

ORDINANCE
OF THE STATES OF ALDERNEY

ENTITLED

The Alderney eGambling Ordinance, 2009 *

[CONSOLIDATED TEXT]

NOTE

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* Alderney Ordinance No. X of 2009; as amended by the: Alderney eGambling (Amendment) Ordinance, 2010 (Alderney Ordinance No. XIII of 2010); Alderney eGambling (Amendment) Ordinance, 2013 (Alderney Ordinance No. IX of 2013); Alderney eGambling (Amendment) Ordinance, 2014 (Alderney Ordinance No. XV of 2014); Alderney eGambling (Amendment) Ordinance, 2015 (Alderney Ordinance No. I of 2015); Alderney eGambling (Amendment) Ordinance, 2018 (Alderney Ordinance No. I of 2018); Alderney eGambling (Amendment) (No. 2) Ordinance, 2018 (Alderney Ordinance No. XI of 2018); Alderney eGambling (Amendment) Ordinance, 2020 (Alderney Ordinance No. III of 2020); Alderney eGambling (Amendment) Ordinance, 2021 (Alderney Ordinance No. IV of 2021). See also the Alderney eGambling Regulations, 2009 (A.S.I. No. 1 of 2010).

ORDINANCE OF THE STATES OF ALDERNEY

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The Alderney eGambling Ordinance, 2009

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(Made on 21st October, 2009.)

The Alderney eGambling Ordinance, 2009

THE STATES OF ALDERNEY, in pursuance of their Resolution of the 21st day of October, 2009, and in exercise of the powers conferred upon them by sections 6 and 10(3) of the Gambling (Alderney) Law, 1999, as amended^a, hereby order: –

Lawfulness of eGambling

Lawful eGambling.

1. (1) Subject to subsection (2), effecting a gambling transaction shall not be unlawful gambling if the transaction is not effected by, with or through a young person and is –

- (a) organized or promoted by or with the holder of a Category 1 eGambling licence[, Category 1 associate certificate] [or a Temporary eGambling licence], or
- (b) effected by or with the holder of a Category 2 eGambling licence[, Temporary eGambling licence] or a [Category 2 associate certificate],

and, every person organizing, promoting or effecting a gambling transaction not made lawful by this subsection shall be guilty of an offence.

(2) The gambling referred to in subsection (1) shall only be lawful if –

^a Order in Council No. XIV of 1999; No. XXVII of 2001; Ordinance No. XVI of 2003.

- (a) the eGambling licence or certificate has not lapsed or been surrendered, suspended or revoked,
- (b) the eGambling licensee or certificate holder is acting in accordance with the Law, this Ordinance, regulations made under this Ordinance, and any general or special conditions that apply to the eGambling licence or certificate, [...]
- (c) the transaction is effected at –
 - (i) approved premises controlled by the holder of a hosting certificate, or
 - (ii) premises that the Commission is satisfied, in accordance with the regulations made by the Commission under this sub-paragraph, are suitable and secure[.]
- [(d) in the case of any person –
 - (i) located, registered or incorporated in Alderney or Guernsey or elsewhere, or
 - (ii) who is carrying out an activity in Alderney or Guernsey, or who is organising or promoting gambling transactions,a Category 1 eGambling licence, a Category 1 associate certificate or a Temporary eGambling licence (as the

case may be) is held by that person,]

- (e) in the case of any person located, registered or incorporated in Alderney, who is effecting gambling transactions, a Category 2 eGambling licence[, a Temporary eGambling licence] or a Category 2 associate certificate must be held by that person,
- (f) in the case of any person who is carrying out an activity in Alderney, who is effecting gambling transactions, a Category 2 eGambling licence [or a Temporary eGambling licence] must be held by that person, and
- (g) in the case of any person –
 - (i) located, registered or incorporated in Guernsey, or
 - (ii) who is carrying out an activity in or Guernsey, who is effecting gambling transactions, a Category 2 eGambling licence [or a Temporary eGambling licence] must be held by that person.]

(3) [[An eGambling licensee, Category 1 associate certificate holder or Category 2 associate certificate holder] may exercise its licence or certificate (as the case may be)] only if, before [...] allowing a customer to gamble with or through, any entity other than the holder of a –

- (a) Category 2 eGambling licence, [...] [or]

[(ab) ...]

(b) [Category 2 associate certificate],

the customer is notified and warned in the manner specified in [the eGambling licensee's, Category 1 associate certificate holder's or Category 2 associate certificate holder's] approved internal control system, that –

- (i) the proposed gambling is to be conducted outside of the jurisdiction of Alderney,
- (ii) the proposed gambling is to be conducted with an entity whose gambling Systems are not regulated or monitored by the Commission, and
- (iii) the Commission is not obliged to act upon any complaints received regarding such gambling.

NOTES

In section 1,

the words in the first pair of square brackets in paragraph (a) were inserted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(2), with effect from 10th January, 2018;

the words in, first, the second pair of square brackets in paragraph (a) and, second, the first pair of square brackets in paragraph (b) of subsection (1) were inserted by the Alderney eGambling (Amendment) Ordinance, 2014, section 3, respectively paragraph (a) and paragraph (b), with effect from 24th September, 2014;

the words "Category 2 associate certificate" in square brackets, wherever occurring, were substituted by the Alderney eGambling (Amendment) Ordinance, 2013, section 4, with effect from 13th August, 2013, subject to the transitional provisions in section 8 of the 2013 Ordinance;

the word omitted in square brackets in paragraph (b) of subsection

(2) was repealed, the punctuation in square brackets in paragraph (c) of subsection (2) was substituted and paragraph (e), paragraph (f) and paragraph (g) of subsection (2) were inserted by the Alderney eGambling (Amendment) Ordinance, 2014, section 4, respectively paragraph (a), paragraph (b) and paragraph (c), with effect from 16th July, 2014;

paragraph (d) of subsection (2) (which was originally inserted by the Alderney eGambling (Amendment) Ordinance, 2014, section 4(c), with effect from 16th July, 2014) was substituted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(3), with effect from 10th January, 2018;¹

the words in square brackets in, first, paragraph (e), second, paragraph (f) and, third, paragraph (g) of subsection (2) were inserted by the Alderney eGambling (Amendment) Ordinance, 2014, section 5, paragraph (b), paragraph (c) and paragraph (d), with effect from 24th September, 2014;

first, the words in the first pair of square brackets in subsection (3) were substituted and, second, the word omitted in square brackets at the end of subsection (3)(a) was repealed by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(4), respectively paragraph (b), and paragraph (a), with effect from 10th January, 2018;

the words omitted in the second pair of square brackets in subsection (3) were repealed by the Alderney eGambling (Amendment) Ordinance, 2010, section 2, with effect from 21st July, 2010;

first, the word in the second pair of square brackets at the end of paragraph (a) of subsection (3) was inserted, second, paragraph (ab) (which was originally inserted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(4)(a), with effect from 10th January, 2018) was repealed, third, the words in square brackets within the first pair of square brackets in subsection (3) were substituted and, fourth, the words "the eGambling licensee's, Category 1 associate certificate holder's or Category 2 associate certificate holder's" in the seventh pair of square brackets therein (which words were previously substituted, in part, by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(4)(c), with effect from 10th January, 2018) were substituted by the Alderney eGambling (Amendment) (No. 2) Ordinance, 2018, section 1(2), respectively paragraph (a), paragraph (b), paragraph (c) and paragraph (d), with effect from 12th September, 2018.

The following Regulations have been made under section 1:

Alderney eGambling Regulations, 2009.

eGambling with strangers.

2. Notwithstanding section 10(1) of the Law, an eGambling licensee[, Category 1 associate certificate holder] and/or a [Category 2 associate certificate] holder complying with any conditions attached to its eGambling licence or certificate and acting in accordance with the provisions of this Ordinance and of regulations made under this Ordinance is thereby authorised to conduct a business in the course of which a gambling transaction is negotiated or entered into with, or on behalf of, a stranger and to permit a stranger to participate in any form of gambling lawfully conducted, organised or promoted by that licensee.

NOTE

In section 2,

the words in the first pair of square brackets were inserted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(5), with effect from 10th January, 2018;

the words in the second pair of square brackets were substituted by the Alderney eGambling (Amendment) Ordinance, 2013, section 4, with effect from 13th August, 2013, subject to the transitional provisions in section 8 of the 2013 Ordinance.

Activities outside Alderney.

3. For the avoidance of doubt, an [eGambling licensee, Category 1 associate certificate holder or a Category 2 associate certificate holder] does not organise or in any way take part in unlawful gambling for the purposes of section 5(2) of the Law by –

- (a) exercising its [eGambling licence, Category 1 associate certificate or Category 2 associate certificate], as the case may be, at, or from, premises situated outside Alderney and Guernsey, or
- (b) in the case of a Category 1 [eGambling licensee and

Category 1 associate certificate holder], and subject always to section 1(3), making arrangements in accordance with its approved internal control system for a customer to gamble with a person in a place outside of Alderney and Guernsey.

NOTES

In section 3,

the words in the first pair of square brackets were substituted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(6), with effect from 10th January, 2018;²

the words in the second pair of square brackets were substituted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(7), with effect from 10th January, 2018;³

the words in the third pair of square brackets were substituted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(10), with effect from 10th January, 2018.

[Licensing Objectives and Functions of the Commission

Licensing objectives.

3A. In this Ordinance, and any Regulations made thereunder, "**licensing objectives**" means the objectives of –

- (a) protecting and enhancing the reputation of Alderney as a well regulated eGambling centre,
- (b) ensuring that eGambling is conducted honestly and fairly and in compliance with good governance,
- (c) preventing eGambling from being a source of crime,

being associated with crime, or being used to support crime, including preventing the funding, management and operation of eGambling from being under criminal influence, and

- (d) protecting the interests of young persons and other vulnerable persons from being harmed or exploited by eGambling.]

NOTE

Section 3A, and the corresponding entry in the Arrangement of Sections, were inserted by the Alderney eGambling (Amendment) Ordinance, 2014, respectively section 2(a) and section 6, with effect from 16th July, 2014.

Functions of the Commission.

3B. (1) Without prejudice to any existing functions assigned to the Commission by the Law or by any Ordinance made thereunder (including any provisions under this Ordinance), the functions of the Commission in relation to eGambling, include –

- (a) taking such steps as the Commission considers necessary or expedient –
 - (i) for the effective regulation, supervision and control of eGambling in Alderney, and pursuant to the Alderney eGambling (Operations in Guernsey) Ordinance, 2006, in Guernsey,
 - (ii) in order to pursue the licensing objectives,
 - (iii) for maintaining confidence in, and the safety,

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soundness, and integrity of Alderney's eGambling sector,

(b) the countering of financial crime and of the financing of terrorism in the eGambling sector; and in this paragraph "**financial crime**" includes any offence involving –

(i) fraud or dishonesty,

(ii) misconduct in, or misuse of information relating to, a financial market,

(iii) handling the proceeds of crime,

and "**offence**" includes an act or omission which would be an offence if it had taken place in Alderney.]

NOTE

Section 3B, and the corresponding entry in the Arrangement of Sections, were inserted by the Alderney eGambling (Amendment) Ordinance, 2014, respectively section 2(a) and section 6, with effect from 16th July, 2014.

Licensing and certification

Applications.

4. (1) A person who wishes to obtain –
- (a) a Category 1 eGambling licence,
 - (b) a Category 2 eGambling licence,

- (c) a Temporary eGambling licence,
- (d) a key individual certificate,
- (e) a core services associate certificate,
- [(ea) a Category 1 associate certificate,]
- (f) a [Category 2 associate certificate], or
- (g) a hosting certificate,

shall make application in that behalf to the Commission.

(2) The Commission shall by regulations make provision in respect of an application under subsection (1) and, without prejudice to the generality of the foregoing, it shall, in particular, prescribe –

- (a) its form,
- (b) the information which it shall contain and the means by which further information may be sought,
- (c) the form, if any, in which it shall be publicised in order to invite representations with regard to it,
- (d) the means by which it may be withdrawn prior to determination,
- (e) the manner in which it shall be –

- (i) investigated and assessed by servants or agents of the Commission,
 - (ii) determined, and
 - (iii) the outcome notified to the applicant.
- (3) The Commission shall by regulations make provision for the manner in which –
- (a) an eGambling licensee or a certificate holder may apply to the Commission to supplement, vary or remove any details contained in the eGambling licence or certificate in question, and
 - (b) such an application shall be processed and determined.
- (4) An application may be made under this section by a promoter on behalf of a company that has not yet been incorporated if the Commission is satisfied that appropriate steps are being or will be taken in order for such a company to be incorporated as an Alderney company.

NOTES

In section 4,

paragraph (ea) of subsection (1) was inserted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(8), with effect from 10th January, 2018;

the words in square brackets in paragraph (f) of subsection (1) were substituted by the Alderney eGambling (Amendment) Ordinance, 2013, section 4, with effect from 13th August, 2013, subject to the transitional provisions in section 8 of the 2013 Ordinance.

The following Regulations have been made under section 4:

*Alderney eGambling Regulations, 2009;
Alderney eGambling (Amendment) (No. 2) Regulations, 2014.*

[Grant or refusal of] applications.

5. [(A1) The Commission may upon receipt and consideration of an application for a licence or certificate grant or refuse the application.]

(1) The Commission may only grant a Category 1 eGambling licence or a Category 2 eGambling licence, to an Alderney company.

(2) [Without prejudice to the generality of its powers conferred by subsection (A1), the Commission] shall refuse the grant of the eGambling licence or certificate for which application has been made under section 4 if it is not satisfied that –

- (a) the applicant is a fit and proper person to hold that licence or certificate,
- (b) where applicable, any associate of the applicant is a fit and proper person to be associated with the operations proposed by the applicant,
- (c) in the case of an applicant for a Temporary eGambling licence, the applicant is licensed or properly licensed in another jurisdiction to conduct eGambling operations[,]
- [(d) it would be in the best interests of Alderney for the applicant to be granted a licence or certificate,
- (e) the reputation of Alderney as a well regulated

eGambling centre would not be jeopardised by the applicant being granted a licence or certificate.]

(3) The Commission shall prescribe by regulations the matters it shall or may take into account in deciding whether –

- (a) an applicant or, as the case may be, an associate is a fit and proper person,
- (b) an applicant for a Temporary eGambling licence is licensed or properly licensed in another jurisdiction to conduct eGambling operations,

for the purposes of subsection (2).

(4) The Commission may only grant a Temporary eGambling licence to a foreign company.

