

STATES OF JERSEY



DRAFT GAMBLING (ANCILLARY SERVICES AND MISCELLANEOUS PROVISIONS) (JERSEY) REGULATIONS 201-

**Lodged au Greffe on 9th October 2012
by the Minister for Economic Development**

STATES GREFFE



Jersey

DRAFT GAMBLING (ANCILLARY SERVICES AND MISCELLANEOUS PROVISIONS) (JERSEY) REGULATIONS 201-

REPORT

Purpose

The purpose of these Regulations is to identify those commercial undertakings that provide services to gambling operators (both remote and terrestrial) provided in or from Jersey and should be regulated by Permit granted by the Jersey Gambling Commission (the Commission). The Regulation details the application methods for a Permit, and sets the terms by which the Commission may grant or refuse an application or revoke a permit.

Legal authority

These Regulations are pursuant of Articles 23, 24 and 56 (Regulations and Orders) of the Gambling (Jersey) Law 2012.

Article 23 defines ancillary services as gambling services that are provided by way of business, but only to other businesses.

Article 24 allows the States, by Regulations, to prohibit the provision of types of ancillary service or require providers to obtain a Permit from the Commission. The wide definition of type in Article 3 means that Regulations could prohibit, or require a Permit for an entire form of ancillary service or just the provision of that service in particular circumstances. A Permit scheme can be given some or all of the features of the licensing regime approved by the Assembly under the Gambling Law.

What are ancillary services?

This Regulation is devised to set out those activities that cannot be undertaken without a Permit in relation to those commercial businesses that offer or wish to offer services to commercial gambling operators. This kind of service is generally known as a Business-to-Business service and commonly referred to in an abbreviated form as a B2B. The Gambling Law clearly defines commercial gambling as a business which deals directly with a customer and for profit; an ancillary service under this Regulation captures those firms which perform certain services for a gambling operator, but do not directly offer gambling services to or contract with the public.

A distinction is made between those types of ancillary services particular to the operation of gambling and those other services, such as accounting or legal advice for example, required by the business world as a whole and which would not ordinarily require a Permit to conduct such a service.

“Facilitating” the other company’s gambling is defined as providing, operating or administering arrangements for, or participating in the operation/administration of the commercial provider’s gambling. This may also be expanded under Regulation 2 (using Article 23(2)(a) of the Law) so that the targeted service only needs to be “related to gambling” in some way.

The Regulation, therefore, identifies those commercial undertakings that provide services to gambling operators and can only be undertaken provided in or from Jersey by a Permit. Services provided to a commercial operation in Jersey from a business outside of the Island will be subject to an approval by the Commission; this will be achieved by imposing a condition on the commercial licence, subjecting any rollout of games or other service, for example, to Commission approval.

Why regulate ancillary services?

An industry has emerged supplying services to the gambling industry and these services (detailed further on) include software designers, along with the creators of games sold or ‘licensed’ to gambling operators. In certain circumstances it is possible that these games may not be released within Jersey for the public to play, but sold or licensed externally; the fact they are gambling games designed in the Island catches upon a Gambling Law ethos to protect the Island’s reputation and integrity. It is therefore proportionate to allow gambling games to be created in the Island by Permit and ensure they comply with the technical standards issued by the Commission; these standards exact fairness and transparency from all gambling offerings.

Jersey also has long established firms that supply and maintain a range of gaming machines, and while these firms have voluntarily submitted to vetting in the past, the opportunity to formalise this relationship with the Commission is presented by the adoption of this Regulation. Subjecting these firms to a Permit will establish accountability and allow the Commission to examine and monitor the extent of game distribution, the types of machines sited in venues across the Island and assess how compliant these machines are with the Technical Standards Code of Practice.

Referring to the Transitional Provisions of this Regulation, it should be noted that hosting providers were captured under previous regulations, but permission was given in the form of a licence. The thrust of the new Gambling Law reserves licensing for the commercial sector, but a Permit may attract all or some of those licence conditions where appropriate.

