice; and
- (b) the player has not notified the interactive gaming licensee of his intention to withdraw the notice.

(7) A notice reducing a limit has effect on its receipt by the interactive gaming licensee.

Prohibition of interactive gaming.

81. (1) Application may be made to the Commission in the approved form for an order-

- (a) prohibiting a person who is a registered player from participating in authorised interactive games; 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 interactive gaming licensees.

(7) An interactive gaming 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 to participate in any other way in an authorised interactive game, 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 level 5 on the Alderney uniform scale.

Limitation on employee numbers

82. (1) An interactive gaming licensee may conduct an authorised interactive game only if the number of employees he employs to perform functions in respect of operations under his interactive gaming licence and who are resident in the Island does not exceed ten.

Limitation on number of interactive gaming licensee's employees.

(2) For the purposes of subsection (1), two or more part-time employees of an interactive gaming licensee may share a post where the aggregate of their usual contractual working hours each week does not exceed 40.

(3) Where an interactive gaming licensee wishes to rely on subsection (2), any return about employees submitted in accordance with section 60 shall indicate clearly the employees sharing each particular post.

(4) This section applies to an employee of an interactive gaming licensee whether or not that person is a key personnel licensee.

Monitoring and investigations

Monitoring operations.

83. An interactive gaming 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.

Presence at certain operations.

84. (1) The Commission may take action under this section to ensure the integrity of the conduct of an authorised interactive game.

(2) The Commission may, by written notice given to an interactive gaming licensee, direct the licensee not to do a stated thing in the conduct of an authorised interactive game 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 level 5 on the Alderney uniform scale.

Special investigation by Commission.

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

- (a) an interactive gaming licensee;
- (b) a business or executive associate of an interactive gaming licensee;

- (c) a key personnel licensee having a key relationship with an interactive gaming licensee; or
- (d) any aspect of the operations of an interactive gaming licensee under his interactive gaming licence.

(2) Subject to subsection (3), the Commission shall by notice in writing (an “**investigation notice**”) to the interactive gaming 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 interactive gaming 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 interactive gaming 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

86. (1) An interactive gaming licensee shall-

- (a) keep accounting records that correctly record and explain the transactions and financial position for the interactive gaming licensee's operations conducted under the interactive gaming 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 level 5 on the Alderney uniform scale.

Keeping of accounts.

Submission of reports.

87. (1) An interactive gaming licensee shall give reports to the Commission as required by this section about the licensee's operations under his interactive gaming licence.

(2) A report under this section shall be given at the time stated in a written notice given to the interactive gaming 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 interactive gaming 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 interactive gaming 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 level 5 on the Alderney uniform scale.

(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 and liable, on conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the Alderney uniform scale, or to both.

Audit

Approval of auditors.

88. (1) An interactive gaming licensee may conduct an authorised interactive game 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 interactive gaming licence.

(3) Before making any change from auditors approved under subsection (1), an interactive gaming licensee shall obtain the written approval of the Commission to that change.

(4) If an interactive gaming licensee does not comply with subsection (3), the approval for the interactive gaming licensee's auditors shall, by virtue of this subsection, be withdrawn.

89. (1) As soon as practicable after the end of a financial year, an interactive gaming licensee shall, at his own expense, cause the books, accounts and financial statements for the operations conducted under the interactive gaming licence for the financial year to be audited by the auditors approved by the Commission under section 88.

Audit of interactive gaming licensee's operations.

(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 level 5 on the Alderney uniform scale.

90. (1) An interactive gaming licensee shall provide a copy of the report on an audit conducted under section 89 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 level 5 on the Alderney uniform scale.

91. (1) Upon receiving a copy of an audit report, the Commission may, by written notice given to the interactive gaming licensee, require the licensee to give the Commission such further information as is specified in the notice about any matter relating to the interactive gaming 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 level 5 on the Alderney uniform scale.

*Regulations and directions***Regulations of Commission.**

92. (1) The Commission may, by regulations, determine or vary rules relating to-
- (a) the conduct of authorised interactive games by interactive gaming licensees;
 - (b) prizes in authorised interactive games conducted by interactive gaming licensees; or
 - (c) such other matters relating to interactive gaming 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.

93. The Commission may, by written notice given to-

- (a) an interactive gaming licensee;
- (b) interactive gaming licensees specified in the notice; or
- (c) all interactive gaming licensees,

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

Directions to interactive gaming licensees.

94. (1) An interactive gaming licensee shall comply with-

- (a) the rules determined by the Commission in regulations made under section 92; and
- (b) any direction given to him by the Commission under section 93.

(2) A person who fails to comply with subsection (1) shall be guilty of an offence and liable, on conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the Alderney uniform scale, or to both.

General responsibilities of interactive gaming licensee.