NOTES

In section 5,

the words in square brackets in the marginal note thereto were substituted by the Alderney eGambling (Amendment) Ordinance, 2014, section 7(a), with effect from 16th July, 2014;⁴

first, subsection (A1) was inserted, second, the words in the first and third, the punctuation in the second pairs of square brackets in subsection (2) were substituted and, fourth, paragraph (d) and paragraph (e) of subsection (2) were inserted by the Alderney eGambling (Amendment) Ordinance, 2014, section 7, respectively paragraph (b), paragraph (c)(i), paragraph (c)(ii) and paragraph (c)(iii), with effect from 16th July, 2014.

The following Regulations have been made under section 5:

Alderney eGambling Regulations, 2009.

Application costs.

6. (1) A person making an application under section 4 shall pay to the Commission the reasonable costs associated with processing, investigating and determining that application.

(2) The Commission shall by regulations make provision for the manner in which –

- (a) monies shall be deposited from time to time by, or on behalf of, an applicant,
- (b) any surplus monies deposited with the Commission and not utilised by it for the purposes of subsection (1) shall be retained or, as the case may be repaid, and
- (c) information concerning the costs incurred by the Commission shall be provided.

NOTE

The following Regulations have been made under section 6:

Alderney eGambling Regulations, 2009.

Grant and duration of licences and certificates.

7. (1) If the Commission grants an application made under section 4, it shall promptly issue to the applicant the eGambling licence or the certificate sought in a form prescribed by regulations which, unless surrendered, lapsed, suspended or revoked under this Ordinance or in accordance with regulations made under this Ordinance, shall be valid from the date specified thereon as directed by the Commission for an indefinite period.

(2) The Commission may in regulations made under this Ordinance specify the provisions and conditions that apply to different categories of eGambling licence and certificates.

NOTE

The following Regulations have been made under section 7:

Alderney eGambling Regulations, 2009;
Alderney eGambling (Amendment) Regulations, 2011;
Alderney eGambling (Amendment) Regulations, 2012;
Alderney eGambling (Amendment) Regulations, 2013;
Alderney eGambling (Amendment) Regulations, 2018;
Alderney eGambling (Amendment) Regulations, 2021.

Fees for licences and certificates.

8. (1) Subject to subsections (2) and (3), the fees specified in column 4 of Schedule 3 to this Ordinance and corresponding to the type and description of eGambling licence or certificate specified in columns 2 and 3 respectively of Schedule 3 shall be paid by an eGambling licensee or certificate holder to the Commission as agent for the States –

- (a) within seven days of the Commission issuing the licence or certificate, and
- (b) in advance of each anniversary of the date of validity specified on the licence or certificate in accordance with section 7,

and if such fee is not paid within the periods set out above in paragraphs (a) and (b), the eGambling licence or certificate shall, without prejudice to section 12 [and subject to subsections (1A) and (1B)], be suspended.

[(1A) If a fee referred to in subsection (1) is not paid –

- (a) within one month of the Commission issuing the licence or certificate, or
- (b) within one month after the anniversary of the date of validity specified on the licence or certificate in accordance with section 7,

the eGambling licence or certificate shall be deemed to have lapsed.

(1B) The Commission may, at its discretion, increase the periods in paragraph (a) or (b) of subsection (1) or (1A), as those subsections apply in any particular case.]

(2) If the Commission determines that –

- (a) an eGambling licensee or certificate holder has constructed a mechanism in order to reduce the fee payable by it under this Ordinance, and
- (b) [any] of the conditions specified in subsection (3) are satisfied,

the Commission may specify the fee payable under this Ordinance without reference to Schedule 3, provided that such a fee [(except the annual gambling business association fee)] shall not exceed the maximum fee set out in Schedule 3.

(3) The conditions for the purposes of subsection (2)(b) are –

- (a) an eGambling licensee or certificate holder is so closely

related to another entity, [...]

- (b) the net gaming yield revealed by an [eGambling licensee or Category 1 certificate holder] is not an accurate reflection of its net gaming receipts in any period[, or]

- [(c) the number of gambling business associates reported by an eGambling licensee or certificate holder is not an accurate reflection of the number of gambling business associates associated with the eGambling licensee or certificate holder.]

[(4) If an eGambling licensee or certificate holder applies for a different category of eGambling licence or certificate ("**new licence**") and it wishes to surrender its existing eGambling licence or certificate ("**existing licence**") prior to the anniversary of the date of validity specified on the existing licence ("**existing licence's anniversary date**"), the Commission may specify that the fee payable under this Ordinance for the new licence is reduced by an amount which does not exceed the amount set out in subsection (5), provided that the eGambling licence or certificate holder surrenders its existing licence by the date of the issue of the new licence.

(5) The amount referred to in subsection (4) is the fee amount for the existing licence apportioned pro rata on a monthly basis multiplied by the number of whole calendar months remaining prior to the existing licence's anniversary date.]

NOTES

In section 8,

first, the words in square brackets in subsection (1) and, second,

subsection (1A) and subsection (1B) were inserted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(9), with effect from 10th January, 2018;

the words in the first and second pairs of square brackets in subsection (2) were, respectively, substituted and inserted by the Alderney eGambling (Amendment) Ordinance, 2015, section 2(a)(i) and section 2(a)(ii), with effect from 1st April, 2015, subject to the savings and transitional provisions in section 6 of and the Schedule to the 2015 Ordinance;

the words in square brackets in subsection (3)(b) were substituted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(11), with effect from 10th January, 2018;

first, the word omitted in paragraph (a) of subsection (3) was repealed, second, the punctuation and word in square brackets in paragraph (b) of subsection (3) were substituted and, third, paragraph (c) of subsection (3) was inserted by the Alderney eGambling (Amendment) Ordinance, 2015, section 2(b), respectively subparagraph (i), subparagraph (ii) and subparagraph (iii), with effect from 1st April, 2015, subject to the savings and transitional provisions in section 6 of and the Schedule to the 2015 Ordinance;

subsection (4) and subsection (5) were inserted by the Alderney eGambling (Amendment) Ordinance, 2014, section 8, with effect from 16th July, 2014.

In accordance with the provisions of the Alderney eGambling Regulations, 2009, regulation 268, with effect from 1st January, 2010 and for the purposes of this section, if the change in the annualised net gaming yield calculated by reference to sub-paragraphs (a) and (b) of the definition of "annualised net gaming yield" in regulation 265 of the 2009 Regulations affects the fee level that the licensee or certificate holder would be appointed to (as specified in Schedule 3 to this Ordinance), this change will only be taken into account in the fee calculation for the next renewal period of that licensee or certificate holder's fee.

Licences and certificates personal to holder.

9. An eGambling licence or any certificate issued by the Commission under section 7 of this Ordinance is not capable of being assigned and cannot be transferred by the eGambling licensee or certificate holder.

Licence or certificate conditions.

10. (1) The Commission may attach to an eGambling licence or a

certificate issued by it under section 7 of this Ordinance such conditions as it considers necessary, expedient or desirable –

- (a) for the proper conduct of eGambling, [...]
- (b) in the public interest[, or]
- [(c) in pursuit of the licensing objectives.]

(2) The Commission shall by regulations make provision for the manner in which a condition may be added to an eGambling licence or a certificate and thereafter varied or rescinded.

NOTES

In section 10, the word omitted in square brackets in paragraph (a) of subsection (1) was repealed, the punctuation and word in square brackets in paragraph (b) of subsection (1) were substituted and paragraph (c) of subsection (1) was inserted by the Alderney eGambling (Amendment) Ordinance, 2014, section 9, respectively paragraph (a), paragraph (b) and paragraph (c), with effect from 16th July, 2014.

The following Regulations have been made under section 10:

*Alderney eGambling Regulations, 2009;
Alderney eGambling (Amendment) Regulations, 2013;
Alderney eGambling (Amendment) Regulations, 2018.*

Surrender of licence or certificate.

11. An eGambling licensee or a certificate holder may at any time surrender the licence or certificate held in the manner prescribed by regulations of the Commission made under this section.

NOTE

The following Regulations have been made under section 11:

Alderney eGambling Regulations, 2009.

Suspension, revocation and other sanctions.

12. (1) The Commission may take action under this section where –
- (a) an eGambling licensee or a certificate holder is no longer a fit and proper person to hold the eGambling licence or certificate in question,
 - (b) an associate of an eGambling licensee or a certificate holder is not, or is no longer, a fit and proper person to be associated with the operations of the licensee or certificate holder,
 - (c) an eGambling licensee or a certificate holder has contravened –
 - (i) a provision of this Ordinance or of regulations made under this Ordinance, or
 - (ii) a condition attached to the eGambling licence or certificate in question, [...]
 - (d) a Temporary eGambling licensee is no longer licensed or properly licensed in another jurisdiction to conduct eGambling operations[, or]
 - [(e) the licensed activity is being, or has been, carried out by an eGambling licensee or certificate holder, or an

associate of an eGambling licensee or certificate holder, in a manner which is inconsistent with the licensing objectives.]

(2) The Commission shall prescribe by regulations the matters it shall or may take into account in deciding whether –

- (a) an eGambling licensee or a certificate holder or, as the case may be, an associate is a fit and proper person, and
- (b) a Temporary eGambling licensee is licensed or properly licensed in another jurisdiction to conduct eGambling operations,

for the purposes of subsection (1).

(3) Where subsection (1) applies, the Commission may –

- (a) issue a direction to rectify,
- (b) issue a written caution,
- [(c) impose a financial penalty not exceeding whichever is the greater of –
 - (i) £250,000, and
 - (ii) 10% of the annual turnover of the eGambling licensee, certificate holder, associate or Temporary eGambling licensee (as the case may be) in the 12 months preceding the date on

which subsection (1) first applies,

which may take immediate effect or be suspended for such period as may be directed, during which it can be activated should subsection (1) apply again,]

(d) suspend the validity of the eGambling licence or certificate,

(e) revoke the eGambling licence or withdraw the certificate.

(4) In respect of any one incident, the Commission may combine two or more of the actions specified in paragraphs (a) to (d) of subsection (3).

(5) The Commission shall by regulations make provision for the procedure it will adopt prior to taking action under this section, which shall include (without limitation) providing an opportunity for the eGambling licensee or certificate holder to make representations and the consequences of any action being taken.

NOTES

In section 12,

the word omitted in square brackets in paragraph (c)(ii) of subsection (1) was repealed, the punctuation and word in square brackets in paragraph (d) of subsection (1) were substituted and paragraph (e) of subsection (1) was inserted by the Alderney eGambling (Amendment) Ordinance, 2014, section 10, respectively paragraph (a), paragraph (b) and paragraph (c), with effect from 16th July, 2014;

paragraph (c) of subsection (3) was substituted by the Alderney eGambling (Amendment) Ordinance, 2021, section 1(2), with effect from 17th November, 2021.

The following Regulations have been made under section 12:

Register of licences and certificates.

13. (1) The Commission shall maintain a register, in such bound or loose-leaf paper format as it thinks fit and kept solely for that purpose, of all eGambling licences and certificates issued by it under this Ordinance and shall note therein any changes affecting an eGambling licence or a certificate.

(2) The Commission shall make the register available at its offices for inspection by members of the public, but only by prior appointment.

(3) The Commission may also publish the register or any extract therefrom in electronic form.

Operational requirements

Internal controls.

14. (1) An [eGambling licensee, Category 1 associate certificate holder or Category 2 associate certificate holder] may exercise its [eGambling licence, Category 1 associate certificate or Category 2 associate certificate] only if –

- (a) it has obtained approval of its internal control system by the Commission, and
- (b) it conducts its business of organizing, promoting or effecting gambling transactions, as the case may be, under and in accordance with that system.

(2) An [eGambling licensee, Category 1 associate certificate holder or Category 2 associate certificate holder] who wishes to obtain approval of –

- (a) its internal control system, or
- (b) a change to its approved internal control system, shall make application in that behalf to the Commission.

(3) The Commission shall by regulations make provision in respect of an application under subsection (2) and, without prejudice to the generality of the foregoing, it shall, in particular, prescribe –

- (a) its form,
- (b) the matters on which information shall be provided and the means by which further information, where appropriate, may be sought,
- (c) the manner in which it shall be –
 - (i) assessed by servants or agents of the Commission carrying out an evaluation of the proposed internal controls,
 - (ii) determined, and
 - (iii) the outcome notified to the [eGambling licensee, Category 1 associate certificate holder or Category 2 associate certificate holder].

(4) Subsections (1), (2) and (3) do not apply to a Temporary eGambling licensee.

(5) In accordance with regulations made by the Commission under

this subsection, a Temporary eGambling licensee must, at all times whilst operating under its licence, satisfy the Commission that the internal control system it utilises provides a safe, secure and fair system for the conduct of gambling.

(6) In accordance with regulations made by the Commission under this subsection, the Commission may give an [eGambling licensee, Category 1 associate certificate holder or a Category 2 associate certificate holder] a direction to change its approved internal control system.

NOTES

In section 14,

the words "eGambling licensee, Category 1 associate certificate holder or Category 2 associate certificate holder" in square brackets, wherever occurring, were substituted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(12), with effect from 10th January, 2018;⁵

the words in the second pair of square brackets in subsection (1) were substituted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(7), with effect from 10th January, 2018;⁶

the words in square brackets in subsection (6) were substituted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(6), with effect from 10th January, 2018.⁷

The following Regulations have been made under section 14:

*Alderney eGambling Regulations, 2009;
Alderney eGambling (Amendment) Regulations, 2012;
Alderney eGambling (Amendment) Regulations, 2013;
Alderney eGambling (Amendment) Regulations, 2015;
Alderney eGambling (Amendment) Regulations, 2018.*

Gambling equipment.

15. (1) An eGambling licensee may exercise its eGambling licence only if it has obtained approval by the Commission of the gambling equipment it utilises to conduct its business of facilitating or effecting gambling transactions,

including gambling equipment supplied to it by an associate.

[(1A) A Category 1 associate certificate holder may not operate under its certificate unless it has obtained approval by the Commission of the gambling equipment it utilises to organise and promote gambling transactions, including gambling equipment supplied to it by an associate.]

(2) A [Category 2 associate certificate] holder may not operate under its certificate unless it has obtained approval by the Commission of the gambling equipment it utilises to effect gambling transactions, including gambling equipment supplied to it by an associate.

(3) An eGambling licensee[, Category 1 associate certificate holder] or a [Category 2 associate certificate] holder that wants to obtain approval of such gambling equipment shall make application in that behalf to the Commission.

(4) An application by an eGambling licensee[, a Category 1 associate certificate holder or a Category 2 associate certificate holder] under subsection (3) may be made in conjunction with an application under section 14(2).