How will this sector be regulated?

The Regulation creates a Permit scheme for several categories of service providers and these are set under Part 2, Regulation 3. Broadly the regulated ancillary services sector will comprise –

- Manufacturing/importing/selling/leasing gambling equipment (software/hardware, machines – electronic);
- Headquarters & Overseas Services;
- Supplying gambling specific services to an operator who gambles electronically;
- Advertising/supplying physical hosting services.

It should be noted that some business models might have operational crossovers, presenting a conglomerate of these business types. If this is the case and depending on the corporate structure a company could require more than one Permit.

The following headings, expanded from the services sectors, discuss the types of businesses that will or may require Permits.

Head-quartering/overseas services (Regulation 3(3))

If it is a business in Jersey of whatever structure, and it is a principal/associate of an overseas commercial operator (which is not just a branch of a Jersey-incorporated body) and it provides a service that “facilitates” gambling by the overseas operator – the Jersey business will need a Permit. Under the Law passed by the States, if the Jersey business counts as doing business with the public it will need a licence.

Manufacturers

A Permit is required for the manufacturers of electronic gambling equipment (Regulation 3(4)). Manufacturers will need to ensure that their gaming machines and equipment comply with the Commission’s Technical Standards Code of Practice at the point of sale. Machines will have to be tested and approved by either an independent testing house against the Commission’s criteria or by the manufacturers’ own strictly controlled processes. Larger scale manufacturers will have in-house testing capabilities and in such cases it would be disproportionate for the Commission to insist on further independent testing. However, proof of competence and capability must be a point to prove on application for a Permit.

Supply and sale of gaming machines in Jersey (selling/leasing)

Under Regulation 3(4) the sale, supply and maintenance of gaming machines becomes subject to a Permit. Machine Suppliers, as the title suggests, can own gaming machines and by arrangement site them in various places around the Island. The machines may be hired from Suppliers as distractions/entertainment by these venues, or be supplied and maintained on a rolling profit share arrangement.

Importation of machines

It is important to establish a link between importation and the requirement to have a testing certificate and machines should have an accompanying testing certificate linked to a Commission approval. Clearly this should not apply to a private purchase for non-commercial use. (Regulation 3(4))

Game designers/producers

A Jersey based software designer requires a Permit if it creates a gambling game because the regulation of gambling software produced in Jersey is a reputational matter, especially as the market for these products will generally be for export. Therefore, Jersey produced gambling products must conform to the Commission’s licensing principles. (Regulation 3(4))

Turn-key services (Regulation 3(2))

The most common form of B2B is what is termed ‘a turn-key’ service which is the provision of a complete product or service that is ready for immediate use. Any firm wishing to offer B2B services from Jersey must apply for Permit to do so. Variations of the services these firms may offer are outlined below:

Advisory services: such a service would be dedicated to the provision of business advice for gambling companies (other than legal and compliance) and may include the provision of information in respect of processing, payments, risk management and financial performance.

Network management services: may include collusion checks for cash outs, jackpot claims, tournament set-ups and a constant level technical support and data analysis.

Cross-platform services: from land-based to mobile to internet gambling; a cross-platform service offers and enables online, broadcast, mobile and land-based platforms to be run through a unified administrative system.

Advertising/supplying physical hosting services

Not all data centres will require a Permit: only those businesses advertising for and consequentially hosting remote gambling companies within Jersey will need a Permit to do so. This category is applicable to those Jersey based data-centres promoting themselves as equipped to host remote gambling operators. Requirements placed on hosting providers under the current licensing regime will be transferred to the Permit scheme. These hosting companies have a number of duties and obligations placed upon them to show that they are 'fit and proper' and report gambling activity to the Commission to ensure that only licensed activity can take place. Hosting companies will still be subject to probity investigations and financial 'health' checks. (Regulation 3(5) to (6)). Part 3, Regulation 9 provides transitional provisions dedicated to preserve the rights of current licensees.