PART VI

MISCELLANEOUS AND GENERAL PROVISIONS

95. (1) Any person aggrieved by a decision of the Commission under this Ordinance may, within 28 days from the date of the service on him of a notice in accordance with a provision of this Ordinance, appeal to the Court of Alderney against that decision on the grounds that it was ultra vires or was an unreasonable exercise of the powers of the Commission.

Appeals.

(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.

96. (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 and liable, on conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the Alderney uniform scale, or to both.

(2) A person who, without the Commission's written authorisation, interferes in the conduct of an authorised interactive game shall be guilty of an offence and liable, on conviction, to a fine not exceeding level 5 on the Alderney uniform scale.

Offences by bodies corporate.

97. (1) Where an offence under this Ordinance is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person

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

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.

98. Without prejudice to the generality of section 97, 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.**

99. (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.

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

Right to prohibit interactive gaming and to refuse to play.

101. Nothing in this Ordinance shall be construed as requiring an interactive gaming licensee or any servant or agent of his to play any interactive game.

Interpretation.

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

“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 interactive gaming 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 70, and includes an approved control system changed with the approval, or under the direction, of the Commission;

“approved evaluator” means an entity approved by the Commission under section 74;

“approved form” means a form approved under section 100 for the purposes of the provision where the expression occurs;

“approved interactive gaming equipment” means interactive gaming equipment approved under section 72;

“approved premises” has the meaning assigned to it by section 21(1);

“authorised interactive game” means a game that is an authorised interactive game for the purposes of this Ordinance under section 64;

“business associate”-

- (a) of an applicant for an interactive gaming 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 interactive gaming licence is issued to the applicant, be associated with the ownership or management of the interactive gaming licensee's operations;
- (b) of an interactive gaming 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 20 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 interactive games by an interactive gaming licensee;

“control system submission” has the meaning assigned to it by section 69(1);

“duplicate key personnel licence” means a licence issued under section 15;

“employ” includes engage under a contract for services;

“employee” means a person employed by an interactive gaming licensee in functions related to the conduct of authorised interactive games;

“entity” includes a person;

“executive associate”-

(a) of an applicant for an interactive gaming 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 interactive gaming licence is issued to the applicant, be associated with the ownership or management of the interactive gaming licensee’s operations;

(b) of an interactive gaming 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;

“game” includes a scheme or arrangement;

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

“interactive game” means a game in which-

- (a) a prize consisting of money or anything else of value is offered or can be won under the rules of the game;
- (b) a player-
 - (i) enters the game or takes any step in the game by means of a telecommunication device; and
 - (ii) gives, or undertakes to give, a monetary payment or other valuable consideration to enter, in the course of, or for, the game; and
- (c) the winner of the prize is decided-
 - (i) wholly or partly by chance; or
 - (ii) by a competition or other activity in which the outcome is wholly or partly dependent on the skill of the player or another person;

“interactive game authorisation” means a notice given under section 64;

“interactive gaming” means gambling by means of interactive games accessible from the player’s home in which a player participates by means of the internet or through some other telecommunication medium;

“interactive gaming equipment” means a machine or other device, whether electronic, electrical or mechanical, computer software, or another thing, used, or suitable for use, in the conduct of an authorised interactive game;

“interactive gaming licence” means a licence issued under section 15(1);

“interactive gaming licensee” means a person who holds an interactive gaming licence;

“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 interactive gaming licensee, as a key position or key functions, as the case may be, in relation to operations carried out under an interactive gaming licence or the business of an interactive gaming licensee; or
- (b) is in a position, designated by the Commission, by written notice given to the interactive gaming licensee, as a key position, to control or exercise significant influence over the operations conducted under an interactive gaming licence; or
- (c) occupies or acts in a position designated in the interactive gaming licensee’s approved control system as a key position; or
- (d) is a business or executive associate of an interactive gaming 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 interactive gaming licensee and another person as a result of which the other person is a key person;

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

“nominee” means an individual approved by the Commission to perform functions and duties under this Ordinance as if he were himself an interactive gaming licensee;

“player” means a person who intends to participate, or participates, in an interactive game;

“player’s account” means an account-

- (a) that is established by an interactive gaming licensee in the name of a player; and
- (b) against which the interactive gaming licensee has a right to debit the amount of a wager;

“premises approval” means a notice given under section 21(4);

“suspension notice” means a notice given under section 29 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 player pays to participate in an interactive game or puts at risk in playing an interactive game;

“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.

Citation. **103.** This Ordinance may be cited as the Gambling (Interactive Gaming) (Alderney) Ordinance, 2001.

Commencement. **104.** This Ordinance shall come into force on the 1st August, 2001.

D.V. JENKINS
Clerk of the States

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