(5) The Commission shall by regulations make provision in respect of an application under subsection (3) and, without prejudice to the generality of the foregoing, it shall, in particular, prescribe –

- (a) its form,
- (b) the information which it shall contain and the means by which further information may be sought,
- (c) the manner in which it shall be –

- (i) assessed by servants or agents of the Commission carrying out an evaluation of the gambling equipment in question,
- (ii) determined, and
- (iii) the outcome notified to the eGambling licensee[, Category 1 associate certificate holder] or [Category 2 associate certificate] holder.

(6) The holder of a core services associate certificate who wishes to obtain approval in principle of any gambling equipment belonging to it intended for future use by an eGambling licensee[, a Category 1 associate certificate holder] or a [Category 2 associate certificate] holder may make application in that behalf to the Commission in the manner prescribed by regulations made by the Commission under this subsection as if it were an application by an eGambling licensee.

(7) If the Commission grants an application under subsection (6), a description of the gambling equipment so approved in principle shall be endorsed on the core services associate certificate in question in accordance with regulations made under this subsection.

(8) Subsections (1) to (7) do not apply to a Temporary eGambling licensee.

(9) In accordance with regulations made by the Commission under this subsection, a Temporary eGambling licensee must, at all times whilst operating under its eGambling licence, satisfy the Commission that the gambling equipment it utilises to conduct its business of facilitating or effecting gambling transactions is safe, secure and fair.

NOTES

In section 15,

first, subsection (1A), second, the words in the first pair of square brackets in subsection (3), third, the words in square brackets in subsection (4), fourth, the words in the first pair of square brackets in subsection (5) and, fifth, the words in the first pair of square brackets in subsection (6) were inserted, by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(13), respectively paragraph (a), paragraph (b), paragraph (c), paragraph (d) and paragraph (e), with effect from 10th January, 2018;

the words "Category 2 associate certificate" in square brackets, wherever occurring, were substituted by the Alderney eGambling (Amendment) Ordinance, 2013, section 4, with effect from 13th August, 2013, subject to the transitional provisions in section 8 of the 2013 Ordinance.

The following Regulations have been made under section 15:

*Alderney eGambling Regulations, 2009;
Alderney eGambling (Amendment) Regulations, 2018.*

Evaluation and testing costs.

16. (1) A person making an application under section 14 or 15 shall pay to the Commission the reasonable costs associated with evaluating and testing the proposed internal controls or, as the case may be, the software and processing and determining that application.

(2) The Commission shall by regulations make provision for the manner in which –

(a) monies shall be deposited from time to time by, or on behalf of, an [eGambling licensee or Category 1 certificate holder] or, as the case may be, an associate,

(b) any surplus monies deposited with the Commission and not utilised by it for the purposes of subsection (1) shall

be retained or, as the case may be, repaid, and

- (c) information concerning the costs incurred by the Commission shall be provided.

NOTES

In section 16, the words in square brackets in subsection (3)(b) were substituted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(11), with effect from 10th January, 2018.

The following Regulations have been made under section 16:

*Alderney eGambling Regulations, 2009;
Alderney eGambling (Amendment) Regulations, 2018.*

Associates providing core services.

17. (1) An eGambling licensee may exercise its eGambling licence, and a [Category 1 associate certificate holder and a] [Category 2 associate certificate] holder may exercise its certificate, only if every business associate providing it with one or more core services as prescribed by regulations of the Commission made under this subsection holds a current core services associate certificate.

(2) Notwithstanding subsection (1), –

- (a) if within 21 days of first becoming an associate providing one or more core services to an [eGambling licensee, Category 1 associate certificate holder or Category 2 associate certificate holder] a person makes application for a core services associate certificate under section 4, until his application is determined by the Commission he shall be deemed to hold a core services associate certificate,

- (b) a Temporary eGambling licensee may lawfully exercise its eGambling licence without every associate, that provides it with one or more core services, holding a core services associate certificate, unless the Commission advises the Temporary eGambling licensee by way of written notice that it is not satisfied that every such associate is fit and proper to be an associate of the Temporary eGambling licensee.

NOTES

In section 17,

the words in the first pair of square brackets in subsection (1) were inserted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(14), with effect from 10th January, 2018;

the words in the second pair of square brackets in subsection (1) were substituted by the Alderney eGambling (Amendment) Ordinance, 2013, section 4, with effect from 13th August, 2013, subject to the transitional provisions in section 8 of the 2013 Ordinance;

the words in square brackets in subsection (2) were substituted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(12), with effect from 10th January, 2018.⁸

The following Regulations have been made under section 17:

*Alderney eGambling Regulations, 2009;
Alderney eGambling (Amendment) Regulations, 2012.*

[Category 1 Associate Certificates.

17A. (1) The Commission may by regulations make provision generally for, or in relation to, the grant, use, effect and requirements of Category 1 associate certificates.

(2) A Category 1 associate certificate may be issued to an

Alderney company that is a Category 1 eGambling licensee or a Category 2 eGambling licensee, but in no other circumstances shall a Category 1 associate certificate be issued to an Alderney company. (3) A Category 1 associate certificate may not be issued to a natural person.]

NOTES

Section 17A was inserted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(14), with effect from 10th January, 2018.

The following Regulations have been made under section 17A:

*Alderney eGambling (Amendment) Regulations, 2018;
Alderney eGambling (Amendment) Regulations, 2021.*

[Category 2 Associate Certificates.]

18. (1) The Commission may by regulations make provision generally for, or in relation to, the grant, use, effect and requirements of [Category 2 associate certificate]s.

(2) A [Category 2 associate certificate] may be issued to an Alderney company that is a Category 1 eGambling licensee or a Category 2 eGambling licensee, but in no other circumstance shall a [Category 2 associate certificate] be issued to an Alderney company.

(3) A [Category 2 associate certificate] may not be issued to a natural person.

NOTES

In section 18,

the marginal note thereto was substituted by the Alderney eGambling (Amendment) Ordinance, 2013, section 2, with effect from 18th July, 2013;

the words "Category 2 associate certificate" in square brackets, wherever occurring, were substituted by the Alderney eGambling (Amendment) Ordinance, 2013, section 4, with effect from 13th August, 2013, subject to the transitional provisions in section 8 of the 2013 Ordinance.

The following Regulations have been made under section 18:

*Alderney eGambling Regulations, 2009;
Alderney eGambling (Amendment) Regulations, 2012;
Alderney eGambling (Amendment) Regulations, 2013;
Alderney eGambling (Amendment) (No. 3) Regulations, 2013.*

Key individuals.

19. (1) An [eGambling licensee, Category 1 associate certificate holder or a Category 2 associate certificate holder] may exercise its [eGambling licence, Category 1 associate certificate or Category 2 associate certificate] only if every person –

- (a) performing functions identified by the licensee or certificate holder in its approved internal control system as those of a key individual, or
- (b) designated as a key individual by the Commission in accordance with regulations made under this paragraph,

holds a current key individual certificate.

(2) Notwithstanding subsection (1), if within 21 days of first becoming a key individual a person makes application for a key individual certificate under section 4, until his application is determined by the Commission he shall be deemed to hold a key individual certificate.

(3) A person who is a key individual end who does not, without reasonable excuse, hold a key individual certificate shall be guilty of an offence and liable, on conviction, to a fine not exceeding £25,000.

NOTES

In section 19,

the words in the first pair of square brackets in subsection (1) were substituted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(6), with effect from 10th January, 2018;⁹

the words in the second pair of square brackets in subsection (1) were substituted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(7), with effect from 10th January, 2018.¹⁰

The following Regulations have been made under section 19:

Alderney eGambling Regulations, 2009.

Exercise of Temporary eGambling licence.

20. An eGambling licensee who holds a Temporary eGambling licence may exercise that licence only if all the requirements of the Law, this Ordinance, regulations made by the Commission under this section, and any conditions attached to the licence are satisfied.

NOTE

The following Regulations have been made under section 20:

*Alderney eGambling Regulations, 2009;
Alderney eGambling (Amendment) Regulations, 2012;
Alderney eGambling (Amendment) Regulations, 2013.*

Investigations.

21. (1) The Commission may conduct such ordinary or special investigations as it considers necessary or expedient into –

- (a) an [eGambling licensee, Category 1 associate certificate holder and a Category 2 associate certificate holder],

including its operations, whether located in Alderney, Guernsey or elsewhere,

- (b) an associate of an [eGambling licensee, Category 1 associate certificate holder or a Category 2 associate certificate holder], whether or not it holds a core services associate certificate, including the operations undertaken by it on behalf of the [eGambling licensee, Category 1 associate certificate holder or Category 2 associate certificate holder], whether located in Alderney, Guernsey or elsewhere,
- (c) a holder of a hosting certificate, including its approved premises, or
- (d) a holder of a key individual certificate.

(2) If the Commission carries out an investigation under this section, the eGambling licensee or the certificate holder in question shall pay, or cause to be paid, to the Commission the reasonable costs incurred by the Commission associated with the carrying out of that investigation.

(3) The Commission shall by regulations make provision for –

- (a) the conduct of an investigation, including the procedures to be adopted by it before, during and following an investigation, and
- (b) the manner in which –
 - (i) payment shall be made,

- (ii) any surplus monies deposited with the Commission and not utilised by it for the purpose of subsection (2) shall be retained, or as the case may be, repaid, and
- (iii) information concerning the costs incurred by the Commission shall be provided.

NOTES

In section 21,

the words in square brackets in paragraph (a) of subsection (1) were substituted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(15), with effect from 10th January, 2018;¹¹

the words in the first pair of square brackets in paragraph (b) of subsection (1) were substituted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(6), with effect from 10th January, 2018;¹²

the words in the second pair of square brackets in paragraph (b) of subsection (1) were substituted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(12), with effect from 10th January, 2018;¹³

The following Regulations have been made under section 21:

*Alderney eGambling Regulations, 2009;
Alderney eGambling (Amendment) Regulations, 2018.*

General compliance matters.

22. [(1) The Commission may by regulation provide for anything necessary or expedient –

- (a) for the regulation, good conduct and control of eGambling,

(b) in pursuit of the licensing objectives.]

(2) Without prejudice to the generality of subsection (1), the Commission shall make regulations to provide for the way in which –

- (a) a customer of an [eGambling licensee and Category 1 associate certificate holder] is registered,
- (b) a customer is informed by an [eGambling licensee and Category 1 associate certificate holder] about the rules for effecting a gambling transaction,
- (c) payment for a customer's gambling is received by, or on behalf of, an [eGambling licensee and Category 1 associate certificate holder],
- (d) winnings accruing to a customer are returned by, or on behalf of, an [eGambling licensee and Category 1 associate certificate holder],
- (e) an [eGambling licensee, Category 1 associate certificate holder and a Category 2 associate certificate holder] and, where appropriate, its associates are obliged to take steps to comply with applicable [...] measures in respect of money laundering and terrorist financing[, and such regulations shall include, without limitation, the duties and requirements to be complied with by such licensees, certificate holders and associates for the purposes of forestalling and preventing money laundering] [and terrorist financing],

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- (f) a customer can impose limitations on his gambling activity with an [eGambling licensee and Category 1 associate certificate holder],
 - (g) a complaint by a customer of an [eGambling licensee and Category 1 associate certificate holder] is handled,
 - (h) an [eGambling licensee, Category 1 associate certificate holder and a Category 2 associate certificate holder] shall keep, or cause to be kept, accounting and other records and provide, or arrange to provide, such records, reports and other information relating to its business to the Commission, and
 - (i) the operations of an [eGambling licensee, Category 1 associate certificate holder and a Category 2 associate certificate holder] are to be monitored by the Commission.
- (3) The Commission may –
- (a) establish and maintain a website to support the performance of its functions under this Ordinance and regulations made thereunder, and
 - [(b) make such notices, instructions, guidance or other similar instruments as it considers appropriate for the purposes of this Ordinance and regulations made thereunder, including, without limitation, such notices, instructions, guidance or other similar instruments for the purposes of providing information about

compliance with the provisions of this Ordinance and regulations made thereunder.]

[(4) The Commission and any court shall take the notices, instructions, guidance and other similar instruments made under subsection (3) into account in determining whether any person has complied with this Ordinance and the regulations made thereunder.

(5) Paragraphs (a) and (b) of section 27(1) and section 27(2) (general provisions as to regulations) have effect in relation to notices, instructions, guidance and other similar instruments made by the Commission as if references in that section to regulations were references respectively to notices, instructions, guidance and other similar instruments.]

NOTES

In section 22,

subsection (1) was substituted, the word omitted in the second pair of square brackets in paragraph (e) of subsection (2) was repealed and the words in the fourth pair of square brackets therein were inserted by the Alderney eGambling (Amendment) Ordinance, 2014, section 11, respectively paragraph (a), paragraph (b)(i) and paragraph (b)(ii), with effect from 16th July, 2014;

the words "eGambling licensee and Category 1 associate certificate holder" in square brackets, wherever occurring, were substituted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(10), with effect from 10th January, 2018;

the words "eGambling licensee, Category 1 associate certificate holder and a Category 2 associate certificate holder" in square brackets, wherever occurring, were substituted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(15), with effect from 10th January, 2018;¹⁴

the words in the third pair of square brackets in paragraph (e) of subsection (2) were inserted, paragraph (b) of subsection (3) was substituted, and subsection (4) and subsection (5) were inserted by the Alderney eGambling (Amendment) Ordinance, 2013, section 3, respectively paragraph

(a), paragraph (b) and paragraph (c), with effect from 18th July, 2013.

The following Regulations have been made under section 22:

Alderney eGambling Regulations, 2009;
Alderney eGambling (Amendment) Regulations, 2010;
Alderney eGambling (Amendment) (No. 2) Regulations, 2010;
Alderney eGambling (Amendment) Regulations, 2011;
Alderney eGambling (Amendment) Regulations, 2012;
Alderney eGambling (Amendment) Regulations, 2013;
Alderney eGambling (Amendment) (No. 2) Regulations, 2013;
Alderney eGambling (Amendment) (No. 3) Regulations, 2013;
Alderney eGambling (Amendment) Regulations, 2014;
Alderney eGambling (Amendment) (No. 2) Regulations, 2014;
Alderney eGambling (Amendment) Regulations, 2015;
Alderney eGambling (Amendment) Regulations, 2018;
Alderney eGambling (Amendment) Regulations, 2021.

[Customers, money laundering and terrorist financing.]

22A. Schedule 4 (Money laundering and terrorist financing) has effect.]

NOTE

Section 22A was inserted by the Alderney eGambling (Amendment) Ordinance, 2020, section 1(2), with effect from 9th September, 2020.