Permits (Regulation 4)

A Permit will naturally attract conditions in respect of the gambling service supplied, such as what it is and how it is managed. Permit conditions will, therefore, differ to reflect these different types of services. The Regulation allows conditions from the palette provided under the Law for governance of commercial licensing to apply to Permits. The Assembly has already approved the range of conditions as outlined under Articles 16 to 20 of the Gambling (Jersey) Law 2012 and in the case of Permits all conditions are discretionary rather than mandatory. The Gambling Commission (Jersey) Law 2010 imposes a duty on the regulator to ensure that no unnecessary burden is placed upon the industry it regulates, therefore the Commission would not apply all conditions in every case. But at a minimum it will be a condition of a Permit that a company must operate its business from the premises prescribed on the Permit.

Grant of a Permit

The Assembly has already approved minimum criteria that must be met for the grant of a licence (Article 12). Vitally, it also mandates the Commission to ensure the grant of a Permit will not be harmful to the integrity and reputation of Jersey in gambling, commercial or financial matters. Here in relation to standard due diligence, the applicant must be a fit and proper person to hold a Permit, and the Commission must consider the applicant's history and systems, and whether investigations should be made into principal persons of the applicant. Fees for a Permit have also been adopted from provisions set out under the Gambling Law and this will also include the investigation fee, annual fee and 5 year life cycle of a Permit.

Enforcement

The Regulation applies the range of enforcement and compliance tools supplied by the Gambling Law to the governance of the Permit regime and these include directions, notifications and civil penalties. As a matter of course the appeals process also applies to Permits.

Miscellaneous

Regulation 7 makes plain the distinction between an employee and a Licence or Permit. The current scheme presented by the Gambling Law does not require vast amounts of paper in that it is the businesses entity that is licenced or approved and not the work force.

The Regulation makes it a requirement for the business to have a Permit and limits any spread to individuals. In relation to the remainder of the Regulation,

representatives of the Trust Company Business presented a scenario where they may seek to offer corporate management packages to gambling operators. Trust Company Business is exempt from regulation by the Commission, but this Regulation allows employees of a Trust Company to act in the capacity of a director of a gambling company or ancillary service, but places a requirement that he or she will need to obtain their own licence or Permit, above that held or required by the gambling company they plan to administer or serve.

Regulation 8 is retained from the existing Gambling (Remote Gambling) (Jersey) Regulations 2008. This provides that regardless of where else in the world an operator is located, if they have physical equipment in Jersey that controls or influences the outcome of remote gambling or of a site operating remote gambling, then it is considered to be operating from Jersey and subject to the new licensing and Permit regimes.

As mentioned previously, Regulation 9 is the one form of B2B regulation extant under Jersey legislation. The Commission has granted Hosting Facilities Providers Licences allowing firms to host both disaster recovery provisions and fully operable remote gambling sites; therefore, regulation of this service remains valid. This Regulation preserves those licences currently issued under the Gambling (Remote Gambling) (Jersey) Regulations 2008 and states that they should be treated as if the licence were a Permit granted under this legislation. Conditions on the licence are also preserved and treated as if awarded by virtue of this Regulation.

Financial and manpower implications

There are no financial or manpower implications for the States arising from the adoption of these Draft Regulations.

Explanatory Note

These Regulations impose a permit scheme on certain ancillary services, as defined by Article 23 of the Gambling (Jersey) Law 2012 (the “Law”), and make miscellaneous provisions in relation to the Law.

Regulation 1 is the interpretation provision, defining electronic communication and equipment, and gambling-specific services and equipment. Other terms, such as “code of practice”, “commercial operator”, “equipment”, “facilitate”, “gambling” and “gambling service” are defined in the Law (so equipment includes software).

Regulation 2 defines “relevant service” and extends the meaning of “ancillary service” for the purposes of Articles 23 and 24 of the Law. The effect is that all the services listed in *Regulation 3* can be made subject to permits, as long as the services are provided in or from within Jersey by way of business to other gambling businesses (or to anyone except those who gamble as consumers rather than as a business), even if the service would not otherwise count as a “gambling service” under the Law.