Miscellaneous and general provisions

Appeals.

23. (1) Any person aggrieved by a decision of the Commission under this Ordinance or under regulations made under this Ordinance may, within 28 days immediately following the date of notification to him of the Commission's decision, appeal to the Court of Alderney against that decision on the grounds that it was ultra vires or was an unreasonable exercise of the powers of the Commission.

(2) An appeal under this section shall be instituted by way of summons served on the chairman of the Commission stating the grounds, and setting

out the material facts, on which the appellant relies.

(3) On an appeal under this section, the appellant shall have the burden of proof and the final right of reply.

(4) On an appeal under this section, the Court of Alderney may, upon the application of the appellant, and on such terms as the Court thinks just, suspend or modify the operation of the decision against which the appeal is brought, pending the determination of the appeal in question.

(5) 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.

(6) 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, 1969^b shall apply as if it were an appeal in a civil matter.

Offences.

24. (1) A person who, for the purpose of –
- (a) obtaining the grant of a licence or certificate under this Ordinance, whether to himself or to some other person, or
 - (b) satisfying a requirement imposed by regulations made under this Ordinance,

makes any declaration or statement or gives any information, or produces or makes

^b Ordres en Conseil Vol. XXII, p. 192; amended by 1987/XVII.

any document, knowing the same to be false in a material particular shall be guilty of an offence.

(2) A person who, without the Commission's written authorisation, interferes in the conduct of a gambling transaction made lawful by this Ordinance shall be guilty of an offence and liable, on conviction, to a fine not exceeding £25,000.

(3) A customer of an eGambling licensee who fails to comply with the rules of a gambling transaction made lawful by this Ordinance as notified to him by the [eGambling licensee or Category 1 certificate holder] shall be guilty of an offence and liable, on conviction, to a fine not exceeding level 5 on the Alderney uniform scale.

(4) A person who has not registered as a customer of an [eGambling licensee or Category 1 certificate holder] but effects a gambling transaction with that licensee shall be guilty of an offence and liable, on conviction, to a fine not exceeding level 5 on the Alderney uniform scale.

(5) A person who contravenes any provision of regulations made under this Ordinance which is specified therein as a "money laundering offence" for the purposes of this subsection shall be guilty of an offence [and liable, on conviction, to a fine, or to imprisonment for a term not exceeding five years, or to both].

NOTES

In section 24,

the words in square brackets in subsection (4) were substituted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(11), with effect from 10th January, 2018;

the words in square brackets in subsection (5) were inserted by the Alderney eGambling (Amendment) Ordinance, 2021, section 1(3), with effect

from 17th November, 2021.

The following Regulations have been made under section 24:

Alderney eGambling (Amendment) Regulations, 2013;
Alderney eGambling (Amendment) Regulations, 2018.

In accordance with the provisions of the Alderney eGambling Regulations, 2009, regulation 233(2), with effect from 22nd May, 2013 and for the purposes of subsection (5) of this section, each requirement set out in Schedule 16 to, and each requirement under regulations 175(2)(j), 175(3), 226, 227, 228, 229 and 230 of, the 2009 Regulations is specified as a "money laundering offence".

Offences by bodies corporate.

25. (1) Where an offence under this Ordinance is committed by a body corporate and is proved to have been committed with the consent or connivance of, or to be attributable to or to have been facilitated by any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he, as well as the body corporate, is guilty of the offence and may be proceeded against and punished accordingly.

(2) Where the affairs of a body corporate are managed by its members, subsection (1) applies to a member in connection with his functions of management as if he were a director.

Accessories and abettors.

26. Without prejudice to the generality of section 25, 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.

General provisions as to regulations.

27. (1) Regulations made by the Commission under this Ordinance –

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- (a) may be amended or repealed by subsequent regulations hereunder,
- (b) may contain such consequential, incidental, supplemental and transitional provision as may appear to the Commission to be necessary or expedient, and
- (c) shall be laid before a meeting of the States as soon as possible and shall, if at that or the next meeting the States resolve to annul them, cease to have effect, but without prejudice to anything done under them or to the making of new regulations.

(2) Any powers conferred upon the Commission by this Ordinance to make regulations may be exercised –

- (a) in relation to all cases to which the power extends, or in relation to all those cases subject to specified exemptions, or in relation to specified cases or classes of cases,
- (b) so as to make, as respects the cases in relation to which it is exercised –
 - (i) the full provision to which the power extends, or any lesser provision (whether by way of exception or otherwise),
 - (ii) the same provision for all cases, or different provision for different cases or classes of cases, or different provision for the same case or class

of case for different purposes, or

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

Giving notices.

28. (1) Any document other than a summons to be given under this Ordinance or under regulations made under this Ordinance may be given to –

- (a) an individual, by being delivered to him, or by being left at, or sent by post or transmitted to, his usual or last known place of abode,
- (b) a company with a registered office in Alderney, by being left at, or sent by post or transmitted to, that office,
- (c) a company without a registered office in Alderney, by being left at, or sent by post or transmitted to, its principal or last known principal place of business in Alderney or, if there is no such place, its registered office or principal or last known principal place of business outside Alderney,
- (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 Alderney 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 or under regulations made hereunder 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.

Right to prohibit gambling and to refuse transactions.

29. Nothing in this Ordinance or in any regulations made under this Ordinance shall be construed as requiring an [eGambling licensee or Category 1 certificate holder] or any of its servants or agents to negotiate or enter into any gambling transaction.

NOTE

In section 29, the words in square brackets were substituted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(11), with effect from 10th January, 2018.

Interpretation.

30. (1) In this Ordinance, unless the context otherwise requires –

"Alderney company" means a company incorporated in Alderney and registered in the Register of Companies kept in accordance with the Companies (Alderney) Law, 1994^c,

[**"annual gambling business association fee"** shall be calculated in accordance with Schedule 3 and by reference to the number of gambling business associates that are reported by an [eGambling licensee, Category 1 associate certificate holder or a Category 2 associate certificate holder], in the form and manner prescribed by regulations of the Commission under this Ordinance, to be associated with that [eGambling licensee, Category 1 associate certificate holder or Category 2 associate certificate holder] (as the case may be),]

"annualised net gaming yield" shall be calculated by reference to regulations made by the Commission under this Ordinance,

^c Orders in Council Nos. XXXIV of 1994, I of 2001, XV of 2002.

"applicant" means a person making an application under section 4,

"approved internal control system" means an internal control system approved by the Commission in accordance with section 14, and includes an approved internal control system changed with the approval, or under the direction, of the Commission,

"approved premises" means premises approved by the Commission and specified on a hosting certificate at which an [eGambling licensee's or associate certificate holder's] gambling equipment may be situated,

"associate" means a business associate or an executive associate,

"associate certificate" means –

(a) a core services associate certificate issued under section 7 to an associate by which the Commission approves that associate during the currency of the certificate as being a fit and proper person to be associated with the operations of an eGambling licensee[, a Category 1 associate certificate holder] or a [Category 2 associate certificate] holder, [...]

[(ab) a Category 1 associate certificate, and]

(b) a [Category 2 associate certificate] [...],

"business associate" means a person who the Commission reasonably believes is or, as the case may be, will be associated with the ownership, management or performance of the operations of an eGambling licensee or a certificate holder, and includes (without limitation) –

- (a) a supplier of software,
- (b) a person who maintains a database of customer information,
- (c) a person involved in receiving payments from, and making payments to, customers, and
- (d) another company within the same group of companies,

["**Category 1 associate certificate**" means a certificate issued under section 7 and in accordance with section 17A,]

"**Category 1 eGambling licensee**" means the holder of a Category 1 eGambling licence issued under section 7, and "**Category 1 eGambling licence**" has a corresponding meaning,

["**Category 2 associate certificate**" means a certificate issued under section 7 and in accordance with section 18,]

"**Category 2 eGambling licensee**" means the holder of a Category 2 eGambling licence issued under section 7, and "**Category 2 eGambling licence**" has a corresponding meaning,

"**certificate**" means, as the case may be, a core services associate certificate, [a Category 1 associate certificate,] a [Category 2 associate certificate], a hosting certificate or a key individual certificate,

"**certificate holder**" means, as the case may be, a person holding a core services associate certificate, [a Category 1 associate certificate,] a

[Category 2 associate certificate], a hosting certificate or a key individual certificate,

"conduct" includes promote, organise, effect and operate,

"controlled" includes owned, leased and occupied under licence,

"customer" means a person who enters into an arrangement with a [Category 1 eGambling licensee or Category 1 associate certificate holder] [or a business associate of a Category 2 eGambling licensee] for the purpose of taking part in a gambling transaction,

"direction to rectify" means a notice to an eGambling licensee or a certificate holder containing –

- (a) a requirement that the eGambling licensee or certificate holder acts, or desists from acting, in a manner and within the period of time specified in the notice, and
- (b) a warning to the recipient of the consequences of failing to comply with the notice,

"enactment" means any Law, Ordinance or subordinate legislation,

"executive associate" means an executive officer of a company, partner or trustee, or another person identified in writing by the Commission who the Commission reasonably believes is or, as the case may be, will be associated with the ownership or management of the operations of an eGambling licensee or a certificate holder,

"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,

"eGambling" means gambling where the gambling transaction with an [eGambling licensee, Category 1 associate certificate holder or Category 2 associate certificate holder] is effected remotely by a customer by means of a telecommunication device,

"eGambling licence" means a Category 1 eGambling licence, a Category 2 eGambling licence and a Temporary eGambling licence,

"eGambling licensee" means a person who holds an eGambling licence,

"foreign company" means a company that is not an Alderney company,

[...]

"former associate certificate" means a certificate issued to an associate under section 7 of the 2006 Ordinance,

"full eGambling licence" means an eGambling licence issued under section 7 of the 2006 Ordinance (by which the holder is permitted to conduct eGambling at any time),

[**"gambling business associate"** means a business associate who –

- (a) contracts [(either directly or through a contract or other arrangement with a third party)] with a –

- (i) [Category 1 eGambling licensee or Category 1 associate certificate holder], in an arrangement whereby the business associate effects the gambling transaction on behalf of the Category 1 eGambling licensee,
 - (ii) [Category 1 eGambling licensee or Category 1 associate certificate holder], in an arrangement whereby the Category 1 eGambling licensee organises or promotes a gambling transaction on behalf of the business associate, or [...]
 - (iii) Category 2 eGambling licensee or a Category 2 associate certificate holder, in an arrangement whereby the Category 2 eGambling licensee or Category 2 associate certificate holder effects the gambling transaction on behalf of the business associate, [or]
 - [(iv) Category 2 eGambling licensee or a Category 2 associate certificate holder, in any arrangement whereby the business associate effects the gambling transaction on behalf of the Category 2 eGambling licensee or Category 2 associate certificate holder, and]
- (b) is not –
- (i) the holder of an [eGambling licence, a Category 1 associate certificate or a Category 2 associate certificate], or

- (ii) another company within the same group of companies as the holder of the [eGambling licence, Category 1 associate certificate or Category 2 associate certificate] that the business associate has contracted with,]

"gambling equipment" means a machine or other device, whether electronic, electrical or mechanical, computer software, or another thing, used, or suitable for use, in eGambling,

"gambling transaction" means a transaction involving any form of betting, gaming and wagering and participation in any lottery,

"Guernsey" means the Island of Guernsey and includes Herm and Jethou,

"hosting certificate" means a certificate issued under section 7 to a person authorising it to accommodate gambling equipment in approved premises,

"internal control system" means a system of controls and administrative and accounting procedures used for the conduct of eGambling,

"key individual" means a person who –

- (a) occupies or acts in a position designated in [an eGambling licensee's, a Category 1 associate certificate holder's or a Category 2 associate certificate holder's] approved internal control system as a key position,

- (b) is an associate, or occupies or acts in a managerial position, or carries out managerial functions, or is in a position to control or exercise significant influence over the operations conducted under an [eGambling licence, a Category 1 associate certificate or a Category 2 associate certificate], designated by the Commission,

"key individual certificate" means a certificate issued under section 7 to a key individual enabling him to perform functions for, or on behalf of, an [eGambling licensee, Category 1 associate certificate holder or a Category 2 associate certificate holder],

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

[**"licensed activity"** means any gambling transaction organised, promoted or effected by an eGambling licensee, Category 1 associate certificate holder or a Category 2 associate certificate holder in exercise of its eGambling licence, Category 1 associate certificate or Category 2 associate certificate, as the case may be,]

[**"licensing objectives"** means the objectives set out in section 3A,]

[**"money laundering"** means doing any act which –

- (a) constitutes an offence under section 38, 39 or 40 of the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999,

^d Order in Council No. XIV of 1999; No. XXVII of 2001; Ordinance No. XVI of 2003.

- (b) constitutes an offence under section 57, 58 or 59 of the Drug Trafficking (Bailiwick of Guernsey) Law, 2000,
- (c) constitutes an attempt, conspiracy or incitement to commit an offence specified in paragraph (a) or (b),
- (d) constitutes aiding, abetting, counselling or procuring the commission of an offence specified in paragraph (a) or (b),
- (e) would, in the case of an act done otherwise than in the Bailiwick of Guernsey, constitute an offence specified in paragraph (a), (b), (c) or (d) if done in the Bailiwick of Guernsey,

irrespective of the value of any property or the amount of any money involved and, for the purposes of this definition –

- (f) having possession of any property shall be taken to be doing an act in relation to it, and
- (g) if the context allows, a reference to money laundering includes a reference to the funding of terrorism,]

"net gaming yield" in relation to an [eGambling licensee or Category 1 certificate holder] means the gross sum received by the [eGambling licensee or Category 1 certificate holder] as a result of the licensed activity, after deduction of –

- (a) winnings and prizes paid or payable to a customer, and

- (b) such sums paid out by the [eGambling licensee or Category 1 certificate holder] pursuant to contractual revenue sharing arrangements that the Commission considers to be bona fide and at arms length,

and shall be calculated by reference to regulations made by the Commission under this Ordinance,

"ordinary investigation" means a general investigation carried out periodically by the Commission in relation to an [eGambling licensee's or associate certificate holder's] operations and, where applicable, those parts of the operations undertaken by an associate,

"promoter" means a person who undertakes preparatory work, including, without limitation, making an application under this Ordinance, for the purpose of fostering the grant of an eGambling licence or certificate by the Commission to an entity which may lawfully hold that eGambling licence or certificate,

"restricted use eGambling licence" means an eGambling licence issued under section 7 of the 2006 Ordinance (by which the holder is only permitted to conduct eGambling in accordance with certain limitations imposed by it),

"special investigation" means an investigation for a specific purpose arising outside the ambit of an ordinary investigation,

"telecommunication device" means –

- (a) a computer adapted for communicating by way of the internet or another communications network, or

- (b) a telephone, or
- (c) a television receiver adapted to allow the user to transmit information by way of a cable television network, a satellite or another communications network, or
- (d) any other electronic device or thing for communicating at a distance, and

["**Temporary eGambling licence**" means an eGambling licence issued under section 7 by which the holder is only permitted to conduct eGambling in accordance with the limitations imposed by section 20,]

["**terrorist financing**" means doing any act which –

- (a) constitutes an offence under section 8, 9, 10 or 11 of the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002, section 9, 10, 11, 12 or 13 of the Terrorist Asset Freezing (Bailiwick of Guernsey) Law, 2011, section 1 of the Afghanistan (Restrictive Measures) (Alderney) Ordinance, 2011, section 1 of the Afghanistan (Restrictive Measures) (Guernsey) Ordinance, 2011, section 1 of the Afghanistan (Restrictive Measures) (Sark) Ordinance, 2011, section 1 of the Al-Qaida (Restrictive Measures) (Alderney) Ordinance, 2013, section 1 of the Al-Qaida (Restrictive Measures) (Guernsey) Ordinance, 2013, section 1 of the Al-Qaida (Restrictive Measures) (Sark) Ordinance, 2013, and in those sections the "**purposes of terrorism**" include, to

the extent that they do not already do so –

- (i) any attempt, conspiracy or incitement to carry out terrorism within the meaning of section 1 of the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002, or
 - (ii) aiding, abetting, counselling or procuring the carrying out of such terrorism,
- (b) constitutes an attempt, conspiracy or incitement to commit an offence specified in paragraph (a),
 - (c) constitutes aiding, abetting, counselling or procuring the commission of an offence specified in paragraph (a), or
 - (d) would, in the case of an act done otherwise than in the Bailiwick of Guernsey, constitute an offence specified in paragraph (a), (b) or (c) if done in the Bailiwick of Guernsey,

irrespective of the value of the property involved, and for the purposes of this definition, having possession of any property shall be taken to be doing an act in relation to it.]

"2006 Ordinance" means the Alderney eGambling Ordinance 2006, as amended^e.

^e Ordinance No. VI of 2006, Ordinance No. XIII of 2007, Ordinance No. XI of 2008.

(2) Unless the context otherwise requires, a reference in this Ordinance to any enactment includes a reference to that enactment as amended, repealed and replaced, extended or applied by or under any enactment including this Ordinance.

(3) The Interpretation (Guernsey) Law, 1948^f applies to the interpretation of this Ordinance as it applies to the interpretation of an enactment in force in Guernsey.

NOTES

In section 30,

the definitions of the expressions, first, "annual gambling business association fee" and, second, "gambling business associate" in subsection (1) were inserted, third, the words in the first pair of square brackets and, fourth, the words in the second pair of square brackets in the definition of the expression "licensed activity" in subsection (1) were inserted by the Alderney eGambling (Amendment) Ordinance, 2015, respectively section 3(a), section 3(b), section 3(c)(i) and section 3(c)(ii), with effect from 1st April, 2015, subject to the savings and transitional provisions in section 6 of and the Schedule to the 2015 Ordinance;

the words in, first, the first pair of square brackets within the definition of the expression "annual gambling business association fee" and in square brackets in the definition of the expression "key individual certificate" in subsection (1) and, second, in the second pair of square brackets within the definition of the expression "annual gambling business association fee" and in square brackets in the definition of the expression "eGambling" in subsection (1) were substituted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2, respectively subsection (6) and subsection (12), with effect from 10th January, 2018;¹⁵

first, the words in square brackets in the definitions of the expressions "approved premises" and "ordinary investigation" in subsection (1) were substituted and, second, the words in the first pair of square brackets in the definition of the expression "associate certificate" in subsection (1) were inserted, the word omitted in square brackets at the end of paragraph (a) of that definition was repealed and paragraph (ab) of that

^f Ordres en Conseil Vol. XIII, p. 355.

definition was inserted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(16), respectively paragraph (a) and paragraph (b), with effect from 10th January, 2018;

the words "Category 2 associate certificate" in square brackets, wherever occurring, were substituted by the Alderney eGambling (Amendment) Ordinance, 2013, section 4, with effect from 13th August, 2013, subject to the transitional provisions in section 8 of the 2013 Ordinance;

the words omitted in square brackets in, first, paragraph (b) of the definition of the expression "associate certificate" in subsection (1) and, second, immediately after the definition of the expression "foreign company" in subsection (1) were repealed by the Alderney eGambling (Amendment) Ordinance, 2013, section 5, respectively paragraph (a) and paragraph (c), with effect from 13th August, 2013, subject to the transitional provisions in section 8 of the 2013 Ordinance;

the definition of the expression "Category 1 associate certificate" in subsection (1) was inserted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(16)(c), with effect from 10th January, 2018;

the definition of the expression "Category 2 associate certificate" in subsection (1) was inserted by the Alderney eGambling (Amendment) Ordinance, 2013, section 5(b), with effect from 13th August, 2013, subject to the transitional provisions in section 8 of the 2013 Ordinance;

the words in square brackets in the definitions of the expressions "certificate" and "certificate holder" in subsection (1) were inserted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(16)(d), with effect from 10th January, 2018;

first, the words in the first pair of square brackets in the definition of the expression "customer" in subsection (1) and, second, the words in the second and third pairs of square brackets within paragraphs (a)(i) and (ii) of the definition of the expression "gambling business associate" in subsection (1) were inserted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(16)(e), with effect from 10th January, 2018;

the words in the second pair of square brackets in the definition of the expression "customer" in subsection (1) were inserted by the Alderney eGambling (Amendment) Ordinance, 2010, section 3, with effect from 21st July, 2010;

the words in, first, the first pair of square brackets in paragraph (a) within the definition of the expression "gambling business associate" and, second, in the first and second pairs of square brackets in paragraph (b) within that definition in subsection (1) were, respectively, inserted and substituted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(16)(f), with effect from 10th January, 2018;

first, the word omitted in the second pair of square brackets in paragraph (a)(ii) of the definition of the expression "gambling business associate" in subsection (1) was repealed, second the word in square brackets in paragraph (a)(iii) thereof was substituted and, third, paragraph (a)(iv) thereof was inserted by the Alderney eGambling (Amendment) (No. 2) Ordinance, 2018, section 1(3), respectively paragraph (a), paragraph (b) and paragraph (c), with effect from 12th September, 2018;

the words in the first and second pairs of square brackets in the definition of the expression "key individual" in subsection (1) were substituted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(16)(g), with effect from 10th January, 2018;¹⁶

the definition of the expression "licensed activity" in subsection (1) was substituted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(16)(h), with effect from 10th January, 2018;¹⁷

the definitions of the expressions "licensing objectives", "money laundering" and "terrorist financing" in subsection (1) were inserted and the definition of the expression "Temporary eGambling licence" was moved so that it appears immediately after the definition of "telecommunication device" by the Alderney eGambling (Amendment) Ordinance, 2014, section 12, respectively paragraph (a), paragraph (b), paragraph (d) and paragraph (c), with effect from 16th July, 2014;

the words in square brackets in the definition of the expression "net gaming yield" in subsection (1) were substituted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(10), with effect from 10th January, 2018.

The following Regulations have been made under section 30:

Alderney eGambling Regulations, 2009.

The Afghanistan (Restrictive Measures) (Alderney) Ordinance, 2011, the Afghanistan (Restrictive Measures) (Guernsey) Ordinance, 2011, the Afghanistan (Restrictive Measures) (Sark) Ordinance, 2011, the Al-Qaida (Restrictive Measures) (Alderney) Ordinance, 2013, the Al-Qaida (Restrictive Measures) (Guernsey) Ordinance, 2013 and the Al-Qaida (Restrictive Measures) (Sark) Ordinance, 2013 have all since been repealed by the Sanctions (Implementation of UK Regimes) (Bailiwick of Guernsey) (Brexit) Regulations, 2020, regulation 4, Schedule 2, with effect from 11 p.m. on 31st December, 2020.

The Interpretation (Guernsey) Law, 1948 has since been repealed by the Interpretation and Standard Provisions (Bailiwick of Guernsey) Law, 2016, section 28(a), with effect from 1st October, 2018.

Repeals, savings and transitional provisions.

31. (1) The enactments set out in Schedule 1 are hereby repealed.
- (2) ...

NOTE

In section 31, subsection (2) was repealed by the Alderney eGambling (Amendment) Ordinance, 2013, section 6, with effect from 18th July, 2013.

Citation.

32. This Ordinance may be cited as the Alderney eGambling Ordinance, 2009.

Commencement.

33. This Ordinance shall come into force on 1st January, 2010.

SCHEDULE 1

Section 31(1)

REPEALS

Alderney eGambling Ordinance, 2006^g

Alderney eGambling (Amendment) Ordinance, 2007^h

Alderney eGambling (Amendment) Ordinance, 2008ⁱ

g Alderney Ordinance No. VI of 2006.

h Alderney Ordinance No. XIII of 2007.

i Alderney Ordinance No. XI of 2008.

SCHEDULE 2

Section 31(2)

SAVINGS AND TRANSITIONAL PROVISIONS

...

NOTE

Schedule 2 was repealed by the Alderney eGambling (Amendment) Ordinance, 2013, section 7, with effect from 18th July, 2013.

[SCHEDULE 3

Section 8

FEES

Column 1 ITEM	Column 2 LICENCE OR CERTIFICATE	Column 3 DESCRIPTION	Column 4 FEE
1	Category 1 eGambling licence	For a licensee with no previous licensed activity in Alderney as a Category 1 eGambling licensee, for its first year	£17,500
2	Category 1 eGambling licence	For a new application which does not satisfy the criteria set out in item 1 of this Table	£35,000
3	Category 1 eGambling licence (Band A)	For renewal by a licensee whose annualised net gaming yield is less than £500,000	£35,000
4	Category 1 eGambling licence (Band B)	For renewal by a licensee whose annualised net gaming yield equals or exceeds £500,000 but is less than £1 million	£60,000
5	Category 1 eGambling licence (Band C)	For renewal by a licensee whose annualised net gaming yield equals or exceeds £1 million but is less than £5 million	£80,000
6	Category 1 eGambling licence (Band D)	For renewal by a licensee whose annualised net gaming yield equals or exceeds £5 million but is less than £7.5 million	£130,000
7	Category 1 eGambling licence (Band E)	For renewal by a licensee whose annualised net gaming yield equals or exceeds £7.5 million but is less than £20 million	£200,000

Consolidated text

8	Category 1 eGambling licence (Band F)	For renewal by a licensee whose annualised net gaming yield equals or exceeds £20 million but is less than £30 million	£290,000
9	Category 1 eGambling licence (Band G)	For renewal by a licensee whose annualised net gaming yield equals or exceeds £30 million	£400,000
10	Category 1 eGambling licence listed in items 3 to 9 (inclusive) of this Table	Annual gambling business association fee	£3,000 per gambling business associate
11	Category 2 eGambling licence	For a licensee with no previous licensed activity in Alderney as a Category 2 eGambling licensee, for its first year	£17,500
12	Category 2 eGambling licence	For a new application which does not satisfy the criteria set out in item 11 of this Table	£35,000
13	Category 2 eGambling licence	For renewal by a licensee	£35,000
14	Category 2 eGambling licence listed in item 13 of this Table	Annual gambling business association fee Where the person who holds the Category 2 eGambling licence also holds a Category 1 eGambling licence (" existing Category 1 eGambling licensee "), the calculation of the annual gambling business association fee (in relation to the Category 2 eGambling licence) shall exclude any gambling business associate reported	£3,000 per gambling business associate

Consolidated text

		by an existing Category 1 eGambling licensee to be associated with the existing eGambling Category 1 licensee.	
15	Temporary eGambling licence	Annual licence fee	£10,000
16	Core services associate certificate		£10,000
[16A	Category 1 associate certificate	For a certificate holder with no previous licensed activity as a Category 1 associate certificate holder, for its first year	£35,000]
[16B	Category 1 associate certificate	For a new application which does not satisfy the criteria set out at Item 16A of this Table	£50,000]
[16C	Category 1 associate certificate	For renewal by a certificate holder	£50,000, and an additional fee as set out at Items 4 to 9 of this Table: see Note]
[16D	Category 1 associate certificate listed in item 16C of this table	Annual gambling business association fee	£3,000 per gambling business associate]
17	Category 2 associate certificate	For a certificate holder with no previous licensed activity as a Category 2 associate certificate	£35,000

Consolidated text

		holder, for its first year	
18	Category 2 associate certificate	For a new application which does not satisfy the criteria set out in item 17 of this Table	£50,000
19	Category 2 associate certificate	For renewal by a certificate holder	£50,000
20	Category 2 associate certificate listed in item 19 of this Table	Annual gambling business association fee	£3,000 per gambling business associate
21	Hosting certificate		nil

]

NOTES

Schedule 3 was substituted by the Alderney eGambling (Amendment) Ordinance, 2015, section 4, with effect from 1st April, 2015, subject to the savings and transitional provisions in section 6 of and the Schedule to the 2015 Ordinance.¹⁸

In Schedule 3, Items 16A, 16B, 16C and 16D were inserted by the Alderney eGambling (Amendment) Ordinance, 2018, section 2(17), with effect from 10th January, 2018.

In accordance with the provisions of the Alderney eGambling Regulations, 2009, regulation 265(1), with effect from 1st January, 2010 and for the purposes of this Schedule, "annualised net gaming yield" shall be calculated as set out therein.

[SCHEDULE 4 Section 22A
MONEY LAUNDERING AND TERRORIST FINANCING

PART 1
RISK ASSESSMENT

General duty to understand, and assess and mitigate, risks.

1. (1) In this Schedule, a "**relevant person**" means an eGambling licensee, a Category 1 associate certificate holder or a Category 2 associate certificate holder, as the case may be. (2) A relevant person must –

- (a) understand its money laundering and terrorist financing risks, and
- (b) have in place effective policies, procedures and controls to –
 - (i) identify,
 - (ii) assess,
 - (iii) mitigate,
 - (iv) manage, and
 - (v) review and monitor,

those risks in a way that is consistent with the requirements of this Schedule, the relevant enactments, the Regulations, guidance published by the Commission, and the

NRA; and this Schedule shall be construed consistently with this duty.

Duty to carry out business risk assessments.