Part 2 provides a scheme of permits for ancillary services.

Regulation 3 imposes a requirement to hold a permit from the Jersey Gambling Commission (“the Commission”) on those who provide services that count as relevant services and fall within any one of more of the types of ancillary service set out in paragraphs (2) to (5). Under Article 24(4)(b) of the Law it is an offence to breach this permit requirement, with a penalty of imprisonment for up to 3 years and/or an unlimited fine.

Under *Regulation 3(2)* a relevant service requires a permit if it is an “electronic operator service”. That is a service provided to a commercial operator (in Jersey or overseas) who conducts gambling through electronic equipment or communication (such as gaming machines or remote gambling under the current Regulations). But it only applies if the ancillary service is specifically designed or adapted for gambling, and it does not cover financial or legal services or “social responsibility” services (such as training operators to identify problem gamblers).

Under *Regulation 3(3)* a relevant service requires a permit if it is an “overseas operator service”. That is a service provided (from within Jersey) to an overseas operator by an associate or principal person (as defined in the Law), where the service facilitates the overseas operator’s gambling. That is in addition to the requirement in Article 8(1)(c) of the Law that a Jersey incorporated body needs a licence (rather than a permit) if it has an overseas branch that provides commercial gambling services anywhere in the world, irrespective of how little involvement the Jersey part of the business may have.

Under *Regulation 3(4)* a relevant service requires a permit if it is an “electronic equipment service”. That is a service (provided in or from within Jersey to anyone in Jersey or overseas) consisting of the design, manufacture, import, sale or hire of gambling software, gaming machines, remote gambling hardware or other gambling-specific electronic equipment.

Under *Regulation 3(5) and (6)* a relevant service requires a permit if it is a “physical hosting service”. That is a service of providing use of a data centre in Jersey (or of equipment housed in a Jersey data centre), but only where the provider knows or should know that it may be used to host electronic gambling operations. In particular a data centre will need to hold a permit when it starts to advertise specifically to

gambling operators (and before it begins to host them), as well as during inactive periods of any disaster recovery service it provides for remote gambling operators.

Regulation 4 applies to ancillary permits modified versions of provisions in the Law relating to commercial licences. Those are the provisions dealing with applications (with more discretion for the Commission over the factors it considers), fees (including fees based on income from provision of services), grant and refusal, conditions (with all the conditions being at the Commission's discretion, instead of some being mandatory), and enforcement (including civil penalties).

Regulation 5 requires the Commission to publish its policy on types of ancillary services falling within *Regulation 3* for which it generally will or will not grant permits, and which types of permit will attract which standard conditions. This duty is based on the equivalent in relation to policy on commercial gambling licences, and both policies can be published in the same document (or separately).

Regulation 6 provides equivalent rights to notification and appeals as are provided in respect of licences (but without the automatic postponement of the effect of certain decisions, and with a requirement for all conditions to be notified individually even if they are standard).

Part 3 contains Regulations on miscellaneous matters relevant to ancillary permits and commercial licences.

Regulation 7 ensures that that employees and directors (and similar persons), although involved in the provision of their employer's or company's commercial or ancillary service, do not need to hold separate licences or permits of their own, as long as their employer or company holds a licence or permit for that service. However, paragraph (4) provides that this does not apply where a trust company business arranges for a person to act as or fulfil the function of a director of a licensed or permit-holding company (or as a similar person in relation to other types of body), as described in Article 2(4)(b), (c), (e) and (i) of the Financial Services (Jersey) Law 1998, and the director provides to the company an ancillary service caught by *Regulation 3* (or provides a gambling service directly to customers of the company). In that case the director will need to obtain his or her own licence or permit, separate from that held by the company (the trust company business itself will be exempt under Article 5(2) of the Law). *Regulation 7(5)* ensures that this does not remove the criminal liability of directors and others, under Article 53 of the Law, where they consent to or connive in (or are neglectful as to) an offence under the Law that is committed by their company. Even where employees or directors do not need their own licence or permit, their employer or company, as the licensee or permit-holder, will need to be satisfied about the standing of its directors and employees (see for example Articles 4(4) and (8), 12(1)(a)(ii) and (3)(h), 16(3) and (4), 17(3)(b) and (5), 20(1)(e) and 21(e) of the Law).

Regulation 8 ensures that a remote gambling service is treated as being provided in or from within Jersey, as long as there is equipment in Jersey that controls the gambling for the operator. This adapts to the new scheme the provisions currently in Regulation 2(7)-(9) of the Gambling (Remote Gambling) (Jersey) Regulations 2008.

Regulation 9 makes transitional provision for an existing remote gambling facility provider's licence, under the Gambling (Remote Gambling) (Jersey) Regulations 2008, to be continued as a permit under these Regulations for up to a year (see Article 55 of the Law for similar provision in relation to commercial operator licences).

Regulation 10 names the Regulations and brings them into force when the Law is brought into force (by Appointed Day Act).



Jersey

DRAFT GAMBLING (ANCILLARY SERVICES AND MISCELLANEOUS PROVISIONS) (JERSEY) REGULATIONS 201-

Arrangement

Regulation

PART 1	13
<hr/>	
INTERPRETATION AND DESIGNATION	13
1 Interpretation	13
2 Relevant service defined and designated.....	14
PART 2	14
<hr/>	
ANCILLARY PERMITS	14
3 Ancillary permits required	14
4 Application to permits of provisions relating to licences	15
5 Statement of policy as to permits	16
6 Notification of and appeal against decisions as to permits.....	16
PART 3	17
<hr/>	
MISCELLANEOUS	17
7 Requirements not applied to certain individuals in relation to licensees or permit-holders	17
8 Type of gambling service treated as provided in or from within Jersey	18
9 Transitional provision for remote gambling facility provider's licence.....	18
10 Citation and commencement	18



Jersey

DRAFT GAMBLING (ANCILLARY SERVICES AND MISCELLANEOUS PROVISIONS) (JERSEY) REGULATIONS 201-

Made [date to be inserted]
Coming into force [date to be inserted]

THE STATES, in pursuance of Articles 8, 23, 24 and 56 of the Gambling (Jersey) Law 2012¹, have made the following Regulations –

PART 1

INTERPRETATION AND DESIGNATION

1 Interpretation

In these Regulations, unless the context otherwise requires –

“electronic communication” has the meaning given by the Electronic Communications (Jersey) Law 2000², but does not include voice communication by telephone;

“electronic equipment” means equipment that is any one or more of the following –

- (a) software;
- (b) electrically powered;
- (c) having components that are electronic, within the meaning of the Electronic Communications (Jersey) Law 2000; or
- (d) designed or adapted, or held out as designed or adapted or suitable, for use in gambling that is effected by means of electronic communication;

“gambling-specific”, in relation to equipment or a service, means designed or adapted, or held out as being designed or adapted or otherwise suitable for the purpose of enabling individuals or commercial operators to gamble;

“Law” means the Gambling (Jersey) Law 2012³.

2 Relevant service defined and designated

- (1) For the purpose of these Regulations a relevant service is a service that –
 - (a) is provided in or from within Jersey;
 - (b) is provided by way of business; and
 - (c) is not provided to any person who gambles otherwise than by way of business.
- (2) A relevant service is designated as an ancillary service for the purposes of the Law, to the extent that it does not fall within Article 23(1) of the Law, if it falls within any one or more of paragraphs (2) to (5) of Regulation 3.