2. (1) Without prejudice to the generality of the duty under paragraph 1, a relevant person must –

- (a) carry out and document a suitable and sufficient money laundering business risk assessment and a suitable and sufficient terrorist financing business risk assessment, which are specific to the relevant person, before submitting its application for approval of its internal control system in accordance with regulation 176, and
- (b) regularly review its business risk assessments so as to keep them up to date and, where, as a result of that review, changes to the business risk assessments are required, it must make those changes and seek approval to make any corresponding changes to its approved internal control system in accordance with regulations 191 and 192.

(2) Without prejudice to the generality of the duty under paragraph 1, and to the duties set out in subparagraph (1), when this Schedule comes into force a relevant person which has already commenced operation under its eGambling licence, Category 1 associate certificate or Category 2 associate certificate (as the case may be) must carry out and document a suitable and sufficient money laundering business risk assessment and a suitable and sufficient terrorist financing business risk assessment, which are specific to the relevant person, as soon as reasonably practicable.

(3) In carrying out its business risk assessments under sub-

paragraphs (1) or (2) the business must consider all relevant risk factors before determining –

- (a) the level of overall risk of the business, and
- (b) the appropriate level and type of mitigation to be applied.

(4) The business risk assessments must be appropriate to the nature and size of the business, and be in respect of –

- (a) customers, and the beneficial owners of customers,
- (b) countries and geographic areas, and
- (c) products, services, transactions and delivery channels (as appropriate), and in particular in respect of the money laundering or terrorist financing risks that may arise in relation to –
 - (i) the development of new products and new business practices, before such products are made available and such practices adopted, and
 - (ii) the use of new or developing technologies for both new and pre-existing products, before such technologies are used and adopted.

(5) A relevant person must –

- (a) prior to the establishment of a business relationship,

undertake a risk assessment of that proposed business relationship,

- (b) regularly review any risk assessment carried out under subparagraph (a) so as to keep it up to date and, where changes to that risk assessment are required, it must make those changes, and
- (c) ensure that its policies, procedures and controls on forestalling, preventing and detecting money laundering and terrorist financing are appropriate and effective, having regard to the assessed risk.

(6) When undertaking a risk assessment under sub-paragraph (5)(a) or reviewing a risk assessment under sub-paragraph (5)(b), a relevant person must –

- (a) take into account risk variables relating to the type or types of customer, country or geographic area, and product, service, transaction or delivery channel that are relevant to the business relationship in question, and
- (b) understand that such risk variables, and any other risk variables, either singly or in combination, may increase or decrease the potential risk posed by the business relationship.

(7) A relevant person must –

- (a) have in place policies, procedures and controls approved by its board to enable it to manage and

mitigate –

- (i) risks identified in the business risk assessments and in risk assessments undertaken under sub-paragraph 5(a), and
 - (ii) risks relevant, or potentially relevant, to the business identified in the NRA (which risks must be incorporated into the business risk assessments),
- (b) regularly review and monitor the implementation of those policies, controls and procedures, and enhance them if such enhancement is necessary or desirable for the proper management and mitigation of those risks, and
- (c) take enhanced measures to manage and mitigate higher risks identified in the business risk assessments and in risk assessments undertaken under sub-paragraph 5(a).
- (8) A relevant person must have regard to –
- (a) any relevant notice, instruction or guidance issued by the Commission,
 - (b) the NRA, in determining, for the purposes of this Schedule, what constitutes appropriate measures to manage and mitigate risks.

PART II

CUSTOMER DUE DILIGENCE ETC.

Customer due diligence.

3. (1) A Category 1 eGambling licensee or Category 1 associate certificate holder shall ensure that the steps in sub-paragraph (2) are carried out –

- (a) subject to paragraph 5, before registering a customer in accordance with regulation 227,
- (b) immediately after a registered customer, in accordance with regulation 230, makes a deposit –
 - (i) of €3,000 or more, or
 - (ii) that results in the total value of his deposits in the course of any period of 24 hours reaching or exceeding €3,000,
- (c) when it knows or suspects or has reasonable grounds for knowing or suspecting –
 - (i) that, notwithstanding any exemptions or thresholds pursuant to this Schedule, any party to a customer relationship is engaged in money laundering or terrorist financing, or
 - (ii) that it is carrying out a transaction on behalf of a person, including a beneficial owner or underlying principal, who is engaged in money laundering or terrorist financing, and

- (d) when it has doubts about the veracity or adequacy of documents, data or information previously obtained for the purposes of identification or verification of a registered customer.
- (2) The steps referred to in sub-paragraph (1) are that –
- (a) the customer shall be identified and his identity verified using identification data,
 - (b) any person purporting to act on behalf of the customer shall be identified and his identity and his authority to so act shall be verified,
 - (c) the beneficial owner and underlying principal shall be identified and reasonable measures shall be taken, on a risk sensitive basis, to verify such identity using identification data and such measures shall include, in the case of a legal person or legal arrangement, measures to understand the ownership and control structure of the customer,
 - (d) a determination shall be made as to whether the customer is acting on behalf of another person and, if the customer is so acting, reasonable measures shall be taken to obtain sufficient identification data to identify and verify the identity of that other person,
 - (e) information shall be obtained and understood on the purpose and intended nature of each customer relationship, and

- (f) a determination shall be made as to whether the customer, beneficial owner and any underlying principal is a person who is or has been entrusted with a prominent function by an international organisation or a politically exposed person, and, if he is a politically exposed person, whether he is a foreign politically exposed person or a domestic politically exposed person.

(3) In respect of the beneficial owner, the identification data referred to at sub-paragraph (2)(a) shall include (without limitation) identification data verifying –

- (a) in the case of a legal person, the identity of any natural persons who exercise control of that person through a controlling ownership interest or by other means, or where no such natural persons have been identified, the identity of the natural person who is the senior managing official, and
- (b) in the case of a trust, the identity of the settlor, the trustees, the beneficiaries, and any natural persons otherwise exercising control of the trust, and
- (c) in the case of a legal arrangement other than a trust, the identity of persons in positions equivalent to those described in subparagraph (b).

(4) A Category 1 eGambling licensee or Category 1 associate certificate holder is not required to identify any shareholder or beneficial owner of –

- (a) a customer, and
- (b) a person which ultimately controls a customer, that is –
 - (i) a company listed on a recognised stock exchange prescribed by regulations made by the Committee for the purposes of this paragraph and subject to disclosure requirements which enable its beneficial owners to be identified, or
 - (ii) a majority owned subsidiary of such a company.

(5) Where a Category 1 eGambling licensee or Category 1 associate certificate holder –

- (a) forms a suspicion of money laundering or terrorist financing by a customer or other person, and
- (b) reasonably believes that carrying out the steps in subparagraph (2), paragraph 4(2) or paragraph 9 would tip off that customer or person, it shall not carry out those steps, but shall instead make a disclosure pursuant to Part I of the Disclosure Law, or section 15 or 15A, or section 12 (as appropriate) of the Terrorism Law.

(6) A Category 1 eGambling licensee or Category 1 associate certificate holder must have regard to any relevant instructions, notices or guidance issued by the Commission in determining, for the purposes of sub-paragraphs (2)(c) and (2)(d), and paragraph 4(2)(c), what constitutes taking reasonable measures.

Enhanced customer due diligence.

4. (1) Where a Category 1 eGambling licensee or Category 1 associate certificate holder is required to carry out customer due diligence in accordance with paragraph 3, it shall also carry out enhanced customer due diligence in relation to higher risk customer relationships, including, without limitation, the following customer relationships –

- (a) a relationship in which the customer or any beneficial owner or underlying principal is a foreign politically exposed person,
- (b) a relationship where the customer is established or situated in a country or territory –
 - (i) that provides funding or support for terrorist activities, or does not apply (or insufficiently applies) the FATF Recommendations, or
 - (ii) is a country otherwise identified by the FATF Recommendations as a country for which such measures are appropriate,
- (c) a relationship which has been assessed as a high risk relationship pursuant to regulation 227(2) or 229, and
- (d) a relationship which the Category 1 eGambling licensee or Category 1 associate certificate holder considers to be a high risk relationship, taking into account any notices or warnings issued from time to time by the Commission pursuant to regulation 4(1) and having regard to the NRA.

(2) In sub-paragraph (1), "**enhanced customer due diligence**" means –

- (a) obtaining senior management approval for establishing a customer relationship,
- (b) obtaining senior management approval for, in the case of an existing customer relationship with a foreign politically exposed person, continuing that relationship,
- (c) taking reasonable measures to establish and understand the source of any funds and of the wealth of –
 - (A) the customer, and
 - (B) the beneficial owner, where the beneficial owner is a politically exposed person,
- (d) carrying out more frequent and more extensive ongoing monitoring, including increasing the number and timing of controls applied and selecting patterns of activity or transactions that need further examination, in accordance with paragraph 9, and
- (e) taking one or more of the following steps as would be appropriate to the particular customer relationship –
 - (i) obtaining additional identification data such as the customer's occupation, the volume of the

customer's assets, and publicly available information about the customer,

- (ii) verifying additional aspects of the customer's identity, and
- (iii) obtaining additional information to understand the purpose and intended nature of each customer relationship.

(3) In paragraph 3(2)(f) and sub-paragraph (1), "**politically exposed person**" means –

- (a) a natural person who has, or has had at any time, a prominent public function, or who has been elected or appointed to such a function, including, without limitation –
 - (i) heads of state or heads of government,
 - (ii) senior politicians and other important officials of political parties,
 - (iii) senior government officials,
 - (iv) senior members of the judiciary,
 - (v) senior military officers, and
 - (vi) senior executives of state owned body corporates,

(and such a person shall be referred to as a "**foreign politically exposed person**" unless he holds or has held or has been elected or appointed to the prominent public function in question in respect of the Bailiwick, in which case he shall be referred to as a "**domestic politically exposed person**"),

- (b) a person who is, or who has been at any time, entrusted with a prominent function by an international organisation,
- (c) an immediate family member of such a person including, without limitation, a spouse, partner, parent, child, sibling, parent-in-law or grandchild of such a person and in this subparagraph "**partner**" means a person who is considered by the law of the country or territory in which the relevant public function is held as being equivalent to a spouse, or
- (d) a close associate of a person referred to in (a) or (b), including, without limitation –
 - (i) a person who is widely known to maintain a close business relationship with such a person, or
 - (ii) a person who is in a position to conduct substantial financial transactions on behalf of such a person.

(4) A person is not a domestic politically exposed person for the purposes of this Schedule if he was not a politically exposed person within the meaning of Schedule 16 to the Alderney eGambling Regulations, 2009 when that Schedule was in force, and ceased to be entrusted with a prominent public function in respect of the Bailiwick before the coming into force of this Schedule.

(5) A Category 1 eGambling licensee or Category 1 associate certificate holder may treat a domestic politically exposed person as not being a politically exposed person five years after the person ceased to be entrusted with a public function if the senior management of the licensee has documented that the business is satisfied that –

- (a) it understands the source of the funds within the business relationship, and
- (b) there is no reason to continue to treat the person as a politically exposed person.

(6) Subject to subparagraph (9), a Category 1 eGambling licensee or Category 1 associate certificate holder may treat a person falling within subparagraph (3)(b) as not being a politically exposed person seven years after the person ceased to be entrusted with a prominent function by an international organisation if the senior management of the licensee or certificate holder has documented that the business is satisfied that –

- (a) it understands the source of the funds within the business relationship, and
- (b) there is no reason to continue to treat the person as a politically exposed person.

(7) Subject to subparagraph (9), a Category 1 eGambling licensee or Category 1 associate certificate holder may treat any other politically exposed person as not being a politically exposed person for the purposes of this Schedule seven years after the person ceased to be entrusted with a public function if the senior management of the licensee or certificate holder has documented that the business is satisfied that –

- (a) it has established and understands the source of the person's wealth, and that of the funds within the business relationship, and
- (b) there is no reason to continue to treat the person as a politically exposed person.

(8) Subparagraphs (5) to (7) apply in respect of persons falling within subparagraphs (3)(c) and (d) (immediate family members and close associates) in respect of the person in question as they do in respect of that person.

(9) Subparagraphs (6) and (7) do not apply in respect of a head of state or a head of government, a head of an international organisation, a person with the power to direct the spending of significant sums, or persons falling within subparagraphs (3)(c) and (d) in respect of such persons.

Timing of identification and verification.

5. Verification of the identity of the customer and of any beneficial owners and underlying principals may be completed following the registration of the customer, provided that to do so would be consistent with the business risk assessment of the business relationship conducted pursuant to paragraph 2(5)(a) and –

- (a) the verification is completed as soon as reasonably

practicable thereafter,

- (b) the need to do so is essential not to interrupt the normal conduct of the Category 1 eGambling licensee's or Category 1 associate certificate holder's business, and
- (c) appropriate and effective policies, procedures and controls are set out in the Category 1 eGambling licensee's or Category 1 associate certificate holder's approved internal control system which operate so as to manage money laundering and terrorist financing risks, including, without limitation, a set of measures, such as a limitation of the number, types and/or amount of transactions that can be performed or the monitoring of large or complex transactions being carried outside the expected norms for that customer relationship.

Non-compliance with customer due diligence measures, etc.

6. Where a Category 1 eGambling licensee or Category 1 associate certificate holder is unable to comply with paragraph 3 and, where applicable, paragraph 4, or paragraph 9(1)(a) to (c), it shall –

- (a) in the case of a person wishing to become a registered customer, not register that person as a customer,
- (b) in the case of an existing registered customer, terminate that customer relationship, and
- (c) consider whether making a disclosure is required pursuant to Part I of the Disclosure Law or or section 15 or 15A, or section 12 (as appropriate) of the

Terrorism Law.

Customer Identification and Verification Systems.

7. The Category 1 eGambling licensee's or Category 1 associate certificate holder's customer identification and verification systems shall –

- (a) incorporate robust and effective client identification methods and measures in order to adequately manage and mitigate the specific risks of non face-to-face customer relationships or transactions inherent in the eGambling industry,
- (b) supplement identification verification software with additional forms of customer due diligence and identity verification procedures in circumstances which are appropriate and effective for the purposes of managing and mitigating the risks referred to in sub-paragraph (a) and forestalling, preventing and detecting money laundering and terrorist financing, including, without limitation, where a Category 1 eGambling licensee or Category 1 associate certificate holder is required to carry out enhanced customer due diligence under this Schedule, and
- (c) refer only to identification verification software and additional or alternative identification methods that have been approved by the Commission.

Accounts.

8. A Category 1 eGambling licensee or Category 1 associate certificate holder must, in relation to all customers –

- (a) not set up or keep anonymous accounts or accounts in fictitious names, and
- (b) maintain accounts in a manner which facilitates the meeting of the requirements of this Schedule.

PART III

ENSURING COMPLIANCE AND RECORD KEEPING

Monitoring transactions and other activity.

9. (1) A Category 1 eGambling licensee or Category 1 associate certificate holder shall perform ongoing and effective monitoring of any customer relationship, which shall include –

- (a) reviewing identification data and records to ensure they are kept up to date, accurate and relevant, in particular as regards any beneficial owner, or registered customers in respect of whom there is a high risk,
- (b) updating identification data and records on a timely basis,
- (c) without prejudice to the Category 1 eGambling licensee's or Category 1 associate certificate holder's obligations under regulation 236, scrutinising any transactions or other activity to ensure that the transactions are consistent with the Category 1 eGambling licensee's or Category 1 associate certificate holder's knowledge of the registered customer and his risk profile (including, where necessary, the sources of

funds) and paying particular attention to all –

- (i) complex transactions,
 - (ii) transactions which are both large and unusual,
 - (iii) unusual patterns of activity or transactions, and
 - (iv) transactions arising from a country or territory that does not apply or insufficiently applies the FATF Recommendations, which have no apparent economic purpose or no apparent lawful purpose and recording its findings thereon in writing, and
- (d) ensuring that the way in which identification data are recorded and stored is such as to facilitate the ongoing monitoring of each customer relationship.

(2) A Category 2 eGambling licensee or, as the case may be, a Category 2 associate certificate holder shall perform ongoing and effective monitoring of all gambling transactions, paying particular attention to all –

- (a) complex transactions,
- (b) transactions which are both large and unusual, and
- (c) unusual patterns of activity or transactions, which have no apparent economic purpose or no apparent lawful purpose and recording its findings thereon in writing.

(3) An eGambling licensee, a Category 1 associate certificate holder and a Category 2 associate certificate holder shall examine as far as reasonably possible, the background and purpose of the transactions described in sub-paragraphs (1)(c) and (2) and shall set forth its findings in writing.

(4) The extent of any monitoring carried out under sub-paragraph (1) and the frequency at which it is carried out shall be determined on the basis of materiality and risk including, without limitation, whether or not the customer relationship is a high risk relationship.

(5) Where a Category 2 eGambling licensee or Category 2 associate certificate holder sets out its findings in writing in accordance with sub-paragraphs (2) and (3) it shall as soon as reasonably practicable communicate such findings to the Money Laundering Reporting Officer of the Category 1 eGambling licensee or Category 1 associate certificate holder who had allowed its customer to gamble with or through it in order to effect a gambling transaction.

(6) Without prejudice to the generality of this paragraph where within an existing business relationship there are complex and unusually large transactions, or unusual patterns of activity or transactions, which have no apparent economic or lawful purpose, an eGambling licensee or certificate holder shall –

- (a) examine the background and purpose of those transactions, and
- (b) increase the degree and nature of monitoring of the business relationship.

Reporting suspicion.

10. (1) An eGambling licensee, a Category 1 associate certificate holder, a Category 2 associate certificate holder and a Temporary eGambling licensee

(in respect of its activities under its Temporary eGambling licence) shall –

- (a) appoint an executive officer as the Money Laundering Reporting Officer and provide the name, title and email address of that person to the Commission and the Financial Intelligence Service as soon as is reasonably practicable and, in any event, within fourteen days starting from the date of that person's appointment, and ensure that all employees are aware of the name of that person,
- (b) nominate another person (a "**nominated officer**") to carry out the functions of the Money Laundering Reporting Officer in his absence, and provide the name, title and email address of that person to the Commission and the Financial Intelligence Service as soon as is reasonably practicable and, in any event, within fourteen days starting from the date of that person's appointment, and ensure that any relevant employee is aware of the name of that nominated officer,
- (c) ensure that where a relevant employee, other than the Money Laundering Reporting Officer, is required to make a disclosure under Part I of the Disclosure Law, or section 12 of the Terrorism Law, that this is done by way of a report to the Money Laundering Reporting Officer, or, in his absence, to a nominated officer,
- (d) ensure that the Money Laundering Reporting Officer, or in his absence a nominated officer, in determining

whether or not he is required to make a disclosure under Part I of the Disclosure Law, or section 15A or section 12 (as appropriate) of the Terrorism Law, takes into account all relevant information,

- (e) ensure that the Money Laundering Reporting Officer, or, in his absence, a nominated officer, is given prompt access to any other information which may be of assistance to him in considering any report, and
- (f) ensure that it establishes and maintains such other appropriate and effective procedures and controls as are necessary to ensure compliance with requirements to make disclosures under Part I of the Disclosure Law, and section 12 of the Terrorism Law.

(2) Where an eGambling licensee, a Category 1 associate certificate holder, a Category 2 associate certificate holder and a Temporary eGambling licensee (in respect of its activities under its Temporary eGambling licence) makes a disclosure under Part 1 of the Disclosure Law or section 12 of the Terrorism Law, a copy of that disclosure shall be provided to the Commission at the same time or as soon as practicable thereafter.

(3) A person who, immediately prior to the coming into force of this Schedule ("**Commencement**"), was a money laundering reporting officer or nominated officer of an eGambling licensee, a Category 1 associate certificate holder, a Category 2 associate certificate holder or a Temporary eGambling licensee (in respect of its activities under its Temporary eGambling licence), having been appointed as such under paragraph 7 of Schedule 16 to the Alderney eGambling Regulations 2009, shall be deemed to have been appointed as that licensee's or certificate holder's Money Laundering Reporting Officer or nominated officer under

subparagraph (1)(a) on Commencement, for the purposes of this Schedule.

(4) The requirement at subparagraph (1)(a) and (b) to provide the name, title and email address of the Money Laundering Reporting Officer or nominated officer to the Commission and Financial Intelligence Service, and the requirements at subparagraph (1)(d), do not apply in respect of a person deemed to have been appointed or nominated under subparagraph (3).

Employee screening and training.

11. (1) An eGambling licensee, a Category 1 associate certificate holder, a Category 2 associate certificate holder and a Temporary eGambling licensee (in respect of its activities under its Temporary eGambling licence) shall –

- (a) maintain appropriate and effective procedures, when hiring employees, for the purpose of ensuring high standards of employee probity and competence,
- (b) ensure that relevant employees receive comprehensive ongoing training in –
 - (i) the relevant enactments, the Law, this Ordinance, the Regulations, and any relevant guidance issued by the Commission which relates to anti-money laundering and counter terrorist financing,
 - (ii) the personal obligations of employees and their potential criminal liability under the relevant enactments and this Ordinance,
 - (iii) the implications of non-compliance by

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employees with any guidance issued by the Commission in accordance with section 22(3)(b) of this Ordinance,

- (iv) its policies, procedures and controls for the purposes of forestalling, preventing and detecting money laundering and terrorist financing,
 - (v) the identity and responsibilities of the Money Laundering Reporting Officer,
 - (vi) the detection of unusual or suspicious activity or transactions,
 - (vii) the principal vulnerabilities of the products and services offered by the eGambling licensee or the associate certificate holder, and
 - (viii) new developments, including information on current money laundering and terrorist financing techniques, methods, trends and typologies, and
- (c) identify relevant employees who, in view of their particular responsibilities, should receive additional and ongoing training, appropriate to their roles, in the matters set out in subparagraph (b) and shall provide such training.

(2) A Category 1 eGambling licensee, Category 1 associate certificate holder or Temporary eGambling licensee as the case may be shall ensure

that relevant employees receive comprehensive ongoing training in customer due diligence requirements.

Record-keeping.

12. (1) Subject to the provisions of this regulation, a relevant person must keep a comprehensive record of each transaction with a registered customer, including (other than in the case of a Category 2 licensee or Category 2 certificate holder) the identity of the customer, the nature and date of the transaction and amounts and types of currency involved in the transaction; and such a record shall be referred to as a "**transaction document**".

(2) An eGambling licensee, a Category 1 associate certificate holder, a Category 2 associate certificate holder and a Temporary eGambling licensee (in respect of its activities under its Temporary eGambling licence) shall keep such of the following as is appropriate to their licence or certificate –

- (a) all transaction documents or copies thereof for five years starting from the date that both the transaction and any related transaction were completed, and
- (b) any customer due diligence information or a copy thereof for five years starting from the date the person concerned ceased to be a registered customer, or, in either case, for such longer period as the Commission, the Financial Intelligence Service, or an officer of police may direct.

(3) Where an eGambling licensee or an associate certificate holder is required by any enactment, rule of law or court order to provide a transaction document or any customer due diligence information to any person before the end of the period set out in sub-paragraph (1), the licensee or certificate holder shall –

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- (a) keep a copy of the transaction document or customer due diligence information until the period has ended or the original is returned, whichever occurs first, and
 - (b) maintain a register of transaction documents and customer due diligence information so provided.
- (4) An eGambling licensee and an associate certificate holder shall (if applicable) also keep records of –
- (a) any findings made under paragraphs 9(1)(c), 9(2) and/or 9(3) for five years from the date the record was created,
 - (b) any reports made to its Money Laundering Reporting Officer as referred to in paragraph 10 and of any disclosure made under Part I of the Disclosure Law or section 12 of the Terrorism Law made other than by way of a report to the Money Laundering Reporting Officer for five years starting from the date the person concerned ceased to be a registered customer,
 - (c) any training carried out under paragraph 8 for five years starting from the date the training was carried out,
 - (d) any minutes or other documents prepared pursuant to paragraphs 2(1)(b) and 13(f) until –
 - (i) the expiry of five years starting from the date that they were finalised, or

- (ii) they are superseded by later minutes or other documents prepared under those provisions, whichever occurs later, and
 - (e) its policies, procedures and controls which it is required to establish and maintain pursuant to this Schedule, including previous iterations of the relevant sections of its approved internal control system, for five years starting from the date that they ceased to be operative.
- (5) Documents and customer due diligence information, including any copies thereof, kept under this paragraph –
- (a) may be kept in any manner or form, provided that they are readily retrievable, and
 - (b) shall be made available promptly –
 - (i) in respect of customer due diligence information, transaction documents and records relating to subparagraphs (4)(a), (4)(c), (4)(d) and (4)(e), –
 - (A) to any auditor, and
 - (B) to the Financial Intelligence Service, an officer of police, the Commission, the Money Laundering Reporting Officer, nominated officer or any other person where such documents or customer due

diligence information are requested pursuant to these Regulations or any relevant enactment, and

- (ii) in respect of records relating to sub-paragraph (3)(b), to the Financial Intelligence Service, a prescribed police officer, the Commission, the Money Laundering Reporting Officer or the nominated officer,
- (b) shall be made available on a timely basis to the Financial Intelligence Service, an officer of police, the Commission, the Money Laundering Reporting Officer, nominated officer or any other person where such documents or customer due diligence information are requested pursuant to these Regulations or any relevant enactment.

Ensuring compliance, corporate responsibility and related requirements.

13. An eGambling licensee, category 1 associate certificate holder or Category 2 associate certificate holder must, in addition to complying with the preceding requirements in this Schedule –

- (a) appoint an executive officer as the Money Laundering Compliance Officer and provide the name, title and email of that person to the Commission and the Financial Intelligence Service as soon as is reasonably practicable and, in any event, within fourteen days starting from the date of that person’s appointment,
- (b) establish and maintain such other internal policies,

procedures and controls as are appropriate and effective (having regard to the risk of money laundering and terrorist financing and the size of the business) for the purposes of forestalling, preventing and detecting money laundering and terrorist financing,

- (c) take appropriate measures to keep abreast of and guard against the use of technological developments and new methodologies in money laundering and terrorist financing schemes,
- (d) establish and maintain policies and procedures to address any specific risks associated with non-face to face customer relationships or transactions, in particular before registering a customer in accordance with regulation 227, and when performing its ongoing monitoring of any customer relationship in accordance with paragraph 9,
- (e) establish and maintain an effective policy, for which responsibility must be taken by the board, for the review of its compliance with the requirements of this Schedule, the associated regulations and any guidance issued by the Commission, and such policy shall include –
 - (i) provision as to the extent and frequency of such reviews, and
 - (ii) the requirement to maintain an adequately resourced and independent audit function to test

compliance with such requirements,

- (f) ensure that a review of its compliance with this Schedule, the associated regulations and guidance issued by the Commission is discussed and minuted at a meeting of its board at appropriate intervals, and in considering what is an appropriate interval, the eGambling licensee, Category 1 associate certificate holder or Category 2 associate certificate holder shall have regard to the risk taking into account –
 - (i) the size, nature and complexity of the eGambling it conducts,
 - (ii) its registered customers (in relation to a Category 1 eGambling licensee or Category 1 association certificate holder only), products and services, and
 - (iii) the ways in which it provides those products and services, and
- (g) must have regard to, and meet the requirements of any relevant guidance, notice, instruction and counter-measure issued by the Commission which relates to anti-money laundering and counter terrorist financing, including, without limitation, any such guidance, notice, instruction or counter-measure (whether described as "Business from Sensitive Sources Notices" or otherwise) designed to alert and advise it of weaknesses in the anti-money-laundering and counter

terrorist financing systems in other countries or territories where the eGambling licensee, Category 1 associate certificate holder or Category 2 associate certificate holder may operate.

Application to associates, foreign branches and subsidiaries.

14. (1) A reference to an eGambling licensee, Category 1 associate certificate holder or a Category 2 associate certificate holder in this Schedule shall include a reference to the following –

- (a) an associate which an eGambling licensee, Category 1 associate certificate holder or a Category 2 associate certificate holder has arranged to perform on its behalf any activity required to be carried out in accordance with this Schedule,
- (b) any other associate which the Commission requires by written notice to comply with this Schedule,
- (c) branches and subsidiaries of the eGambling licensee, Category 1 associate certificate holder or Category 2 associate certificate holder dealing with eGambling which are situated in a foreign country or territory, to the extent that the laws of that foreign country or territory allow, provided that, where requirements under subparagraphs (i) and (ii) differ, an eGambling licensee, Category 1 associate certificate holder or Category 2 associate certificate holder must ensure that the requirement which provides the highest standard of compliance, by reference to the Financial Action Task Force Recommendations on Money Laundering, is

complied with, and

- (d) a business associate which contracts with a Category 2 eGambling licensee or Category 2 associate certificate holder in an arrangement whereby the Category 2 eGambling licensee or Category 2 associate certificate holder effects gambling transactions on behalf of that business associate.