PART 2**ANCILLARY PERMITS****3 Ancillary permits required**

- (1) A person must hold a permit if the person provides a relevant service that is any one or more of the following –
 - (a) an electronic operator service, being a service falling within paragraph (2);
 - (b) an overseas operator service, being a service falling within paragraph (3);
 - (c) an electronic equipment service, being a service falling within paragraph (4); or
 - (d) a physical hosting service, being a service falling within paragraph (5).
- (2) A service falls within this paragraph, as an electronic operator service, if –
 - (a) it is a gambling-specific service, other than a service consisting solely of any one or more of the following –
 - (i) legal advice or representation, or advice as to a requirement of a code of practice or of a condition on a licence or permit,
 - (ii) a service provided by way of exempt finance business within the meaning of Article 5(3) of the Law, or
 - (iii) a service that is or could be funded, coordinated or promoted by the Commission under its social responsibility function, within the meaning of the Gambling Commission (Jersey) Law 2010⁴;
 - (b) it is provided to a commercial operator (irrespective of whether that operator requires a licence); and
 - (c) it is provided in relation to gambling that is effected by means of –
 - (i) electronic communication, or
 - (ii) gambling-specific electronic equipment.
- (3) A service falls within this paragraph, as an overseas operator service, if –

-
- (a) it consists wholly or mainly of facilitating gambling by the person to whom it is provided (“the recipient”);
 - (b) it is provided by a person who is an associate of the recipient, or a principal person in relation to the recipient (or would be such a person if the recipient were to apply for a licence); and
 - (c) the recipient is a commercial operator who provides a gambling service otherwise than wholly in or from within Jersey.
- (4) A service falls within this paragraph, as an electronic equipment service, if it consists of –
- (a) the design or manufacture of gambling-specific electronic equipment;
 - (b) the import into Jersey of such equipment; or
 - (c) the sale or hire of such equipment.
- (5) A service falls within this paragraph, as a physical hosting service, if one or more of the conditions in paragraph (6) is met and the service consists of –
- (a) providing use of premises in Jersey that are designed or adapted, or held out as designed or adapted, wholly or mainly –
 - (i) to house electronic equipment, and
 - (ii) to enable electronic communication between that equipment and persons or other equipment not present on those premises; or
 - (b) providing use of such equipment housed on such premises.
- (6) The conditions are that the person providing the service –
- (a) holds the service out as being able to be used for gambling or for the provision of a gambling service;
 - (b) knows that a user of the service is using or intends to use it to provide a gambling service; or
 - (c) requires users of the service to provide, or allow access to, information as to the use to which the user puts the service, and does not –
 - (i) prohibit the use of the service for provision of gambling services, or
 - (ii) take reasonable steps to render such use impracticable.

4 Application to permits of provisions relating to licences

- (1) In this Regulation “relevant provision” means any of the following provisions of the Law –
- (a) Article 11;
 - (b) Article 12, modified so that the Commission may grant a permit in exceptional circumstances notwithstanding anything in that Article;
 - (c) Articles 13 to 15;

-
- (d) Articles 16 and 17, modified so that the conditions set out in them are not mandatory but may be imposed by the Commission;
 - (e) Article 18, other than paragraphs (3)(a)(ii) and (3)(c)(ii), and with paragraph (1) modified so that the Commission may impose supplementary conditions in addition to any imposed under the modified Articles 16 and 17;
 - (f) Article 19;
 - (g) Article 20, modified so that the matters set out in subparagraphs (b) to (k) of that Article are not compulsory but may be the subject of conditions imposed by the Commission;
 - (h) Article 21;
 - (i) Article 22, modified so that gambling yield in a relevant period is the amount received in that period as payment for the provision of ancillary services under the permit; and
 - (j) each provision of Part 4 that otherwise applies only to licences.
- (2) A relevant provision applies in respect of a permit as it applies in respect of a licence –
- (a) with the substitution of references to a permit for references to a licence;
 - (b) with the substitution of references to ancillary services for references to commercial gambling services; and
 - (c) with the substitution of references to Article 24 of the Law for references to Article 8 and Article 10 of the Law.

5 Statement of policy as to permits

- (1) Article 9 of the Law applies to the Commission's policy in respect of permits as it applies to licences.
- (2) The statement of policy prepared under paragraph (1) may be included in the same document or documents as the statement prepared under Article 9 of the Law, or in a separate document or documents.

6 Notification of and appeal against decisions as to permits

- (1) The notification and appeal provisions apply to decisions in respect of permits as they apply to decisions in respect of licences.
- (2) The notification and appeal provisions are –
 - (a) Article 43 of the Law, other than paragraphs (2)(d) and (3) of that Article; and
 - (b) Article 45 of the Law.

PART 3

MISCELLANEOUS

7 Requirements not applied to certain individuals in relation to licensees or permit-holders

- (1) Article 8(1) of the Law does not apply, and accordingly a person may provide a commercial gambling service without himself or herself holding a licence, if that person –
 - (a) is a relevant person in relation to another person who is a licensee; and
 - (b) provides the service only in the course of that licensee’s licensed business.
- (2) Nothing in these Regulations requires a person to hold a permit, and accordingly a person may provide an ancillary service without himself or herself holding a permit, if that person –
 - (a) is a relevant person in relation to another person who holds a permit or a licence; and
 - (b) provides the service only in the course of the business for which that other person holds the permit or licence.
- (3) A relevant person for the purposes of paragraphs (1) and (2) is, subject to paragraph (4), an individual who is –
 - (a) an employee of the licensee or permit-holder;
 - (b) a partner of the licensee or permit-holder, where that licensee or permit-holder is a limited liability partnership;
 - (c) a director, manager, secretary or other similar officer of the licensee or permit-holder, where that licensee or permit-holder is a body corporate; or
 - (d) a member of the licensee or permit-holder, where that licensee or permit-holder is a body corporate whose affairs are managed by its members and the member provides the service in connection with his or her functions of management.
- (4) A person is not a relevant person if he or she falls within any of the subparagraphs of paragraph (3) wholly or partly as a result of an arrangement made by another person by way of carrying on business that –
 - (a) is exempt finance business by virtue of Article 5(3)(c) of the Law; and
 - (b) is trust company business within the meaning of the Financial Services (Jersey) Law 1998⁵.
- (5) Nothing in this Regulation is to be read as affecting the operation of Article 53 of the Law.

8 Type of gambling service treated as provided in or from within Jersey

To the extent that it would not otherwise be treated as being in or from within Jersey, the provision of a gambling service is to be so treated if in Jersey there is any equipment, other than software, that –

- (a) is operated –
 - (i) by the person providing the gambling service, or
 - (ii) on behalf of that person, by a person other than a customer of that person; and
- (b) controls, wholly or partly –
 - (i) the outcome of the gambling in relation to which the gambling service is provided, or
 - (ii) the operation of a website or television channel, through which such a customer may gamble by means of electronic communication.

9 Transitional provision for remote gambling facility provider's licence

- (1) For the purposes of this Regulation, a preserved facility licence is a remote gambling facility provider's licence that –
 - (a) was granted under the Gambling (Remote Gambling) (Jersey) Regulations 2008⁶;
 - (b) was in effect immediately before the commencement of these Regulations; and
 - (c) permitted the person to whom it was granted to carry on an activity that requires a permit under these Regulations.
- (2) A preserved facility licence is to be treated after the commencement of these Regulations as if it were a permit granted under these Regulations, being a permit that is subject to a condition that no activity may be carried on under it other than an activity that could lawfully be carried on under the preserved facility licence immediately before the commencement of these Regulations.
- (3) The preserved facility licence is to be treated as expiring on whichever is the sooner of –
 - (a) the date on which it would have expired but for the commencement of these Regulations; and
 - (b) one year after that commencement.

10 Citation and commencement

These Regulations may be cited as the Gambling (Ancillary Services and Miscellaneous Provisions) (Jersey) Regulations 201- and come into force on the commencement of the Law.

-
- ¹ *L.14/2012*
 - ² *chapter 04.280*
 - ³ *L.14/2012*
 - ⁴ *chapter 11.280*
 - ⁵ *chapter 13.225*
 - ⁶ *chapter 11.300.80*