(2) Subject to sub-paragraph (4) an eGambling licensee, category 1 associate certificate holder or a Category 2 associate certificate holder shall ensure that an associate, foreign branch or subsidiary in a country or territory outside the Island of Alderney to which sub-paragraph (1) applies complies with –

- (a) the applicable requirements of this Schedule, regulations 4(d), 4(f), 6(d), 6(f), 8(d), 8(l), 60(c), 60(e) and the associated regulations, and
- (b) the requirements under the law in that country or territory which are consistent with the FATF Recommendations,

provided that, where requirements under items (a) and (b) differ, the licensee or certificate holder must ensure that the requirement which provides the highest standard of compliance, by reference to the FATF Recommendations is complied with.

(3) Subject to sub-paragraph (4), an eGambling licensee, Category 1 associate certificate holder or a Category 2 associate certificate holder shall ensure that it and its subsidiaries effectively implement policies, procedures and controls in respect of the sharing of information (including but not limited to customer, account

and transaction information) between themselves for the purposes of carrying out customer due diligence and otherwise forestalling, preventing and detecting money laundering and terrorist financing, including (but not limited to) policies, procedures and controls governing the protection of the confidentiality of such information.

(4) The obligations under sub-paragraphs (2) and (3) apply to the extent that the law of the relevant country or territory allows and if the law of that country or territory does not so allow in relation to any requirement of these Regulations, the licensee or certificate holder shall notify the Commission accordingly.

PART V INTERPRETATION

Interpretation.

15. (1) For the avoidance of doubt, in this Schedule, unless the context otherwise requires, expressions have the meaning they bear in the Law and in this Ordinance; and in addition –

"associated regulations" means regulations 175(2)(j), 175(3), 226-30, 233 and any other provision in the Regulations associated the money laundering and terrorist financing requirements under this Schedule,

"the Committee" means the Policy and Finance Committee of the States of Alderney,

"customer due diligence" means steps which a Category 1 eGambling licensee or Category 1 associate certificate holder is required to carry out pursuant to paragraph 3(2),

"customer due diligence information" means –

- (a) identification data,
- (b) any files and correspondence relating to the customer relationship, and
- (c) all records obtained through customer due diligence, including the results of any analysis undertaken,

"Disclosure Law" means the Disclosure (Bailiwick of Guernsey) Law, 2007,

"document" includes information recorded in any form (including, without limitation, in electronic form),

"Economic Crime Division" means that branch of the Customs and Immigration Service responsible for the investigation of financial and economic crime,

"employee" means an individual working, including on a temporary basis, for an eGambling licensee, Category 1 associate certificate holder or Category 2 associate certificate holder whether under a contract of employment, a contract for services or otherwise,

"enhanced customer due diligence": see paragraph 4,

"FATF Recommendations" means the Financial Action Task Force Recommendations on Money Laundering and the Financial Action Task Force Special Recommendations on Terrorist Financing as revised or reissued from time to time,

"Financial Intelligence Service" means the division of the Economic Crime Division comprising those officers of police and other persons assigned to the division for the purpose of the receipt, analysis and dissemination within the Bailiwick of Guernsey, and elsewhere, of disclosures under Part I of the Disclosure Law or section 12 of the Terrorism Law, which are more commonly known or referred to as suspicious transaction reports or suspicious activity reports,

"high risk relationship" means a customer relationship which has a high risk of involving money laundering or terrorist financing and related terms shall be construed accordingly,

"identification data" means documents, data or information relating to identification which are from a reliable and independent source,

"international organisation" means an entity –

- (a) which was established by a formal political agreement between its member states that has the status of an international treaty,
- (b) the existence of which is recognized by law in its member states, and
- (c) which is not treated as a resident institutional unit of the country in which it is located,

"legal arrangement" means an express trust or any other vehicle whatsoever which has a similar legal effect,

"Money Laundering Compliance Officer" means a person of at

least manager level appointed by an eGambling licensee, Category 1 associate certificate holder or Category 2 associate certificate holder to monitor compliance with policies, procedures and controls to forestall, prevent and detect money laundering and terrorist financing,

"Money Laundering Reporting Officer" means a person of at least manager level appointed by an eGambling licensee, Category 1 associate certificate holder or Category 2 associate certificate holder to receive disclosures under Part I of the Disclosure Law and sections 12, 12A and 15 of the Terrorism Law,

"NRA" means the National Risk Assessment published by the States of Guernsey Policy & Resources Committee as amended from time to time,

"nominated officer": see paragraph 10(1)(b),

"prescribed police officer" means an officer of police who is a member of the Financial Intelligence Service,

"registered customer" means a customer who has been registered in accordance with regulation 227,

"the Regulations" means the Alderney eGambling Regulations, 2009, and a reference to a regulation is a reference to that regulation of the Regulations, and related expressions shall be construed accordingly,

"relevant employee" includes any –

- (a) member of the relevant person's board of directors,
- (b) member of the management of the relevant person, and

- (c) employees whose duties relate to eGambling,

"relevant person": see paragraph 1(1);

"risk" means a risk of money laundering or terrorist financing occurring and "risk assessment" shall be construed accordingly,

"relevant enactments" means –

- (a) the Afghanistan (Restrictive Measures) (Alderney) Ordinance, 2011,
- (b) the Afghanistan (Restrictive Measures) (Guernsey) Ordinance, 2011,
- (c) the Afghanistan (Restrictive Measures) (Sark) Ordinance, 2011,
- (d) the Al-Qaida (Restrictive Measures) (Alderney) Ordinance, 2013,
- (e) the Al-Qaida (Restrictive Measures) (Guernsey) Ordinance, 2013,
- (f) the Al-Qaida (Restrictive Measures) (Sark) Ordinance, 2013,
- (g) the Criminal Justice (Proceeds of Crime) (Bailiwick of Guernsey) Law, 1999,

- (h) the Disclosure Law,
- (i) the Disclosure (Bailiwick of Guernsey) Regulations, 2007,
- (j) the Drug Trafficking (Bailiwick of Guernsey) Law, 2000,
- (k) the Terrorism Law,
- (l) the Terrorism and Crime (Bailiwick of Guernsey) Regulations, 2007,
- (m) the Terrorist Asset-Freezing (Bailiwick of Guernsey) Law, 2011, and
- (n) the Transfer of Funds (Alderney) Ordinance, 2007,

"subsidiary" has the meaning given to it by paragraph 1 of Schedule 4 of the Companies (Alderney) Law, 1994, as amended,

"Terrorism Law" means the Terrorism and Crime (Bailiwick of Guernsey) Law, 2002^{ia}, and

"terrorist financing" has the meaning given in the Terrorism Law.

^{ia} Order in Council No. XVI of 2002; as amended by Order in Council No. I of 2000; No. VII of 2005; No. XIII of 2006; No. XIII of 2010; No. XI of 2011; No. XIV of 2012; Ordinance No. XXXIII of 2003, No. XLVI of 2007; No. XIII of 2010; No. XX of 2010; No. XXXVII of 2010; No. XXIX of 2014; No. LIV of 2014; No. IX of 2016; G.S.I. No. 16 of 2003; G.S.I. No. 41 of 2005; and G.S.I. No. 5 of 2017.

(2) Subject to subparagraphs (4) to (6), in this Schedule "**beneficial owner**", in relation to a legal person, has the meaning given in the Beneficial Ownership (Definition) (Alderney) Regulations, 2017 (or any successor regulations made under section 25 of the Beneficial Ownership of Legal Persons (Alderney) Law, 2017) for the purposes of that Law; and, in relation to a trust or other legal arrangement, includes –

- (a) any beneficiary who is a natural person, whether his interest under the trust is vested, contingent or discretionary,
- (b) any other natural person who benefits from that trust or other legal arrangement, and
- (c) any natural person not within (a) or (b) above who exercises ultimate effective control over the trust or other legal arrangement.

(3) Subject to subparagraphs (4) to (6), in this Schedule the "**underlying principal**" of a customer means –

- (a) where the customer is a trust, any natural person who is –
 - (i) a settlor, trustee, protector or enforcer of the trust, or
 - (ii) the beneficial owner or underlying principal of a legal person or legal arrangement who is a settlor, trustee, protector or enforcer of the trust, and for these purposes, "**protector**" means a

person other than a trustee who, as the holder of an office created by the terms of the trust, is authorized to or required to participate in the administration of the trust,

- (b) where the customer is a foundation, any natural person who is –
 - (i) a founder or foundation official of the foundation, or
 - (ii) the beneficial owner or underlying principal of a legal person or legal arrangement who is a founder or foundation official of the foundation, and
 - (c) where the customer is any other legal arrangement, any person who is in a position equivalent to those set out in (a) and (b).
- (4) In circumstances where a legal person is ultimately controlled by a trust –
- (a) **"beneficial owner"** in relation to that legal person includes any person falling within subparagraph (2)(a), (b) or (c) in relation to that trust, and
 - (b) **"underlying principal"** in relation to that legal person means any person falling within subparagraph (3)(a) in relation to that trust.

(5) In circumstances where a legal person is ultimately controlled by a foundation, "**underlying principal**" in relation to that legal person means any person falling within subparagraph (3)(b) in relation to that foundation.

(6) In circumstances where a legal person is ultimately controlled by a legal arrangement other than a trust –

(a) "**beneficial owner**" in relation to that legal person includes any person falling within subparagraph (2)(b) or (c) in relation to that legal arrangement, and

(b) "**underlying principal**" in relation to that legal person means any person falling with subparagraph 3(c) in relation to that legal arrangement.

(7) In this Schedule the "**board**" of a relevant person means –

(a) the board of directors of that relevant person, where it is a body corporate, or

(b) the senior management of a relevant person, where it is not a body corporate.

[(8) A reference in this Schedule to an enactment is to that enactment as from time to time amended, repealed and replaced, extended or applied by or under any other enactment.]

NOTES

Schedule 4 was inserted by the Alderney eGambling (Amendment) Ordinance, 2020, section 1(3), Schedule, with effect from 9th September, 2020.

In Schedule 4, the parentheses and figure in square brackets in paragraph 15 were substituted by the Alderney eGambling (Amendment) Ordinance, 2021, section 1(4), with effect from 17th November, 2021.

The Afghanistan (Restrictive Measures) (Alderney) Ordinance, 2011, the Afghanistan (Restrictive Measures) (Guernsey) Ordinance, 2011, the Afghanistan (Restrictive Measures) (Sark) Ordinance, 2011, the Al-Qaida (Restrictive Measures) (Alderney) Ordinance, 2013, the Al-Qaida (Restrictive Measures) (Guernsey) Ordinance, 2013 and the Al-Qaida (Restrictive Measures) (Sark) Ordinance, 2013 have all since been repealed by the Sanctions (Implementation of UK Regimes) (Bailiwick of Guernsey) (Brexit) Regulations, 2020, regulation 4, Schedule 2, with effect from 11 p.m. on 31st December, 2020.

The Transfer of Funds (Alderney) Ordinance, 2007 has since been repealed by the Transfer of Funds (Alderney) Ordinance, 2017, section 15, with effect from 26th June, 2017.

1 Prior to its substitution, paragraph (d) of subsection (2) was amended by the Alderney eGambling (Amendment) Ordinance, 2014, section 5(a), with effect from 24th September, 2014.

2 These words were previously amended, in part, by the Alderney eGambling (Amendment) Ordinance, 2013, section 4, with effect from 13th August, 2013, subject to the transitional provisions in section 8 of the 2013 Ordinance.

3 These words were previously amended, in part, by the Alderney eGambling (Amendment) Ordinance, 2013, section 4, with effect from 13th August, 2013, subject to the transitional provisions in section 8 of the 2013 Ordinance.

4 The corresponding entry in the Arrangement of Sections was substituted by the Alderney eGambling (Amendment) Ordinance, 2014, section 2(b), with effect from 16th July, 2014.

5 These words were previously amended, in part, by the Alderney eGambling (Amendment) Ordinance, 2013, section 4, with effect from 13th August, 2013, subject to the transitional provisions in section 8 of the 2013 Ordinance.

6 These words were previously amended, in part, by the Alderney eGambling (Amendment) Ordinance, 2013, section 4, with effect from 13th August, 2013, subject to the transitional provisions in section 8 of the 2013 Ordinance.

7 These words were previously amended, in part, by the Alderney eGambling (Amendment) Ordinance, 2013, section 4, with effect from 13th August, 2013, subject to the transitional provisions in section 8 of the 2013 Ordinance.

8 These words were previously amended, in part, by the Alderney eGambling (Amendment) Ordinance, 2013, section 4, with effect from 13th August, 2013, subject to the transitional provisions in section 8 of the 2013 Ordinance.

9 These words were previously amended, in part, by the Alderney eGambling (Amendment) Ordinance, 2013, section 4, with effect from 13th August, 2013, subject to the transitional provisions in section 8 of the 2013 Ordinance.

10 These words were previously amended, in part, by the Alderney eGambling (Amendment) Ordinance, 2013, section 4, with effect from 13th August, 2013, subject to the transitional provisions in section 8 of the 2013 Ordinance.

11 These words were previously amended, in part, by the Alderney eGambling (Amendment) Ordinance, 2013, section 4, with effect from 13th August, 2013, subject to the transitional provisions in section 8 of the 2013 Ordinance.

12 These words were previously amended, in part, by the Alderney eGambling (Amendment) Ordinance, 2013, section 4, with effect from 13th August, 2013, subject to the transitional provisions in section 8 of the 2013 Ordinance.

13 These words were previously amended, in part, by the Alderney eGambling (Amendment) Ordinance, 2013, section 4, with effect from 13th August, 2013, subject to the transitional provisions in section 8 of the 2013 Ordinance.

14 These words were previously amended, in part, by the Alderney eGambling (Amendment) Ordinance, 2013, section 4, with effect from 13th August, 2013, subject to the transitional provisions in section 8 of the 2013 Ordinance.

15 The words in the definition of the expressions "eGambling" and "key individual certificate" were previously amended, in part, by the Alderney eGambling (Amendment) Ordinance, 2013, section 4, with effect from 13th August, 2013, subject to the transitional provisions in section 8 of the 2013 Ordinance.

16 These words were previously amended, in part, by the Alderney eGambling (Amendment) Ordinance, 2013, section 4, with effect from 13th August, 2013, subject to the transitional provisions in section 8 of the 2013 Ordinance.

17 Prior to this substitution, the definition of the expression "licensed activity" was amended by the Alderney eGambling (Amendment) Ordinance, 2015, section 3(c), with effect from 1st April, 2015, subject to the savings and transitional provisions in section 6 of and the Schedule to the 2015 Ordinance.

18 Prior to its substitution, Schedule 3 was amended by the Alderney eGambling (Amendment) Ordinance, 2013, section 4, with effect from 13th August, 2013, subject to the transitional provisions in section 8 of the 2013 Ordinance.